

April 30, 2019

Ms. Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge St., Suite 2700
Toronto, ON M4P 1E4

Dear Ms. Long:

RE: Utility Remuneration (EB-2018-0287) and Responding to Distributed Energy Resources (EB-2018-0288)

On February 20, 2020 the Ontario Energy Board (“OEB”) held a stakeholder meeting in respect of the Utility Remuneration and Responding to Distributed Energy Resources (“DERs”) policy consultations. Members of the Coalition of Large Distributors (“CLD”) attended and participated in the event. By letter dated January 21, 2020, the OEB had invited stakeholders to provide comments in relation to OEB staff’s preliminary proposals presented at the stakeholder meeting for each of the initiatives.

The Coalition of Large Distributors (“CLD”) is pleased to offer comments on these important policy files. The CLD consists of Alectra Utilities Corporation, Elexicon Energy Inc., Hydro One Networks Inc., Hydro Ottawa Limited, and Toronto Hydro-Electric System Limited. Together, the CLD’s members represent approximately 70% of electricity consumers located across the entire province.

These comments are the result of further reflection and consideration of the discussions that took place during the course of the stakeholder meeting and should be read in conjunction with previous written submissions and oral comments made by the CLD and its members.

Summary of Recommendations

In the comments that follow, the main points the CLD wishes to make include the following:

1. Overall, the CLD supports the structure and logic of OEB staff’s approach to establishing guiding principles, need statements, objectives, identifying issues, and scope;
2. The OEB’s role is not to foster markets; the OEB’s role is to determine whether to regulate and, if so, how to regulate;
3. It is a necessity for on-going consultations at both the OEB and the IESO to be linked;
4. Value is more than just cost minimization; it may also include improving reliability, increasing service options or choice, avoided costs, or other benefits;
5. Cost allocation, cost responsibility and rate design are the main tools by which the regulatory framework ensures costs and benefits are shared fairly among customers;
6. Optimization of existing assets, and the treatment of stranded assets are consequences that must be understood by all parties;

7. Policy should enable distributors to understand parameters related to the evaluation of non-traditional investment alternatives (i.e. non-wire alternatives or “NWAs”);
8. Distributors will have to be key intermediaries in the attachment of any assets or power flows onto their systems in order to continue to operate safely, reliably, and efficiently;
9. It will be important to understand the impacts that DER participants will have on non-participants;
10. If new information is to be made available, the cost of creating or sharing information should be borne by those who intend to benefit; data security and privacy will remain of utmost importance.

Introductory Comments

The CLD commends OEB staff (“staff”) for the effort and thought that has gone into the development of structure and flow on this challenging policy file. The consultation thus far has been widely attended by many different stakeholders representing many different viewpoints and interests considering potentially deep structural changes to the regulatory framework. Many stakeholders signaled their desire and expectation for a high-quality consultation process, and so far, OEB staff have not disappointed. The CLD appreciates that culling the myriad of viewpoints into meaningful and logical presentation was no easy task.

The goal of this proceeding is to inform policy development. The outcome should result in an enduring and enabling regulatory framework that provides the right incentives, to both customers and utilities, allows for enhanced customer choice, provides customer value, and promotes the financial viability of the sector for the benefit of all customers. The CLD looks forward to engaging with the OEB and stakeholders in tackling fundamental issues related to regulatory reforms that may be necessary to support the evolution of utility remuneration and DER integration. However, the CLD also expects that certain key attributes of the regulatory paradigm, such as the principles for setting just and reasonable rates (i.e. the “Bonbright principles”) and the Fair Return Standard remain unfettered.

In the CLD’s view, the policy development that emerges from this proceeding should feature fact-based evidence in support of policy decision making. Theories and assumptions may be a necessary starting point to address policy evolution, however, any such theories and assumptions should necessarily be tested or corroborated through evidence and analysis.

That said, the CLD is pleased with the OEB staff’s approach thus far. Specifically, the effort to distill the material down into principles, need statements, objectives, and issues in a logical, systematic way is very constructive. To that end, the CLD is supportive of the general structural framework and guidance provided by staff, as follows:

- A guiding principle is a *value*, *criterion* or *standard* that will be used to compare different policy options and develop a preferred approach;
- An objective is a specific *outcome* to be achieved by the policies being developed;
- An issue is a question or problem that either needs to be *considered* as policies are developed or needs to be *resolved* by the policy being developed.

Accordingly, the CLD has organized its viewpoints and this submission in keeping with the format and structure advanced by OEB staff. The CLD offers its comments for each of the following areas below in reference to the presentation materials provided by OEB staff:

- Guiding Principles;
- OEB's Role & Approach;
- Needs;
- Objectives;
- Issues;
- Scope;
- Process.

Guiding Principles

Generally speaking, the CLD supports the Guiding Principles as set out by staff.¹ Further, the CLD believes that certain aspects of the enhancements presented by staff in the framing of the guiding principles were improvements. For example, the CLD supports the enhancement to the principle entitled Economic Efficiency and Performance by including the phrase, “safety, reliability, and service quality”. This could be further improved, however, by including the word “ensures” rather than “promotes”. Similarly, the enhancement to the Consumer Centric principle by including, “empowers efficient investment decisions and behaviour” is also an improvement.

The CLD is especially supportive of what it sees as a critical enhancement to the Stable yet Evolving Sector principle. The phrase “encourages optimal use of existing assets, as new technologies and approaches to providing energy services are adopted” will help focus policy development to the benefit of all distribution system customers. The CLD observes that there has been much discussion of this topic and a variety of viewpoints, so including this within the guiding principles will add much-needed focus to the consultation.

The CLD does have a few minor recommendations to improve the framing of the principles. First, the CLD recommends that the Stable yet Evolving Sector principle be amended to “The regulatory framework enables sector participants to adapt to change and appropriately manage risk.” In addition, the CLD recommends that the Regulatory Effectiveness principle be amended to include the statement, “It considers the role required of regulated entities in fulfilling obligations in matters of provincial or IESO jurisdiction.”

¹ OEB staff Presentation: Sector Evolution: Utility Remuneration & Responding to DERs: Defining the Scope and Approach to Work Based on Stakeholder Input, February 20, 2020, p. 13.

OEB's Role and Approach

The CLD supports staff's thinking as laid out in the stakeholder meeting materials on the OEB's Role and Approach.² A proactive approach and a focus on incrementalism aligns with the Guiding Principles and with the OEB's statutory obligations. However, as a point of nuance, the CLD does have an issue with the phrase, "help utilities adapt to change". The industry, customers and all stakeholders require a regulatory framework which is well understood, consistent and fair and that results in a financially viable industry so that consumers will continue to be well served. Therefore, the point should be changed to "Ensure the regulatory framework enables utilities to adapt to change".

As addressed further below, the CLD agrees with staff that the role of the OEB is not to foster markets.³ Rather, the OEB's role is to determine whether to regulate and, if so, how to regulate. The absence of regulation is an explicit act of forbearance. As a result, the last bullet under the first section regarding the OEB's role should be amended to: "Forbear from regulation where it can be determined that it is in the public interest to do so."

Needs

Utility Remuneration

The CLD is pleased that staff have defined need statements articulating the challenges to be overcome. As staff suggests, this will support a common understanding of what the consultation is trying to achieve and why, before considering how to get there.⁴ This will help provide structure and help stakeholders appropriately orient their perspectives.

On the first of the need statements, the CLD notes that LDCs are already required to (and often do) consider alternatives to traditional investments, as specifically detailed in the Chapter 5 Filing Requirements (Section 5.4.1) and elaborated upon in the Handbook for Utility Rate Applications (page 14). Utilities routinely file this information as part of their Distribution System Plans ("DSPs"). In the CLD's view, these alternatives should be considered where they promote economic efficiency (including optimization of assets), sustainability, or consumer choice. Within this context, there is a need for clarity and understanding of the OEB's expectations; how such alternatives will or should be evaluated within the regulatory framework, and what risks might be present.

On the second of the need statements, any such requirements for new information and tools to assess utility proposals must also be considered within the context of regulatory efficiency. That is, the economic efficiencies created by the availability of new information should outweigh the potential reduction to regulatory efficiency arising from having to produce more regulatory reporting. The CLD observes that filing requirements have already increased significantly over the last several years. As such, if the OEB wishes to review reporting requirements, then it should also consider if there are any

² Ibid. p. 21.

³ Ibid. p. 22.

⁴ Ibid. p. 24.

existing requirements that could be eliminated. The CLD is supportive of a need around ensuring that rates are set appropriately, incentives are effective, and that the risks be appropriately allocated.

On the last need statement, the CLD is supportive of a need to review the approach to utility remuneration holistically. This will inevitably include a refreshed review of the Renewed Regulatory Framework (“RRF”). The OEB should, however, give careful consideration to the approach in this regard. A contemporaneous re-examination of the RRF in combination with a comprehensive DER consultation may introduce more complication than necessary. First, the inability of the industry to resource large-scale and consequential consultations may result in sub-par outcomes; these issues are too important for missteps. Second, a detailed RRF review is likely to be influenced by the DER proceeding. The CLD encourages the OEB to prioritize the DER integration proceeding and to defer the Remuneration proceeding until the DER integration proceeding is completed. This will allow the consultative process to first consider “what” needs to be done, and then to address “how” it should be done. Remuneration-related issues identified during the DER proceeding could be “parked” for consideration in that proceeding.

Responding to DERs

Generally, the CLD is supportive of the need statements produced by staff in respect of Responding to DERs, however, one point is worth emphasizing. Since the initiation of this consultation, the CLD’s members have supported a coordinated approach with the Independent Electricity System Operator (“IESO”). The IESO is advancing the topic of DER integration at the wholesale level and the outcomes of that work will significantly impact these proceedings. They may even limit the OEB’s ability to properly fulfil its mandate. In particular, the outcomes may result in consequences to the distribution sector and its customers and may critically impact fundamental distribution system operations.

Given that customers’ bills recover the costs for all of the elements of the value chain and are not limited to just the cost of delivery (i.e. transmission and distribution), the CLD believes it is a necessity for the consultations to be aligned. They should not be conducted in isolation or in separate silos. Thus far, there has only been an acknowledgement that the IESO and the OEB meet regularly, however, that does not facilitate a fair, inclusive, and transparent public consultative process. There should be a needs statement to reflect this important requirement for public policy coordination.

Objectives

The CLD generally supports the Objectives as laid out by OEB staff.⁵ Under Responding to DERs, the CLD supports a more explicit description of value. That is, value is more than just cost minimization; it also includes improving reliability, increasing consumer service options or choice, avoided costs, or other benefits.

⁵ Ibid. p. 32.

Issues

From the stakeholder meetings and subsequent submissions, OEB staff have organized issues into 11 main categories, as follows:

1. Working definition of DERs
2. DER value, costs, and benefits
3. Cost Recovery and investment signals
4. Planning and operation
5. Utility incentives and risk
6. Role of competition
7. Roles and responsibilities
8. Performance
9. Access to information
10. Underutilized / stranded assets
11. Change management

The CLD finds the list of Issues and their categories to be directionally reasonable. The CLD notes that the ultimate goal of the staff report will be to define the scope of the consultations. As an administrative matter, the CLD encourages staff to link the Issues to the Objectives and link these to scope, as appropriate. That is, per the definitions provided by staff, it would seem reasonable that if an objective is the specific outcome to be achieved by policy, and an issue is a question or problem that needs to be considered to develop the policy, then the issue should be tied to the objective. As a general comment, the CLD anticipates that the draft report to be developed by staff will provide a further degree of specificity around some of the issues identified. The CLD offers brief comments on each of the issue areas below.

1. Working definition of DERs

OEB staff have provided a working definition for DERs as below:

- A DER is any resource capable of providing energy services located at the distribution system level (in front or behind the meter)
 - Distribution level generation and storage are DERs;
 - A controllable load can be a DER when it offers a service by committing in advance to adjust consumption in response to system needs at a specific time or location;
 - Energy efficiency does not have the same characteristics (e.g. system impacts) as DERs but may be relevant to specific issues (e.g. investment/regional planning) and should be considered.

The CLD generally accepts this as a working definition and supports the identification of this as an issue for the OEB to review and resolve. It is noteworthy that the IESO and the DER Connections initiative have also developed definitions, and here the CLD sees an opportunity for alignment. While it appears as though the working definition introduced by staff is consistent with the IESO working

definition, it should also be recognized that challenges may arise if different bodies deploy different definitions.

2. DER value, costs, and benefits

The CLD is pleased to see and supports viewing policy development related to DERs through the lenses of value, costs, and benefits.⁶ Generally, the CLD supports the issues identified within this issue category.

The CLD would like the OEB and stakeholders to consider DERs not solely in the context of cost minimization. Value is a function of both benefits and costs, which themselves can be measured in different ways. Of course, different consumers will value different things, or the same things differently. For example, resiliency/reliability may have different intrinsic value among customers or customer classes. The reality is that an influx of DERs may create additional distribution system costs (e.g. enabling capital investments, access to information, system monitoring, cyber security, trouble response, truck rolls, etc.); even so, DERs may still have value to consumers. A myopic focus on distribution costs may be a disincentive to innovation and/or promote a misalignment in upstream vs. downstream incentives/benefits.

3. Cost Recovery and investment signals

The CLD supports the items identified under the banner of Cost Recovery, Investment Signals and Cross Cutting.⁷ The issues identified here will be central and critical to understanding and developing policy for Utility Remuneration and Responding to DERs.

The CLD is concerned that staff has not recognized the criticality of these issues. As an example of this, the CLD notes that staff indicated that among the key objectives for policy development is that “consumers continue to be appropriately protected as markets for energy services evolve” and “customer choice does not negatively impact others”.⁸ Later in describing scope, however, staff indicate that “It should not explore cost allocation”.⁹ Cost allocation, cost responsibility and rate design are the main tools by which the regulatory framework ensures costs and benefits are shared fairly among customers. It is unclear how OEB staff can achieve the objective for policy development without consideration of these tools. The scope related to DER connections has already been placed within the DER connections review initiative. The status of the C&I rate design initiative is uncertain, and in any event that policy file was not established to address the issue of appropriate rates for use of distribution and transmission rates under all DER situations.

The CLD urges that OEB staff consider and clarify that indeed cost allocation and the issues identified in this regard will be central to the policy development for Utility Remuneration and Responding to

⁶ Ibid. p.p. 38-39.

⁷ Ibid. p. 40.

⁸ Ibid. p. 32

⁹ Ibid. p. 51

DERs. For example, the issues entitled, “how might rates better align with underlying costs?” and “How to provide effective signals for efficient customer investment decision/actions using rates and charges” are essential issues to explore if the objectives of policy development are to be realized.

4. Planning and Operation

The issues identified under this category are also central to policy development as they reflect the very core of distribution operations and the resulting customer experience.¹⁰ Examination of these issues will enable a full understanding of the impacts of DERs on distribution systems and thus will be important in the determination of where benefits and costs accrue, which will aid other issue streams. Optimization of existing assets, and the treatment of stranded assets are consequences that must be understood by all parties. For example, the CLD sees that optimization could result in greater deployment of DERs in some cases in order to capture greater benefit or cost avoidance, or the deferment of DERs in other cases if costs outweigh benefits. The concept of optimization should be contextual and consider the circumstances as they present themselves, whatever they may be.

An outcome of this proceeding should enable utilities (distributors and transmitters) to understand parameters related to the evaluation of non-traditional investment alternatives (i.e. non-wire alternatives or “NWAs”). One way or another, utilities will have to be key intermediaries in the attachment of any assets or power flows onto their systems in order to be able continue to operate their systems safely, reliably, and efficiently. Therefore, the opportunities, constraints, and parameters for the evaluation of utility investment in NWAs should be squarely addressed through this consultation.

5. Utility incentives and risk

The CLD believes the OEB staff have identified appropriate items under this issue area.¹¹ These issues are central to defining policy development with respect to Utility Remuneration. It is likely that further expertise may be warranted in these spheres (i.e. capital and debt market experts). In addition, the CLD encourages OEB staff to also consider risk within the scope of Responding to DERs (i.e. performance risk).

The CLD does take exception to the issue item labelled, “inherent utility bias for capital”. Distributors have repeatedly explained that both capital and OM&A are deployed for system operations, planning, and control. The CLD believes that the issue would be better characterized as “the inherent bias in the regulatory framework and the consequences, intended or otherwise, that may emerge”. Utility remuneration should be reflective of solutions to provide benefits to consumers, whether in the form of cost/price, service options, information, or other characteristics from which benefits are derived.

6. Role of competition

¹⁰ Ibid. p.p. 41-42.

¹¹ Ibid. p. 43.

In the CLD's view, the OEB's role is not to create competition, it is to forbear regulation where necessary. While issues around forbearance of regulation may be appropriate, creating competition, per se, cannot be a guiding principal as it is neither a value, criterion nor an appropriate standard to compare different policy options. While competition **may** produce some outcomes with specific consumer benefits, such as cost-effectiveness and consumer choice (for participants), it may also produce undesirable outcomes, such as decreased reliability or weakened consumer confidence (for all consumers, including non-participants). It will be critical for the OEB to understand the consequences and outcomes that may result from regulatory forbearance and the impact to all distribution system customers (e.g. stranded assets, OM&A costs, truck rolls, trouble response, etc.). As a result, the issue item labeled, "how can the OEB enable markets and competition" should be changed to "where and when should the OEB forbear its regulation".

With that exception, the CLD considers the other issue areas identified to be reasonable.¹² The CLD expects that the appropriate lens with which to consider these issues will be aligned with the stated objectives that "consumers continue to be appropriately protected" and that "customer choice does not negatively impact others".

7. Roles and responsibilities

As identified on the issues list, the OEB is obligated to ensure that customers are treated fairly and consistently. That said, it will be important to understand the impacts that DER participants will have on non-participants and the costs of deploying DERs in general. As a result, the role and function of the distributor will be a crucial, and likely a first step, to understand before other issues areas are dealt with. As noted above, the CLD believes these issues can only be fully explored with the participation of the IESO.

These issues should reveal what the expectations are for the distribution grid, including who does what, and what the obligations to serve will be in the future.¹³ In the CLD's view, access to a highly reliable and efficient, broadly funded grid is necessary for economic health and prosperity. It may be necessary to consider more deeply the obligation to serve, and various service options that may emerge, including the reservation of capacity, if necessary. In any event, an influx of DERs may require an expansion of the obligation to serve to consider distributors as "suppliers of last resort". The CLD, therefore, believes the issues list should be broadened to consider this.

8. Performance

The CLD is open to the issue items as presented by staff¹⁴, however, believes it may be more appropriate to consider these issues towards the end of the policy development phase. Any additional performance metrics should only be introduced if they provide meaningful value and if they assist with the execution of the objectives.

¹² Ibid. p. 44.

¹³ Ibid. p.p. 45-46.

¹⁴ Ibid. p. 46.

9. Access to information

The CLD notes that significant information is already available from most distributors in the form of Distribution System Plans (“DSPs”) for the CLD’s members. The CLD is open to weighing in on these issues¹⁵, including the determination of what further information may be required, for what purpose, and to whom it should be available. It should also be expressly noted that if new information is to be made available, the cost of creating or sharing information should be borne by those who intend to benefit from it. It may also be necessary to consider the conditions around which information should be shared, including disclosure or contractual elements. As always, data security and privacy will remain of utmost importance.

10. Underutilized / stranded assets

As a point of administration, the CLD notes that the way the issues under this area have been framed, they may be better suited to the issue area entitled DER Value, Benefits, Costs or Cost recovery. In any event, the CLD agrees that the issues and questions posed in this area are critical to informing policy development.¹⁶

11. Change management

The CLD accepts the issues identified under this issue item.¹⁷ As noted above, and consistent with the issues under this item, it would be worthwhile for staff to prioritize or sequence certain issue areas over others.

Scope

Subject to the comments made above, the CLD generally supports the preliminary proposed scopes for each of Utility Remuneration and Responding to DERs.¹⁸ The most noteworthy items that the CLD would add to the scope are with respect to ensuring the inclusion of cost allocation issues and for the consideration of both “upstream” (e.g. host distributor and transmission) and “downstream” impacts arising from DERs. As noted above, the scope of these proceedings should consider the ramifications to the regulated entities and their customers of DER-related policies at the IESO.

In addition to those two items, the CLD also notes that broadly speaking the scope doesn’t appear to specifically address mechanisms for funding innovation, research, or pilots. Such activity may prove useful in developing practicable experience.

¹⁵ Ibid. p. 47.

¹⁶ Ibid. p. 47.

¹⁷ Ibid. p. 47.

¹⁸ Ibid. p.p. 51-52.

Process

The CLD supports the deliberate and collaborative approach underway and proposed to continue according to the guiding principles for both the DER and Utility Remuneration proceedings.¹⁹ To be sure, while not every policy proceeding may require such focus, it is surely warranted for the development of policy with regard to these issues.

Conclusion

The CLD again commends OEB staff for distilling the comments and views of many different stakeholders into a reasonable proposed scope for these consultations. The establishment of coherent list of issues, guiding principles, objectives, and need statements will help focus policy development and the engagement of stakeholders. The CLD appreciates the opportunity to provide these comments to the OEB with respect to these important policy initiatives.

If you have any questions regarding our comments, please contact the undersigned.

Sincerely,

Original signed by Indy J. Butany-DeSouza

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¹⁹ Ibid. p. 59.