Message

From: Natalie Schaus [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=58BB43F7D031480696CE362CF240759C-NATALIE SCH]
Sent: 2017-05-16 8:18:56 AM
To: Kim Marshall [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b63a22b42bf14587870d93119a054d88-Kim Marshal]
Subject: FW: RRA background

Hi Kim, I got this from Nadine yesterday.
I'm afraid I haven't made much progress on this.
I am doing a presentation for Susan this morning at the IESO Technical Panel Meeting.
I will touch base with you a little later this morning.
Regards, Natalie

From: Petsche, Nadine (TBS) [mailto:Nadine.Petsche@ontario.ca]
Sent: May 15, 2017 1:38 PM
To: Natalie Schaus
Cc: Picard, Michel (mpicard@kpmg.ca)
Subject: RRA background

Natalie,

Further to our discussion, I have included some extracts below related to different types of rate regulated accounts. Some of this background may be helpful in documenting the types of accounts reported by the IESO.

As requested, I am also cc'ing Michel on this note so that you both receive these extracts at the same time.

Regards,

Nadine

XXX's deferral and variance accounts are established either by regulation or by orders of the Ontario Energy Board (the "OEB") through the proper exercise of its jurisdiction as the administrative tribunal responsible for regulating the electricity industry in Ontario. The establishing of such an account pursuant to regulation or the granting of approval by the OEB to establish such an account confers upon XXX a right to record amounts in the account and to account for the amounts recorded on the basis that they have been prudently incurred. Courts have found that prudence is deemed to exist until such time as the OEB (in its discretion), at a later date, values or assesses the balance of that account and determines that the recorded balance is wholly recoverable or that certain of the recorded amounts have in fact not been prudently incurred and are not recoverable.

Given that XXX's recovery or payment of the amounts recorded in its deferral and variance accounts, and subsequently disposed of by the OEB, are part of the calculation of XXX's payment amounts under section 78.1 of the *Ontario Energy Board Act, 1998* (the "OEB Act"), XXX is entitled to have recorded amounts assessed and to recover those amounts pursuant to the OEB's order. Correspondingly, the OEB, as a matter of law, is obligated to establish XXX's payment amounts in accordance with the rules prescribed by the regulations in accordance with the just and reasonable standard (as applicable). In doing so, the OEB must assess the balances in the previously established accounts for prudence and accuracy and issue a Decision and Order on their disposition.

For certain of XXX's deferral and variance accounts, the legal origins of which are found in Regulations under the OEB Act, the OEB does not have jurisdiction over whether the account may be established. For hese accounts, the OEB also does not have jurisdiction to undertake a prudence review to determine if any recorded amounts should be excluded.

Once the OEB has approved the balance of an account for recovery, with or without undertaking a prudence review (as applicable), the specific amount or balance that XXX will be allowed to recover will have been determined. The subsequent issuance by the OEB of a payment amounts order will establish the mechanism by which such specific approved amounts will be recovered and remitted to XXX.

The OEB's review and approval of the balance in a deferral or variance account is a process for determining the quantum and timing for the payment to or from XXX in respect of that account, which will be reflected in a Decision and Order of the OEB. As indicated, XXX's legal right to record amounts in an account and to account for the amounts recorded on the basis that they have been prudently incurred, subject to the OEB in its discretion subsequently determining otherwise, is established through the authorization of the account by the OEB or pursuant to regulation. XXX's right to recover prudently incurred amounts therefore arises as and when such amounts are recorded in an approved account, in accordance with the parameters established by the OEB or by regulation for that account, subject to the OEB's subsequent prudence review to assess the value of the account.

In the circumstance where XXX ceases operations the OEB would have the jurisdiction and the obligation to establish a rate or payment amount that would allow XXX to recover or obligate XXX to disburse prudent amounts recorded in a deferral or variance account. Such a rate or payment amount would not have to be based on xx.

A. Variance and Deferral Accounts

Variance and deferral accounts are tools that the OEB uses to deal with uncertainty, including circumstances that are difficult to forecast and that may be beyond the control of the regulated utility. The use of these accounts protects the interests not only of utilities, but also the interests of ratepayers. Once the deferral or variance accounts are established, either by regulation or OEB order, the amounts recorded in the accounts must be assessed for prudence by the OEB (to the extent the OEB has jurisdiction to do so) and the resulting approved amounts must be paid to or by XXX as the amounts are a part of XXX's just and reasonable payment amounts, as explained above.

A "variance account" may be used to track underestimates or overestimates of specific costs or revenues so as to enable the amount of the variance to be disposed of, normally through higher or lower payment amounts established by the OEB in the future.

A "deferral account" may be used, for example, to track specific costs incurred by a utility with respect to a project or circumstance until a future date, after which the costs recorded in the account are subject to prudence review by the OEB before the utility will be allowed to begin recovering those costs from ratepayers. For example, O. Reg. 53/05 authorized OPG to establish a deferral account to record non-capital costs associated with a large nuclear project that involved the return-to-service of certain nuclear generating units. The regulation further required that the OEB ensure OPG recover the balance in the account over a certain period of time, which the OEB determined in EB-2007-0905.

The nature of the rights that arise from the authorization of a deferral or variance account by the OEB or under Regulations are discussed in the analysis section, below. For accounts that have already been authorized, as part of the OEB's rate-setting function and its powers with respect to variance and deferral accounts, the OEB will periodically[1] review a utility's variance and deferral accounts to ensure that the balances reflect amounts that are prudent and have been accurately recorded. Based on such review, the OEB makes a determination as to how much of the recorded balance the utility will recover (or repay) and the period over which such amount

[1] While normally this will be in the context of a rate or payment amount application, XXX could apply to have the OEB undertake such a review at any time through a separate proceeding. Similarly, the OEB has the right to undertake such a review at any time on its own motion. See s. 78.1(5) of the *OEB Act*.

shall be recovered (or repaid). This determination will be made by way of a Decision from the OEB. In the normal course (i.e. where the accounts are reviewed in the context of a rate or payment amount application), the utility will then be required to file a draft payment amounts order or draft rate order, which is reviewed by the OEB. Once the final payment amounts order or rate order is approved by the OEB, the IESO will be required to implement the order by paying XXX in accordance with the order.

Where the balance recorded in a variance or deferral account is in a debit position and the OEB has accepted that balance as reflecting costs prudently incurred and accurately recorded, this will be referred to as a "regulatory asset" and will represent the specific amount that the utility will have a right to recover in such manner as is ordered by the OEB. Similarly, where the balance recorded in a variance or deferral account is in a credit position and the OEB has accepted that balance as reflecting costs prudently incurred and accurately recorded, this will be referred to as a "regulatory liability" and will represent the specific amount that the utility will have an obligation to disburse in such manner as is ordered by the OEB.