

April 30, 2020

Christine Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
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Dear Ms. Long:

EB-2018-0287 and EB-2018-288 – Utility Remuneration and Responding to DERs

Please find, attached, the submissions of the Consumers Council of Canada regarding the two Ontario Energy Board consultation processes noted above.

Please feel free to contact me if you have questions.

Yours truly,

Julie E. Girvan

Julie E. Girvan

CC: All parties

SUBMISSIONS OF THE CONSUMERS COUNCIL OF CANADA

Re: Utility Remuneration and Responding to DERs

EB-2018-0287 and EB-2018-0288

April 30, 2020

INTRODUCTION:

In January 2019, the Ontario Energy Board (“OEB”) held a Stakeholder Forum to receive feedback how it should proceed with initiatives to support the evolution of the energy sector specifically in response to a move towards changes in technology and innovation. In response to the input it received on March 15, 2019, the OEB launched two integrated consultation processes: Utility Remuneration and Responding to Distributed Energy Resources (“DERs”). The OEB indicated that these initiatives are intended to:

- Facilitate lower costs, better service and more choice for customers by encouraging utilities and other service providers to embrace innovation in their operations and the products they offer to consumers; and
- Secure the benefits of sector transformation and mitigate any adverse consequences.¹

On July 17, 2019, the OEB set out its approach to these consultation processes. The OEB noted:

The regulatory framework must continue to promote good outcomes and protect consumers in the context of an evolving energy sector. The emerging energy of DERs has the potential to affect costs and enhance value and choice for customers, but may introduce particular risks. In addition, how utilities are remunerated can influence their ability and motivation to take advantage of emerging opportunities that can promote efficiency and deliver long-term value to customers.

Any changes to the OEB’s regulatory framework arising from these initiatives are expected to have long-lasting impacts on Ontario’s energy sector and the consumers it serves. Any regulatory reforms require careful consideration and should be paced in a manner such that they can be informed by broader regulatory policy and policy environment, including any related OEB or government initiatives.²

¹ OEB letter dated March 15, 2019, p 1

² OEB letter dated July 17, 2019, p. 2

The OEB held a stakeholder meeting over three days in September 2019. The purpose of the meeting was to hear stakeholder input on foundational questions such as:

- What objectives should the Utility Remuneration and Responding to DER initiatives aim to achieve?
- What specific problems or issues should each initiative address?
- What principles should guide the development and selection of policy options?

The OEB encouraged stakeholder presentations. In addition, in order to facilitate the discussion, the OEB Staff retained London Economics International and ICF to deliver presentations on the fundamental concepts related to utility remuneration and to discuss how other jurisdictions have approached DER issues. Following the three-day session, stakeholders were given an opportunity to file written comments arising out the discussions.

On January 21, 2020, the OEB proposed an additional stakeholder meeting to provide an opportunity for additional dialogue between OEB Staff and stakeholders. That meeting was held on February 20, 2020. OEB Staff made a presentation summarizing the input it had received from stakeholders and set out its current thinking regarding the scope of these initiatives. These are the comments of the Consumers Council of Canada (“Council”) regarding the OEB Staff’s proposals and on the initiatives generally.

GENERAL COMMENTS:

The Council accepts that with the emergence of new technologies there is need to adapt the regulatory environment (governed by the OEB) to facilitate the adoption of these new technologies by Ontario consumers. That in our view is the underlying premise regarding the work being undertaken by the OEB. These consultation processes have included four full days of presentations and discussions and several rounds of comments by energy stakeholders including consumer groups, utilities, energy service providers, generators, and other public interest groups. The discussions have been very broad, covering a vast number of issues and many varying perspectives. OEB Staff have, as presented on February 20, 2020, articulated those varying perspectives in their presentation of “what we heard” with respect to Guiding Principles, the OEB’s Role, Need for Action, Objective, Issues, Scope and Process. The OEB Staff has, from the Council’s perspective, accurately captured the views of stakeholders and done so in a comprehensive way.

Taking all of the input from stakeholders the Council submits that the most important task for the OEB and its Staff in the short term is to define the scope of these consultations. It is not until you define the scope that you can land on principles, objectives, issues, and define the OEB's role in all of this.

There were discussions at the stakeholder sessions regarding the Renewed Regulatory Framework for Electricity Distributors ("RRFE"), and whether it was the right policy framework for adapting to an evolving utility sector. There were also discussions about whether that framework and the policy of establishing a return on equity for utilities was appropriate or are there other ways to "incent" or "reward" utilities in the context of DERs.

If the OEB intends to undertake a wholesale review of the RRFE this is not the place to do it. That would require a much broader and comprehensive process, likely a generic hearing. Does the OEB intend to review its overall ROE policies or is it simply a matter of how to incent and reward utilities in order to enable DERS? If the OEB intends to "tweak" the RRFE to accommodate DERs and seek to remove the barriers that cause utilities to favour wire solutions (by building rate base) over non-wires solutions that should be made clear. From the Council's perspective the OEB must first decide how broad these processes should be before proceeding any further. As was highlighted by many participants in this process, it is important to identify the problem you are trying to solve. As noted by ICF, "Gain a clear understanding of what you are trying to accomplish and importantly, why you are trying to accomplish it...Avoid falling into that granular hole of "how" too soon...The process becomes one of incremental steps."³

OEB Staff has indicated that in due course it will put all of the input it has received over the last year before its new incoming leadership team and inform parties of "next steps".⁴

At the stakeholder meeting on February 20, 2020, OEB Staff set out its "current thinking" regarding the following topics:

- Guiding Principles – criteria to assess policy options
- OEB's Role and Approach – preliminary OEB position on sector evolution
- Need for Action – defining opportunities and challenges
- Objectives – potential outcomes to be achieved
- Issues – questions or problems identified by stakeholders
- Defining the Scope – what is in and what is out
- Consultation Process – approach to work and stakeholder engagement

³ OEB Staff Presentation dated February 20, 2020, p. 20

⁴ Transcript, February 20, 2020, p. 173

The Council does not intend to suggest specific additions or deletions, nor do we intend to wordsmith what OEB Staff has done. Much of the work going forward will depend upon where the OEB lands in terms of scope and the direction determined by the OEB itself.

Regardless of the final scope the Council submits that any “framework” put in place to facilitate DERs in Ontario must have regard to the following whether these are regarded as “principles”, “objectives” or “issues”. We recognize this is not an exhaustive list:

- The focus should be first and foremost on customers – the interests of customers with respect to price and the adequacy, reliability and quality should be protected;
- Customers should be afforded choice and value;
- What is the most cost-effective and optimal way for utilities to facilitate DERs?;
- Utilities should be required to look at a broader range of options to meet a particular distribution need beyond traditional infrastructure. This should be done in the context of preparing Distribution System Plans which are ultimately filed with the OEB;
- Rewards should be commensurate with risk;
- Those that benefit must bear the costs;
- Competition should not be thwarted by the activities of the utilities;
- Stranded costs should be minimized to the extent possible and the use of existing assets optimized;

With respect to the role of the OEB the Council highlights the following:

- The OEB must act within its mandate as an economic regulator of monopolies. It is bound by its legislative requirements;
- The OEB should not promote or prevent DER, but facilitate it
- The regulatory framework must promote economic efficiency, cost-effectiveness and value for customers;
- The regulatory framework should be adaptable, transparent and predictable;

- The OEB should be working consistently with the IESO regarding innovation and DERs and coordinating overall system planning within each of their mandates;
- The OEB should be looking at getting the right information to the right people so DER integration and adoption is happening in the right places;
- Any regulatory framework must be accessible and allow for a level playing field for all stakeholders which includes, ratepayer groups, utilities, energy service providers and other interested parties.

STEPS FORWARD:

The Council acknowledges that until the scope of this work has been determined by the OEB, OEB Staff cannot set out the next steps regarding these two consultation processes. As was discussed throughout the stakeholder meetings, the use of working groups may be the best approach in terms of moving forward. The discussions have been at a fairly high level, but the development of a workable framework will require a great deal of detailed work. Working groups can address all of the key issues and develop alternatives for the OEB's consideration.

The Council appreciates the opportunity to comment and looks forward to participating in these two consultation processes as they move forward.