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TORONTO HYDRO®

August 18, 2026

via RESS

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

Dear Mr. Murray:

Re: Toronto Hydro-Electric System Limited ("Toronto Hydro")
Non-Wires Solution Incentive Mechanism Application
OEB File No. EB-2026-0129, Argument-in-Chief

In accordance with Procedural Order No. 2, please find Toronto Hydro's Argument-in-Chief enclosed.

Please do not hesitate to contact us if you have any questions.

Sincerely,

Elissar El-hage
Digitally signed by Elissar El-hage
DN: cn=Elissar El-hage, email=EEl-hage@TorontoHydro.com
Date: 2026.08.18 16:05:56 -04'00'

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Senior Manager, Rate Applications
Toronto Hydro-Electric System Limited

Cc: Stephanie Cheng, OEB Case Manager
Parties of Record
Andrew Sasso, Toronto Hydro
Jody McEachran, Toronto Hydro

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Toronto Hydro-Electric System Limited ("Toronto Hydro") for an Order or Orders establishing a new deferral account, effective May 1, 2026 to December 31, 2029

TORONTO HYDRO-ELECTRIC SYSTEM LIMITED

ARGUMENT IN CHIEF

August 18, 2026

TABLE OF CONTENTS

APPENDICES

1.0 GENERAL

1. The OEB should approve Toronto Hydro's request to apply a 25% Margin-on-Payment ("MoP") incentive applicable to third party payments made as part of its Local Demand Response ("LDR") program, and a deferral account to record the MoP incentive amounts for future disposition. The approvals sought:

    a. Are prudent and appropriate, as they actively advance the OEB's Policy framework established through the Distribution System Code ("DSC")[1] and the *Filing Guidelines for Incentives for Electricity Distributors to Use Third-Party DERs as Non-Wires Alternatives* ("Filing Guidelines"),[2] and the Government of Ontario's objective of reducing barriers to the use of Non-Wires Solutions ("NWS") through utility incentives; and

    b. Satisfy all relevant requirements in the DSC and Filing Guidelines which also permit a stand-alone MoP incentive application to be filed without a request for rate funding under both the DSC and the Filing Guidelines.

2.0 TORONTO HYDRO'S PROPOSAL IS PRUDENT, APPROPRIATE, AND ADVANCES OEB AND GOVERNMENT OF ONTARIO POLICY OBJECTIVES

2. Toronto Hydro's MoP application advances the policy objectives set out in the Framework for Energy Innovation ("FEI"),[3] Filing Guidelines, and is authorized by Section 11 of the DSC. This application makes prudent use of the MoP incentive to align utility and customer interests, by providing compensation to Toronto Hydro for foregoing an opportunity to earn a return through traditional capital investment, while taking on the risk and management of a non-capital solution.[4]

3. As outlined in the FEI, the OEB "expects distributors to factor DER integration […] into their planning and operations and consider DER solutions (NWAs) when assessing options for meeting system needs,"[5] while also acknowledging that there is a disincentive to utilities in deploying non-wires solutions ("NWS") as "distributors will forgo an opportunity to earn a return by adding to their rate base, since DERs will often, from a utility point of view, be non-capital in nature."[6]

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[1] Distribution System Code (August 1, 2026), Section 11.
[2] Ontario Energy Board, *Filing Guidelines for Incentives for Electricity Distributors to Use Third-Party DERs as Non-Wires Alternatives* (March 28, 2023).
[3] Ontario Energy Board, *Framework for Energy Innovation Report* (January 2023).
[4] Ontario Energy Board, *Framework for Energy Innovation Report* (January 2023), pg. 24.
[5] Ontario Energy Board, *Framework for Energy Innovation Report* (January 2023), pg. 13.
[6] Ontario Energy Board, *Framework for Energy Innovation Report* (January 2023), pg. 24.

4. The OEB has stated that providing incentives for distributors to deploy third-party owned DERs as NWS is a way of addressing this barrier in the near term.[7] Through its amendments to the DSC regarding the MoP incentive, the OEB has stated that in the longer term, the availability of an incentive is: [8]

> *"expected to encourage distributors to <u>make greater use of cost-effective NWSs</u> in meeting system needs and increase distributor confidence in DER-based solutions that have the potential to reduce distribution system costs as the energy transition unfolds."*
> *[emphasis added]*

5. The OEB's various policies reflected in the FEI, Filing Guidelines, and the DSC, align with the Government's policy direction. In its 2024 Letter of Direction, the Government directed the OEB to reduce barriers to the adoption of NWS by *"provid[ing] incentives to utilities to implement non-wire solutions that benefit customers (e.g., DERs/NWAs)."*[9]

6. As further set out in the *Energy for Generations Ontario's Integrated Plan to Power the Strongest Economy in the G7*[10] and the Minister's June 2025 Directive to the OEB, the Government directed the OEB to: "provide enhanced guidance to electricity distributors on incentive mechanisms for the use of DER as NWS."[11]

7. In establishing the FEI, the OEB has invited distributors to bring forward proposals to "evolve the current rate-setting framework to facilitate near-term progress on the use of third-party owned DERs as non-wires alternatives, in a manner that can inform a broader reconsideration of utility remuneration and the development of an incentive policy applicable to all distributors."[12]

8. Toronto Hydro's MoP application responds directly to that invitation. It applies the mechanisms and principles established by the OEB in the DSC to advance the use of NWS and DERs to help meet local electricity needs and increase the resiliency of the electricity system while supporting long-term affordability for ratepayers.[13]

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[7] Ontario Energy Board, *Framework for Energy Innovation Report* (January 2023), pg. 24.
[8] EB-2025-0083, Ontario Energy Board, *Notice of Proposal to Amend a Code* (May 16, 2025), pg. 7.
[9] Ministry of Energy and Electrification, *Letter of Direction"* (December 19, 2024), pg.7.
[10] Ministry of Energy and Mines, *Energy for Generations Ontario's Integrated Plan to Power the Strongest Economy in the G7* (June 2025), p.89.
[11] Executive Council of Ontario, *Order in Council 802/2025* (June 11, 2025), pg. 9.
[12] Ontario Energy Board, *Filing Guidelines for Incentives for Electricity Distributors to Use Third-Party DERs as Non-Wires Alternatives* (March 28, 2023), pg. 2.
[13] Ministry of Energy and Mines, *Energy for Generations Ontario's Integrated Plan to Power the Strongest Economy in the G7* (June 2025), pg. 89.

9. Consistent with the DSC, it is appropriate for Toronto Hydro to seek the approvals in this application as Section 11 was issued more than a year after Toronto Hydro filed the settlement proposal with the OEB in EB-2023-0195. Specifically, Toronto Hydro's settlement proposal was filed on August 16, 2024[14] and Section 11 codified the Margin-on-Payment incentive and prescribed eligibility requirements effective November 25, 2025.[15]

10. The availability of an incentive is important as Toronto Hydro and other utilities consider growing their non-wires programs[16] and make the cost effective use of NWS and DERs part of the industry's "business as usual".[17] The approvals sought in this application will advance the OEB's policies and provide distributors with confidence that cost-effective use of NWS in meeting distribution system needs are appropriately remunerated in accordance with the guidance set out in the FEI, NWS Guidelines, and the DSC.

3.0 TORONTO HYDRO'S PROPOSAL SATISFIES ALL RELEVANT REQUIREMENTS IN THE DISTRIBUTION SYSTEM CODE AND FILING GUIDELINES

11. The OEB should approve Toronto Hydro's request for the 25% MoP incentive and the proposed Margin-on-Payment Incentive Deferral Account ("MoPIDA") as Toronto Hydro satisfies all relevant criteria and filing requirements under Section 11 of the DSC and the Filing Guidelines.[18] Toronto Hydro's application ensures that customer interests are protected while supporting Toronto Hydro's deployment of its LDR program to meet distribution needs.[19] For a tabular reconciliation of Toronto Hydro's evidence against the requirements, please refer to Appendix A.

12. Through the LDR Program, Toronto Hydro has demonstrated its commitment to deploying non-wires solutions funded through OEB approved distribution rates[20] to address distribution system needs, in alignment with the FEI and the *Non-Wires Solutions Guidelines for Electricity Distributors.*[21] Toronto Hydro's LDR Program targets the deferral or avoidance of bus-level load transfers to address short to medium capacity needs in the form of load displacement. Since its inception, the LDR

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[14] Interrogatory Response to OEB-Staff 1, pg. 2 at line 25, and pg. 3 at line 1-2.
[15] EB-2025-0083, Ontario Energy Board, *Notice of Amendments to the Distribution System Code: Amendments Regarding a Margin on Payment Incentive Mechanism for the Use of Third-Party Distributed Energy Resources as Non-Wires Solutions,* (November 25, 2025), Appendix A, pg. 2-3.
[16] Interrogatory Response to CCC-1, pg. 2.
[17] Ontario Energy Board, *Framework for Energy Innovation Report* (January 2023), pg. 14.
[18] Ontario Energy Board, *Filing Guidelines for Incentives for Electricity Distributors to Use Third-Party DERs as Non-Wires Alternatives* (March 28, 2023).
[19] EB-2025-0083, *Notice of Amendments to the Distribution System Code* (November 25, 2025), pg. 4.
[20] Interrogatory Response to CCC-1(c), pg. 2 at line 8; Interrogatory Response to PP-1, pg. 1 at line 11.
[21] Ontario Energy Board, *Non-Wires Solutions Guidelines for Electricity Distributors* (July 7, 2026), pg. 7.

program continues to increase in scope and is forecasting to procure 30MW in demand response capacity over 2026-2029.[22] As further described in Section 3.2 below, it is highly cost effective and beneficial for ratepayers by deferring and avoiding an estimated $53.7 million in capital costs.[23]

3.1 Toronto Hydro's stand-alone application without seeking incremental funding is appropriate and consistent with Section 11.2 of the Distribution System Code.

13. Consistent with the DSC, it is appropriate for Toronto Hydro to seek the approval of the MoP incentive and the associated deferral account on a stand-alone basis. Toronto Hydro is not seeking approval for any changes to the LDR Program funded through distribution rates approved in EB-2023-0195.[24] Specifically, Section 11.2 of DSC expressly states that a distributor:

> *"may apply for a Margin on Payments incentive in relation to the use of a third-party DER as an NWS to meet a distribution system need, either as a <u>stand-alone rate application</u> or as part of a broader rate application."*[25] *[emphasis added]*

14. Toronto Hydro's LDR Program was deliberately designed to be flexible and respond to evolving system capacity needs. Adjustments to the respective stations and capacity targets are to be expected given the dynamic nature of the customer load growth and are within scope of the program.[26]

15. The evidence filed under this stand-alone application with respect to the LDR program includes a Benefit-Cost Analysis,[27] which was prepared to comply with Section 11.3.4(f) of the DSC. Accordingly, based on current information, the list of stations targeted by the LDR Program and the associated capital costs deferred/avoided were updated and reflected in the BCA in response to changing load conditions and to ensure that the program is targeting areas with the highest needs.[28]

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[22] Schedule 3, pg. 4.
[23] Schedule 4 – BCA Model (Updated August 6, 2026); Interrogatory Response to OEB Staff-3, pg.5.
[24] Interrogatory Response to OEB Staff-3, pg. 4.
[25] Distribution System Code (August 1, 2026), Section 11.2, pg. 144.
[26] Interrogatory Response to OEB Staff-3, pg. 3 at line 12-15.
[27] Schedule 4 – BCA Model (Updated August 6, 2026); Interrogatory Response to OEB Staff-3, pg.5-6.
[28] Interrogatory Response to OEB Staff-3, pg. 4 at line 22-28.

3.2 Toronto Hydro's proposal meets the OEB's requirements for a MoP Incentive Application as set out in Sections 11.3.3 and 11.4 of the Distribution System Code.

16. The OEB establishes the 25% default MoP incentive amount in section 11.3.1 of the DSC which underpins this application:

> *"Where the Board is satisfied that an application for a Margin on Payments incentive meets the requirements of sections 11.3.3 to 11.4, a distributor's rates shall be set by including a Margin on Payments incentive of 25%, or such lesser amount as may be requested by the distributor to meet the criteria in section 11.3.3 or for some other reason."*[29] [emphasis added]

17. The 25% MoP incentive is appropriate and consistent with the DSC.[30] Toronto Hydro's BCA results demonstrate that its LDR program is highly cost effective, provides customer value, and meets the MoP incentive requirements in Section 11.3.3 of the DSC:[31]

    a. Through Toronto Hydro's LDR Program, the utility will be able to defer approximately $38.7 million of capital investment and avoid approximately $15 million of capital investment. It is estimated that there will be $15.4 million of customer benefits which is greater than zero;[32] and,

    b. The net present value of the MoP incentive represents about 7% of the total net benefits, which is below the 50% threshold set by the OEB in the DSC.

18. Toronto Hydro's evidence[33] provides all necessary information required in accordance with Section 11.3.4 of the DSC and the Filing Guidelines[34] for a MoP incentive application. It includes the approvals sought, the details of the proposed incentive mechanism, the incentive term, the forecast annual payments over the incentive term period, the forecast NPV of the total MoP incentive and a complete BCA for the same period as the incentive term. Toronto Hydro has also included its implementation proposal through the MoPIDA discussed in Section 4 below.

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[29] Interrogatory Response to BOMA-1, pg. 1-2.
[30] Distribution System Code (August 1, 2026), Section 11.3.3, pg. 144.
[31] Interrogatory Response to OEB Staff-3, pg. 6, Table 2; Schedule 4 – Benefit-Cost Analysis Model (August 6, 2026).
[32] As set out in the *Benefit-Cost Analysis Framework for Addressing Electricity System Needs ("BCA")*, a proposed NWS that have a positive net-present value are considered to have a passing score on the DST.
[33] Schedule 3 – Non-Wires Solution Incentive Mechanism Application (April 10, 2026); Schedule 4 – Benefit-Cost Analysis Model (August 6, 2026); and Schedule 5 – Draft Accounting Order (April 10, 2026).
[34] Ontario Energy Board, *Filing Guidelines for Incentives for Electricity Distributors to Use Third-Party DERs as Non-Wires Alternatives* (March 28, 2023), pg. 3-6 and pg. 9.

4.0 IMPLEMENTATION

4.1 <u>The Margin-on-Payments Incentive Deferral Account is an appropriate mechanism for implementation of the MoP Incentive.</u>

19. Toronto Hydro's proposal to establish a new account, the MoPIDA, is appropriate and should be approved to record actual incentive amounts associated with the LDR capacity payments and applicable carrying charges. Toronto Hydro proposes that this account be reviewed for disposition at the next rebasing application.[35]

20. As set out in the evidence,[36] the MoPIDA satisfies the criteria of causation, prudence, and materiality. A deferral account is an appropriate mechanism to track and recover the incentive and is aligned with the guidance in section 2.4 of the Filing Guidelines.[37]

4.2 <u>The Margin-on-Payments Incentive Deferral Account balance should be approved to be disposed even if those amounts are under the materiality threshold.</u>

21. Toronto Hydro requests that the OEB exercise discretion to proactively waive the materiality requirement at disposition. This is aligned with the principles advanced in the FEI and the DSC.[38]

22. Ensuring that a utility can recover these amounts, even if they are below materiality, creates an additional incentive for utilities to find and deliver customer value through DER solutions.[39]

4.3 <u>The effective date of the proposed Margin-on-Payments incentive term should be the remainder of Toronto Hydro's 2025-2029 rate period.</u>

23. The OEB should set the incentive term as equal to the remainder of Toronto Hydro's current rate period, effective May 1, 2026, to December 31, 2029, in alignment with Section 11.3.2(b) of the DSC.[40]

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[35] Schedule 3, pg. 12 at line 14-15.
[36] Schedule 3, pg. 12-13 at line 21-24 and line 1-17.
[37] Ontario Energy Board, *Filing Guidelines for Incentives for Electricity Distributors to Use Third-Party DERs as Non-Wires Alternatives* (March 28, 2023), pg. 5.
[38] Interrogatory Response to BOMA-2, pg. 1 at line 18- 26.
[39] Interrogatory Response to BOMA-2, pg. 1 at line 18- 26.
[40] Schedule 1, pg. 2 at line 8.

APPENDIX A: MOP INCENTIVE APPLICATION REQUIREMENTS

The following table demonstrates how Toronto Hydro's application is complete, consistent, and compliant with the requirements in Section 11 of the Distribution System Code and Sections 2.1-2.4 of the *Filing Guidelines for Incentives for Electricity Distributors to Use Third-Party DERs as Non-Wires Alternatives* ("Filing Guidelines").

Requirement Section/Reference	Requirement	Evidence Reference
DSC 11.3.3(a)	The net present value of the forecast net benefit of the third-party DER, calculated in accordance with section 11.3.4 (f), must be a numerical value greater than zero;	• Schedule 3, pg. 11, line 4-6, 15.
DSC 11.3.3(b)	The net present value of the forecast Margin on Payment incentive amount calculated under section 11.3.4 (e) cannot exceed 50 percent of the net present value of the forecast net benefit referred to in paragraph (a)	• Schedule 3, pg. 11, line 6-9, 16-17.
DSC 11.3.4(a)	An overview of the third-party DER proposal	• Schedule 3, pgs. 2-10 • IRR OEB Staff-3
DSC 11.3.4(b)	The incentive term determined in accordance with section 11.3.2	• Schedule 3, pg. 10, Section 2.1
DSC 11.3.4(c)	The forecast of annual payments to the third-party DER provider over the incentive term as well as the net present value of total payments to the third-party DER provider over the incentive term, broken down where applicable by costs proposed to be funded through rates and costs proposed to be recovered from any sources of funding other than rates;	• Schedule 3, pg. 10-11 at Section 2.2
DSC 11.3.4(d)	The requested percentage value of the Margin on Payments incentive, which cannot exceed 25%;	• Schedule 3, pg. 10, line 10.
DSC 11.3.4(e)	The forecast of the net present value of the total Margin on Payments incentive, calculated as the percentage set out in paragraph (d) multiplied by the forecast net present value of the payments to the third-party DER provider other than any payments funded through a source other than rates;	• Schedule 3, pg. 11 at Section 2.2, Table 6.
DSC 11.3.4(f)	A completed BCA for the third-party DER that includes the quantitative net benefit result of the DST and that is completed for the same period as the incentive term referred to in paragraph (b)	• Schedule 3, pgs. 2-10 • Schedule 4 – BCA Model (Updated: August 6, 2026) • IRR OEB Staff-3
DSC 11.3.4(g)	The distributor's proposed method for implementing and recovering the Margin on Payments incentive, having regard to section 2.4 of the Board's Filing Guidelines for Incentives for Third-Party DERs as Non-Wires Alternatives;	• Schedule 3, pg. 12-13 at Section 2.3
Filing Guidelines, Section 2.1	The application should clearly state the approvals being sought	• Schedule 1, pg. 2 at Section III.

Requirement Section/Reference	Requirement	Evidence Reference
Filing Guidelines, Section 2.1	Generally, incentive applications will describe the incentive mechanism and related DER activities the applicant is proposing and the anticipated benefits to customers. The OEB will determine whether an incentive will be implemented and the elements and parameters of any approved incentive mechanism.	• Schedule 3
Filing Guidelines, Section 2.1	Approved incentive mechanisms will usually require establishing a deferral account to record amounts to fund earned incentives. Separate OEB approval to award the incentive, and dispose the account balance would occur later, based on an assessment of factors applicable to the type of incentive implemented (e.g., in the case of a performance target-based incentive, OEB approval to allow recovery of the incentive would be contingent on an assessment of the distributor’s actual performance against pre-established metrics or targets).	• Schedule 1, pg. 2 at Section III.
Filing Guidelines, Section 2.1	When an incentive proposal is included in a rebasing application, it is expected that rate funding for DER activities related to the incentive would be integrated with the applicant’s overall spending proposals.	N/A
Filing Guidelines, Section 2.1	If an incentive proposal is filed as a stand-alone application, the applicant should discuss if rate funding for the planned non-wires alternatives has been obtained through another application or whether the non-wires alternatives are displacing previously planned capital projects (i.e., wires solutions) and will be funded through budget reallocations within the applicant’s current rate envelope.	• Schedule 3, pg. 1 at Section 1.1
Filing Guidelines, Section 2.1	If incremental rate funding for market-based non-wires alternatives is being sought, along with the approval of the incentive mechanism, the application should follow the approach contemplated in the CDM Guidelines. To support requests for rate funding, the applicant should provide evidence of materiality, need, and prudence. Discussion of the need and options considered should be consistent with section 5.4.1.1 of the Chapter 5 Filing Requirements for Electricity Distributor Rate Applications. Consistent with the CDM Guidelines, applications filed outside of rebasing should "propose an approach for cost recovery (including issues of cost allocation and rate design) and identify whether any funding to address the identified system need is already included in existing rates. This will assist the OEB in determining, on a case-by-case basis, whether the proposed spending is incremental and should be eligible for cost recovery."	N/A

Requirement Section/Reference	Requirement	Evidence Reference
Filing Guidelines, Section 2.2	Description of Market-Based ER Activities (Non-Wires Alternatives). To provide context for consideration and approval of an incentive mechanism, the application must describe the procurement programs or other means that the distributor intends to use to obtain services from third-party owned DERs. This must include information about: • the system needs being addressed • the wires solutions being deferred or displaced • the corresponding benefits to customers	• Schedule 3, pgs. 2-10 • IRR OEB Staff-3
Filing Guidelines, Section 2.2	When an incentive proposal is filed as part of a rebasing application, this context may be provided by way of references to the parts of the application discussing the relevant DER activities.	N/A
Filing Guidelines, Section 2.3	The application must describe the proposed incentive mechanism in detail, as well as discuss why the approach was selected out of the three available incentive options. The description of the proposed incentive mechanism must include the elements discussed below, as well as information pertinent to the specific type of incentive selected, discussed in sections 3 to 5.	• Schedule 3, pg. 10-13 at Section 2
Filing Guidelines, Section 2.3.1	The application should forecast the total amount of the proposed incentive the distributor may earn. The amount should be presented as a total for the term of the incentive, as well as broken down on an annualized basis, where applicable.	• Schedule 3, pg. 11 at Section 2.2, Table 6.
Filing Guidelines, Section 2.3.2	Applicants must provide the proposed methodology, including underlying inputs and assumptions, for calculating the incentive. The proposed methodology for measuring performance and the achievement of targets, as applicable, depending on the mechanism proposed, should also be provided.	• Schedule 3, pg. 10-11, Section 2.2
Filing Guidelines, Section 2.3.3	Applicants must propose an effective date and duration for the incentive mechanism.	• Schedule 1, pg. 2 at Section II. • Schedule 3, pg. 10 at Section 2.1
Filing Guidelines, Section 2.3.3	When an incentive proposal is filed as part of a rebasing application, the term of the incentive is generally expected to be the length of the rate-term (5 years), unless a different term is specifically approved (e.g., an incentive term related to the life of the contract with third-party DER owners to provide services to the distribution system).	N/A
Filing Guidelines, Section 2.3.3	When an incentive proposal is filed as a stand-alone application, the term of the incentive is generally expected to be the remainder of the current rate term (from the effective date sought in the application), unless a different term is specifically approved.	• Schedule 1, pg. 2 at Section II. • Schedule 3, pg. 10 at Section 2.1
Filing Guidelines, Section 2.4	Applicants must discuss the proposed approach to implementing and awarding the incentive.	• Schedule 3, pg. 12-13, Section 2.3

Requirement Section/Reference	Requirement	Evidence Reference
Filing Guidelines, Section 2.4	The applicant should file a draft accounting order along with a description of the proposed account.	• Schedule 5, pg. 1
Filing Guidelines, Section 2.4	The application should also discuss the mechanics of the proposed account and the anticipated timing of the disposition request.	• Schedule 3, pg. 12-13, Section 2.3
Filing Guidelines, Section 2.4	When an incentive term ends at the same time as the rate-term, it is generally expected that an OEB decision on whether to award the incentive, and to dispose the deferral account balance would occur in the subsequent rebasing application.	N/A
Filing Guidelines, Section 2.4	If a different incentive term is sought, the applicant should identify when and how it will seek OEB approval to award the incentive and dispose the deferral account balance.	N/A