Ontario Energy Board | Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2020-0043

NORTH BAY HYDRO DISTRIBUTION LIMITED

Application for electricity distribution rates and other charges beginning May 1, 2021

BEFORE: Robert Dodds
Presiding Commissioner

Lynne Anderson
Chief Commissioner

September 9, 2021

Ontario Energy Board | Commission de l'énergie de l'Ontario

Ontario

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1 OVERVIEW

North Bay Hydro Distribution Limited (North Bay Hydro) filed an application with the OEB to change its electricity rates effective May 1, 2021. Under section 78 of the *Ontario Energy Board Act, 1998*,[1] a distributor must apply to the OEB to change the rates it charges its customers.

North Bay Hydro provides electricity distribution services to approximately 24,000 residential, commercial and streetlight and unmetered scattered load customers in the City of North Bay.

The OEB's *Renewed Regulatory Framework for Electricity*[2] and *Handbook for Utility Rate Applications*[3] provide distributors with performance-based rate application options that support the cost-effective planning and efficient operation of a distribution network. This framework provides an appropriate alignment between a sustainable, financially viable electricity sector and the expectations of customers for reliable service at a reasonable price.

North Bay Hydro sought approval under the Price Cap Incentive rate-setting option to set new distribution rates for 2021. Following the OEB's decision in this application, North Bay Hydro can apply to have its rates adjusted mechanistically in each of the following four years (2022-2025) based on inflation and OEB's assessment of North Bay Hydro's productivity.

A settlement conference was held as part of this proceeding and resulted in a partial settlement (Settlement Proposal). In its Decision and Procedural Order No. 3, the OEB accepted the partial Settlement Proposal and made provisions for an oral hearing and written submissions on the following five unsettled issues:

- Issue 1.2 – Operations, Maintenance and Administration (OM&A)
- Issue 3.3 – Rate Design, including fixed/variable splits
- Issue 5.1 – Effective Date
- Issue 5.2 – Previous Requirements/Agreements from EB-2014-0099
    - Exploring the possibility of better aligning North Bay Hydro's incentive pay structure with metrics and outcomes as described in EB-2014-0099
    - Completing a comprehensive review of all of North Bay Hydro's processes and systems underlying its working capital requirements

[1] *Ontario Energy Board Act*, *1998*, S.O. 1998, c. 15, Schedule B
[2] Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach, October 18, 2012
[3] Handbook for Utility Rate Applications, October 13, 2016

- Issue 5.3 – Outcomes of the Phase 1 Transaction in EB-2019-0015

Following is a summary of the OEB's findings on the unsettled issues. Chapter 3 of this Decision includes a detailed discussion and reasons.

Issue 1.2

The OEB finds that the OM&A annual budget of $8.566 million for setting the new distribution rates for 2021 shall be reduced by $0.750 million to $7.816 million.

Issue 3.3

The OEB finds there is no requirement to freeze the fixed charges for the GS 50 – 2,999 kW and the GS 3,000 – 4,999 kW rate classes at the current levels and that it is reasonable to maintain the split between the fixed and variable charges approved as part of North Bay Hydro's last cost of service application.

Issue 5.1

The OEB finds that North Bay Hydro's request for a May 1, 2021 effective date and to collect forgone revenues is appropriate.

Issue 5.2

The OEB finds that a completion date of December 18, 2021 for a review of its incentive pay structure to better align its incentive pay structure with the metrics and outcomes described in EB-2014-0099 is reasonable.

Issue 5.3

The OEB finds that:

(a) efficiency savings have been effectively considered as part of the reductions in OM&A costs ordered in this decision

(b) any consideration of an earnings sharing mechanism would be more appropriately addressed as part of the application expected in 2022 to merge North Bay Hydro with Espanola Hydro

(c) the issue with respect to Espanola Hydro's accounting policies was already addressed in Espanola Hydro's recent 2021 cost of service application and no finding is necessary in this proceeding.

2 THE PROCESS

North Bay Hydro filed its application on January 5, 2021. The OEB issued a Notice of Hearing on January 21, 2021 inviting parties to apply for intervenor status. Consumers Council of Canada (CCC), Donald D. Rennick (Mr. Rennick), Hydro One Networks Inc. (Hydro One), School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC) were granted intervenor status and all except Hydro One were granted cost award eligibility. OEB staff also participated in this proceeding.

The OEB received two letters of comment which was placed on the record of this proceeding and taken into consideration during the OEB's evaluation of this application.

The OEB issued Procedural Order No. 1 on February 18, 2021 that established, among other things, the timetable for a written interrogatory process and a settlement conference.

Parties engaged in a discovery process with respect to the application through written interrogatories and responses. The OEB issued its approved Issues List on April 20, 2021.

A settlement conference was held on April 20 and 21, 2021, which was attended by North Bay Hydro and the intervenors in this proceeding, namely: CCC, Mr. Rennick, SEC and VECC. Hydro One did not attend the settlement conference and took no position on any of the issues. OEB staff attended the conference but was not a party to the partial Settlement Proposal.

Following the settlement conference, North Bay Hydro filed the partial Settlement Proposal with an agreement on all issues except the five listed in the previous section. OEB staff also provided its submission on the Settlement Proposal.

The OEB issued Decision and Procedural Order No. 3 on May 31, 2021, which accepted the partial Settlement Proposal and made provisions for an oral hearing and written submissions on the five unsettled issues.

An oral hearing was held over one day in a virtual format on June 22, 2021 and was attended by North Bay Hydro, OEB staff and all intervenors except Hydro One. Following the oral hearing, North Bay Hydro filed an argument-in-chief on the unsettled issues. OEB staff and intervenors then filed their submissions on the unsettled issues and North Bay Hydro responded with a reply submission.

3 DECISION ON UNSETTLED ISSUES

3.1 Issue 1.2 – Operations, Maintenance and Administration

3.1.1 General Background

North Bay Hydro requested a test year OM&A of $8.57 million, which represents a 33% increase over its 2015 OEB-approved amount. The table below shows North Bay Hydro's proposed OM&A for the 2021 test year versus its 2015 OEB-approved OM&A.

Table 1 – Proposed Test Year OM&A vs. 2015 OEB-Approved

North Bay Hydro OM&A	Budget ($1,000's)
2021 Proposed	8,566
2015 OEB-Approved	6,430
Difference:	2,136

North Bay Hydro acknowledged that its requested OM&A budget is a significant increase but submitted that the increase is reasonable and that there are certain incremental cost drivers outside of management's control.

North Bay Hydro provided a list of incremental costs totaling a $1.35 million increase over its 2015 OEB-approved OM&A and requested that the OEB allow for flexibility in assessing the reasonableness of its OM&A budget.[4]

North Bay Hydro stressed that it is a very lean organization and that one of the main OM&A cost drivers is the need for additional staffing. The utility's executives testified that there are risks associated with its lean workforce such as employee burnout and deferral of key initiatives. North Bay Hydro submitted that its proposed OM&A increase would allow it to address all these issues.[5]

Intervenors and OEB staff submitted that the magnitude of the proposed OM&A increase is too large and suggested reductions to North Bay Hydro's OM&A budget ranging from $0.72 million to $2.14 million. OEB staff based its overall reduction on specific reductions to individual cost categories within OM&A while intervenors took an envelope approach to their suggested reductions.

[4] Argument-in-Chief, page 6, paras 12-13 and Table 1
[5] Argument-in-Chief, page 9, para 32

CCC, Mr. Rennick, SEC and VECC submitted that the OM&A budget should be reduced to some level of past actual spending, with some parties allowing for adjustments for inflation. OEB staff submitted that the test year OM&A budget of $8.566 million represents a 33% increase over its 2015-OEB approved OM&A budget and is not adequately supported in the evidence, and therefore a reduction of the test year OM&A budget is appropriate.

CCC and SEC submitted that the OM&A budget should be set at North Bay Hydro's actual spending in 2019 and adjusted for inflation resulting in a test year budget of $7.04 million (CCC rounded down to $7 million).[6] Mr. Rennick submitted that the OM&A should be reduced to the 2015 OEB-approved amount of $6.4 million.[7] VECC submitted that the OM&A should be set at North Bay Hydro's actual 2015 spending, increased for inflation and adjusted for increased cybersecurity and OEB assessment costs which results in a test year OM&A of $7.02 million.[8]

CCC, Mr. Rennick and SEC submitted that North Bay Hydro had sufficient funds in the historical period to fund the incremental cost drivers presented in this application. Mr. Rennick submitted that the utility's past return on equity (ROE) is evidence of funds that had been available to it. CCC and SEC argued that North Bay Hydro had over-earned in the historical period and ended up collecting more through rates than was spent on running the utility. SEC stated that North Bay Hydro did not spend the full amount approved by the OEB in its previous 2015 cost of service application and that this is problematic because customers have carried the additional cost without receiving improvement in service. SEC further submitted that customers should not be required to pay for long overdue projects that were delayed due to the utility underspending its OM&A budget.[9]

SEC also argued that North Bay Hydro has not demonstrated that the requested increase to its OM&A budget will result in better outcomes for customers.[10] OEB staff made a similar argument against North Bay Hydro's proposed increases in certain cost categories.[11]

The specific reductions proposed by each party are summarized in Table 2 below.

[6] CCC Submission, page 4; SEC Submission, page 14
[7] Mr. Rennick's Submission, page 9
[8] VECC Submission, page 13
[9] SEC Submission, page 12
[10] SEC Submission, page 13
[11] OEB Staff Submission, Vegetation management, page 9; O&M programs, page 11

Table 2 – Suggested Reductions to North Bay Hydro's OM&A Budget

	Cost Category	**Recommended Reductions ($1,000's)[12]**				
	Parties:	Staff	VECC	SEC	CCC	Mr. Rennick
1	Customer Engagement	100			100	
2	Corporate Policies	150			150	
3	Vegetation Management	130	317	317	317	
4	Operations and Mtce	248				
5	Bad Debt	72				
6	Regulatory Costs	17				
	TOTAL	**717**	**1,550**	**1,522**	**1,566[13]**	**2,136**

In its reply, North Bay Hydro submitted that intervenors had ignored evidence on the record that shows its OM&A resourcing is not sufficient and that the utility requires additional resources across a range of areas. North Bay Hydro denied some intervenors' assertions that the utility is or was mismanaged or that there was a pattern of willful underspending in historical years. North Bay Hydro noted that it had spent $6.78 million in 2020 and earned 466 basis points less than its deemed ROE. Further, it had, on average, under-earned on ROE since its last cost of service application in 2015. With respect to the underspending in its 2015 test year relative to what the OEB approved, North Bay Hydro noted that it received the OEB's decision on that rate application halfway through the test year, which left it unable to complete all of its spending as originally planned.

The following is a discussion and findings on certain matters related to the proposed OM&A budget, including: staffing and compensation, benchmarking, customer engagement, corporate policies, vegetation management, O&M, bad debt and regulatory costs, and an overall summary of the findings.

3.1.2 Staffing and Compensation

For the test year, North Bay Hydro proposed hiring an administrative assistant and two new management full-time equivalent employees (FTE) consisting of an operations coordinator and an FTE for succession planning. North Bay Hydro currently employs

[12] Only OEB staff provided a breakdown of their recommended reductions into cost categories. All other parties discussed their reductions in terms of the overall budget.
[13] CCC submitted that certain cost increases (e.g. customer engagement, corporate policies) should be disallowed but made its overall OM&A reduction on an envelope basis.

two operations and maintenance management FTEs: an operations manager and an operations supervisor. The new operations coordinator is intended to offload and share some of the responsibilities of the two existing FTEs.

CCC, Mr. Rennick, SEC and VECC took issue with North Bay Hydro's staffing complement and submitted that the requested FTE count of 53 FTEs is excessive. Mr. Rennick noted that the FTE count in 2004 was 35 and has now increased to 53 in 2021 despite the operations and service remaining unchanged. SEC submitted that, based on benchmarking data (further discussed in the next section under the heading "Benchmarking"), North Bay Hydro should only require 47 FTEs. VECC submitted that the three recently added FTEs were in the IT department, which VECC considered unjustified given that North Bay Hydro's IT system costs had not increased to the same level.

CCC, Mr. Rennick, SEC and VECC also took issue with North Bay Hydro's level of compensation for its employees. These parties noted that the increases to compensation per FTE from 2015 to 2021 are exceptionally high, especially for management FTEs.

Mr. Rennick and SEC submitted that there was no evidence that employees are overworked or that there is an issue with burnout or retention as North Bay Hydro was still able to complete initiatives such as a merger with Espanola Hydro.

On its FTE count, North Bay Hydro submitted that its benchmarking (discussed in the next section) shows that their current complement of nine FTEs in management is among the lowest of comparable utilities and that their plan to bring this number to 13 is in line with the average of the comparator group. North Bay Hydro stated that, even with 13 management FTEs, it would still be well below the FTE counts of other utilities in northern Ontario. In response to VECC's submission, North Bay Hydro stated that, prior to 2017, it outsourced its IT work and had a minimal IT department. Its three new IT FTEs reflect its decision to bring its IT work inhouse.

In response to Mr. Rennick's comments on 2004 staffing levels, North Bay Hydro submitted that the comparison is not appropriate as there was a rate freeze and major changes to the electricity sector around that time. North Bay Hydro stated that the evidence is that its management is routinely working 60-70 hours a week and compensated less than their industry peers.

On employee compensation, North Bay Hydro agreed that it is increasing, but at a level that is less than inflation. North Bay Hydro pointed out that all of its management

employees except one are below the industry mean when compared to the most recent MEARIE Group salary survey.[14]

North Bay Hydro indicated that both of its existing operations management FTEs are expected to retire within the next five years. The FTE for succession planning is intended to overlap with the existing FTEs before they retire to facilitate knowledge transfer, and North Bay Hydro believes that a three-year overlap is ideal for transition purposes.

For the succession FTE, OEB staff submitted that the hiring should be deferred in light of the already large increase to other OM&A cost categories, and the fact that North Bay Hydro will be adding an operations coordinator. OEB staff also submitted that a three-year overlap is very long for transition purposes, and that if North Bay Hydro fills both positions, it will have doubled its operations and maintenance management personnel from two to four. OEB staff recommended a reduction of $160k to account for the reduction of one management FTE, which was roughly estimated using North Bay Hydro's total management compensation costs.[15]

In reply to OEB staff, North Bay Hydro stated that both of its existing operations management FTEs are eligible to retire immediately and, if both employees retire around the same time, there is a serious operational risk of lacking the necessary managerial resources in key operational roles, especially if the retirements occur before the new operations coordinator is hired.[16]

North Bay Hydro also indicated that OEB staff's calculation of $160k is incorrect because, given that it is the operations and maintenance department, part of the compensation for the succession FTE can and will be capitalized. North Bay Hydro indicated that, if the succession FTE is eliminated, it would only reduce the test year OM&A by $59k.

No parties made submissions on the proposed Administrative Assistant.

VECC noted that, as part of the proposed increase to OM&A, North Bay Hydro had made an adjustment to its OM&A capitalization ratios. VECC submitted that this is not an issue requiring an increase to OM&A as the 2021 total capitalized compensation cost is 55%, which is approximately the same as 2015 levels.

[14] Responses to pre-settlement clarification questions, May 17, 2021, question 2
[15] OEB Staff Submission, page 12
[16] Reply Submission, page 52

In response to VECC's comments on the OM&A capitalization ratios, North Bay Hydro submitted that VECC incorrectly assumed that OM&A compensation costs are equal to total compensation minus costs allocated to capital. The total compensation includes amounts billed to affiliates or through recoverable work to customers.

Findings

The OEB finds that the increase to the utility's operations and maintenance budget resulting from the additional staffing is not justified.

North Bay Hydro proposed hiring three new FTEs consisting of an operations coordinator, an FTE for succession planning with respect to two pending retirements within the next five years, and an Administrative Assistant. The OEB accepts that North Bay Hydro's proposal for an increase to the budget for a new operations coordinator and Administrative Assistant is reasonable. However, the proposal to add an FTE for a three-year overlap with the existing FTEs for succession purposes is not reasonable given the overall large rate increase for customers. The OEB concludes that North Bay Hydro can manage this with appropriate planning and without the need for incremental funding. The OEB also notes that four staff have already been hired since the last cost of service application for 2015 rates.

The OEB accepts North Bay Hydro's position that only a portion of this FTE cost contributes to the OM&A because the other portion of the cost is capitalized. Both OEB staff's estimated cost of $160k and North Bay Hydro's number of $59k only arose during submissions. However, the OEB does not find North Bay Hydro's number of $59k reasonable for the OM&A portion of the cost of a management FTE in an electricity distributor's operations department.

3.1.3 Benchmarking

North Bay Hydro provided a benchmarking spreadsheet comparing itself against 12 other utilities that were selected based on their number of customers, net property plant & equipment and geographical region. The benchmarking showed each utility's FTE count, OM&A budget as presented in the OEB's 2019 Yearbook of Electricity Distributors (2019 Yearbook) and as-forecasted OM&A amounts from each utility's most recent cost of service application.[17]

[17] Updated benchmarking evidence, June 14, 2021, "NBDHL_Updated_Appl_EVD_Benchmarking_20210614-REVISED.xlsx"

North Bay Hydro pointed out that its 2019 OM&A per customer is below the average of the 12 comparator utilities in the benchmarking and highlighted Greater Sudbury Hydro Inc. (Greater Sudbury) and PUC Distribution Inc. (PUC), which it categorized as "northern utilities" like itself. North Bay Hydro submitted that northern utilities in Ontario face unique cost pressures that result in higher overall costs. Compared to its two northern utility peers – Greater Sudbury and PUC – North Bay Hydro stated that its 2019 OM&A per customer is significantly lower and that it has historically operated on a leaner budget than most other utilities, which is unsustainable. When taking into consideration the unique cost pressures experienced by northern utilities, North Bay Hydro submitted that its proposed OM&A increase is reasonable and necessary.

Intervenors and OEB staff disagreed and submitted that North Bay Hydro's benchmarking does not support its proposed 2021 OM&A budget.

CCC and SEC argued that North Bay Hydro's benchmarking was not comprehensive and appeared to have been completed after the fact solely to supplement this rate application. These parties submitted that there was no evidence provided that North Bay Hydro actually used its benchmarking to assess the reasonableness of its proposed OM&A budget.

CCC and Mr. Rennick submitted that the benchmarking does not support the FTE count or compensation levels. CCC pointed out that the proposed FTE and compensation levels are higher than some of the other comparator utilities in the benchmarking. Mr. Rennick suggested that the utility's compensation levels should be compared to all wages in Canada. In his submission, Mr. Rennick referred to a table from Statistics Canada showing 2020 annual wages across different industries and argued that the utilities sector (and North Bay Hydro by extension) has a far higher average wage than other industries.

OEB staff submitted that while North Bay Hydro's 2019 OM&A per customer numbers are favorable compared to the benchmarking comparators, this is not the case if looking at the 2021 proposed OM&A. OEB staff calculated that the 2021 OM&A per customer would increase by 26% over 2019 amounts and would be significantly higher than most of the comparators.[18] While North Bay Hydro also stated that its high 2021 OM&A per customer is comparable to its northern utility peers, OEB staff submitted that it is not appropriate to single out the two northern utilities (PUC and Sudbury Hydro) for comparison without a comprehensive analysis of all other differences between North Bay Hydro and the comparator utilities.

[18] OEB Staff Submission, pages 2-3

SEC offered a number of different OM&A benchmarks to compare against North Bay Hydro's proposed 2021 OM&A by calculating what industry averages and North Bay Hydro OM&A amounts would be if past amounts were adjusted to current day dollars using inflation. SEC looked at the 2019 Ontario utilities industry average OM&A per customer as well as North Bay Hydro's 2019 OM&A per customer and arrived at an average OM&A budget ranging from $6.7 million to $7.5 million.[19] SEC stated that none of the amounts it calculated came close to the proposed budget of $8.6 million, which suggests that a reasonable 2021 OM&A budget would be much less than that proposed by North Bay Hydro.

SEC and VECC also pointed to the OEB's total cost benchmarking created by the Pacific Economics Group (PEG). PEG's benchmarking uses an econometric model to predict the costs of a given utility based on its specific business conditions. SEC pointed out that North Bay Hydro's 2020 actual costs were 3.5% higher than the predicted costs of PEG's benchmarking and will be 10% higher for 2021.[20] SEC and VECC submitted that this is an indication that North Bay Hydro's proposed 2021 OM&A amounts are too high.

In its reply submission, North Bay Hydro submitted that its use of geographical comparators (Greater Sudbury and PUC) is appropriate and that it has a good understanding of the unique cost drivers facing other northern utilities as it is a frequent topic of discussion at combined northern districts meetings of the Electricity Distributors Association.

North Bay Hydro included in its reply submission a table listing 12 utilities it considers northern Ontario utilities and pointed out that its 2021 OM&A per customer, albeit higher than its 2019 amounts, is still lower than the average of the northern Ontario utilities by 30%. North Bay Hydro also pointed out that, while its proposed 2021 OM&A per customer is higher than the overall industry average, the same is true for all other northern utilities, not just North Bay Hydro.[21]

With regard to the PEG benchmarking, North Bay Hydro submitted that PEG's methodology did not include an explanatory variable to account for its northern geographical location. In response to SEC's use of PEG's benchmarking to predict OM&A costs for the test year, North Bay Hydro submitted that this is an inappropriate use of the PEG benchmarking tool, which was never designed for this purpose. North Bay Hydro also pointed out that 2020 was not a normal year due to the pandemic,

[19] SEC Submission, page 8 and IRR SEC-5
[20] SEC Submission, page 8; Undertaking J1.1
[21] Reply submission, pages 16-17, paras 63-69

which caused it to delay many of its expenditures. The trend over the entire 2016-2019 period indicates that its benchmarking performance would be comparable to 2021.

In response to intervenor submissions regarding the timing of the benchmarking evidence and whether it was used to inform the budgeting process, North Bay Hydro stated that it had conducted informal benchmarking prior to the filing of this rate application to inform its budgeting process. North Bay Hydro stated that the benchmarking spreadsheet filed in advance of the oral hearing as "Updated Evidence" was meant to formalize and elaborate on the informal benchmarking that had already taken place and was presented in Table 4-2 of Exhibit 4.[22]

In response to Mr. Rennick's use of the Statistics Canada data, North Bay Hydro submitted three main points:

- The "utilities" sector in the Statistics Canada table is an aggregation of different subsectors in the utilities industry, including electric power generation, power transmission and distribution, natural gas distribution, etc. It is unclear which subindustries are driving the wage gaps that Mr. Rennick refers to.
- There is no connection made between the requests made in this rate application and this comparison data – the data is therefore irrelevant.
- The Statistics Canada data contains salary information for both full-time and part-time workers across a large swath of industries and is not comparable for the purpose of assessing North Bay Hydro's compensation levels.

Finally, North Bay Hydro reiterated that, if a formulaic approach is taken to determine its test year OM&A by inflating past costs, the incremental cost drivers as laid out in its evidence must be taken into consideration.

Findings

The OEB finds that the benchmarking data do not support the reasonableness of North Bay Hydro's proposed OM&A increase.

The OEB does not accept North Bay Hydro's explanations for its high 2021 OM&A per customer relative to its benchmarking comparators. Although North Bay Hydro provided in its reply submission a table[23] comparing its OM&A per customer to what it considers other northern Ontario utilities, this additional evidence has not been tested in the process and therefore has been given limited weight by the OEB in this Decision. The

[22] Reply Submission, page 21, para 85
[23] Reply submission, page 16, table 1

OEB accepts that North Bay Hydro does not have detailed knowledge of the inner workings of any of the comparator distributors. However, North Bay Hydro did not have adequate explanations of any unique characteristics for its operations that would drive its costs to increase in comparison to other distributors.

The OEB acknowledges that there can be challenges for northern distributors. The OEB has factored that into its consideration of North Bay Hydro's vegetation management program. While the benchmarking includes two northern distributors (PUC and Sudbury Hydro), the OEB will not draw conclusions solely on the basis of these two northern distributors and disregard the rest of the comparator distributors who operate under common codes and licenses.

Accordingly, the OEB finds that the benchmarking data do not support the reasonableness of North Bay Hydro's proposed 33% OM&A increase from the last OEB-approved amount.

3.1.4 Customer Engagement

North Bay Hydro provided two categories of increased costs in its 2015 budget that are related to customer engagement: annual customer engagement activities and the compensation costs of a recently hired Communications Officer who is supporting all of the utility's customer engagement activities. North Bay Hydro proposed to increase the costs associated with annual customer engagement activities from $62k in 2015 to $164k. The increased budget is expected to fund the development of a new mobile app for customers as well as activities such as bill inserts, marketing and engagement sessions with customers.

CCC and OEB staff submitted that the proposed $100k increase to the annual customer engagement activities should be disallowed. OEB staff recommended a reduction of $100k resulting in a test year budget of $64k while CCC argued that the $164k for customer engagement should be entirely disallowed.[24]

CCC and OEB staff noted that North Bay Hydro's customer base has remained largely unchanged since its last rebasing and therefore did not warrant an increase to the customer engagement budget. Furthermore, CCC and OEB staff noted that the addition of the new Communications Officer should help offset the need for increased spending on other items such as external support for customer engagement activities.[25] OEB staff

[24] OEB Staff Submission, page 4; CCC Submission page 4
[25] OEB Staff Submission, page 4

also added that, based on customer engagement results, it appeared that only a minority of customers supported the development of a new mobile app whereas the majority of customers prioritized lower rates.

SEC noted that the individual hired for the Communications Officer position was previously employed by an affiliate of North Bay Hydro and was responsible for Conservation and Demand Management (CDM) activities at the affiliate until the IESO stopped funding that position. SEC suggested that the Communications Officer position was created solely to transfer responsibility from the unregulated affiliate to the regulated utility.[26]

In reply, North Bay Hydro stated that the annual customer engagement budget is incremental to the activities that will be undertaken by the new Communications Officer. With regard to the new mobile app, North Bay Hydro reiterated that it is an important initiative to help meet customer's evolving expectations as it relates to how their customers interact with them.[27]

North Bay Hydro submitted that SEC's suggestion that the Communications Officer role is connected to the CDM termination has no basis in fact. North Bay Hydro pointed to its pre-filed evidence that showed that some of its customer engagement activities were previously contracted to an affiliate and that it had determined that it would be more financially prudent to bring such activities in-house by hiring a Communications Officer.

Findings

The OEB finds that a reduction in the budget for customer engagement is justifiable.

While the OEB recognizes the importance of effective customer engagement, it is expected that with the addition of FTEs, such as the Communications Officer, much of the required work can be completed internally. The OEB further notes that North Bay Hydro's service territory has remained largely unchanged since its last rebasing and has experienced limited growth. Accordingly, the OEB finds it is not evident that increasing customer engagement costs to this large extent is reasonable.

3.1.5 Corporate Policies

North Bay Hydro included a new program in its test year OM&A budget starting in 2020 called Corporate Policies, Initiatives and Strategy and forecasted an annual budget of $150k to spend on this program. North Bay Hydro stated that this initiative is overdue

[26] SEC Submission, page 22
[27] Reply Submission, page 30

and work on these programs has not been completed historically due to a lack of resources. This $150k annual budget is earmarked for external consultant costs only.[28]

Intervenors and OEB staff opposed the costs associated with this program and the submissions can be summarized as follows:

- there is no evidence showing the benefit of this spending to customers[29]
- the proposed spending is excessive and unusual for a utility of the size of North Bay Hydro[30]
- spending on this program should be managed within the rest of the OM&A budget[31]
- these initiatives have not already been completed due to mismanagement and asking customers for $150k per year now is inappropriate[32]

In its reply submission, North Bay Hydro stated that there is a clear need to complete all of the proposed initiatives, and the reason they have not yet been completed is because its management is overworked and external expertise is required.

The following is a brief outline of each of the initiatives under this program that North Bay Hydro indicated that it plans to complete within the next five years.

Compensation Plan Review

North Bay Hydro proposed a test year expenditure of $50k to review its compensation plan in two parts: a review of its base compensation plan and a review of its incentive compensation.

OEB staff noted that an external consultant already regularly reviews North Bay Hydro's base compensation plan and has been doing so since at least 2018 and an incremental budget for this review should not be necessary.[33] With respect to reviewing incentive compensation, OEB staff noted that North Bay Hydro already agreed to undertake this review during its last cost of service proceeding, although it had not completed it by the time it filed this rate application. OEB staff concluded that it is therefore not appropriate

[28] Argument-in-Chief, pages 20-21
[29] Mr. Rennick's Submission, page 8
[30] VECC Submission, page 12
[31] OEB Staff Submission, page 6
[32] CCC Submission, page 4
[33] OEB Staff Submission, page 8

to include this cost as an incremental cost to be collected from customers in this application.[34]

Update to Conditions of Service

North Bay Hydro proposed a test year expenditure of $50k to review and update its Conditions of Service, which have not been updated since 2007.

OEB staff disagreed with this proposed expenditure and submitted that:

- utility management should be responsible for maintaining the Conditions of Service rather than outsourcing it;
- there is an OEB Conditions of Service template that contains standard provisions and there are examples from other well-performing distributors such that a customized document should not be required for North Bay Hydro.[35]

In reply, North Bay Hydro stated that the OEB template only specifies the headings to be used, and that there is a wide range of different Conditions of Service documents in use by utilities in Ontario. North Bay Hydro submitted that a third-party subject matter expert would be familiar with the best approach and practices to take when populating each section of the Conditions of Service.[36]

HR Policies, Customer Service Policy Update and Employee Manual/Guide

North Bay Hydro proposed expenditures totaling $175k to update its HR policies, customer service policies and employee manual/guide; $50k of this spending is planned for the test year.

OEB staff submitted that these incremental costs have not been sufficiently justified and made the following arguments:

- North Bay Hydro has not explored any other options for developing these policies, such as leveraging resources from industry associations or working jointly with utilities instead of hiring consultants for a customized solution;[37]

[34] OEB Staff Submission, page 8
[35] OEB Staff Submission, page 7
[36] Reply Submission, page 33
[37] OEB Staff Submission, page 7

- North Bay Hydro is hiring a new administrative assistant that is supposed to help offload some of management's existing responsibilities and allow more time for management to work on these initiatives, instead of hiring external consultants;
- when this rate proceeding concludes, management would no longer be consumed with this application and could redirect that time towards these initiatives.

In its reply submission, North Bay Hydro stated that it made inquiries with industry associations (EDA, USF, MEARIE) after the oral hearing and was informed that they do not provide templates or services to assist with the creation of these types of policies and procedures. North Bay Hydro also stated that, while the addition of an administrative assistant will help with management's workload, the intent is to alleviate an already overworked and overburdened management team and that management would not be able to take on these additional initiatives unless they continue to be overworked.[38]

Long-term Review of Building Options

North Bay Hydro proposed an expenditure of $50k to review its long-term building options. This is intended to be an annual activity with $10k spent in each of the next five years.

OEB staff submitted that an annual incremental cost of $10k is immaterial and could be excluded as an incremental expenditure.

In reply, North Bay Hydro submitted that the budget materiality must be considered at the program level, which in this case is $150k and that it is not correct to break programs down into their individual components.[39]

Substation and Control Room Directives

North Bay Hydro proposed an expenditure of $50k to create official documentation to guide staff through daily processes and emergencies in its substations and control rooms.

No submissions were received on this topic.

[38] Reply Submission, page 33
[39] Reply Submission, page 34

Asset Management

North Bay Hydro proposed expenditures totaling $150k to make annual updates and improve its data collection with the goal of eliminating the cost of a $130k Distribution System Plan every five years. Also included is the cost of automating the process for inventory management of transformers and implementing proper controls.

No submissions were received on this topic.

Governance Documentation

North Bay Hydro proposed an expenditure of $50k to review and improve its governance. Currently it does not have a board orientation package, code of conduct, or governance policies.

No submissions were received on this topic.

Safety Program Creation and Annual Updates

North Bay Hydro proposed expenditures totaling $150k to update its safety programs and to maintain it annually.

No submissions were received on this topic.

Purchasing Policy Update, Project Delivery Planning Design Process Guidelines and Document Policy Development

North Bay Hydro proposed expenditures totaling $115k to update and develop the following:

- Purchasing policy
- Project delivery planning design process guidelines.
- Document storage policy

No submissions were received on this topic.

Findings

The OEB finds that the forecasted annual budget of $150k for external consultants to advise on policy and strategy initiatives is not justifiable. This is based on the following considerations with respect to each of the proposed initiatives:

Compensation Plan Review

The OEB notes that an external consultant has been reviewing the base compensation plan since at least 2018 within the existing OM&A budget. The OEB concludes that it is not appropriate to include the cost of that review in this application as an incremental cost to be collected from customers.

Update to Conditions of Service

The OEB concludes that it is reasonable to expect management to maintain the utility's Conditions of Service as part of its ongoing responsibilities rather than incurring significant incremental consulting costs.

Long-term Review of Building Options

The OEB concludes that the proposed expenditure of $50k for a long-term review of building options should be managed within the existing budget rather than as an incremental expenditure.

Substation and Control Room Directives

The OEB concludes that this documentation should have been in place and kept current on an ongoing basis since the inception of North Bay Hydro, and the cost to rectify any shortcomings should be managed within the existing budget.

Asset Management

An up-to-date DSP is integral to good practice and management of a utility and should be maintained at all times, not just to meet the expectations for a rate application. The OEB concludes that North Bay Hydro can spread the cost of maintaining a DSP over the five-year rate-setting term within the existing OM&A budget.

Governance Documentation

This documentation is an integral part of any incorporated and licensed entity and the OEB concludes that any costs to update or rectify shortcomings should be managed within the existing budget.

Safety Program Creation and Annual Updates

The OEB finds the apparent inadequacy of health and safety policies for a licensed distributor to be concerning and requires it be a priority for rectification, with the costs to be managed within the existing OM&A budget.

North Bay Hydro's CEO testified that safety has not moved forward and represents risks, including fatalities.[40] The OEB agrees with the CEO's observation that inadequate health and safety policies can have dire consequences.[41]

Although the ESA annual safety statistics[42] do not show a decline in North Bay Hydro's compliance with Ontario Regulation 22/04, the OEB notes that these are lagging indicators.

The OEB notes that, as a condition of its license, a distributor is required to comply with the Distribution System Code (DSC) and follow applicable health and safety requirements.[43] The OEB does not believe that the historic shortcomings in ensuring compliance with long-standing requirements in the DSC should be an incremental cost.

Purchasing Policy Update, Project Delivery Planning Design Process Guidelines and Document Policy Development

The OEB concludes that it is reasonable to expect management to maintain these policies as part of its responsibilities and not an activity that needs to be outsourced at an incremental cost to customers.

In summary, the OEB finds that the forecasted annual budget of $150k for external consultants to advise on policy and strategy initiatives is not justifiable. The OEB concludes that efficiencies can be achieved through the planned hiring to provide management and staff with more time to address these types of corporate policy initiatives. The OEB is not mandating which work must be done through internal resources or outside consultants but is finding that the forecast cost should not be funded through an increase in rates.

3.1.6 Vegetation Management

North Bay Hydro forecasted a test year vegetation management budget of $773k which is a $317k (70%) increase over its last 2015 OEB-approved budget of $456k.[44] North

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[40] Oral Hearing Transcript, page 17, line 20, page 175, line 8
[41] The OEB notes the tragic accident of Lewis Wheelan as an example.
[42] OEB 2019 Scorecard for North Bay Hydro
[43] OEB Distribution System Code, section 4.6 states:
4.6.1 A distributor shall follow good utility practices in operating and maintaining the distribution system and shall abide by safety rules and regulations that apply to routine utility work, including but not limited to the Occupational Health & Safety Act R.S.O. 1990 and any associated regulations.
…
4.6.3 A distributor shall implement an industry recognized health and safety program that includes training and regularly conducted audits. This program also will include Public Education and Public Safety initiatives.
[44] Chapter 2 Appendices, Appendix 2-JC

Bay Hydro stated that the increased budget is necessary to move its vegetation management program onto a five-year cycle. The current vegetation management program of North Bay Hydro is on year 11 of what was originally intended as a four-year tree clearing cycle that, according to North Bay Hydro, has yet to be completed due to budget constraints.[45]

North Bay Hydro also stated that it has had difficulty completing its annual vegetation management work due to the lack of a robust competitive market for tree clearing contractors in its service territory, which led to price volatility, safety concerns and lack of availability.[46] To address these concerns, North Bay Hydro created a new tree clearing company called 17 Trees Inc. (17 Trees) with two other northern utilities and expects to contract 50% of its annual vegetation management work to 17 Trees.[47]

Intervenors and OEB staff submitted that the proposed vegetation management budget should be reduced. OEB staff recommended a reduction of $130k while CCC, Mr. Rennick, SEC and VECC submitted that the existing budget is sufficient and no increase is justified.[48]

With respect to North Bay Hydro's contract with 17 Trees, both Mr. Rennick and SEC raised a concern that there may be conflict of interest issues due to the fact that North Bay Hydro is a shareholder of 17 Trees.[49] However, SEC concluded that there is no evidence on the record to suggest a problem with the arrangement with 17 Trees, and that it seems to be a reasonable method to address the issues with the lack of a competitive market.

SEC provided a benchmarking comparison of North Bay Hydro's vegetation management costs per kilometre of line to five other northern utilities and submitted that North Bay Hydro's proposed budget is significantly more than its peers.[50]

SEC noted that the stated reason for the high vegetation management budget is that North Bay Hydro expects to undertake a period of more expensive heavy trimming, some of which is in rural areas that are hard to access. However, SEC noted discrepancies in the amount of tree clearing to be undertaken in the next five years as well as the type of tree clearing, and submitted that there is no evidence that vegetation in North Bay Hydro's service territory is any more dense or difficult than the other five

[45] Argument-in-Chief page 24
[46] Ibid
[47] Ibid
[48] OEB staff submission, page 9; CCC Submission, page 4; Mr. Rennick's Submission, page 8; SEC Submission, pages 16-19; VECC Submission, page 5
[49] Mr. Rennick's Submission, page 8; SEC Submission, page 19
[50] SEC Submission, page 17

comparator utilities SEC provided.[51] SEC also noted that North Bay Hydro made a similar request in its previous rebasing application to increase its vegetation management budget and that the previous rate application was settled with an overall reduction of $575k to the 2015 test year OM&A budget. SEC stated that it was surprising that North Bay Hydro chose to allocate $200k of its total reduction to its vegetation management budget, despite its intention to maintain a four-year tree trimming cycle. [52]

OEB staff submitted that a reduction of $130k would be appropriate and would be equivalent to a six-year tree trimming cycle, as opposed to an accelerated and more expensive five-year cycle. OEB staff noted that North Bay Hydro's customer engagement showed that customers preferred a six-year tree trimming cycle, and its reliability statistics did not show a worsening reliability trend due to tree contacts. OEB staff stated that there was insufficient justification for the increased budget because North Bay Hydro had not quantified the reliability improvements it expects to achieve and that the scope and cost of the vegetation management budget remain high level estimates.[53]

In its reply submission, North Bay Hydro acknowledged that customers showed a preference for the six-year cycle and that its current reliability indicators do not show an increasing trend due to tree contacts. However, North Bay Hydro argued that this is because the reliability performance metric is a lagging indicator and vegetation management must be addressed before reliability issues occur.[54] North Bay Hydro concluded by stating that it has taken OEB staff's comments and customer preferences into consideration and agreed to reduce its vegetation management budget by $130k to reflect a six-year cycle instead of the planned 5-year cycle.[55]

In response to SEC's comparison of the vegetation costs of five other northern utilities, North Bay Hydro objected to the introduction of new benchmarking evidence in argument. However, North Bay Hydro stated that it had reviewed SEC's comparison and submitted that it is not a compilation of OEB yearbook data that is readily available from public sources and there is a lack of information on the comparator utilities that make it impossible to provide a proper comparison.[56]

[51] SEC Submission, page 18
[52] SEC Submission, page 19
[53] OEB Staff Submission, pages 9-10
[54] Reply Submission, page 36
[55] Reply Submission, page 38
[56] Reply Submission, pages 38-40

North Bay Hydro also took issue with SEC's submission regarding the reductions made to its 2015 OM&A budget as part of the settlement agreement in the previous application. North Bay Hydro submitted that it is within the utility's discretion how to allocate the reduction agreed upon as part of a settlement. Management at that time chose to allocate $200k of the OM&A reduction to vegetation management because the work was outsourced and reductions could be implemented without laying off any highly trained employees.[57]

Findings

The OEB accepts North Bay Hydro's revised proposal to move to a six-year cycle for vegetation management and to reduce the budget by $130k.

The OEB is satisfied with the progress of the utility to address the issue of the lack of a robust competitive market for tree clearing contractors in its service territory by the creation of the new 17 Trees tree clearing company and expects that North Bay Hydro will achieve this planned vegetation management work.

The OEB recognizes that formulation of a vegetation management plan is complex for a utility located within the boreal forest zone and serving a mix of urban and rural customers. It involves risk assessment which is difficult to quantify. The OEB also recognizes that reliability metrics are lagging indicators of an effective vegetation management program. Monitoring tree contacts is generally a more reliable indicator of the effectiveness but cannot take into account extreme storm events.

Additionally, the OEB notes that a robust vegetation management program is integral to the health and safety of both the public and the utility workers and contractors, as noted earlier in the discussions on corporate policies.

The OEB is concerned that the previous vegetation management program was not completed, given the implications to reliability and safety. The OEB is therefore requiring North Bay Hydro to establish a tracking account to record the cumulative difference between the planned and actual vegetation management costs over the five year term of the rate framework. At the time of the next rebasing application, if the vegetation management program has been underspent (on a cumulative basis) the OEB can determine if this underspending will be returned to customers. Overspending will not recoverable.

[57] Reply Submission, page 41

3.1.7 Operations and Maintenance

Within North Bay Hydro's operations and maintenance programs, there are two specific incremental cost drivers that parties submitted on: the ARC Flash study and new operations FTEs. The FTEs are discussed in the Staffing and Compensation section 3.1.2 above.

ARC Flash Study

The ARC Flash study is an expenditure of $110k in the test year that will allow North Bay Hydro to better understand ARC Flash hazards associated with the equipment in its system. Although this study is a one-time expenditure, North Bay Hydro stated that it would continue to use this $110k budget annually for other programs going forward, such as a Distributed Energy Resources (DER) implementation study, electric vehicle grid impact study, and a protection control study.

CCC and OEB staff submitted that a reduction should be made to this proposed increase and noted that North Bay Hydro had not provided the scope for the studies going forward, any analysis of the benefits to customers or any concrete cost estimates.[58]

OEB staff also noted the customer engagement results did not prioritize grid modernization (which is related to the DER and electric vehicle studies) and submitted that North Bay Hydro should first consider alternative options, such as leveraging industry associations or combined studies with other utilities. As for the protection control study, OEB staff submitted that North Bay Hydro should already be ensuring proper coordination of its protective devices as part of its normal operations and the cost of the study should not be incremental to what is already within the existing OM&A budget.

OEB staff submitted that there should be a reduction of $88k and the resulting budget of $22k would allow North Bay Hydro, over the next five years, to recover the full $110k cost of just the ARC Flash study.

In its reply submission, North Bay Hydro argued that OEB staff is demanding evidence (cost/benefit analysis, detailed scoping, etc.) to support studies that are not going to be completed in the test year and that this type of evidence is out of scope for a forward test-year cost of service application.[59]

[58] OEB Staff Submission, page 11 and CCC Submission, page 5
[59] Reply Submission, page 54

Findings

The OEB finds that this annual budget for the ARC Flash and subsequent studies can be reduced.

The ARC flash study is a one-time cost of $110k that will be incurred in the test year. North Bay Hydro plans on continuing the use of the $110k budget annually for other programs, as discussed above. The OEB agrees with OEB staff that North Bay Hydro has not adequately considered alternative options for potential future studies and has provided little evidence to support annual spending of $110k on the studies after the test year. The OEB disagrees that North Bay Hydro is being asked to provide evidence that is out of scope. The ARC Flash study is a one-time cost in 2021 and in the absence of a specific plan for additional spending in the five-year term, the OEB concludes it is reasonable to allocate the cost of this study over the term.

3.1.8 Bad Debt

North Bay Hydro forecasted $200k in bad debt expenses for the test year and indicated that this is based on levels of bad debt experienced in 2017 and 2018 plus additional costs to account for the uncertainty surrounding the COVID-19 pandemic. During the oral hearing, VECC asked North Bay Hydro what it believed would be a reasonable baseline for bad debt expenses if discounting the effects of COVID-19. Absent the potential impacts of COVID-19, North Bay Hydro indicated that a six-year average of $128k would be a reasonable forecast of bad debt for the test year.[60]

CCC, OEB staff and VECC submitted that the forecast of bad debt expenses is too high and noted that North Bay Hydro did not provide any basis for a test year budget of $200k. VECC further noted that the forecast of $200k exceeds North Bay Hydro's actual 2020 bad debt expenses during the pandemic in 2020.[61]

OEB staff noted that North Bay Hydro has not accounted for the impacts of COVID-19 anywhere else in its application, and the same approach should be taken for consistency with respect to bad debt. OEB staff noted that the OEB has established a general deferral account for incremental costs related to COVID-19 and North Bay Hydro may seek to recover any incremental bad debt expenses above test year amounts via that account, subject to the conditions of that account.[62]

[60] Oral Hearing Transcript, page 112
[61] VECC Submission, page 6
[62] OEB Staff Submission, pages 13-14

OEB staff suggested a reduction of $72k, which would set the bad debt forecast at the six-year average of $128k. VECC did not provide a specific amount of reduction but submitted that North Bay Hydro's bad debt forecasts are unreasonable and call into question the accuracy of the OM&A budget forecasting as a whole.[63]

In reply, North Bay Hydro agreed with OEB staff's recommendation that using the six-year average of $128k is appropriate, which is a reduction of $72k.

Findings

The OEB finds that the six-year average of $128k for the bad debt expense is reasonable. The OEB agrees that the impacts of COVID-19 should be addressed through the general deferral account.

3.1.9 Regulatory Costs

North Bay Hydro has $794k in regulatory costs, which has been amortized over five years and included in its test year OM&A budget.

CCC and VECC submitted that North Bay Hydro's regulatory costs are too high, especially when compared to other similar sized utilities. CCC noted that North Bay Hydro incurred $541k in legal and consulting fees. These fees were not subject to a "request for proposal" (RFP) process and CCC argued that utilities should be required to go through an RFP process to obtain competitive pricing for legal and consulting costs going forward.[64]

OEB staff submitted that the regulatory costs should be reduced to $711k, which represents a $17k reduction to the overall OM&A budget when amortized over five years. OEB staff's reduction is to reflect an updated regulatory cost estimate of $711k provided by North Bay Hydro during the oral hearing.

In reply, North Bay Hydro agreed with the reduction proposed by OEB staff.

In response to VECC, North Bay Hydro stated that part of the regulatory cost was necessary to prepare its witnesses for the oral hearing and noted that none of the witnesses had ever participated in an oral hearing or a similar type of legal proceeding.

In response to CCC's criticism that advisors were hired without a competitive process, North Bay Hydro stated that it used the same advisors as in its previous rates and merger applications. North Bay Hydro stated that these advisors were already familiar

[63] VECC Submission, page 6
[64] CCC Submission, page 5

with the utility, which resulted in lower overall regulatory costs than would have been the case with other advisors.[65]

Findings

The OEB finds that the reduction in regulatory costs, amortized over five years and applied as a reduction in the OM&A budget envelope, is appropriate.

North Bay Hydro agreed with OEB staff that its one-time regulatory costs have decreased to $711k, from the $794k amount in its originally filed application, and that the reduction of $80k can be amortized over five years and applied as a reduction in the OM&A budget envelope.

3.1.10 Summary of Findings

The OEB finds that the OM&A annual budget of $8.566 million for setting the new distribution rates for 2021 shall be reduced by $0.750 million to $7.816 million.

The OEB does not consider the benchmarking data and specific cost categories as sufficient support for the reasonableness of North Bay Hydro's proposed OM&A increase. The OEB does not accept North Bay Hydro's explanations for its high 2021 OM&A per customer relative to its benchmarking comparators. North Bay Hydro did not have adequate explanations of any unique characteristics for its operations that would drive its costs to increase in comparison to other distributors. Accordingly, the OEB finds that the benchmarking data do not support the reasonableness of North Bay Hydro's proposed 33% OM&A increase from the last OEB-approved amount.

In its argument-in-chief, North Bay Hydro provided the OM&A per customer for 12 different distributors from 2019. The average for this comparator group was $298.43 per customer and North Bay Hydro was $281.43. However, North Bay Hydro is seeking more than a 28% increase in its OM&A for 2021 from the 2019 actual cost. With this increase, it will be more than 10% above the average of the comparator group, even after accounting for inflation. Together with insufficient support in specific cost categories, the OEB concludes that a reduction of 10%, or $857k, to the OM&A budget would be reasonable.

However, after taking into consideration programs essential to the safe and reliable operation of the utility, such as the proposed $187k increase to the vegetation management program, this reduction has been lowered to $750k. This approved budget will still provide North Bay Hydro with a $7.816 million OM&A budget, which is a 22%

[65] Reply Submission, page 56

increase above its previous 2015 OEB-approved OM&A budget. The OEB concludes this is an appropriate amount that will allow North Bay Hydro to manage the utility prudently.

Although specific cost drivers have been examined in this decision, the OEB recognizes the realities of operating a utility and the possibility of reallocating elements of the OM&A budget. Accordingly, the reduction to the OM&A budget should be treated as an envelope reduction.

3.2 Issue 3.3 – Rate Design, including Fixed/Variable Splits

North Bay Hydro proposed to increase the fixed charges for the General Service (GS) 50 – 2,999 kW and GS 3,000 – 4,999 kW rate classes to $364.40 and $7,628.28 from $315.75 and $6,734.18, respectively. The current fixed charge is already above the ceiling value established by the minimum system with peak load carrying capability adjustment in the cost allocation model. North Bay Hydro cited precedent where the OEB had permitted LDCs to increase fixed charges above the guidance from the cost allocation model.[66] It also quoted a policy direction towards increasing the fixed charge.[67]

OEB staff submitted that the fixed charges for the GS 50 – 2,999 kW and GS 3,000 – 4,999 kW classes should remain at the existing levels in accordance with Section 2.8.1 of the Filling Requirements. OEB staff noted that more recent precedents, including Energy+ Inc. EB-2019-0028 and Hydro Ottawa Limited EB-2019-0261, supported its position.[68]

SEC agreed with OEB staff and noted that the policy direction towards increasing the fixed charge was withdrawn by OEB staff, and that current proposals do not involve increasing fixed charges for the GS rate classes.[69]

VECC noted that the policy on rate design for non-Residential customer classes has been addressed in the EB-2005-0317 proceeding, reviewed in the EB-2007-0667 proceeding, and is the subject of an ongoing consultation in the EB-2015-0043 proceeding.[70] VECC referenced the policy in the EB-2007-0667 proceeding which states that “the Board does not expect distributors to make changes to the MSC[71] that

[66] Argument-in-Chief, pages 25-26
[67] Ibid
[68] OEB Staff Submission, page 15
[69] SEC Submission, page 5
[70] VECC Submission, pages 16-17
[71] Monthly Service Charge.

result in a charge that is greater than the ceiling as defined in the MSC". VECC submitted that for 2021, the monthly charges in the GS 50 – 2,999 kW and 3,000 – 4,999 kW rate classes should be maintained at their current levels. For the post-2021 IR period, VECC submitted that a similar approach to Hydro Ottawa should be used for these rate classes.

In Hydro Ottawa's case, for the rate classes where monthly charges were already above the guidance from the cost allocation model, the following approach was required:

- Where maintaining the fixed/variable split would result in a higher fixed charge than the previous year, the fixed charge is to be maintained at the previous year's value. In years where maintaining the current fixed/variable splits results in a lower fixed charge, the lower fixed charge should be used.

North Bay Hydro disagreed with the more recent precedents cited by OEB staff and VECC. In the case of Energy+, while the issue was decided by the OEB, at the time of submissions, Energy+ had accepted the position of OEB staff and intervenors. In the case of Hydro Ottawa, North Bay Hydro noted that Hydro Ottawa agreed not to increase its fixed charge as part of the settlement proposal in the EB-2015-0004 proceeding, and therefore the OEB decision in its 2021 cost of service reflects a continuation of that agreement.[72]

North Bay Hydro stated that it is proposing to maintain the fixed/variable split as was approved in its previous cost of service proceeding, which is similar to what was approved by the OEB in the Horizon Utilities' EB-2014-0002 proceeding and the InnPower Corporation's EB-2016-0085 proceeding. It referenced the Horizon decision where the OEB stated that stability is desirable, and hence maintaining the fixed/variable split was approved.

Findings

The OEB agrees with North Bay Hydro that there is a guideline but not a requirement to freeze the fixed charges for the GS 50 – 2,999 kW class and the GS 3,000 – 4,999 kW rate classes at the current levels. The OEB finds it reasonable to maintain the split between the fixed and variables charges approved as part of North Bay Hydro's last cost of service application. There is no reason to conclude that there has been a material change in the ratio of costs that are fixed versus variable since the last approval.

[72] Reply Submission, page 62

3.3 Issue 5.1 – Effective Date

North Bay Hydro requested approval for an effective date of May 1, 2021 and to collect forgone revenue for the period following May 1, 2021 until the implementation of its new rates. North Bay Hydro acknowledged that the filing of its rate application was delayed but submitted that the delay was due to the COVID-19 pandemic. Resources that would have been dedicated to this rate application were instead redirected to managing the impacts of the pandemic. North Bay Hydro also noted that it had voluntarily deferred the implementation of its most recent May 1, 2020 rates and chose to forgo the collection of that revenue.

OEB staff noted that North Bay Hydro filed its rate application on January 5, 2021, four months after the established deadline for May 1, 2021 filers. However, taking into consideration the impacts of the pandemic and its effects on North Bay Hydro's resources, OEB staff submitted that a May 1, 2021 date is appropriate.

CCC, SEC and VECC opposed an effective date of May 1, 2021 and proposed instead the month following the issuance of the OEB's final rate order. CCC submitted that North Bay Hydro and its legal team had resources available to complete its rate application in time to implement for May 1, 2021 rates. SEC submitted that many other utilities were able to file their cost of service applications during the pandemic and now have their rates in place. VECC noted that the pandemic has been disruptive to many customers and businesses and submitted that the question is not whether the delay in filing the rate application was reasonable, but whether North Bay Hydro should benefit from the delay. VECC submitted that the OEB should adopt a similar approach as the report of the OEB on the regulatory treatment of COVID-19 costs in considering whether a later effective date would have a material impact on the utility's ability to earn its regulated rate of return in the long run.[73] VECC stated that, if the OEB issued a final rate order in August 2021 with rates effective September 1, 2021, the loss of revenue to North Bay Hydro would be approximately $15k per month and immaterial.

In response to SEC, North Bay Hydro noted that the other utilities that had 2021 cost of service applications reached full settlements in their proceedings and did not require an oral hearing, and that North Bay Hydro should not be punished for not settling the entire case.[74]

[73] EB-2020-0133, Report of the OEB: Regulatory Treatment of Impacts Arising from the COVID-19 Emergency, June 17, 2021
[74] Reply Submission, page 64

Findings

The OEB approves North Bay Hydro's request for a May 1, 2021 effective date and finds that collection of forgone revenues is appropriate.

Although North Bay Hydro requested two extensions to the filing of its application due to the COVID-19 pandemic, no other delays occurred in this proceeding. The OEB recognizes that North Bay Hydro had deferred its May 1, 2020 rates and chose to voluntarily forgo the collection of that revenue.

3.4 Issue 5.2 – Previous Requirements/Agreements from EB-2014-0099

The OEB approved issues list in this proceeding identified two requirements from North Bay Hydro's previous rate application:[75]

- Exploring the possibility of better aligning North Bay Hydro's incentive pay structure with the metrics and outcomes described in EB-2014-0099
- Completing a comprehensive review of all North Bay Hydro's processes and systems underlying its working capital requirements

The parties to the partial settlement agreed that North Bay Hydro appropriately responded to the second requirement but did not reach settlement on the first item.

North Bay Hydro did not complete the first item on incentive pay. North Bay Hydro stated that it had significant changes to its management team between 2017 and 2019 and, at that time, made the decision to postpone exploring its incentive pay structure until its new management team was in place. By 2019, management had started to address its cost of service commitments (including the incentive pay review) but subsequently had to divert resources to address the emerging COVID-19 pandemic, which ultimately left it unable to complete the review in time for this application. North Bay Hydro committed to completing its incentive pay structure review by December 18, 2021.

OEB staff submitted that a completion date of December 18, 2021 appears reasonable. OEB staff noted that the 2015 settlement stipulated that, if North Bay Hydro identifies any opportunities to improve its incentive pay structure as part of its review, it would not

[75] EB-2020-0043, Decision on Issues List, April 19, 2021 and EB-2014-0099

delay until its next rebasing application to implement such opportunities. OEB staff submitted that it would be appropriate to apply a similar clause in this proceeding.

VECC pointed out that, despite the impacts of the pandemic, North Bay Hydro had almost five years between its last rebasing application to the emergence of the pandemic to meet its commitment. VECC submitted that the commitment to review incentive pay structures and the ways to tie compensation to outcomes is intrinsically linked to North Bay Hydro's proposal to substantively increase its OM&A spending. Given the large proposed increase in OM&A, VECC submitted that North Bay Hydro should have included a proposal to show how the increase in OM&A will be tied to new metrics developed as part of its commitment to review its incentive pay structures.

VECC suggested that the OEB consider North Bay Hydro's breach of its commitment in its determination of a just and reasonable OM&A amount.[76]

CCC, Mr. Rennick and SEC did not submit on this issue.

In reply, North Bay Hydro agreed with OEB staff that a condition be included in the decision for this application, namely that, if North Bay Hydro identifies any opportunities to improve its incentive pay structure as part of its review, it would not delay until its next rebasing application to implement such opportunities.

Findings

The OEB finds that a completion date of December 18, 2021 for a review of its incentive pay structure to better align it with the metrics and outcomes described in the EB-2014-0099 proceeding is reasonable. Additionally, the OEB expects that North Bay Hydro will not delay until its next rebasing application to implement opportunities to improve its incentive pay structure as part of this review.

3.5 Issue 5.3 – outcomes of the Phase 1 Transaction in EB-2019-0015

3.5.1 General Background

On August 22, 2019, the OEB issued a Decision and Order (Phase 1 Decision and Order) approving the MAADs transaction that allowed North Bay Hydro Holdings, the

[76] VECC Submission, page 22-23

parent company to North Bay Hydro, to acquire the former Espanola Hydro as a wholly owned subsidiary.[77] This transaction formed "Phase 1" of a two-phase transaction.

Under the rate framework proposed in the Phase 1 transaction, North Bay Hydro and Espanola Hydro (now affiliates) would continue to operate as independent utilities and both utilities would file separate cost of service applications for 2021 rates. In its Phase 1 Decision and Order, the OEB found the proposed rate framework reasonable. The OEB also ordered an analysis of Espanola Hydro's accounting policies to be completed and brought forward as part of Espanola Hydro's 2021 cost of service application.

North Bay Hydro submitted that all outcomes of the Phase 1 transaction have been appropriately addressed. North Bay Hydro stated that it continues to operate independently from Espanola Hydro and that the accounting analysis was brought forward and addressed in Espanola Hydro's 2021 cost of service application.

OEB staff submitted that there are three outcomes of the Phase 1 transaction relevant to this issue which are discussed in the subsections below.

CCC, Mr. Rennick, SEC and VECC did not submit on this issue.

3.5.2 Synergies/efficiencies arising from the acquisition of Espanola Hydro

North Bay Hydro submitted that, although it shares common ownership with Espanola Hydro, both utilities continue to operate separately and as such there are no synergies to be considered.

OEB staff submitted that there is typically an expectation of economies of scale or other potential efficiencies as part of a MAADs transaction. However, OEB staff did not propose any further reductions as any potential synergies have already been considered in the reductions suggested under Issue 1.2.

In reply, North Bay Hydro stated that OEB staff had opportunities to explore this issue throughout the proceeding but did not ask questions on this topic. North Bay Hydro pointed to sections of its pre-filed evidence to show that there are no synergies to be considered.

[77] EB-2019-0015, Decision and Order, August 22, 2019; the transaction was conducted through a subsidiary of North Bay Hydro Holdings, North Bay (Espanola) Acquisition Inc., which acquired and then merged with Espanola Hydro.

Findings

The OEB finds that efficiency savings have been effectively considered as part of the reductions in OM&A cost ordered in this proceeding.

While the OEB expects to see efficiency savings as part of the Phase 2 transaction, the OEB did allow for separate cost of service applications. To the extent that some synergies should have been realized as part of the Phase 1 transaction, the OEB concludes that they have been effectively considered as part of the reductions in OM&A budget ordered in this proceeding.

3.5.3 Earnings Sharing Mechanism (ESM)

The OEB's general policy is that entities that have consolidated under MAADs and defer rebasing for more than five years must implement an ESM for the period beyond the five years.[78] The ESM is designed to ensure that customers share in the increased benefits arising from the consolidation during the deferred rebasing period.[79]

OEB staff noted that North Bay Hydro intends to apply to the OEB for approval of a MAADs application to merge with Espanola Hydro in 2022 and submitted that the ESM issue would be more appropriately addressed in the anticipated 2022 MAADs proceeding.

In its reply submission, North Bay Hydro agreed with OEB staff.

Findings

The OEB finds that the ESM issue would be more appropriately addressed as part of the MAADs application expected in 2022 to merge with Espanola Hydro.

The OEB concludes that this approach is consistent with the OEB's MAADs policy. Under this policy, entities that have consolidated under MAADs and defer rebasing for more than five years must implement an ESM for the period beyond the five years to ensure customers share in increased benefits from the consolidation during the deferred rebasing period. However, it has not yet been five years since Espanola Hydro was acquired and the ESM issue would be more appropriately addressed in that future MAADs proceeding.

[78] OEB Handbook to Electricity Distributor and Transmitter Consolidations, January 19, 2016, page 16
[79] Ibid

3.5.4 Espanola Hydro's Accounting Policies

OEB staff agreed with North Bay Hydro that accounting policies for Espanola Hydro were already addressed in its 2021 cost of service application.

Findings

The OEB accepts the positions of OEB staff and North Bay Hydro that this issue with respect to Espanola Hydro's accounting policies was already addressed in Espanola Hydro's recent 2021 cost of service application and no finding is necessary in this proceeding.

4 IMPLEMENTATION

North Bay Hydro shall file a draft rate order including an updated Revenue Requirement Workform and updated Tariff Schedule Bill Impact Model to reflect the findings in this Decision.

The rates will be effective May 1, 2021 and implemented October 1, 2021. As part of the draft rate order, North Bay Hydro shall also file a calculation of the lost revenue between May 1, 2021 and September 30, 2021 and propose rate riders to recover this revenue.

CCC, Mr. Rennick, SEC and VECC are eligible to apply for cost awards in this proceeding. The OEB has made provisions in this Decision and Order for intervenors to file their cost claims. The OEB will issue its cost awards decision after the steps outlined in the following Order section are completed.

5 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. North Bay Hydro shall file with the OEB and forward to intervenors and OEB staff a Draft Rate Order with a proposed Tariff of Rates and Charges by **September 15, 2021**.
2. Intervenors and OEB staff shall file any comments on the Draft Rate Order with the OEB and forward them to North Bay Hydro by **September 20, 2021**.
3. North Bay Hydro shall file with the OEB and forward to intervenors, responses to any comments on its Draft Rate Order by **September 23, 2021**.
4. Intervenors shall submit its cost claim to the OEB and forward it to North Bay Hydro by **September 30, 2021**.
5. North Bay Hydro shall file with the OEB and forward to intervenors any objections to the claimed costs by **October 7, 2021**.
6. Intervenors shall file with the OEB and forward to North Bay Hydro any responses to any objections for cost claims by **October 14, 2021**.
7. North Bay Hydro shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's Rules of Practice and Procedure.

Please quote file number, **EB-2020-0043** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the OEB's online filing portal.

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the Regulatory Electronic Submission System (RESS) Document Guidelines found at the Filing Systems page on the OEB's website

- Parties are encouraged to use RESS. Those who have not yet set up an account, or require assistance using the online filing portal can contact registrar@oeb.ca for assistance

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Jerry Wang at Jerry.Wang@oeb.ca and OEB Counsel, Ljuba Djurdjevic at Ljuba.Djurdjevic@oeb.ca.

Email: registrar@oeb.ca
Tel: 1-877-632-2727 (Toll free)

DATED at Toronto September 9, 2021

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar