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October 26, 2021

Ms. Christine E. Long
Registrar
Ontario Energy Board
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Ms. Long:

Re: Green Button Implementation – Draft OEB Staff Guidance; Expression of Interest for Industry-led Implementation Working Group; Proposal to amend Retail Settlement Code - Toronto Hydro Comments / Expression of Interest

Ontario Energy Board File: EB-2021-0183

Toronto Hydro-Electric System Limited (“Toronto Hydro”) is the local electricity distribution company for the City of Toronto. It has over 780,000 customers and delivers approximately 19% of the electricity consumed in Ontario.

On October 12, 2021, the Ontario Energy Board (“OEB”) released draft guidance to assist electricity and natural gas distributors in implementing Green Button in Ontario in a manner consistent with the requirements set out in Ontario Regulation 633/21 (“Green Button regulation”), and invited expressions of interest for stakeholders interested in participating on an industry-led Green Button implementation working group. The OEB also gave notice under section 70.2 of the *Ontario Energy Board Act, 1998* of proposed amendments to the Retail Settlement Code (“RSC”) related to O. Reg. 633/21 made under the *Electricity Act, 1998*.

Toronto Hydro is pleased to offer comments on the OEB staff’s draft guidance to assist electricity and natural gas distributors in implementing Green Button and the proposed amendments to the RSC. Toronto Hydro is also pleased to submit its expression of interest in participating on the industry-led Green Button implementation working group.

Comments

Draft OEB Staff Guidance

Notwithstanding any and all potential benefits of Green Button, Toronto Hydro has a paramount concern for privacy and cybersecurity, to protect its customers, and takes its responsibilities in this regard extremely seriously. Toronto Hydro further advocates on behalf of its customers and is informed by its Customer Engagement results that regularly shows “price” as the top concern for most customer classes.

In this regard, Toronto Hydro offers the following in response to the guidance and draft code amendments on this matter:

- Requesting further clarity on authorization, termination, and rights of third parties;
- Highlighting the need for strong controls for user data; and,
- Recommending that the OEB protect ratepayer interests by following the long-established regulatory principle “beneficiary pays” to allow all future Green Button costs to be recovered from third parties service providers.

Authorization and Rights of Third Parties

Green Button enables new levels of data sharing with unregulated entities, and with it risks to the inappropriate or unlawful use of customer-specific information. Particularly with respect to Connect My Data (“CMD”), where Toronto Hydro data about individual customers is shared directly with third parties, utilities and the OEB must face Green Button implementation with eyes wide open.

The OEB’s staff draft guidance provides detail on how distributors should gain customer consent to share energy data with authorized third parties. Toronto Hydro is satisfied with the Customer Authorization Template the OEB staff has provided and feels it sufficiently constitutes explicit customer authorization to share customer energy data.

However, Toronto Hydro would benefit from additional clarity with respect to the authorization and rights of the third party. Specifically, will a distributor be required to enter into a contract with a third party? If not, does the OEB plan to licence or otherwise regulate third parties to ensure Green Button data is not misused? OEB staff have rightly pointed out that, “the OEB may not have regulatory oversight of third parties that are authorized to receive the data” and that “third parties would be subject to their own obligations under applicable privacy legislation.” If a third party is operating in another jurisdiction, they may be subject to other legal or regulatory requirements that may be inconsistent with the *Municipal Freedom of Information Protection of Privacy Act* (“MFIPPA”) or the *Personal Information Protection and Electronic Documents Act* (“PIPEDA”). As such, Toronto Hydro recommends the OEB provide further clarity and guidance on the terms and conditions that third parties are subject to when accessing customer energy data from Ontario. At the very least, utilities should be provided clear information in order to advise its customers who will undoubtedly inquire about what Green Button is and how it works.

Termination of Third-Party Access to Data

Green Button regulation grants distributors the right to terminate the authorization for a third party if there is a significant violation of the terms and conditions under which access to the energy data was provided. However, the OEB’s staff draft guidance notes, “it would generally not be a distributor’s role to monitor the behaviour of a third party once the customer agrees to share their data with the third party.” Accordingly, Toronto Hydro asks for further guidance from the OEB on what constitutes a “significant violation” of the terms and conditions. For example, would this include a data breach or multiple customer complaints? Additionally, in the event of a termination, would this be unilateral – i.e. would the distributor have the power to terminate without the customer(s) consent? Further guidance from the OEB on the termination process would be appreciated. Toronto Hydro expects third parties would similarly benefit from this clarity.

Distributor’s Privacy Policy of Energy Data

Green Button regulation requires distributors to establish a policy regarding the privacy of energy data. This is distinct from distributor’s own Privacy Policy. Toronto Hydro requests the OEB staff provide further guidance on what type of information this policy should contain specifically, especially given the

guidance clarifies that the third party is responsible for energy data once the customer provides consent to sharing its energy usage through Green Button.

Deferral Account / Cost Recovery

The draft guidance specifies the OEB will establish a deferral account for distributors for the purpose of recording costs associated with implementing Green Button, a measure Toronto Hydro fully supports. Toronto Hydro anticipates distributors will incur ongoing costs in operating Green Button including those associated with:

- **Keeping technology up-to-date and data secure:** distributors will need to re-implement Green Button every time there is a change in various systems involved including customer self-service, customer care and billing (“CC&B”), metering data management repository (“MDM/R”), Intron Enterprise Edition (“IEE”), PrimeRead, and Operational Data Store (“ODS”).
- **Managing authorization of third parties:** if distributors are required to authorize third parties, costs will be associated with contracts, background and financial checks, annual reauthorization, and technical issues arising between the distributor and the third party systems.
- **Servicing customers:** it can be anticipated a percentage of customers will seek out assistance from distributors on issues including data (billing data vs. metering data), sign-up questions, and inevitably termination questions including how to receive customer energy data back from third parties.
- **Privacy:** customers may not understand that they have given access to their data, or other customers may hear about Green Button and not understand that their energy data is not given to a third party without explicit consent. Ongoing customer support can reasonably be expected.

On the form of cost recovery, Toronto Hydro respectfully submits that on the basis of the “beneficiary pays” principle, the OEB should pre-emptively indicate that utilities will be allowed to recover all applicable Green Button costs, including ongoing costs, from third parties. Third parties – namely, third party service providers that leverage Green Button data – have been among the most vocal advocates for data standardization amongst Ontario utilities, regularly citing that data standardization would reduce their cost of doing business. For example, in the Advance Energy Management Alliance’s

("AEMA") submission to the Ministry of Energy on the 2020 Green Button consultation, it noted the importance of Green Button to "realize the full benefits of [Connect My Data] and [reduce] transaction costs" (emphasis added). The AEMA goes on to state that, "without simple, standardized, electronic access to this information, demand response providers will not be able to cost-effectively participate in markets"¹ (emphasis added).

In this regard, Green Button is analogous to telecom wireline attachments, but for energy consumption data. There is a long and well-founded regulatory basis for utilities to recover make-ready and ongoing costs pertaining to the presence of wireline attachments in order to protect the interests of all electricity ratepayers. Toronto Hydro recommends applying that principle to Green Button costs, and allowing a fee-for-service or similar type of model to recover Green Button costs from third parties that will stand to benefit through lower costs of doing business, as the AEMA has noted. To the extent service providers pass along those costs to those using Green Button-enabled services would be a matter for third parties to consider, but is in any event a more just and economically efficient means of recovering Green Button costs than from all customers.

Establishment of an Industry-led Implementation Working Group

Toronto Hydro supports the establishment of an industry-led implementation working group to support distributors implement Green Button, and by way of this submission, is submitting its expression of interest for the utility to participate in this industry-led working group.

Proposed Amendments to the Retail Settlement Code

Toronto Hydro has no concerns with the OEB's proposed amendments to the Retail Settlement Code.

Conclusion

Toronto Hydro appreciates the opportunity to provide its comments on the OEB's draft guidance and proposed amendments to the RSC, all of which is respectfully submitted. The utility also looks forward

¹ See AEMA comments at: <https://ero.ontario.ca/notice/019-2564/comments>

to participating on the industry-led Green Button implementation working group and would be pleased to speak more directly on any or all parts of its submission

Please direct all correspondence, including concerns with the above, to the email address:

regulatoryaffairs@torontohydro.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Kaleb Ruch", written over a horizontal line.

Kaleb Ruch

Manager, Government Relations
Toronto Hydro-Electric System Limited

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