



ERTH Power Corporation

Application for electricity distribution rates and other charges effective May 1, 2025

PROCEDURAL ORDER NO. 6

April 10, 2025

ERTH Power Corporation (ERTH Power) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on October 11, 2024, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to its electricity distribution rates to be effective May 1, 2025. ERTH Power has also applied for incremental capital funding to support the purchase of property, design, construction, and furnishing of a new administrative and operational facility.

Settlement Conference and Remaining Procedural Steps

Pursuant to Procedural Order No. 5, a settlement conference was held on March 20, 2025, and continued on March 21, 2025. The settlement conference solely addressed the Incremental Capital Module (ICM) request in ERTH Power's application. Following the conclusion of the settlement conference, ERTH Power advised the OEB, by letter dated March 21, 2025, that no settlement had been reached.

In the event of no settlement, Procedural Order No. 5 directed parties to provide submissions indicating which issues should proceed by way of a written hearing, and which should be addressed through an oral hearing. In its letter dated March 27, 2025, ERTH Power requested: (1) interim rates; and (2) a written hearing to address the ICM request.

More particularly, ERTH Power requested an order for interim rates in the event a decision on the IRM component of its application could not be issued by May 1, 2025. ERTH Power also requested that the ICM matter be heard through a written hearing and noted that OEB staff, the School Energy Coalition (SEC), and Vulnerable Energy Consumers Coalition (VECC) advised that they did not object to the request for a written hearing. ERTH Power submitted that a written hearing represented the most efficient means of adjudicating the application without imposing the additional time and resource burdens associated with an oral hearing. Further, ERTH Power submitted that the

evidentiary record in the proceeding was complete – a standard in determining whether an oral hearing is necessary – and a written hearing would be consistent with the OEB’s treatment of previous ICM requests, while ensuring that parties have a full opportunity to be heard.

In letters filed on March 31, 2025, both OEB staff and SEC (on its own behalf and on behalf of VECC) noted that they would not object to the application being considered through a written hearing. OEB staff further suggested in its letter that the IRM portion of ERTH Power’s application be processed separately from the ICM request.

Parties were canvassed on the need for an argument-in-chief for the ICM portion of the application. SEC suggested that an argument-in-chief would be helpful, but did not say that it was strictly necessary, while VECC supported an argument-in-chief. By letter dated April 3, 2025, ERTH Power submitted that an argument-in-chief was critically important to ensuring an efficient and orderly hearing. ERTH Power further submitted that an argument-in-chief would help present a comprehensive and consolidated view of the evidentiary record, clarify key issues that remain outstanding, and clearly articulate the relief being sought.

Findings

The OEB has considered the letters filed by ERTH Power, OEB staff, and intervenors and determines that proceeding by way of a written hearing for the ICM component is appropriate. The OEB will also provide for an argument-in-chief from ERTH Power regarding its ICM request. The OEB will issue a separate decision addressing the IRM portion of ERTH Power’s application. While the IRM portion of the application represents a mechanistic update to ERTH’s current rates, the OEB will provide for submissions on the appropriateness of the IRM parameter adjustments for ERTH Power’s distribution rates from parties in this case.

The written hearing approach to the ICM request will minimize procedural delays, conserve regulatory resources, and ensure a fair, transparent, and efficient process. The ICM request involves a single, well-defined capital project and no party has raised objections to a written hearing. The OEB also notes that there has been sufficient discovery and the evidentiary record in this proceeding is complete.

The OEB is making provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. Any written submissions by OEB staff and intervenors on the IRM request shall be filed with the OEB and served on all parties by **April 11, 2025**.
2. ERTH Power may file a written reply submission on the IRM request with the OEB and serve it on all parties by **April 17, 2025**.
3. ERTH Power shall file its argument-in-chief for the ICM request with the OEB and serve it on all parties by **April 22, 2025**.
4. Any written submissions by OEB staff and intervenors on the ICM request shall be filed with the OEB and served on all parties by **April 28, 2025**.
5. ERTH Power may file a written reply submission on the ICM request with the OEB and serve it on all parties by **May 12, 2025**.

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-2024-0021** 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 [File documents online 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.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar 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, Urooj Iqbal at Urooj.Iqbal@oeb.ca and OEB Counsel, James Sidlofsky at James.Sidlofsky@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **April 10, 2025**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar