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# **DECISION AND RATE ORDER**

**EB-2021-0038**

## **KITCHENER-WILMOT HYDRO INC.**

**Application for rates and other charges to be effective  
January 1, 2022**

**BEFORE: Pankaj Sardana**  
Presiding Commissioner

**Anthony Zlahtic**  
Commissioner

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**December 16, 2021**

## 1 OVERVIEW

The Ontario Energy Board is approving changes to the rates that Kitchener-Wilmot Hydro Inc. (KWHI) charges to distribute electricity to its customers, effective January 1, 2022.

As a result of this Decision, there will be a monthly total bill increase of \$3.29 for a residential customer consuming 750 kWh, effective January 1, 2022. This change does not factor in applicable taxes or the Ontario Electricity Rebate.

## 2 CONTEXT AND PROCESS

KWHI filed its application on August 18, 2021 under section 78 of the *Ontario Energy Board Act, 1998* and in accordance with Chapter 3 of the OEB's *Filing Requirements for Incentive Rate-Setting Applications* (Filing Requirements). The application was based on the Price Cap Incentive Rate-setting (Price Cap IR) option, with a five-year term.

The Price Cap IR option is one of three incentive rate-setting mechanisms (IRM) approved by the OEB.<sup>1</sup> It involves the setting of rates through a cost of service application in the first year and mechanistic price cap adjustments which may be approved through IRM applications in each of the ensuing four adjustment years.

The OEB follows a standardized and streamlined process for hearing IRM applications filed under Price Cap IR. In each adjustment year of a Price Cap IR term, the OEB prepares a Rate Generator Model that includes, as a placeholder, information from the distributor's past proceedings and annual reporting requirements. A distributor then reviews, completes, and includes the model with its application, and may update the model during the proceeding to make any necessary corrections or to incorporate new rate-setting parameters as they become available.

KWHI serves approximately 99,000 mostly residential and commercial electricity customers in the City of Kitchener and the Township of Wilmot.

Notice of the application was issued on September 8, 2021. The Independent Electricity System Operator (IESO), School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC) requested intervenor status. SEC and VECC requested cost eligibility. The OEB approved the IESO, SEC and VECC as intervenors and approved cost eligibility for SEC and VECC.

The application was supported by pre-filed written evidence and a completed Rate Generator Model. KWHI updated and clarified the evidence during the proceeding.

KWHI responded to interrogatories from OEB staff, SEC and VECC. OEB staff, SEC and VECC filed written submissions on the application to which KWHI made a written reply.

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<sup>1</sup> Each of these options is explained in the OEB's *Handbook for Utility Rate Applications*.

### 3 DECISION OUTLINE

Each of the following issues is addressed in this Decision, together with the OEB's findings.

- Annual Adjustment Mechanism
- Retail Transmission Service Rates
- Group 1 Deferral and Variance Accounts
- Lost Revenue Adjustment Mechanism Variance Account Balance

Instructions for implementing KWHI's new rates and charges are set out in the final section of this Decision.

This Decision does not address rates and charges approved by the OEB in prior proceedings, such as specific service charges<sup>2</sup> and loss factors, which are out of scope of an IRM proceeding and for which no further approvals are required to continue to include them on KWHI's Tariff of Rates and Charges.

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<sup>2</sup> Certain service charges are subject to annual inflationary adjustments to be determined by the OEB through a generic order. For example, the Decision and Order EB-2021-0301, issued November 25, 2021 established the adjustment for energy retailer service charges, effective January 1, 2022.

## 4 ANNUAL ADJUSTMENT MECHANISM

On August 6, 2021, the OEB issued a Notice on its own motion to initiate a proceeding to consider the inflation factor to be used to set rates for electricity transmitters and electricity and natural gas distributors for the year 2022. The OEB issued its Decision and Order on November 18, 2021, establishing the 2022 inflation factor. An inflation factor of 3.30% applies to all IRM applications for the 2022 rate year.

KWHI applied to change its rates, effective January 1, 2022, based on a mechanistic rate adjustment using the OEB-approved **inflation minus X-factor** formula applicable to IRM applications. The adjustment applies to distribution rates (fixed and variable) uniformly across all customer classes.<sup>3</sup>

The components of the Price Cap IR adjustment formula applicable to KWHI are set out in the table below. Inserting these components into the formula results in a 3.15% increase to KWHI's rates: **3.15% = 3.30% - (0.00% + 0.15%)**.

**Table 4.1: Price Cap IR Adjustment Formula**

Components		Amount
Inflation Factor <sup>4</sup>		3.30%
X-Factor	Productivity <sup>5</sup>	0.00%
	Stretch (0.00% to 0.60%) <sup>6</sup>	0.15%

The X-factor is the sum of the productivity factor and the stretch factor. The productivity offset varies 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 IRM applications for the 2022 rate year. The

<sup>3</sup> The adjustment does not apply to the following components of delivery rates: 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.

<sup>4</sup> EB-2021-0212, Decision and Order, November 18, 2021

<sup>5</sup> Report of the Ontario Energy Board – “Rate Setting Parameters and Benchmarking under the Renewed Regulatory Framework for Ontario’s Electricity Distributors”, EB-2010-0379, December 4, 2013

<sup>6</sup> Report to the Ontario Energy Board – “Empirical Research in Support of Incentive Rate-Setting: 2020 Benchmarking Update”, prepared by Pacific Economics Group LLC., August 2021

stretch factor component of the X-factor is distributor specific. 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 stretch factor assigned to KWHI is 0.15%, resulting in a rate adjustment of 3.15%.

### **Findings**

KWHI's request for a 3.15% rate adjustment is in accordance with the annually updated parameters set by the OEB. The adjustment is approved, and KWHI's new rates shall be effective January 1, 2022.

## 5 RETAIL TRANSMISSION SERVICE RATES

KWHI is transmission connected. The transmission grid is operated by the IESO, and the IESO charges KWHI for network service costs on behalf of electricity transmitters. KWHI recovers these costs from its customers through Retail Transmission Service Rates (RTSRs).

To recover its cost of transmission services, KWHI requests approval to adjust the RTSRs that it charges its customers in accordance with the Uniform Transmission Rates (UTRs) currently in effect.

### Findings

KWHI's proposed adjustment to its RTSRs is approved. The RTSRs were adjusted based on the current OEB-approved UTRs.<sup>7</sup>

UTRs and host-RTSRs are typically approved annually by the OEB. In the event that new UTRs or host-RTSRs take effect during KWHI's 2022 rate year, any resulting differences (from the prior-approved UTRs and host-RTSRs) are to be captured in Retail Settlement Variance Accounts 1584 (Retail Transmission Network Charge) and 1586 (Retail Transmission Connection Charge).

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<sup>7</sup> EB-2021-0176, Decision and Rate Order, June 24, 2021; EB-2020-0030, Decision and Rate Order, December 17, 2020

## 6 GROUP 1 DEFERRAL AND VARIANCE ACCOUNTS

In each year of an IRM term, the OEB reviews a distributor's Group 1 deferral and variance accounts (DVA) to determine whether those balances should be disposed. OEB policy states that Group 1 account balances should be disposed if they exceed, on a net basis (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.<sup>8</sup> If the net balance does not exceed the threshold, a distributor may still request disposition.

The 2020 year-end net balance for KWHI's Group 1 accounts eligible for disposition, including interest projected to December 31, 2021, is a debit of \$5,598,513 and pertains to variances accumulated during the 2020 calendar year, as well as historical network service charges pertaining to the 2015 to 2020 period. The projected interest amount excludes any interest related to historical network service charges, as discussed in the following section. This amount represents a total debit claim of \$0.0031 per kWh, which exceeds the disposition threshold. KWHI has requested disposition of this amount over a one-year period. A summary of the individual Group 1 DVA Balances totalling \$5,598,513 for which KWHI has requested disposition is summarized in Table 6.2.

Included in the Group 1 accounts are certain variances related to costs that are paid for by a distributor's customers on different bases, depending on their classification. Namely, "Class A" customers, who participate in the Industrial Conservation Initiative, pay for Global Adjustment (GA) charges based on their contribution to the five highest Ontario demand peaks over a 12-month period. "Class B" customers pay for GA charges based on their monthly consumption totals, either as a standalone charge or embedded in the Regulated Price Plan (RPP).<sup>9</sup> A similar mechanism applies to Class A and Class B customers for Capacity Based Recovery (CBR) charges.<sup>10</sup> The balance in the GA variance account is attributable to non-RPP Class B customers and is disposed through a separate rate rider. The balance in the CBR Class B variance account is attributable to all Class B customers.

KWHI had Class A customers during the period in which variances accumulated, however, the CBR Class B rate riders calculated rounded to zero at the fourth decimal place in one or more of the rate classes. In this event, the balance of the CBR Class B

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<sup>8</sup> Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative (EDDVAR)", EB-2008-0046, July 31, 2009

<sup>9</sup> For additional details on the Global Adjustment charge, refer to the Independent Electricity System Operator (IESO)'s [website](#).

<sup>10</sup> All Class B customers (RPP and non-RPP) pay the CBR as a separate charge based on their monthly consumption. For additional details on the CBR for Class A customers, refer to the IESO's [website](#).



variance account is disposed along with Account 1580 – Wholesale Market Service Charge through the general Deferral and Variance Account rate rider.

During the period in which variances accumulated, KWHI had customers transition between Class A and Class B. 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 receiving credits) for their disposal. KWHI has proposed to allocate a portion of the GA and CBR Class B balances to its transition customers, based on their customer-specific consumption levels.<sup>11</sup> The amounts allocated to each transition customer are proposed to be recovered (or refunded, as applicable), by way of 12 equal monthly installments.

In its submission, OEB staff supported KWHI's request to dispose of its December 31, 2020 Group 1 DVAs on a final basis. OEB staff noted that the balance in Account 1584 is atypical, given the inclusion of historical charges pertaining to prior periods.

Aside from Account 1584, SEC and VECC did not make submissions on the Group 1 DVAs.

#### Account 1584 - Retail Transmission Network Charge

Account 1584 is a Group 1 DVA used by distributors to record the net of:

- i. the amount charged by the IESO, based on the monthly settlement invoice, for transmission network services, including accruals, and
- ii. the amount billed to customers for the same services using the OEB-approved Transmission Network Charge Rate, including accruals.<sup>12</sup>

As indicated above, the 2020 year-end net balance for KWHI's Group 1 accounts includes a significant debit balance of \$5,598,513 in Account 1584 which pertains to variances accumulated during the 2020 calendar year, as well as historical network service charges pertaining to the 2015 to 2020 period. The discussion below sets out the explanation provided by KWHI for this unusually large debit balance.

On August 17, 2020, KWHI filed a Price Cap IR application for rates effective January 1, 2021. The OEB issued a Decision and Rate Order on December 18, 2020 approving 2021 rates for KWHI which include pass-through charges such as RTSRs, that recover the network service charges that the KWHI pays to the IESO.

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<sup>11</sup> 2022 IRM Rate Generator Model, Tab 6.1a GA Allocation and Tab 6.2a CBR B\_Allocation

<sup>12</sup> Accounting Procedures Handbook for Electricity Distributors, Effective January 1, 2012, Page 35

On December 15, 2020, KWHI filed a [letter](#) with the OEB to advise that it had recently been made aware of an error (pertaining to data that was omitted from one metering point) in the historical network service charges paid to the IESO and to seek OEB guidance for disposition of the balance once the quantum of the error is known.

On December 21, 2020, the OEB [advised](#) KWHI to address the matter within its 2022 IRM application or, if KWHI anticipated cash flow constraints, it could file a standalone application sooner. KWHI filed an application on January 26, 2021 to change its 2021 RTSRs.<sup>13</sup>

On May 6, 2021, the OEB issued its decision and rate order allowing KWHI to adjust its 2021 RTSRs to correct for the missing metering point data on a going forward basis.

In the current application, KWHI is seeking to recover uncollected amounts due to the metering error for the applicable historical period (June 8, 2015 to November 30, 2020). KWHI explained that it had been informed by the IESO in November 2020 that one of its meters had been originally entered into the IESO's system incorrectly, with an end date in June 2015, and that the IESO had not charged Network Service charges for that delivery point since June 2015. As a result, KWHI had not been invoiced by the IESO for this metering point and, correspondingly, it had not billed its customers for these charges.<sup>14</sup>

KWHI seeks to dispose of the unbilled network service charges applicable to the single meter delivery point between June 8, 2015, and November 30, 2020 in the amount of \$5,991,524.<sup>15</sup> The unbilled volumes and associated charges are outlined in Table 6.1 below.<sup>16</sup>

**Table 6.1: Unbilled Network Volumes and Charges**

		<b>Unbilled Volumes (kW)</b>	<b>Associated Charges</b>
2015	Jun - Dec	(162,173)	(\$613,014)
2016	Jan - Dec	(307,605)	(\$1,125,834)
2017	Jan - Dec	(284,027)	(\$1,033,041)
2018	Jan - Dec	(294,770)	(\$1,064,120)
2019	Jan - Dec	(285,122)	(\$1,075,378)
2020	Jan - Nov	(275,545)	(\$1,080,136)
<b>Total</b>		<b>(1,609,242)</b>	<b>(\$5,991,524)</b>

<sup>13</sup> EB-2021-0074

<sup>14</sup> EB-2021-0038, Manager's Summary, Page 12

<sup>15</sup> EB-2021-0074, IR responses filed April 8, 2021, Staff-2(a)

<sup>16</sup> EB-2021-0074, IR responses filed April 8, 2021, Appendix A

In its application, KWHI noted that the IESO will not be charging interest of \$271,371 on the unbilled charges. However, the IESO stated that it is required by the Market Rules to issue a single invoice for the entire amount of the unbilled historical amount.<sup>17</sup> KWHI requested that the IESO delay billing the amount owing until it filed its 2022 rate application and received an OEB decision on the collectability of this amount from its customers.

In this application, KWHI is also requesting an order from the OEB to allow the IESO to align its invoicing of the unbilled historical amounts with KWHI's collection of such amounts in accordance with the OEB's decision and order in respect of this application. The IESO agreed to delay invoicing for the historical amounts until the OEB renders a decision with respect to the historical amounts.

KWHI is requesting OEB approval to collect the unbilled historical amounts over a one-year period and explained the impact on KWHI's financial situation if it is required to immediately pay the IESO the full amount of the unbilled charges. KWHI stated that it would be required to use its line of credit to pay the IESO, which would increase its financing costs, and that the increased borrowing would decrease KWHI's financial standing, possibly increasing financing costs into the future.<sup>18</sup> KWHI also stated that, if it pays the outstanding amount to the IESO and subsequently is unable to collect the amount from its customers, KWHI's financial viability will be at risk and estimates that its return on equity (ROE) would fall to 3.8%, which is more than 300 basis points below its approved ROE of 8.52%.<sup>19</sup>

### **Submissions of the Parties**

The evidence, submissions and reply submissions of the parties to this proceeding address the disposition of the Account 1584 DVA within the following topics:

- IESO Market Rules Applicability
- OEB's Generic Approach to Retroactive Adjustments
- KWHI's Financial Position
- Alignment of IESO Invoicing

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<sup>17</sup> EB-2021-0038, Manager's Summary, Pages 13-14

<sup>18</sup> IR responses to Staff-7(c)

<sup>19</sup> Manager's Summary, page 13

*IESO Market Rules Applicability and Bill 13*

The relevant provisions of the IESO's Market Rules referenced by all parties are set out in Chapter 10, sections 6C1.2 and 6C1.3.<sup>20</sup>

Section 6C.1.2 and 6C.1.3 of Chapter 10 of the IESO's Market Rules collectively provide that where an inaccuracy exists in respect of meter point documentation, the IESO shall include an amount equal to the correction on the applicable invoice.<sup>21</sup>

VECC and SEC's submissions did not dispute that, according to the applicable Market Rules, that the IESO is entitled to seek recovery of the unbilled charges from KWHI as settlement between the IESO and a distributor, regardless of whether the distributor is permitted to recover the charges from its customers.<sup>22</sup> VECC, SEC and OEB staff's submissions also agreed that there is currently no limitation period under the Market Rules for the IESO to seek recovery of past under-billed amounts.<sup>23</sup> VECC and SEC's reply submissions referred to upcoming legislative amendments that would create a statutory-based two-year limitation period on certain IESO settlement adjustments. Since the filing of the submissions in this proceeding, the legislative amendments received Royal Assent and will come into force on January 1, 2022.<sup>24</sup>

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<sup>20</sup> IESO Market Rules, Chapter 10 - Transmission Service and Planning <https://www.ieso.ca/en/Sector-Participants/Market-Operations/Market-Rules-And-Manuals-Library>

The relevant subsections of the Market Rules state:

6C.1.2 The IESO shall use reasonable endeavours to adjust the applicable settlement statement of a transmission customer that:

6C.1.2.2 has been incorrectly charged for a transmission service by reason of any inaccuracies in the meter point documentation or other information referred to in section 3.1.3.2, 5.1.3.2, 6.1.3.2 or 6A.1.2.2.

6C.1.3 Where the *IESO*:

6C1.3.3 corrects the amount charged for a *transmission service* pursuant to section 6C.1.2.2, the *IESO* shall include an amount equal to such correction as a credit or debit, as the case may be, on the applicable *invoice* issued to the *transmission customer* in accordance with section 2.2.1 and shall include as a credit or debit, as the case may be, on the applicable *invoice* submitted to each applicable *transmitter* an amount equal to such correction, as credited or debited to *transmission customers*, relating to that *transmitter's transmission system* in accordance with section 2.2.2

<sup>21</sup> Response to Staff-7(a) and (b)

<sup>22</sup> SEC Submission, page 2; VECC Submission pages 2-3;

<sup>23</sup> OEB staff Submission, page 8; SEC Submission, page 2; VECC Submission, page 3; Reply Submission, page 4.

<sup>24</sup> Bill 13, *Supporting People and Businesses Act, 2021* received Royal Assent on December 2, 2021. <https://www.ontario.ca/laws/statute/s21034>

*OEB's Generic Approach to Retroactive Adjustments and Retroactive Ratemaking*

OEB staff and SEC's submissions, and KWHI's Reply submission, referred to the OEB's October 2019 letter which advised distributors of the OEB's approach to addressing accounting or other errors in respect of certain variance accounts through retroactive adjustments in appropriate cases (Generic Approach). The OEB advised that it will take a generic approach to the variance accounts for so-called "pass-through costs" related to certain commodity charges, IESO and other third-party charges that electricity distributors have paid or that are payable and that are intended to be passed through to their customers without earning a profit or incurring a loss.<sup>25</sup>

According to the Generic Approach, where an accounting or other error is discovered after the balance in one of the specified variance accounts has been cleared by a final order of the OEB, the OEB will determine on a case-by-case basis whether to make a retroactive adjustment based on the particular circumstances of each case, including factors such as:

- Whether the error was within the control of the distributor
- The frequency with which the distributor has made the same error
- Failure to follow guidance provided by the OEB
- The degree to which other distributors are making the similar errors.<sup>26</sup>

OEB staff's submission noted that KWHI, in its application and interrogatory responses, discussed the relevant factors set out in the Generic Approach. OEB staff agreed that KWHI was not in control of the error and that the incorrect end-date of the meter in the IESO's system is not KWHI's responsibility. OEB staff also noted that KWHI disclosed the error on a timely basis. OEB staff supported KWHI's request to retroactively adjust the amount in the subject variance account and collect the unbilled charges from its customers that are payable to the IESO.

SEC submitted that amounts attributable to unbilled network retail transmission service in 2015, 2016, 2018 and 2019, and potentially 2017, may not be recoverable from ratepayers, as that would result in impermissible retroactive ratemaking. SEC submitted that Account 1584 was disposed of on a final basis and was no longer available for KWHI to attribute costs for those years. SEC was unclear whether Account 1584 was cleared on a final basis in 2017.<sup>27</sup>

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<sup>25</sup> ["Adjustments to Correct for Errors in Electricity Distributor "Pass-Through" Variance Accounts After Disposition"](#), Letter dated October 31, 2019 (Generic Approach)

<sup>26</sup> *Ibid*, page 2

<sup>27</sup> SEC Submission, page 2

SEC agreed that the factors listed in the OEB's October 2019 letter (Generic Approach) would strongly militate towards allowing the adjustment but SEC argued that the letter itself is not binding upon any OEB panel. SEC questioned whether the letter provided a legal basis for departing from the rule against retroactive ratemaking.<sup>28</sup> SEC's submission discussed some of the case law on the rule against retroactive ratemaking and the exceptions to the rule. SEC stated that the overarching principle in determining if a ratemaking decision that impacts past rates is impermissible is the knowledge of the parties. SEC submitted that it is not clear that the October 2019 letter provides sufficient notice to customers to allow them to understand that amounts cleared on a final basis, may be changed later.<sup>29</sup>

VECC's submission did not refer to the Generic Approach, however, VECC was satisfied that KWHI was not in control of the error and was not alerted to any potential input errors through the invoice process due to the fluctuations in network charges and the trend in UTRs over the same time period (June 8, 2015 to Nov 30, 2019).<sup>30</sup>

VECC submitted that KWHI had made its case to correct for errors in Account 1584 and had demonstrated with the support of the IESO that the error was not its fault. VECC also noted that KWHI will not benefit from the error. VECC supported KWHI's application to recover the network service charges not billed by the IESO.<sup>31</sup>

In its reply submission, KWHI argued that the rule against retroactive ratemaking as it applies to section 78 of the *Ontario Energy Board Act* does not apply to the Market Rules created pursuant to section 32(2)(b) of the *Electricity Act*. KWHI submitted that the provisions of the Market Rules address the circumstances where retroactive adjustments are, and are not, allowed.<sup>32</sup> KWHI submitted that the relevant consideration in this case is the specific operation of Account 1584. If the unbilled amounts were not eligible to be recorded in Account 1584 in the years where Account 1584 was disposed of on a final basis, then there is no retroactive ratemaking.<sup>33</sup> KWHI argued that proper use of Account 1584 does not violate the rule against retroactive ratemaking.

KWHI acknowledged that Account 1584 was previously cleared on a final basis for 2015 and 2016 in EB-2017-0056, on an interim basis for 2017 in EB-2018-0048, and on a

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<sup>28</sup> SEC Submission, page 3

<sup>29</sup> SEC Submission, page 3 and referring to *ATCO Gas and Pipelines Ltd. v Alberta (Utilities Commission)* 2014 ABCA 28, Alberta Court of Appeal at para 57  
<https://www.canlii.org/en/ab/abca/doc/2014/2014abca28/2014abca28.html>

<sup>30</sup> VECC Submission, page 2

<sup>31</sup> VECC Submission, page 3

<sup>32</sup> Reply Submission, para 15

<sup>33</sup> Reply Submission, para 17

final basis for 2018 and 2019 in EB-2020-0035.<sup>34</sup> However, KWHI argued that the question of whether or not the adjustment proposed in this application amounts to retroactive ratemaking or a permitted 2022 adjustment turns on: (1) the exact wording and operations of Account 1584; and (2) the facts surrounding the unbilled amounts.<sup>35</sup>

The reply submission referred to the OEB's Accounting Procedures Handbook, and in particular, the rules for how Account 1584 must be used by distributors.<sup>36</sup>

KWHI submitted that, the fact that the IESO did not charge it for the unbilled amounts is critical to the analysis of whether or not there is retroactive ratemaking.<sup>37</sup> Once the IESO charges the distributor and issues the relevant settlement invoice, it will trigger an obligation to record the unbilled amounts in Account 1584 at that time and the amounts can be disposed without violating the rule against retroactive ratemaking.<sup>38</sup> KWHI argued that Account 1584 is designed to capture exactly these types of variances, without violating the rule against retroactive ratemaking.<sup>39</sup>

KWHI disagreed with SEC's submission that the Generic Approach is not binding on any OEB panel and does not provide a legal basis to depart from the rule against retroactive ratemaking.<sup>40</sup> KWHI's main argument is that it is using Account 1584 properly and in a manner that does not constitute retroactive ratemaking. In the alternative, KWHI submitted that the rule against retroactive ratemaking is not ironclad and retroactive adjustment are routinely allowed pursuant to the OEB's broad ratemaking authorities.<sup>41</sup> KWHI argued that the rule against retroactive ratemaking is not a legal prohibition but rather a general rule that is subject to various exceptions such as deferral and variance accounts.<sup>42</sup> The reply submission referred to the Supreme Court decision which held that deferral accounts are acceptable regulatory tools that enable a regulator to defer consideration of a particular item of expense or revenue without violating the rule against retroactive ratemaking.<sup>43</sup> The reply submission also noted that there have been several recent cases where the OEB has approved adjustments even if the balances have been disposed of on a final basis.<sup>44</sup>

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<sup>34</sup> Reply Submission, para 21

<sup>35</sup> Reply Submission, para 22

<sup>36</sup> Reply Submission, para 23

<sup>37</sup> Reply Submission, para 29

<sup>38</sup> Reply Submission, para 34

<sup>39</sup> Ibid

<sup>40</sup> Reply Submission, para 44

<sup>41</sup> Reply Submission, para 36

<sup>42</sup> Reply Submission, paras 46 – 47

<sup>43</sup> Reply Submission, para 20 and para 48, referring to *Bell Canada v. Bell Alliant Regional Communications*, 2009 SCC 40, [2009] 2 S.C.R. 764 at para. 54.

<sup>44</sup> Reply Submission, para 48, referring to EB-2014-0043 and EB-2016-0090

### *KWHI's Financial Position*

KWHI's reply submission referred to the OEB's statutory objectives which include, among other things, the maintenance of a financially viable electricity industry.<sup>45</sup> KWHI reiterated its evidence that, if KWHI pays the unbilled amounts to the IESO and subsequently is unable to collect the amount from its customers, the financial viability of the KWHI is at risk.<sup>46</sup> KWHI submitted that, under these circumstances, it is well within the OEB's powers to ensure that the statutory objective of maintaining a financially viable electricity industry to issue the (sic) Retrospective Accounting Guidelines as it relates to the treatment of "pass-through costs".<sup>47</sup>

In its submission, OEB staff agreed that KWHI's financial position could be negatively impacted if KWHI is required to immediately pay the full unbilled amount and that the resulting financial constraints on the KWHI could have negative consequences for ratepayers.

### *Alignment of IESO Invoicing*

As noted earlier in this Decision, KWHI requests an order from the OEB to approve the IESO invoicing of the unbilled historical amounts in alignment with KWHI's collection of such amounts.<sup>48</sup>

OEB staff submitted that, in the particular circumstances of this case, there is a public interest in the IESO aligning its invoicing with KWHI's collection of the unbilled amount from ratepayers over such time period as may be approved by the OEB, and in ordering the IESO to do so.

Both SEC and VECC submitted that a longer period to recover the significant unbilled amounts is desirable and recommend a five-year period be implemented to mitigate bill impacts.<sup>49</sup>

## **Findings**

The OEB approves the disposition of the Group 1 DVA accounts debit balance totalling \$5,598,513 as requested by KWHI and summarized in Table 6.2 below on a final basis over a one-year period from January 1, 2022 to December 31, 2022. Additionally, the

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<sup>45</sup> Reply Submission, para 53, referring to section 1(1) of the *Ontario Energy Board Act, 1998*

<sup>46</sup> Reply Submission, paras 54 – 56

<sup>47</sup> Reply Submission, para 57

<sup>48</sup> Manager's Summary, Page 7

<sup>49</sup> SEC Submission at page 3; VECC Submission, page 4



OEB orders the IESO to invoice KWHI the unbilled \$5,991,524 without interest on a monthly basis to align with KWHI's collection of this amount from its customers over the January 1, 2022 to December 31, 2022 period. None of the parties contested the disposition of the Group 1 DVA balances over a one-year period with the exception of the \$5,991,524 balance associated with the unbilled IESO RTSR charges contained within Account 1584. The OEB addresses its reasons for approving the IESO unbilled RTSR charges below.

### *Applicable IESO Market Rules and Bill 13*

SEC and VECC did not challenge the IESO's current Market Rules or the IESO's limitation on settlement adjustments.

The OEB notes that Bill 13, the [\*Supporting People and Businesses Act, 2021\*](#) (2021 Act) received Royal Assent on December 2, 2021, and includes amendments to the *Electricity Act, 1998* that make provision for a two-year (or other prescribed) limitation period that would apply to certain settlements by the IESO.<sup>50</sup> These amendments to the *Electricity Act, 1998*, which come into force on January 1, 2022, were referred to by SEC which noted that the new limitation period would likely apply to situations like that raised by this application.<sup>51</sup>

The OEB further notes that, regulations are required to specify the settlements that will be subject to the new limitation period, and until that time the ambit of the limitation period cannot be determined. Nevertheless, it is worth noting that:

- the amendments to the *Electricity Act, 1998* speak to the limitation period applying to any prescribed payment, adjustment or amount that “is based on an entitlement or a specified charge that arises under an Act or a regulation, or one or more provisions of an Act or a Regulation, that is prescribed...”<sup>52</sup>
- while the limitation period, where it applies, could have retroactive effect, a regulation is required for that purpose<sup>53</sup>
- the amendments include provisions that enable the IESO to continue to make or receive a payment or an adjustment of an amount in certain circumstances, including further to a decision, order or direction of the OEB in respect of a variance account<sup>54</sup>

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<sup>50</sup> *Supporting People and Businesses Act, 2021*, S.O. 2021, c. 34 - Bill 13 (2021 Act). The amendments to the *Electricity Act, 1998* are set out in Schedule 9 of the 2021 Act and include a new section 36.1.1. which provides for a two-year (or other prescribed) limitation period that would apply to certain settlements by the IESO. <https://www.ontario.ca/laws/statute/s21034>

<sup>51</sup> SEC Submission, page 2, footnote 9

<sup>52</sup> *Electricity Act, 1998*, as amended, sections 36.1.1 (1) – (3)

<sup>53</sup> *Electricity Act, 1998*, as amended, section 36.1.1(15) states that “a regulation under this section may apply to a period before it is made, if the regulation so provides”.

<sup>54</sup> *Electricity Act, 1998*, as amended, section 36.1.1(7).

- the amendments expressly preserve the OEB’s authority subject only to a conflict between an order of the OEB and a regulation under the new *Electricity Act, 1998* provisions, in which case the regulation prevails to the extent of the conflict<sup>55</sup>

Accordingly, in these circumstances, the OEB does not consider it appropriate to defer making its decision in this proceeding at this time.

#### *OEB’s Generic Approach to Retroactive Adjustments in Pass-through Accounts*

The OEB finds that applying the October 2019 letter on retroactive adjustments (Generic Approach) is appropriate in this circumstance. The record demonstrates that KWHI was not in control of the error, that KWHI disclosed the error to the OEB on a timely basis and took the necessary steps with the OEB to seek disposition and will properly record the amounts in Account 1584 once billed by the IESO. KWHI was informed by the IESO in November 2020 that it had not been billed for a meter point since June 2015. Further, KWHI and the IESO came to an arrangement, subject to OEB approval, to address payment of the unbilled amount without interest to align with KWHI collecting payments that will be remitted to the IESO over the January 1, 2022 to December 31, 2022 period.

The OEB disagrees with SEC’s submission that recovery of the aforementioned amounts would result in impermissible ratemaking.

Both the SEC and reply submissions referred to the case of *Union Gas v. Ontario Energy Board*<sup>56</sup>, in which the Ontario Court of Appeal made the following findings:

- Generally speaking, an economic regulatory body such as the OEB may not exercise its rate-making authority retroactively or retrospectively<sup>57</sup>
- Nonetheless, courts have recognized qualifications on the principle against retroactive ratemaking<sup>58</sup>
- Deferral accounts are “accepted regulatory tools” that “enabl[e] a regulator to defer consideration of a particular item of expense or revenue that is incapable of being forecast with certainty for the test year<sup>59</sup>

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<sup>55</sup> *Electricity Act, 1998*, as amended, section 36.1.1(8).

<sup>56</sup> *Union Gas Limited v. Ontario Energy Board*, 2015 ONCA 453

[2015 ONCA 453 \(CanLII\) | Union Gas Limited v. Ontario Energy Board | CanLII](#)

referenced in SEC Submission, page 2 and Reply Submission, para 48

<sup>57</sup> *Ibid*, para 82

<sup>58</sup> *Ibid*, para 87

<sup>59</sup> *Ibid*, para 89 and referring to *Bell Canada v. Bell Alliant Regional Communications*, 2009 SCC 40 at para. 54

- However, “[s]lavish adherence to the use of interim rates and deferral accounts should not prohibit adjustments” in a proper case<sup>60</sup>
- Simply because a ratemaking decision has an impact on a past rate does not mean it is an impermissible retroactive decision; the critical factor for determining whether the regulator is engaging in retroactive ratemaking is the parties’ knowledge that the rates were subject to change.<sup>61</sup>

The OEB agrees with KWHI’s reply submission that the rule of retroactive ratemaking is not “ironclad” and finds that applying the OEB’s Generic Approach set out in its October 2019 letter does not constitute impermissible retroactive ratemaking in the circumstances of this proceeding.

The OEB finds that the legal framework governing the operation of Account 1584 is set out in the OEB’s Accounting Procedures Handbook. Furthermore, the OEB finds that KWHI has demonstrated that it is using the account properly.

#### *Utility Financial Position*

The OEB accepts KWHI’s evidence that KWHI’s financial position would be negatively impacted if it is unable to recover amounts from its customers that it has to pay the IESO. KWHI stated that it would be required to use its line of credit to pay the IESO, which would increase its financing costs. Under this circumstance, the higher short-term debt would increase KWHI’s financing costs and this could have a detrimental impact on KWHI’s financial position, possibly leading to higher borrowing costs in the future. KWHI also stated that, if it paid the outstanding amount to the IESO and subsequently is unable collect the amount from its customers, KWHI’s financial viability will be at risk and estimates that its return on equity would fall to 3.8% which is well below its approved ROE of 8.52%.

The OEB finds that not allowing KWHI to recover the amount owed to the IESO could have a detrimental impact on the utility. In making this finding, the OEB is cognizant of its statutory objectives under Section 1(1) of the *Ontario Energy Board Act, 1998* to maintain a financially viable electricity industry, among other objectives.

As noted above, the issue of whether the IESO in accordance with the Market Rules is entitled to collect from KWHI the unbilled amounts is not in dispute in this proceeding. The issue is whether KWHI should be allowed to recover the unbilled amounts in Account 1584 from its customers prospectively. As a pragmatic matter, it would be unfair of the OEB to find that KWHI should absorb the IESO’s unbilled charges error in this circumstance as KWHI:

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<sup>60</sup> Ibid, para 91 and referring to *ATCO Gas v Alberta Utilities Commission*, 2014 ABCA 28 at paras 56-58

<sup>61</sup> Ibid, para 91 and referring to *ATCO Gas v Alberta Utilities Commission*, 2014 ABCA 28 at paras 56-58

- was clearly not at fault as confirmed by the IESO
- disclosed the error to the OEB on a timely basis
- correctly noted that once billed by the IESO the amounts would be correctly recorded in Account 1584 in accordance with the OEB's Accounting Procedures Handbook
- took the necessary and timely steps with the OEB to seek disposition of the amounts

### *Alignment of IESO Invoicing*

The outstanding issue is whether KWHI's proposal for recovery should align with the IESO's invoicing such that the collection of the Account 1584 balance occurs over a period of time from January 1, 2022 to December 31, 2022. SEC and VECC in their submissions recommended a 5-year period be implemented to mitigate bill impacts.

KWHI's customers received a benefit from the unbilled IESO charges over the June 2015 to November 2020 period. Recovery of those amounts over a one-year period starting in January, 2022 will better offset intergenerational equity issues than if recovered over a five-year period as proposed by SEC and VECC.

In approving the recovery of the unbilled amounts over a one-year period and ordering the IESO to align its billing accordingly, the OEB acknowledges the arrangement struck between KWHI and the IESO. The OEB is encouraged by the willingness of KWHI and IESO to cooperatively find the least-cost option for KWHI's customers under the circumstances. The IESO would have been within its rights under the current Market Rules to bill KWHI for the amounts due as a lump sum plus interest. KWHI could have collected the amounts due with interest from its customers. Instead, the arrangement between KWHI and the IESO contemplates neither a lump sum payment from KWHI to the IESO, nor interest charges.

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

The OEB approves the disposition of a debit balance of \$5,598,513 as of December 31, 2020, including interest projected to December 31, 2021 for Group 1 accounts on a final basis.

Table 6.2 identifies the principal and interest amounts, which the OEB approves for disposition.

**Table 6.2: Group 1 Deferral and Variance Account Balances**

<b>Account Name</b>	<b>Account Number</b>	<b>Principal Balance (\$) A</b>	<b>Interest Balance (\$) B</b>	<b>Total Claim (\$) C=A+B</b>
Smart Meter Entity Variance Charge	1551	(8,939)	19	(8,921)
RSVA - Wholesale Market Service Charge	1580	(941,678)	(7,115)	(948,792)
Variance WMS - Sub-account CBR Class B	1580	(52,594)	(910)	(53,504)
RSVA - Retail Transmission Network Charge	1584	6,393,599	1,409	6,395,008
RSVA - Retail Transmission Connection Charge	1586	40,831	(99)	40,731
RSVA – Power	1588	(315,874)	721	(315,153)
RSVA - Global Adjustment	1589	482,232	6,912	489,144
<b>Totals for Group 1 accounts</b>		<b>5,597,577</b>	<b>936</b>	<b>5,598,513</b>

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 the *Accounting Procedures Handbook for Electricity Distributors*.<sup>62</sup> 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 through final rate riders, charges, or payments, as calculated in the Rate Generator Model. The final rate riders, charges, and payments, as applicable, will be in effect over a one-year period from January 1, 2022 to December 31, 2022.<sup>63</sup>

<sup>62</sup> Article 220, Account Descriptions, Accounting Procedures Handbook for Electricity Distributors, effective January 1, 2012

<sup>63</sup> 2022 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

## 7 LOST REVENUE ADJUSTMENT MECHANISM VARIANCE ACCOUNT

The OEB uses a Lost Revenue Adjustment Mechanism Variance Account (LRAMVA), which captures a distributor's revenue implications resulting from differences between actual and forecast conservation savings included in its last OEB-approved load forecast.<sup>64</sup>

Distributors delivered conservation and demand management (CDM) programs to their customers through the Conservation First Framework (CFF) that began on January 1, 2015 until March 20, 2019, when the CFF was revoked.<sup>65</sup> The OEB provided direction to distributors seeking to claim program savings up to December 31, 2021 related to CFF programs or other conservation programs they delivered.<sup>66</sup>

KWHI has applied to dispose of its LRAMVA debit balance of \$874,417. The balance consists of lost revenues in 2019 from CDM programs delivered during the period from 2013-2019 and carrying charges. The actual conservation savings claimed by KWHI under the CFF were validated with reports from the IESO, project level savings files, or both.

Actual conservation savings were compared against KWHI's forecasted conservation savings of 18,623,388 kWh included in its last OEB-approved load forecast.<sup>67</sup>

### Findings

The OEB finds that KWHI'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 KWHI's LRAMVA debit balance of \$874,417, as set out in Table 7.1 below.

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<sup>64</sup> 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

<sup>65</sup> On March 20, 2019 the Minister of Energy, Northern Development and Mines issued separate Directives to the OEB and the IESO.

<sup>66</sup> Chapter 3 Filing Requirements, section 3.2.6.1

<sup>67</sup> EB-2019-0049, Decision and Order, October 17, 2019

Table 7.1 LRAMVA Balance for Disposition

Account Name	Account Number	Actual CDM Savings (\$) A	Forecasted CDM Savings (\$) B	Carrying Charges (\$) C	Total Claim (\$) D=(A-B)+C
LRAMVA	1568	1,042,228	192,865	25,054	874,417

## 8 IMPLEMENTATION

This Decision is accompanied by a Rate Generator Model, applicable supporting models, and a Tariff of Rates and Charges (Schedule A). The Rate Generator Model also incorporates the rates set out in Table 8.1.

**Table 8.1: 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.<sup>68</sup>

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.<sup>69</sup>

In the *Report of the Board: Review of Electricity Distribution Cost Allocation Policy*,<sup>70</sup> 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. Distributors shall apply the updated value, if applicable, following the OEB’s announcement of the microFIT charge for the 2022 rate year.

<sup>68</sup> EB-2020-0276, Decision and Order, December 10, 2020

<sup>69</sup> EB-2017-0290, Decision and Order, March 1, 2018

<sup>70</sup> EB-2010-0219, Report of the Board “Review of Electricity Distribution Cost Allocation Policy”, March 31, 2011



## 9 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Kitchener-Wilmot Hydro Inc.'s new final distribution rates shall be effective January 1, 2022, in accordance with the Tariff of Rates and Charges set out in Schedule A.
2. The Tariff of Rates and Charges are deemed draft until Kitchener-Wilmot Hydro Inc. has complied with the subsequent procedural steps.
3. Kitchener-Wilmot Hydro Inc. shall review the Tariff of Rates and Charges and shall file with the OEB, as applicable, a written confirmation of its completeness and accuracy, or provide a detailed explanation of any inaccuracies or missing information, by **December 21, 2021**.
4. This Decision and Rate Order will be considered a final rate order if Kitchener-Wilmot Hydro Inc. does not provide a submission to the OEB that inaccuracies were found or information was missing pursuant to item 3.
5. If the OEB receives a submission from Kitchener-Wilmot Hydro Inc. to the effect that inaccuracies were found or information was missing pursuant to item 3, the OEB will consider the submission prior to issuing a final rate order.
6. Kitchener-Wilmot Hydro Inc. shall notify its customers of the rate changes no later than the delivery of the first bill reflecting the new rates.

### COST AWARDS

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

1. SEC and VECC shall submit to the OEB and copy Kitchener-Wilmot Hydro Inc. their cost claims no later than **January 13, 2022**.
2. Kitchener-Wilmot Hydro Inc. shall file with the OEB and forward to SEC and VECC any objections to the claimed costs within **January 24, 2022**.
3. SEC and VECC shall file with the OEB and forward to Kitchener-Wilmot Hydro Inc. any responses to any objections for cost claims within **January 31, 2022**.
4. Kitchener-Wilmot Hydro Inc. 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-2021-0038** 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](mailto:registrar@oeb.ca) for assistance

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, Marc Abramovitz, at [marc.abramovitz@oeb.ca](mailto:marc.abramovitz@oeb.ca) and OEB Counsel, Ljuba Djurdjevic at [ljuba.djurdjevic@oeb.ca](mailto:ljuba.djurdjevic@oeb.ca).

E-mail: [registrar@oeb.ca](mailto:registrar@oeb.ca)

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

**DATED** at Toronto, December 16, 2021

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar

**Schedule A**

**To Decision and Rate Order**

**Tariff of Rates and Charges**

**OEB File No: EB-2021-0038**

**DATED: December 16, 2021**

**Kitchener-Wilmot Hydro Inc.**  
**TARIFF OF RATES AND CHARGES**  
**Effective and Implementation Date January 1, 2022**  
**This schedule supersedes and replaces all previously**  
**approved schedules of Rates, Charges and Loss Factors**

EB-2021-0038

## RESIDENTIAL SERVICE CLASSIFICATION

This classification applies to an account taking electricity at 750 volts or less where the electricity is used exclusively in a separate metered living accommodation. Customers shall be residing in single-dwelling units that consist of a detached house or one unit of a semi-detached, duplex, triplex or quadruplex house, with a residential zoning. Separately metered dwellings within a town house complex or apartment building also qualify as residential customers. All customers are single-phase. Class B consumers are defined in accordance with O. Reg. 429/04. Further servicing details are available in the distributor's Conditions of Service.

## APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Ontario Energy Board, and amendments thereto as approved by the Ontario Energy Board, which may be applicable to the administration of this schedule.

No rates and charges for the distribution of electricity and charges to meet the costs of any work or service done or furnished for the purpose of the distribution of electricity shall be made except as permitted by this schedule, unless required by the Distributor's Licence or a Code or Order of the Ontario Energy Board, and amendments thereto as approved by the Ontario Energy Board, or as specified herein.

Unless specifically noted, this schedule does not contain any charges for the electricity commodity, be it under the Regulated Price Plan, a contract with a retailer or the wholesale market price, as applicable. In addition, the charges in the MONTHLY RATES AND CHARGES - Regulatory Component of this schedule do not apply to a customer that is an embedded wholesale market participant.

It should be noted that this schedule does not list any charges, assessments, or credits that are required by law to be invoiced by a distributor and that are not subject to Ontario Energy Board approval, such as the Global Adjustment and the HST.

## MONTHLY RATES AND CHARGES - Delivery Component

Service Charge	\$	23.66
Smart Metering Entity Charge - effective until December 31, 2022	\$	0.57
Rate Rider for Disposition of Global Adjustment Account (2022) - effective until December 31, 2022		
Applicable only for Non-RPP Customers	\$/kWh	0.0010
Rate Rider for Disposition of Deferral/Variance Accounts (2022) - effective until December 31, 2022	\$/kWh	0.0029
Retail Transmission Rate - Network Service Rate	\$/kWh	0.0088
Retail Transmission Rate - Line and Transformation Connection Service Rate	\$/kWh	0.0014

## MONTHLY RATES AND CHARGES - Regulatory Component

Wholesale Market Service Rate (WMS) - not including CBR	\$/kWh	0.0030
Capacity Based Recovery (CBR) - Applicable for Class B Customers	\$/kWh	0.0004
Rural or Remote Electricity Rate Protection Charge (RRRP)	\$/kWh	0.0005
Standard Supply Service - Administrative Charge (if applicable)	\$	0.25

**Kitchener-Wilmot Hydro Inc.**  
**TARIFF OF RATES AND CHARGES**  
**Effective and Implementation Date January 1, 2022**  
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EB-2021-0038

## GENERAL SERVICE LESS THAN 50 KW SERVICE CLASSIFICATION

This classification applies to a non residential account taking electricity at 750 volts or less whose average monthly maximum demand is less than, or is forecast to be less than, 50 kW. Class B consumers are defined in accordance with O. Reg. 429/04. Further servicing details are available in the distributor's Conditions of Service.

### APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Ontario Energy Board, and amendments thereto as approved by the Ontario Energy Board, which may be applicable to the administration of this schedule.

No rates and charges for the distribution of electricity and charges to meet the costs of any work or service done or furnished for the purpose of the distribution of electricity shall be made except as permitted by this schedule, unless required by the Distributor's Licence or a Code or Order of the Ontario Energy Board, and amendments thereto as approved by the Ontario Energy Board, or as specified herein.

Unless specifically noted, this schedule does not contain any charges for the electricity commodity, be it under the Regulated Price Plan, a contract with a retailer or the wholesale market price, as applicable. In addition, the charges in the MONTHLY RATES AND CHARGES - Regulatory Component of this schedule do not apply to a customer that is an embedded wholesale market participant.

It should be noted that this schedule does not list any charges, assessments, or credits that are required by law to be invoiced by a distributor and that are not subject to Ontario Energy Board approval, such as the Global Adjustment and the HST.

### MONTHLY RATES AND CHARGES - Delivery Component

Service Charge	\$	28.95
Smart Metering Entity Charge - effective until December 31, 2022	\$	0.57
Distribution Volumetric Rate	\$/kWh	0.0139
Rate Rider for Disposition of Global Adjustment Account (2022) - effective until December 31, 2022		
Applicable only for Non-RPP Customers	\$/kWh	0.0010
Rate Rider for Disposition of Lost Revenue Adjustment Mechanism Variance Account (LRAMVA) (2022)		
- effective until December 31, 2022	\$/kWh	0.0007
Rate Rider for Disposition of Deferral/Variance Accounts (2022) - effective until December 31, 2022	\$/kWh	0.0029
Retail Transmission Rate - Network Service Rate	\$/kWh	0.0076
Retail Transmission Rate - Line and Transformation Connection Service Rate	\$/kWh	0.0013

### MONTHLY RATES AND CHARGES - Regulatory Component

Wholesale Market Service Rate (WMS) - not including CBR	\$/kWh	0.0030
Capacity Based Recovery (CBR) - Applicable for Class B Customers	\$/kWh	0.0004
Rural or Remote Electricity Rate Protection Charge (RRRP)	\$/kWh	0.0005
Standard Supply Service - Administrative Charge (if applicable)	\$	0.25

**Kitchener-Wilmot Hydro Inc.**  
**TARIFF OF RATES AND CHARGES**  
**Effective and Implementation Date January 1, 2022**  
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EB-2021-0038

## GENERAL SERVICE 50 TO 4,999 KW SERVICE CLASSIFICATION

This classification applies to a non residential account whose average monthly maximum demand used for billing purposes is equal to or greater than, or is forecast to be equal to or greater than, 50 kW but less than 5,000 kW. Note that for the application of the Retail Transmission Rate - Network Service Rate and the Retail Transmission Rate - Line and Transformation Connection Service Rate the following sub-classifications apply: General Service 50 to 999 kW non-interval metered, General Service 50 to 999 kW interval metered and General Service 1,000 to 4,999 kW interval metered. Class A and Class B consumers are defined in accordance with O. Reg. 429/04. Further servicing details are available in the distributor's Conditions of Service.

### APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Ontario Energy Board, and amendments thereto as approved by the Ontario Energy Board, which may be applicable to the administration of this schedule.

No rates and charges for the distribution of electricity and charges to meet the costs of any work or service done or furnished for the purpose of the distribution of electricity shall be made except as permitted by this schedule, unless required by the Distributor's Licence or a Code or Order of the Ontario Energy Board, and amendments thereto as approved by the Ontario Energy Board, or as specified herein.

Unless specifically noted, this schedule does not contain any charges for the electricity commodity, be it under the Regulated Price Plan, a contract with a retailer or the wholesale market price, as applicable. In addition, the charges in the MONTHLY RATES AND CHARGES - Regulatory Component of this schedule do not apply to a customer that is an embedded wholesale market participant.

If included in the following listing of monthly rates and charges, the rate rider for the disposition of WMS - Sub-account CBR Class B is not applicable to wholesale market participants (WMP), customers that transitioned between Class A and Class B during the variance account accumulation period, or to customers that were in Class A for the entire period. Customers who transitioned are to be charged or refunded their share of the variance disposed through customer specific billing adjustments. This rate rider is to be consistently applied for the entire period to the sunset date of the rate rider. In addition, this rate rider is applicable to all new Class B customers.

If included in the following listing of monthly rates and charges, the rate rider for the disposition of Global Adjustment is only applicable to non-RPP Class B customers. It is not applicable to WMP, customers that transitioned between Class A and Class B during the variance account accumulation period, or to customers that were in Class A for the entire period. Customers who transitioned are to be charged or refunded their share of the variance disposed through customer specific billing adjustments. This rate rider is to be consistently applied for the entire period to the sunset date of the rate rider. In addition, this rate rider is applicable to all new non-RPP Class B customers.

It should be noted that this schedule does not list any charges, assessments, or credits that are required by law to be invoiced by a distributor and that are not subject to Ontario Energy Board approval, such as the Global Adjustment and the HST.

### MONTHLY RATES AND CHARGES - Delivery Component

Service Charge	\$	192.88
Distribution Volumetric Rate	\$/kW	4.9657
Rate Rider for Disposition of Global Adjustment Account (2022) - effective until December 31, 2022		
Applicable only for Non-RPP Customers	\$/kWh	0.0010
Rate Rider for Disposition of Lost Revenue Adjustment Mechanism Variance Account (LRAMVA) (2022)		
- effective until December 31, 2022	\$/kW	0.2927

Issued - December 16, 2021

**Kitchener-Wilmot Hydro Inc.**  
**TARIFF OF RATES AND CHARGES**  
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**EB-2021-0038**

Rate Rider for Disposition of Deferral/Variance Accounts (2022) - effective until December 31, 2022 Applicable only for Non-Wholesale Market Participants	\$/kW	<b>(0.2869)</b>
Rate Rider for Disposition of Deferral/Variance Accounts (2022) - effective until December 31, 2022	\$/kW	1.3713
Retail Transmission Rate - Network Service Rate	\$/kW	4.0407
Retail Transmission Rate - Line and Transformation Connection Service Rate	\$/kW	0.7317

**MONTHLY RATES AND CHARGES - Regulatory Component**

Wholesale Market Service Rate (WMS) - not including CBR	\$/kWh	0.0030
Capacity Based Recovery (CBR) - Applicable for Class B Customers	\$/kWh	0.0004
Rural or Remote Electricity Rate Protection Charge (RRRP)	\$/kWh	0.0005
Standard Supply Service - Administrative Charge (if applicable)	\$	0.25

**Kitchener-Wilmot Hydro Inc.**  
**TARIFF OF RATES AND CHARGES**  
**Effective and Implementation Date January 1, 2022**  
**This schedule supersedes and replaces all previously**  
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EB-2021-0038

## LARGE USE SERVICE CLASSIFICATION

This classification applies to an account whose average monthly maximum demand used for billing purposes is equal to or greater than, or is forecast to be equal to or greater than, 5,000 kW. Class A and Class B consumers are defined in accordance with O. Reg. 429/04. Further servicing details are available in the distributor's Conditions of Service.

## APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Ontario Energy Board, and amendments thereto as approved by the Ontario Energy Board, which may be applicable to the administration of this schedule.

No rates and charges for the distribution of electricity and charges to meet the costs of any work or service done or furnished for the purpose of the distribution of electricity shall be made except as permitted by this schedule, unless required by the Distributor's Licence or a Code or Order of the Ontario Energy Board, and amendments thereto as approved by the Ontario Energy Board, or as specified herein.

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## MONTHLY RATES AND CHARGES - Delivery Component

Service Charge	\$	17,940.74
Distribution Volumetric Rate	\$/kW	1.6478
Rate Rider for Disposition of Deferral/Variance Accounts (2022) - effective until December 31, 2022	\$/kW	1.3611
Retail Transmission Rate - Network Service Rate - Interval Metered	\$/kW	3.7978
Retail Transmission Rate - Line and Transformation Connection Service Rate - Interval Metered	\$/kW	0.6879

## MONTHLY RATES AND CHARGES - Regulatory Component

Wholesale Market Service Rate (WMS) - not including CBR	\$/kWh	0.0030
Capacity Based Recovery (CBR) - Applicable for Class B Customers	\$/kWh	0.0004
Rural or Remote Electricity Rate Protection Charge (RRRP)	\$/kWh	0.0005
Standard Supply Service - Administrative Charge (if applicable)	\$	0.25



**Kitchener-Wilmot Hydro Inc.**  
**TARIFF OF RATES AND CHARGES**  
**Effective and Implementation Date January 1, 2022**  
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## UNMETERED SCATTERED LOAD SERVICE CLASSIFICATION

This classification applies to an account taking electricity at 750 volts or less whose average monthly maximum demand is less than, or is forecast to be less than, 50 kW and the consumption is unmetered. Such connections include cable TV power packs, bus shelters, telephone booths, traffic lights, railway crossings, etc. The level of the consumption will be agreed to by the distributor and the customer, based on detailed manufacturer information/ documentation with regard to electrical consumption of the unmetered load or periodic monitoring of actual consumption. Class B consumers are defined in accordance with O. Reg. 429/04. Further servicing details are available in the distributor's Conditions of

### APPLICATION

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### MONTHLY RATES AND CHARGES - Delivery Component

Service Charge (per connection)	\$	7.76
Distribution Volumetric Rate	\$/kWh	0.0151
Rate Rider for Disposition of Deferral/Variance Accounts (2022) - effective until December 31, 2022	\$/kWh	0.0029
Retail Transmission Rate - Network Service Rate	\$/kWh	0.0076
Retail Transmission Rate - Line and Transformation Connection Service Rate	\$/kWh	0.0013

### MONTHLY RATES AND CHARGES - Regulatory Component

Wholesale Market Service Rate (WMS) - not including CBR	\$/kWh	0.0030
Capacity Based Recovery (CBR) - Applicable for Class B Customers	\$/kWh	0.0004
Rural or Remote Electricity Rate Protection Charge (RRRP)	\$/kWh	0.0005
Standard Supply Service - Administrative Charge (if applicable)	\$	0.25

**Kitchener-Wilmot Hydro Inc.**  
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## **STREET LIGHTING SERVICE CLASSIFICATION**

This classification applies to an account for roadway lighting with a Municipality, Regional Municipality, Ministry of Transportation and private roadway lighting, controlled by photo cells. The consumption for these customers will be based on the calculated connected load times the required lighting times established in the approved Ontario Energy Board street lighting load shape template. Class B consumers are defined in accordance with O. Reg. 429/04. Further servicing details are available in the distributor's Conditions of Service.

### **APPLICATION**

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### **MONTHLY RATES AND CHARGES - Delivery Component**

Service Charge	\$	0.72
Distribution Volumetric Rate	\$/kW	4.8856
Rate Rider for Disposition of Global Adjustment Account (2022) - effective until December 31, 2022 Applicable only for Non-RPP Customers	\$/kWh	0.0010
Rate Rider for Disposition of Lost Revenue Adjustment Mechanism Variance Account (LRAMVA) (2022) - effective until December 31, 2022	\$/kW	5.6257
Rate Rider for Disposition of Deferral/Variance Accounts (2022) - effective until December 31, 2022	\$/kW	1.0292
Retail Transmission Rate - Network Service Rate	\$/kW	2.4571
Retail Transmission Rate - Line and Transformation Connection Service Rate	\$/kW	0.4454

### **MONTHLY RATES AND CHARGES - Regulatory Component**

Wholesale Market Service Rate (WMS) - not including CBR	\$/kWh	0.0030
Capacity Based Recovery (CBR) - Applicable for Class B Customers	\$/kWh	0.0004
Rural or Remote Electricity Rate Protection Charge (RRRP)	\$/kWh	0.0005
Standard Supply Service - Administrative Charge (if applicable)	\$	0.25

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## **EMBEDDED DISTRIBUTOR SERVICE CLASSIFICATION**

This classification applies to an electricity distributor licensed by the Ontario Energy Board that is provided electricity by means of this distributor's facilities. Further servicing details are available in the distributor's Conditions of Service.

### **APPLICATION**

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### **MONTHLY RATES AND CHARGES - Delivery Component**

Rate Rider for Disposition of Deferral/Variance Accounts (2022) - effective until December 31, 2022	\$/kW	1.5652
Monthly Distribution Wheeling Service Rate - Dedicated LV Line	\$/kW	2.5452
Retail Transmission Rate - Network Service Rate	\$/kW	3.8098
Retail Transmission Rate - Line and Transformation Connection Service Rate	\$/kW	0.6902

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**microFIT SERVICE CLASSIFICATION**

This classification applies to an electricity generation facility contracted under the Independent Electricity System Operator's microFIT program and connected to the distributor's distribution system. Further servicing details are available in the distributor's Condition of Service.

**APPLICATION**

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**MONTHLY RATES AND CHARGES - Delivery Component**

Service Charge	\$	4.55
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## **STANDBY POWER SERVICE CLASSIFICATION**

This classification applies to an account with load displacement facilities that contracts with the distributor to provide emergency standby power when its load displacement facilities are not in operation. The level of the billing demand will be agreed to by the distributor and the customer, based on detailed manufacturer information/documentation such as nameplate rating of the load displacement facility. Further servicing details are available in the distributor's Conditions of Service.

## **APPLICATION**

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## **MONTHLY RATES AND CHARGES - Delivery Component - Approved on an Interim Basis**

Standby Charge - for a month where standby power is not provided, the charge is based on the applicable General Service 50 to 4,999 kW or Large use Distribution Volumetric Charge applied to the contracted amount (e.g. nameplate rating of generation facility).

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**ALLOWANCES**

Transformer Allowance for Ownership - per kW of billing demand/month	\$/kW	(0.60)
Primary Metering Allowance for Transformer Losses - applied to measured demand & energy	%	(1.00)

**SPECIFIC SERVICE CHARGES****APPLICATION**

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**Customer Administration**

Returned cheque (plus bank charges)	\$	15.00
Account set up charge/change of occupancy charge (plus credit agency costs if applicable)	\$	20.00
Meter dispute charge plus Measurement Canada fees (if meter found correct)	\$	30.00

**Non-Payment of Account**

Late payment - per month (effective annual rate 19.56% per annum or 0.04896% compounded daily rate)	%	1.50
Reconnection at meter - during regular hours	\$	65.00
Reconnection at meter - after regular hours	\$	185.00
Reconnection at pole - during regular hours	\$	95.00

**Other**

Meter removal without authorization	\$	355.00
Service call - after regular hours	\$	105.00
Specific charge for access to the power poles - \$/pole/year (with the exception of wireless attachments) - Approved on an Interim Basis	\$	34.76

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## RETAIL SERVICE CHARGES (if applicable)

### APPLICATION

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Retail Service Charges refer to services provided by a distributor to retailers or customers related to the supply of competitive electricity.

One-time charge, per retailer, to establish the service agreement between the distributor and the retailer	\$	107.68
Monthly fixed charge, per retailer	\$	43.08
Monthly variable charge, per customer, per retailer	\$/cust.	1.07
Distributor-consolidated billing monthly charge, per customer, per retailer	\$/cust.	0.64
Retailer-consolidated billing monthly credit, per customer, per retailer	\$/cust.	(0.64)
Service Transaction Requests (STR)		
Request fee, per request, applied to the requesting party	\$	0.54
Processing fee, per request, applied to the requesting party	\$	1.07
Request for customer information as outlined in Section 10.6.3 and Chapter 11 of the Retail Settlement Code directly to retailers and customers, if not delivered electronically through the Electronic Business Transaction (EBT) system, applied to the requesting party		
Up to twice a year	\$	no charge
More than twice a year, per request (plus incremental delivery costs)	\$	4.31
Notice of Switch letter charge, per letter	\$	2.15

### LOSS FACTORS

If the distributor is not capable of prorating changed loss factors jointly with distribution rates, the revised loss factors will be implemented upon the first subsequent billing for each billing cycle.

Total Loss Factor - Secondary Metered Customer < 5,000 kW	1.035
Total Loss Factor - Secondary Metered Customer > 5,000 kW	1.0154
Total Loss Factor - Primary Metered Customer < 5,000 kW	1.0226
Total Loss Factor - Primary Metered Customer > 5,000 kW	1.0053