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Ontario Energy Board

Staff Discussion Paper on the Regulatory Treatment of Infrastructure Investment for Ontario's Electricity Transmitters and Distributors

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Ontario Power Authority Comments

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Background

On June 10, 2009, the Ontario Energy Board (the "Board") issued a Discussion Paper prepared by Board Staff, setting out a range of mechanisms to foster timely and appropriate investment in electricity distribution and transmission infrastructure. The cost recovery mechanisms in the paper have been proposed for the accommodation of renewable generation and smart grid development, but may be available in relation to other types of projects in appropriate circumstances.

OPA Comments

The OPA supports the Board's initiatives in this regard. Allowing for greater regulatory certainty and faster cost recovery will allow distributors and transmitters to proceed with investments necessary to support the Government's initiatives as outlined in the Green Energy and Green Economy Act ("GEA"). Case-by-case review of these proposals will provide a level of public scrutiny to ensure that the incentives are appropriately applied and yield the necessary results.

The OPA has reserved its comments to certain of Board Staff's questions, as outlined below.

3. *Should the mechanisms identified in this Discussion Paper apply to the recovery of costs incurred by electricity transmitters or distributors for the investments to accommodate renewable generation or to develop the smart grid, or both? Why or why not?*

Board Staff's proposed mechanisms should apply to renewable generation and smart grid investment, as both investment types are equally objectives of the OEB under the new provisions in the GEA. Both of these investment types may also contribute to providing timely and cost effective system capacity for the incorporation of renewable generation. As noted in the Discussion Paper, smart grid investment will provide the information necessary for distributors to take a more active part in managing their systems to allow two-way flow and to use distributed generation and demand resources to meet the needs of loads.

The proposed case-by-case scrutiny by the Board should help to alleviate concerns regarding the use of new technology. In many cases, the investments will facilitate both objectives, and may not be separable. The case-by-case approach provides the opportunity to consider the prudence of each investment before deciding to allow a special incentive.

4. *Should the mechanisms set out in this Discussion Paper be applied to infrastructure investment if the cost of the investment is potentially recoverable through a Province-wide cost recovery mechanism? Why, or why not?*

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The proposed mechanisms should apply despite the potential for recovery through a Province-wide recovery mechanism. The provision in the GEA to allow Province-wide recovery of investments in distribution to facilitate renewable generation is in recognition of the potential Province-wide benefits of such investments and to ensure that ratepayers in an LDC service area that undertakes a great deal of such investment do not bear an inordinate cost or risk burden. These principles apply equally whether or not a special incentive is provided for the investment. Apart from the Province-wide recovery mechanism, the proposed "Alternative Mechanisms" provide transmission and distribution businesses within the Province with either the risk mitigation or financial incentives needed to facilitate timely system investments for the incorporation of renewable electrical energy projects.

5. *Should the mechanisms set out in this Discussion Paper be applied to infrastructure investment in smart grid technology while it is at an early stage of development and where governing standards are yet to be developed? Why, or why not?*

The OPA believes that applying these mechanisms to early stage development technology could provide the incentives needed for the transmission and distribution businesses to pursue the creative solutions needed for the timely incorporation of renewable electrical energy resources and conservation initiatives, envisioned within the GEA. Limiting the incentives' application could unnecessarily result in missed opportunities. If the case-by-case approach is adopted, an effective regulatory framework would be in place to ensure that any incentive provided to "early stage development technology" would have appropriate offsetting benefits.

9. *Should the Board permit applicants to request confirmation from the Board that prudently-incurred costs associated with any abandoned projects will be recoverable in rates if such abandonment is outside the control of management? Why or why not?*

The OPA does not believe a process of confirmation should be required. If the Board has already authorized a utility to proceed with development work, or has approved the project in a Leave to Construct application or a distributor's or transmitter's plan, then the principle should be that prudently incurred costs will be recovered if the project is abandoned for reasons outside the control of management.

10. *Should the Board allow for full or partial CWIP to be placed in rate base during the construction of transmission facilities to accommodate the connection of renewable generation and/or develop the smart grid? Why or why not? Should the Board allow this particular treatment for distribution investment? If so, on what basis?*

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The mechanism as proposed should be adopted. This is an important incentive to ensure that key investment proceeds, particularly at a time when obtaining financing is challenging. It is also a valuable tool in that it mitigates rate impacts.

The Board should also consider allowing this treatment for distribution investment. Individual distribution investments may not be as significant as transmission projects, but a major program of renewable enabling improvements laid out in a distribution plan may in aggregate be very significant, particularly to a smaller distributor.

The OPA notes that a mechanism may be required to provide for a refund of CWIP amounts capitalized in the event of project abandonment, as discussed under question 9, above.

12. *In light of a legislative context in which the Board may mandate infrastructure investments, are incentives necessary or appropriate in Ontario?*

The OPA suggests that the incentives as proposed are appropriate in Ontario. The incentives ensure that the necessary infrastructure investments are undertaken in a timely manner to facilitate connection of renewable energy generation that is expected to be developed under the OPA's feed-in tariff ("FIT") program. An obligation to connect renewable generation is not necessarily an obligation to connect at all costs. Some projects may represent significant enough investment, particularly when viewed within in the context of a total investment portfolio, to cause delays which may be alleviated by incentives.

Board-initiated action to require investment which a distributor or transmitter has not undertaken proactively is unlikely to occur except as a last resort, and after a significant passage of time. Incentives can help drive investment to happen more quickly.

13. *If the Board were to provide for incentives, should it allow project-specific ROE? If so, should the Board consider adopting a range rather than a specific adder? Further, how might the Board determine an appropriate range or ROE adder?*

The OPA suggests that the use of project-specific ROE's is appropriate. In particular, projects of particular strategic importance to the development of Ontario's system, and the incorporation of renewable resources that face significant challenges in building a broad local consensus in order to be built may be appropriate for a project specific ROE.

Experience in the U.S. has indicated that project-specific ROE's are the most direct and effective means to encourage investment. Such treatment ensures that these projects are more likely to be considered as high priority when competing for capital with other utility projects.

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The OPA proposes the following circumstances to be considered in determining an appropriate range or ROE adder:

- Projects which are instrumental in the advancement of policy goals;
- Projects of significant complexity;
- Projects which may involve extensive consultation with multiple parties; and
- Projects with challenging timelines, which could involve the achievement of certain milestones to qualify for the award of the ROE incentive.

14. *If the Board were to provide for incentives, should it allow project-specific capital structures?*

The OPA agrees that this approach may be particularly effective for the development of consortium projects. These arrangements may become more likely with the development of future major transmission projects, which could involve private, public and/or First Nations and Métis involvement. Greater flexibility in capital structures would serve to enable these corporate partnerships.

The OPA appreciates the opportunity to provide its comments in this important initiative, and looks forward to participating in the next steps.

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