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Our File: EB20240309

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2024-0309– NT Power DVA Application – SEC Submission

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 1, these are SEC's submissions on Newmarket-Tay Power Distribution Ltd.'s ("NT Power") request to dispose of certain deferral and variance account ("DVA") balances related to accounts established prior to the amalgamation of the former Newmarket-Tay Power Distribution Ltd. (now the Newmarket-Tay Power Rate Zone or "NTRZ") and Midland Power Utility Corporation (Midland Rate Zone or "MRZ").

General Comments

NT Power has brought this Application seeking disposition of only a portion of its existing Group 2 DVAs, those in place prior to consolidation and specific to each rate zone, based on specific guidance from OEB Staff when it initially sought to consolidate the accounts as part of its IRM application.[1] On that basis, SEC understands the rationale for the particular accounts NT Power has selected for disposition. That said, from a customer's perspective, this approach is not entirely fair. While NT Power is requesting disposition of a combined principal debit amount of $997,998[2], it is also carrying a significant credit balance in other Group 2 DVAs that were established post-consolidation and could have been used to more than offset the requested recovery.

Although NT Power has not provided a continuity schedule for all of its Group 2 DVAs, it has stated that the year-end 2024 balance in Account 1592, Sub-account CCA Change, is currently $1.27M.[3] A review of the 2023 balances available through the OEB's Open Data portal reveals there is also a significant credit balance in the Pole Attachment Revenue Variance Sub-Account ($766,247).[4]

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[1] Application, p.1
[2] Application, p.4
[3] Interrogatory Response SEC-1
[4] Electricity Reporting & Record Keeping Requirements (RRR): Section 2.1.7 Trial Balance, Table 3, All Accounts 2023

SEC submits that the OEB should require NT Power to seek disposition of the remainder of its Group 2 Account balances in its 2026 IRM application. This would be consistent with recent guidance in the MAADs Handbook regarding the need to "mitigate intergenerational inequity" caused by the accumulation of significant balances during a deferred rebasing period.[5]

Account 1557 – MIST Meters

NT Power is seeking to dispose, in addition to the balances for 2019 to 2024, forecast MIST Meter costs for 2025 to 2027.[6] SEC does not dispute the forecast calculation, as it simply reflects the revenue requirement associated with MIST Meter costs previously incurred in 2020 and 2021.[7] However, SEC does not agree that it is appropriate for customers today to pay what are still future costs. This concern is heightened by the fact that, as discussed above, there may be significant existing credit balances in certain Group 2 DVAs from which customers are not currently receiving any benefit. SEC submits that the OEB should approve disposition only through to the end of 2024.

Account 1508 - OEB Cost Assessment

NT Power seeks disposition of a principal balance of $91,097 for the NTRZ and $22,541 for the MRZ for the OEB Cost Assessment DVA.[8] SEC submits that the OEB should deny approval of the recovery of any balances in these accounts, as they are below the relevant materiality threshold. Furthermore, the balances themselves are incorrect, as NT Power has not appropriately calculated the 'base' amount included in rates.

Purpose of the Account. The OEB's Cost Assessment DVA was established on a generic basis through a letter dated February 9, 2016, in response to a revision of the methodology used to apportion its costs under section 26 of the *Ontario Energy Board Act*.[9] The Board noted that the new methodology "may result in material shifts in the allocation of costs," and therefore created a generic DVA to capture "any material differences between OEB cost assessments currently built into rates, and cost assessments that will result from the application of the new cost assessment model."[10]

Calculation of the Balance. NT Power has not made the correct entries into the DVA, as it has not appropriately calculated the amount embedded in base rates each year. Specifically, it has failed to adjust for increases awarded through annual IRM adjustments.

As SEC understands it, for each of the rate zone specific accounts, NT Power has calculated the principal entries on a quarterly basis by subtracting from the relevant quarterly OEB cost assessment, one-quarter of the annual cost assessment included in rates at the time of the last rebasing.[11] This methodology understates the cost assessment amount embedded in base rates, since those amounts increase annually due to distributor IRM adjustments.[12] The specific IRM adjustments for the NTRZ and MRZ since their last rebasing should have been included in the calculation of the base amount. This approach aligns with how the OEB has measured incremental impacts in the past, including with

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[5] Handbook to Electricity Distributor and Transmitter Consolidations, July 11, 2024, p.31
[6] Application, p.6
[7] Interrogatory Response Staff-3
[8] Application p.4, Interrogatory Response SEC-21
[9] OEB Letter, Re: Revisions to the Ontario Energy Board Cost Assessment Model, February 9, 2016, p.1
[10] OEB Letter, Re: Revisions to the Ontario Energy Board Cost Assessment Model, February 9, 2016, p.2
[11] Interrogatory ResponseSEC-2a
[12] Interrogatory Response SEC-2b

respect to eligible COVID-19 related costs. Corrected balances are included are included as an attachment to these submissions as well as a live excel spreadsheet.

Materiality Has Not Been Met. In the OEB's letter establishing the Cost Assessment DVA, it was made clear that the account was not intended to ensure recovery of all balances, regardless of materiality. The letter explicitly stated: "regulated entities are reminded that, in the normal course, any disposition of deferral and variance account balances must meet any OEB default or company-specific materiality thresholds." [emphasis added][13]

SEC submits that, whether materiality is measured on an annual or total basis, the balances in each of the rate zone-specific DVAs fall below the applicable utility-specific materiality threshold.

Measured on an annual basis, NT Power clearly fails to meet the threshold, as the amounts debited to each account annually are a fraction of the utility-specific materiality thresholds of $85,000 for the NTRZ and $50,000 for the MRZ.[14] SEC submits that an annual basis is the appropriate way to measure materiality, since the premise of a new DVA is that it is created only when costs would have "a significant influence on the operation of the distributor."[15] Small annual amounts are akin to any other cost variances and should be "expensed or capitalized in the normal course and addressed through organizational productivity improvements."[16]

This approach is consistent with the OEB's decision in EB-2017-0045, where the Board held, in the context of Z-Factor requirements (which share the same materiality criteria), that materiality is "an annual amount,"[17] and that although the "filing requirements do not expressly address the aggregation of costs, it is inappropriate to use multiple years of costs to justify materiality for a Z-factor event."[18] SEC recognizes that in EB-2022-0028, the OEB approved recovery of balances that, on an annual basis, did not meet the utility-specific materiality threshold. However, it appears that the OEB considered those balances in the broader context of the case, which involved several other, more significant disallowances.[19]

Even if the OEB disagrees and determines that materiality should be assessed on an aggregate basis, the revised calculations contained in Appendix A show that neither rate zone account meets the utility-specific materiality threshold. The revised principal balances of $76,672.41 (NTRZ) and $18,508.55 (MRZ) are below the respective materiality thresholds of $85,000 and $50,000.

Other Accounts

In addition to the OEB Cost Assessment DVA discussed above, there are a number of other DVAs where the proposed balances do not meet the specific rate zone materiality thresholds[20] and therefore should not be recovered from or refunded to customers. These are: Account 1508 IFRS Transition

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[13] OEB Letter, Re: Revisions to the Ontario Energy Board Cost Assessment Model, February 9, 2016, p.2
[14] Interrogatory Response SEC-2b
[15] Filing Requirements for Electricity Distribution Rate Applications - 2025 Edition for 2026 Rate Applications, Chapter 2, p.68
[16] Filing Requirements for Electricity Distribution Rate Applications - 2025 Edition for 2026 Rate Applications, Chapter 2, p.68
[17] *Decision and Rate Order* (EB-2017-0045), April 26, 2018, p.23
[18] *Decision and Rate Order* (EB-2017-0045), April 26, 2018, p.23-24
[19] *Decision and Order* (EB-2022-0028), June 15, 2023, p.32
[20] Filing Requirements for Electricity Distribution Rate Applications - 2025 Edition for 2026 Rate Applications, Chapter 2, p.7,60

Costs Sub-account DVA (NTRZ), Account 1548 RCVA STR (NTRZ and MRZ), and Account 1592 HST/OVAT ITCs Sub-account DVA (MRZ).[21]

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

cc: Brian McKay, SEC (by email)
Applicant and intervenors (by email)

[21] Application, p.4

Account 1508 - OEB Cost Assessment

NTRZ

	Invoice ($)	NT Power Amount in Rates ($)	Amount in Rates With PCI Adjustment ($)	Revised DVA Balance ($)
Q2 2016	$39,390	$30,118	31,024.42	8,365.58
Q3 2016	$39,390	$30,118	31,024.42	8,365.58
Q4 2016	$39,387	$30,118	31,024.42	8,362.58
Q1 2017	$39,387	$30,118	31,427.74	7,959.26
Q2 2017	$40,922	$30,118	31,427.74	9,494.26
Q4 2017	$38,762	$30,118	31,427.74	7,334.26
Q1 2018	$38,761	$30,118	31,616.31	7,144.69
Q2 2018	$39,046	$30,118	31,616.31	7,429.69
Q3 2018	$35,783	$30,118	31,616.31	4,166.69
Q4 2018	$35,783	$30,118	31,616.31	4,166.69
Q1 2019	$35,784	$30,118	31,900.86	3,883.14
Total	**$422,395**	**$331,298**	**345,722.59**	**76,672.41**

NTRZ Annual IRM Adjustment

Year	Increase	Source
2010	COS	EB-2009-0269 Rebasing
2011	0.00%	
2012	0.88%	EB-2011-0184
2013	0.00%	
2014	1.10%	EB-2013-0153
2015	1.00%	EB-2014-0095
2016	0.00%	SEC-2b
2017	1.30%	SEC-2b
2018	0.60%	SEC-2b
2019	0.90%	SEC-2b

MRZ

	Invoice ($) (A)	Amount in Rates ($) (B)*	Amount in Rates ($) With PCI Adjustment	Revised DVA Balance
Q2 2016	$8,203	$5,942	$6,185.87	$2,017.13
Q3 2016	$8,203	$5,942	$6,185.87	$2,017.13
Q4 2016	$8,203	$5,942	$6,185.87	$2,017.13
Q1 2017	$8,010	$5,942	$6,275.57	$1,734.43
Q2 2017	$8,267	$5,942	$6,275.57	$1,991.43
Q3 2017	$8,267	$5,942	$6,275.57	$1,991.43
Q4 2017	$7,247	$5,942	$6,275.57	$971.43
Q1 2018	$7,827	$5,942	$6,322.63	$1,504.37
Q2 2018	$7,880	$5,942	$6,322.63	$1,557.37
Q3 2018	$7,247	$5,942	$6,322.63	$924.37
Q4 2018	$7,247	$5,942	$6,322.63	$924.37
Q1 2019	$7,246	$5,942	$6,389.02	$856.98
Total	**$93,847**	**$71,304**	**$75,339.45**	**$18,507.55**

MRZ Annual IRM Adjustment

Year	Increase	Source
2010		
2011		
2012		
2013	COS	EB-2012-0147
2014	1.25%	EB-2013-0151
2015	1.15%	EB-2014-0093
2016	1.65%	SEC-2b
2017	1.45%	SEC-2b
2018	0.75%	SEC-2b
2019	1.05%	SEC-2b