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Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, Ontario, M4P 1E4

Dear Ms. Walli:

Re: EB-2010-0379 – Defining & Measuring Performance of Electricity Transmitters & Distributors - Comments on Staff Discussion Paper of the London Property Management Association

These are the comments of the London Property Management Association ("LPMA") with respect to the above noted Staff Discussion Paper. Comments have organized around the questions for stakeholder written comment.

1. What should the Board consider when setting new or refining existing standards and measuring standards for service and/or cost performance for distributors and transmitters?

The Board needs to consider what the customer wants and is willing to pay for when setting new or refining existing standards and measuring standards for service and/or cost performance for distributors and transmitters. This includes taking into consideration the potential for different opinions and willingness to pay not only from different customer classes, but from customers within a homogenous class.

The Board needs to take into consideration the cost of new or refined existing standards, including the cost of measuring these standards. This needs to be evaluated in relation to the level of importance placed on the standard by customers.

The Board needs to take into consideration the accuracy of the measurement of the standard. Standards that cannot be accurately tracked will have little value to customers, utilities or the Board.

The Board will need to consider the weighting of the standards relative to one another. Customers will value some standards more than others. The Board will need to determine a methodology for determining this order of importance, which could vary by customer class.

The Board should consider how it will obtain an objective view from customers of what is important to them and what is not. Will the customer views be obtained by the Board, by utilities, by ratepayer associations or some third party? When will this information be obtained and how frequently will it be updated? The timing of doing a survey, for example, could significantly influence the results if the questions are asked before or after a change in rates takes place, before, during or after a heat wave that increases total bill impacts, or before or after a utility distributes information promoting specific services, such as CDM. Measuring is easy, measuring accurately may not be.

LPMA is concerned with the entire concept of trying to measure cost performance if this measurement is primarily used to compare one distributor or transmitter with another. Cost performance depends on many factors that may be unique to distributors, including such things as the level of reliability demanded by customers. Many of these factors can be modelled econometrically. However, this only reflects an average impact of a factor. For example, the cost coefficient on a variable that reflects the number of customers per kilometer will reflect an average value. A distributor may have a value for this variable that is significantly higher or lower than the average. Applying the estimated coefficient to the outlier value assumes a linear relationship exists between the extremes. This may not be the case. In a different functional form (logarithmic, difference, etc.), an estimated equation may provide significantly different results.

LPMA believes that it is more relevant and important for customers to measure the change in the cost performance of distributors and transmitters over time with one another. In other words, the level of costs can be different for many reasons, but the change in the level of costs should be relatively similar to other distributors and transmitters. This is especially true in a relatively small geographic area such as Ontario. All distributors and transmitters are likely to be faced with similar circumstances, such as inflation, cost of capital, cost of equipment and so on.

Finally, the Board should consider whether the data that is generated to measure the standards is objective, or whether it is subject to manipulation. The Board is aware of issues related to fraudulent accounting and auditing practices that are currently being investigated by security regulators in several jurisdictions, including Ontario. LPMA believes that transparency in the data is paramount. The source data should be available to all parties. This at least minimizes the potential for the data to be manipulated to support one position or another.

2. What should the Board consider when developing appropriate incentives to transmitters and distributors for cost-effective and efficient performance, including appropriate rewards for exceeding the standards?

LPMA cautions the Board in the provision of rewards for exceeding standards. Customers have little tolerance in this age of austerity for bonuses paid to entities for doing what they are being well paid to do with the additional costs being paid by customers.

This sentiment extends to distributors and transmitters. These regulated entities are being well compensated to meet standards of service. If they can maintain these levels of service at reduced costs, they pocket the difference during a cost of service year, and, in the absence of any earnings sharing mechanism ("ESM"), they pocket the entire savings. In circumstances where there is an ESM, they continue to pocket a significant share of the savings. In other words, the transmitters and distributors are already being rewarded if they can meet standards.

LPMA notes that customers are the key group that the Board should use to set standards. In a regulated environment, where distributors and transmitters are provided with the privilege of providing a service with no competition, it is submitted that customers should not pay the cost of any incentive for exceeding what customers want. In a competitive market, customers generally are not willing to pay for more than what they want. They can choose an option that provides them with what they want with no added costs.

3. What should the Board consider in relation to when and how it might assess utility performance?

In the current context of ever changing requirements being imposed on distributors and transmitters by the regulator and the government, LPMA submits that it is necessary to assess utility performance on an annual basis. Early detection of potential issues is essential so that they can be identified and corrected as quickly as possible.

LPMA submits that the best way to assess utility performance is on a comprehensive basis. It makes no sense to LPMA to assess individual cost driver performance since gains in one area may be the direct or indirect result of losses in other areas. For example, OM&A expenditures may be less than expected because capital expenditures were higher than anticipated as a result of the need to replace equipment failure that had involved higher than normal maintenance and repair costs.

A good comprehensive review of utility performance is the calculation of the return on equity in the same format as currently provided on an annual basis by the Union Gas and Enbridge Gas Distribution for earnings sharing purposes. The gas distributors and intervenors agreed upon a number of schedules that would be provided by the distributors to support the calculation of the earnings sharing each year. Less than 20 schedules are provided, all based on this historical results for the year under review. These schedule support a one page schedule that shows the calculation of the earnings sharing, if applicable. LPMA notes that the Revenue Requirement Work Form already provides many of the schedules that would be needed to provide a comprehensive review of the utility performance on a historical basis.

LPMA notes that there has been some concern raised with the regulatory burden associated with an ESM (Staff Discussion Paper, page 41). LPMA submits that once the process is up and running, there are few issues related to the schedules provided in support of the earnings sharing calculation. Issues only arise when there is a proposal to change the way in which earnings are calculated relative to the last cost of service application.

The preparation of a limited number of schedules for review by intervenors and the Board is not similar to a cost of service application. There is no forecast information needed and all the information required is historical information, readily available to the distributors and transmitters through their accounting systems.

These filings would have to be tested for accuracy and prudence. LPMA notes that prudence of historical expenditures has never been a major issue for either Union Gas or Enbridge Gas Distribution in their ESM and deferral account applications. The accuracy of the filing is often confined to a reconciliation with the financial statements of the company. Once this has been accomplished, there are often no significant issues outstanding. Indeed, in most cases, the calculation of the ESM amount, which is based on the filing of the historical data, is no more controversial than the requests for the disposition of deferral and variance accounts.

In summary, LPMA submits that there is no more regulatory burden associated with filing the needed historical results than there is in the tracking of and disposition of deferral and variance accounts. LPMA also notes that a review of the filing requirements for the gas distributors along with a short consultative with intervenors, distributors and transmitters and Board Staff would result in the required filing requirements. As for the timing of the filings, LPMA does not see any reason why these filing could not be part of the same filing used for the disposition of deferral and variance accounts, as is done by the gas distributors.

LPMA submits that the increase in regulatory burden would be de minimis while at the same time providing an annual comprehensive review of utility performance.

4. In light of the objectives for a renewed regulatory framework for electricity, do the Board's existing "standards", described in section 4.2.1, continue to effectively capture a holistic view of utility performance (e.g., financial, operating, etc)? If not, what standard(s) for service and/or cost performance might be appropriate, how/when would the standard(s) be determined, and what are the implications, advantages and disadvantages of such standard(s)?

As noted above, LPMA believes that a comprehensive, or holistic, view of utility performance is best communicated through annual filing requirements that provide actual historical data, including the calculation of a normalized return on equity, similar to what is done by the gas distributors. This filing will provide information on all aspects of the utility performance, including capital expenditures, OM&A costs, revenues and throughput and customer growth.

5. In its review and approval of costs associated with investment plans, what methodologies and approaches might the Board use to develop an empirical approach to help it determine appropriate cost levels? Can the Board's utility cost comparison and benchmarking work be used to help size cost envelopes?

LPMA believes that the current cost of service rebasing application process should continue to be utilized to help the Board determine appropriate cost levels, which would then for the basis of incentive rates in subsequent years. The Board may also allow distributors and transmitters to provide multi-year cost of service applications that cover a period of more than one test year. LPMA notes that this is currently the methodology used by Hydro One Networks Inc. with respect to the setting of transmission rates.

LPMA believes that the cost of service rebasing approach is the best way to determine appropriate cost levels. Intervenors and the Board can review the historical data and trends that are reflected in the historical year filings as part of the rebasing review and compare those trends to those forecast for the bridge and test year(s). Adjustments can be made for extraordinary events such as converting from CGAAP to MIFRS or USGAAP and for the inclusion of new costs, such as those associated with smart meters, and the exclusion of costs previously incurred that are not expected to continue in the future.

This approach allows customers and the distributors and transmitters to reflect the current economic climate (housing growth, employment, inflation, interest rates, etc.) into their outlook for the current year and for the test year or years. It also allows for the inclusion of costs and impacts associated with government mandated programs such as the smart grid or CDM. The use of cost of service rebasing applications at regular intervals ensures that the distributors and transmitters continue to be able to recover appropriate levels of costs while ensuring that customers are paying just and reasonable rates that reflect appropriate price signals while ensuring that the regulated entities are not able to exploit customers through their use of monopoly powers.

The Board's utility cost comparison and benchmarking work can be used as guide in determining cost envelopes, but LPMA believes that at the current time their use is limited by the differences in how distributors and transmitters account for costs. Distributors often record expenses in different OM&A accounts than do other distributors. Many distributors have changed how they account for a cost over time. Capitalization policies, even under MIFRS, continue to be significantly different. Depreciation rates vary across utilities for the same category of assets. The cost of debt can vary significantly from one distributor to another, even if the debt was obtained at the same point in time. The current position in the life cycle of the distribution assets can vary dramatically from distributor to distributor, not to mention from area to area served within the distributor.

LPMA submits that while utility cost comparison and benchmarking are interesting theoretical exercises, their use is limited when it comes to practical application of the information.

6. In addition to the CDM targets, are there any other "core performance standards" that should be encouraged through the use of specific incentives? If so, what incentive(s) might be appropriate, how/when would it be determined, and what are the implications, advantages and disadvantages of such an incentive?

LPMA submits that core performance standards should be enshrined in the licence or code requirements. Failure to meet these core performance standards should result in fines or penalties substantially in excess of those shown in Table 2 of the Board Staff Paper. Continued failure to meet these core performance standards should result in the suspension or revocation of the licence.

LPMA does not support the use of any incentives for core performance other than that currently in place for CDM. All distributors and transmitter already have the biggest incentive of them all. If they can beat their forecasts under a cost of service application, their shareholder gets to keep all of the return above the allowed return on equity. If they can achieve a higher return on equity than what is built into their rates under the IRM mechanism, the shareholder gets to keep all of that additional return as well.

LPMA submits that any incentives for core performance standards could result in distributors and transmitters focusing their efforts on obtaining these bonuses to the detriment of other parts of their business. Not only does this result in immediate cost increases to customers who would be paying for the bonus, but it could well result in longer term cost increases to customers because the utility has not been focused on the big picture. If a utility is not focused on the big picture in the short term, how can they see the big picture in the longer term? In short, targeted incentives are a distraction that customers cannot support.

If the Board were to implement incentives for some core performance standards, then LPMA submits that no incentives should be paid out if any core performance standard has not been met.

As noted earlier in these comments, customers have little, if any, tolerance in this age of austerity for bonuses or incentives paid to entities for doing what they are being well paid to do in the first place. These bonuses and incentives simply add to the cost of what the utility is expected to do in return for having the privilege to serve.

7. How might the standards for performance discussed in section 4.2 and the various empirical tools discussed throughout the paper further inform (a) utility planning processes, (b) utility applications to the Board, and/or (c) the Board's review processes?

The standards for performance should inform utility planning processes in where additional effort is required, or whether current processes are having the desired impact on the standards.

The reporting of historical standards of performance, along with descriptions of remedial action taken to date, or proposed to be taken should be included in utility applications to the Board so they can be reviewed and examined.

The Board's review process will be impacted by whether or not the standards have been achieved historically. If they have, then there should be no additional spending (capital or OM&A) included in the proposed revenue requirement to deal with deficiencies. If there have been issues, then the Board will have to determine, with the assistance of intervenors, if the proposed expenditures are reasonable and will achieve their desired outcome.

LPMA further submits that when utilities make claims about increased performance associated with capital or OM&A expenditures, they should be required to quantify the impact on their performance metrics. In addition, if, upon review, they fail to meet those improved metrics, there should be some accountability of the utility to the customers for promising improvements but not delivering on them, despite customers paying for the improvements.

LPMA believes that such a mechanism would ensure that utilities choose the most efficient way to achieve a goal that has to be met. In any business case analysis there should always be a review to see if the goals were achieved.

8. What conditions would have to be met to “fast-track” an application?

In general, LPMA does not support "fast-tracking" an application. LPMA believes that customers of all utilities should have the same protection that the regulatory review process is supposed to provide.

LPMA notes that in general, applications that seek larger increases in rates and have a larger impact on customer bills, have taken longer than applications that seek smaller rate increases and result in small bill impacts. This is primarily because of the role of intervenors in the regulatory rate setting process. In many instances, intervenors and applicants are able to settle all of the issues through the ADR settlement process. Most often this is achieved when the resulting change in rates and customer bills is moderate. This substantially reduces the regulatory burden on the Board, the applicant and the intervenors.

LPMA notes that the magnitude of the revenue requirement is not a good indicator to look at when deciding whether an application can be fast tracked. The revenue requirement does not reflect changes to the allocation of costs and/or changes proposed for revenue to cost ratios. Further the revenue requirement is independent (for the most part) of the level of customer and volume growth forecasts. Both of the factors can have as much of an impact on rates and customer bills as does the revenue requirement, if not more.

In order to "fast-track" an application with a relatively small impact on rates and customer bills, LPMA submits that other applications may end up being "slow-tracked" due to the limited resources of the parties involved (include intervenors, Board Staff and utility counsel and consultants).

LPMA supports the prioritization of one application versus another. However this prioritization should not just be based on proposed rate changes because this can change. The Board is well aware of significant changes/corrections that often occur during a rates proceeding. The priority should also be based on meeting filing deadlines for the evidence, interrogatory responses, undertaking responses from technical conferences, and so on. Those who file a complete application first should be dealt with first. Those who fall behind in answering interrogatories may no longer be first in line to have a technical conference, and so on.

LPMA notes that cost of service applications are usually due in April for January 1 rates and in August for May 1 rates. These deadlines, if adhered to, ensure sufficient time for a thorough review of the evidence. If not adhered to, the utility may not get rates put in place when they want. That is the consequence of their action.

Sincerely,

Randy Aiken

Randy Aiken
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