

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998, S.O. 1998, c. 15, (Schedule B)*;

**AND IN THE MATTER OF** an application by Hydro Ottawa Limited for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2016 and for each following year through to December 31, 2020.

**2<sup>nd</sup> AMENDMENT TO THE SEPTEMBER 18,  
2015 SETTLEMENT PROPOSAL**

**As incorporated in full in the  
Amended September 18, 2015 Settlement  
Proposal Filed December 7, 2015**

**FILED December 7, 2015**

## INTRODUCTION

On September 18, 2015, Hydro Ottawa Limited (“Hydro Ottawa”) filed with the Ontario Energy Board (“OEB”) a Settlement Proposal (“the September 18, 2015 Settlement Proposal”) reached with interveners following settlement negotiations arising from Hydro Ottawa’s Custom Incentive Rate-setting Application (“Custom IR” or the “Application”) as filed under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) for approval for changes to the rates charged for electricity distribution for a period of five years, to be effective January 1, 2016 through December 31, 2020. The OEB assigned File Number EB-2015-0004 to the Application.

The interveners who were parties to the September 18, 2015 Settlement Proposal (the “Intervenors”) are:

- Consumers Council of Canada (“CCC”);
- Energy Probe Research Foundation (“Energy Probe”);
- School Energy Coalition (“SEC”);
- Vulnerable Energy Consumers Coalition (“VECC”)

On page 13 of the September 18, 2015 Settlement Proposal, Hydro Ottawa and the Intervenors (collectively, “the Parties”) agreed that the Working Capital Allowance to be included in rate base for the 2016 to 2020 period would be determined after the Parties and the OEB review the results of a Lead/Lag study being conducted by Navigant Consulting.

On October 29, 2015 the OEB released Procedural Order No. 10 wherein it directed Parties to provide a joint proposal on the appropriate Working Capital Allowance and all necessary documentation or to notify the OEB that no proposal had been reached, by November 5, 2015.

On November 5, 2015, Hydro Ottawa filed an Amendment to the September 18, 2015 Settlement Proposal, and the associated attachments, setting out the joint agreement of the Parties on the outstanding Working Capital Allowance aspect of Issue 3.1 in this proceeding.

On November 23, 2015 the OEB released Procedural Order No. 11 wherein it determined that, while Hydro Ottawa had demonstrated the need for the new administration building and operations centre there was insufficient evidence to determine the prudence of the \$73 million cost estimate for the new administration and operations buildings (the New Buildings) or to determine the need for approximately 9 acres of land in excess of the building requirements.

The OEB further determined that it could not accept the provisions of the settlement proposal relating to confidentiality and privilege and encouraged the parties to consider wording provided in the Guelph Hydro and Waterloo North proceedings.

The OEB accepted the remainder of the settlement proposal, including the November 5, 2015 amendment to the September 18, 2015 Settlement proposal regarding working capital allowance, finding that the remainder of the settlement proposal reflected the public interest.

## **AGREEMENT – CONFIDENTIALITY & PRIVILEGE**

The Parties agree to replace the third paragraph on page 6 of the September 18, 2015 Settlement Proposal with the following:

The Parties acknowledge that this settlement proceeding is confidential in accordance with the Board's Practice Direction on Settlement Conferences (the "Practice Direction"). The Parties understand that confidentiality in that context does not have the same meaning as confidentiality in the Board's Practice Direction on Confidential Filings, and the rules of that latter document do not apply. Instead, in this settlement conference, and in this Agreement, the Parties have interpreted "confidential" to mean that the documents and other information provided during the course of the settlement proceeding, the discussion of each issue, the offers and counter-offers, and the negotiations leading to the settlement – or not – of each issue during the settlement conference are strictly privileged and without prejudice. None of the foregoing is admissible as evidence in this proceeding, or otherwise, with one exception, the need to resolve a subsequent dispute over the interpretation of any provision of this Settlement Proposal. Further, the Parties shall not disclose those documents or other information to persons who were not attendees at the settlement conference. However, the Parties agree that "attendees" is deemed to include, in this context, persons who were not physically in attendance at the settlement conference but were a) any persons or entities that the Parties engage to assist them with the settlement conference, and b) any persons or entities from whom they seek instructions with respect to the negotiations; in each case provided that any such persons or entities have agreed to be bound by the same confidentiality provisions.

See the Amended September 18, 2015 Settlement Proposal filed December 7, 2015 for the incorporation of these agreed to provisions.

## **AGREEMENT – NEW FACILITIES**

The Parties agree, pursuant to Procedural Order No. 11 that Hydro Ottawa may proceed to issue a Request for Proposal and that Hydro Ottawa is approved to incur expenses up to \$66 million for the land and buildings associated with the New Facilities as described in Hydro Ottawa's Custom IR Application. The Parties agree that this approval is based on the OEB's

assessment of and concurrence with Hydro Ottawa of its need for the New Facilities.<sup>1</sup> The \$66 million includes \$15 million for the cost of land and \$51 million towards the construction of the New Facilities. The Parties acknowledge the OEB's statement that the \$66 million is in no way determinative of the final amount the OEB will accept as being prudently incurred<sup>2</sup> and that the OEB will assess prudence for additions above \$66 million based on evidence to support spending above \$66 million as supplied by Hydro Ottawa at its next rebasing.<sup>3</sup> For clarity the Parties understand that the original agreement reached on September 18, 2015 was for \$93 million which comprised of \$19 million for the land and \$73 million for the buildings construction. In Procedural Order No. 11 the Board approved expenses up to \$66 million comprising of \$15 million for the land, \$51 million for the New Facilities.

The Parties agree that the approved Y factor deferral account referred to by the OEB in Procedural Order No. 11, will provide rate recovery of amounts up to the approved \$66 million and consequently does not apply to "spending above \$66 million." The Parties agree that Hydro Ottawa will file an application to implement the rate riders as prescribed in the settlement proposal.

The Parties consequently agree to create a new deferral or variance account to capture and record revenue requirement impacts arising from costs of the New Facilities and land that is above the \$66 million approved by the OEB in Procedural Order No. 11. The Parties agree that this second deferral account shall be called the "New Facilities Account" and that Hydro Ottawa will apply for disposition of the approved amounts at the next rebasing. Carrying interest on balance in the account will not be charged. The amounts in the New Facilities Account will be subject to a prudence review. This agreement pertaining to the creation of a new deferral account to be called "New Facilities" is part of the second amendment to the September 18, 2015 Settlement Proposal which is incorporated in full in the Amended September 18, Settlement Proposal.

On page two of Procedural Order No. 11, the OEB determined that but for the items comprising the second amendment to the September 18, 2015 Settlement Proposal, namely the confidentiality provision and the \$66 million cap on the expenses associated with the new facilities, the OEB accepted the remainder of the September 18, 2015 Settlement Proposal including subsequent agreement on working capital allowance finding that the remainder of the September 18, 2015 Settlement Proposal reflects the public interest.

As noted above see the Amended September 18, 2015 Settlement Proposal filed December 7, 2015 for the incorporation of these agreed to provisions.

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<sup>1</sup> Page 5 of PO # 11

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.