

**EB-2024-0038**

**Lakefront Utilities Inc.  
Application for electricity distribution rates and other charges  
effective January 1, 2025**

**VECC Final Submissions January 31, 2025**

Lakefront Utilities Inc. (Lakefront Utilities) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on September 9, 2024, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that Lakefront Utilities charges for electricity distribution, starting January 1, 2025. Lakefront Utilities has also applied for incremental capital funding for a System Access Substation project.

VECC’s submissions relate to Lakefront Utilities incremental capital funding request.

**Incremental Capital Module**

Lakefront Utilities is requesting approval for incremental capital funding for 2025 with respect to a new 27.6 kV substation for a total estimated incremental capital expenditure of \$2,535,311 as follows:

| <b>Project Description</b>                               | <b>Year</b> | <b>Net</b>         |
|--|-------------|--------------------|
| 27.6 kVA Ontario Street (MS28-3) Substation <sup>1</sup> | 2022 Actual | \$369,425          |
|  | 2023 Actual | \$2,165,886        |
| <b>Total<sup>2</sup></b>                                 |             | <b>\$2,535,311</b> |

From the application and interrogatory responses, VECC has prepared a chronology of events related to the construction of the substation as follows:

- Planning and design for the substation was completed in Q1 2022.
- In July 2022, Raven Engineering Inc. (Raven) prepared a Specification for the Engineer/Procure/Construct (EPC) contract for a new 20/26/33 MVA 44-27.6 kV Substation that was finalized on July 29, 2022.<sup>3</sup>
- The Specification included the scope, engineering, procurement and construction requirements for the substation as well as Work by Others (i.e., LUI).

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<sup>1</sup> MS28-3 is located on Ontario Street in Cobourg. Any reference to MS28-3 being located on Victoria Street is incorrect

<sup>2</sup> Application p. 47

<sup>3</sup> VECC-2

- Raven’s Summary of Bids document shows a Request for Pricing (RFP) was issued to seven pre-selected vendors and three provided bids.<sup>4</sup>
- The project was awarded to KPC High Voltage Utility Solutions Group (KPC), the bidder with the lowest cost and shortest schedule.
- The contract with KPC was dated October 13, 2022.
- The substation transformer was purchased directly by Lakefront Utilities through a specification/tendering process. The substation transformer was ordered during July 2022 and delivered during August 2023 (13 months).<sup>5</sup>
- Construction of MS28-3 began in Q2 2022 and was completed in Q3 2023.
- The project was successfully energized in Q4 2023 (December).

In response to VECC-1, Lakefront Utilities indicates the date that the need to construct the station became apparent was upon receipt of the initial draft of Lakefront's Station Capacity Study by Raven Engineering on October 9, 2020.<sup>6</sup> The study was initiated to review the capacity of the existing 44/27.6 kV substations in the Town of Cobourg and to determine the timing of additional capacity requirements to meet forecast load growth, new developments and the impact of 4kV voltage conversion.

The study concluded the substations are currently operating at capacity to meet summer peak load under contingency conditions and additional capacity is required to meet existing and future loads. 2023 was the year Raven recommended to construct a new 20/32 MVA substation.<sup>7</sup>

The DSP was filed April 30, 2021. The 2022-2026 DSP specifically references the 2020 Lakefront Station Capacity Study, and the need for additional capacity in the forecast period in Cobourg based on the projected load growth and the planned voltage conversion program stating, “As a result, LUI is planning to build and install a new 27.6 kV substation within the DSP forecast period.”<sup>8</sup>

### Timing

In the current application, Lakefront Utilities says it did not anticipate needing the Transformer Station within the five-year Incentive Regulation Mechanism (IRM) period, and thus did not identify an Advanced Capital Module (ACM)<sup>9</sup> at the time of its 2022-2026 Distribution System Plan (DSP) during the 2022 Cost of Service (COS) proceeding (EB-2021-0039). The need to build the substation by 2023 was recommended by Raven in 2020, the substation was built in 2023, but funding was not included in the DSP. Lakefront Utilities states in the Business Case “The

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<sup>4</sup> Staff-3 (c)

<sup>5</sup> Staff-3 (d)

<sup>6</sup> VECC-1 (a)

<sup>7</sup> Station Capacity Study Town of Cobourg p.2

<sup>8</sup> EB-2021-0039 DSP p.15-16

<sup>9</sup> Application P.47

project was ultimately excluded from the capital budget at the time due to the need to prioritize other urgent infrastructure projects and operate within budgetary constraints. Despite its importance, the timing and available resources necessitated a deferment.<sup>10</sup> However, a deferment did not take place. Rates for the 2022 Test Year went into effect January 1, 2022, and as the chronology shows, planning and design spending began in Q1 2022 and initial construction began in Q2 2022.

Lakefront Utilities now cites a sudden need for the project in 2023 driven by unforeseen residential developments, notably influenced by the Provincial Government's incentives to encourage faster home construction, to in order to justify its ICM request.<sup>11</sup> VECC does not accept this new urgency for a project that was recognized in the 2022-2026 DSP as needed for future development and was already underway in early 2022. The projected peak load of planned developments that Lakefront Utilities had at the time when it decided to undertake this project was 3,970 kVA.<sup>12 13</sup>

Once Lakefront Utilities determined it was proceeding with the substation project and funding had not been provided in the DSP (and an ACM was not identified), Lakefront Utilities had ample opportunity to apply for an ICM at that time, but it did not.

The project went into service in 2023, but Lakefront Utilities Inc. is not claiming relief for the related 2023 and 2024 revenue requirements. Instead, it is requesting approval of incremental capital funding in 2025 and relief from 2025 onward. The 2025 total incremental annual revenue requirement associated with the ICM request is \$158,577.<sup>14</sup>

On the basis of timing alone, VECC submits the OEB should deny Lakefront Utilities' request for incremental capital funding in 2025. The OEB's ICM is not intended to be used as an "after the fact" funding mechanism and allowing this would set an undesirable precedent whereby utilities could undertake projects and seek review and funding approval later. Lakefront Utilities acknowledges that typically, ICM funding is requested prior to the construction of a project.<sup>15</sup> This project was not unforeseen. Lakefront Utilities has not provided sufficient evidence of any unique circumstances that explain why an ICM was not sought at the appropriate time.

### Capital Contributions

The Business Case for the project indicates that to mitigate financial impact on existing customers, Lakefront Utilities established a cost-sharing agreement with residential developers distributing a portion of the project costs to those benefiting from the enhanced

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<sup>10</sup> Application p.60

<sup>11</sup> Application p.47

<sup>12</sup> Staff-4 (a) iii

<sup>13</sup> Station Capacity Study Town of Cobourg p.10

<sup>14</sup> Maximum Eligible Incremental Capital Eligible = \$2,311,309 (p. 50)

<sup>15</sup> Application p. 47

infrastructure.<sup>16</sup> Lakefront Utilities had one agreement in place for contributions in aid of construction (CIAC) with a residential subdivision developer prior to Dec 2023<sup>17</sup> in the amount of \$32,343.75.<sup>18</sup>

Lakefront Utilities later clarifies that it deliberated on invoking cost-sharing with residential developers, as directed in the Distribution System Code (DSC), but was persuaded by recent events which may override this requirement. Lakefront Utilities is now proposing full recovery of the substation costs from the entire customer base and is seeking OEB guidance on this issue.<sup>19</sup>

The recent events, referred to by Lakefront Utilities, include the Ontario government's intervention in overturning an OEB directive regarding Enbridge's economic evaluation for rural expansion. In Staff-7, OEB Staff points out the OEB issued the decision referenced by Lakefront Utilities regarding the economic evaluation for rural expansion for Enbridge Gas Inc. on December 21, 2023, and the Ontario government released a statement regarding the decision on December 22, 2023. On November 18, 2024, the OEB released a notice regarding a proposal to amend the DSC, which includes changing the revenue horizon for residential connections to 40 years and outlines expectations prior to the amendments coming into force. Distributors were reminded of their obligations under the DSC to provide customers with information on connection costs and economic evaluation of any system expansion work.<sup>20</sup> Lakefront Utilities has continued obligations under the OEB's DSC to provide connecting customers with information on connection costs and economic evaluation of any system expansion work.<sup>21</sup> Lakefront Utilities has not done this.

In the Business Case, Lakefront Utilities explains the Distribution System Code (DSC) and the conditions under which distributors may obtain contributions from developers to support system enhancement projects. Lakefront Utilities then explains that because forecasting and eventual recovery of contributions from developers for system enhancement projects is very difficult it is reasonable to argue against invoking cost sharing with residential developers for the recovery of the substation project costs. Most utilities face this challenge and it is not sufficient to say because it's problematic, the DSC should not be adhered to.

When asked, Lakefront Utilities provided a potential capital contribution forecast of \$2.5 million if the current version of the DSC was followed based on a forecast of developments (\$4,398 kVA) that are in the planning or construction stages for the five years after the substation

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<sup>16</sup> Application p. 52

<sup>17</sup> Staff-7 (a) (c)

<sup>18</sup> Staff-7 (c)

<sup>19</sup> Application p.54-55

<sup>20</sup> Staff-8

<sup>21</sup> Distributors must ensure customers receive complete and timely details on the costs, inputs and assumptions used in the economic evaluation.

commissioning date (December 2023).<sup>22</sup> Lakefront Utilities did not undertake this economic evaluation for capital contributions against the project costs.

Lakefront Utilities is proposing existing ratepayers subsidize infrastructure primarily benefiting new developments. The Ontario Energy Board (OEB) adheres to a "beneficiary pays" principle, where entities directly benefiting from new infrastructure (i.e., developers), bear the associated costs. This approach ensures that existing customers are not burdened with expenses from which they do not directly benefit. Lakefront Utilities seeks the OEB's guidance on this issue and the OEB's guidance should be that Lakefront Utilities is required to adhere strictly to the DSC's cost-sharing requirements with developers. In VECC's view, Lakefront Utilities decision to not seek capital contributions from developers to mitigate the financial impact on existing customers is imprudent and not in the best interests of customers.

In the DSP, Lakefront Utilities forecast to spend \$7.648 million<sup>23</sup> in capital over the 2022 to 2025 period. Based on actuals and an updated forecast for 2025, Lakefront Utilities will spend \$10.899 million over the same period, a 42.5% increase.<sup>24</sup> With the removal of the substation project, the increase in spending over the period is 10%. Lakefront Utilities has not demonstrated a financial hardship as a result of constructing the substation and not invoking cost-sharing with residential developers. Lakefront Utilities decreased ROE in 2023 was primarily driven by consulting costs covering staffing vacancies.<sup>25</sup>

### Conclusions

Lakefront Utilities seeks to recovery eligible capital costs from ratepayers for the MS28-3 substation in Cobourg that was built 2023, through an ICM in 2025, without invoking cost-sharing with residential developers as directed in the OEB's DSC. Lakefront Utilities is proposing recovery of the substation costs from its entire customer base even though forecast developments attract capital contributions. Lakefront Utilities contends that contributions are not appropriate due to specific situational factors related to current economic and political landscapes which in VECC's view do not change its obligations under the DSC.

VECC submits the OEB should not approve Lakefront Utilities ICM request as it requires existing ratepayers to subsidize infrastructure primarily benefiting new developments and it sets an undesirable precedent whereby utilities could undertake projects and seek review and funding approval later.

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<sup>22</sup> Staff-7 (d) & VECC-13 (a)

<sup>23</sup> Application p.49

<sup>24</sup> VECC-4

<sup>25</sup> Staff -1(b)

## Other Concerns

If the OEB were to approve an ICM in 2025, VECC submits the net book value of the approved amount in 2025 should be used in the ICM calculation to account for depreciation in 2023 and 2024.<sup>26</sup>

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<sup>26</sup> Staff-2 (d)