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File No. 041054.000005

July 12, 2024

DELIVERED BY EMAIL & RESS

Nancy Marconi, Registrar
Ontario Energy Board
PO Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Marconi

**Re: Essex Powerlines Corporation – PowerShare Deferral and Variance Account
Ontario Energy Board (“OEB”) File Nos. EB-2024-0022 / EB-2024-0096
Partial Settlement Proposal**

Pursuant to EPLC’s letter dated July 8, 2024, please find the enclosed Partial Settlement Proposal for the above-noted Proceeding.

Please contact the undersigned with any questions.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Colm Boyle', written in a cursive style.

Colm Boyle

cc. All Intervenors

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

AND IN THE MATTER OF an application by Essex
Powerlines Corporation under Section 78 of the Act to the
Ontario Energy Board for an Order or Orders approving or
fixing just and reasonable rates and other service charges for
the distribution of electricity.

ESSEX POWERLINES CORPORATION

PARTIAL SETTLEMENT PROPOSAL

JULY 12, 2024

**Essex Powerlines Corporation
EB-2024-0022 / EB-2024-0096
Partial Settlement Proposal**

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LIVE EXCEL MODELS

None.

Essex Powerlines Corporation
(“Essex” or “EPLC”)
EB-2024-0022 / EB-2024-0096
Partial Settlement Proposal

Filed with OEB: July 12, 2024

BACKGROUND

On February 16, 2024, EPLC filed an application (the “**DVA Application**”) with the Ontario Energy Board (“**OEB**”) to establish a new deferral account and sub-accounts (“**Powershare DVA**”) pursuant to section 78 of the *Ontario Energy Board Act, 1998* (the “**Act**”). EPLC's Powershare Pilot Project qualified for funding through the IESO's Grid Innovation Fund, and received regulatory guidance from OEB staff through the OEB's Innovation Sandbox. As described in Essex Powerlines' application to the Grid Innovation Fund, the PowerShare Project will enable Essex Powerlines to perform as a Distribution System Operator with a scalable market design for activation of distributed energy resources in near real-time.

The Powershare DVA would be used to accrue costs paid to program participants that exceed the cost of power for any kWh procured by EPLC through its Powershare Project for disposition at a later time. EPLC requested that the Powershare DVA start effective February 19, 2024 and will stop recording charges March 31, 2026.

On March 13, 2024, the OEB advised that it was combining EPLC's Cost of Service application with the Powershare DVA application. The OEB intended to establish an expedited procedural schedule to address the request for a new deferral account.

On April 17, 2024, the OEB advised that the Powershare DVA application would be held in abeyance until EPLC's Cost of Service application is received.

On May 1, 2024, EPLC filed its Cost of Service application with the OEB seeking approval for changes to the rates that EPLC charges for electricity distribution, beginning January 1, 2025..

On May 15, 2024, the OEB advised that it would begin processing the Powershare DVA application.

On May 24, 2024, the OEB issued and published a Notice of a Rate Hearing and Letter of Direction requiring EPLC to comply with certain publishing directions by May 30, 2024. EPLC filed its Affidavit of Service with the OEB on May 30, 2024 confirming it had complied with the OEB's directions.

On June 12, 2024, the OEB issued Procedural Order (“**PO**”) No. 1 granting Hydro One Networks Inc. (“**HONI**”), School Energy Coalition (“**SEC**”) and Vulnerable Energy Consumers Coalition (“**VECC**”) intervenor status.

On June 21, 2024, pursuant to PO No. 1, OEB Staff submitted a proposed revised Issues List. OEB Staff also advised the OEB that “parties may wish to raise additional matters for inclusion on the Issues List after the responses to the interrogatories are received.”

On June 24, 2024, pursuant to PO No. 1, a transcribed deferral account presentation and technical conference was held.

On June 27, 2024, the OEB issued its Decision on Issues List, approving the proposed revised Issues List submitted by OEB Staff (the “**Approved Issues List**”).

On July 2, 2024, EPLC filed its undertaking responses from the technical conference.

On July 4, 2024, a Settlement Conference was convened in accordance with the OEB’s *Rules of Practice and Procedure* (the “**Rules**”) and the OEB’s *Practice Direction on Settlement Conferences* (the “**Practice Direction**”). The Settlement Conference was only convened to deal with Issues 7.4 and 7.5 on the Approved Issues List.

This Partial Settlement Proposal is filed with the OEB in connection with the DVA Application and partially addresses only Issues 7.4 and 7.5 of the Approved Issues List.

Michelle Dagnino acted as facilitator for the Settlement Conference which lasted for one day.

EPLC and the following Intervenors (the “**Intervenors**”), participated in the Settlement Conference:

SEC; and
VECC.

EPLC and the above noted Intervenors are collectively referred to below as the “Parties”.

Hydro One intervened but chose not to participate in the settlement conference.

OEB staff also participated in the Settlement Conference. The role adopted by OEB staff is set out in page 5 of the Practice Direction. Although OEB staff is not a party to this Settlement Proposal, as noted in the Practice Direction, OEB staff who did participate in the Settlement Conference are bound by the same confidentiality requirements that apply to the Parties to the proceeding.

This document is called a “Partial Settlement Proposal” because it is a proposal by the Parties to the OEB to settle the issues in this proceeding. It is termed a proposal as between the Parties and the OEB. However, as between the Parties, and subject only to the OEB’s approval of this Partial Settlement Proposal, this document is intended to be a legal agreement, creating mutual obligations, and binding and enforceable in accordance with its terms. As set forth later in this Preamble, this agreement is subject to a condition subsequent, that if it is not accepted by the OEB in its entirety, then unless amended by the Parties, it is null and void and of no further effect. In entering into this Agreement, the Parties understand and agree that, pursuant to the Act, the OEB has exclusive jurisdiction with respect to the interpretation and enforcement of the terms hereof.

The Parties acknowledge that the Settlement Conference is privileged and confidential in accordance with the Practice Direction. The Parties understand that confidentiality in that context does not have the same meaning as confidentiality in the OEB’s *Practice Direction on Confidential Filings* and the rules of that latter document do not apply. Instead, in the Settlement Conference, and in this Agreement, the Parties have interpreted “confidential” to mean that the documents and other information provided during the course of the Settlement Conference, the discussion of each issue,

the offers and counter-offers, and the negotiations leading to the settlement – or not – of each issue during the Settlement Conference are strictly privileged and without prejudice. None of the foregoing is admissible as evidence in this proceeding, or otherwise, with one exception, the need to resolve a subsequent dispute over the interpretation of any provision of this Partial Settlement Proposal. Further, the Parties shall not disclose those documents or other information to persons who were not attendees at the Settlement Conference. However, the Parties agree that “attendees” is deemed to include, in this context, persons who were not in attendance via video conference at the Settlement Conference but were a) any persons or entities that the Parties engage to assist them with the Settlement Conference, and b) any persons or entities from whom they seek instructions with respect to the negotiations; in each case provided that any such persons or entities have agreed to be bound by the same confidentiality provisions.

This Partial Settlement Proposal provides a brief description of each of the settled and partially settled issues, as applicable, together with references to the evidence. The Parties agree that references to the “evidence” in this Settlement Proposal shall, unless the context otherwise requires, include (a) additional information included by the Parties in this Partial Settlement Proposal; and (b) the Appendices to this document. The supporting Parties for each settled issue, as applicable, agree that the evidence in respect of that settled or partially settled issue, as applicable, is sufficient in the context of the overall settlement to support the proposed settlement, and the sum of the evidence in this proceeding provides an appropriate evidentiary record to support acceptance by the OEB of this Settlement Proposal.

There are Appendices to this Partial Settlement Proposal which provide further support for the proposed settlement. The Parties acknowledge that the Appendices were prepared by EPLC. While the Intervenors have reviewed the Appendices, the Intervenors are relying on the accuracy of those Appendices and the underlying evidence in entering into this Partial Settlement Proposal.

The Parties are pleased to advise the OEB that they have reached a time-limited, partial agreement with respect to the settlement of issues 7.4 and 7.5 in this proceeding. Specifically:

<p>“Complete Settlement” means an issue for which complete settlement was reached by all Parties, and if this Settlement Proposal is accepted by the OEB, none of the Parties (including Parties who take no position on that issue) will adduce any evidence or argument during the oral hearing in respect of the specific issue.</p>	<p># issues settled: NONE</p>
<p>“Partial Settlement” means an issue for which there is partial settlement, as EPLC and the Intervenors who take any position on the issue were able to agree on some, but not all, aspects of the particular issue. If this Settlement Proposal is accepted by the OEB, the Parties (including Parties who take no position on the Partial Settlement) will only adduce evidence and argument during the hearing on the portions of the issue for which no agreement has been reached.</p>	<p># issues partially settled: 2</p>

“ No Settlement ” means an issue for which no settlement was reached. EPLC and the Intervenors who take a position on the issue will adduce evidence and/or argument at the hearing on the issue.	# issues not settled: None
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According to the Practice Direction (p. 2), the Parties must consider whether a Partial Settlement Proposal should include an appropriate adjustment mechanism for any settled issue that may be affected by external factors. These adjustments are specifically set out in the text of the Partial Settlement Proposal.

The Parties have settled the issues as a package and none of the parts of this Partial Settlement Proposal are severable. If the OEB does not accept this Partial Settlement Proposal in its entirety, then there is no settlement (unless the Parties agree in writing that any part(s) of this Partial Settlement Proposal that the OEB does accept may continue as a valid settlement without inclusion of any part(s) that the OEB does not accept).

In the event that the OEB directs the Parties to make reasonable efforts to revise the Partial Settlement Proposal, the Parties agree to use reasonable efforts to discuss any potential revisions, but no Party will be obligated to accept any proposed revision. The Parties agree that all of the Parties who took a position on a particular issue must agree with any revised Partial Settlement Proposal as it relates to that issue, or decide to take no position on the issue, prior to its resubmission to the OEB.

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

Where in this Partial Settlement Proposal, the Parties “accept” the evidence of EPLC, or the Parties or any of them “agree” to a revised term or condition, including a revised budget or forecast, then unless the Partial Settlement Proposal expressly states to the contrary, the words “for the purpose of settlement of the issues herein” shall be deemed to qualify that acceptance or agreement.

7. Other

- 7.4 Is the proposal for a new account to accrue commodity costs that exceed the cost of power for any kWh procured by Essex Powerlines through the Distributor’s Powershare Project (EB-2024-0096) appropriate?**
- 7.5 Is the proposed effective date for the new account proposed in EB-2024-0096 appropriate?**

Partial Settlement:

The Parties recognize the unique nature of the application and that EPLC has been left in an unfortunate position because of the timing of the hearing of its DVA Application. The summer months of July and August, depending on ultimately participation, may result in up to 50% of the annual capacity and energy procured as part of the PowerShare Project. Without adequate certainty regarding recovery of a portion of the amounts paid to PowerShare participants for local capacity and/or local energy, EPLC may be forced to postpone the project and risk its cancellation as a result of the terms of its agreement with the IESO.

While the Parties do not agree on the relief requested in the DVA Application, to ensure that EPLC is able to continue with the PowerShare Project, the Parties have agreed on a partial settlement to provide time-limited relief with a sharing of the cost recovery risk as between ratepayers and the Utility shareholders for amounts paid to PowerShare participants not recovered from the IESO. This compromise is made by the establishment of a new short-term DVA account as discussed below.

For the purposes of partial settlement, and without prejudice of the Parties right to take any position they wish with respect to the unsettled portion of the DVA Application, the Parties agree to establishing the new PowerShare DVA and sub-accounts. These accounts are to accrue amounts paid to PowerShare participants for local capacity and/or local energy, net of IESO project funding and HOEP (if applicable), over the period beginning July 1, 2024 through August 31, 2024, subject to a maximum accrual of \$127,500¹ (the “**Summer Months DVA**”).² The Powershare DVA would be used to accrue capacity and/or energy costs paid to program participants, net of project funding, that exceed the cost of power for any kWh procured by EPLC through its Powershare Project for disposition at a later time. A draft accounting order for the Summer Months DVA is attached as Appendix A.

The purpose of the Summer Months DVA is to provide sufficient time for (1) the Parties to make submissions on the DVA Application; and (2) for the OEB to make a final decision and order on the DVA Application by August 30, 2024; while allowing for the PowerShare project to continue to operate over the critical summer period. The Summer Months DVA is intended to operate as a minimum level of recovery during the summer months.

¹ This amount has been determined based on estimated participation in the local energy market over July and August 2024 of up-to 850 MW (which is approximately 50% of the Phase 1 target of 1,700 MW) net of 50% project funding and not to exceed the maximum of \$300.00 per MW as budgeted in the project proposal and contribution agreement (850 MW X \$300 X 50% = \$127,500).

² The Summer Months DVA is attached as Appendix A to this Partial Settlement Proposal and is titled “Account 1508, Other regulatory Assets/Liabilities – PowerShare Summer Months”.

If and only if the OEB in its final decision and order in respect of the DVA Application denies the creation of the new PowerShare DVA or approves the creation of the new PowerShare DVA but denies EPLC's request to accrue and recover at least fifty per cent (50%) of the amounts accrued in the account new PowerShare DVA between July 1, 2024 to August 31, 2024 (subject to the maximum accrual of \$127,500), then EPLC shall be entitled to recover at least fifty per cent (50%) of the amounts accrued in the Summer Months DVA, subject to a maximum recovery of \$63,750 (50% of \$127,500) and a standard prudence assessment upon disposition. The Summer Months DVA is not subject to a materiality threshold.

The following sample scenarios highlight whether the Summer Months DVA or PowerShare DVA would apply for the months of July and August 2024:

1. PowerShare DVA not approved → Summer Months DVA applicable.
2. PowerShare DVA approved but recovery from rates for summer months below 50% or less than \$63,750 → Summer Months DVA applicable.
3. PowerShare DVA approved with recovery for summer months equal to or above 50% or greater than \$63,750 → PowerShare DVA applicable.
4. PowerShare DVA approved in full → PowerShare DVA applicable.

Notwithstanding the foregoing, EPLC reserves its right to cancel operation of the Powershare Project at any time and nothing in this Partial Settlement Proposal shall be construed as a representation, commitment or guarantee by EPLC to continue operating the Powershare Project for a specified period of time. If the Powershare Project is cancelled prior to the Board's final decision in the DVA Application, no amounts shall be recorded in the Summer Months DVA.

Evidence:

Application: DVA Application

Undertaking Responses: JT1.9

Supporting Parties: SEC, VECC

Parties Taking No Position: None.

Appendix A

Draft Accounting Order

Account 1508, Other regulatory Assets/Liabilities – PowerShare Summer Months

DRAFT ACCOUNTING ORDER –

**Account 1508, Other regulatory Assets/Liabilities – PowerShare
Summer Months**

This account shall be used to accrue costs paid to participants in the EPLC PowerShare DSO Local Energy Market Pilot Project, with an effective date of July 1, 2024 and ending on August 31, 2024. The net amount shall be determined as the difference between amounts paid in total for capacity and energy, net of project funding, and net of HOEP where energy is purchased.

1. On a monthly basis, EPLC will record the total amount paid for capacity purchased through the Project as a debit to USoA 4705 “Power Purchased” and a credit to USoA 2200 “Accounts Payable”.
2. On a monthly basis, EPLC will record the total amount paid for energy or curtailment purchased through the Project as a debit to USoA 4705 “Power Purchased” and a credit to USoA 2200 “Accounts Payable”.
3. On a monthly basis, EPLC will record 50% of the value of flexibility purchased through the Project as a credit to USoA Account 1100 “Accounts Receivable” and as a credit to USoA 4705 “Power Purchased” to recognize the amount recoverable through Project funding, based on the Project contribution agreement and not to exceed the project maximum for flexibility as approved therein.
4. In cases where flexibility purchased is in the form of energy, EPLC will calculate the Net Receivable to be debited to USoA 1100 “Accounts Receivable” and credited to USoA 4705 “Power Purchased” as total power purchased, less 50% project funding, less HOEP for the power injected, resulting in commodity cost of HOEP remaining in USoA 4705 “Power Purchased”.
5. On a monthly basis, EPLC will debit a USoA Account 1508 “Other regulatory Assets/Liabilities – ”Powershare Summer Months” sub-account and credit USoA 4705 “Power Purchased” to move any amounts paid for flexibility through the Project, net of Project funding and HOEP, to the new deferral account.
6. On a periodic basis, and as approved by the IESO based on Milestone reporting, EPLC will invoice the IESO to recover funds accrued in USoA 1100 “Accounts Receivable” during monthly settlement with participants.

7. EPLC will apply interest in the balance in USoA 1508 “Other regulatory Assets/Liabilities – Powershare Summer Months” at the OEB prescribed rate and accrue that interest in associated sub-account 1508, “Powershare Summer Months, Carrying Charges”. The offsetting entry will be recorded in USoA Account 4405.
8. On a monthly basis EPLC will include any energy purchased in the Embedded Generation Total that is submitted to the IESO as part of the monthly IESO portal submission, so that Class B Global Adjustment can be accurately charged to EPLC.
9. The cumulative amount recorded in the new sub-accounts will be a debit amount on August 31, 2024 and will not exceed \$127,500 plus carrying charges calculated at the OEB prescribed rate.
10. Provisional disposition, for the Summer Months DVA is established at 50% of the amount to be borne by EPLC and the remaining balance to be requested for disposition through a rate rider to EPLC customers. Disposition will be requested in EPLCs 2026 IRM Application, pending the OEB’s final decision on the creation of the Powershare DVA for February 19, 2024 through March 31, 2026.
11. The following are the proposed accounting entries:

Local Capacity Payments – monthly entries when Capacity is settled with Flexibility provider

DR 4705 – Power Purchased	\$XX	
CR 2200 – Accounts Payable		\$XX
~to record payment to DER owner		

DR 1100 – Accounts Receivable	\$XX	
CR 4705 – Power Purchased		\$XX
~to record recovery of 50% through Project funding		

DR 1508 – Other reg Assets/Liabilities		
– Powershare Summer Months	\$XX	
CR 4705 – Power Purchased		\$XX
~to transfer net commodity cost to DVA		

Local Energy Payments – monthly entries when Energy is settled with Flexibility provider

DR 4705 – Power Purchased	\$XX	
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CR 2200 – Accounts Payable \$XX
 ~to record payment to DER owner

DR 1100 – Accounts Receivable \$XX
 CR 4705 – Power Purchased \$XX
 ~to record recovery of 50% through Project funding

DR 1508 – Other reg Assets/Liabilities
 – Powershare Summer Months \$XX
 CR 4705 – Power Purchased \$XX
 ~to transfer net commodity cost to DVA

Note: the amount moved to 1508- Other Regulatory Assets/Liabilities – Powershare Summer Months, will be net of HOEP when the Flexibility activated is generation.

Local Curtailment Payments – monthly entries when Flexibility provider is activated to curtail load to meet contracted capacity.

DR 4705 – Power Purchased \$XX
 CR 2200 – Accounts Payable \$XX
 ~to record payment to DER owner

DR 1100 – Accounts Receivable \$XX
 CR 4705 – Power Purchased \$XX
 ~to record recovery of 50% through Project funding

DR 1508 – Other reg Assets/Liabilities
 – Powershare Summer Months \$XX
 CR 4705 – Power Purchased \$XX
 ~to transfer net commodity cost to DVA

Carrying Charges Monthly Entry

DR 1508 – Other reg Assets/Liabilities
 – Powershare Summer Months, Carrying Charges \$XX
 CR 4405 - Interest Income \$XX
 ~to record interest on 1508 – Powershare Summer Months account balance