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FINAL DECISION AND ORDER

EB-2024-0039

LAKELAND POWER DISTRIBUTION LTD.

**Application for electricity distribution rates and
other charges beginning May 1, 2025**

BEFORE: David Sword
Presiding Commissioner

Robert Dodds
Commissioner

Vinay Sharma
Commissioner

June 3, 2025

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1 OVERVIEW

On March 27, 2025, the OEB issued its Partial Decision and Order (Partial Decision) accepting a partial settlement proposal filed by Lakeland Power and participating intervenors, namely School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC) (collectively, the Parties).¹ There was one partially unsettled issue in the settlement proposal. The Parties were unable to settle one discrete aspect of Issue 6.1 on the OEB-approved Issues List.²

The Parties were unable to settle the amounts to be included in Account 1595 in relation to a rate calculation error for Non-RPP (Regulated Price Plan) Class B Global Adjustment (GA) customers for 2021 to 2022. Lakeland Power calculates an under-recovery of \$345,659 for 2021 and an over-recovery of \$50,942 for 2022 from these customers.

This decision addresses the partially unsettled issue 6.1.

For the reasons set out in this Final Decision and Order, the OEB approves the credit amount of \$50,942, plus carrying charges, in Account 1595 (2022) to be refunded to customers and approves the collection of the amount of \$345,659 in Account 1595 (2021) from customers, including the recovery of the carrying charges.

¹ EB-2024-0039, Partial Decision and Order, March 27, 2025. The Trestle Brewing Company was also granted intervenor status in this proceeding, but did not participate in the settlement conference.

² The Issues List was approved in the [OEB's Decision on Issues List and Confidentiality](#) dated January 15, 2025.

2 PROCESS AND CONTEXT

The OEB issued Procedural Order No. 1 on December 17, 2024. This order established, among other things, the timetable for a settlement conference.

The OEB issued its decision on the proposed Issues List for this proceeding on January 15, 2025.³

A settlement conference was held on February 19 and 20, 2025. On March 14, 2025, the OEB granted an extension request by Parties (filed on March 12, 2025) for the filing of any settlement proposal to March 17, 2025.

On March 18, 2025, Lakeland Power filed a partial settlement proposal which was reached between the Parties in the proceeding.

As per the partial settlement proposal:

The Parties were unable to settle the amounts to be included in Account 1595 in relation to the rate calculation error for non-RPP Class B GA customers described in section 9.2.2 of the Application for 2021 to 2022, and more particularly described in Table 16 of Exhibit 9. LPDL calculates as an under-recovery of \$345,659 for 2021 and an over-recovery of \$50,942 for 2022 from these customers. LPDL is not requesting disposition of Account 1595 as part of this Application and therefore rates in this Application will not be impacted by a decision of the OEB. However, rates could be impacted in the future when the amounts recorded in this account become eligible for disposal. The Parties agreed that this issue can be dealt with by the way of written submissions.⁴

On March 27, 2025, the OEB issued a Partial Decision accepting the partial settlement proposal. Further, the Partial Decision stated that "...disposition of Account 1595 (2021 and (2022) is not part of this Application and that the issue will be dealt with by way of written submissions in accordance with the schedule set out in the Order section of the Partial Decision".⁵

The OEB's Partial Decision also set out a draft rate order process so that Lakeland Power could incorporate the outcomes of the OEB's decision in its cost of capital proceeding.⁶ After the conclusion of a draft rate order process, the OEB issued a Final

³ See footnote 2.

⁴ EB-2024-0039, Partial Settlement Proposal, March 18, 2025, p. 47

⁵ EB-2024-0039, Partial Decision and Order, March 27, 2025, p. 7

⁶ EB-2024-0063, Decision and Order, March 27, 2025

Rate Order on April 29, 2025 approving base distribution rates effective May 1, 2025 in accordance with the approved partial settlement proposal.⁷

With respect to the partially unsettled matter, OEB staff filed its submission on April 17, 2025 and SEC filed its submission on April 21, 2025. Lakeland Power filed its reply submission on the partially unsettled matter on May 5, 2025.

⁷ EB-2024-0039, Final Rate Order, April 29, 2025

3 DECISION ON PARTIALLY UNSETTLED ISSUE

In the current proceeding, Lakeland Power disclosed two rate rider calculation errors related to its 2021 GA rate riders and 2022 GA rate riders affecting Class B Non-RPP customers.⁸

In its 2021 and 2022 Incentive Rate-setting Mechanism (IRM) models, Lakeland Power's Class B Non-RPP metered consumption data that were reported in the respective models were incorrect.⁹

Specifically, the 2021 total Class B Non-RPP consumption was negative mainly because the total Non-RPP consumption in the GS>50kW rate class was significantly understated, which resulted in the Class B Non-RPP consumption to be negative after the Class A Non-RPP consumption was deducted from the total Non-RPP consumption for this rate class. The error in 2021 resulted in Lakeland Power mistakenly refunding the GA rate riders at \$0.0060/kWh to customers rather than collecting from them at \$0.0003/kWh. This resulted in an under-collection from customers in the amount of \$345,659 which was recorded as a debit in the principal balance in Account 1595 (2021) and which Lakeland proposes to recover when the account is cleared in a future proceeding.

The 2022 error was due to understated Class B Non-RPP consumption. Specifically, the Non-RPP kWh for all former Parry Sound Power rate classes was missing. The 2022 error resulted in overstated 2022 GA rate riders and hence an over-recovery of \$50,942 from customers. This over-recovery amount was included as a credit in the principal balance in Account 1595 (2022), and Lakeland proposes to refund this amount to customers when the account is cleared in a future proceeding.

Lakeland Power stated that there are no retroactivity issues arising from these errors because both the under-recovered and the over-recovered amounts remain in the respective sub-accounts under Account 1595, both of which are not eligible for disposition yet and have therefore not yet been disposed.¹⁰

⁸ EB-2024-0039, Application, Exhibit 9, Section 9.2.2, Tables 15 & 17

⁹ The 2021 GA rate riders were derived based on the debit balance of \$28,968 in Account 1589 GA which was approved on an interim basis as part of the 2021 IRM rate proceeding (EB-2020-0037), and subsequently approved on a final basis in the 2023 IRM rate proceeding (EB-2022-0047). The 2022 GA rate riders were derived based on the approved debit balance of \$82,316 in Account 1589 on a final basis as part of the 2022 IRM rate proceeding (EB-2021-0040).

¹⁰ EB-2024-0039, Interrogatory Responses, February 6, 2025, 9-Staff-80 & 9-Staff-81

Lakeland Power stated that it did not make an adjustment to the Deferral and Variance Account Continuity Schedule as the current balances in the respective sub-accounts under Account 1595 reflect both errors and explain most of the balance.¹¹ Lakeland Power stated it would seek disposition of the balances of Account 1595 for both 2021 including the under-recovery amount of \$345,659 and 2022 including the over-recovery amount of \$50,942 in the appropriate future IRM proceedings.¹²

Submissions

OEB staff referenced an OEB letter from October 2019 regarding adjustments to pass-through deferral and variance accounts in its submission.¹³ OEB staff's view was that there is no retroactivity issue for the errors noted in both 2021 and 2022 sub-accounts under Account 1595 as they have not yet been disposed of on a final basis. OEB staff acknowledged that residual balances in Account 1595 typically represent the difference between the forecast billing determinants upon which the riders were derived and the actual billing determinants over that period. However, utilities can explain the material balances as they occur.¹⁴

OEB staff did not take issue with Lakeland Power correcting the 2021 and 2022 GA rate rider calculation errors by way of future dispositions of the accounts, subject to certain proposed modifications.

First, OEB staff submitted that Lakeland Power should not be permitted to recover the additional carrying charges recorded in Account 1595 sub-account 2021 related to the over-collection from customers (debit amount) of \$345,659. On the other hand, Lakeland Power should pay interest on the amount that the utility owes to its customers. OEB staff did not support keeping the utility whole for carrying charges given that these errors were in Lakeland Power's control and were preventable.¹⁵ OEB staff submitted that this asymmetrical approach is in line with the spirit of the OEB's stated approach in its October 2019 letter.

Second, since the amounts represent discrete corrections to a specific customer group, OEB staff submitted that the respective debit and credit amounts should be disposed of through a separate GA rate rider to Non-RPP Class B customers once the respective Account 1595 sub-accounts are eligible for disposition in future rate applications.

¹¹ EB-2024-0039, Application, Exhibit 9, Section 9.2.2, 1595 (2021), 1595 (2022)

¹² EB-2024-0039, Interrogatory Responses, February 6, 2025, 9-Staff-80, (c)

¹³ [Letter-Retro-Ratemaking-Guidance-20191031](#)

¹⁴ EB-2024-0039, OEB Staff Submission, April 17, 2025, p. 3

¹⁵ Ibid, p. 4

SEC submitted that it takes no issue with Lakeland Power correcting the 2022 over-recovery error by refunding the amount to customers in 2026.¹⁶

With respect to the 2021 under-recovery by Lakeland Power, SEC's submission stated that Lakeland Power appears to rely on three grounds to correct this error – 1) operation of Account 1595; 2) other past rate proceedings where the OEB allowed for the correction of past errors in part because of the operation of Account 1595; 3) “just and reasonable” results if errors are corrected.

With respect to the operation of Account 1595, SEC noted that the account's intent is to capture the difference between forecast and actual billing determinants used to recover Account 1595 amounts – not for utilities to make calculation errors and correct them later without consequences.¹⁷ SEC states that the result of the expansion of Account 1595 is that there is no concept of “retroactivity or finality” in this account.¹⁸

With respect to the second ground as summarized above, SEC states that the OEB has so far not exercised its discretion to impose a more significant disallowance. Therefore, distributors are being told that Account 1595 errors have little or no consequences to the utility.¹⁹

With respect to the third ground, SEC referenced a previous OEB decision which stated “[T]he OEB notes that the end result to customers is consistent with the principles of just and reasonable rates as the consequences were the same as if the errors had not been made.”²⁰ SEC stated that it is always true that the consequences of correcting an error are that the ratepayers end up paying what they would have paid, absent the error. That does not make the correction just and reasonable nor is it just and reasonable to allow utilities to correct errors without any consequences.²¹

SEC submitted that a 50% disallowance of the 2021 under-recovery correction, over and above the denial of interest recovery, would send the appropriate message to distributors that Account 1595 errors have consequences.

¹⁶ EB-2024-0039, SEC Final Argument, April 21, 2025, p. 1

¹⁷ EB-2024-0039, SEC Final Argument, April 21, 2025, pp.1-2

¹⁸ Ibid, p. 2

¹⁹ Ibid

²⁰ EB-2017-0039, Decision with Reasons, August 23, 2018, p. 9

²¹ EB-2024-0039, SEC Final Argument, April 21, 2025, p. 2

Lakeland Power's reply submission was broken down into two sections. In the first section Lakeland Power submitted that assessing account entries now is premature; in the second section, Lakeland Power replied to the submissions of SEC and OEB staff if the OEB decides the unsettled issue is within the scope of this proceeding.

Lakeland Power's Reply Submission – "Assessing Account Entries Now is Premature"

Lakeland Power stated that it amended the relief that was initially requested in its application to no longer request disposition of the 2021 balance of Account 1595 in response to an interrogatory.²² Further, the application never sought disposition of the balance in Account 1595 for 2022.

Lakeland Power submitted that having this OEB panel assess Account 1595 entries now, and then a future OEB panel assess these same (or potentially different) amounts at the time they are requested for disposition in a future proceeding is duplicative. Lakeland Power argued that an assessment of prudence will be made by a future OEB panel at the time Account 1595 is brought forward for disposition. Further, this OEB panel should not seek to fetter the discretion of that future OEB panel, nor should it presuppose what entries into Account 1595 may be brought forward by Lakeland Power for disposition.²³

For these reasons Lakeland Power submitted that the OEB should not make any determination about the appropriate balances in Account 1595 for 2021 and 2022 in this proceeding, and that these balances should instead be reviewed when Lakeland Power brings them forward for disposition in a future rate proceeding.

Lakeland Power's Reply Submission – "Alternative Submission on Substantive Arguments of SEC and OEB Staff"

In response to SEC's submission regarding the assertion that there is no concept of retroactivity or finality in Account 1595 due to the misguided concept of "residual balances", Lakeland Power stated that this is not correct and it will be using Account 1595 for its intended purpose. Disposal of Account 1595 on a final basis two years after the expiry of a rate rider does not necessarily mean that residual balances will accumulate indefinitely.²⁴

²² EB-2024-0039, Lakeland Power Reply Submission, May 5, 2025, p. 1; Interrogatory Response 9-Staff-80

²³ EB-2024-0039, Lakeland Power Reply Submission, May 5, 2025, p. 2

²⁴ Ibid, p. 3

Lakeland Power stated that SEC incorrectly argues that ratepayers are being required to pay after the fact for utility errors. Lakeland Power submitted that customers are paying for what they ought to have paid, have benefitted financially from the underbilling as a result of the time value of money, and intergenerational inequity concerns do not exist.²⁵

Lakeland Power submitted that a case cited by SEC as a “high-water” point for a 12.7% disallowance involved a situation where balances had been disposed on a final basis and the utility sought retroactive corrections. This is different from Lakeland Power’s current case where the subject amounts have not been disposed on either an interim or final basis.²⁶ Lakeland Power provided the example of the OEB’s decision in EB-2017-0056 involving Kitchener-Wilmot Hydro as a more similar case.²⁷

Lakeland Power submitted it is just and reasonable for the OEB to permit true-up adjustments to deferral and variance accounts that have never been disposed of to allow the utility to collect or refund balances to reflect the services that have been provided.²⁸

Lakeland Power further states that it is not clear what relief SEC is seeking from the OEB noting that since Lakeland Power is not seeking disposition of Account 1595 now, there is no balance for the OEB to disallow.

In response to OEB staff’s submission, Lakeland Power stated that OEB staff justifies its asymmetrical proposal based on principles from deferral and variance accounts determined on a final basis. Lakeland Power submitted that an asymmetrical approach to correction of account entries undercuts the fundamental meaning of “interim”.²⁹

Lakeland Power submitted that there is nothing improper or inherently unfair when it corrects balances in Account 1595 to accurately reflect electrical services that were provided to customers.

Lakeland Power states that there is no dispute that balances in Account 1595 are subject to change up to final disposition, certain customers underpaid for electricity service in 2021, and the corrections proposed by Lakeland Power accurately reflect the amounts that should have been paid by those customers. Further, the result to customers is consistent with the principles of just and reasonable rates if the OEB

²⁵ Ibid

²⁶ EB-2024-0039, Lakeland Power Reply Submission, May 5, 2025, p. 3

²⁷ Ibid, p. 4

²⁸ Ibid

²⁹ Ibid, p. 5

allows the adjustments as the consequences were the same as if the errors had not been made.³⁰

Findings

The OEB issued its Partial Decision and Order on March 27, 2025, which set out a process for the written submissions regarding an “Unsettled Issue” of the amounts to be included in Account 1595 for 2021 and 2022 in relation to a rate calculation error for non-RPP Class B GA customers.

Lakeland Power disclosed an under-recovery (debit amount) from customers of \$345,659 for 2021 and an over-recovery (credit amount) to customers of \$50,942 for 2022. In its application, Lakeland Power disclosed that these amounts incurred due to errors in the rate rider calculations in both 2021 and 2022 IRM models.

In its interrogatory response, Lakeland Power amended its requested relief for Account 1595 for 2021. Also, Account 1595 for 2022 was never requested for disposition.

As per the settlement agreement (p. 47), the parties were unable to settle the amounts to be included in Account 1595 in relation to the rate calculation error for non-RPP Class B GA customers for 2021 and 2022. Nevertheless, the parties agreed to deal with this issue by the way of written submissions.

Further, the settlement agreement stated that Lakeland Power is not requesting disposition of Account 1595 as part of this Application and therefore rates in this Application will not be impacted by a decision of the OEB. However, rates could be impacted in the future when the amounts recorded in this account become eligible for disposition³¹ (in 2026 and 2027).

Consistent with the Settlement Agreement, the OEB’s Partial Decision and Order set out the steps for considering the amounts that should properly be included for 2021 and 2022 in Account 1595, for future disposition. The OEB finds that a determination in this “Unsettled Issue” is within the scope of the above proceeding.

With respect to the disposition of the account balances in Account 1595, the amounts for 2021 and 2022 will take place in Lakeland Power’s 2026 IRM application and 2027 IRM application, respectively.

³⁰ Ibid

³¹ Settlement Proposal, p. 47

The OEB accepts Lakeland Power's submission, and supported by OEB Staff, for the debit amount of \$345,659 in Account 1595 (2021) and for the credit amount of \$50,942 in Account 1595 (2022).

The OEB also accepts the symmetrical application of carrying charges accumulated on both debit and credit amounts incurred due to the calculation errors. In allowing the full carrying charges, the OEB finds that, based on the circumstances of this application, not allowing the carry charges on a debit amount is inconsistent since the error incurred due to incorrect billing determinant quantities, and both debit and credit amounts should be treated symmetrically.

The OEB acknowledges that Lakeland Power underbilled customers in 2021 and that error is now being corrected as the subject amounts in Account 1595 have not been disposed of on either an interim or a final basis.

The OEB finds that there is sufficient information and data on the record to approve the balances as they relate to the errors for Account 1595 (2021) and Account 1595 (2022) at this time.

The OEB also acknowledges that it has a variety of options at its disposal in approving errors as recommended by SEC: However, based on the circumstances of this application, the OEB will allow for a full recovery of funding for amounts that have been paid out by Lakeland Power, mainly on the basis that no intergenerational inequity concerns had been identified and that customers were paying for services they had previously received.

The OEB notes that Lakeland Power is committed to implementing a more robust process to avoid such errors in calculation with the full expectation that Lakeland Power will implement and enact appropriate administrative changes to prevent such errors from happening in accounting of and/or calculating the GA rate riders in the future.

The amounts associated with the Class B Non-RPP errors disclosed are approved for inclusion in respective sub-accounts of 1595. However, the OEB cautions the applicant against repeating these avoidable errors. Such avoidable errors, if any, in the future might be dealt with on a case-by-case basis and recovery of the subsequently resulting amounts might not be allowed.

4 IMPLEMENTATION

In each year of an IRM term, the OEB will review a distributor's Group 1 deferral and variance accounts to determine whether those balances should be disposed of. OEB policy states that Group 1 account balances should be disposed of if they exceed, on a net basis (as a debit or credit), a pre-set disposition threshold of \$0.001 per kWh, unless a distributor justifies why balances should not be disposed of.³² If the net balance does not exceed the threshold, a distributor may still request disposition.³³

Irrespective of whether Lakeland Power seeks disposition of its total Group 1 deferral and variance account balances in its 2026 and 2027 IRM applications, Lakeland Power shall bring forward calculations for rate riders which support the disposition of Account 1595 (2021) and 1595 (2022), respectively.

Lakeland Power shall calculate two sets of GA rate riders for each year's vintage sub-accounts under Account 1595 which contain the errors for Class B Non-RPP customers. For example, where Lakeland Power seeks the disposition of Account 1595 sub-account 2021 in its 2026 IRM application, it should propose disposing of the under-recovery amount of \$345,659, plus carrying charges, to the Class B Non-RPP customers while keeping the rest of the residual balance in Account 1595 sub-account 2021 disposed through the general deferral and variance account rate riders to all customers.

SEC and VECC are eligible to apply for cost awards in this proceeding. The OEB has made provision in this Final Decision and Order for SEC and VECC to file their cost claims. SEC and VECC are reminded that this application is part of the OEB intervenor budget pilot project.³⁴ Further details on this intervenor budget pilot project are set out in the [OEB's 2025 Filing Requirements letter](#) issued on April 11, 2024.

³² Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative (EDDVAR)." EB-2008-0046, July 31, 2009

³³ OEB letter, "Update to the Electricity Distributors' Deferral and Variance Account Review ("EDDVAR Report"), released July 2009 (EB-2008-0246)", issued July 25, 2014

³⁴ EB-2024-0039, [OEB ltr - Intervenor Budget Pilot Lakeland COS](#), December 19, 2024

5 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The OEB approves the amount of \$345,659 for inclusion in Account 1595 (2021) and the credit amount of \$50,942 for inclusion in Account 1595 (2022).
2. The OEB approves the carrying charges accumulated on the debit and credit amounts in Account 1595 (2021) and Account 1595 (2022) as they relate to the balances above, respectively and the carrying charges that may accrue prior to final disposition as they relate to these amounts.
3. In its 2026 IRM application, Lakeland Power shall bring forward calculations for rate riders which support the disposition of Account 1595 (2021). In doing so, and subject to any additional direction from the OEB in that proceeding, Lakeland Power shall include disposition of the under-recovered amount of \$345,659, plus carrying charges, to the Class B Non-RPP customers while keeping the rest of the residual balance in Account 1595 (2021) disposed through the general deferral and variance account rate riders to all customers.
4. In its 2027 IRM application, Lakeland Power shall bring forward calculations for rate riders which support the disposition of Account 1595 (2022). In doing so, and subject to any additional direction from the OEB in that proceeding, Lakeland Power shall include disposition of the over-recovered amount of \$50,942, plus carrying charges, to the Class B Non-RPP customers while keeping the rest of the residual balance in Account 1595 (2021) disposed through the general deferral and variance account rate riders to all customers.

Cost Awards

The OEB will issue a separate decision on cost awards once the following steps are completed.

1. SEC and VECC shall submit to the OEB and copy Lakeland Power Distribution Ltd. their cost claims no later than **June 10, 2025**.
2. Lakeland Power Distribution Ltd. may file with the OEB and forward to SEC and VECC any objections to the claimed costs by **June 20, 2025**.

3. SEC and VECC may file with the OEB and forward to Lakeland Power Distribution Ltd. any responses to any objections for cost claims by **June 27, 2025**.
4. Lakeland Power Distribution Ltd. shall pay the OEB's costs of and incidental to this proceeding upon receipt of the OEB's invoice.

DATED at Toronto, June 3, 2025

ONTARIO ENERGY BOARD

Ritchie Murray
Acting Registrar