

ONTARIO ENERGY BOARD

**Utility Remuneration and
Responding to Distributed Energy Resources Consultation**

COMMENTS

OF

INDUSTRIAL GAS USERS ASSOCIATION (IGUA)

Introduction

1. These are IGUA's comments on Ontario Energy Board (OEB or Board) Staff's (Staff) proposals for the scope for further work on the related topics of "Utility Remuneration" and "Responding to Distributed Energy Resources". Our understanding is that Staff has requested comment on Staff's current thinking on objectives, issues, guiding principles and scope for continuing work in these areas.¹
2. These consultations were initiated by the Board on the premise that adoption of Distributed Energy Resources (DERS) would continue and accelerate as energy production, conveyance and utilization technology evolves and costs related to alternative (i.e. non-traditional) energy services technologies fall. Utilities will need to react to these developments in that they will need to allow DERS to connect and they will need to manage distribution systems in response. Further, there could be opportunities to harness these developments to the benefit of the broader energy system.
3. Staff has suggested that "*[r]egulatory adaptation can help mitigate risks and help consumers benefit from emerging opportunities*".² This is a good characterization of the

¹ Staff Presentation to February 20, 2020 Stakeholder Conference, page 2.

² Staff Presentation to February 20, 2020 Stakeholder Conference, page 5.

appropriate role of the Board in these areas. The Board should consider opportunities to evolve its regulatory framework in order to;

- (a) *“mitigate risks”* related to the potential impact of DERS on regulated utility businesses and their customers through appropriate regulatory tools and approaches which can assist utilities in managing the expected energy services transition; and
 - (b) *“facilitate opportunities”* for both consumers and utilities by allowing for development of economically efficient energy services solutions, including by providing clarity on the appropriate role of the utilities in such development.
4. The Board should focus its efforts on the removal of unintended barriers to energy services evolution. It should not lag (thus precluding opportunities), but need not lead the market. The market will make its own determinations and allocate and manage many of the risks in the process. The Board’s role should be to allow the market to function unhindered by regulatory hurdles or conventions that unnecessarily preclude or discourage economically efficient energy services solutions.
5. IGUA appreciates the Board’s open and early approach to these consultations, and commends the work of Staff in driving an inclusive and proactive approach to considering the Board’s role and work in these areas. Such accessibility and inclusivity produce sound regulatory outcomes that benefit from broad stakeholder acceptability.
6. As an example of facilitating sound outcomes, DERS advocates can educate us all on practical issues, barriers and opportunities, such as the value of a “heat map” of where resources are needed now, or in the near future, for proper balancing and operation of a distribution system.³ This is a simple idea that could greatly facilitate DERS investment which benefits all utility customers.
7. In support of acceptability, OEB Staff have done a very good job in identifying and facilitating discussion of a wide array of issues and questions, useful work that should continue in order to enhance the OEB’s understanding, and that of its stakeholders, of the issues engaged. This broad and inclusive approach demonstrates to all concerned that

³ February 20, 2020 Stakeholder Conference Transcripts, pages 153 and 155-157.

the Board has heard and considered the topics from the various perspectives represented in these consultations.

8. While the Board should continue its work in these areas, it should also “stay within its lane”. The Board needs to understand the challenges and opportunities that DERS present, and the impact and implications of those on its regulatory framework and approach. It is not the Board’s role to advocate for or promote DERS, *per se*.
9. Empirical work and “business cases” in support of DERS investments will be developed and advanced by DERS proponents. Regulated distributors responding to DERS should be encouraged to come forward with fact based proposals for rate, investment or other regulatory mandates where barriers or opportunities are identified. Through the continuation of work undertaken in these consultation processes to date, the Board will be knowledgeable and prepared to respond in a manner that both facilitates DERS investments where appropriate and properly protects the interests of ratepayers at large in respect of such proposals.

Guiding Principles

10. Staff’s current thinking for the Board’s continued work in these areas is outlined at page 14 of its February 10th Stakeholder Conference materials (Materials). IGUA believes that the guiding principles presented by Staff are appropriate.
11. IGUA endorses in particular encouragement of the optimal use of existing assets. Such optimization will support cost effectiveness and economic efficiency in Ontario’s energy systems overall as they evolve. Cost effectiveness considerations should include opportunities provided by the interplay of Ontario’s electricity and gas systems.

Role of the Board

12. Staff addresses the role that the Board as economic regulator can play in the DERS transition at pages 21 and 22 of its Materials.

13. IGUA agrees with Staff's characterization of the Board's appropriate role as neither lagging nor predetermining technological change, but rather staying abreast of that change and taking incremental steps to evolve the regulatory framework so as to provide regulated utilities and consumers the ability and tools for embracing and benefitting from the opportunities presented by the ongoing technological change in the production, provision and consumption of energy. In this context "consumers" includes both end users of energy services and competitive energy services (DERS) providers.
14. The Board through these initiatives has, and as Staff has suggested should continue to, "proactively identify[] and address [] issues (not waiting until problems occur to act)". Staff's materials capture well what the Board's role should, and should not, be.⁴

Need Statements

15. Staff suggests "need statements" in respect of the Utility Remuneration topic⁵ which are appropriate and well-articulated. The issue, essentially, is the appropriate treatment in setting regulated utility rates of non-capital expenditures. The objective should be to incent cost effective solutions, whether traditional rate base investments or otherwise.
16. At page 51 of the Materials – which addresses a "Preliminary Scope" for the Utility Remuneration work, the first bullet suggests that the initiative should explore;

Determination of revenue requirement (assessment of efficient expenditures levels and reasonable return)

17. The term "return" might be replaced with the term "compensation" in this formulation, in order to recognize that the essential problem in a DERS context with the conventional approach to utility remuneration is compensation to the utility investor based only on equity invested, and the consequent disincentive to deploy operational or non-equity solutions.
18. Staff's suggested "need statements" in respect of DERS⁶ are also appropriate and well-articulated. They focus on utility services required or appropriate to support adoption

⁴ Staff Presentation to February 20, 2020 Stakeholder Conference, page 22.

⁵ Staff Presentation to February 20, 2020 Stakeholder Conference, page 25.

⁶ Staff Presentation to February 20, 2020 Stakeholder Conference, page 27.

of DERS. Appropriate in this context includes economically efficient from a system perspective, what Staff refers to as “cost effective” and maximizing of consumer value.

19. At page 52 of the Materials, Staff articulates a “Preliminary Scope” for further DERS work. While the articulation is apt, it might benefit from further consideration of what particular issues the incorporation of DERS presents for the current regulatory framework. IGUA endorses the IESO statement highlighted by Staff (Materials page 58) that “[w]e don’t want to get sort of paralyzed by those big questions where it makes sense to move forward with addressing issues in the near term”.
20. Staff’s attempts to avoid overlap between the current consultative and other ongoing Board processes is understandable, though the regulatory issues presented by DERS might not lend themselves to such absolute demarcation. It is natural that the issues presented by energy sector evolution have come up already in various areas (for the OEB these are listed at page 54 of the Materials and for the IESO these are listed at page 55). Part of the value of broad, explorative consultations such as this one is the ability to reintegrate, at some level, these various work streams so as to consider their interactions (while managing as best as possible to avoid unnecessary duplication).

Policy Objectives

21. Staff appropriately captures objectives for the current policy work at page 32 of the Materials. In general, DERS can provide value to the system and the regulator’s role is to facilitate DERS development and deployment while ensuring economic efficiency and protection of other (non-DERS) customers.

Issues

22. The materials capture the views of some of those consulted that there is a need through the current initiative to better define the value (i.e. costs and benefits) which DERS can provide.⁷

⁷ Staff Presentation to February 20, 2020 Stakeholder Conference, page 39.

23. DERS proponents will make the cost/benefit case. The Board's role is to bring rigour to the analysis and properly allocate costs, benefits and risk (that is, determine what gets counted in the regulatory calculus and how to count it). The Board's focus should be to ensure that costs and benefits to regulated operations are properly identified, and that costs ultimately follow benefits (i.e. to this extent, at least, cost allocation should be considered).
24. It is also appropriate that non-rate benefits to customers be facilitated by the OEB's regulatory policy, subject to negative impact on other (non-DERS) customers. Negative impact on other customers includes negative impact on the regulated utilities on whom those customers rely. Generally, unnecessary risks or losses to regulated utilities which would increase the cost of capital to the detriment of all utility ratepayers should be avoided.
25. A good catalogue of issues is provided at pages 40 through 47 of the Materials. The Board should keep investigating, seeking input on and thinking about these issues, in order to inform its review of current regulatory policies and practices for areas where adjustment is appropriate. Ultimately adjudication of some of these issues will take place in response to specific applications.
26. One issue that remains unclear to us is the so called "ARC issue" (i.e. the affiliate relationships code issue). Prior to embarking on any review of affiliate issues in the context of DERS it would be appropriate to understand what the current concern or "barrier" is, and to consider whether that barrier is appropriate in the context of regulated utility and unregulated affiliate operations.
27. Staff offers a "Preliminary Issues List" at page 49 of the Materials. This is a good list for immediate further work.
28. In respect of the "incentives" aspect of these issues, Staff has suggested the following key questions;

What incentives (both penalties and rewards) are required for utilities to achieve desired outcomes? How to remove disincentives to optimize cost-saving trade-offs between capital and operational expenditures or utility and non-utility solutions?

29. We suggest that the order of these statements should be flipped and the emphasis thus clarified to be removal of disincentives for, rather than driving, DERS. We also suggest that the term “*required*” be changed to “*appropriate*”, to recognize that regulated entities have a basic obligation to serve and this should be the starting point for further thinking on whether, and if so what, incentives are appropriate and in the interests of ratepayers.

Conclusion

30. Again, IGUA commends Staff for its thorough, thoughtful and inclusive work to understand and define the regulatory issues - challenges and opportunities - presented by DERS and for bringing interested stakeholders along as they do so. IGUA acknowledges and commends the Board’s open and inclusive approach in tackling the issues raised by these topics.
31. IGUA supports the thoughtful evolution of the regulatory framework in support of the ongoing evolution of energy services. IGUA’s own “top” issues in these areas include:
- (a) The role of the gas system, including the potential interplay of the electricity and gas systems, in the future provision of cost effective, economically efficient, and customer responsive energy services.
 - (b) The role of the utility in development and deployment of future energy services, including what should be regulated and what should not be regulated.
 - (c) How utilities should be remunerated in respect of non-conventional energy services.
 - (d) How the risks associated with the evolution of energy services should be allocated.
 - (e) The prevention of uneconomic underutilization of, or outright stranding of, existing utility assets.

32. IGUA looks forward to continued engagement on the topic of Distributed Energy Resources and the related topic of Utility Remuneration.

ALL OF WHICH IS RESPECTFULLY SUBMITTED by:



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