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BY EMAIL AND RESS

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Ms. Nancy Marconi
Registrar
Ontario Energy Board
Suite 2700, 2300 Yonge Street
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Marconi,

EB-2024-0129 – Hydro One Networks Inc. – Advancing Performance-based Rate Regulation

Hydro One provides comments on the Ontario Energy Board's work on performance-based rate regulation in Ontario including its proposal to implement Performance Incentive Mechanisms ("PIM") as part of its review of utility remuneration. The comments below address directly and are incremental to the submissions of the Coalition of Large Distributors ("CLD") and the Electricity Distributors Association ("EDA").

COMMENTS

Overarching principles and PIMs approach

Hydro One has reviewed the submissions of the CLD and EDA. Both articulate a consistent set of principles that ought to apply to any PIMs framework developed in Ontario. Hydro One wishes to reinforce that PIMs only be introduced when there is a clear and compelling case for doing so. The conditions that would meet this test are well articulated by the CLD and EDA in their submissions. In our view, an analysis of these conditions is not captured in Christensen Associates report, which is a gap.

Hydro One agrees with the CLD and EDA that sector-wide PIMs are not appropriate. The CLD and EDA submissions speak directly to the many risks associated with sector-wide PIMs. We are aware that the United Kingdom's "RIIO" model has long been a reference point for the evolution of Ontario's Renewed Regulatory Framework, and its use of PIMs was cited in the Christensen Associates Report. In this circumstance, the UK's approach to PIMs is not congruent with the structure of Ontario's utility sector. Because all utilities in the UK file price controls simultaneously, PIMs can be developed at the optimal point of their price control schedule and be implemented consistently for all utilities. This is not feasible in Ontario, where utilities are subject to different rate making methods and are at various stages of their respective rate cycles. These structural differences do not allow for the porting of sector-wide PIMs approaches to Ontario.

Within a utility-specific PIMs framework, PIMs should be developed at the time of rebasing for purposes of regulatory efficiency. PIMs should not be implemented mid-rate period and tied to targets established in prior rebasing applications. This is particularly important because, as the OEB well knows, utilities are facing a myriad of exogenous factors that are putting pressure on their capital portfolios, from new government policies to global price escalations for materials and equipment. Implementing PIMs associated with previously established targets that do not capture these subsequent cost pressures will not result in a successful program. Finally, imposing potential penalties through the PIMs framework could have serious implications on utilities' ability to attract capital at time when electrification is calling for a significantly higher use of capital. Indeed, to do so may exacerbate the risk of capital flight.[1]

Even though Hydro One prefers the utility-specific PIMs approach proposed by the CLD to the use of sector-wide PIMs, there are complexities even within that approach that could unintentionally introduce significantly material regulatory burden, particularly for Hydro One. This point further underscores the views articulated by the CLD and EDA that the OEB should only proceed with PIMs in carefully selected circumstances (e.g., well defined problem statement, other options exhausted, etc.).

Utility consolidation

The recommendation for utility-specific PIMs oriented to government policy objectives could create further barriers to utility consolation, in cases where merging or acquiring/acquired utilities have misaligned or conflicting PIMs. This should be avoided, as utility consolidation is already a long-standing government policy objective. The OEB's Handbook to Electricity Distributor and Transmitter Consolidations should be revised to clarify that applicants have the flexibility to maintain, dispose of, or augment existing utility-specific PIMs to avoid them becoming a barrier to utility consolidation. Consumers are already sufficiently protected within the merger and acquisition process through the "No Harm" test, making this flexibility a reasonable approach to avoiding this potential issue.

Regulatory complexity

Utilities proposing utility-specific PIMs tied to government objectives should be obligated to address in full any upstream (or downstream) effects of their incremental activities on other regulated entities. As the largest provincial transmitter and host of many embedded LDCs, Hydro One would require assurances as to how the effects of PIM-enabled activity and costs will flow through to matters including capital contributions, load forecasting, and Hydro One's own rate filings and obligations. Hydro One will support the achievement of utility-specific PIMs within the parameters of its existing regulatory obligations under the System Codes. Hydro One will continue to operate in fidelity with the Codes, notwithstanding the commitments individual LDCs make with respect to their PIMs.

Sincerely,

Kalen Ruch

[1] OMERS to sell its stake in East-West Tie Limited Partnership