Shepherd Rubenstein

Mark Rubenstein
mark@shepherdrubenstein.com
Dir. 647-483-0113

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Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2024-0021 – ERTH Power ICM – SEC Submission

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 6, these are SEC's submissions regarding ERTH Power Corporation's ("ERTH Power") proposed Incremental Capital Module ("ICM") for a new $33.2M[1], administration and operational facility ("New Facility").

A. Overview

ERTH Power currently operates out of three rented buildings: an administrative and operations building in Ingersoll (Bell St.), a satellite operations center in Aylmer (Elm St.), both rented from its corporate affiliate, ERTH Corporation ("ERTH Corp."), and a field operations center in Goderich, rented from the City of Goderich.[2]

ERTH Power's proposal is to continue using the facility in Goderich, maintain a small staging center on Elm St., and consolidate its administration and operations functions at a newly constructed facility in Ingersoll, which it will own. The New Facility will also include space rented to two affiliates (ERTH Corp. and ERTH Holding).[3] The New Facility is 55,170 square feet, will cost $33.182 million, and is expected to be occupied beginning in December 2025.[4]

The proposed ICM for the New Facility would recover from ERTH Power's customers an additional $2.74M per year by way of a rate rider across both its rate zones (Main and Goderich RZ).[5] This would result in a distribution bill impact, of 17.1% for the Main RZ, for all classes except Sentinel Lighting and 15.9% for all classes in the Goderich RZ.[6]

[1] ERTH Power Argument-in-Chief, April 22, 2025 ("ERTH AiC"), Figure 3
[2] Application, Appendix A - ICM Application, p.7-10
[3] Application, Appendix A - ICM Application, p.18; Interrogatory Responses Staff-9
[4] Undertaking JT1.11; Interrogatory Response SEC-2, Attachment 2
[5] Undertaking JT1.1
[6] ERTH AiC, Figure 12; Undertaking JT1.1

B. Summary of Submissions

While SEC does not take issue with the need for new and upgraded administrative and operations space, it cannot be completed with cost being no object. The cost of the New Facility is excessive and unjustified, resulting in unreasonable distribution rate impacts for customers.

As discussed in detail in these submissions, a more appropriate capital cost allocated to ERTH Power for the New Facility is $23.19M.

The forecast costs of the New Facility are significantly higher than the benchmarking would demonstrate are reasonable, and the evidence demonstrates that ERTH Power did not appropriately consider ensuring that the design properly balance need, benefit, and cost to customers. Moreover, a material portion (11.5%) of the New Facility will be used by ERTH Power's affiliate.[7] The costs should be removed from the ICM and allocated to ERTH Power's shareholder as they are not costs intended to serve the regulated utility.

Additionally, a number of other adjustments should be made to the amount recoverable through the ICM, including requiring ERTH Power to maximize its Capital Cost Allowance ("CCA") deductions, providing credit for the savings from previous leasing costs for the old facilities, and reducing the 2025 amount to reflect a late November or December in-service date.

C. ICM Criteria

The Ontario Energy Board's ("OEB's") test for an ICM requires that an applicant demonstrate need, materiality, and prudence.[8] SEC accepts that ERTH Power has met the requirements for need and materiality, however, it has not demonstrated the prudence of the New Facility.

Need and Materiality

As part of the need criterion, a distributor must pass the Means Test, which is defined as the distributor's most recent Return on Equity ("ROE") not being more than 300 basis points above the deemed ROE.[9] ERTH Power has demonstrated that its actual ROE for 2023 meets the Means Test.[10] In addition, eligible amounts must be based on discrete projects and should be directly related to the claimed driver. The amounts must also be clearly outside the base upon which current rates were derived. ERTH Power has shown that the cost of the New Facility is outside of the current rate base and has adequately explained why the Bell Street and Elm Street facilities no longer meet the utility's needs.[11] SEC submits that ERTH Power's proposed ICM project meets the OEB's requirements for need.

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[7] Undertaking JT 1.9; IRR – Attachment 12, p.20; Interrogatory Response SEC-12d

[8] Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module (EB-2014-0219) September 18, 2014, p.17

[9] Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module (EB-2014-0219) September 18, 2014, p.15

[10] Application, Appendix A - ICM Application, p.40; Table 8

[11] For example, KT1.3 and Technical Conference Revised Transcript, February 6, 2025, p. 10-26, ERTH AiC, p.15-17

ERTH Power has also satisfied the materiality criterion, which requires that the maximum eligible incremental capital be calculated for each rate zone, and that the proposed investment exceed the threshold. ERTH Power has demonstrated that 100% of the cost of the New Facility is eligible for incremental funding under the threshold test.[12] It has further shown that the total cost of the New Facility is material in comparison to its planned 2025 capital spending[13], and its average 2024–2029 capital budget of $6.517M.[14] Even with the reductions proposed by SEC, the amounts remain material.

Prudence

SEC submits that ERTH Power has failed to demonstrate that the New Facility, with a forecast cost of $33.182M, is prudent.

Flawed Decision-Making Process. ERTH Power's decision-making process to build the New Facility lacked adequate analysis of alternatives, transparency, and customer input.

ERTH Power failed to adequately assess alternatives before proceeding with its decision to acquire land and pursue construction of a single new facility. Although the need to address deficiencies with the Bell Street and Elm Street properties was first identified in June 2022, and formally presented at a Board of Directors strategy meeting in September 2022, the subsequent steps taken by ERTH Power demonstrate a lack of rigorous analysis and strategic evaluation.[15] In October 2022, ERTH Corp. approved a Key Performance Indicator under its 2023 Corporate Action Plan to develop a business plan for a new LDC Hub facility and to explore property options.[16] However, at the time, no final determination had been made regarding the number of facilities required or whether it would be ERTH Power or ERTH Corp. who would ultimately own the property.[17]

Despite the absence of a finalized plan, the company proceeded toward acquiring a single large property without adequately considering other potential options. The Board of Directors considered one parcel of land but did not proceed[18], it subsequently obtained shareholder approval to purchase a second parcel, in 2024.[19] There is no evidence that ERTH Power seriously explored the alternative of maintaining multiple sites to serve its large service territory, nor that it weighed the respective advantages and disadvantages of ownership by ERTH Power versus the affiliate ERTH Corp.[20] The course of action taken reflects a pre-emptive commitment to a particular outcome rather than an objective, evidence-based decision-making process.

Further, the procurement process for professional services raises concerns about transparency and value. POW Peterman Engineering was retained to design the facility and Utilis Consulting was engaged to develop a business plan.[21] POW was selected on a sole-source, word-of-mouth basis,

[12] ICM Application, Table 7
[13] Application, Appendix A - ICM Application, p.39
[14] Application, Appendix A - ICM Application, Appendix B, 2024-2029 Distribution System Plan, Table 28
[15] Undertaking JT1.2; AiC, p.18-19
[16] Interrogatory Response SEC-1 Attachments 1,22
[17] Technical Conference Tr. p.31 32
[18] Interrogatory Response SEC-1 Attachment 3
[19] Interrogatory Response SEC-7b
[20] ERTH AiC, p.18
[21] Interrogatory Response SEC-1; ERTH AiC p.19-21

without a competitive process.[22] As ERTH Power notes in its Argument-in-Chief, Utilis Consulting was retained 'to memorialize the options assessments and decisions made to date…', i.e. confirm the decisions already made.[23]

The business plan itself does not demonstrate that the proposed New Facility is the most cost-effective or appropriate solution. It outlines three options, status quo, leasing an existing space, and a new build.[24] Once the decision was made to proceed with a new build facility, no further analysis was undertaken to evaluate the range of possible building types, including considerations of requirements, design alternatives, and material choices. As a result, there is no evidence that the selected approach represents the most cost-effective option or serves the best interests of its customers.

Although ERTH Power did regularly consult with its nine shareholders[25], the absence of any customer consultation exemplifies the broader deficiencies in ERTH Power's decision-making process. Despite the fact that the proposed expenditure is expected to result in a significant increase in distribution rates (~16-17%), ERTH Power chose not to seek any input from its customers. Its explanation, that the facility is "focused on utility operations" and therefore only "indirectly impacts the customer base"[26], shows a failure to fully consider the implications of the project. Customers will ultimately bear the cost of the New Facility, and their exclusion from the process raises serious concerns about whether the full impacts were properly evaluated.

Benchmarking. The Rate Handbook is clear that "benchmarking will be used by the OEB to review a utility's proposals".[27] ERTH Power's own benchmarking evidence demonstrates that the costs of the New Facility are unreasonable. The evidence shows that the proposed New Facility is significantly more expensive than the average of four self-selected comparator administration and operations facilities constructed by other distributors, even after applying ERTH Power's own customer inflation index to account for changes in construction and land costs over time.[28]

Using the lower and more comparable Conventional Heat and Power forecast estimate, instead of the proposed solar panels and heat pump option, the New Facility's cost ($550/sq. ft.) is 28.5% higher than the comparator average ($428/sq. ft.). When using the actual forecasted costs of the New Facility ($580/sq. ft.), ERTH Power's proposal is 35.5% higher. This significant cost difference is unjustified and should not be passed on to customers.

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[22] Technical Conference Tr. p.36
[23] ERTH AiC, p.21
[24] Interrogatory Response SEC-1; ERTH AiC, p.22-24
[25] ERTH AiC, p.19
[26] Interrogatory Response SEC-15b
[27] Handbook to Utility Rate Applications (October 13 2016), p.18
[28] Interrogatory Response SEC-12a

ERTH Power Benchmarking Results - $/sq. ft.			
Utility[29]	**2025 Capital Costs**[30]	**Sqft**[31]	**$/sqft**
Algoma Power	$15,361,196	41,703	$368
Milton Hydro	$24,593,593	91,828	$268
Waterloo North	$57,839,000	104,000	$556
InnPower	$19,129,266	36,712	$521
Average			$428
ERTH Power	$33,181,921	57,170	$580
ERTH Power Conventional Heat and Power	$31,466,325	57,170	$550

Although ERTH Power described certain design components that were considered, but ultimately rejected in an effort to keep costs down[32], the total cost of the New Facility, as demonstrated by its own benchmarking information, remains too high. This reflects a distributor has not done nearly enough to reduce project costs to a reasonable level.

Another way ERTH Power evaluates the cost of the facility is by examining the capital cost per customer.[33] Similar to the cost per square foot metric, ERTH Power's own benchmarking data shows that the New Facility has the highest cost among the comparators, significantly higher than the average by 30% in ERTH Power's proposal and 23% in the case of Conventional Heat and Power.[34] Remarkably, ERTH Power argues that based on this specific benchmarking, the costs of the New Facility are "reasonable relative to the peer group."[35]

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[29] Application, Appendix A - ICM Application, p.34; ERTH AiC, p.26
[30] ERTH AiC, p.26; SEC-12a; ERTH costs updated (See ERTH AiC, p.26, ft. 91)
[31] SEC-12d
[32] Undertaking JT1.3; ERTH AiC, p.19-21
[33] Application, Appendix A - ICM Application, p.34
[34] Application, Appendix A - ICM Application, p.34
[35] ERTH Power AinC, p.26

ERTH Power Benchmarking Results - $/Customer			
Utility[36]	**2025 Capital Costs**[37]	**Customers**[38]	**$/Customer**
Algoma Power	$15,361,196	12,332	$1,246
Milton Hydro	$24,593,593	36,818	$668
Waterloo North	$57,839,000	52,611	$1,099
InnPower	$19,129,266	16,157	$1,184
Average			$1,049
ERTH Power	$33,181,921	24,386	$1,361
ERTH Power Conventional Heat and Power	$31,466,325	24,386	$1,290

The OEB should rely on the benchmarking evidence as the basis for its determination, as it has in the past, including in the context of new facility costs. In EB-2018-0028, for example, the OEB approved only a portion of the forecasted costs for Energy+'s new administrative building, based on benchmarking evidence that, after adjustments, compared the proposed costs to the average of comparator facilities on a per-square-foot basis.[39] Furthermore, the OEB in other contexts, notably compensation, has consistently reduced recoverable costs to a benchmark median.[40]

Using the same approach, SEC submits that the OEB should not approve costs for the New Facility above the benchmark. Using costs per square foot measure, this would result in a capital cost of $24,468,760, representing a reduction of $6,978,127, or 22%. With the proposed solar panels and heat pump included, which SEC supports, a reasonable total cost of the New Facility is $26,184,356.

Affiliate Allocation. ERTH Power plans to share a portion of the New Facility with its affiliates, ERTH Corp. and ERTH Holding.[41] Approximately 30% (16 of 54) office employees occupying the New Facility will be from one of the two affiliates.[42] While ERTH Power intends to own the New Facility, it will rent space to its affiliates at a rate of $25 sq/ft, generating a total annual revenue of $46,950.[43] As part of its interrogatory responses, ERTH Power proposed a Deferral and Variance Account ("DVA") (Rental Income Deferral Account) to capture this revenue for future credit to customers.[44]

SEC has several concerns with this proposal.

First, SEC submits that the appropriate approach is not to credit customers with offsetting rent. Instead, the portion of the building that exceeds the regulated utility's requirements and is being used by affiliates should be removed from rate base and from the approved ICM. In EB-2012-0033

[36] Application, Appendix A - ICM Application, p.34; ERTH AiC, p.26
[37] ERTH AiC, p.26; SEC-12a; ERTH costs updated (See ERTH AiC, p.26, ft. 91)
[38] SEC-12de
[39] *Decision and Order* (EB-2018-0028), June 13, 2019, p.13
[40] See for example, *Decision and Order* (EB-2017-0049) March 7 2019, p.111; *Decision and Order* (EB-2019-0082), April 23 2020, p.142
[41] Application, Appendix A - ICM Application, p.18; Interrogatory Responses Staff-9
[42] Interrogatory Response SEC-5a; Interrogatory Response Staff10a
[43] Undertaking JT 1.13
[44] Interrogatory Responses SEC-6

(Enersource), the OEB explicitly rejected a proposal to impute rent for space that exceeded the utility's needs and required that it be removed from rate base.[45] Furthermore, the additional problem with the DVA approach as proposed by ERTH Power, is it creates a timing mismatch between when the costs for the New Facility are being borne by customers, and when they properly receive a credit for the offsetting revenue.

Second, both the rate and the amount of space ERTH Power proposes to lease to its affiliates appear to contravene the *Affiliate Relationships Code for Electricity Distributors and Transmitters* ("ARC"). The ARC requires that when a utility charges an affiliate for the use of an asset, the charge must be no less than the market price or the fully-allocated cost of providing the asset.[46] ERTH Power states that the proposed rate of $25/sq. ft is greater than the fully-allocated cost of $21.52/sq. ft.[47] However, a review of the methodology used to derive this fully-allocated cost shows that it does not meet the ARC's requirements and significantly understates the appropriate costs.

ERTH Power's methodology essentially calculates the capital cost/sq. ft. of the New Facility ($585/sq. ft.), divides it by the asset's useful life (55 years) to determine a depreciation expense, and then adds a portion of OM&A per sq/ft.[48] This approach omits the largest component of the cost of the New Facility, which is ERTH Power's cost of capital, including both debt and equity, and the associated tax impact. The ARC explicitly requires that the "[t]he fully-allocated cost shall include a return on the utility's invested capital" which shall be "no less than the utility's approved weighted average cost of capital."[49] More than 70% of the New Facility's revenue requirement is attributable to the cost of capital.[50] All of this is just further evidence that the more appropriate approach is to allocate a portion of the cost of the New Facility that will be used by the affiliate to the non-utility business or shareholder.

SEC also disagrees with the square footage that ERTH Power says will be allocated as part of a lease agreement with the affiliate, which it used in calculating total revenue. The proposed 1,829 sq. ft.[51] is inconsistent with the information that underpins the New Facility business plan. It does not appear to include a share of common space and does not, on its face, represent a reasonable allocation.[52]

As part of its business plan for the New Facility, and based on the benchmarking information included in the pre-filed evidence, ERTH Power allocated a total of 6,546 sq. ft. (or 11.5%) of the facility to the unregulated business (i.e., its affiliates).[53] This includes both directly allocated space and an appropriate share of the common space.[54] This is a more accurate assessment of the total square

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45 *Decision and Order* (EB-2012-0033), December 13 2012, p.18
46 Affiliate Relationships Code for Electricity Distributors and Transmitters, section 2.3.3.6, 2.3.4.2
47 Undertaking JT 1.13
48 Undertaking JT 1.13
49 Affiliate Relationships Code for Electricity Distributors and Transmitters, 2.3.4.2
50 ERTH AiC, p.9, Figure 4
51 Undertaking JT 1.13
52 For example, a review of the detailed facility specifications (see IRR – Attachment 12, p.13) shows that if you add up the square footage of all areas that would reasonably be for the exclusive use of office staff (all of the second floor and the office space for customer service/billing" on the first floor), the total is 18,740 sq. ft. Approximately 30% of that space (16 of 54 office employees who are employed by the affiliates) represents 5,573 sq. ft., and this figure does not include any allocation of other shared spaces such as the lobby, lunchroom, or training room.
53 Undertaking JT 1.9; IRR– Attachment 12, p.20; Interrogatory Response SEC-12d
54 Undertaking JT 1.9

footage to be allocated to the unregulated business, as it reflects a proper fully allocated methodology and is the space that underpinned the business plan.

SEC submits that the OEB should allocate 11.5% of the New Facility costs to ERTH Power's shareholder, as that represents the appropriate fully allocated apportionment of the building between the regulated business and the unregulated affiliates.

SEC Proposal

Based on SEC's analysis discussed above, the OEB should approve capital costs of $23,190,358 for the New Facility. The amount reflects a reasonable cost for a new administration and operations building, and the proper allocation of costs to its affiliates.

SEC Proposal	
ERTH Proposal	**$33,181,921**
Minus Cost of Solar and Heat Pumps	-$1,715,596
Convention Building	$31,466,325
Reduction to Reflect Benchmarking Results	-$6,978,127
Net Conventional New Facility Costs	$24,488,198
Add Back Cost of Solar and Hear Pump	$1,715,596
Revised New Facility Costs	**$26,203,794**
11.5% Allocation to Unregulated/Shareholder	-$3,013,436
Revised New Facility Costs	**$23,190,358**

D. Other Issues

Capital Cost Allowance

As part of the revenue requirement calculation for the New Facility, ERTH Power is proposing to reduce its CCA claim in order to set its PILs expense at $0, rather than claiming the full amount allowed under normal tax rules.[55] Due to the nature of the asset, applying the full CCA would result in a credit to customers, as CCA rates exceed depreciation rates.[56] The effect of ERTH Power's proposal is a $149K increase in the revenue requirement based on the proposed capital costs of the New Facility.[57]

SEC submits that ERTH Power's proposal to reduce its CCA claim and increase costs to customers is not appropriate. The OEB's policy clearly states that "[d]istributors are expected to exercise sound tax planning and are expected, for rate-setting purposes, to maximize tax credits and take the maximum deductions allowed." [emphasis added][58]

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[55] Any impact of the Accelerated Investment Incentive (AII) will be captured in the Account 1592 – CCA sub-account consist with OEB guidance. (See Filing Requirements For Electricity Distribution Rate Applications Filed in 2024 for Rates Taking Effect in 2025 - Chapter 3, p.28)
[56] Application, Appendix A - ICM Application, p.42
[57] Interrogatory Response Staff-16a
[58] Filing Requirements for Electricity Distribution Rate Applications - 2025 Edition for 2026 Rate Applications – Chapter 2, p.41; See also *Decision and Order* (EB-2007-0693), August 11 2008, p.18

ERTH Power references the OEB's decision in E.L.K. Energy's recent ICM application (EB-2023-0113) as precedent.[59] However, SEC notes that the circumstances in E.L.K. Energy's case were unique and materially different from the current situation. E.L.K. Energy was experiencing significant cash flow challenges that negatively affected its financial position, including an already negative ROE.[60] In that case, utilizing the full available CCA would have reduced the incremental revenue by 49%.[61] That is not the case here. ERTH Power has recently over-earned[62], and maximizing the PILs deduction would result in only a modest reduction to the overall incremental revenue request. There is no reasonable justification for deviating from standard tax treatment in this instance.

The OEB should require ERTH Power to take the maximum allowable CCA deductions and incorporate that into the ICM model.

Lease Savings

As a result of moving staff and operations from the two existing buildings to the New Facility, ERTH Power will save $225,640 in lease payments made to ERTH Corp.[63] These amounts are embedded in the base rates. SEC submits that these amounts should be deducted from any approved ICM revenue requirement as an offset.

SEC recognizes that the OEB has not previously made such an adjustment, relying on the fact that the ICM is a capital funding mechanism.[64] However, this approach is manifestly unfair. Customers are being asked to pay significant additional costs through the ICM for the New Facility, over and above what is already being collected in rates, while also continuing to pay for facilities that are being replaced and for costs that ERTH Power is no longer incurring.

If the previous facilities had been owned by ERTH Power and included in the rate base, the OEB would almost certainly credit customers in some fashion for the amounts embedded in rates that relate to the disposed capital assets. The ownership structure of the facilities between affiliates should not result in ERTH Power's customers being placed in a worse position.

ERTH Power has proposed two DVAs to capture Operating, Maintenance & Administration ("OM&A") costs, one related to avoided rent (Avoided Rent Deferral Account), and another for other New Facility-related incremental OM&A (ERTH New Facility OM&A Cost Variance Account).[65] Neither should be approved. SEC agrees that an ICM is meant for capital funding, and therefore the proposed New Facility OM&A Cost Variance Account is not appropriate. The example cited by ERTH Power in EB-2018-0079 is also entirely distinguishable. There, the OEB approved as part of an IRM application the creation of a new DVA as part of an approved Settlement Proposal (between the applicant Whitby Hydro and OEB Staff) in the unique context of significant volatility related to the change in the useful lives of its smart meters.[66]

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[59] Interrogatory Response Staff-16c; ERTH AiC, p.10
[60] *Decision and Rate Order* (EB-2023-0113), March 21 2024, p.24
[61] *Decision and Rate Order* (EB-2023-0113), March 21 2024, p.23
[62] Application, Appendix A - ICM Application, p.40; ERTH AinC, p.15, Figure 7
[63] K1.3
[64] *Decision and Rate Order* (EB-2019-0022/0031), January 23 2020, p.8-9, 13
[65] Interrogatory Response SEC-6
[66] *Decision and Rate Order* (EB-2018-0079), December 20, 2018, Schedule B: Settlement Proposal, p.14-15

As noted, the avoided rent reflects a different issue, stemming from how ERTH Power has historically arranged its facilities. That said, SEC does not support a variance account as the method to capture the avoided rent. This is because, much like the concerns raised about the proposed Rental Income Deferral Account, it creates a mismatch between when customers begin paying for the New Facility and when they receive the benefit of the cost savings. Additionally, the amounts related to the avoided rent payments are already known, so there is no need for variance treatment.

In-Service Date Impact

ERTH Power says it expects to occupy the New Facility on November 24, 2025[67], although the construction schedule shows that substantial completion is not expected until December 15th, with final completion by December 30th.[68] At the same time, for ratemaking purposes, ERTH Power will be treated as if the facility goes in service at the beginning of the year.[69] This is due to the application of the OEB's ICM policy, where the more traditional half-year rule applies only if the project goes in service in the year before rebasing.[70]

The intent of this approach is to avoid building in a deficiency until rebasing. It also promotes regulatory efficiency by eliminating the need for a separate rate rider to be calculated for each year.[71] At rebasing, the difference is usually trued up.[72] In this case, the facility is scheduled to go in service so late in the year that, if ERTH Power were to wait just a couple of weeks, including the holiday season, and bring the facility in service on January 1, 2026, customers would avoid the full cost of the ICM project (proposed at $2.74M) in 2025.

SEC submits that the OEB should deviate from its policy in this unique situation, given both the timing of the in-service date and the significant rate impact. When determining the amount to be recovered in 2025, the OEB should allow recovery only of amounts that reflect the project being brought into service at the very end of the year. The OEB can do this by creating two separate riders in this proceeding. The first would take effect on May 1, 2025 and reflect no more than one-twelfth of the incremental revenue. The second would take effect on May 1, 2026 and reflect that the New Facility was in service for the full year. This approach would more accurately match ERTH Power's actual costs.

External Funding

ERTH Power retained Power Advisory LLP ("Power Advisory") to provide services related to the identification of potential ancillary funding opportunities. Power Advisory identified three federal government funding sources, and ERTH Power stated that it expects to apply for certain of those programs and tax credit in relation to the New Facility's solar panels and high-efficiency heat pump,

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67 ERTH AiC, p.22; Undertaking JT1.11
68 Interrogatory Response SEC-2, Attachment
69 Application, Appendix A - ICM Application, p.42
70 Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module (EB-2014-0219) September 18, 2014, p.23
71 Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module (EB-2014-0219) September 18, 2014, p.23
72 ERTH AiC, p.4

and it has submitted an expression of interest under the Smart Renewable & Electrification Pathways Program. It is also exploring funding opportunities under the Green Municipal Fund.[73]

ERTH Power indicated that any third-party external funding received will be incorporated into the ICM true-up. SEC submits that, at the time of its next rebasing, the OEB should require ERTH Power to demonstrate that it has made best efforts to pursue available external funding.

E. Summary

SEC submits that the proposed application for recovery of $2.74M per year through an ICM is neither just nor reasonable. OEB should approve a modified ICM rate rider that permits a recovery of $23.19M in New Facility capital costs, which is appropriate based on the evidence, including the company's own benchmarking evidence and ARC complaint allocation. Moreover, the OEB should adjust the amount recoverable through the ICM to require ERTH Power to maximize its CCA deductions, credit lease costs already included in rates, and account for an end of year in-service date.

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

cc: Brian McKay, SEC (by email)
Jane Scott, SEC Consultant (by email)
Applicant and intervenors (by email)

[73] Interrogatory Response Staff-14b