FOCA’s Comments on Proposed Amendments to the DSC,

Board File EB-2009-0077

PREAMBLE;

It is clear that the Board’s responsibilities and principles for regulating the monopoly components of the electricity sector are changed significantly by the Green Energy Act (GEA). The government has assumed new powers to determine who pays for the commodity and connection costs of renewable energy sources to the OEB regulated grid.

The natural gas industry model on which OEB regulation was based has been overturned by the GEA. Electricity distributors; hence consumers, are now expected to subsidize renewable energy producers both in the commodity component and in delivery costs. It must be remembered that producers are profit driven enterprises whose accounts are beyond the regulatory control of the board. They will likely seek all profit making advantages through OEB proceedings, government lobbying and the like.

As a preliminary comment, I think it is somewhat premature for the OEB to be proposing changes to the DSC before all the related regulations and Ministerial Directives expected to flow from the GEA are promulgated. That is, the past “producer pay” principle for grid connection should not be changed until all government actions are revealed. Otherwise, changes could result in delivery rate instability

But in all of this, I hope, the OEB does not downgrade its traditional mandate to protect the interests of consumers with respect to price and reliability of electricity service. To that end I would request that all references to “distributor pays” be changed to “consumer pays”.

FOCA represents the interests of about 160,000 seasonal customers of Hydro One for whom delivery costs are about 75% of the total bill. It is clear that the majority of renewable energy projects have and will be in Hydro One’s service territory; hence all customers of Hydro One are particularly vulnerable to bearing a disproportionate share of both environmental degradation and new costs expected to flow from the GEA.

1. Connection Cost Responsibility Options

FOCA agrees with the first criterion that the principal beneficiary of the distribution benefit should pay. In virtually all situations in the 3 categories of investment, this would be the producer. Those distribution investments deemed to be of societal benefit could be captured in the Global Adjustment rather than through distribution rates. It should be noted that distributors have an incentive to add GEA investments to the rate base, hence increasing its annual ROE.

If a distribution expansion later benefits another producer or load customer, there should be a mechanism to reimburse the original producer as is the case now for load customers.

FOCA does not support the concept of an expansion cost cap unless a similar cost cap is introduced for expansions that are paid for and benefit one or more load customers. Basing the cap on generator capacity is inappropriate since wind generation output rarely if ever comes close to nameplate capacity and is zero or negative at most times. If capacity is selected as the basis for the cost cap, it should be reduced by the expected capacity factor, currently around 17% or at most, the average distributor load factor typically 50-60%.

Renewable Enabling Improvements

These investments are related to improvements to protection and control (P&C) systems, or the so-called “Smart Grid” investments necessary to accommodate renewable energy. Load customers are by and large happy with service provided through existing P&C systems. Renewable enabling investments can only be seen as protecting load customers from instability and degradation of supply security brought about by existence of a new generator connected to the line that supplies them. It is hard to see how load customers should be made responsible for costs made necessary by the connection of a new generator. This is the type of investment that should be paid for by the generator. If the gov’t deems this to be inappropriate, then it should be captured in the Global Adjustment.

1. Distribution Planning Process

It is difficult to imagine how a distributor can plan for new renewable energy projects without knowing if, where or when requests for such projects will materialize. But, as dictated by the GEA, they will have to submit something to the OEB in order to retain their licence. Load customers can only hope this will be a very simple, rudimentary, inexpensive planning process that leaves plenty of latitude for the unexpected. It is hard to imagine how the OEB could revoke the LDC licence for other than a basic rudimentary plan that considers the great uncertainties of renewable energy projects.

Load customers would hope that distributors do not embark on expensive Smart Grid pilots for renewable projects that may or may not materialize.

1. Other Proposed Amendments

No comment.

1. Anticipated Costs and Benefits

It is pleasing to see that the Notice of Amendments recognizes the potential impact on consumers and that some or all of the costs expected from the GEA can be recovered from all consumers in the province (through the Global Adjustment). Again, it should be recognized that the majority of these costs could fall on rural customers of Hydro One.