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BY EMAIL

January 20, 2025

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

**Re: Essex Powerlines Corporation (Essex Powerlines)
2025 Cost of Service Application/New Deferral Account Application
OEB File Number: EB-2024-0022/EB-2024-0096**

By letter dated December 17, 2025, Essex Powerlines made two requests of the OEB, for the reasons set out in that letter:

- a) to withdraw the entire request for 2025 PowerShare pilot capital additions, thereby resolving the Unsettled Issue from the OEB Decision and Order EB-2024-0022 / EB-2024-0096 on October 15, 2024; and
- b) to amend, if necessary, the terms of the PowerShare DVA issued in Decision and Order EB-2024-0096 on August 29, 2024 to: (i) reduce the cap from \$350,000 to \$255,000; and (ii) change the end date of the PowerShare DVA from March 31, 2026 to February 28, 2025.¹

This modified the December 13, 2024 request by Essex Powerlines that the OEB make the DVA-related adjustments noted above and reduce the 2025 PowerShare pilot-related capital additions to \$150,304. Both the December 13, 2024 and December 17, 2024 letters represented updates to Essex Powerlines' reply submission on the unsettled issue in its 2025 cost of service distribution rates proceeding (EB-2024-0022).

On December 16, 2024, the School Energy Coalition (SEC) filed a letter on behalf of itself and the Vulnerable Energy Consumers Coalition (VECC) requesting that the OEB require Essex Powerlines to provide additional information regarding changes to the

¹ Essex Powerlines [letter to the OEB](#) dated December 17, 2024.

PowerShare DSO pilot project. SEC stated that the proposed changes constituted a material change to the evidence, and the proposal to amend the terms of the approved PowerShare Deferral Account should be considered a motion to vary based on new circumstances. SEC requested that the OEB require Essex Powerlines to provide full details of the changes in scope and costs of the pilot, the reasons for the changes, a copy of the draft amended Contribution Agreement, and all other relevant information.

By letter January 14, 2025, the OEB provided for submissions from OEB staff and parties on two items: 1) whether additional information is required from the applicant related to its requests; and 2) comments on any implications of Essex Powerlines' requests. OEB staff's comments on these items are set out below.

With respect to the first item, OEB staff does not require any additional information from Essex Powerlines. Essex Powerlines provided clear reasons for its December 17, 2024 requests, and filed a copy of the executed amendment to its Grid Innovation Fund agreement with the Independent Electricity System Operator in support of its request. The requests appear justified by the information provided and are to the benefit of Essex Powerline's ratepayers. OEB staff is not opposed to the requests.

With respect to the second item, each of the Essex Powerlines requests has a different implication.

- Proposed revisions to the PowerShare DVA

With regard to the DVA, the OEB issued its Decision and Order on the Essex Powerlines request for a new PowerShare DVA on August 29th, 2024. In that Decision and Order, the OEB capped the balance in the DVA at \$350,000; set an end date of March 31, 2026 for the DVA; and established conditions related to reporting on the PowerShare pilot project. OEB staff submits that the request to lower the cap and to change the end date of the account does appear to be a motion to review and vary the OEB's August 29, 2024 Decision and Order, based on "new facts that have arisen since the decision or order was issued that, had they been available at the time of the proceeding to which the motion relates, could if proven reasonably be expected to have resulted in a material change to the decision or order".

Reviews of final orders or decisions of the OEB are addressed in Part VII of the OEB's *Rules of Practice and Procedure* (Rules).² Rule 40.03 and Rule 42 set out the requirements regarding the information to be included in the notice of motion, and Rule 40.03 also requires that the notice of motion be filed and served on all parties to the proceeding to which the motion relates within 20 calendar days of the date of the order

² Ontario Energy Board, [Rules of Practice and Procedure](#), Rule 11.02; Rule 40.01; 42.01(a)(ii)

or decision that is the subject of the motion. In the current case, there is no notice of motion, and the request was filed over three months after the final order establishing the DVA. However, Rule 2.01 provides that “These Rules shall be liberally construed in the public interest to secure the most just, expeditious, and efficient determination on the merits of every proceeding before the OEB.” OEB staff suggests that it would be appropriate to consider the December 17, 2024 Essex Powerlines letter to be the notice of Essex Powerlines’ motion to review and vary the August 29, 2024 Decision and Order.

With regard to timing of the request, it appears to OEB staff that the circumstances leading to the request to revise the provisions of the DVA arose well after the 20-day period for filing and serving the notice of motion. Rules 7.01 and 7.02 address extensions of time:

7.01 The OEB may on its own motion or upon a motion by a party extend or abridge a time limit directed by these Rules, Practice Directions or by the OEB, on such conditions the OEB considers appropriate.

7.02 The OEB may exercise its discretion under this Rule before or after the expiration of a time limit, with or without a hearing.

OEB staff submits that in the circumstances of this case, the OEB should extend the 20-day deadline.

- Proposed withdrawal of 2025 PowerShare pilot capital additions

With regard to the proposed withdrawal of the request for approval of 2025 PowerShare pilot capital additions, OEB staff notes that in its December 12, 2024 letter, Essex Powerlines proposed to reduce the amount of the requested PowerShare capital additions. That appeared to represent an amendment to the evidentiary record. With its December 17, 2024 letter, Essex Powerlines proposes to withdraw that request in its entirety.

Rule 11.02 provides that “Where a party becomes aware of new information that constitutes a material change to evidence already before the OEB before the decision or order is issued, the party shall serve and file appropriate amendments to the evidentiary record, or serve and file the new information.” OEB staff considers the information contained in the December 17, 2024, including the copy of the amending agreement, to be appropriate amendments to the evidentiary record. As noted previously, OEB staff does not require further information in this regard.

Rule 20.01 provides, in part, that an applicant or appellant may withdraw an application

or appeal at the hearing with the permission of the OEB. While the request for approval of 2025 PowerShare pilot capital additions is only one element of the Essex Powerlines 2025 cost of service application, it is the only outstanding element of the application, and OEB staff considers it appropriate that in the circumstances of this proceeding, the OEB permit Essex Powerlines to withdraw that request.

Yours truly,

Amber Goher
Advisor, Distribution Rates

Encl.

cc: All parties in EB-2024-0022/EB-2024-0096