

VIA RESS and EMAIL

October 22, 2025

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

Dear Ritchie Murray:

**Re: Milton Hydro Distribution Inc.
2025 Accounting Order Application
Consumers Council of Canada (CCC) Submission
OEB File No. EB-2025-0241**

In accordance with the Notice of Hearing and Procedural Order No. 1, dated September 9, 2025, please find attached CCC's submission with respect to Milton Hydro's application for approval to establish a variance account to record the revenue requirement impact resulting from changes in shared services and corporate cost allocation.

Yours truly,



Lawrie Gluck
Consultant for the Consumers Council of Canada

cc: All parties in EB-2025-0241

Milton Hydro Distribution Inc.

2025 Accounting Order

EB-2025-0241

Consumers Council of Canada Submission

October 22, 2025

Introduction

Milton Hydro Distribution Inc. (Milton Hydro or the Company) filed an application, dated July 31, 2025, seeking OEB approval to establish a variance account to record the revenue requirement impact resulting from changes to shared services and corporate cost allocation. More specifically, Milton Hydro is seeking approval to establish the Corporate Cost Allocation variance account (the proposed Variance Account), effective January 1, 2025, to record an annual debit amount of approximately \$370,000 for each of the years 2025 to 2027.

CCC submits that the OEB should deny Milton Hydro's request as there is no basis to establish the proposed Variance Account during its Price Cap Incentive Ratemaking (IR) term. The reasons for CCC's position are discussed in more detail in the sections that follow.

No Regulatory Mechanism that Allows for the Establishment of the Proposed Variance Account

CCC submits that there is no regulatory mechanism that would allow Milton Hydro to record cost increases associated with changes to shared services and corporate cost allocation in a new variance account during its current ratemaking term (i.e., 2023-2027).¹

Performance-based regulation (PBR) (including Price Cap IR) is intended to incentivize utility behaviour that more closely resembles that of competitive, cost-minimizing, profit-maximizing companies. The OEB stated that, "[u]nder PBR the regulated utility will be responsible for making its investments based on business conditions and the objectives of its shareholder within the constraints of the price cap, and subject to service quality standards set by the Board."² Essentially, utilities are expected to manage, over the course of the IR term, within the budget established by the Price Cap IR framework (i.e., cost-based rates are set for the test year, which are escalated by an inflation minus productivity factor in the outer years of the term). Costs and revenues are de-linked during an IR term and there is an understanding between ratepayers and utilities that the actual costs and revenues will vary from approved over that period.

¹ We note that cost changes across various categories of costs can be recorded in deferral and variance accounts during an IR term in the context that the relevant deferral or variance account is established at the time of rebasing.

² [OEB Renewed Regulatory Framework for Electricity](#), October 18, 2012, pp. 10-11 in reference to RP-1999-0034 Decision with Reasons, January 17, 2000, p. 13.

There are only two generic regulatory mechanisms that would allow for either the recording or recovery of changes in costs during an IR term. These mechanisms are the Z-factor and the Incremental Capital Module (ICM). Neither of these mechanisms are applicable to Milton Hydro's request. First, a Z-factor request would require that the proposed cost recovery is associated with unforeseen events that are outside the control of a distributor's ability to manage.³ Milton Hydro's request fails on this requirement. This is not an event that is unforeseen or outside the control of utility's management. Second, an ICM approach is applicable only to material capital projects that are incremental to the Distribution System Plan (DSP). This is clearly not relevant to Milton Hydro's request in the current proceeding (which is related to known operational costs).⁴ In any case, Milton Hydro explicitly advised that it is not seeking Z-factor or ICM treatment for its request.⁵

A utility-specific mechanism that may allow for the recording of cost changes during the IR term is an explicit allowance for this type of request granted by the OEB as part of a utility's rebasing application. With respect to Milton Hydro's current request, no such allowance exists. In fact, the opposite is established by the OEB-approved settlement proposal in Milton Hydro's 2023 rebasing proceeding. Specifically, the OEB-approved settlement agreement is clear that the study underpinning Milton Hydro's request would be filed as part of its next rebasing application.⁶ Nowhere in the OEB-approved settlement agreement is there any consideration nor agreement that changes to the allocation of shared service costs would be considered or implemented during the IR term.⁷ The approach expressed, and agreed to, in the OEB-approved settlement proposal is entirely consistent with the OEB's IR framework whereby potential changes to costs (as supported by expert evidence or otherwise) are properly reviewed as part of a cost of service application. CCC submits that Milton Hydro's proposal in the current proceeding is directly contrary to the OEB-approved settlement agreement.

³ [OEB Chapter 3 Filing Requirements](#), June 19, 2025, p. 20.

⁴ *Ibid.*, p. 23.

⁵ [Milton Hydro Interrogatory Responses](#), October 7, 2025, CCC-2(d).

⁶ EB-2022-0049, [Milton Hydro 2023 Rates Decision and Order](#), Schedule A, Settlement Proposal, p. 22.

"Parties agree that the other revenue calculations, as presented in this Settlement Proposal, are appropriate and have been determined in accordance with OEB policies and practices. Though not resulting in any modifications to Milton Hydro's proposed Other Revenue, the Parties agree that Milton Hydro will undertake an independent third party review of its methodology to allocate common costs among its affiliates and **produce a report as part of its next rebasing application**. The intent of the study is to ensure that Milton Hydro's methodology to allocate cost between its affiliates is reasonable and complies with relevant provisions of the OEB's Affiliate Relationship Code for Electricity Distributors and Transmitters [Emphasis Added]."

⁷ [Milton Hydro Interrogatory Responses](#), October 7, 2025, SEC-2.

Milton Hydro relies on the OEB's Chapter 2 Filing Requirements for Cost of Service Applications (Chapter 2 Filing Requirements) in support of its application. The company appears to believe that as long as it meets the eligibility criteria for establishing a new deferral or variance account (i.e., causation, materiality and prudence)⁸ it can make a request for a new account whenever it pleases (regardless of whether it is making its request in a cost of service application or during the IR term).⁹ This is entirely incorrect. The purpose of the Chapter 2 Filing Requirements is "to set out the filing requirements for a **cost of service application** by electricity distributors [Emphasis Added]."¹⁰ The Chapter 2 Filing Requirements, and specifically the discussion regarding the establishment of new deferral and variance accounts, are certainly not an invitation to the Company to attempt to bypass the purpose of incentive ratemaking with requests for cost recovery that are beyond what is allowable by the OEB's IR framework. Milton Hydro appears to have forgotten the principles and objectives of PBR (and the Price Cap IR regime used by the OEB) in requesting the establishment of the proposed Variance Account.

For the above reasons, CCC submits that there is no regulatory mechanism available to Milton Hydro that would allow for the establishment of the proposed Variance Account during its IR term.

Precedent Decisions

Milton Hydro relies on two precedent decisions in support of its request to establish the proposed Variance Account. CCC submits that neither of these decisions are supportive of Milton Hydro's request in the current proceeding.

Halton Hills Hydro 2018 IRM Application

The request in Halton Hills Hydro Inc.'s (Halton Hills Hydro) 2018 IRM application was for a new deferral account to record the revenue requirement impact of a depreciation calculation error that it made in its 2016 cost of service application.¹¹ The evidence in that case was that the magnitude of the error was simply too large for Halton Hills Hydro to absorb for the remainder of the term.¹² The OEB approved the request made by Halton Hills Hydro based as follows:

⁸ [OEB Chapter 2 Filing Requirements](#), May 7, 2025, p. 68.

⁹ [Milton Hydro Interrogatory Responses](#), October 7, 2025, CCC-2(e).

¹⁰ [OEB Chapter 2 Filing Requirements](#), May 7, 2025, p. 1.

¹¹ EB-2017-0045, [Decision and Rate Order](#), April 26, 2018, p. 17.

¹² *Ibid.*, p. 19.

“[t]he OEB finds that although this error was the responsibility of Halton Hills Hydro, it is appropriate to correct for the error on a prospective basis. While establishment of new DVAs is not part of the Price Cap IR mechanism, the OEB has approved new DVAs during an IRM term for other electricity distributors. The OEB is making an exception in this case in approving a new DVA because of the material effect of the error on Halton Hills Hydro during the IRM term.”¹³

This is different than the request that Milton Hydro has made in the current application for two significant reasons.

First, Milton Hydro is seeking to record costs in the proposed Variance Account that are related to cost changes based on new information (the Atrium Economics Report) as opposed to a utility error that was made at the time of rebasing.

While CCC generally does not support allowing utilities to recover incremental costs associated with their own errors during the IR term for numerous reasons¹⁴, seeking recovery of incremental costs based on new information during the IR term is even further removed from the principles of incentive ratemaking. New information becomes available all the time during the IR term. If the OEB were to consider and allow for the recovery/refund of all potential cost changes during the IR term, based on the best available information each year, we would be back at cost-based regulation. Therefore, there is no basis to allow Milton Hydro to select just one category of changes to its underlying costs (i.e., shared services and corporate cost allocation), which were approved at the time of its rebasing and allow for the recording of those costs for later recovery in a variance account.

Second, the evidence in the Halton Hills Hydro proceeding was clear that the magnitude of the error was significant. Halton Hills Hydro noted that its “2016 ROE was 6.76%, below the OEB-approved ROE for 2016 of 9.19%, and disallowing recovery of the depreciation calculation error would result in Halton Hills Hydro being perilously close to triggering a regulatory review every year until its next rebasing application.”¹⁵ This is entirely different than the financial situation that Milton Hydro finds itself in. As will be discussed in more detail later in this submission, Milton Hydro has earned in excess of the OEB-approved ROE

¹³ Ibid., pp. 19-20.

¹⁴ These reasons include, but are not limited to, that the accuracy of an application is the responsibility of the applicant, intervenors and the OEB rely on the accuracy of the application when considering rate and bill impact implications, allowing for incremental cost recovery (even when associated with errors) often results in a departure from the OEB’s IR framework or an OEB decision, etc.

¹⁵ EB-2017-0045, [Decision and Rate Order](#), April 26, 2018, p. 18.

in each of 2023 and 2024 (i.e., the first two years of the current ratemaking term). In addition, the impact on the ROE related to the change in the allocation of shared services and corporate costs is 0.61% in 2024. This impact alone will not drive significant underearning. Therefore, the key reason that the OEB approved the establishment of the deferral account in the Halton Hills Hydro proceeding (i.e., the material impact of the error on Halton Hills Hydro's financial position)¹⁶ is not relevant in this proceeding.

Oakville Hydro Accounting Order

The request in Oakville Hydro Electricity Distribution Inc.'s (Oakville Hydro) accounting order application was for the establishment of a variance account to record the difference between occupancy charges for rental revenues that Oakville Hydro charged its affiliate as approved in the utility's 2014 rates and the amounts determined to be appropriate in a subsequent review.¹⁷

The evidence in the Oakville Hydro accounting order proceeding notes that the OEB-approved settlement proposal in Oakville Hydro's 2014 cost of service proceeding included an explicit allowance for the filing of a third-party study regarding the allocation of costs between Oakville Hydro and its affiliates during the IR term.¹⁸ The OEB's findings, in support of its approval of the requested variance account, directly referenced that Oakville Hydro's 2014 cost of service settlement agreement indicated that there could be potential revisions to the corporate cost allocation during the IR term as a result of the filing of the noted third-party study.¹⁹

As discussed previously, the OEB-approved settlement proposal in Milton Hydro's 2023 rebasing proceeding does not allow for changes to the allocation of shared service costs to be considered or implemented during the IR term.²⁰ This is a very clear departure from the Oakville Hydro proceeding, which Milton Hydro has relied on as a precedent for its request in the current proceeding.

Information Asymmetry

¹⁶ EB-2017-0045, [Decision and Rate Order](#), April 26, 2018, pp. 19-20.

¹⁷ EB-2017-0202, [Decision and Order](#), October 26, 2017, p. 1.

¹⁸ *Ibid.*, p. 2.

¹⁹ *Ibid.*, p. 4.

²⁰ EB-2022-0049, [Milton Hydro 2023 Rates Decision and Order](#), Schedule A, Settlement Proposal, p. 22.

CCC submits that it is important for the OEB to be mindful of the information asymmetry that exists between a utility and its ratepayers and regulator when considering requests for incremental cost recovery during an IR term. Utilities are quick to seek recovery of known cost increases during an IR term. However, it is uncommon for a utility to bring forward a request to refund customers savings related to known cost decreases (through a deferral account or otherwise).

As a recent example, across the Ontario distribution sector, there have been billing-related cost savings driven by the Canada Post labour strikes. There was a full postal strike between November 15, 2024 and December 17, 2024 and another full strike between September 25, 2025 and October 10, 2025, which is now a rotating strike.²¹ Oshawa Power, in its 2026 cost of service application, noted that “...e-billing subscribers have nearly tripled in 2024 (9,164) from 2023 (3,196). As of December 12, 2024, 49% of customers totalling 35,362 receive their bills electronically, with **an increase of signups during the Canada Post strike** [Emphasis added].”²² The costs savings derived from customers switching from paper bills to electronic bills would not be limited to Oshawa Power. All utilities that are currently within their IR terms will likely be seeing lower billing-related costs relative to the amounts built into rates resulting from their customers’ rapid transition to electronic bills driven by the Canada Post strikes. This is an example of cost savings that are generated by external influences beyond management’s control (i.e., management did nothing to create the saving). As far as we are aware, Milton Hydro, nor any other distributor, have sought approval to refund postal strike-related savings during their IR terms.

The postal strike is just one example of any number of cost savings that could arise during an IR term that a utility knows about but does not inform the OEB. Due to the significant information asymmetry between a utility and its ratepayers and regulator, the allowance for incremental cost recovery during an IR term should be strictly limited and granted only in very rare circumstances. This is even more important when the request, as is the case with Milton Hydro’s proposed Variance Account, is outside of the OEB’s generic incremental cost recovery mechanisms (i.e., the Z-factor and ICM).

Financial Viability

If there was a question as to the financial viability of Milton Hydro resulting from the change in the allocation of corporate and shared service costs, the OEB would need to consider

²¹ See <https://www.ctvnews.ca/business/article/the-canada-post-strike-is-over-but-it-will-take-time-to-get-back-to-normal-says-spokesperson/> and [Canada Post strike: Mail delivery resumes but not regularly.](#)

²² EB-2025-0014, [Application and Evidence](#), Exhibit 4, p. 43.

that as part of its deliberations as it has the responsibility to ensure a financially viable electricity sector.²³

As noted previously, there is no financial viability concern with respect to Milton Hydro. In fact, Milton Hydro has earned amounts significantly higher than the OEB-approved ROE in each of 2023 and 2024 (i.e., the first two years of its current ratemaking term). Milton Hydro's 2023 achieved ROE was 10.66% and its 2024 achieved ROE was 10.96%.²⁴ The Company's OEB-approved ROE for those years was 8.66%. In dollars, Milton Hydro has earned approximately \$1.9M in excess of its OEB-approved ROE over those two years.²⁵

In the current proceeding, Milton Hydro is asking the OEB for approval to record approximately \$1.1M related to the methodology change for shared services and corporate costs.²⁶ Milton Hydro has already recovered from its customers more than the amount it seeks to recover through its proposed Variance Account in excess earnings over the past two years.

Milton Hydro provided, confidentially, its forecast earnings (both with, and without, the proposed recovery of the cost change associated with the updated cost allocation methodology) for the 2025-2027 period.²⁷ CCC submits that: (i) Milton Hydro admits that the ROE forecast is preliminary²⁸; (ii) the ROE forecast is unsupported by any evidence explaining how it was derived; (iii) the change in the allocation methodology at issue in the current proceeding results in only a 0.61% ROE impact in 2024²⁹; and (iv) Milton Hydro has every opportunity to achieve its ROE over the complete IR term through prudent management of the utility's business. Therefore, the OEB should be most interested in what is known now – Milton Hydro is currently in a very significant overearning position on an actual basis during the ratemaking term (i.e., 2023-2027).

²³ [Ontario Energy Board Act](#), 1998, 1(1)2

²⁴ [Milton Hydro Interrogatory Responses](#), October 7, 2025, CCC-1.

²⁵ CCC calculated this amount using the OEB-approved deemed common equity portion of rate base (\$45.04M) (See the EB-2022-0049, Draft Rate Order - [Revenue Requirement Workform](#), November 10, 2022, Tab 7)). We recognize that the actual deemed equity in each of 2023 and 2024 would be different than OEB-approved. While we have the actual 2024 deemed equity (Staff-5), we do not have the 2023 actual deemed equity on the record of the current proceeding. For consistency in the calculation, we have used the 2023 OEB-approved figure. We note, however, using the 2024 actual deemed equity of \$44.8M (Staff-5) instead, the overearning amount as calculated by CCC would reduce by about \$25k. Therefore, we do not expect that our calculation of overearnings is materially higher than the more granular approach.

²⁶ [Milton Hydro Application](#), July 31, 2025, p. 6. \$370k x 3 years (2025-2027).

²⁷ [Milton Hydro Interrogatory Responses](#), October 7, 2025, Staff-5.

²⁸ Ibid.

²⁹ Ibid.

CCC submits that Milton Hydro's application for approval of the proposed Variance Account has no merit and is nothing more than utility entitlement. The Company, which has overearnings in an amount that is more than sufficient to cover the incremental costs associated with the allocation change for shared services, is asking its customers, who are struggling with an affordability crisis, for funding that is not even needed from a financially viability perspective.

CCC submits that the OEB should deny Milton Hydro's application for all of the reasons discussed previously.

~ All of which is respectfully submitted ~