

October 14, 2021

The Island Regulatory & Appeals Commission
134 Kent Street, Suite 501
P.O. Box 577
Charlottetown, PE C1A 7L1

Attention: Cheryl Mosher, CPA, CA
Senior Financial Advisor

Dear Ms. Mosher:

Re: Open Access Transmission Tariff – Reconciliation Calculations
Our File Reference No. 15042-215dk

We are writing to you in relation to the above noted matter and on behalf of the City of Summerside (the "City"). Since many of the matters that will be discussed herein arise from Order UE18-05 which was issued in July of 2018, and simply as a basic chronology, we wanted to set out the following timeline pertaining to this matter:

- March 4, 2008 – Rates, tolls and charges approved per the interim OATT;
- July 26, 2018 – OATT approved;
- January 28, 2019 - Correspondence from Cheryl Mosher to Maritime Electric Company, Limited ("MECL");
- February 8, 2019 - Correspondence from Greg Gaudet to Cheryl Mosher;
- February 3, 2021 - Correspondence from MECL to the Island Regulatory & Appeals Commission (the "Commission");
- July 12, 2021 - Correspondence from Greg Gaudet to Cheryl Mosher;
- July 29, 2021 - Correspondence from Cheryl Mosher to Greg Gaudet; and
- September 17, 2021 - Correspondence from the PEI Energy Corporation (the "Energy Corporation") to Cheryl Mosher.

For ease of reference, copies of the above noted correspondence have been included herein.

We would also note the following Orders have relevance to this matter, both of which are included herein for ease of access and review:

- IRAC Order UE-08-03; and
- IRAC Order UE-08-08.

This matter emanates from the February 3, 2021 correspondence from MECL to IRAC, though it is largely predicated on the January 28, 2019 correspondence to MECL. Specifically, in that correspondence, you indicated that MECL should collect \$342,492.43 for Underpaid Transmission Access and \$64,311.49 for Accrued Interest on Underpaid Transmission Access Fees from the City.

Both amounts have been paid by the City as directed.

However, the attachment to the January 28, 2019 correspondence also referred to several other items ranging from Items C through to and including Item H.

As was noted in the July 12, 2021 correspondence from Greg Gaudet, the City believed that it was directed to deal with all matters pertaining to the approved Open Access Transmission Tariff ("OATT"), following the decision rendered in order UE18-05 and was working with commission staff and MECL in that regard. Though there was an exchange of information on all points following the issuance of Order UE18-05, the January 28, 2019 correspondence was provided to MECL and only dealt with Items A and B as payables from the City to MECL. Brief comments were then made on Items G and H.

Mr. Gaudet provided a responding email on February 8, 2019, providing the City's position on Items G and H, and sought clarification on Items C, D, E and F, though a response was never received.

With respect to Items G and H as they pertain to losses arising from line T-11, the City reaffirms its position that those amounts should be credited to it and will respond to that issue in more detail below.

With respect to Item C, being Unpaid Cable Contingency Fund Contributions, the City's position is essentially in line with that submitted by the Energy Corporation on September 17, 2021. During the period in question, being March 1, 2013 to July 31, 2018 inclusive, the interconnection lease agreement was exclusively between the province of Prince Edward Island and MECL. The City was not a party to this agreement and is therefore of the position that it should not be directed to pay any amounts associated with an agreement that it was not a party to. To hold otherwise would violate basic principles of contract law and force the City to be bound by an agreement that it did not contract to be a part of.

Additionally, such an order would be contradictory to Order UE08-08, where at paragraph 38, this Commission held that *"it does not have jurisdiction to alter or place further rights or obligations on the parties to the interconnection agreement between Prince Edward Island and mainland Canada"*.

For the reasons outlined above, the City is of the position that it should not have to pay and satisfy the amount listed as Item C in the January 28, 2019 correspondence.

With respect to the items that show as items D, E and F, the City takes no issue with these amounts, and is prepared to satisfy them, subject to a set off against Item C, and its remaining comments pertaining to Items G and H. However, to be clear the City's position on these items is based on having all reconciliation matters, on true up costs, considered at this time as opposed to only dealing with some of the issues at hand.

As noted in the July 12, 2021 correspondence from Greg Gaudet, in order UE18-05, the Commission stated:

"The Commission advised the parties that the amount of Summerside Electric's indebtedness for transmission costs, if any, would not be considered a part of this Application. Instead, the Commission directs Maritime Electric to work with Commission staff and Summerside Electric to determine the total amount of Summerside Electric's indebtedness for transmission costs under the interim OATT. In the event the parties cannot agree on the amount of Summerside Electric's indebtedness within 30 days from the date of this decision, an application may be made to the Commission to determine the amount of the indebtedness".

In completing the calculations needed to comply with this Order, it is important to note that the interim OATT, which was approved in order UE08-03, only approved the transmission rates to be collected under the actual OATT once approved. The OATT itself, in terms of what it covered and did not cover, were not part of this Order. Further, this particular Order allowed for commercial collection agreements between MECL and its customers from time to time. From the City's perspective, this is an important and integral distinction to make in this matter, in so far as Order UE-08-03 only approved the rates and tells that would be charged under the OATT from time to time until the approval of the overall OATT.

This distinction is further illustrated in Order UE08-08, where at paragraph 16 the Commission noted that Order UE08-03 "*approved the interim tariff*" only.

As an example as to how the parties treated this interim tariff approval, the City kept a contingency fund for radial lines which was never paid to or requested by MECL. Had radial lines been disallowed in Order UE18-05, the City never would have paid any amount towards radial lines, as it was not until 2018 that the Commission made an actual determination as to whether radial lines were or not to be included in the OATT. Once it was determined that they were to be included, the City was then required to pay the associated rates that had been approved on an interim basis in 2008. However, it considering this matter, is imperative to maintain the distinction between the Order issued in 2008 and the Order issued in 2018 as it was not determined what was to be included in the OATT until 2018.

The same logic should hold true as it pertains to the T-11 losses. Specifically, until Order UE18-05 was issued, there was no prior decision from the Commission as to where the losses should be calculated. However, once it did make that determination, the calculations as to line losses should be credited to the City based on what the Commission held in its 2018 decision.

MECL altered its position from the interim OATT filing as to where losses should be calculated as compared to what is contained in the approved OATT, such that the City is firmly of the position that nothing specifically was approved by the Commission with respect to where the losses should be calculated until Order UE-18-05 was issued.

The City is also of the position that such a finding would also be consistent with the position of MECL and the City when they appeared before the Commission when the provisions of the OATT were argued in 2018.

During the course of that hearing, MECL submitted an Exhibit (M-8), a copy of which is also enclosed herein, which showed MECL's calculation of losses on T-11 being credited to the City with these losses being calculated in accordance with Order UE18-05. While the numbers differ

as between Exhibit M-8 and the schedule attached to your January 28, 2019 correspondence, the methodology remains the same, in that the calculations are based on the 2018 decision as to where losses are calculated.

By way of summary, the City as a participant to the 2018 OATT hearing, was directed to work with MECL and commission staff to complete a complete true-up of costs following the decision given by IRAC in 2018. From the City's perspective, it has attempted to do so and believed that it would be a full participant in calculating such costs. However, as noted in the January 28, 2019 correspondence, it appears that meetings were held between commission staff and others that the City was not aware of.

The City is truly hopeful that a full reconciliation and true-up will be completed at this time, with references to all matters set out in the schedule attached to the January 28, 2019 correspondence, which would at this time include a decision on Items C, D, E, F, G and H. As such, the City has put forth its position on all matters and hopes that it is of assistance to the Commission.

If there are any questions arising from this correspondence, or should the Commission wish to receive further submissions we would be pleased to do so, and look forward to hearing from you at your first opportunity.

Yours truly,

KEY MURRAY LAW

A handwritten signature in blue ink, appearing to read 'Ryan P. MacDonald', with a large, stylized loop at the end.

Ryan P. MacDonald