

Ontario Energy Board

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, Sch. B, as amended;

AND IN THE MATTER OF a consultation by the Board with
respect to Draft Guidelines for Potential Projects to Expand
Access to Natural Gas Distribution.

Comments of

Energy Probe Research Foundation

January 14, 2020

Introduction

In its letter of December 19, 2019, the OEB invited interested parties to comment on its Draft Guidelines for Potential Projects to Expand Access to Natural Gas Distribution. This submission presents the comments of Energy Probe Research Foundation (Energy Probe).

Issues for Consideration

Prudent Use of Funds

Prudent use of ratepayer funds must be the primary objective. Energy Probe is concerned that this initiative can result in significant unintended consequences unless it is prudently managed. The purpose of this initiative is to provide natural gas service to the greatest possible number of new customers that can be achieved with the \$130 million subsidy from existing customers. To achieve that the OEB should ensure that the \$130 million is used for incremental costs to serve those customers and not for payments to gas distributors for non-incremental costs such as allocated overhead costs. Gas distributors have a history of allocating large overhead costs to capital projects. Distributors that have rates set by an IRM formula are already recovering all their OM&A costs through existing rates. If such costs are capitalized to incremental expansion projects, there would be double recovery of OM&A costs and a significant windfall profit for the shareholders. Paying gas distributors for non-incremental costs would not be prudent as it would reduce the amount of money available for attaching new customers.

Equity

Ontario Gas customers which number about 3.7 million are placed in rate classes based on consumption and costs to serve. To require a cross- subsidy from these customers to new customers is against the principles of ratemaking in particular Section 36 of the Act and “just and reasonable” rates.

EBO 188 Guidelines for Natural Gas Expansion are aimed to allow expansion of the natural gas distribution system without material cross subsidies from ratepayers for new connecting customers. The OEB has retained the basic methodology in its EB-2016-0004 decision on 2017/2018 community

expansion projects¹. It has done so by requiring aid for construction in several forms, including financing by new customers through rate riders, of the required shortfall over a period of up to ten years.

Ontario Regulation 24/19

Energy Probe was opposed this type of selective ratemaking in the past and believes that the Government should find other avenues to achieve its goal of greater access to natural gas.

Minister's Section 35 Letter of December 2019

The new initiative set out in the Minister's Letter of December 12, 2019 further requires the Board to develop a solicitation for an expanded list of gas expansion projects. This places a further burden (\$130 million) on existing natural gas customers. This is especially true as gas customers are now paying the Federal Carbon Tax on volumes consumed and gas company's own use gas associated with supply infrastructure. Affordability issues also arise. Within the Residential Class, the spectrum of customers includes low income and vulnerable customers (e.g. seniors) for whom additional costs on their gas bill are not tenable or fair. These customers should be exempted from providing the subsidy.

Consistency - Level Playing Field

Under O. Reg 24/19 requires that existing customers pay for the shortfall resulting from adding new customers in their rates for 9 projects and have the new customers pay only the posted rates for gas service, including the \$1/month SE subsidy. The utility is compensated for lost revenue by the IESO as set out in O. Reg. 24/19

New Project Solicitation - EBO 188 Guidelines

Energy Probe strongly urges the Board to retain the EBO 188 Guidelines as the basis for further Expansion of the Ontario Natural gas infrastructure. Screening of potential projects using the EBO 188 Guidelines should be done for **all** gas expansion projects ranging from new subdivisions to new

¹ EB-2016-0004 Alternative Approaches to Recover Costs of Expanding Natural Gas Service to Communities that are not Currently Served

communities. It provides a level playing field. Customer additions and construction costs will provide the necessary data to select projects prior to considering other factors relative to any shortfall. The Board must provide oversight and approve projects.

Profitability Index is key to selection of projects.

Assuming new projects do not meet a PI of 1 the issue is which should win the lottery? Projects that are closest to a PI of 1.0 or projects that have other Phase 2 or Phase 3 attributes such as local economic development? If customers, Municipalities or other government agencies provide assistance, then this is an offset against the required customer connection charge. The OEB process for project selection should be streamlined - Notice/Summary of Project/ Evidence/Ratepayer comments. Assuming the same mechanism as O.Reg.24/19, the monthly amounts should be deducted in rates and EGI and EPCOR should remit the funds related to projects in their franchised service areas to the IESO. Energy Probe notes that customers of Kitchener and Kingston utilities are not included in Regulation 24/19.

One issue is proposed projects where a Certificate has not been issued. The Board must determine whether to issue a Certificate before approving the project. For example, if First Nations or an unorganized community request such a certificate. What requirements should the Board have for both the project proponent and/or gas distributor? (financial, fiscal etc.)

The Section 35 Letter identifies the following as matters to be considered by the OEB:

- The number of customers (in terms of customer count, volume of gas to be distributed and customer type) that would be connected by each proposed project.
- The total cost of each proposed project, as well as the dollar amount of support needed for each proposed project to meet the OEB's profitability threshold.
- The proposed construction-start date and construction period for each proposed project, as the provincial government's focus is on projects that can reasonably be expected to start construction by 2023, allowance being made for the timelines typically applicable to the process of obtaining regulatory approvals

- The project proponent's demonstrated experience, technical expertise and financial ability to build and operate a natural gas distribution system.
- Support for the proposed project from Band Council(s) and/or local government, as applicable, demonstrated through a written expression of support and/or a commitment to financial support.
- If a proposed project is in an area where a Certificate of Public Convenience and Necessity (Certificate) exists, the proponent must be the Certificate holder unless the Certificate holder does not propose a project for the area.
- The extent to which the project proponent expects that the proposed project would reduce the household energy cost burden in the project area.

The first 6 requirements are in the normal course but the latter requirement- regarding the extent that the access to natural gas would reduce household energy consumption is new and requires specific guidance as to how this should be calculated.

Additional Considerations

The following are additional considerations for the Board, given the focus on assessing whether potential projects can be implemented substantially as proposed:

- The breakdown of project costs must identify incremental capital and operating, maintenance and administration (OM&A) costs. Non-incremental costs such as allocated capitalized overhead costs must be excluded because they are already recovered from other projects. This initiative will create an unintended incentive for distributors to capitalize costs that would otherwise be expensed. If the distributor is under IRM, this could lead to double recovery of OM&A costs.
- The expected annual distribution charges that are expected to be borne by the customers to be connected by each project.

- The demonstrated commitment to be held to the project cost and volumes forecasts will be in the form of a minimum 10-year rate stability period for each proposed project. Proponents would bear the risk for the 10-year period (or longer if proposed) if the customers they forecast do not attach to the system and/or actual project costs (capital and OM&A) are higher than expected.
- The demonstrated commitment to timelines for seeking regulatory approvals will be in the form of a schedule for applying for any OEB approvals and identification of the date by which each is required in order to meet the proposed in-service date.

Energy Probe recommends that the Board should require that the project submissions follow the EBO 188 Guideline methodology including Net Present Value analysis of Costs and Revenues. The Board should provide a Template/Workbook to assist proponents and allow standard evaluation of projects. Specific Guidance should be provided regarding Phase 2 and Phase 3 analyses.

Comments on Proposed Guidelines, Timeline and Confidentiality

i) the Draft Guidelines,

EBO 188 Profitability Index

This should be moved to become Section V and the other information regarding funding the shortfall should follow

EBO 188 Phase 2 and 3 Considerations

A section should be added to identify and quantify other material considerations including fuel substitution, reliability, GHG reduction and the impact on household energy costs (as noted by the Minister).

OEB Workbook

The OEB should provide a Standard Excel Project Workbook similar to the Rate Workbook. This will facilitate more consistent information and formats for evaluation of project submissions.

ii) the sufficiency of the 90-day timeline,

The 90 period for submitting proposals should be adequate provided:

- Standardized Applications and a Workbook are provided in advance.
- Board Staff hold a Webinar for interested parties and
- Staff respond to outstanding questions in short order

iii) information that parties believe should be treated as confidential as per the OEB's *Rules of Practice and Procedure* and its *Practice Direction on Confidential Filings*

The Board should indicate that all information in the Standard Application and Workbook is public. Financial and fiscal information that may be considered confidential should be marked and filed separately

iv) the two approaches for filing information proposed for Certificate and non-Certificate holders.

All projects that satisfy the OEB base requirement should be considered, regardless of the proponent. However if the proponent is not an existing holder of a Certificate of Public Convenience and Necessity, then a second layer of qualification is needed to determine if a Certificate should be issued. This would require the proponent providing proof of financial and fiscal capacity to construct (performance bond) and/or operate the expansion system (financial statements) (Part II Section 2.2)

Enabling Regulation

The list of OEB selected projects should meet the Cap of \$130 million and be listed in a new Government Regulation facilitating the implementation of the Program and Projects.

Respectfully Submitted on behalf of Energy Probe Research Foundation by its consultants,

Roger Higgin, SPA Inc. Tom Ladanyi, TL Energy Regulatory Consultants Inc.