



June 11, 2020

EMAIL & RESS

Ms. Cristine E. Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Long:

Re: Consultation on Deferral Account – Impacts Arising from COVID-19 Emergency – Wataynikaneyap Power LP Comments on Draft Issues List (EB-2020-0133)

The following are comments from Wataynikaneyap Power LP (WPLP) in respect of the Draft Issues List for the Ontario Energy Board's (OEB) *Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency*. As contemplated in the OEB's May 14, 2020 Stakeholder Letter, WPLP's comments below describe WPLP's unique regulatory circumstances in relation to Account 1509, its views on other issues specific to those circumstances and a request for an advance ruling under Issue #1(a) as permitted by the OEB in its June 4, 2020 correspondence.

A. WPLP and its Unique Regulatory Context

WPLP is a licensed electricity transmitter (ET-2015-0264) that by Ministerial Directive and the terms of its Electricity Transmission Licence was designated to develop and seek approvals for a transmission project that was declared by the Province of Ontario under s. 96.1 of the *Ontario Energy Board Act, 1998* to be a "priority project". The project involves the development and construction of a transmission system in northwestern Ontario, one part of which consists of an approximately 300 km, 230 kV line and associated facilities that will reinforce transmission to Pickle Lake (the "Line to Pickle Lake") and the balance of which consists of approximately 1,450 km of 115 kV, 44 kV and 25 kV lines and associated facilities that will connect to the provincial power system certain First Nation communities that are currently served by diesel generation (the "Remote Connection Lines"). The OEB granted WPLP leave to construct in April 2019.¹

¹ OEB, Decision and Order (EB-2018-0190), issued April 1, 2019 (revised April 29, 2019) (the "LTC Decision").

Construction of the transmission project is currently underway and is expected to continue through 2023, with segments of the system coming into service in stages between 2021 and 2023. Pursuant to the LTC Decision, WPLP is required to record and accumulate all of its development and construction costs in CWIP Account 2055 for disposition at such time that WPLP proposes to add the related assets to its rate base.² Accordingly, WPLP could in the normal course book all costs relating to construction of the transmission project, whether or not arising from the COVID pandemic, into CWIP Account 2055.

Notwithstanding that CWIP Account 2055 already provides a mechanism for WPLP to record its COVID-related costs, WPLP wishes to distinguish its incremental costs arising from the COVID pandemic and to track those amounts in a separate account. Moreover, WPLP does not wish to use a subaccount within CWIP Account 2055 because WPLP prefers to expense its incremental costs arising from the COVID pandemic rather than to treat such amounts as CWIP that would eventually form part of its rate base. In WPLP's view, it is important to distinguish its incremental COVID-related costs from its normal development and construction costs because of the different drivers underlying each set of costs and to facilitate the OEB's future review of the recorded amounts. Moreover, WPLP believes that expensing the COVID-related amounts is appropriate because it protects WPLP from the adverse cost impacts of the emergency, which is beyond the utility's control, while also protecting ratepayers by not permitting WPLP to earn a return on its incremental capital costs arising from the emergency.

B. Comments Regarding the Draft Issues List

WPLP has few comments on the Draft Issues List other than to explain why most of the issues set out in the Draft Issues List do not apply to WPLP. This is because, unlike operating transmitters and distributors, WPLP has no utility purpose other than its singular focus on completing development and construction of the Line to Pickle Lake and Remote Connection Lines.³ Consequently, all of the costs that WPLP is currently incurring are capital costs. Unlike operating transmitters and distributors, WPLP has no approved rates or revenue requirement, no lost revenues or loss of load, no bad debt costs, no pass-through costs, no COVID-related operating or maintenance costs, and no near-term customer costs related to COVID.

Moreover, because all incremental costs incurred by WPLP due to COVID are capital costs and WPLP does not have an approved revenue requirement, those capital costs are not subject to the OEB's considerations with respect to materiality. The issue of materiality arises in the circumstance of an ordinary operating utility where certain unanticipated costs it incurs are so significant that they could adversely impact utility operations and cannot be accommodated within the utility's existing rate revenue, including through productivity improvements. Without an approved revenue requirement, there is no basis upon which WPLP can be expected to absorb any incremental costs. Additionally, because its costs are all capital expenditures, WPLP's ability to recover those costs will be based not on their materiality but on whether it was reasonable and prudent to have incurred those costs. This would be the case whether the circumstance giving rise

² See LTC Decision, p. 28.

³ One small exception is that WPLP holds an electricity distribution licence that authorizes it to own and operate an approximately 117 km line that it constructed and is currently operating, on an interim basis, as a distribution line running from a connection point on Hydro One's distribution system in Red Lake to a switching station serving the Pikangikum First Nation. As recognized in the LTC Decision, this line will be converted to form part of WPLP's transmission system at such time that WPLP is able to change the connection point to WPLP's new Red Lake Switching Station. In EB-2018-0267, WPLP obtained approval for a deferral account to record and facilitate the future recovery of costs relating to the operation of this temporary distribution system.

to the incremental costs was related to an extreme weather event or some other factor beyond the utility's control. The issue for WPLP will not be whether the amount of its COVID costs is material, but rather the steps taken by WPLP to mitigate the incurrence of COVID costs and associated risks. This is the basis on which WPLP's incremental costs arising from COVID would in the normal course be recorded in CWIP Account 2055.

C. Proposed Approach for Treatment of WPLP's COVID-19 Emergency Costs

Given its unique circumstances, WPLP requests that the OEB under Issue #1(a) make an advance ruling that:

- (1) WPLP be permitted to record its incremental COVID costs in Account 1509 on the same basis as it is permitted to under CWIP Account 2055, with the exception that it be able to recover the recorded amounts as an expense;
- (2) Account 1509 (and in particular Sub-account, Other Costs) is sufficiently flexible as to its scope, method of rate recovery and timing to permit WPLP to track incremental COVID-related capital costs without regard to materiality, as well as to propose in its initial revenue requirement application (if appropriate) the recovery of such recorded amounts as an expense and not as capital;
- (3) Should WPLP's initial revenue requirement application be made or determined by the OEB prior to the OEB making a final determination in this consultation proceeding, WPLP be permitted to seek clearance of any amounts it has recorded in Account 1509 notwithstanding that the OEB has not concluded its consultation related to the application of Account 1509 to operating utilities on issues that are unrelated to WPLP; and
- (4) In the event the COVID pandemic continues beyond WPLP's initial revenue requirement proceeding, such that it gives rise to cost impacts on WPLP as an operating utility in 2021 and beyond, WPLP be permitted to use Account 1509 to track and eventually seek recovery of those further cost impacts.

In regard to (4) above, for any such incremental operating costs arising from COVID that WPLP may incur upon putting its transmission system, or any portion thereof, into service, WPLP would apply the terms of any decision the OEB makes in this consultation proceeding regarding the use of Account 1509 by operating electricity transmitters.

WPLP notes that, as conditions of approval in the LTC Decision, the OEB requires WPLP to "advise the OEB of any proposed material change in the Project, including but not limited to changes in: the proposed route, construction schedule and cost . . ." and to file semi-annual reports regarding its CWIP account.⁴ Regarding the requirement to advise the OEB of proposed material changes to the project, WPLP acknowledges that this obligation continues and could potentially apply in respect of COVID impacts. However, the question of materiality in that context is undefined, is in the discretion of the OEB's Manager of Supply and Infrastructure Applications, and would be expected to be considered relative to the overall project schedule and cost. Moreover, where a change is considered material, the OEB may require further review or amendment of the leave to construct approval but determinations concerning any revenue requirement or rate impacts would be out of scope in the context of the leave to construct.

⁴ LTC Decision, p. 33.

Regarding the requirement for semi-annual reports, should the OEB accept WPLP's proposed approach to the treatment of its incremental costs arising from COVID, as set out above, WPLP would be amenable to expanding the scope of its semi-annual reporting under the LTC Decision to also include information regarding any amounts it has recorded in Account 1509.

Should the OEB require any clarification regarding the foregoing comments, WPLP would be pleased to elaborate as may be needed.

Yours truly,

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