April 30, 2020

Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Attn.: Ms. C. Long
Board Secretary and Registrar

Dear Ms. Long
Re: **EB-2018-0287/2018-0288**

These are the comments of the Electricity Distributors Association (EDA) on the Ontario Energy Board (OEB) staff's positions and proposals as set out in the OEB staff's presentation materials of February 20 in the above-named matter.

The EDA represents local hydro utilities, the part of our electricity system that is closest to customers. Local hydro utilities are on the front lines of power, and we know that the most important conversations about energy happen around the kitchen table, not the boardroom table. Our customers understand the power of local hydro, and they value the relationship of trust they have built with their local hydro utilities, relying on us to deliver safer, more reliable, and more affordable electricity.

Our comments are organized as follows:

1. Background, Context and Assumptions
2. Guiding Principles
3. Responding to Distributed Energy Resources (DER)
4. Remuneration
5. OEB staff's process
6. Preparations by the OEB
7. Concluding remarks

Appendix A to this submission presents a summary of our recommendations and proposals.

## Background, Context and Assumptions Supporting these Comments

Our comments are premised on the following assumptions:

Assumptions about the distribution grid and distribution service:

- That safety is the enduring top priority and that all other priorities rank behind it,
- That the distribution grid is a public good that can:
    - attach and interconnect customers,
    - provide access to distribution services, and
    - provide access to commodity supply,
- That the distribution grid must be operated as a natural monopoly by an operator able to plan and operate the distribution grid safely on an ongoing basis.

Assumptions about LDCs:


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- That LDCs have the knowledge, skills and experience to safely operate the distribution grid under all circumstances and conditions,
- That the LDC will plan and operate the distribution grid so that any attaching device (e.g. a distributed energy resource (DER)) will not impair or erode the services, level of services or quality of service provided to any other consumer connected to the distribution grid,
- That LDCs will continue to serve the public by providing distribution infrastructure asset management services including planning (e.g. capacity), operating and maintaining the common use distribution infrastructure and the dedicated connection infrastructure,
- That LDCs will continue to provide appropriate levels of reliability, power quality, resiliency and certainty of supply to the customers they serve,
- That the LDC must be a 'going concern' so that consumers can be connected to the distribution grid, access supply and have certainty of supply, and
- That the LDC will provide natural monopoly services.

Assumptions about natural monopoly services:

- That the OEB will continue to regulate natural monopoly services (i.e. those services that when offered by one entity realize the available economies of scale).
- Further it is assumed that:
    - The OEB will be responsible for ensuring that monopoly power is not used inappropriately,
    - The OEB is expected to test for the existence and appropriateness of barriers to entry or exit,
    - The OEB will continue to authorize Just and Reasonable rates that:
        - Recover the ongoing costs incurred to provide service,
        - Provide an opportunity to earn the allowed rate of return that has been set at a level that appropriately compensates the providers of capital for the risks incurred,
        - Allow the LDC to access capital on an ongoing basis at favourable terms and conditions, and
        - Avoid undue cross subsidization between and among customer groups.

Working definitions of DERs have previously been provided by the EDA in its Best Practices Guide and by the IESO:

> From the EDA's Best Practices Guide
> *"A Distributed Energy Resource (DER) is any resource on the distribution system that provides electricity service(s) either to the distribution system, the transmission system and/or wholesale electricity market."*
>
> From the IESO
> *"DERs are electricity-producing resources or controllable loads that are connected to a local distribution system or connected to a host facility within the local distribution system."*

LDCs currently provide a bundle of services that include:

- Grid planning and operations to the standard of good utility practice,
- Distribution services,
- Default supply (e.g. if competitive supplier fails, if market failure occurs),

- Provider of last resort to provide service to consumers who would otherwise not be able to acquire service,
- Provider of ancillary services (e.g. backstopping, backup supply),
- Provider of technical services (e.g. voltage management to an acceptable standard, reactive power management, frequency management),
- Restoration of service (e.g. after storms, motor vehicle accidents, equipment failure, interference by animals),
- Fulfilling the obligation to connect buildings that lie along distribution infrastructure, per the OEB Act,
- Facilitating a variety of contracted technologies (e.g. FIT, microFIT), non-contracted technologies (e.g. net metering), embedded generation and LDC owned infrastructure (e.g. storage, small scale generation), and
- Providing service on commercial terms (e.g. billing, settlement).

## Guiding Principles

In this section we respond to, and comments on, the materials set out at OEB staff slide 14.

We propose that the Guiding Principles be restated so that safety is clearly recognized as an enduring feature of the provision of electricity distribution service in Ontario and that service must always be provided safely. Safety is more than an outcome of the regulatory process. We wish to clarify that "… the opportunity for utilities to earn a fair rate of return" is a requirement of just and reasonable rates.

All parties engaged in making investment decisions should be identified. We propose that OEB staff recognize that, in addition to consumers, LDCs and device proponents will also make investment decisions. Our members have worked to create a high level of trust with their customers and they take steps every day to preserve and enhance it. Despite the high level of trust that exists between the consumer and its LDC, OEB staff asserts that consumer confidence should be increased. We would like to better understand the origin of this assertion.

We believe that it is important that the regulatory framework neither create nor sustain economic distortions (colloquially, it should not create "winners and losers"). We consider that regulatory effectiveness is better characterized as an implementation issue. The regulatory process should be robustly scoped so that it is capable of fulfilling the OEB's legislative objectives. Afterwards, it should be critically examined and rendered as efficiently as possible without risking a harm, especially to the captive customers of natural monopolists. It will be helpful to learn why OEB staff consider regulatory efficiency to be among the guiding principles.

We propose that the principles should include the provision of appropriate regulation on a timely basis.

## Responding to DERs

This section deals with staff's current thinking as set out at OEB staff slides 27, 32, 49 and 52.

Staff's desired outcomes or objectives are:

- to enhance value to the consumer, and
- to support the optimal utilization of distribution infrastructure, and particularly to minimize underutilized or stranded assets.

Staff's "Needs Statements" expand on the provision of value in the LDC's system planning and control, through investments that are cost effective, and through information sharing. They are reflected in staff's Preliminary Issues Statements and Preliminary Scoping.

Our LDC members responsibly plan their distribution systems so that the infrastructure is:

- capable of connecting customers,
- capable of providing appropriate distribution service,
- capable of providing certainty that service will be provided on an ongoing basis (i.e. reliability, resiliency), and
- provided at the lowest sustainable level of costs over the long term.

Discussion

LDCs responsibly plan the capacity of their distribution system and infrastructure for the long term while providing adequate levels of redundancy, whether under business-as-usual conditions or at times of technological change. Technological change introduces additional complexities, uncertainties and risks that LDCs manage on an ongoing basis.

We assume that the LDC will continue to provide natural monopoly services. LDCs will be safe and reliable grid operators possessing the skills, knowledge, processes and expertise to ensure that all connected entities, including DERs, are safely used to benefit consumers as follows:

- improve consumers' choices,
- improve the quality of service provided,
- provide additional services that benefit consumers or are requested by consumers, and
- to provide electricity and services for a fair price.

Conceptually, the LDC can deploy DERs as substitutes for traditional infrastructure (this is commonly referred to as non-wires alternatives) or as complements (e.g. when storage is deployed to provide ride-through, continuity of supply, other services). It is essential to recognize that achieving the benefits of DERs, whether as substitutes or complements, requires that the LDC deploy foundational infrastructure (e.g. remotely operated devices capable of rerouting power flows). The LDC can first deploy the foundational infrastructure and then DERs, or simultaneously invest in and deploy them.

DERs can be deployed in a number of configurations and by a range of proponents. Some of the more common or typical deployments are expected to include:

- By single end users who are exclusively responsible for controlling the DER and who use the DER to create benefits exclusively for their enjoyment or betterment,
- By a proponent who offers services that are enabled by the DER to others under contractual terms,
- By an LDC to provide:
    - safe grid operations,
    - the services desired by customers and/or lower costs, and
    - services under contract to other parties.

The LDC, as the natural monopolist and safe grid operator, will be responsible for co-ordinating the utilization of DERs and legacy infrastructure simultaneously to provide distribution service(s) at the levels that consumers desire, achieve the quality of service prescribed by the OEB, achieve the lowest sustainable level of long term costs possible and not negatively impact any connected end user.

Additionally, the LDC, as the natural monopolist and safe grid operator, will:

- be able to 'make safe' because they have the ongoing ability to disconnect the supply of energy,
- have ready and ongoing access to operating data potentially using telemetry at the device level (e.g. demonstrating availability, dispatch, utilization, that specific service(s) was rendered),
- be able to ascertain whether contractual terms have been met,
- be able to detect that performance has occurred,
- be able to settle according to the tariff sheet or the agreement between the parties, and
- to the extent appropriate, administer disputes between the parties.

The LDC plans its distribution system to be capable of providing the appropriate level of service and at the lowest level of costs that is sustainable over the long term. The LDC may have an opportunity to achieve economies of scope or scale if it can 'share' innovative resources with other service providers. Some of those other service providers may operate in competitive markets or may be affiliated with the LDC. As a preliminary step, the OEB should clarify the allocation of costs and risks of these resources and how they are shared between and among entities; doing so will materially assist decision makers. Ideally, the OEB will also make clear how this information will be used in remunerating service providers or proponents through regulated rates.

Parties will benefit from a policy on the appropriate treatment of infrastructure that is permanently idled (i.e. underutilized or stranded), either in whole or in part. We note that the idling of legacy distribution infrastructure can occur as a result of the deployment of DERs. Distribution infrastructure, whether legacy or innovative, will be utilized based on its design parameters and based on consumers' need for service. It will exhibit 'swings' in the level of utilization in a period and between periods. All LDCs responsibly plan the capacity of their distribution system and infrastructure for the long term while providing adequate levels of redundancy. Distribution system planners seek to right size infrastructure so that capacity is available to serve the end user when the end user needs it and in the amount required by the end user, so that available capital is efficiently invested, and to avoid the need to resize infrastructure until such time as planned end of useful life conditions are achieved.

LDCs plan based on reasonable assumptions and using best available data. While planning at times of technological innovation and disruption is more challenging, LDCs must not only plan but strive to optimize the resources expended so that the infrastructure is in place and available to provide service to the consumer when the consumer requires the service. It must be clearly stated that no responsible LDC consciously plans capacity at levels or locations such that an end user could potentially not have access to distribution service or to commodity supply when needed and in the amount needed.

We also note that the idling or stranding of investments made in prior periods commonly accompanies the deployment of disruptive or innovative technology. The telecommunications industry has experienced this as it transitions from one generation of technology to the next and deploys the enabling innovative infrastructure. Similarly, LDCs are preparing to adopt innovative technology while continuing to appropriately utilize legacy infrastructure so that customers can enjoy the associated benefits. We anticipate that serving consumers and meeting their ongoing need for distribution service cannot presume minimal underutilization or stranding of existing infrastructure, as proposed by OEB staff. Rather, it is important to balance the provision of technology against the costs to be recovered:

the costs of legacy infrastructure, the costs of innovative infrastructure or both. We are interested in the learning about the foundation upon which staff have taken this position.

We propose that the OEB staff's proposal on underutilized or stranded infrastructure be examined carefully for:

- how the staff will test for and establish that infrastructure has been underutilized or stranded (e.g. to objectively assess whether less-utilized infrastructure may continue to be required to serve peak demand, provides appropriate levels of redundancy, enables switching operations required to support power flow rerouting),
- the identification of the drivers that resulted in, or contributed, to underutilization/stranding,
- whether the LDC prudently managed the drivers that were within its control,
- the presence and operation of drivers beyond the LDC's control, and
- whether stranding infrastructure is caused by the adoption/deployment of innovative technology that resulted in increased consumer value.

We anticipate that all stakeholders will benefit from a clear policy on the disposition of the Net Book Value (NBV) of idled infrastructure that addresses the financial viability of Ontario's LDCs and that balances the interests of all stakeholders.

OEB staff anticipate an enduring need for increased consumer protection. As previously mentioned, Ontario's LDCs have earned the trust of their customers and work to increase that trust daily. We look forward to participating in the OEB's initiative on the levels of consumer protection that will accompany the emergence of, and transition to, services that are competitively provided through DERs, in particular whether having the ability to choose a provider will be an adequate form of consumer protection. The OEB has some experience in the transition from natural monopolist provided service to competitively provided service (e.g. natural gas storage, wireless devices connecting to utility poles). We encourage the OEB to take steps to be well prepared for such transition as consumer confidence can be eroded if such transitions are done inappropriately or incompletely.

## Remuneration

This section deals with staff's current thinking as set out at OEB staff slides 25, 32, 49 and 51.

Staff's desired outcomes or objectives focus on value enhancements and include:

- ensuring that LDCs consider all practical and viable options, and
- to encourage greater efficiencies and cost effectiveness.

Staff's "Needs Statements" also focus on value enhancements and reference that adjustments will be required as the sector evolves (e.g. to improve the rate setting framework, for example by appropriately allocating risk). Among the issues identified by staff are scoping the role of the distributor and appropriately protecting the consumer as the provision of service evolves. While staff's proposed scope reflects a continued alignment with sound rate making principles, we note that both cost allocation and rate design are proposed to be out-of-scope. We seek information on the analytical device(s) that the regulator will have available to either allocate risk or to test that risk is allocated appropriately. We also wish to understand how consumers are to be empowered to make efficient investment decisions if cost allocation and rate design are both out-of-scope.

We wish to point out that LDCs consider all viable and practical options for providing service.

Discussion

As discussed earlier, these comments are premised on the assumptions that the OEB will continue to authorize Just and Reasonable rates that:

- Recover the ongoing costs incurred to provide service,
- Provide an opportunity to earn the allowed rate of return that has been set at a level that appropriately compensates the providers of capital for the risks incurred,
- Allow the LDC to access capital on an ongoing basis at favourable terms and conditions, and
- Avoid undue cross subsidization between and among customer groups.

Like all providers of goods and services the LDC should be remunerated for the goods and services it provides including:

- Planning a safe grid,
- Providing safe grid operations,
- Providing distribution services (e.g. supplier of last resort, default supplier), and
- Providing services to many end users.

DERs raise two distinct remuneration issues:

- How to remunerate the provider of service, and
- How to appropriately compensate the provider of capital to the natural monopolist that safely plans and operates the distribution grid and potentially serves as the provider of last resort.

We assume that the OEB will continue to set rates at levels that remunerate DERs for the costs incurred to provide service.

Distribution infrastructure is typically not operated at 100% of its design capacity for a prolonged period. Accordingly, it is appropriate to consider remunerating DERs for being available (e.g. for being 'on-call'). When a DER is dispatched it is utilized to provide one or more services. Being dispatched is expected to alter the state/status of the DER such that the DER may incur additional costs. The DER should be eligible for incremental remuneration upon being dispatched and providing a valuable service. The parties who receive the service(s) enabled by the DER could include:

- a single end user,
- a number of identifiable end users,
- end users attached to the distribution system, or
- the system as a whole.

Applying the fairness and equity concepts that underpin just and reasonable rates, the benefitting party should be responsible for remunerating the DER so that undue cross subsidization is avoided.

If there are a number of DERs attached to the distribution grid and they compete between and among each other to provide distribution services, then competitive pricing will recover their ongoing costs and discover the appropriate level of return on invested capital. Competition will, over the long run, cause the low quality or high cost providers to exit that market. We expect that the OEB will observe the emerging provision of aspects of distribution service under competitive market conditions (e.g. to detect the presence or absence of workable competition) with special attention to the impact to the consumer.

In the situation where a DER is utilized to provide natural monopoly services it will be appropriate for the OEB to have a range of approaches available to set remuneration at appropriate levels (e.g. range rates, block rates that differ based on a threshold value, ratcheted rates, rates that combine two or more charge parameters). Accepting that a DER can be a substitute for legacy infrastructure, it may be appropriate to limit or 'cap' the DER's remuneration (e.g. by setting it at an amount less than the remuneration that would be available to legacy infrastructure under the Cost of Service methodology).

Alternatively, one could quantify the DERs remuneration at the level of its Revenue Requirement or based on the services and their respective level of quality (e.g. if a DER provides reliability services, it could be remunerated at a pre-set level or within an identified range). It will be insightful to analyze the advantages and disadvantages of various remuneration methods (e.g. for control, certainty of performance, financial outcome) depending on whether the natural monopolist owns the infrastructure or contracts for services with a third party owner, for whether access is perceived to be more lucrative than deployment. These issues have not been fully considered in other consultations before the OEB and should be considered in-scope of the Utility Remuneration consultation. This analysis naturally engages cost allocation and rate design issues and we urge the OEB to reconsider its proposal to exclude rate design and cost allocation from the scope of these proceedings.

Assuming that DERs will be among the assets available to, and used by, LDCs to support grid operations and to provide natural monopoly distribution services, the ongoing costs of DERs will be recoverable through the rates that the OEB authorizes as just and reasonable. We recognize that there are a range of mechanisms that can directly or indirectly support an entity in recovering its costs and that impact the level of achieved Net Income (e.g. recovering an allowed rate of return, relying on a markup applicable to the provision of service, allowing a subscription fee approach that includes a profit margin). Whichever mechanism is used and whatever methodology is relied on to quantify the level of remuneration, the OEB must be able to demonstrate that it will achieve its legislative objective of maintaining a financially viable sector. Consumers can only have ongoing access to natural monopoly services if the provider, being the LDC, is financially viable.

More specifically, the LDC's captive customers depend on the OEB to set rates at levels that permit the LDC ongoing access to capital at favourable terms and conditions so that service, in turn, can be expanded on an ongoing basis. Just and reasonable rates recover the ongoing costs of providing service (e.g. the LDC's prudent investments, interest expense resulting from an efficient capital structure and the LDC being a 'price taker' when acquiring debt) and appropriately compensate the provider of equity for the risk incurred. The providers of capital expect that the OEB's just and reasonable rates will support the LDC being a 'going concern' whose rates recover its ongoing costs, including the costs to service debt obligations in full and on time, and provide an opportunity to earn an appropriately risk adjusted Allowed Rate of Return.

From a lender's perspective, a tangible outcome of just and reasonable rates is that the LDC is capable of achieving cash flows in appropriate amounts and that exhibit stability as well as achieve other financial metrics (e.g. solvency, liquidity, profitability, appropriate leverage). From an equity investor's perspective, a tangible outcome of just and reasonable rates is that the provider of equity will be appropriately compensated for the risks they incur. Changes to the return on equity can impact the cost of debt and vice versa which ultimately result in impacts to LDCs' customers.

No stakeholders representing either equity investors or lenders have participated in the consultation to date. We believe that it is imperative that such a perspective be obtained if the OEB is to consider the appropriate allocation of evolving risk in this proceeding. Furthermore, we suggest that this analysis be undertaken following the completion of the review of the role and scope of the utility. This scoping and role analysis will clarify the nature and extent of the risks incurred, whether they are diversifiable, and other relevant issues.

The providers of capital will benefit from the regulator's impartial assessment of the risks that the regulator is responsible for either creating or impacting. One aspect of regulatory risk concerns the charge parameters authorized by the OEB when setting just and reasonable rates. Innovative charge parameters can be expected to introduce risk during the initial period(s) of use. We suggest that among the issues that the OEB should consider before authorizing innovative charge parameters are:

- whether the charge parameter is within the control of the LDC, and
- whether the charge parameter is stable such that it can be predicted and, ideally, predicted with appropriate accuracy.

We also suggest that the OEB provide clear policy guidance during the transition period between when legacy charge parameters cease and rates that use innovative charge parameters commence to operate. For example, the OEB should consider whether to increase its monitoring of LDCs' cash flows, solvency, liquidity, profitability, achieving financial metrics suitable to preserve its target investment grade status, among other things. Assuming that the OEB continues to rely on Cost of Service rate making, the LDC's revenue stability, a key metric relied on by the providers of capital, depends on the LDC's ability to accurately predict both costs and charge parameters. In the transition period, it may be appropriate for the OEB to authorize capacity reservation charges, standby rates or other such cost recovery mechanisms that will contribute to revenue stability but not result in undue levels of cross subsidization.

We assume that the OEB will preserve its reliance of Cost of Service rate making until such time as it has concluded this policy formation initiative. The emergence and deployment of DERs may result in LDCs incurring incremental ongoing costs to provide service that will be eligible for recovery through rates. We propose that the OEB critically examine whether and how technological innovation impacts the LDC's business risk and the appropriate levels of financial risk that the LDC should be expected to manage. As referenced, the providers of capital must be appropriately compensated for the risk they incur when they lend to or invest in the LDC.

As mentioned above, providers of capital have not participated in this process to date, and we believe that their continued absence will become increasingly problematic. One of the OEB's duties is to balance conflicting interests; to do this the regulator needs to hear, probe and understand these interests potentially through the testimony of experts engaged in the provision of capital.

Consumers expect that that they will pay reasonable bill amounts for reasonable service. Among other things, consumers will expect that the LDC will be indifferent to relying on DERs that are owned and operated by third parties versus the DERs that the LDC owns and operates. Cost of Service rate making permits the LDC the opportunity to increase the level of Allowed Net Income by increasing the investment in the assets and infrastructure relied on to provide service that are owned by the LDC. The regulator will be motivated to address this incentive in a way that does not impact the LDC's ability to attract capital on an ongoing basis at favourable terms and conditions.

The OEB can also be expected to carefully consider the organization of costs for how they are incurred when providing natural monopoly services or other outcomes and, in particular, how to allocate the costs that are common or shared. Consumers' need for a high quality price signal has never been higher;

consumers need a price signal that will support them as they make decisions about the goods and services they require, about the available alternatives and how to best acquire them. OEB staff's current thinking on Guiding Principles reflects this need. As set out elsewhere in these comments, lenders and investors have an equal need for a high quality price signal to guide their investing decisions.

We recognize that it will helpful for the consumer to clearly understand the nature of the service being provided by the LDC (e.g. whether the LDC is providing traditional distribution service) and of the associated costs. Conversely, the LDC must have certainty that it will be appropriately remunerated for providing other services (e.g. the provision of standby service, whether actively utilized by the customer in the period or not). The LDC and its providers of capital will benefit from a reasonable certainty of the recoverability of its incurred costs (e.g. the costs associated with the capacity supporting the provision of service).

Unlike the other parties making investment decisions, consumers need high quality price information to have confidence that they will be billed amounts that are fair for the goods and services provided. For example, consumers will seek to be assured that the natural monopolist or the provider of last resort has been objective and impartial in acquiring the resources that support its provision of natural monopoly services or support it being the provider of last resort services. For these reasons, we urge the OEB to reconsider its decision to remove cost allocation from the scope of the Utility Remuneration consultation.

We note that OEB staff's positions on remuneration are conceptual, high level and convey little information about staff's thinking on whether the OEB should continue to use its existing remuneration policies or adapt them. The staff's position creates uncertainty for LDCs and for their providers of capital. If OEB staff intend to continue to rely on remuneration concepts that are rooted in Cost of Service rate making, then LDCs expect that the OEB will, on a preliminary basis, clarify the criteria for including DERs and other innovative/disruptive technologies in rate base so that their recoverability through distribution rates is clear and uncontroverted.

We expect that the Remuneration component of this initiative will provide LDCs with:

- equal access to appropriate policy tools that will support them as they adopt foundational infrastructure, deploy DERs, manage financial issues and cope with the financial consequences of idled or stranded assets and the associated debt and, potentially, equity,
- clarity of the regulator's remuneration policies including matters such as charge parameter stability and suitability,
- clarity of the scope and extent of the regulatory issues that will be addressed as they plan to provide capacity, whether using legacy infrastructure, DERs or other technologies,
- sufficient certainty to:
    - confidently amend, update, retire or create decision making tools, and
    - adapt and prepare other 'tools' (e.g. resource dispatch protocols that appropriately incorporate optimization, prioritization protocols that balance technical consideration against economic considerations, contract management tools).

## Board staff's process

These comments relate to the materials provided at OEB staff slides 9 and 21.

We anticipate that the regulator's plan includes two significant components:

- one that supports forming enduring policy, and
- the other that supports forming policies applicable to the transitional period.

OEB staff propose that the OEB strive to ‘keep up’ with DERs. We wish to point out that ongoing plan review, and re-adjustment and recalibration when warranted will be key to success. We seek to understand how the OEB will monitor whether it is keeping up, getting ahead of or lagging behind.

We expect that keeping up will include being aware of the drivers that cause different parties to be willing to invest in and deploy DERs. We also note that OEB stakeholdering processes are resource intensive and often require significant time, and trust that the OEB’s plan is sufficiently flexible to adapt as technology continues to evolve, as markets adapt and evolve, and, to appropriately compensate the providers of capital for the risks they incur. This flexibility is considered a necessary component of any plan that is to support the OEB in ‘keeping up’. It will support providing regulatory certainty to the affected parties in a timely manner.

We suggest that OEB staff transparently disclose all phases of this initiative so that consumers and all other stakeholders can understand the risks they will be exposed to, either explicitly or implicitly, and to enhance their confidence in the OEB’s ability to both fulfill its legislative objectives and to set just and reasonable rates. In an initiative this broad that engages interrelated issues that will affect several stakeholders concurrently, it is beneficial to consider impacts early on (e.g. during the policy formation stage). Early identification can reduce the risk of unintended impacts at the implementation stage.

OEB staff have clearly articulated that issues such as Cost Allocation and rate design are out-of-scope. We seek to understand how the issues that in-scope are expected to fully support the OEB in setting just and reasonable rates. We also seek to ascertain whether the issues that OEB staff have identified as out-of-scope will be out-of-scope permanently or if they are out-of-scope only during this initial phase. For this reason, we wish to understand all the phases of the OEB’s plan.

We are concerned over the absence of the active participation of the IESO in this proceeding. The deployment of DERs, whether by the natural monopoly LDC or a third party service provider, could result in unfavourable impacts to the charge parameters that form the basis on which the IESO is remunerated.

## Preparations by the OEB

The OEB will continue to supervise LDCs as they adapt to and deploy DERs, manage customers’ ongoing need for services whether natural monopoly or competitively supplied, as they manage the costs of deploying foundational infrastructure and DERs and, optimistically, as they lower costs to consumers.

Among our expectations for the ‘transitional state’ (i.e. while this policy formation initiative is under way) are:

- that the OEB provide a mechanism that provides regulatory and rate making certainty to the LDC as it adopts foundational infrastructure, DERs and other innovative technologies, and that appropriately protects consumers and addresses the needs of the providers of capital and other stakeholders,
- that the OEB will have the tools and resources required to authorize just and reasonable rates for the provision of natural monopoly services, including tools to demonstrate that undue cross subsidization will not occur,

- that the OEB will address the interplay between the revenues generated by the provision of natural monopoly services and those generated by the provision of competitively provided services, and
- that the OEB will have a clear approach to how it monitors LDCs' financial viability.

Among our expectations for the 'end state' are:

- that it will be able to accommodate and serve the needs of consumers whether they are:
    - passive consumers (i.e. those who intend to acquire services from the LDC and not to engage any third party providers),
    - active consumers (i.e. those who intend to acquire natural monopoly services from the LDC and to engage third party providers for other aspects of service),
    - simultaneously consumers-and-DER proponents (i.e. those who intend to acquire natural monopoly services from the LDC and to engage third party providers for all other aspects of service and who will offer their DER into the competitive marketplace),
- that the OEB will revise its rate making framework to appropriately address mechanisms that are resulting in inappropriate outcomes (e.g. mechanisms that do not render the LDC indifferent to deploying infrastructure that it does not own, mechanisms that do not allocate risk appropriately),
- that the OEB will have a clear approach to how it monitors the services that LDCs provide to their customers and the associated service levels,
- that the OEB will have a clear approach to how it monitors LDCs' financial viability as a whole and based on activity or service provided, and
- that the OEB will be prepared to appropriately respond to the emergence of workable competition that is appropriately prioritized and provides adequate disclosure and transparency and in a timely manner.

### Concluding Remarks

Like all parties, we look forward to realizing the benefits of foundational infrastructure and DERs when providing services to consumers. In the intervening period LDCs will plan and safely operate the distribution grid. LDCs will seek regulatory clarity of how their use of DERs to provide natural monopoly services, and potentially how sharing the use of DERs with their affiliates who may competitively provide services, can fulfill consumers needs and how the LDC can be remunerated through just and reasonable rates. LDCs recognize that they will need to be able to respond to questions from the providers of capital (e.g. on the nature of risks, how risk is allocated, whether specific risks are diversifiable or able to be mitigated). The providers of capital will also question the stability of the LDC's cash flows if new charge parameters are authorized by the OEB.

We thank the OEB for the opportunity to comment on its staff's presentation materials and current thinking. If you have any questions on these comments, please do not hesitate to contact Kathi Farmer, Senior Regulatory Affairs Advisor, at kfarmer@eda-on.ca or at 905.265.5333.

Sincerely,

Teresa Sarkesian
President and Chief Executive Officer

**Appendix A: SUMMARY OF RECOMMENDATIONS**

1. Safety is the most important and enduring priority and objective.

2. LDCs are ideally suited to provide the natural monopoly service of planning and operating the grid safely, reliably and at the lowest long-term cost for the benefit of all.

3. The OEB will be responsible for ensuring the financial viability of Ontario's distribution sector.

4. The OEB must take steps to engage providers of capital (e.g. lenders, equity investors) in this initiative.

5. The regulatory framework should not continue or create economic distortions.

6. The OEB should provide policy direction/guidance on LDCs' deployment of foundational infrastructure.

7. The OEB should provide policy direction on the conditions under which a device is eligible for inclusion in rate base and, its costs are recoverable through rates. LDCs should not incur artificial barriers to the ownership/deployment of devices versus other proponents.

8. The LDC should have the discretion to 'share' resources with other service providers, including those it is affiliated with, so that economies of scale and or scope can be achieved. This can be supported with a policy on the allocation of costs and risks between the rate regulated entity and its affiliates that clearly links to remuneration opportunities.

9. The OEB should establish a policy on the recovery of stranded assets that balances the provision of innovative technology and the total costs – including the costs of rendering existing infrastructure economically obsolete - of doing so.

10. The OEB should examine the duties and role of the rate regulated distributor in the provision of service to customers with varying needs and abilities. This should form the starting point for the OEB's consideration of the business and financial risks incurred by the LDC and its providers of capital so that appropriately risk adjusted returns can be established. This information will in turn support the OEB in setting just and reasonable rates.

11. The OEB should include Cost Allocation issues and rate design issues in this initiative.

12. Upon finalizing the 'end state' the OEB should then consider the transitional policies that support the orderly transition from today's state to that 'end state' and sue due care to avoid unintended consequences of either the 'end state' or during the transition period.

13. The OEB's just and reasonable rates will provide a price signal to device proponents, investors, lenders and consumers. The OEB should be mindful of how these decision makers will use authorized rates.