Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

April 28, 2025

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Nancy Marconi:

Re: Ontario Energy Board (OEB) Staff Submission on Incremental Capital Module Request
ERTH Power Corporation
Application for 2025 Rates
OEB File Number: EB-2024-0021

Please find attached OEB staff's submission on the Incremental Capital Module request in the above referenced proceeding, pursuant to Procedural Order No. 6. This document is also being forwarded to the parties of the case.

Yours truly,

Margaret DeFazio
Digitally signed by Margaret DeFazio
Date: 2025.04.28 15:31:39 -04'00'

Margaret DeFazio, P.Eng.
Senior Advisor, Electricity Distribution II

Encl.

cc: All parties in EB-2024-0021

ONTARIO ENERGY BOARD

OEB Staff Submission on Incremental Capital Module Request

ERTH Power Corporation

Application for 2025 Rates

EB-2024-0021

April 28, 2025

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Summary

ERTH Power Corporation (ERTH Power) filed its incentive rate-setting mechanism (IRM) application on October 11, 2024, under section 78 of the *Ontario Energy Board Act, 1998*. Included in the application was a request for Incremental Capital Module (ICM) funding to support the purchase of property, design, construction, and furnishing of a new administrative and operational facility. The new facility will serve as ERTH Power's new headquarters, replacing existing rented facilities which no longer meet ERTH Power's needs. ERTH Power will continue to rent an operations centre in Goderich, as well as half of the space it currently rents in Aylmer for storage and construction staging.

The ICM request is for capital expenditures totaling $33.2 million in 2024 and 2025.[1] If approved as filed, the funding would result in an incremental revenue requirement of $2.24 million for the Main Rate Zone and $0.50 million for the Goderich Rate Zone.[2] The corresponding bill impacts for a typical residential customer consuming 750 kWh per month would be $6.40 (4.66%) in the Main Rate Zone and $6.30 (4.64%) in the Goderich Rate Zone.[3]

In making its submission on ERTH Power's request, OEB staff considered, among other things, both the OEB's established criteria for ICM and Advanced Capital Module (ACM) funding set out in the Report of the Board, New Policy Options for the Funding of Capital Investments: The Advanced Capital Module (the ACM Report)[4]; and February 2022 letter, Incremental Capital Modules During Extended Deferred Rebasing Periods.[5]

OEB staff supports the request by ERTH Power, subject to adjustments. The adjustments would reduce the capital amount eligible for ICM recovery by $5.2 million to $28.0 million, and revise the incremental revenue requirement to $1.67 million for the Main Rate Zone and $0.38 million for the Goderich Rate Zone.[6] The revised bill impacts for a typical residential customer consuming 750 kWh per month would be $4.78 (3.48%) in the Main Rate Zone and $4.82 (3.55%) in the Goderich Rate Zone.

OEB staff also recommends that the OEB not approve the proposed deferral and variance accounts.

[1] ERTH Power Argument-in-Chief, April 22, 2025, p. 9
[2] In EB-2018-0082, the OEB approved the amalgamation of ERTH Power Corporation and the former West Coast Huron Energy Inc. Following amalgamation, ERTH Power has maintained two separate rate zones – the Main Rate Zone and Goderich Rate Zone.
[3] ERTH Power Argument-in-Chief, April 22, 2025, p. 28
[4] Report of the OEB - New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014
[5] OEB Letter RE Incremental Capital Module Applications
[6] Note, revenue requirement calculation was done using an estimated placeholder for CCA and taxes

OEB Staff Submission

OEB staff makes the following submissions on the issues:

Materiality

To satisfy whether the ICM is material, a distributor's application must meet three criteria. The application must first meet the materiality threshold, which determines a distributor's maximum eligible capital funding. Second, the distributor must demonstrate that the project is not a minor expenditure in comparison to the overall capital budget. Finally, the incremental funding must have a significant influence on the operation of the distributor.

Materiality Threshold

The OEB uses the materiality threshold formula which considers both the growth of the distributor and the inflationary increase since the last rebasing year, to determine the maximum eligible incremental capital amount. The OEB provides distributors with an Excel spreadsheet (ICM model) to be used in ACM and ICM applications[7] that, with the required inputs, calculates the maximum eligible incremental capital amount, the resulting revenue requirement, and the rate riders for the subject rate year.

In its Argument-in-Chief, ERTH Power's ICM model from the Main Rate Zone produced a materiality threshold of $4.20 million and maximum eligible incremental capital amount of $27.24 million.[8] For the Goderich Rate Zone, the ICM model produced a materiality threshold of $0.88 million and a maximum eligible incremental capital amount of $6.34 million.[9]

As described below, OEB staff recommends reducing the new facility cost eligible for ICM recovery and has prepared revised ICM models for each rate zone, contained in Appendix A and Appendix B of this submission. For the Main Rate Zone, the OEB staff ICM model produces a materiality threshold of $4.20 million and a maximum eligible incremental capital amount of $22.69 million. For the Goderich Rate Zone, the OEB staff ICM model produces a materiality threshold of $0.88 million and a maximum eligible incremental capital of $5.32 million.

Project Specific Materiality Threshold

The ACM Report addresses the project-specific materiality threshold criterion as follows:

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[7] 2025_ACM_ICM_Model.xlsm
[8] ERTH Power Argument-in-Chief, April 22, 2025, pp. 9 and 13
[9] *Ibid.*

> Minor expenditures in comparison to the overall capital budget should be considered ineligible for ACM or ICM treatment. A certain degree of project expenditure over and above the [OEB]-defined threshold calculation is expected to be absorbed within the total capital budget.[10] [sic]

ERTH Power states that the ICM project is “6.1 times all other capital expenditures planned for 2025 and 7.5 times ERTH Power’s average actual capital expenditures over the 2018 to 2023 period.”[11] As a result, ERTH Power states that the new facility passes the project-specific materiality test.

OEB staff acknowledges that the ICM project is multiple times greater than ERTH Power’s typical overall capital expenditure. OEB staff therefore submits that the new facility satisfies the project-specific materiality threshold.

<u>Significant Influence on Operations</u>

The ACM Report states (in part) that “[a]ny incremental capital amounts approved for recovery must fit within the total eligible incremental capital amount (as defined in this ACM Report) and must clearly have a significant influence on the operation of the distributor; otherwise they should be dealt with at rebasing.”[12] ERTH Power states that the new facility will have a significant influence on the operations of the distributor now and in the future, with respect to the impact of the new facility on the working environment for employees.

OEB staff accepts that the new facility will have a significant influence on the way in which ERTH Power will operate. However, OEB staff submits that the test is not whether the working environment will change for the distributor’s staff. Rather, the issue is whether the amount being requested will have a significant impact on ERTH Power’s operations. It must have such an impact to meet the materiality criterion (in addition to meeting the other sub-elements of the criterion).

In this case, the annual revenue requirement of the project is $2.74 million (or $2.24 million and $0.50 million for the Main Rate Zone and Goderich Rate Zone, respectively). This is significant in comparison to the last OEB-approved revenue requirements for each rate zone: $2.815 million in 2013 for the Goderich Rate Zone; and $10.159 million in 2018 for the Main Rate Zone. If construction of the new facility was to proceed without additional funding, ERTH Power would be required to make decisions regarding its financial operations, such as reducing funding for existing programs or planning for a reduced return on equity (ROE). As a result, OEB staff agrees that the proposed

[10] The ACM Report, p. 17
[11] ERTH Power Argument-in-Chief, April 22, 2025, p. 14
[12] Report of the OEB - New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014, p.17

amount clearly has a significant influence on the operation of the distributor.

Need

The ACM Report describes the "need" criterion as follows:

- The distributor must pass the Means Test (as defined in the ACM Report)
- Amounts must be based on discrete projects, and should be directly related to the claimed driver
- The amounts must be clearly outside of the base upon which the rates were derived[13]

<u>Means Test</u>

Under the Means Test, if a distributor's ROE exceeds 300 basis points above the deemed ROE embedded in the distributor's rates, then funding for any incremental capital project will not be allowed.

Figure 1 below summarizes ERTH Power's historical ROE. OEB staff agrees that ERTH Power passes the Means Test as the deemed ROE has not been exceeded by 300 basis points during the period of 2020 through 2023.

Figure 1: ROE[14]

Year	Approved ROE	Achieved ROE	Over (Under) Earned
2019	9.00%	12.05%	3.05%
2020	9.00%	8.35%	(0.65%)
2021	9.00%	9.06%	0.06%
2022	9.00%	9.72%	0.72%
2023	9.00%	9.32%	0.32%

<u>Discrete Project</u>

The ACM Report indicates that incremental capital funding is for discrete projects.[15] In its application, ERTH Power states that the project is a discrete capital project based on

[13] The ACM Report, p. 17
[14] ERTH Power Corporation 2023 Scorecard
[15] This criterion was expanded in 2022 beyond discrete projects to also cover ongoing capital programs in certain circumstances – see Letter of the OEB - Incremental Capital Modules During Extended Deferred Rebasing Periods, February 10, 2022. These extended considerations are not relevant to ERTH Power's ICM request.

its one-time nature.[16]

OEB staff agrees. ERTH Power's ICM request relates to a discrete project that has a clearly defined scope pertaining to the construction of a new facility.

Directly Related to the Claimed Driver

ERTH Power's drivers for the project include challenges with its Bell St. and Aylmer properties. Specifically, such challenges include indoor space limitations, constrained space for heavy fleet maneuvering, limited outdoor storage space, inability to accommodate utility best practices with control room security, inadequate temperature control and fire suppression for the server room, inadequate shower and lunchroom space for outside staff, and lack of space for training. ERTH Power further stated that both the Bell St. and Aylmer properties have reached end of life and require significant investment to remain suitable for use.

OEB staff submits that the incremental capital funding request for the new facility directly relates to the claimed drivers identified.

Outside the Base Upon Which Rates Were Derived

ERTH Power states that the project is not part of an ongoing capital program and is not funded through rates.[17]

The new facility will replace ERTH Power's existing facility in its Main Rate Zone, which is the service area of the former Erie Thames Powerlines. OEB staff's review of Erie Thames Powerlines' last cost of service application[18] confirms that there were no projects related to the construction of a new facility. OEB staff therefore submits that the new facility is a project that is outside of the base upon which rates were derived.

Prudence

The ACM Report describes the "prudence" criterion as follows:

> The amounts to be incurred must be prudent. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily the least initial cost) for ratepayers.[19]

OEB staff submits that ERTH Power has demonstrated that its decision to construct a new facility to serve as a main office is prudent. However, OEB staff is not convinced that the cost of the new facility, or the proposal to include operations, maintenance and

[16] ERTH Power 2025 IRM Application, Appendix A, p. 40
[17] ERTH Power 2025 IRM Application, Appendix A, p. 41
[18] EB-2017-0038
[19] The ACM Report, p. 17

administration (OM&A) variances resulting from an ICM request, are appropriate. The following sections outline OEB staff's views on these matters.

Energy Systems

ERTH Power has included a heat pump and solar panels as part of the new facility design and cost. Each of these technologies have incremental initial capital costs relative to conventional heating and power systems.

ERTH Power estimates a simple 14-year payback period for the solar panels.[20] However, OEB staff notes that this calculation does not include financing or ROE costs for the system. As a result, the actual payback period may be longer.

Although there is a risk that the actual payback period for the solar panels may be longer than estimated, OEB staff submits that these energy system investments will benefit ERTH Power's customers in the long term. OEB staff does not object to the inclusion of these technologies as part of the new facility costs.

Benchmarking

In its application, ERTH Power submitted benchmarking comparisons to other distributor facility construction projects. Specifically, the comparisons include select facility projects completed in recent years that were approved by the OEB.

ERTH Power is constructing a new facility and plans to maintain a second operations centre in Goderich. The operations centre in Goderich will continue to house seven employees who provide distribution services to a portion of ERTH Power's service area. ERTH Power also plans to continue to use half of the current Aylmer location for storage and construction staging.

OEB staff notes that a portion of the benchmarking only compares data points for the distributors' *newly* constructed facility space, rather than *total* facility space. In OEB staff's view, this results in several inaccuracies that produce benchmarking statistics that lower (or improve) ERTH Power's relative values in relation to the comparator distributors. The specific benchmarking comparisons at issue are listed below with OEB staff's concerns.

1. *Percentage of Space Dedicated to Office, Operations and Indoor Storage*:[21] This metric is a comparison of the new facilities' space only. It does not consider all the space used by the distributor to deliver these functions. This information may be useful in comparing construction costs of individual facilities, but it is not a

[20] Interrogatory Responses, Staff-12
[21] ERTH Power 2025 IRM Application, Appendix A, p. 30

reflection of the distributors' use of space.

2. *Gross Floor Space Dedicated to Office, Operations and Indoor Storage per Employee*:[22] In this metric, the spaces of the new facilities are compared to the total number of employees of each distributor rather than only the employees assigned to work at each new facility. The results on a per employee basis are, therefore, artificially low for ERTH Power when compared to the other distributors. This is due to the continued operation of ERTH Power's two other facilities: the operations centre in Goderich and the Aylmer location for storage and construction staging.

3. *Facility ft² Relative to Customer Count*:[23] In this metric, the total number of customers is used, rather than the number of customers serviced by the new facilities. A portion of ERTH Power's customers will have distribution services provided by staff at the operations centre in Goderich and other services, such as billing, customer service and corporate services, will be supplied by staff at the new facility. There also exists storage (i.e., outdoor warehouse) space in the Aylmer location for storage and construction staging. These two inaccuracies artificially lower the space per customer in ERTH Power's results.

4. *OEB-Approved Capital Expenditures Relative to Total Number of Customers*:[24] As noted in Item 3 above, the total number of customers is used rather than the customers serviced by the new facility.

ERTH Power's application also provides a graph showing benchmarking of *OEB-Approved Capital Expenditures Relative to Total ft²* [25] for both the new facility and the new facility if a conventional energy system had been constructed (i.e., it excludes the incremental cost for the solar panels and heat pump). OEB staff notes that ERTH Power's Argument-in-Chief contains a revision to this graph.[26] In the Argument-in-Chief, the graph shows lower costs per square foot than the graph within the application. However, there is no explanation as to why the cost has decreased. As a result, OEB staff invites ERTH Power to explain the inconsistencies in its reply submission.

- *New Facility:* \$660/ft² in the application vs. approximately \$590/ft² in the Argument-in-Chief
- *Conventional Energy Option:* Approximately \$590/ft² in the application and

[22] *Ibid.*
[23] ERTH Power 2025 IRM Application, Appendix A, p. 33
[24] ERTH Power 2025 IRM Application, Appendix A, p. 34
[25] ERTH Power 2025 IRM Application, Appendix A, p. 34, Figure 13
[26] ERTH Power Argument-in-Chief, April 22, 2025, p. 27, Figure 10

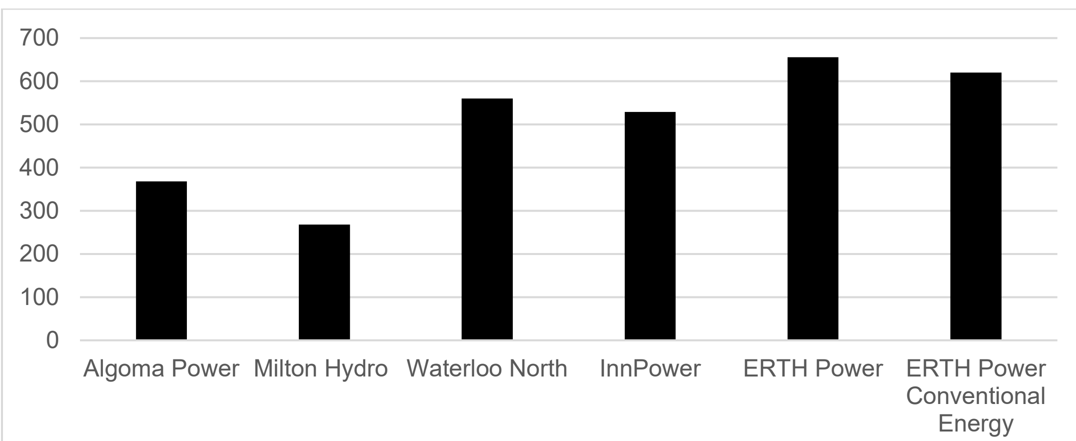
approximately $540/ft^2 in the Argument-in-Chief

OEB staff has recalculated the benchmarking analysis in tabular and graphical form based on the data presented in ERTH Power's Argument-in-Chief[27] in Figure 2 and Figure 3 below, respectively. Based on the recalculation, the cost per square foot of the facility should, in fact, be (i) $655/ft2 instead of the $590/ft2 included in the Argument-in-Chief) and (ii) for the Conventional Energy Option $620/ft2 instead of the $540/ft2 included in the Argument-in-Chief).

Figure 2: Capital Expenditures Relative to Total ft^2

	Total ft^2	Inflation Adjusted CAPEX ($000)	$/ft^2
Algoma Power	41,703	15,361	368
Milton Hydro	91,828	24,594	268
Waterloo North	104,000	58,236	560
InnPower	36,172	19,129	529
ERTH Power	50,624	33,182[28]	655
ERTH Power Conventional Power System	50,624	31,382[29]	620

Figure 3: Capital Expenditures Relative to Total ft^2



OEB staff submits that for a new facility, it is reasonable to compare expenditures per square foot. However, this analysis should be with the knowledge that the facilities have different proportions of space dedicated to offices, operations and indoor storage. OEB

[27] ERTH Power Argument-in-Chief, April 22, 2025, p. 26, Figure 9
[28] Most recent cost estimate used is derived from ERTH Power's Argument-in-Chief, April 22, 2025, p. 9
[29] Removes incremental costs for the solar panels and heat pump ($1.8 million), ERTH Power Argument-in-Chief, April 22, 2025, p. 6

staff also notes that ERTH Power raises the concern that “the inflation assumptions relied upon may be conservative and may underestimate the impact of inflationary increases over the last decade.”[30]

In present day dollars, ERTH Power’s new facility, regardless of energy system, is more expensive per square foot than recently constructed facilities of the other distributors. OEB staff’s recommended reductions to the expenditures eligible for ICM recovery based on this metric result are explained in the OEB Staff Recommendations section below.

Operations Maintenance and Administration Costs

ERTH Power proposes mechanisms for recovering differences in OM&A costs due to the new facility. Prior to the new facility being occupied, ERTH Power had OM&A expenses for the following items contained in its rates for each of its respective rate zones:

1. Goderich Rate Zone
    - Lease of an operations facility in Goderich. Since amalgamation, additional employees have been moved to this location, and seven staff at the operations centre in Goderich now also provide services in Goderich, Clinton, Mitchell, and Dublin.[31]
    - Lease of office space for customer service and billing staff in Goderich. These functions were moved to the head office after amalgamation.[32]

2. Main Rate Zone
    - Lease of service depots in Mitchell and Clinton. Since amalgamation, these locations have closed and staff have been relocated.[33]
    - Rent for the Bell St. property in Ingersol. The property is currently used as a head office housing 35 staff[34] and contains administrative offices, customer service, operations centre, vehicle garage and maintenance, as well as indoor and outdoor inventory storage.
    - Rent for the Elm St. property in Aylmer that serves as a satellite operations centre for three staff.[35] This site includes office space and equipment storage.

[30] ERTH Power 2025 IRM Application, Appendix A, p. 34
[31] Technical Conference Transcript, February 6, 2025, pp. 105-109
[32] *Ibid.*
[33] *Ibid.*
[34] Technical Conference Transcript, February 6, 2025, pp. 110-111
[35] *Ibid.*

After the new facility is constructed and occupied, there will be changes to ERTH Power's OM&A expenses.

- Elimination of rent for the Bell St. property
- Reduction, by half, in rent for the Aylmer property
- New revenue collected from ERTH Corporation[36] for the rental of space in the new facility
- Additional OM&A expenses for the new facility in Ingersoll, such as property taxes, utilities, maintenance and insurance

ERTH Power states in its application that it "recognizes that the cost of rent is currently embedded within its approved rates." However, ERTH Power goes on to note that it "is open to innovative ways to recognize the savings on rent charges within the confines of an ICM application."[37]

In response to interrogatories, ERTH Power proposed two new deferral accounts and one new variance account to record changes in the rental agreements with its affiliate and the difference in OM&A expenses. The proposed accounts include carrying costs at OEB-prescribed rates.

- The *ERTH Avoided Rent Deferral Account* would be credited $225,640 per year for the rent that is currently included in ERTH Power's rates and would be inflated by IRM increases until its next rebasing.[38]
- The *Rental Income Deferral Account* would include the fees ERTH Power will charge ERTH Corporation annually for the rental of space within the facility (i.e., $46,950). ERTH Power states this market rate exceeds the fully allocated costs.[39]
- The *ERTH New Facility OM&A Costs Variance Account* would include variances in OM&A expenses from the 2025 baseline of $315,164 for the existing Bell St. and Aylmer properties. The OM&A expenses are for items such as property taxes, heating and cooling, ground maintenance, and security.[40]

OEB staff submits that the OEB's ICM policy is clear – ICMs and ACMs are for *capital* costs. OEB staff does not agree with ERTH Power's position that an exception to the ICM policy should be made, even if the OM&A variance benefits ratepayers, for the following reasons:

[36] ERTH Corporation owns ERTH Power as well as non-regulated companies
[37] ERTH Power 2025 IRM Application, Appendix A, p. 15
[38] ERTH Power Argument-in-Chief, April 22, 2025, p. 29
[39] ERTH Power Argument-in-Chief, April 22, 2025, pp. 29-30
[40] ERTH Power Argument-in-Chief, April 22, 2025, p. 30

1. The ICM policy is clear that it only addresses capital costs. There is no consideration of addressing capital costs *and* OM&A.

2. There is an existing mechanism to properly address OM&A costs, capital costs, and affiliate transaction costs, among other items. The mechanism is a cost-based application (commonly referred to as a rebasing) – either a cost of service application or a custom incentive rate application.

3. The OEB has launched a consultation to support a review and evaluation of its ICM policy. Among the questions being considered is whether the ICM policy should be revised to include the recovery of incremental OM&A costs that are specifically related to an ICM project.[41] OEB staff submits that the consultation is the appropriate forum to address OM&A costs related to an ICM request, not this application.

4. ERTH Power's predecessor utilities have not rebased for some time[42], and the costs embedded in rates were constructed prior to amalgamation. The current rates have not been redesigned to account for changes in corporate structure or changes in facilities costs that have occurred since amalgamation. ERTH Power is proposing detailed, exact cost recovery of OM&A variances through deferral and variance accounts without opening its full historic accounting to review. For example, the historic closure of the two rural offices (Mitchell and Clinton) has not been credited to customers. ICM policy aside, in the absence of a complete review of all facilities' OM&A costs since amalgamation, OEB staff submits that considering OM&A in the ICM application is not appropriate.

5. The consolidated ERTH Power has passed the five-year mark in its deferred rebasing period, which activates the Earnings Sharing Mechanism (ESM).[43] The ESM requires that all earnings more than 300 basis points above the consolidated entity's ROE will be shared with consumers on a 50:50 basis annually.[44] The OEB has recognized "that providing a reasonable opportunity to use savings to at least offset the costs of a MAADs transaction is an important factor" for consolidations.[45] OEB staff submits that the existing ESM is the

[41] Evaluation of Incremental Capital Module (ICM) Policy | Engage with Us
[42] Erie Thames Powerlines Corporation last filed a cost of service application for rates effective May1, 2018 (EB-2017-0038), and West Coast Huron Energy Inc. last filed a cost of service application for rates effective 2013 (EB-2013-0175). ERTH Power is also in a deferred rebasing period since amalgamating.
[43] EB-2018-0082, Decision and Order, December 20, 2018, p. 2
[44] Handbook to Electricity Distributor and Transmitter Consolidations, June 11, 2024, p.23
[45] Handbook to Electricity Distributor and Transmitter Consolidations, June 11, 2024, p. 17

appropriate mechanism to handle the OM&A variances resulting from the new facility.

OEB staff submits that ERTH Power's proposal for the handling of OM&A variances resulting from the new facility should not be approved as part of the ICM funding request.

ERTH Power's Argument-in-Chief refers to the OEB approving new deferral and variance accounts within the context of IRM applications. The Argument-in-Chief further notes these past approvals as a basis for the OEB approving the deferral and variance accounts it has proposed with its ICM request, which was included as part of its IRM application.[46]

A specific application referenced by ERTH Power in its Argument-in-Chief pertains to the approval of a deferral account to track the differences in depreciation expenses due to changes in useful lives under International Financial Reporting Standards requirements.[47] OEB staff does not agree that the referenced application is relevant in this instance. It does not relate to OM&A resulting from an ICM request.

OEB Precedent

OEB staff notes that the OEB has previously considered ICM requests that contemplated OM&A variances. In such instances, the OEB has not approved recovery of the OM&A variances. Two such examples are summarized below to provide context to the matters in this proceeding.

Brantford Power Inc. and Energy+ Inc.:

Brantford Power Inc. (Brantford Power) and Energy+ Inc. (Energy+) submitted ICM applications[48] for a new facility project with similar accounting issues faced by ERTH Power. Specifically, changes in operating expenses due to lease changes and acquiring a new facility.

Brantford Power historically leased three facilities for its operations and was informed that the owner would not renew the lease. Brantford Power acquired and renovated a property to contain all operations in one facility. Brantford Power applied for ICM funding for the new facility, excluding space it intended to lease to Energy+.

Energy+ sold a facility in Paris, Ontario it deemed inadequate for its use and replaced it with space in Brantford Power's new facility. Energy+ entered a capital lease agreement

[46] ERTH Power Argument-in-Chief, April 22, 2025, p. 29
[47] EB-2018-0079, Decision and Rate Order, Whitby Hydro Electric Corporation, December 20, 2018, p.5
[48] Brantford Power (EB-2019-0022) and Energy+ (EB-2019-0031) applications for rates and other charges to be effective January 1, 2020.

with Brantford Power for the portion of the cost of the new facility that was proportional to the amount of space Energy+ would exclusively occupy. Further, Energy+ entered into a shared services agreement for shared space. Energy+ applied for ICM funding, but only for the capital lease of space in the new facility.

In its Decision and Rate Order addressing the request from Brantford Power the OEB did not approve the inclusion of OM&A variances for Brantford Power:

> The OEB is not adjusting the ICM funding amount for OM&A costs included in Brantford Power's current revenue requirement. The ICM is a capital funding mechanism and Brantford Power has not sought funding for any incremental OM&A funding associated with the new facility, consistent with the OEB's Funding of Capital policy. Brantford Power's response to interrogatories provided forecasts of an expected net increase in OM&A for 2020 and 2021 related to facilities. The OEB therefore finds it reasonable not to adjust the previous OM&A approved as part of Brantford Power's base distribution rates.[49]

The OEB also did not approve the inclusion of OM&A variances for Energy+, reinforcing that an ICM request is a capital funding mechanism:

> The OEB is not adjusting the ICM funding amount for OM&A costs included in Energy+'s current revenue requirement. The ICM is a capital funding mechanism and Energy+ has not sought funding for any incremental OM&A funding associated with the new facility, consistent with the OEB's Funding of Capital policy. The annual lease costs for the Paris facility are only $48,000 and therefore not material. Furthermore, Energy+ will be absorbing the cost of the operating portion of the lease until the next rebasing. The OEB therefore finds it reasonable not to adjust the previous OM&A approved as part of Energy+'s base distribution rates.[50]

OEB staff submits that the OEB's Decision and Rate Order regarding Brantford Power and Energy+'s applications support the position of not including OM&A expenses in this ICM application.

Halton Hills Hydro Inc.:

In 2018, Halton Hills Hydro Inc. (Halton Hills Hydro) requested ICM funding of $23.5 million for the construction of a new transformer station to meet future growth demands. Included in the ICM request, Halton Hills Hydro sought recovery of $131,515 per year of

[49] EB-2019-0022 Brantford Power Inc. and EB-2019-0031 Energy+ Inc., Decision and Rate Order, January 23, 2020, p. 8
[50] EB-2019-0022 Brantford Power Inc. and EB-2019-0031 Energy+ Inc., Decision and Rate Order, January 23, 2020, p. 13

OM&A costs associated with the new transformer station – such costs included third party control room monitoring, inspections, maintenance, property taxes and insurance.[51]

In its Decision and Rate Order, the OEB approved the ICM funding request of $23.5 million for the construction of the new transformer station. However, the OEB denied Halton Hills Hydro's request for an exception to the ICM policy to recover the $131,515 incremental OM&A arising from the operation of the new transformer station. The OEB stated that it "expects Halton Hills Hydro to be able to manage this incremental amount within its approved revenue requirement and the incremental revenue approved for collection through distribution rate riders for the construction of the new [transformer station]."[52]

OEB staff submits that the OEB's findings in the Halton Hills Hydro Decision and Rate Order further support the reasoning for not including OM&A expenses in this ICM application.

Allocation of Cost Between Rate Zones

ERTH Power currently has two rate zones: (1) the Main Rate Zone; and (2) the Goderich Rate Zone. As previously described, ERTH Power made changes to its facilities and staff reporting locations, in both rate zones, during the deferred rebasing period.

ERTH Power proposes allocating the new facility cost between its two rate zones based on the proportion of capital expenditures in each rate zone over the 2018 to 2023 period.[53] The allocation proposal results in costs being allocated 81% and 19% to the Main Rate Zone and Goderich Rate Zone, respectively.

Through interrogatories, alternate approaches to allocating the capital cost of the new facility were explored.[54] The alternative approaches explored result in similar outcomes to the allocation proposal put forth by ERTH Power. OEB staff submits that the allocation of costs between the two rate zones based on allocation of capital costs is a reasonable approach to use for this ICM request given that it is straightforward to apply and results in similar allocation outcomes to the alternative approaches.

OEB Staff Recommendations

OEB staff recommends reducing the capital cost of the new facility based on the

[51] EB-2018-0328 Halton Hills Hydro Inc., Decision and Order, May 1, 2019, p. 4
[52] EB-2018-0328 Halton Hills Hydro Inc., Decision and Order, May 1, 2019, p. 9
[53] ERTH Power 2025 IRM Application, Appendix A, p. 38
[54] Interrogatory Responses to Staff-13 and VECC-6

benchmarking results and allocation of new facility space to be used by ERTH Corporation. OEB staff also recommends changing the approach used for Capital Cost Allowance (CCA) and Payments in Lieu of Taxes (PILs). Details on OEB staff's recommendations are included in the sections below.

Revised ICM models for the Main Rate Zone and Goderich Rate Zone are contained in Appendix A and Appendix B, respectively. An Excel file containing calculations of the cost reductions and CCA amounts for the ICM models of both rate zones is contained in Appendix C.

The result of the reductions recommended by OEB staff is a total capital expenditure of $28.0 million – with $22.7 million (81%) allocated to ERTH Power's Main Rate Zone and $5.3 million (19%) allocated to the Goderich Rate Zone.

Capital Cost Reduction: Benchmarking

As shown in the benchmarking of cost per square foot and in the rate impacts, the cost of the new facility is significant. OEB staff proposes that the cost per square foot for the new facility be reduced to one standard deviation above the mean of the benchmarking comparators put forward by ERTH Power. This approach allows for consideration of local market forces, differences in space use allocations, and the annual inflation factors used to escalate other distributors' benchmarked facility costs to current day costs[55], as described in the Benchmarking section above.

OEB staff does not object to the incremental cost of the heat pump and solar panels for the new facility. As a result, the reduction to the new facility cost is made based on the conventional energy option capital costs (i.e., the facility cost provided by ERTH Power that excludes the incremental cost for the heat pump and solar panels).

Figure 4: Capital Expenditure (CAPEX) Reduction

Item	**Cost per Square Foot ($)**	
Algoma Power	368	A
Milton Hydro	268	B
Waterloo North	560	C
InnPower	529	D
Median Value of (A,B,C,D)	449	E
Standard Deviation (A,B,C,D)	138	F

[55] ERTH Power states "the inflation assumptions relied upon may be conservative and may underestimate the impact of inflationary increases over the last decade." ERTH Power 2025 IRM Application, Appendix A, p. 34

Median Value + Standard Deviation (E+F)	586	G
ERTH Power Conventional Energy	620	H
Item	**Value**	
Reduction factor (1-G/H)	5.45%	I
ERTH Power Conventional Energy CAPEX	$31,381,921	J
Proposed Reduction (JxI)	$1,710,315	K
New Facility CAPEX	$33,181,921	L
Reduced New Facility CAPEX (L-K)	$31,471,606	M

Capital Cost Reduction: Space Allocated to Affiliates

ERTH Power allocates 50,624 ft^2 (89%) of the new facility to ERTH Power use and 6,546 ft^2 (11%) of the new facility to ERTH Corporation for use.[56] These values include the combination of directly attributable space and a share of common space.

OEB staff submits that the total costs for the new facility for ERTH Power should be reduced by 11% to exclude costs for the portion of the new facility that will be rented to the affiliate (ERTH Corporation). This aligns with the approach approved by the OEB in the Brantford Power ICM proceeding, noted above, where a portion was rented to a third party (Energy+). In the absence of a rebasing application, OEB staff submits that this simplified approach is a suitable method of allocating costs among the entities.

The cost for the new facility allocated to ERTH Power should therefore, in OEB staff's view, be $28.010 million (89% $31.472 million). Allocation of costs to the rate zones results in a cost of $22,687,881 (81%) to the Main Rate Zone and $5,321,894 (19%) to the Goderich Rate Zone.

OEB staff submits that the new facility cost reduction can be handled in one of two ways:

1. The OEB can disallow the portion of the new facility costs from rate base. This would provide certainty that the excess space allocated to the affiliate would not be collected from ratepayers, regardless of potentially reduced needs of the affiliate in the future.

2. The OEB can disallow the portion of the new facility costs for the purposes of the ICM period only, but allow for the excluded costs to be considered in ERTH

56 Technical Conference Undertaking, February 14, 2025, JT1.9

Power's next rebasing application. This would provide ERTH Power an opportunity to present detailed accounting treatment of rents, OM&A costs and affiliate transactions.

OEB staff recommends the second option as this will allow for accurate cost consideration in the future.

Capital Cost Allowance Deductions

As part of the calculation for revenue requirement in an ICM request, applicants are required to include CCA and PILs amounts.

OEB staff has concerns with ERTH Power's proposed approach to claiming a reduced CCA amount in its ICM calculation. ERTH Power proposes to defer claiming a portion of its available CCA deductions on its mechanical and energy systems for its new facility, with the intent of preserving a higher undepreciated capital cost (UCC) balance that would reduce PILs at its rebasing in 2028. In total, ERTH Power has reduced its planned full year CCA claim by $413,000 relative to the maximum CCA available. The impact of this choice within the ICM construct is annual PILs of $0 for both the Main Rate Zone and Goderich Rate Zone.[57]

OEB staff submits that ERTH Power does not provide compelling justification for reducing its CCA deduction from the maximum available. In response to interrogatories, ERTH Power states that applying the full CCA deduction would reduce the 2025 incremental revenue requirement by approximately $149,000[58] (5%), thereby lowering the ICM funding requested from ratepayers for the new facility during the IRM term.

ERTH Power's proposal, if approved, results in a materially higher ICM revenue requirement while deferring the tax savings to a future period. Additionally, there is a risk of intergenerational inequity when current ratepayers bear the significant cost of funding ERTH Power's new facility, while future ratepayers reap the benefits of the deferred tax deductions.

OEB staff also notes that ERTH Power cited the OEB's Decision and Order[59] for E.L.K. Energy Inc.'s (E.L.K. Energy) application for 2024 rates as precedent. OEB staff submits that while the OEB did approve a CCA smoothing mechanism in that proceeding, E.L.K. Energy's situation is not comparable to ERTH Power's circumstance in this proceeding. In E.L.K. Energy's case, the distributor had a nil PILs position due to sustained tax losses and the OEB accepted that there would be no immediate tax savings to flow to ratepayers by claiming the maximum CCA on the ICM assets. In

[57] Manager's Summary, p. 42
[58] Interrogatory Response Staff-16, January 7, 2025, p. 2
[59] EB-2023-0013

contrast, ERTH Power has maintained a tax payable position in its recent years and has no loss carryforwards.[60]

Given these considerations, OEB staff submits that ERTH Power should apply the full available CCA in calculating the ICM revenue requirement for 2025.

To reflect the recommendation above, OEB staff has included additional CCA amounts in the ICM models contained in Appendix A and Appendix B as placeholders to estimate the revenue requirements and rate riders. The additional CCA amounts in the appendices are for illustrative purposes and reflect the maximum eligible CCA based on ERTH Power's original proposal rather than OEB staff's proposal. When the OEB makes its decision regarding the capital amounts to be funded by each rate zone, OEB staff recommends that the Decision and Order require ERTH Power to revise the CCA amounts for the ICM per the OEB's findings.

~All of which is respectfully submitted~

[60] Technical Conference Undertaking, February 14, 2025, JT1.14

Appendix A

OEB Staff Submission

ERTH Power 2025 Rates

EB-2024-0021

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Appendix B

OEB Staff Submission

ERTH Power 2025 Rates

EB-2024-0021

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Appendix C

OEB Staff Submission

ERTH Power 2025 Rates

EB-2024-0021

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