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File No. 19685.17

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BY EMAIL & RESS
registrar@oeb.ca

Mr. Ritchie Murray
Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Mr. Murray:

Re: Milton Hydro Distribution Inc. (Milton Hydro) – Application for an Accounting Order (EB-2025-0241) (“Application”) Reply Argument

We represent Milton Hydro in the above noted matter. Pursuant to Notice of Hearing and Procedural Order No. 1 on September 9, 2025, enclosed is the reply argument of Milton Hydro. Narrow redactions have been made to submissions that pertain to forecasted return on equity information that was requested confidential treatment on October 7, 2025.

Please contact the undersigned with any questions.

Yours truly,

BORDEN LADNER GERVAIS LLP

A handwritten signature in black ink that reads 'Colm Boyle'.

Colm Boyle

CB/JV

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, being Schedule B to the Energy Competition Act, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Milton Hydro Distribution Inc. to the Ontario Energy Board for an Order or Orders establishing a variance account.

MILTON HYDRO DISTRIBUTION INC.
REPLY ARGUMENT

FILED: November 4, 2025

Board File No. EB-2025-0241

MILTON HYDRO DISTRIBUTION INC.

REPLY ARGUMENT

1. On July 31, 2025, Milton Hydro Distribution Inc. (“**Milton Hydro**”) filed an application seeking approval for an accounting order to establish a variance account to record the difference between the amounts approved in Milton Hydro’s 2023 Cost of Service rate application and the amounts which have been determined to be appropriate through the Atrium Economics Report for the 2023 cost-of-service year, among other things (“**Application**”).¹
2. Atrium Economics was retained by Milton Hydro to review affiliate cost allocation methods. While Atrium Economics found that Milton Hydro’s methodology to allocate costs between its affiliates is reasonable and complies with the relevant provisions of the *Affiliate Relationships Code*, the report also found that \$369,851 is being allocated to affiliates that should be more appropriately allocated to Milton Hydro. The purpose of this Application is to implement this finding from Atrium Economics.
3. On October 22, 2025, the School Energy Coalition (“**SEC**”), Ontario Energy Board (“**OEB**”) Staff, Consumers Council of Canada (“**CCC**”), and Vulnerable Energy Consumers Coalition (“**VECC**”) filed submissions with the OEB all opposing the Application with an array of reasons. VECC did not file independent submissions but instead supports the submission by SEC.
4. OEB Staff and interveners did not take issue with the substantive content of the Atrium Economics report. Milton Hydro requests the OEB confirm that Milton Hydro responded appropriately to the OEB’s direction from the previous 2023 proceeding to undertake an independent third-party review of its methodology to allocate common costs among its affiliates. Milton Hydro submits this request be approved as making this determination now will avoid the duplication of regulatory work in a future proceeding.
5. Milton Hydro will reply to each of the SEC, OEB Staff and CCC submissions. In sum, Milton Hydro submits the proposed deferral and variance account (“**DVA**”) will result in rates most accurately reflecting the services being provided by Milton Hydro. Without the DVA, Milton Hydro’s affiliates or its shareholder will be unjustly subsidizing Milton Hydro ratepayers until next rebasing, particularly since Milton Hydro is forecasting the aggregate achieved ROE will not exceed Milton Hydro’s OEB-approved 8.66% ROE over the IRM period.²

I. CONTEXT FOR THE APPLICATION

6. None of the interveners oppose the methodology or results of the cost allocation study issued by an independent third party, Atrium Economics. OEB Staff states that the methodology used by Atrium Economics appears transparent and repeatable, and the allocation drivers may be

¹ Please see section 4 of the Application for the relief requested.

² IR Response Staff-5.

objectively verifiable in future years.³ SEC agrees that Milton Hydro's customers historically benefitted from the prior cost allocation and that implementing the changes now creates a financial impact on the company.⁴ CCC did not raise any objections with the Atrium Report.

7. Despite the clear and unopposed finding that its affiliates are unjustly subsidizing Milton Hydro ratepayers in the amount of \$369,851 annually, OEB Staff and interveners oppose the Application. Milton Hydro submits that this runs opposite to the Supreme Court of Canada's direction that the OEB must ensure that it regulates with an eye to balancing both consumer interests and the efficiency and financial viability of the electricity industry. The OEB's role is to emulate as best as possible the forces to which a utility would be subject in a competitive landscape.⁵
8. The Supreme Court of Canada was clear that the utility must be given the opportunity to recover its operating costs. If recovery of operating costs is not permitted, the utility will not earn its cost of capital, which represents the amount investors require by way of a return on their investment in order to justify an investment in the utility.⁶ Milton Hydro submits this is exactly what is at issue in this proceeding.
9. Without providing any supporting evidence, CCC goes so far as to suggest that Milton Hydro would not have filed this Application had Atrium Economics' report concluded that a refund to ratepayers was warranted.⁷ This is simply not true. When Milton Hydro undertook the study, it had no basis to anticipate the outcome of Atrium Economics' analysis. Milton Hydro could just as readily speculate that intervenor submissions would have been materially different if the Atrium Economics report had recommended a refund to ratepayers; however, such speculation offers no assistance to the OEB panel in this proceeding.
10. Milton Hydro undertook the third-party review promptly to ensure its methodology to allocate costs between its affiliates is reasonable and complies with relevant provisions of the OEB's *Affiliate Relationship Code*. Milton Hydro would have filed this Application provided it met the OEB's test for establishing a deferral or variance account, even if that meant a refund to its customers. It is within this context the OEB should analyze the remainder of Milton Hydro's submissions.

II. VALID BASIS FOR THE APPLICATION

11. SEC and CCC take the position that the only incremental funding available to an electric utility during an IRM term is through an incremental capital module ("ICM") or a Z-Factor. There is not a free-standing ability for a distributor to seek approval of a deferral or variance account ("DVA") outside of a rebasing application, unless it was agreed or ordered as part of a rebasing decision.⁸ OEB Staff submit that a DVA may not be an appropriate rate mechanism to address

³ OEB Staff Submission at pg. 11.

⁴ SEC Submissions pg. 3.

⁵ *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, at para 11.

⁶ *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, at para 16.

⁷ CCC Submission at pg. 6.

⁸ SEC Submission at pgs. 2-3. CCC Submission at pgs. 1-3.

any material adjustments due to improved information/evidence between the rebasing applications.⁹

12. Milton Hydro disagrees with the idea that a distributor cannot independently seek approval for a deferral or variance account outside of a rebasing application. This is incorrect. The four categories of rates performance standards clearly show that stand-alone accounting orders are a distinct category of application accepted and tracked by the OEB. The OEB appears to have followed the accounting order process in Milton Hydro’s Application:¹⁰

	Decision Writing Period (Elapsed Calendar Days)	Total Cycle Time (Elapsed Calendar Days)
Cost-Based >\$500M Revenue Requirement	90	355
Cost-Based <\$500M Revenue Requirement	60	230
Complex Incentive Rate-setting Mechanism (or other stand-alone request)	60	165
 Accounting Order (or other stand-alone request)	30	125

RATES
 Accounting Order (or other stand-alone request)

PROCEDURAL STEP	Calendar Days Elapsed
Application filed	-10
Letter acknowledging receipt of application	-6
Completeness letter	0
Notice of Application and Procedural Order No. 1 issued	35
Interrogatories issued	50
Applicant’s responses to interrogatories received	65
OEB staff submission received	80
Intervenor arguments received	85
Applicant’s written reply argument received	95
Decision issued	125

13. Milton Hydro disagrees with the suggestion by OEB Staff, SEC, and CCC that the Application is undermining the rates set under the current rate-setting mechanism and is not appropriate. The OEB has established a clear legal test for deferral and variance accounts based on causation, materiality, and prudence. A deferral account can be established at any time, and

⁹ OEB Staff Submission at pg. 6.

¹⁰ OEB, Performance standards for processing applications, Rates Performance Standards, online: <<https://www.oeb.ca/applications/how-file-application/performance-standards-processing-applications>>

whether the financial outcome benefits a utility or ratepayer is not part of this legal test, nor does it have any meaningful significance in the factual matrix here.

14. Furthermore, these submissions run contrary to how deferral and variance accounts have been defined by the OEB in the glossary of terms in the *Handbook for Utility Rate Applications* (“**Handbook**”):

Deferral and Variance Accounts

Variance accounts track the difference between the forecast cost of a project or program, which has been included in rates, and the actual cost. If the actual cost is lower, then the extra money is refunded to customers. If the actual amount is higher, then the utility can request permission to recover the extra amount through future rates. **A deferral account tracks the cost of a project or program which the utility could not forecast when the rates were set. When the costs are known, the utility can then request permission to recover the costs in future rates.** [Emphasis added]

15. SEC downplays the significance of the Handbook¹¹ even though it states that the OEB expects utilities to file rate applications consistent with the Handbook unless a utility can demonstrate a strong rationale for departing from it.¹² Nowhere in this definition, or any other OEB policy for that matter, is a utility explicitly prohibited from establishing a DVA during an IRM term.
16. Indeed, DVAs have been granted or endorsed by the OEB under section 78 of the *Ontario Energy Board Act, 1998* in a variety of circumstances outside of cost of service applications, including MAADs applications,¹³ generic proceedings,¹⁴ standalone deferral account proceedings,¹⁵ facilities,¹⁶ non-wires solutions,¹⁷ licence applications,¹⁸ and IRM applications.¹⁹ The point is that OEB routinely grants deferral and variance accounts during IRM term, along with many other circumstances that are not strictly limited to cost of service applications.
17. SEC and CCC's argument that DVAs are intended solely for cost of service applications was rejected by the OEB in Decision and Order EB-2024-0096.²⁰ In a standalone DVA application by Essex Powerlines Corporation, the OEB states that when considering a request to establish

¹¹ SEC Submission at pg. 2.

¹² Handbook at pg. 1.

¹³ Decision and Order EB-2023-0328, Hydro One Networks Inc., April 18, 2024, at pg. 21.

¹⁴ Decision and Order EB-2023-0143, Getting Ontario Connected Act Variance Account, October 31, 2023.

¹⁵ Decision and Order EB-2024-0096/EB-2024-0022, Essex Powerlines Corporation – Application for New Deferral Account, August 29, 2024.

¹⁶ Decision and Order EB-2023-0360, PUC (Transmission) LP and Hydro One Sault Ste. Marie LP, August 27, 2024.

¹⁷ EB-2024-0118, Non-Wires Solutions Guidelines for Electricity Distributors, at pg. 15; Framework for Energy Innovation: Setting a Path Forward for DER Integration, January 2023, at pg. 28.

¹⁸ Decision and Order EB-2025-0081, Canadian Niagara Power Inc., June 17, 2025.

¹⁹ Decision and Rate Order EB-2017-0045, Halton Hills Hydro Inc., April 26, 2018; Decision and Order EB-2017-0202, Oakville Hydro Electricity Distribution Inc., October 26, 2017; Partial Decision and Interim Rate Order EB-2019-0031, Energy+, January 2, 2020; Partial Decision and Interim Rate Order EB-2019-0022 Brantford Power Inc., January 2, 2020.

²⁰ Decision and Order EB-2024-0096, Essex Powerlines Corporation, August 29, 2024.

a new deferral or variance account, the OEB considers three criteria: causation, materiality and prudence. Similarly, this is a standalone DVA application by Milton Hydro that is separate from a Chapter 2 application for cost of service and a Chapter 3 application for IRM.

18. A deferral account is especially useful for addressing operating expenses, as is the case for the DVA proposed by Milton Hydro. For example, the OEB described in the Framework for Energy Innovation that ICM funding is available for the recovery of capital costs whereas DVAs may also be used to recover operational costs:²¹

The Incremental Capital Module is available to address qualifying and material capital costs incurred during a rate term, which can be used to facilitate any urgent DER-related investments that may be required. Since many DER-related costs distributors will incur are expected to be OM&A expenses rather than capital, distributors may apply for a deferral account, with a draft accounting order, to record material expenses related to DER integration and use. The account may include costs incurred until the distributor's next rebasing, at which point such costs should be forecast and integrated into the distributor's overall spending proposal and business plan. The requested deferral account should meet the OEB's criteria of causation, materiality, and prudence for establishing new accounts

19. Another key difference between ICM and Z-Factor funding is that the establishment of a DVA does not automatically result in collection of any rates. It is only upon disposition of a DVA, and subject to a prudence review, that rate riders would be implemented to recover the balance in the DVA. Milton Hydro is only requesting in this application to track amounts for future disposition.
20. For the reasons above, the OEB permits distributors to establish DVA accounts during the IRM term to recover operational costs the utility could not forecast when the rates were set. There is no OEB rule, policy, code, or other impediment preventing the OEB from establishing a DVA in this case for Milton Hydro.

III. AMENDED PROPOSAL FOR RELIEF

21. After reviewing the submissions of OEB Staff and interveners it became apparent that all parties took issue with the appropriateness of the DVA. In response to these concerns, Milton Hydro is proposing an alternative solution that will more closely align with the definition and intent of a DVA in the Handbook to track forecast costs against actual costs:
- a. ***Application Proposal:*** Milton Hydro is proposing to record, a debit of \$369,851 per year, the difference between the amount approved in rates in Milton Hydro's 2023 cost-of-service related to shared service and corporate cost allocation charged to its affiliates, and the amounts determined to be appropriate as documented in the Atrium Economics Report.

²¹ Framework for Energy Innovation: Setting a Path Forward for DER Integration, January 2023, at pg. 28.

- b. **Revised Proposal:** Milton Hydro is proposing to record on an annual basis the difference between: (i) the amount approved in rates in Milton Hydro's 2023 cost-of-service related to shared service and corporate cost allocation charged to its affiliates, inflated annually at Milton Hydro's approved IRM rate; and (ii) the actual costs for the shared service and corporate cost allocation charged to its affiliates based on the methodology in the Atrium Economics Report.
22. The annual fixed amount of \$369,851, as proposed in the application, was based on a forecast prepared by Atrium Economics to simplify and streamline the Application to minimize regulatory burden. This forecast remains valid and is useful for an estimated impact that will result from the updated cost allocation between Milton Hydro and its affiliates. References to this number below serves as a representative proxy for actual costs for illustrative purposes.
23. The Revised Proposal will provide better insight for interested parties and the OEB to conduct a prudency review when Milton Hydro requests disposition of the account since it will be based on actual amounts allocated between Milton Hydro and its affiliates. This approach does not require any updates to the filed evidence but will require updates to the accounting order to reflect the change in approach to how amounts are derived for inclusion in the DVA account. If the Revised Proposal is acceptable, Milton Hydro proposes that these updates be done as a subsequent step in the process.

IV. COST OF SERVICE SETTLEMENT PROPOSAL

24. OEB Staff submits that the DVA amounts to reopening a single element of a comprehensive settlement proposal and the proposed changes resulting from the Atrium Economics report would be more appropriately dealt with in Milton Hydro's next cost of service application.²² CCC and SEC similarly argue that the proposed DVA application is contrary to the OEB approved settlement agreement in EB-2022-0049. Specifically, the OEB approved settlement proposal does not allow for changes to the allocation of shared service costs during the IRM term.²³
25. The Settlement Proposal from EB-2022-0049 is silent on and contains no provisions permitting or restricting relief tied to the third-party review by Atrium Economics.²⁴ It would be reasonable to infer the parties to the Settlement Proposal likely understood that recommendations from an independent third-party review could affect cost allocation. The Settlement Agreement only speaks to when Milton Hydro will produce the Atrium Report but does not speak to when Milton Hydro would undertake or implement findings from the Atrium Report. Milton Hydro still intends to produce the Atrium Report at its next rebasing application.
26. The Settlement Proposal does not prejudice or prevent Milton Hydro from bringing this Application, as stated in the preamble:

²² OEB Staff Submission at pgs. 4-6.

²³ CCC Submission at pgs. 2 and 5. SEC Submission at pgs. 1-2.

²⁴ Interrogatory Response SEC-2.

Unless otherwise expressly stated in this Settlement Proposal, the settlement of any particular issue in this proceeding and the positions of the Parties in this Settlement Proposal are without prejudice to the rights of the Parties to raise the same issue and/or to take any position thereon in any other proceeding, whether or not Milton Hydro is a party to such proceeding.

27. Furthermore, the OEB panel that approved the Settlement Proposal in EB-2022-0049 does not have the authority to bind the panel currently considering Milton Hydro's Application.
28. Had the Settlement Proposal intended to preclude Milton Hydro from recovering any costs associated with the independent third-party review during the IRM term, as asserted by SEC, CCC and OEB Staff, it would have expressly stated as much. The Settlement Proposal contains no such provision.

V. THE PROPOSED DVA MEETS THE CRITERIA OF CAUSATION, MATERIALITY AND PRUDENCE

A. Causation

29. SEC takes the position that causation has not been met as the underlying assets and common costs remain the same as those that formed the basis for rates. SEC submits that the intent of the causation criterion is not to test whether the amount of an expense differs from what was embedded in rates, but whether the nature of the expense and its specific drivers are new and unforeseen.²⁵ OEB Staff, however, agrees with Milton Hydro that causation has been met since the proposed annual fixed amount of \$369,851 is not included in Milton Hydro's 2023 rate base.²⁶
30. SEC has misinterpreted the causation test. Causation requires that the forecast amount to be recorded in the proposed account must be clearly outside of the base upon which rates were derived. The annual amount of \$369,851 is outside of base rates as the Atrium Report was issued after base rates were set. Milton Hydro submits that the detailed reasons it provided in the Application support a finding that causation is met here.²⁷
31. Even applying SEC's interpretation of causation, which Milton Hydro does not agree is the correct test, the nature of the expense and drivers in the Application were new and unforeseen.²⁸ When the Atrium Economics report was commissioned, Milton Hydro did not have any advance insight into the findings and results of Atrium Economics. The expense and drivers are related to a new finding from Atrium Economics that Milton Hydro's affiliates have been overallocated \$369,851 in costs that should be borne by Milton Hydro.
32. SEC's erroneous interpretation of causation is demonstrated in the OEB's recent decision when the *Getting Ontario Connected Act* ("GOCA") variance account was established. In this case, the underlying assets and cost drivers for third party locators were the same, however GOCA

²⁵ SEC Submission at pg. 4.

²⁶ OEB Staff Submission at pg. 9.

²⁷ Application at pgs. 7-9.

²⁸ Application at pgs. 7-8: "While the study was committed, the specific findings and the magnitude of the over-allocation were unforeseen, necessitating this application to establish the Corporate Cost Allocation VA."

resulted in incremental costs for locates activity performed by utilities throughout the province. The OEB approved the GOCA variance account even though the underlying activities remained the same and only the associated costs were incremental.²⁹

B. Materiality

33. SEC argues that Milton Hydro has not demonstrated that the incremental costs claimed in the Application will have a significant influence on its operations, particularly given the company's current over-earning position.³⁰ CCC similarly argues that Milton Hydro 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 financial viability perspective.³¹ Whereas OEB staff submits that the Materiality criterion has been met as the proposed annual fixed amount of \$369,851 exceeds Milton Hydro's materiality threshold of \$114,696 based on the base revenue requirement approved in its 2023 CoS application.³² Milton Hydro agrees with OEB Staff's conclusion.
34. A persisting annual financial impact of \$369,851, or 1.6% of Milton Hydro's 2023 distribution base revenue requirement, will have a significant influence on its operations. Over the requested term of the DVA from 2025 to 2027, this will result in an aggregate amount of \$1,109,553 that Milton Hydro ought to have paid to the affiliate. This is not an amount that can be addressed through organizational productivity improvements and will have a significant influence on operations.
35. As shown in the interrogatory response to Staff-5, the impact of a revenue reduction of \$369,851/year will have a significant influence on Milton Hydro's operations as it will result in a [REDACTED] to its return on equity ("ROE") over the IRM term. Moreover, Milton Hydro is forecasting a [REDACTED] in ROE. Milton Hydro forecasts [REDACTED]. Approval of the DVA will not lead [REDACTED] as asserted by interveners over the IRM term.
36. Milton Hydro anticipated that OEB Staff and interveners may have issues with the DVA if it resulted in overearning on ROE. This is exactly what the proposed guardrails on the DVA are intended to address – to deny recovery of the amounts in the DVA if Milton Hydro's average ROE between 2025 and 2027 is above its deemed rate.

C. Prudence

37. Similar to CCC's skepticism about Milton Hydro's motives in bringing forth this Application, SEC argues that Milton Hydro would not propose immediate implementation of this revised cost allocation methodology unless it benefitted its affiliates, particularly if the prior cost

²⁹ Decision and Order EB-2023-0143.

³⁰ SEC Submission at pgs. 4-5.

³¹ CCC Submission at pg. 8.

³² OEB Staff Submission at pg. 9.

allocation methodology also complied with the *Affiliate Relationships Code*.³³ OEB Staff submits that prudence was not established as the proposed annual fixed amount relies on an updated cost allocation that deviates from the previously approved methodology, which Milton Hydro confirmed remains appropriate and compliant with the ARC.³⁴

38. As noted above, the Supreme Court of Canada has stated that The OEB's role is to emulate as best as possible the forces to which a utility would be subject in a competitive landscape.³⁵ OEB Staff and interveners do not object with Atrium Economics' central finding that the updated cost allocation methodology more appropriately reflects the allocation of costs among Milton Hydro's businesses, based on the application of cost drivers and allocation factors supported by principles of causality.³⁶ Nor do OEB Staff and interveners assert that the prior cost allocation methodology is more appropriate to be applied in the circumstances.
39. Applying the beneficiary pays principle in this case supports approval of the proposed DVA, as the costs should be borne by the ratepayers who directly benefit from the service. There is no dispute that the costs claimed as part of the Application are caused by Milton Hydro and not its affiliate or shareholder. Implicit in the Settlement Proposal was that parties contemplated that cost allocation could change depending on when Milton Hydro would "undertake" the independent third-party review, provided the report would be "produced" by the next cost of service. Immediate implementation of cost allocation, as proposed by the DVA, best reflects cost causation.
40. The prudence criterion requires that the nature of the costs and forecasted quantum must be reasonably incurred, although the final determination of prudence will be made at the time of disposition.³⁷ Given the finding by Atrium Economics that \$369,851 in forecasted costs should be allocated from affiliates to Milton Hydro, the costs proposed to be recorded on an actual basis will be reasonably incurred to reflect the best available evidence on cost allocation. It would be imprudent to retain the previous cost allocation for the remainder of Milton Hydro's IRM term when it has been updated by an independent expert report, especially since neither OEB Staff nor interveners have raised objections to the substantive content.
41. The Revised Proposal allows the OEB to find that the prudence criterion for the establishment of the DVA has been met but does not require the OEB to make findings at this time regarding either the prudence of amounts actually recorded in the account or the extent to which any such amounts will ultimately be passed on to customers through rates. Such determinations can be made at the time when the OEB considers the disposition of such amounts.

VI. CASE LAW

42. Both SEC and CCC are of the view that the Halton Hills and Oakville Hydro decisions are distinguishable and of no assistance to Milton Hydro.³⁸ OEB Staff does not claim that stand-alone DVAs cannot be granted outside of rebasing. Instead, they suggest that this may not be

³³ SEC Submission at pg. 5.

³⁴ OEB Staff Submission at pgs. 9-10.

³⁵ *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, at para 11.

³⁶ Atrium Report at pgs. 18-22.

³⁷ Decision and Order EB-2024-0096 at pg. 12.

³⁸ SEC Submission at pgs. 3-4; CCC Submission at pgs. 3-5.

the appropriate rate mechanism for addressing material adjustments due to improved information between rebasing applications. OEB Staff submits that the precedent cases referenced by Milton Hydro are not applicable to its current request³⁹

43. Milton Hydro disagrees with the analysis provided by OEB Staff and Interveners. Milton Hydro provided a comprehensive analysis on the Halton Hills and Oakville Hydro cases in response to Staff-8 and will not repeat that analysis here.
44. Milton Hydro's application and revised proposal to establish a deferral and variance account, which records the difference between the approved cost allocation and actual costs using Atrium Economics' methodology, aligns with the OEB's Handbook guidelines for permitting recovery of such costs in rates. The results of Atrium Economics' study could not have been forecasted when rates were set and changes to rates resulting from the study should have been contemplated by the parties.

VII. OTHER MATTERS

A. Specific Balance

45. SEC submits that the OEB should make no findings at this time on the appropriateness of the specific balance. There remain several questions regarding the methodology used by Milton Hydro and Atrium Economics that can be addressed as part of the company's next cost of service application.⁴⁰
46. Given the Revised Proposal above, Milton Hydro acknowledges that the OEB will undertake a prudence review of the proposed balance for disposition in a future proceeding. Milton Hydro agrees with SEC that the prudence criterion does not require the OEB to make findings at this time regarding the forecasted amount of \$369,851. The OEB can rule on the actual amounts in the DVA account when they are requested for disposition.

B. Revised ROE Guardrail

47. OEB Staff proposes limiting recovery to when the actual ROE exceeds the approved ROE, to allow recording the cost differential amount (representing potential recovery from the ratepayers) only in the year when the actual ROE falls more than 300 basis points below the approved ROE from January 1, 2026, to December 31 of the last audited fiscal year immediately preceding the next rebasing year.⁴¹
48. Milton Hydro does not agree it is appropriate to bear costs up until the OEB's off ramp for excessive under-earning. The intent of the DVA is to reflect the best available information about cost causation. OEB Staff does not explain why it is appropriate for Milton Hydro's shareholder to solely bear this asymmetrical risk for costs caused by ratepayers, especially when the DVA meets the tests of causation, materiality and prudence.

³⁹ OEB Staff Submission at pgs. 6-8.

⁴⁰ SEC Submission at pg. 5.

⁴¹ OEB Staff Submission at pg. 3.

49. Although not obligated to do so, Milton Hydro proposed in its accounting order to assume affiliate costs in current rates if it over earns; however, it is not appropriate for Milton Hydro to bear these costs in an under-earning scenario to maintain financial viability and attract investment in the utility.⁴²

C. Effective Date

50. SEC proposes an effective date of September 9, 2024 whereas OEB Staff proposes an effective date of January 1, 2026. Milton Hydro does not agree with either of these proposed effective dates as the results of the Atrium Study could not have been forecasted by Milton Hydro.

51. Milton Hydro acknowledges that the application was not filed until July 31, 2025. This was the soonest possible date that Milton Hydro was able to assess, draft and file the application after receiving the Atrium Economics report. Accordingly, Milton Hydro proposes that the OEB use an effective date of July 31, 2025 as it should not be penalized by the time delay between application and approval of the DVA for a circumstance that was not foreseeable.

All of which is respectfully submitted this 4th day of November, 2025.



Colm Boyle
Counsel to Milton Hydro Distribution Inc.

⁴² Ontario Energy Board Act, 1998, SO 1998, c 15, Sch B, s.1(1)(2).