



Newmarket-Tay Power Distribution Ltd.

**Application to dispose of balances in certain
deferral and variance accounts.**

PROCEDURAL ORDER NO. 2

June 2, 2023

The Ontario Energy Board (OEB) held a written hearing to determine a request by Newmarket-Tay Power Distribution Ltd. (Newmarket-Tay Power) for approval to dispose of balances in Account 1588 – RSVA Power and Account 1589 – RSVA Global Adjustment.

The request for disposition of the 2021 balances in these two accounts was originally made by Newmarket-Tay Power in context of the utility's 2023 incentive rate-setting mechanism (IRM) proceeding.¹ During the course of that proceeding, Newmarket-Tay Power was advised of the OEB's concerns that the disposition of balances in Accounts 1588 and 1589 could give rise to retroactive rate-making. That is because as part of that request, Newmarket-Tay Power is trying to correct an error in calculating the December 31, 2020 balance already disposed of on a final basis in its 2022 IRM proceeding.² On March 14, 2023, Newmarket-Tay Power filed a letter requesting that the final review of Account 1588 and Account 1589 be completed by May 1, 2023.

On March 23, 2023, the OEB issued its Decision and Order in the utility's 2023 IRM proceeding (IRM Decision) by Delegated Authority, without holding a hearing, pursuant to section 6(4) of the *Ontario Energy Board Act, 1998*. In that proceeding, the OEB approved Newmarket-Tay Power's IRM application for electricity distribution rates effective January 1, 2023, except for the aspect of the application that sought approval to dispose of balances in Account 1588 and Account 1589. The OEB confirmed that the utility's request for disposition of Account 1588 and Account 1589 balances would need to be heard by the OEB in a separate proceeding, given the possibility that disposition could give rise to retroactive rate-making for customers in the Newmarket-Tay Power rate zone.

¹ EB-2022-0050

² EB-2021-0044

On April 17, 2023, the OEB granted the Vulnerable Energy Consumers Coalition's (VECC) request for intervenor status. The OEB confirmed that VECC is eligible for a cost award.

To date in this proceeding, OEB staff and VECC have filed written interrogatories; Newmarket-Tay Power has filed its responses, and OEB staff, VECC, and Newmarket-Tay Power have filed written submissions. Both OEB staff and VECC argued that given the current record, there is a need for further discovery and adjudication. This was because Newmarket-Tay Power found a second error while preparing its responses to interrogatories and disclosed it in those responses. OEB staff submitted that the OEB should deny the disposition request of the 2021 balances in Accounts 1588 and 1589 at this time and that the OEB should allow Newmarket-Tay Power to apply for the disposition of these balances as part of its next rate application. In its reply submission, Newmarket-Tay Power requested to withdraw its request for the disposition of these balances at this time.³ Newmarket-Tay Power advised that it will include evidence consistent with suggestions from OEB staff as part of a subsequent proceeding, as well as any other relevant information available at that time.

Rule 20.01 of the [OEB's Rules of Practice and Procedure](#) provides (in part) that an applicant may withdraw an application at the hearing with the permission of the OEB. Rule 20.03 provides (in part) that the OEB may impose conditions on any withdrawal or discontinuance, including costs, as it considers appropriate. The OEB will permit Newmarket-Tay Power to withdraw its application, conditional upon Newmarket-Tay Power paying VECC's costs as they may be approved by the OEB, and the OEB's costs incidental to this proceeding.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Newmarket-Tay Power may withdraw its current request for the disposition of Account 1588 and 1589 balances, subject to the payment of the intervenor and OEB costs as discussed below.
2. If Newmarket-Tay decides to request adjustments to correct the errors in its next rate application, at a minimum, Newmarket-Tay Power shall provide the following information as part of its next rate application:

³³ EB-2023-0109, Newmarket-Tay Power Reply Submission, p. 1

- the allocation entry of \$768,874 for the IESO adjustment in December 2020 and a confirmation that Newmarket-Tay Power reallocated \$274,795 out of the \$768,874 Class A adjustment on the December 2020 IESO invoice into the RPP portion.
- an explanation of the nature of the \$274,795 RPP versus non-RPP allocation journal entry, including the calculation process and clarifying the basis for separating this amount from the other \$768,874 adjustment recorded in the 2021 General Ledger.
- the updated 2020 and 2021 Global Adjustment Analysis Workform that incorporates the two adjustments and any other potential adjustments to evaluate if the threshold tests for accounts 1588 and 1589 are met. If any discrepancies are found in these accounts, an explanation should be provided.
- a confirmation that Newmarket-Tay Power has completed a full review of its DVAs and certifies that the balances are accurate.
- a full explanation addressing the four factors listed in the OEB's Guidance letter issued on October 31, 2019, including, but not limited to, a further explanation as to how the errors were outside of Newmarket-Tay Power's control when it appears to have received the necessary IESO confirmation in the month before Newmarket-Tay Power filed its 2022 rate adjustment application in which it requested the final disposition of Account 1588 and 1589 balances as of December 31, 2020.

COST AWARDS

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

1. VECC shall submit to the OEB and copy to Newmarket-Tay Power its cost claim by **June 14, 2023**.
2. Newmarket-Tay Power may file with the OEB and forward to VECC any objections to VECC's claimed costs by **June 21, 2023**.
3. VECC may file with the OEB and forward to Newmarket-Tay Power any response to that objection by **June 28, 2023**.

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

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-2023-0109** 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 [Filing Systems 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 at the address below 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, Birgit Armstrong at Birgit.Armstrong@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, **June 2, 2023**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar