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

DECISION AND ORDER

EB-2020-0041

NEWMARKET-TAY POWER DISTRIBUTION LTD.

Application for rates and other charges to be effective May 1, 2021

BEFORE: **Michael Janigan**
Presiding Commissioner

Allison Duff
Commissioner

April 22, 2021

1 INTRODUCTION AND SUMMARY

Newmarket-Tay Power Distribution Ltd. (Newmarket-Tay Power) filed an application with the Ontario Energy Board (OEB) to change its electricity distribution rates effective May 1, 2021.

On August 23, 2018, the OEB granted Newmarket-Tay Power approval to purchase and amalgamate with Midland Power Utility Corporation (Midland Power).[1] As part of the merger, acquisition, amalgamation and divestiture decision (the MAADs decision), the OEB determined that Newmarket-Tay Power would maintain two separate rate zones, the Newmarket-Tay Rate Zone (NTRZ) and the Midland Rate Zone (MRZ), for a ten-year deferral period at which point Newmarket-Tay Power's rates will be rebased.

Newmarket-Tay Power serves approximately 52,300 mostly residential and commercial electricity customers in the Town of Newmarket, the Township of Tay and the Town of Midland. The company is seeking the OEB's approval for the rates it charges to distribute electricity to its customers, as is required of licensed and rate-regulated distributors in Ontario.

A distributor may choose one of three rate-setting methodologies approved by the OEB. Each of these is explained in the *Handbook for Utility Rate Applications*.

Newmarket-Tay Power's application for the NTRZ is based on the Annual IR Index option to set rates for 2021. The Annual IR Index is based on inflation less the OEB's highest stretch factor assessment of a distributor's efficiency. In addition, Newmarket-Tay Power filed an Incremental Capital Module (ICM) as part of the application for the NTRZ.

Newmarket-Tay Power's application for MRZ is based on the Price Cap Incentive Rate-setting Option (Price Cap IR). The Price Cap IR option involves the setting of rates through a cost of service application in the first year. Mechanistic price cap adjustments based on inflation and the OEB's assessment of the distributor's efficiency are then approved through IRM applications in each of the ensuing (adjustment) years.

[1] EB-2018-0269, Decision and Order, August 23, 2018.

2 THE PROCESS

The OEB follows a standardized and streamlined process for hearing IRM applications filed under the Annual IR and Price Cap Index options. In each adjustment year, the OEB prepares a Rate Generator Model that includes, as a placeholder, information from the distributor's past proceedings and annual reporting requirements.[2] A distributor will then review and complete the Rate Generator Model and include it with its application.

Having been granted an extension to its October 13, 2020 filing deadline, Newmarket-Tay Power filed its application on November 23, 2020 under section 78 of the *Ontario Energy Board Act, 1998* (OEB Act) and in accordance with the OEB's *Filing Requirements for Electricity Distribution Rate Applications, Chapter 3 - Incentive Rate-Setting Applications* (Filing Requirements). Notice of the application was issued on December 8, 2020. Vulnerable Energy Consumers Coalition (VECC), School Energy Coalition (SEC) and Consumers Council of Canada (CCC) requested intervenor status and cost eligibility. The OEB approved VECC, SEC and CCC as intervenors and approved cost eligibility.

The application was supported by pre-filed written evidence and a completed Rate Generator Model. During the course of the proceeding, the applicant responded to interrogatories and, where required, updated and clarified the evidence. Final submissions on the application were filed by OEB staff, VECC, SEC, CCC and the applicant.

[2] The Rate Generator Model is a Microsoft Excel workbook that is used to update base rates, retail transmission service rates and, if applicable, shared tax saving adjustments. It also calculates rate riders for the disposition of deferral and variance account balances. During the course of an IRM proceeding, the Rate Generator Model may be updated in order to make any necessary corrections, or to incorporate new rate-setting parameters as they become available.

3 ORGANIZATION OF THE DECISION

In this Decision, the OEB addresses the following issues, and provides reasons for approving or denying Newmarket-Tay Power's proposals relating to each of them:

- Price Cap IR Adjustment (MRZ)
- Annual IR Index Adjustment (NTRZ)
- Shared Tax Adjustments
- Retail Transmission Service Rates
- Group 1 Deferral and Variance Accounts
- Lost Revenue Adjustment Mechanism Variance Account Balance
- Disposition of Deferral and Variance Account 1576 and Adjustment to Base Rates
- Incremental Capital Modules

This Decision does not address rates and charges approved by the OEB in previous proceedings, which are not part of the scope of an IRM proceeding (such as specific service charges[3] and loss factors). No further approvals are required to continue to include these items on a distributor's Tariff of Rates and Charges.

[3] Certain Service Charges are subject to annual inflationary adjustments to be determined by the OEB through a generic order. The Decision and Order EB-2020-0285, issued December 3, 2020 established the adjustment for energy retailer service charges, effective January 1, 2021. The Order EB-2020-0288, issued December 10, 2020, set the Wireline Pole Attachment Charge for January 1, 2021 on an interim basis.

4 PRICE CAP IR/ANNUAL IR INDEX ADJUSTMENTS

Newmarket-Tay Power seeks to change its rates, effective May 1, 2021, based on a mechanistic rate adjustment using the OEB-approved ***inflation minus X-factor*** formula applicable to Annual IR Index and Price Cap IR applications.

The inflation factor of 2.20% applies to all Annual IR Index and Price Cap IR applications for the 2021 rate year, provided that a utility does not elect to use a lower inflation factor.

The X-factor is the sum of the productivity factor and the stretch factor. It is a productivity offset that will vary among different groupings of distributors. Subtracting the X-factor from inflation ensures that rates decline in real, constant-dollar terms, providing distributors with a tangible incentive to improve efficiency or else experience declining net income.

The productivity component of the X-factor is based on industry conditions over a historical study period and applies to all Price Cap IR and Annual IR Index applications for the 2021 rate year.

The OEB has established five stretch factor groupings, each within a range from 0.00% to 0.60%. The stretch factor assigned to any particular distributor is based on the distributor's total cost performance as benchmarked against other distributors in Ontario. The most efficient distributor would be assigned the lowest stretch factor of 0.00%. Conversely, a higher stretch factor would be applied to a less efficient distributor (in accordance with its cost performance relative to expected levels) to reflect the incremental productivity gains that the distributor is expected to achieve. The stretch factor assigned to Newmarket-Tay Power is 0.30% in relation to the MRZ, as that rate zone is under Price Cap IR. For Annual IR Index applications, including this application as it relates to the NTRZ, the OEB applies a default stretch factor of 0.60%.

In light of the continued uncertainty regarding the severity and duration of the COVID-19 emergency, and its impact on electricity utilities and customers alike, for 2021 rate adjustment applications, the OEB allowed utilities the discretion of applying either the calculated inflation factor in accordance with the OEB-approved methodology or a lower value. Utilities were also given the discretion to forgo the inflationary increase entirely.[4]

The OEB required all utilities that filed (or were planning to file) 2021 rate adjustment applications to file a letter on the record of their rates proceedings, indicating the inflation factor that the utility has elected. On November 24, 2020, Newmarket-Tay Power filed a letter advising the OEB that it is electing an inflation factor of 2.20% for

[4] OEB Letter, 2021 Inflation Parameters, issued November 9, 2020.

2021 rates, resulting in a rate adjustment of 1.60% for NTRZ and 1.90% for MRZ.[5]

Newmarket-Tay Rate Zone – Annual IR Index

The components of the Annual IR Index adjustment formula applicable to the NTRZ are set out in Table 4.1, below. Inserting these components into the formula results in a 1.60% increase to NTRZ's rates: **1.60% = 2.20% - (0.00% + 0.60%)**.

Table 4.1: Annual Index IR Adjustment Formula

Components		Amount
Inflation Factor[6]		2.20%
X-Factor	Productivity[7]	0.00%
	Stretch (0.00% to 0.60%)[8]	0.60%

Midland Rate Zone – Price Cap IR

The components of the Price Cap IR adjustment formula applicable to the MRZ are set out in Table 4.2, below. Inserting these components into the formula results in a 1.90% increase to MRZ's rates: **1.90% = 2.20% - (0.00% + 0.30%)**.

Table 4.2: Price Cap IR Adjustment Formula

Components		Amount
Inflation Factor		2.20%
X-Factor	Productivity	0.00%
	Stretch (0.00% to 0.60%)	0.30%

Findings

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[5] EB-2020-0041 Letter re: Newmarket-Tay Power's 2021 Inflation Factor, November 24, 2020.

[6] For the 2021 Inflation Factor, see Ontario Energy Board 2020 Electricity Distribution Rate applications webpage – November 9, 2020.

[7] Report of the OEB – "Rate Setting Parameters and Benchmarking under the Renewed Regulatory Framework for Ontario's Electricity Distributors" EB-2010-0379, Issued November 21, 2013, corrected December 4, 2013.

[8] The stretch factor groupings are based on the Report to the Ontario Energy Board – "Empirical Research in Support of Incentive Rate-Setting: 2019 Benchmarking Update", prepared by Pacific Economics Group LLC., August 2020.

The OEB finds that Newmarket-Tay Power's request for a 1.60% rate adjustment to the NTRZ and a 1.90% rate adjustment to the MRZ is in accordance with the annually updated parameters set by the OEB, as well as the process established for the implementation of the 2021 inflation factor. The adjustments are approved, and Newmarket-Tay Power's new rates shall be effective May 1, 2021.

The adjustment for each rate zone applies to distribution rates (fixed and variable) uniformly across all customer classes.[9]

[9] Price Cap IR and Annual IR Index adjustments do not apply to the following rates and charges: rate riders, rate adders, low voltage service charges, retail transmission service rates, wholesale market service rate, smart metering entity charge, rural or remote electricity rate protection charge, standard supply service – administrative charge, transformation and primary metering allowances, loss factors, specific service charges, microFIT charge, and retail service charges.

5 SHARED TAX ADJUSTMENTS

In any adjustment year of an Annual IR Index or Price Cap IR term, a change in legislation may result in a change to the amount of taxes payable by a distributor. With regard to IRM applications, the OEB has long held that the impact of such legislated tax changes is to be shared 50/50 between shareholders and ratepayers. The shared tax change amount, whether in the form of a credit or a debit, will be assigned to customer rate classes in the same proportions as the OEB-approved distribution revenue by rate class from the distributor's last cost of service proceeding.

On July 25, 2019, the OEB issued a letter[10] providing accounting guidance with respect to recent changes in capital cost allowance (CCA) rules (July 2019 letter). The guidance provides that impacts from changes in CCA rules will not be assessed in IRM applications, and that any request for disposition of amounts related to CCA changes is to be deferred to the distributor's next cost-based rate application. A distributor's request for disposition of shared tax adjustment amounts in an IRM application should, therefore, be comprised only of impacts for tax changes unrelated to CCA (such as changes in corporate income tax rates).

For the NTRZ, the application identifies a total tax decrease of $82,190, associated with changes in corporate income tax rates and unrelated to CCA changes, resulting in a shared credit amount of $41,095 to be refunded to ratepayers

For the MRZ, the application identifies a total tax increase of $2,034, associated with changes in corporate income tax rates and unrelated to CCA changes, resulting in a shared debit amount of $1,017 to be collected from ratepayers. The allocated tax sharing amount in MRZ does not produce a rate rider to the fourth decimal place, in one or more rate classes. In such situations, where the Rate Generator Model does not compute rate riders, distributors typically are required to transfer the entire OEB-approved tax sharing amount into the Disposition and Recovery of Regulatory Balances Control Account (Account 1595) for disposition at a later date.

Findings

The OEB approves the tax refund of $41,095 for the NTRZ. The amount shall be refunded through a fixed monthly rate rider for residential customers, and through riders calculated on a volumetric basis for all other customers over a one-year period from May 1, 2021, to April 30, 2022.

The OEB approves the tax charge of $1,017 for the MRZ. The allocated tax sharing

[10] OEB Accounting Direction Regarding Bill C-97 and Other Changes in Regulatory or Legislated Tax Rules for Capital Cost Allowance, July 25, 2019.

amount does not produce a rate rider in one or more rate classes. The OEB therefore directs Newmarket-Tay Power to record the OEB-approved tax sharing debit amount of $1,017 into Account 1595 “Sub-account Principal Balances Approved for Disposition in 2021”.

6 RETAIL TRANSMISSION SERVICE RATES

Distributors charge retail transmission service rates (RTSRs) to their customers to recover the amounts they pay to a transmitter, a host distributor, or both, for transmission services. All transmitters charge Uniform Transmission Rates (UTRs) to distributors connected to the transmission system. Host distributors charge host-RTSRs to distributors embedded within the host's distribution system. Each of these rates is OEB-approved.

Because the NTRZ is partially embedded within Hydro One Network Inc.'s distribution system, Newmarket-Tay Power pays both UTRs and host-RTSRs. The applicant is requesting approval to adjust the RTSRs that it charges its customers to reflect the currently approved rates that it pays for transmission services included in both Tables 6.1 and 6.2, below.

MRZ is fully embedded within Hydro One Network Inc.'s distribution system and pays only host-RTRS. The applicant is requesting approval to adjust the RTSRs that it charges its customers to reflect the currently approved rates that it pays for transmission services included in Table 6.2.

Table 6.1: UTRs[11]

UTRs (2021)	per kW
Network Service Rate	$4.67
<u>Connection Service Rates</u>	
Line Connection Service Rate	$0.77
Transformation Connection Service Rate	$2.53

[11] EB-2020-0251, Decision and Order, December 17, 2020.

Table 6.2: Hydro One Networks Inc. Sub-Transmission Host-RTSRs[12]

Sub-Transmission Host RTSRs (2021)	per kW
Network Service Rate	$3.4778
Connection Service Rates	
Line Connection Service Rate	$0.8128
Transformation Connection Service Rate	$2.0458

Findings

Newmarket-Tay Power's proposed adjustments to its RTSRs are approved. Newmarket-Tay Power shall incorporate the OEB-approved 2021 UTRs and Hydro One Network Inc.'s 2021 host-RTSRs into the rate models to adjust the RTSRs that Newmarket-Tay Power will charge its customers.

[12] EB-2020-0030, Decision and Order, December 17, 2020.

7 GROUP 1 DEFERRAL AND VARIANCE ACCOUNTS

In each year of an IRM term, the OEB will review a distributor's Group 1 deferral and variance accounts in order to determine whether their total balance should be disposed.[13] OEB policy requires that Group 1 account balances be disposed if they exceed (as a debit or credit) a pre-set disposition threshold of $0.001 per kWh, unless a distributor justifies why balances should not be disposed.[14] If the balance does not exceed the threshold, a distributor may elect to request disposition.

NTRZ

The 2019 actual year-end total balance for NTRZ's Group 1 accounts including interest projected to April 30, 2021 is a credit of $449,431. This amount represents a total credit claim of $0.0007 per kWh, which does not exceed the disposition threshold. Newmarket-Tay Power has requested disposition of this credit amount over a one-year period.

a) Global Adjustment Variance Account

One of the components of the commodity costs billed by the Independent Electricity System Operator (IESO), which is included in Group 1 accounts, is the Global Adjustment (GA).[15]

Different customer groups pay the GA in different ways:

- For Regulated Price Plan (RPP) customers, the GA is incorporated into the standard commodity rates customers pay. Therefore, there is no separate variance account for the GA.

- "Class A" customers are allocated GA costs based on the percentage their demand contributes to the top five Ontario system peaks. As distributors settle with Class A customers based on actual GA costs, there is no resulting variance.

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[13] Group 1 accounts track the differences between the costs that a distributor is billed for certain IESO and host distributor services (including the cost of power) and the associated revenues that the distributor receives from its customers for these services. The total net difference between these costs and revenues is disposed to customers through a temporary charge or credit known as a rate rider.
[14] Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative (EDDVAR)." EB-2008-0046, July 31, 2009.
[15] The GA is established monthly by the IESO to reflect the difference between the wholesale market price for electricity and regulated rates for:
- Ontario Power Generation's nuclear and hydroelectric generating stations
- payments for building or refurbishing infrastructure such as gas-fired and renewable facilities and other nuclear
- contracted rates paid to a number of generators across the province
- the cost of delivering conservation programs.

- "Class B" non-RPP customers are billed GA based on the electricity they consume in a month at the IESO published GA price. Distributors track any difference between the billed amounts and actual costs for these customers in the GA Variance Account for disposal, once audited.

Under the general principle of cost causality, customer groups that cause variances which are recorded in Group 1 accounts should be responsible for paying (or should receive credits) for their disposal. A customer's movement from one group to another should not prevent that customer from paying/receiving a debit/credit balance.

Newmarket-Tay Power, for the NTRZ, proposes the refund of its GA variance account balance of $170,709 as at December 31, 2019, including interest to April 30, 2021, in accordance with the following table.

Table 7.1: Refund of GA Variance

Proposed Amounts	Proposed Method for Refund
$756,460 refunded to customers who were Class B for the entire period from January 2013 to December 2019	per kWh rate rider
$170,709 refunded to customers formerly in Class B during the period January 2013 to June 2019 who were reclassified to Class A	12 equal installments[16]

b) Group 1 Accounts

The Group 1 account balances in the NTRZ in respect of which Newmarket-Tay Power seeks disposition (excluding GA), include the following flow through variance accounts: Low Voltage Charges, Smart Meter Entity Charges, Wholesale Market Service Charges, Retail Transmission Service Charges, Commodity Power Charges, and Account 1595 residual balances. These Group 1 accounts have a total debit balance of $477,739, which results in a charge to customers. This balance combined with the balance for the GA account results in the total credit balance for Group 1 accounts of $449,431.

The balances proposed for disposition reconcile with the amounts reported as part of the OEB's *Electricity Reporting and Record-Keeping Requirements.*[17] Newmarket-Tay

[16] 2020 IRM Rate Generator Model, Tab 6.1a "GA Allocation".
[17] Electricity Reporting and Record Keeping Requirements, Version dated May 3, 2016.

Power further submits that its proposal for a one-year disposition period is in accordance with the OEB's policy.[18]

In 2018, the OEB suspended its approvals of Group 1 rate riders on a final basis pending the development of further accounting guidance on commodity pass-through variance accounts.[19] The OEB issued accounting guidance[20] on the commodity accounts on February 21, 2019 (Accounting Guidance). In this letter, the OEB indicated that it expects distributors to consider the Accounting Guidance in the context of historical balances that have not yet been disposed on a final basis. Distributors are expected to make any adjustments needed prior to filing for final disposition.

In its application for 2020 rates, Newmarket-Tay Power was denied approval to dispose of 2018 Group 1 balances in its NTRZ due to concerns with a large balance in Account 1588 - RSVA Power. Newmarket-Tay Power was directed to review all Group 1 DVA balances for the entire period of 2013 to 2019 and to file the results of this review in its 2021 rate application. In the current proceeding, Newmarket-Tay Power filed a report prepared by an independent audit firm with respect to the NTRZ's compliance with the accounting and settlement practices for Accounts 1588 and 1589 set out in the OEB's Accounting Guidance, as well as its RPP settlement and related accounting processes as at December 31, 2019.[21] The firm issued a qualified opinion in its report, as unresolved differences as a percentage of expected GA payments to the IESO totaled 1.14% in 2019, exceeding the 1% threshold used in the OEB's GA Analysis Workform.[22] Newmarket-Tay Power has resolved this matter by quantifying and including the 2019 impact of line losses, in the amount of $152,589, in the 2019 GA Analysis Workform. OEB staff submitted that this adjustment appears reasonable.[23]

Newmarket-Tay Power has requested final disposition of its adjusted 2018 balances in the NTRZ. OEB staff submitted that the 2019 balances, rather than 2018 balances, should be disposed, given the apparent resolution of the matter in 2019 as noted above, and subject to Newmarket-Tay Power's confirmation regarding one additional outstanding matter.[24] OEB staff invited Newmarket-Tay Power to explain in its reply submission whether the correction for the use of billed data, rather than monthly consumption data, was limited to 2019, and that this issue has been previously

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[18] Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative (EDDVAR)." EB-2008-0046, July 31, 2009.
[19] OEB letter to all rate-regulated licensed electricity distributors – "Re: OEB's Plan to Standardize Processes to Improve Accuracy of Commodity Pass-Through Variance Accounts." July 20, 2018.
[20] Accounting Procedures Handbook Update – Accounting Guidance Related to Commodity Pass-Through Accounts 1588 & 1589, February 21, 2019.
[21] Appendix 7, DVA Review External Auditor's Report, page 1.
[22] Appendix 7, DVA Review External Auditor's Report, Note 2.
[23] OEB staff submission, February 18, 2021, page 3.
[24] OEB staff submission, February 18, 2021, page 4.

corrected for the years 2013 to 2018. In its reply submission, Newmarket-Tay Power confirmed that the 2019 adjustment was not required for prior years.[25] Newmarket-Tay Power further supported OEB staff's submission to dispose of the balances as of December 31, 2019 in Accounts 1588 and 1589 on a final basis.

Regarding sub-account 1595 (2017) for NTRZ, OEB staff submitted that the balance in this account is not eligible for disposition in the current proceeding based on the OEB's filing requirements (but will be eligible in Newmarket-Tay Power's next rate application), and accordingly, removed this balance in an updated version of the Rate Generation Model. In its reply submission, Newmarket-Tay Power agreed with OEB staff's submission in this regard.

Newmarket-Tay Power also noted two incorrect rates on the Final Tariff Schedule of the updated Rate Generation Model.

Findings

The OEB approves the disposition of a credit balance of $449,431 as of December 31, 2019, including interest projected to April 30, 2021 for Group 1 accounts in the NTRZ on a final basis. The OEB agrees that Account 1595 (2017) is only eligible for disposition in Newmarket-Tay Power's next rate application. The OEB also approves on a final basis the December 31, 2017 balances in the NTRZ that were previously disposed on an interim basis in Newmarket-Tay Power's 2019 rates proceeding.

The following table identifies the principal and interest amounts, which the OEB approves for disposition.

[25] Newmarket-Tay Power reply submission, March 4, 2021, page 3.

Table 7.2: Group 1 Deferral and Variance Account Balances - NTRZ

Account Name	Account Number	Principal Balance ($) A	Interest Balance ($) B	Total Claim ($) C=A+B
LV Variance Account	1550	334,906	12,158	347,064
Smart Meter Entity Variance Charge	1551	(70,795)	(3,300)	(74,095)
RSVA - Wholesale Market Service Charge	1580	(254,483)	(20,853)	(275,336)
RSVA - Retail Transmission Network Charge	1584	(263,125)	6,654	(256,472)
RSVA - Retail Transmission Connection Charge	1586	157,723	8,530	166,253
RSVA - Power	1588	907,098	120,451	1,027,549
RSVA - Global Adjustment	1589	(933,395)	6,225	(927,170)
Disposition and Recovery of Regulatory Balances (2014 and pre-2014)	1595	(210,739)	(246,343)	(457,082)
Disposition and Recovery of Regulatory Balances (2015)	1595	(1,894)	1,751	(143)
Totals for Group 1 accounts (excluding Account 1589)		595,691	(120,952)	477,739
Totals for all Group 1 accounts		(337,704)	(114,727)	(449,431)

The balance of each of the Group 1 accounts approved for disposition shall be transferred to the applicable principal and interest carrying charge sub-accounts of Account 1595. Such transfer shall be pursuant to the requirements specified in Article 220, Account Descriptions, of the *Accounting Procedures Handbook for Electricity Distributors.*[26] The date of the transfer must be the same as the effective date for the associated rates, which is, generally, the start of the rate year.

The OEB approves these balances to be disposed of through final rate riders, with payments as calculated in the Rate Generator Model. The OEB directs Newmarket-Tay

[26] Accounting Procedures Handbook for Electricity Distributors, effective January 1, 2012.

Power to file an updated Rate Generator Model and draft Tariff of Rates and Charges for the NTRZ, which includes any necessary amendments to reflect this Decision and Order. The final riders and payments will be in effect over a one-year period from May 1, 2021 to April 30, 2022.[27]

MRZ

The 2019 actual year-end total balance for the MRZ's Group 1 accounts including interest projected to April 30, 2021 is a debit of $526,761. This amount represents a total debit claim of $0.0029 per kWh, which exceeds the disposition threshold. Newmarket-Tay Power has requested disposition of this debit amount over a one-year period.

a) Global Adjustment Variance Account

Newmarket-Tay Power, for its MRZ, proposes the recovery of its GA variance account balance of $81,617 as at December 31, 2019, including interest to April 30, 2021, in accordance with the following table.

Table 7.3: Recovery of GA Variance

Proposed Amounts	Proposed Method for Recovery
$71,616 recovered from customers who were Class B for the entire period from January 2018 to December 2019	per kWh rate rider
$10,002 recovered from customers formerly in Class B during the period January 2018 to June 2019 who were reclassified to Class A	12 equal installments[28]

b) Capacity Based Recovery Class B Sub-account - MRZ

The balance of the Group 1 accounts includes the Capacity Based Recovery (CBR) sub-account for Class B customers in the credit amount of $13,564, relating to the IESO's wholesale energy market for the CBR program. The MRZ had Class A customers during the period from January 2018 to December 2019, so Newmarket-Tay Power applied to have the balance of this account disposed through a separate kWh

[27] 2020 IRM Rate Generator Model Tab 6.1 GA, Tab 6.1a GA Allocation, Tab 6.2 CBR B, Tab 6.2a CBR B Allocation and Tab 7 Calculation of Def-Var RR.
[28] 2020 IRM Rate Generator Model, Tab 6.1a "GA Allocation".

rate rider for Class B customers in order to ensure proper allocation between Class A and Class B customers.

As some customers were reclassified between Class A and Class B during the period from January 2018 to December 2019, Newmarket-Tay Power requested approval to refund a portion of CBR Class B costs by way of 12 equal installments.[29]

c) Group 1 Accounts

The Group 1 accounts in respect of which Newmarket-Tay Power seeks disposition (excluding GA), include the following flow through variance accounts: Low Voltage Charges, Smart Meter Entity Charges, Wholesale Market Service Charges, Retail Transmission Service Charges and Commodity Power Charges. These Group 1 accounts have a total debit balance of $445,144, which results in a charge to customers. This balance combined with the balance for the GA account results in the total debit balance for Group 1 accounts of $526,761.

The balances proposed for disposition reconcile with the amounts reported as part of the OEB's *Electricity Reporting and Record-Keeping Requirements.*[30] Newmarket-Tay Power further submits that its proposal for a one-year disposition period is in accordance with the OEB's policy.[31]

As was the case in respect of the NTRZ, in its application for 2020 rates, Newmarket-Tay Power was also denied approval to dispose of its 2018 Group 1 balances in its MRZ due to concerns regarding the relatively large balance in Account 1588 - RSVA Power. Newmarket-Tay Power was directed to complete a detailed review of the 2017, 2018 and 2019 balances in Accounts 1588 and 1589, and all sub-accounts of Account 1595 that are due for disposition but have not yet been disposed of for the MRZ. In this application, Newmarket-Tay Power filed a report prepared by an independent audit firm with respect to MRZ's compliance of the accounting and settlement practices for Accounts 1588 and 1589 set out in the OEB's Accounting Guidance, as well as its RPP settlement and related accounting processes as at December 31, 2019.[32] OEB staff, in its submission, observed that the audit firm noted no issues in its review of the Account 1588 and 1589 balances for the MRZ.

Newmarket-Tay Power has requested final disposition of its adjusted 2019 balances. OEB staff submitted that it supports final disposition of the Account 1588 and 1589 balances in the MRZ, as of December 31, 2019, as the adjustments made appear

[29] Newmarket-Tay Midland Rate Zone Rate Generator, February 18, 2021, Tab.6.2a CBR Allocation
[30] Electricity Reporting and Record Keeping Requirements, Version dated May 3, 2016.
[31] Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative (EDDVAR)." EB-2008-0046, July 31, 2009.
[32] Appendix 7, DVA Review External Auditor's Report, page 1.

reasonable and the balance in Account 1588 on a cumulative basis also appears reasonable.

Regarding sub-account 1595 (2017) in the MRZ, OEB staff submitted that the balance in this account is not eligible for disposition in the current proceeding based on the OEB's filing requirements (but will be eligible in Newmarket-Tay Power's next rate application), and accordingly, removed the balance in an updated version of the Rate Generation Model. In its reply submission, Newmarket-Tay Power agreed with OEB staff's submission in this regard.

Findings

The OEB approves the disposition of a debit balance of $526,761 as of December 31, 2019, including interest projected to April 30, 2021 for Group 1 accounts in the MRZ on a final basis. The OEB finds that Account 1595 (2017) is only eligible for the disposition in Newmarket-Tay Power's next rate application. The OEB also approves on a final basis the December 31, 2017 balances in the MRZ that were previously disposed of on an interim basis in Newmarket-Tay Power's 2019 rates proceeding.

The following table identifies the principal and interest amounts, which the OEB approves for disposition.

Table 7.4: Group 1 Deferral and Variance Account Balances - MRZ

Account Name	Account Number	Principal Balance ($) A	Interest Balance ($) B	Total Claim ($) C=A+B
LV Variance Account	1550	542,529	12,639	555,168
Smart Meter Entity Variance Charge	1551	(13,540)	(378)	(13,918)
RSVA - Wholesale Market Service Charge	1580	(59,956)	(1,424)	(61,380)
Variance WMS - Sub-account CBR Class B	1580	(13,232)	(332)	(13,564)
RSVA - Retail Transmission Network Charge	1584	31,874	1,003	32,877
RSVA - Retail Transmission Connection Charge	1586	87,580	1,342	88,923
RSVA - Power	1588	(137,465)	(5,497)	(142,962)
RSVA - Global Adjustment	1589	71,832	9,785	81,617
Totals for Group 1 accounts (excluding Account 1589)		437,789	7,355	445,144
Totals for all Group 1 accounts		509,621	17,140	526,761

The balance of each of the Group 1 accounts approved for disposition shall be transferred to the applicable principal and interest carrying charge sub-accounts of Account 1595. Such transfer shall be pursuant to the requirements specified in Article 220, Account Descriptions, of the *Accounting Procedures Handbook for Electricity Distributors.*[33] The date of the transfer must be the same as the effective date for the associated rates, which is, generally, the start of the rate year.

The OEB approves these balances to be disposed of through final rate riders and charges as calculated in the Rate Generator Model. The OEB orders Newmarket-Tay Power to file an updated Rate Generator Model and draft Tariff of Rates and Charges for the MRZ, which includes any necessary amendments to reflect this Decision and

[33] Accounting Procedures Handbook for Electricity Distributors, effective January 1, 2012.

Order. The final riders and charges will be in effect over a one-year period from May 1, 2021 to April 30, 2022.[34]

[34] 2020 IRM Rate Generator Model Tab 6.1 GA, Tab 6.1a GA Allocation, Tab 6.2 CBR B, Tab 6.2a CBR B Allocation and Tab 7 Calculation of Def-Var RR.

8 LOST REVENUE ADJUSTMENT MECHANISM VARIANCE ACCOUNT BALANCE

A distributor's conservation and demand management (CDM) programs may result in reduced overall consumption. To address this, the OEB established a Lost Revenue Adjustment Mechanism Variance Account (LRAMVA), which captures a distributor's revenue implications resulting from differences between actual savings and forecast conservation savings included in the last OEB-approved load forecast.[35] These differences are recorded by distributors at the rate class level.

Beginning on January 1, 2015, distributors delivered CDM programs to their customers through the Conservation First Framework (CFF). On March 20, 2019, the CFF was revoked.[36] Shortly thereafter, the OEB advised that electricity distributors would continue to have access to a lost revenue adjustment mechanism for conservation program activities undertaken under the CFF.[37] The OEB provided direction to distributors seeking to claim program savings up to December 31, 2019 related to CFF programs or other programs they deliver.[38]

A distributor may apply for the disposition of the balance in the LRAMVA on an annual basis, as part of its IRM application, if the balance is deemed significant by the distributor.

Newmarket-Tay Power has applied to dispose of its combined LRAMVA debit balance of $463,882 for its two rate zones. Newmarket-Tay Power proposed to recover the LRAMVA balance in each of the two rate zones over a one-year period.

- **NTRZ** – The LRAMVA balance of $410,844 includes lost revenue from incremental CDM activity in 2019 based on CDM programs delivered during the period from 2011 to 2019, and associated carrying charges. The full impact of conservation savings is claimed, as there were no forecasted conservation savings in the 2010 load forecast at the time Newmarket-Tay Power last rebased the NTRZ's rates.[39]
- **MRZ** – The LRAMVA balance of $53,038 includes lost revenue from incremental CDM activity in 2019 based on CDM programs delivered during the period from

[35] Guidelines for Electricity Distributor Conservation and Demand Management, EB-2012-0003, April 26, 2012; and Requirement Guidelines for Electricity Distributors Conservation and Demand Management, EB-2014-0278, December 19, 2014.
[36] On March 20, 2019 the Minister of Energy, Northern Development and Mines issued separate Directives to the OEB and the IESO.
[37] Ontario Energy Board letter dated June 20, 2019.
[38] Chapter 3 Filing Requirements, section 3.2.6.1.
[39] EB-2009-0269, Decision and Rate Order, February 24, 2011.

2014 to 2019, and associated carrying charges. Actual conservation savings are compared against forecasted conservation savings of 3,299,236 kWh included in the 2013 load forecast, which was set out in the former Midland Power's 2013 cost of service application.[40]

Newmarket-Tay Power filed Participation & Cost Reports and prior year persistence reports by rate zone in support of its combined LRAMVA balance. Newmarket-Tay Power also filed extracts of the CDM Information System[41] reports for each of the rate zones to support the additional 2019 savings included in the LRAMVA balance.

OEB staff supported disposition of Newmarket-Tay Power's LRAMVA balances. OEB staff submitted that Newmarket-Tay Power provided the appropriate supporting documentation to justify the additional savings amounts and that the LRAMVA balance was calculated in accordance with the OEB's LRAMVA guidelines.[42]

In its reply submission, Newmarket-Tay Power stated that it was in agreement with OEB staff on disposing of the LRAMVA balance as revised throughout this proceeding.[43]

Findings

The OEB finds that Newmarket-Tay Power's LRAMVA balance has been calculated in accordance with the OEB's CDM-related guidelines and updated LRAMVA policy.

The OEB approves the disposition of Newmarket-Tay Power's revised LRAMVA debit balance of $463,882, as set out in Table 8.1 below, over a one-year period.

Table 8.1 LRAMVA Balances for Disposition

Account Name	Account Number	Actual CDM Savings ($) A	Forecasted CDM Savings ($) B	Carrying Charges ($) C	Total Claim ($) D=(A-B)+C
NTRZ LRAMVA	1568	400,550	-	10,293	410,844
MRZ LRAMVA	1568	97,995	46,285	1,329	53,038
Total LRAMVA	**1568**	**498,545**	**46,285**	**11,622**	**463,882**

40 EB-2012-0147, Decision and Order, January 17, 2013.
41 Response to Interrogatories, Attachments 3 and 16, February 8, 2021.
42 OEB staff submission, page 4.
43 Newmarket-Tay Power reply submission, page 4.

9 DISPOSITION OF DEFERRAL AND VARIANCE ACCOUNT 1576 AND ADJUSTMENT TO BASE RATES

In its decision and rate order in Newmarket-Tay Power's application for 2019 rates, the OEB approved disposition of the balance in Account 1576 – Accounting Changes Under CGAAP, a credit of $1,603,325 as of December 31, 2017, for the NTRZ, and directed Newmarket-Tay Power to propose final disposition of the balances in Account 1576 in its 2020 IRM application and apply to reduce base distribution rates such that the deferral account will no longer be required.[44]

Newmarket-Tay Power did not propose final disposition of the balance in Account 1576 in its 2020 rates proceeding, as directed by the OEB, but rather proposed to wait for the completion of its 2019 fiscal audit before making a claim in its upcoming 2021 rate application. In its decision and rate order for Newmarket-Tay Power's application for 2020 rates, the OEB directed Newmarket-Tay Power to include a request for disposition of Account 1576, on a final basis, in its 2021 rate application. The amount to be requested for disposition was to include a forecast of 2020, along with proposed changes to base rates.[45]

In this application, Newmarket-Tay Power has proposed final disposition of a credit balance of $1,948,249 in Account 1576, representing a refund to the NTRZ's ratepayers. Newmarket-Tay Power has also proposed to adjust its base rates in the NTRZ to align the capitalization and depreciation policies embedded in rates to those policies that were adopted by the NTRZ in January 2012. The proposed base rate adjustment, starting in the 2021 rate year, results in an annual revenue requirement increase of $221,070.[46]

With respect to the balance to be disposed of in Account 1576, OEB staff submitted that the Account 1576 balance should be updated with the actual 2020 figures, rather than the amounts originally forecast when filed in November 2020, because these amounts represent a greater degree of accuracy, as compared to the forecast, despite the fact they remained unaudited at the time.[47] OEB staff noted in its submission that the credit balance of Account 1576 would increase by $163,717 by applying the 2020 actual figures. SEC submitted that it agrees with OEB Staff that the adjusted amount of the

[44] Newmarket-Tay Power 2019 IRM Decision and Order, EB-2018-0055, page 19.
[45] Newmarket-Tay Power 2020 IRM Decision and Order, EB-2019-0055.
[46] Response to NTRZ-Staff-17.
[47] OEB staff submission, February 18, 2021, page 25.

final Account 1576 clearance is appropriate.[48] In Its reply submission, Newmarket-Tay Power agreed with SEC and OEB staff in this regard.[49]

With respect to the adjustment to base rates, OEB staff suggested that the purpose of the adjustment is to align Newmarket-Tay Power's capitalization and depreciation policies in rates going forward to the prevailing policies that are in conformance with International Financial Reporting Standards (IFRS). OEB staff further submitted that it is reasonable to apply the weighted average cost of capital (WACC) parameters to the rate base differentials associated with this adjustment. OEB staff did not support Newmarket-Tay Power's proposal to apply its 2011 OEB-approved WACC of 7.03% and 2011 working capital allowance of 15%. OEB staff submitted that a proxy base rate adjustment should be calculated using the 2021 OEB-issued cost of capital parameters, as well as the 2021 working capital allowance, given that this base rate adjustment is similar to a narrowly-scoped rebasing of Newmarket-Tay Power's revenue requirement. OEB staff noted that the recalculated adjustment, when applying the 2021 WACC of 5% and working capital allowance of 7.5%, results in a reduction to the 2021 revenue requirement in the amount of $37,374, rather than an increase of $221,071, as proposed by Newmarket-Tay Power.

In its submission, SEC stated that it "…agrees with OEB Staff that this is effectively a type of issue-limited rebasing, and so the cost of capital and the working capital allowance should be those applicable to the current rate year".[50]

In its reply submission, Newmarket-Tay Power disagreed with OEB staff and SEC in terms of applying the 2021 WACC of 5% and working capital allowance of 7.5% to the adjustment to base rates. Newmarket-Tay Power submitted that use of the last OEB-approved WACC from 2011 is both consistent with Whitby Hydro's smart meter incremental revenue requirement decision and order[51] and is a more appropriate and accurate reflection of Newmarket-Tay Power's actual WACC.

Findings

The OEB approves the disposition of an updated credit balance in Account 1576 in the amount of $2,111,966, for the NTRZ, which is revised based on the closing 2020 unaudited figures.[52] The updated balance was proposed by OEB staff and agreed to by Newmarket-Tay Power in its reply submission.

[48] SEC submission, February 18, 2021, page 3.
[49] Newmarket-Tay Power reply submission, page 17.
[50] SEC submission, February 18, 2021, page 3.
[51] EB-2017-0085/EB-2017-0292.
[52] $1,948,249 originally proposed, plus the $163,717 adjustment to incorporate the 2020 actual totals.

With respect to the base rates adjustment, the OEB finds that Newmarket-Tay Power is to adjust base rates in the NTRZ by reducing the annual revenue requirement by $37,374 in 2021. The OEB agrees with OEB staff and SEC that applying the 2021 OEB-approved cost of capital parameters is appropriate, as this adjustment will apply to rates going forward. Newmarket-Tay Power's customers in the NTRZ should be no worse off than customers of other distributors in the remaining deferred rebasing period from 2021-2028. Newmarket-Tay Power chose not to rebase rates in its NTRZ since the OEB mandated that distributors adopt IFRS for capitalization and depreciation purposes, effective January 1, 2013. In addition, the OEB finds that using 2011 parameters, as proposed by Newmarket-Tay Power, would be inconsistent with the current economic circumstances in which Newmarket-Tay Power operates to provide distribution services to its customers.

The OEB notes that the Whitby Hydro case referred to and relied upon by Newmarket-Tay Power as a rationale for applying the WACC embedded in rates in the last rebasing application involved an overall settlement of the issues as between OEB staff and Whitby Hydro (there were no intervenors in that case, and the OEB determined that OEB staff would be a party), with a number of issues considered in combination. The settlement proposal in that case was presented to, and approved by the OEB as a package that resulted in just and reasonable rates. The OEB does not find that the Whitby Hydro decision to be a precedent that is determinative of, or applicable to, the issue of the cost of capital parameters for base rates adjustment for NTRZ.

Newmarket-Tay Power is directed to update the Appendix 2-EC Account 1576 Schedule, Rate Generator Model for the revised Account 1576 balance to be disposed, the revised base rate adjustment, as well as rate riders, to incorporate the OEB's findings in this regard.

10 INCREMENTAL CAPITAL MODULE

The OEB's incremental capital module (ICM) policy[53] was established to address the treatment of a distributor's capital investment needs that arise during a Price Cap IR rate-setting plan and which are incremental to a calculated materiality threshold. An ICM is a means by which a distributor can collect additional revenue from customers to fund capital expenditures in the years between cost of service applications. The ICM is available for discretionary or non-discretionary projects and is not limited to extraordinary or unanticipated investments. However, ICM funding is not available for typical annual capital programs, nor is it available for projects that do not have a significant influence on the operations of the distributor.

In order to qualify for ICM funding, a distributor must satisfy the OEB's well-established eligibility criteria of materiality, need and prudence.[54]

The ICM addresses the question of materiality in two steps. The first is by applying the ICM "materiality threshold formula"[55], which serves to define the level of capital expenditures that a distributor should be able to manage within current rates. This test provides that any incremental capital amounts approved for recovery must fit within the total eligible incremental capital amount and must clearly have a significant influence on the operation of the distributor.[56] A second, project-specific, materiality test provides that expenditures, which appear to be minor in comparison to the overall capital budget, should be considered ineligible for ICM treatment. Moreover, a certain degree of project expenditure over and above the OEB-defined threshold calculation is expected to be absorbed within the total capital budget.[57]

With regard to need, a distributor must satisfy the OEB that any incremental capital amount being requested is (i) based on one or more discrete project(s), (ii) directly related to the claimed driver of need, and (iii) clearly outside of the base upon which the distributor's rates were derived.[58] Additionally, a distributor must also pass the "means test." Under the means test, if a distributor's most recently available regulated return on

[53] The OEB's policy for the funding of incremental capital is set out in the *Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module*, September 18, 2014 (Funding of Capital Report) and the subsequent *Report of the OEB New Policy Options for the Funding of Capital Investments: Supplemental Report* (Supplemental Report) (collectively referred to as the Funding of Capital policy).
[54] Funding of Capital Report, p. 16.
[55] The ICM materiality threshold formula refers to the updated multi-year materiality threshold formula as defined on p. 19 of the Supplemental Report.
[56] Funding of Capital Report, p. 17.
[57] *Ibid.*
[58] *Ibid.*

equity (ROE) exceeds 300 basis points above the deemed ROE embedded in the distributor's rates, then funding for any incremental capital project will not be allowed.

Finally, a distributor needs to establish that the incremental capital amount it proposes to incur is prudent. To satisfy the "prudence test", a distributor must demonstrate that its decision to incur the incremental capital represents the most cost-effective option for its customers (though not necessarily the least initial cost option).

The Half-Year Rule

The OEB's policy allows for a full-year's depreciation, capital cost allowance, and return on capital, for all years of a Price Cap IR plan *except* the final year prior to rebasing.[59] In the final year prior to rebasing, the standard half-year rule is used for calculation of the depreciation and return on capital, and associated taxes/payments in lieu (PILs) are treated as if it was the first year that an asset enters service.[60]

The ICM Projects

Newmarket-Tay Power is seeking ICM funding for the following two payments:

1. $6,396,855 – NTRZ – Connection and Cost Recovery Agreement (CCRA) 5-year true-up payment to Hydro One Networks Inc. (Hydro One) for the Holland Transformer Station (Holland TS) that occurred in 2015, with recovery from customers starting in 2021. This amount represents the 2021 net book value remaining from the $8,180,100 payment made in 2015.
2. $6,585,200 – NTRZ – CCRA ten-year true-up payment to Hydro One for Holland TS in 2021 with recovery from customers starting in 2021.

Newmarket-Tay Power noted that the payments are dictated by the terms established in its CCRA with Hydro One.

The former Newmarket-Tay Power entered into a CCRA with Hydro One in 2008 for the construction of Holland TS, a Hydro One owned and operated transformer station. As per the CCRA and Transmission System Code, financial true-up points following the fifth, tenth and fifteenth anniversary of the in-service date were to be (or will be) calculated based on differences between the realized load and the load forecasted by Newmarket-Tay Power. Newmarket-Tay Power was not required to provide Hydro One

[59] Supplemental Report pp. 7-11. When the half-year rule is applied, only half of the annual depreciation and CCA is allowed for depreciation and tax/PILs purposes. This ensures that the distributor recovers only a half-year of return on depreciation and capital as per the intent of the half-year rule.
[60] Funding of Capital Report, p. 23.

with an initial capital contribution for the construction of the station due to sufficient projected revenues from Newmarket-Tay Power's forecasted loading onto Holland TS.

The five-year anniversary of the construction of Holland TS occurred in 2014. In 2015, Newmarket-Tay Power paid a five-year $8,180,100 true-up CCRA shortfall payment to Hydro One.

The 10-year anniversary of the construction of Holland TS occurred in 2019. As revised in this proceeding, the 10-year true-up CCRA payment is estimated to be $6,585,200.

Five-year true-up payment

Newmarket-Tay Power has applied for recovery of the 2021 net book value of $6,396,855 of the five-year $8,180,100 true-up payment in 2015 through an ICM in 2021.

At the time of the five-year true-up in 2015, Newmarket-Tay Power was using the Annual IR Rate-setting method. According to the Filing Requirements issued in 2015, ICM was "only available to distributors opting for Price Cap IR"[61]. Newmarket-Tay Power proposed in this application, that pursuant to the OEB's policy changes in the 2015 *Report of the Board, Rate Making Associated with Distributor Consolidation*, distributors who are party to a MAADs transaction, and are operating under an Annual IR plan have the option to use the ICM during the deferred rebasing period. Newmarket-Tay Power amalgamated with Midland Power in 2018, and the consolidated Newmarket-Tay Power is now in a ten-year deferred rebasing period. Newmarket-Tay Power has submitted that because ICM funding is available during the deferred rebasing period, it could apply an ICM funding model to a CCRA payment made prior to the consolidation approval, that is, to the five-year true-up CCRA shortfall payment that occurred in 2015.

OEB Staff, VECC, and CCC submitted that Newmarket-Tay Power chose to file under the OEB's Annual IR Index, which does not have an option for ICM funding, for the years leading up to the consolidation with Midland Power in 2018. SEC added that continuing to use the Annual IR Index "was a conscious choice by the Applicant, knowing that Annual IR [Index] brought with it both advantages and disadvantages".[62]

Newmarket-Tay Power argues that its financial viability may be compromised if it is not allowed to recover the net book value of the 2015 true-up payment. Newmarket-Tay Power submitted that a "[l]ack of funding for the 2015 Holland TS true-up would also

[61] Filing Requirements for Electricity Distribution Rate Applications – 2014 Edition for 2015 Rate Applications – Chapter3, Incentive Regulation July 25, 2014, page 18.
[62] SEC Submission, February 18, 2021, page 2.

materially impact forecasted 2021 ROE, falling to 4.81%."[63] OEB staff submitted that other factors may also contribute to lower 2021 ROE, such as the economic impact of COVID-19 and the increased spending outlined in Newmarket-Tay Power's 2020-2024 Distribution System Plan.[64] OEB staff further noted that Newmarket-Tay Power has operated for five of the past six years within the OEB's 300 basis point deadband for utility performance. SEC noted that, "at the time of the merger application, the Applicant gave no indication that its financial viability was in any way in doubt, and in fact affirmed that it was and would continue to be in solid financial shape."[65] CCC and VECC each noted that Newmarket-Tay Power has been earning within the OEB's 300 basis point dead band since 2015, except for 2017, and has not demonstrated it is experiencing financial hardship through this proceeding.[66]

In 2018, Newmarket-Tay Power amalgamated with Midland Power to form the new Newmarket-Tay Power. In the Decision and Order, the OEB approved a 10-year deferral period for rebasing the rates of the consolidated entity.

VECC and CCC noted that the ICM application was submitted during the deferred rebasing period where Newmarket-Tay Power forecasted savings as a result of the merger. Those savings have not been factored into the ICM application and VECC further submitted that the savings offset the impact of the five-year true-up payment to Hydro One. [67]

OEB staff submitted that the five-year true-up ICM is for capital investment needs that arose prior to the current rate setting plan, and is not supported by the OEB's ICM policy as the payment was made in 2015, which effectively equates to the in-service date for a capital project. VECC, CCC and SEC did not support bringing expenditures from a past period forward for ICM funding.

VECC, CCC and SEC submitted that they do not support the application for ICM relief for the five-year true-up.

In its reply submission, Newmarket-Tay Power presented two cases where the OEB granted incremental capital funding under unique circumstances and stated these cases supported approval of its application: [68]

- EB-2018-0305 where the OEB approved funding for Enbridge Gas Inc.'s Sudbury replacement project

[63] Newmarket-Tay Power, Interrogatory Responses 2021 IRM, EB-2020-0041, Board Staff NTRZ IR – 18.
[64] OEB Staff Submission, February 18, 2021, page 16.
[65] SEC submission, February 18, 2021, page 3.
[66] CCC submission, February 19, 2021, page 3 & VECC submission, February 19, 2021, page 3.
[67] VECC submission, February 19, 2021, page 4.
[68] Newmarket-Tay Power Reply Submission, March 4, 2021, page 8.

- EB-2017-0265 where the OEB approved ICM funding for Rideau St. Lawrence Distribution Inc. for the remaining net book value of a project in a subsequent year to an asset's in-service date.

In response to why the utility had not taken steps to recover five-year CCRA true-up in the past, Newmarket-Tay Power submitted the "utility's financial circumstances have changed to the point where management determined it would be prudent to alert the OEB of the situation and seek ICM funding for the Five-Year True-Up."[69]

Newmarket-Tay Power submitted that it did not have reason to forecast the reduction in its ROE at the time of its merger with Midland Power, and it should not be held to single point in time forecast. It also submitted that the OEB has a statutory objective to ensure the financial viability of the electricity industry which includes Newmarket-Tay Power. Newmarket-Tay Power submitted that the most efficient and practical solution is for the OEB to grant ICM funding for the five-year true-up due to special circumstances outlined in its reply submission which would bring Newmarket-Tay Power's ROE back to within the 300 basis point deadband in 2021.

10-year true-up payment

On March 4, 2021, Newmarket-Tay Power served and filed new information, consisting of a draft calculation of the Holland TS 10th anniversary true-up payment amount of $6,585,200, based on information provided to it by Hydro One on March 3, 2021, and an updated ICM model. The change of the true up payment resulted in an increased 2021 Distribution System Plan capital expenditure amount of $12,982,055 and a maximum eligible incremental capital amount of $6,072,956.

OEB staff, CCC and SEC agreed the proposed changes should be implemented, and the 2021 capital expenditures and ICM amount adjusted accordingly[70]. VECC submitted the OEB should set May 1, 2021 rates on information submitted in the proceeding prior to March 4, 2021.[71]

OEB staff, VECC, SEC and CCC supported Newmarket-Tay Power's request for ICM funding for the Holland TS 10-year true-up payment to Hydro One. [72]

69 Newmarket-Tay Power Reply Submission, March 4, 2021, page 11.
70 OEB staff submission, March 18, 2021, CCC submission, March 18, 2021, SEC submission March 22, 2021
71 VECC submission, March 18, 2021, page 2
72 See footnotes 70 and 71

Materiality

The 10-year true-up amount of $6,585,200 exceeds the maximum eligible incremental capital amount of $6,072,956 for 2021. OEB staff submitted that the maximum eligible incremental capital amount, as revised throughout this proceeding, is correct.

VECC noted that, excluding CCRA payments, the average capital expenditure between 2016 and 2019 was $4.09M and the average capital expenditure forecast between 2020 to 2024 is $7.27M, an increase of 77%. Newmarket-Tay Power increased asset replacement to levels under the recommendation of the asset condition assessment to provide a balance between maintaining system infrastructure and pacing required system investments. VECC recommended Newmarket-Tay Power's 2021 capital budget be reduced by 10% to allow for better pacing of capital investments in 2021 to offset the significant payment to HONI in 2021.[73]

Based on historic and forecast capital expenditures, OEB staff submitted that the 10-year true-up payment of $6,585,200, as revised, meets the project materiality threshold.[74]

CCC submitted Newmarket-Tay Power has established materiality, need and prudence for the ten-year true-up amount.[75]

Need

The ICM is not available for incremental funding if a distributor's regulated return exceeds 300 basis points above the deemed ROE embedded in the distributor's rates. Newmarket-Tay Power submitted that the deemed ROE of the consolidated utility is 9.66%. Newmarket-Tay Power's ROE in each of 2019 and 2018 was 6.94% and 11.19% respectively, both within 300 basis points. OEB staff and VECC submitted that Newmarket-Tay Power passes the means test for the 10-year true-up ICM.

Newmarket-Tay Power submitted its last Cost of Service application in 2010, for rates effective May 1, 2011[76], and that application did not include CCRA payments to Hydro One. OEB staff agreed that the Holland TS true-up payments were not included in the basis upon which the rates were derived and submitted the Holland TS is a discrete project. VECC submitted the 10-year true-up payment is a discrete activity and is outside of the base rates.

[73] VECC submission, February 19, 2021, page 5.
[74] OEB staff submission, February 18, 2021, page 18
[75] CCC submission, February 19, 2021, Page 4
[76] EB-2009-0269

Prudence

Newmarket-Tay Power submitted that the Holland TS identified in the OPA report was the most cost-effective option for ratepayers and meets the prudence test.

The prudence of the ten-year true-up is based in part on the prudence of the 2021 draft load forecast for Holland TS. OEB staff, based on its review of the initial CCRA, 2015, and 2021 load forecasts provided by Newmarket-Tay Power for Holland TS, found that the load forecast was reduced materially at each true-up point, as was expected due to the decline in the economy in the area.

OEB staff submitted that the CCRA 10-year true up payment for Holland TS is prudent. VECC submitted Newmarket-Tay Power demonstrated the 10-year payment to Hydro One for Holland TS is prudent.

OEB staff noted that the true-up payment amount is still subject to change because Newmarket-Tay Power has yet to finalize the payment amounts with Hydro One. ICM variance accounts may be used to track any differences between the actual ICM amount and the actual payment to HONI, and to potentially true-up differences at its next rebasing application in accordance with the OEB's ICM policy.[77]

VECC and CCC expressed support for establishing an ICM variance account to track any differences between the forecast and actual amount.[78]

Findings

Introduction of New Evidence

The OEB accepts and relies upon the updated evidence, filed by Newmarket-Tay Power on March 4, 2021, with respect to the updated estimate of $6,585,200 for the ten-year true-up payment amount. While VECC objected to the notion of the OEB considering this updated evidence, the OEB finds that the revised figure provides greater accuracy based on updated inputs. Further, it is a reliable estimate, provided by Hydro One.

The OEB accepts Newmarket-Tay Power's updated request for ICM funding in the amount of $6,585,200 for the 10-year true-up payment, and an updated maximum eligible capital for 2021 of $6,072,956.

5-Year True-up Payment

[77] Report of the Board, New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, page 27
[78] CCC submission February 19, 2021, Page 4 & VECC submission, February 19, page 6

The OEB denies ICM funding for the Holland TS CCRA 5-year true-up payment.

The Holland TS CCRA five-year payment was made when Newmarket-Tay Power was in an Annual IR Index rate-setting period and ICMs are not available to distributors operating under an Annual IR Index term. The OEB agrees with CCC that is important to note that Newmarket-Tay Power filed an Annual IR Index application on August 5, 2015 when it was aware of the five-year true up CCRA payment. Choosing to file an Annual IR Index application in 2015 and also electing not to file a cost of service application since 2011, prevents Newmarket-Tay Power from applying for ICM in 2021 for a payment made in 2015. The ICM is intended to address the treatment of capital investment needs that arise during the rate-setting plan.[79] The OEB also agrees with SEC that Newmarket-Tay Power has not explained "extenuating circumstances to cause the [OEB] to make an exception in this case".[80]

The OEB's MAADs policy regarding ICM is not explicit regarding prior year capital investments. However, the OEB agrees with VECC's view that, as the ICM has been made available to merged utilities in the MAADs policy, the availability of ICM was designed to address capital investment that arises during a MAADs deferred rebasing period.[81]

The OEB acknowledges that the ICM is available for capital expenditures in a prior period. As noted by Newmarket-Tay Power, the OEB has previously approved funding for capital expenditures made in prior years by Rideau St. Lawrence Distribution Inc., considering the net book value of the underlying assets.[82] In that case, the ICM capital expenditure (a digger truck) went into service during the IRM term, although not in the IRM year in which an application would be expected to be made by the utility. However, Newmarket-Tay's ICM application for a five-year true up is for a capital expenditure in a period where it was subject to an Annual IR Index Framework that did not provide for ICM funding.

With respect to the example cited by Newmarket-Tay Power of Enbridge's Sudbury Replacement project, the OEB notes that this asset was placed in service when Enbridge had obtained approval for a capital pass through and rate-setting framework similar to an ICM.[83]

[79] Filing Requirements for Electricity Distribution Rate Applications – 2020 Edition for 2021 Rate Applications, Chapter 3, Incentive Rate-Setting Applications, May 14, 2020, Page 26.
[80] SEC submission, February 18, 2021, page 1.
[81] VECC submission, February 19, 2021, page 3.
[82] EB-2017-0265, Decision and Order, March 22, 2018, page 4.
[83] EB-2018-0305, Decision and Order, September 23, 2019, page 21.

The OEB further clarifies that, in this proceeding, the 2021 maximum eligible capital amount of $6,072,956 is the only relevant calculation for 2021 rate making purposes. There is no policy basis for considering a prior period “maximum eligible amount” less amortizations. The ICM was not available to Newmarket-Tay Power in 2015 and maximum eligible amounts are rate-year specific.

The ICM materiality threshold formula that calculates the capital to be funded through distribution rates and, by extension, the maximum eligible capital amount to be funded through the ICM rate riders, pertain to the year the capital asset is placed into service. No policy mechanism exists to derive the maximum eligible capital amount based on the value of an existing in-service (i.e., used and useful) asset that depreciates, or a similar obligation that amortizes, as is proposed by Newmarket-Tay Power.

Newmarket-Tay Power has acknowledged that its financial viability was not a concern at the time of the merger. Newmarket-Tay Power’s forecasts for its 2020 and 2021 ROE are not actuals and not conclusive with respect to Newmarket-Tay’s assertion. The OEB has an established a +/- 300 basis point mechanism to identify and address financial viability risk for regulated distributors. The ICM policy was not designed for that purpose.

Ten-Year True-Up Payment

The OEB finds that the Holland TS CCRA ten-year true-up payment meets the materiality criteria and is satisfied that the evidence demonstrates the need and prudence of this project. The OEB finds that Newmarket-Tay Power has passed the means test and accepts that the project is both discrete and outside of the base on which rates were set.

The OEB approves $6,072,956 in ICM funding for this project, the maximum eligible capital amount for 2021.

11 IMPLEMENTATION AND ORDER

Newmarket-Tay Power shall update the Rate Generator Model, as necessary, to incorporate the rates set out in the following table.

Table 11.1: Regulatory Charges

Rate	per kWh
Rural or Remote Electricity Rate Protection (RRRP)	$0.0005
Wholesale Market Service (WMS) billed to Class A and B Customers	$0.0030
Capacity Based Recovery (CBR) billed to Class B Customers	$0.0004

Each of these rates is a component of the "Regulatory Charge" on a customer's bill, established annually by the OEB through a separate, generic order. The RRRP, WMS and CBR rates were set by the OEB on December 10, 2020.[84]

The Smart Metering Entity Charge is a component of the "Distribution Charge" on a customer's bill, established by the OEB through a separate order. The Smart Metering Entity Charge was set by the OEB on March 1, 2018.[85]

In the Rep*ort of the Board: Review of Electricity Distribution Cost Allocation Policy*,[86] the OEB indicated that it will review the default province-wide microFIT charge annually to ensure it continues to reflect actual costs in accordance with the established methodology. On February 25, 2021, the OEB announced that the microFIT charge for the 2021 rate year will remain at $4.55 per month.[87]

The approved effective date for new rates is May 1, 2021. The OEB notes that based on the procedures outlined in the order that follows, Newmarket-Tay Power's rate order may not be issued in time for Newmarket-Tay Power to implement rates for May 1, 2021. Accordingly, the OEB declares Newmarket-Tay Power's current (2020) distribution rates and charges interim as of May 1, 2021 until such time as 2021 rates and charges are approved by the OEB. If Newmarket-Tay Power elects to do so, it shall

[84] EB-2020-0276, Decision and Order, December 10, 2020.
[85] EB-2017-0290, Decision and Order, March 1, 2018.
[86] EB-2010-0219, Report of the Board "Review of Electricity Distribution Cost Allocation Policy", March 31, 2011.
[87] OEB letter: Review of Fixed Monthly Charge for microFIT Generator Service Classification, issued February 25, 2021.

include in its Draft Rate Order, a calculation of forgone revenue from May 1, 2021 to June 1, 2021 and include in its Tariff of Rates and Charges a forgone revenue rate rider to be collected over an eleven-month period commencing June 1, 2021.

In accordance with this Decision and Order, Newmarket-Tay Power shall implement the OEB's findings and file a Draft Rate Order with supporting material.

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

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Newmarket-Tay Power Distribution Ltd.'s 2020 Rates shall be interim as of **May 1, 2021**.

2. Newmarket-Tay Power Distribution Ltd. shall file with the OEB and forward to intervenors a Draft Rate Order with a proposed Tariff of Rates and Charges attached that reflects the OEB's findings in this Decision and Order, no later than **April 28, 2021**. Newmarket-Tay Power Distribution Ltd. shall also include customer rate impacts and detailed information in support of the calculation of final rates in the draft rate order.

3. Intervenors and OEB staff shall file any comments on the draft rate order with the OEB, and forward to Newmarket-Tay Power Distribution Ltd., no later than **May 6, 2021**.

4. Newmarket-Tay Power Distribution Ltd. shall file with the OEB and forward to intervenors, responses to any comments on its draft Rate Order no later than **May 13, 2021**.

COST AWARDS

The OEB will issue a separate decision on cost awards once the following steps are completed:

1. VECC, SEC, and CCC shall submit to the OEB and copy Newmarket-Tay Power Ltd. their cost claims no later than **May 13, 2021**.

2. Newmarket-Tay Power Ltd. shall file with the OEB and forward to VECC, SEC, and CCC any objections to the claimed costs by **May 20, 2021**.

3. VECC, SEC, and CCC shall file with the OEB and forward to Newmarket-Tay Power Ltd. any responses to any objections for cost claims by **May 27, 2021**.

4. Newmarket-Tay Power Ltd. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

All materials filed with the OEB must quote the file number, **EB-2020-0041,** and be submitted in a searchable / unrestricted PDF format with a digital signature through the OEB's web portal at https://p-pes.ontarioenergyboard.ca/PivotalUX//. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guidelines found at http://www.oeb.ca/industry. If the web portal is not available, parties may email their documents to registrar@oeb.ca.

All communications should be directed to the attention of the Registrar at the address below and be received no later than 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, Margaret DeFazio at margaret.defazio@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 22, 2021

ONTARIO ENERGY BOARD

Original signed by

Christine E. Long
Registrar