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June 11, 2020

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Long,

RE: EB-2020-0133 - London Property Management Association Comments on Draft Issues List – Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency

These are the comments of the London Property Management Association ("LPMA") with respect to the draft issues list prepared by Ontario Energy Board ("Board") staff and included in Appendix A to the Board's May 14, 2020 letter that initiated the consultation in the above noted matter.

LPMA has provided comments under three headings: General Comments; Comments on Draft Issues; and Additional Issues.

GENERAL COMMENTS

LPMA is concerned with the general tone and bias in the current draft issues list. This tone and bias appears to assume that it is a foregone conclusion that utilities will be allowed to recover some or all of the costs recorded in the COVID-19 account ("Account"). Indeed, the Board's letter states on page 2 that

> *"the objective of the consultation is to assist the OEB in the development of new accounting guidance related to the Account and filing requirements, where appropriate, for the review and disposition of the Account, giving due regard to bill impacts on customers."*

In the bullet points preceding the above, the Board lists a number of things for the review and disposition of the account, including rules on the operation of the three sub-accounts, the nature of the costs/revenues to be recorded, the timing of the recovery, any near term relief required, assessment of materiality, whether any additional revenues or offsetting cost savings need to be considered and rate impacts and rate mitigation considerations. Nowhere is it stated whether the utilities should be eligible to recover any impacts related to COVID-19.

LPMA submits that this is a fundamental issue that has been left off the issues list. The issue is whether utilities should have earnings protection that does not exist for any other businesses in the province. Should regulated utilities be provided with protection for their shareholders, at the expense of its ratepayers, while other businesses suffer greater losses than the utilities, with many going out of business all together. Ratepayers have also been significantly impacted with many job losses that will likely be permanent. Is it just and reasonable for these ratepayers to shoulder additional costs to utility shareholders when the entire provincial economy has been impacted?

Many of the draft issues appear slanted to assume that some sort of recovery will take place. LPMA submits that all of the draft issues should be re-worded to remove this bias.

An overarching issue that needs to be addressed by the Board is whether utilities should be provided with levels of protection beyond that available to other businesses and ratepayers in the province and, if so, to what level should that protection be available.

The draft issues list needs to reflect the uncertainty of the current world situation and its impact on all aspects of life. There should be no more or less certainty for utilities than for anyone else. The economic impacts are not unique to utilities. In fact, utilities have been more insulated than almost any other industry in the province. People still need natural gas to heat their houses and water and people still require electricity. Both of these industries are different from most other businesses in that customers do not have to come to the utility to buy their product, nor do the utilities require a physical presence of a person to deliver their product to the customer.

Another issue is what actually constitutes the COVID-19 emergency? LPMA submits that this reference to the COVID-19 emergency should be replaced with specific government actions, such as issuing emergency orders, to be more precise with respect to the impacts resulting from such emergency orders and the dates of those orders. A sub-issue would be what impacts were the result of the emergency orders and were these impacts economy wide or specific to sections of the economy?

With respect to Issue 11 below, dealing with loss of load, LPMA submits that this issue should be focused on the revenue impacts associated with both the loss and gain of load since it is likely that residential loads have increased due to the

COVID 19 restrictions put in place. LPMA submits that the Board should direct the utilities to provide an estimate of the impact of COVID-19 on their revenues and loads by rate class in July in advance of the stakeholder forum planned for later in July, as part of the posting of data noted in the Board's June 4, 2020 letter.

LPMA submits that the focus of this consultation and the recoverability of net costs and revenues should be on the financial integrity of the utilities. This raises the question of what is the definition of financial integrity and if a utility finds itself in financial stress, to what degree is this lack of financial integrity related to the COVID 19 emergency and to what degree is this related to other factors, such as management.

LPMA suggests a number of issues should be added to the issues list that deal with the financial integrity of the utilities, such as: How is the financial integrity of a utility defined?; How, and to what extent, has the COVID 19 emergency impacted on the financial integrity of a utility?; What steps has a utility taken to mitigate the impacts of the COVID 19 emergency on its financial integrity?; Over what period should the financial integrity of a utility be measured? How does the financial integrity of the regulated utilities business compare to that of the provincial economy, industry in general, small business, and residential customers, including low income customers?; If the regulated utility has a return on equity within +/- 300 basis points of its allowed return on equity (i.e. it does not trigger the off ramp provisions) should the utility be allowed to recovery any of the COVID 19 net costs?; If a utility does not fall outside of the off ramp provisions (i.e. is within +/- 300 basis points of its allowed return on equity, are there any financial integrity issues for the utility?

<u>COMMENTS ON DRAFT ISSUES</u>

<u>Policy Direction</u>

1.

a) *Should the OEB provide advanced policy direction in the near term (for example at the time of establishing the Final Issues list), to provide greater certainty with respect to the recoverability of amounts tracked in the Account, such as by confirming the recoverability of any incremental bad debt expense?*

LPMA submits that the Board should not be providing any advanced policy direction in the near term to provide greater certainty with respect to the recoverability of amounts tracked in the Account. This would be contrary to the Board's practice that amounts tracked in any such account, whether regulatory assets or liabilities, is not a guarantee of recovery from or disposition to ratepayers.

As the Board is aware, the amounts and nature of the costs is a key issue in this consultation, as is the eligibility for recovery. Any advanced policy direction could prejudice these issues in the coming weeks and months and affect the discussions scheduled for late July and the subsequent submissions of parties.

It would also be premature, in the view of LPMA, to establish any advanced policy direction before it has the views of all stakeholders and before it has an idea of the magnitude of the amounts proposed for recovery and how widespread the magnitude is across utilities.

LPMA also submits that it would be premature and potentially harmful for the Board to provide any advanced policy direction while the COVID-19 emergency is ongoing. If a second wave of the pandemic emerges in the fall, as many believe is possible, any advanced policy direction could end up being premature and result in unintended consequences to both the utilities and to ratepayers.

One area where LPMA believes the Board could provide some certainty is with respect to lost revenues related to utilities that have deferred rate changes that were to be effective May 1, 2020 to a later date. Those utilities should be allowed to quantify the impact based on actual data after this date and record those amounts in an account (or sub-account) for future recovery. The recovery of these amounts, subject to verifying the accuracy of the amounts, should be considered recoverable as they are in the normal course when foregone revenues are calculated because of a difference between the implementation of new rates and the effective date of those rates.

b) *Should the OEB consider interim disposition of the Account, until such time as the final balance is brought forward for review and disposition?*

LPMA submits that this issue should be removed from the draft issues list. The Board cannot approve any interim disposition of the Account before determining if any of the amounts in the Account are recoverable. To do so would be foolish and establish a terrible precedent.

c) *What specific accounting guidance or policy direction should the OEB provide for the Account that may enable the Utilities to better access incremental lines of credit and other types of borrowing facilities during the COVID-19 emergency?*

LPMA submits that whether or not the Account is considered a regulatory account or a tracking account, it should be made clear that including costs in the account is not an indication that the amounts will be recovered from ratepayers, consistent with past Board practice.

It is also unclear to LPMA why utilities may need access to incremental lines of credit and other types of borrowing facilities during the COVID-19 emergency. LPMA submits that the Board should add a draft issue around this (see the Additional Issues section below).

B. General Principles

2. *To what extent can the regulatory principles identified in previous OEB consultations be of assistance in considering matters relating to the recording and disposition of the Account?*

LPMA notes that as currently worded, the regulatory principles are not identified. LPMA submits that this issue should replaced with "What are the appropriate regulatory principles to be applied and to what extent can they be identified in previous OEB consultations and are they of any assistance in considering matters related to the recording and disposition of the Account?"

3. *Are there other types of costs previously considered by the OEB that provide suitable analogies for the consideration of the Account? For example, should other precedents such as the OEB's Z-factor policy be considered by the OEB?*

LPMA submits that this issue should be expanded to include other OEB policies that are as relevant as the Z-factor policy. The words "Z-factor policy" should be replaced with "Z-factor, earnings sharing and off-ramp policies".

C. Accounting Matters

In the series of issues below, stakeholders may consider addressing the impact on each of the following sub-accounts:

- *Account 1509 – Impacts Arising from the COVID-19 Emergency, Subaccount Costs Associated With Billing and System Changes*
- *Account 1509 - Impacts Arising from the COVID-19 Emergency, Subaccount Lost Revenues*
- *Account 1509 – Impacts Arising from the COVID-19 Emergency, Subaccount Other Costs*

4. *Should additional sub-accounts of the Account be established? If so, what additional sub-accounts should be established and why? For example, in order to facilitate greater certainty in the recoverability of bad debt expense that is beyond the amounts underpinning current rates, should sub-accounts be established to specifically capture temporary delays in recovering accounts receivable (Account 1100 – Customer Accounts Receivable)?*

   LPMA is less concerned with how many sub-accounts that there should be than with being able to identify and track each and every type of cost, cost saving, revenue loss, revenue gain, financing costs, etc. Regardless of whether these impacts are recorded in one account or in multiple accounts, the utilities must be able to account for each impact separately from one another. This will be needed for the review of the amounts, prudency and recoverability of each item.

5.

a) *Should the OEB compare the amounts recorded in the Account to industry norms (e.g. benchmarking with other utilities in Ontario and Canada)?*

   It is not clear to LPMA how benchmarking the amounts recorded in the Account could provide any meaningful comparison across utilities in Ontario, much less across Canada, where such accounts may be significantly different from those in Ontario. Within Ontario, the situation of the distributors across Ontario are as vastly different from one another as have been the impacts of COVID-19.

   If the Board determines that benchmarking is appropriate then LPMA submits that it should be expanded to include benchmarking with other utilities in the United States and that the benchmarking be expanded to include the recoverability of the impacts of the COVID-19 emergency on utilities.

b) *If so, what reporting should be required by Utilities to facilitate comparisons?*

   No comment.

6. *What are the criteria to facilitate consistent accounting methods for both the electricity and gas sectors, including electricity transmitters and OPG, as opposed to establishing criteria on a case-by-case basis?*

   No comment.

D. Nature of Costs and Materiality

7. *What types of incremental identifiable costs (including pass-through amounts) and cost savings should be recorded in the Account, including the effective date of recording these components in each of the sub-accounts?*

   LPMA submits that “incremental” and “identifiable” need to be adequately defined and guidance needs to be provided on the methodology used to separate the VOVID-19 related costs from those incurred for other reasons.

8. *Should extra finance costs incurred (e.g. interest expense) related to incremental debt be allowed to be recorded in the Account, including any debt that may be incurred to finance “pass-through” cost amounts?*

   LPMA submits that this issue should be expanded to include the impact on finance costs associated with the deferral of payment of income tax installments, HST installments, property tax installments and any other deferrals that may be available to utilities.

   There should be a separate issue that deals with the potential for reduced finance expense due to lower interest rates that have resulted from the COVID-19 emergency and the potential for less long term debt related to slowdowns and deferrals of capital expenditures. LPMA suggests the following wording: “Should reduced finance costs incurred (e.g. interest expense) related to delayed capital expenditures and lower interest costs be recorded in the Account?”

9. *What types of incremental “offsetting” sources of funds should be recorded in the Account, and what should be the effective date of recording these components in each of the sub-accounts?*

   This issue should be expanded to include how these offsetting sources of funds are proposed to be treated and why.

10. *Other than impacts arising from loss of load discussed in the next issue, what types of revenue impacts arising as a result of the COVID-19 emergency, including lost revenues associated with any actions taken to provide relief to customers, should be recorded in the Account?*

   There may have been less CDM and DSM taking place during the COVID-19 emergency and that impact will extend throughout the year. This may increase revenue (depending on the rate class and electric versus natural gas utility). LPMA submits that the Board should consider a separate issue that deals with the revenue not lost due to CDM and DSM for both the COVID-19 period and the remainder of the year.

11.

a) *To what extent should loss of load be recoverable in the Account?*

LPMA submits that the issue should not be focused on loss of load but rather on loss of revenue associated with loss of load.

LPMA also submits that all of the issues under Issue 11 should be re-worded to include revenue from load gains. This is particularly important in the residential sector for natural gas where loads are expected to have been higher than normal due to residents being home more than normal. This may not be an issue for electricity utilities that have moved to 100% fixed cost recovery for residential customers, but would be an issue for any electricity utility that has not yet achieved that level of fixed recovery.

b) *If loss of load should be considered, what criteria, measurements, and limitations of the quantum impact for loss of load should be considered?*

Again, LPMA submits that this should focus on revenues, both losses and gains associated with loads.

c) *If loss of load should be considered, how should the OEB differentiate between permanent and temporary lost load revenues and determine the effective date of recording these components?*

Again, LPMA submits that this should focus on revenues, both losses and gains associated with loads.

In addition to the determination of the effective date of recording components associated with load loss or gain, LPMA submits that the issue should be expanded to include an ending date for the revenue impacts associated with load changes.

d) *When determining the impacts arising from loss of load, how should the OEB address responsibility, including any rate class cross-subsidization?*

Again, LPMA submits that this should focus on revenues, both losses and gains associated with loads.

LPMA submits that this issue should be expanded to include the following: "Is any rate class cross-subsidization appropriate?"

e) *As an alternative to recording loss of load amounts in the Account, should there be consideration for early rebasing or a special rates adjustment to address redistribution of the overall lower load amongst the other rate classes?*

Again, LPMA submits that this should focus on revenues, both losses and gains associated with loads.

12. *How should the OEB address causality for the nature of the amounts to be recorded in the Account and ultimately recovered as well as establishing a consistent methodology to calculate the amounts recorded in the Account?*

LPMA submits that the issue should be changed to stare "…establishing a consistent methodology, if appropriate, to …".

Given the unique circumstances of utilities and the different factors that have affected them and the vastly different make up of the customers served, LPMA believes that a consistent methodology for calculating the amounts recorded in the Account may or may not be appropriate and this should be determined as part of the issue.

13. *How should the OEB address prudence for the nature of the costs to be recorded in the Account and ultimately recovered?*

LPMA submits that the following should be added to this issue, following the word "recovered": "and what information will utilities be required to provide to parties to support the prudence claim?"

14.

a) *How should the OEB address materiality associated with the amounts recorded in the Account, and what should it be? For example, is it appropriate to adopt current materiality thresholds such as those used for Z-factor claims or in cost of service applications to assess costs?*

No comments.

b) *Should the materiality level be determined on an overall Account basis, or on a sub-account basis?*

No comments.

E. Recovery Mechanism and Timing

15. *How should the impact on the different rate zones and customer classes be reflected in the Account, particularly when the Utilities seek recovery of the Account, including proposed bill impact and cost allocation issues?*

LPMA suggests adding the words "and tracked" after the words (customer classes be reflected". Following "cost allocation issues" LPMA suggests adding "in order to ensure net costs are recovered from the appropriate group of ratepayers?"

16.

a) *Should the OEB consider a cost-sharing model between the Utilities' ratepayers and shareholders regarding the recovery of the Account?*

LPMA has suggest a new issue below under the heading Additional Issues that would replace Issue 16.

If the Board retains the current Issue 16, then LPMA submits that the following sub-issues should be added.

- Should the cost sharing be determined on an individual utility basis or should one cost sharing model be applicable to all utilities?
- Should the cost sharing be determined on the overall amount in the Account to be recovered, or should the cost sharing be determined based on each component of the Account, such as net impact on costs and net impact on revenues?

b) *What factors should the OEB take into consideration in considering any cost sharing, such as the impact of the COVID-19 emergency on the broader Ontario business environment?*

LPMA submits that the addition of "and are these factors reasonable in the current business environment" to the end of this issue. "Cost sharing" should also be changed to "net cost and revenue sharing". In addition, the issue should not be limited to the consideration of only the impact of the COVID-19 emergency on the broader Ontario busines environment. LPMA suggests changing "such as the impact" to "such as, but not limited to, the impact".

c) *If a cost sharing model should be considered, on what basis should the allocation of this cost-sharing be considered?*

LPMA suggests adding to this issue the following. “Should such factors as mitigation measures taken or not taken by the utility be taken into account and should the historical return on equity from previous years and in the current year be taken into consideration in determining the allocation of the cost-sharing?”

LPMA submits the following addition to Issue 16 to deal with different earnings sharing mechanisms that are currently in place across the electricity and natural gas sectors. For example, some utilities have a 50/50 earnings sharing that kicks in after 150 basis points of over earning, while some electricity distributors that have consolidated have 50/50 sharing of over earnings after exceeding 300 basis points beyond the fifth year following consolidation. The issue is “Should any utility that has a deadband before any over earnings are shared with customers be applied symmetrically to under earnings that are the result of the COVID-19 emergency?”

As an example, should the Board require a utility that is allowed to retain up to 150 basis points of over earnings before sharing 50/50 with customers any amount over that level to apply a symmetric approach to deal with the net impact of the COVID-19 emergency. In this example, the utility would allocate the impact of the first 150 basis points to shareholder and then share any remaining net costs and revenues 50/50 with ratepayers for anything over the 150 basis points.

Some utilities do no have any earnings sharing mechanisms in place. In other words, if they over earn up to 300 basis points (the offramp), all of the benefits go to the shareholder. For these utilities the issue should be “Should any utility that is not required to share any excess earnings with its ratepayers be allowed to recover any under earnings that are the result of the COVID 19 emergency?”

17. *Should the OEB require an external audit of the Account balance, particularly in the event that a non-December 31 balance is approved for recovery?*

LPMA submits that this should be changed to “Are there any circumstances, including timing of approval for recovery, that an external audit of the Account balance is not required?”

ADDITIONAL ISSUES

The following bullet points constitute additional issues that LPMA submits should be added to the draft issues list. LPMA believes that they are self explanatory.

- If utilities are allowed to recover any costs or lost revenues, net of cost reductions and revenue increases, what restrictions should be placed on the utilities before they are allowed to dispose of the balances. Such restrictions could include, but are not limited to, suspension of dividend payments, caps on executive compensation, suspension of bonus payments.

- What government funding/assistance are utilities eligible for and if they are eligible for any such funding/assistance such as wage subsidy payments, loans or any other emergency program benefits, have they applied for those programs and if not, why not?

- What proportion of any amounts found to be recoverable should be allocated to shareholders and what proportion should be allocated to ratepayers? Should this allocation be utility specific or should a generic split be applied to all utilities?

- Should a utility be eligible to record any further amounts in the Account beyond the point for which recovery and disposition have been approved?

- Should utilities be entitled to any relief if their return on equity as a result of the COVID-19 emergency does not trigger the off-ramp of -300 basis points? How, or should, the impact of the COVID-19 emergency be separated from other impacts on the return on equity?

- What information will utilities be required to file with the Board and interested parties to enable those parties to determine which costs, savings and net revenue impacts are purely COVID-19 related and which are due to other factors?

- What savings or cost reductions should be tracked and brought forward for disposition? What actions did the utilities take, or not take, in order to reduce costs related to, for example but not limited to, reductions in capital planning and expenditures, reductions in interest rates and reduced fleet costs driven by reduced vehicle use and lower gasoline prices?

- If utilities have experienced reduced capital expenditures as a result of COVID-19, what is the impact on OM&A expenses of any reduction in capitalized overhead?

- If capital expenditures have been reduced or will be delayed beyond the end of the current year, what is the impact on rate base and what is the corresponding impact on the cost of capital (debt, equity, depreciation and income taxes)?

- Should interest accrue on any balances in the Account, and if so, what is the appropriate interest rate to be used?

- Do utilities require access to incremental lines of credit above the deemed amount of short-term capital in their rate base? How has the deferral of the payment of income tax installments, HST installments, property taxes, etc., affected the need for lines of credit?

- What is the impact on long term debt requirements resulting from changes and/or delays in capital expenditures as a result of the COVID-19 emergency?

Yours very truly,
Randy Aiken

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