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VIA MAIL and E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Dear Ms. Walli:

Re: EB-2012-0410 – Rate Design for Electricity Distributors
Draft Report of the Board, April 3, 2014
Comments of the
Vulnerable Energy Consumers Coalition (VECC)

Please find enclosed the comments of VECC in the above noted proceeding.

Yours truly,

Michael Janigan
Counsel for VECC

EB-2012-0410

ONTARIO ENERGY BOARD
RATE DESIGN FOR ELECTRICITY DISTRIBUTORS
VECC's COMMENTS RE: DRAFT REPORT OF THE BOARD

INTRODUCTION

On April 3, 2014 the Ontario Energy Board released a Draft Report to the Board on Rate Design for Electricity Distributors. In the accompanying letter, the Board indicated that this Report was the next step in the EB-2012-0410 process formerly known as revenue decoupling. The Board also signaled its intention to pursue a "fixed rate design" solution in order to achieve revenue decoupling, presented three proposals for rate design options to achieve revenue decoupling and requested comments from interested stakeholders regarding the options.

Matters of rate design are of critical interest and importance to Vulnerable Energy Consumers Coalition (VECC) and its constituents. As the Report notes[1], the electricity bill is the principal source of information for consumers regarding the electricity system and the rate design used to derive the "bill" is a fundamental underpinning. Equally critical is the fact that rate design directly affects what each individual consumer pays. As a result, VECC welcomes the opportunity to comment the Board's Draft Report.

The Board's letter[2] specifically requests comments on the three proposed different methodologies for setting fixed rates for low volume customers (i.e., Residential and GS<50). However, given the importance of this issue to VECC and its constituents, the following comments also address the objectives and underlying premises put forward in the Draft Report that have led to the Board proposing a "fixed rate design".

[1] Page 7
[2] Page 2

OBJECTIVES

In 2007, the Board initiated a project on rate design for the recovery of electricity distribution costs (EB-2007-0031). The Staff Discussion Paper[3] issued as part of this process noted that the Board's ultimate responsibility is to set rates that are just and reasonable and to do so consistent with the Board's guiding objectives as set out in section 1(1) of the *Ontario Energy Board Act, 1998.* The Staff Discussion Paper went on to note that the Bonbright's eight regulatory principles for establishing rate structures were considered appropriate as guiding principles for the initiative.

In 2010, the Board undertook a review of revenue decoupling for the province's electricity and natural gas distributors (EB-2010-0060). The stated objective[4] of this exercise was to examine the revenue adjustment and cost recovery mechanisms that are currently available to electricity and natural gas distributors to address revenue erosion resulting from un-forecasted changes in the volume of energy sold and confirm whether these mechanisms remain adequate and sufficient under current conditions. The Board subsequently suspended this initiative in order to complete the development of its renewed regulatory framework.

While the Board has titled the current initiative "Rate Design for Electricity Distributors" it has also indicated that it is the "next step in the Board's process for EB-2012-0410 formerly known as revenue decoupling for distributors". As a result, the current initiative can be viewed as addressing matters initially encompassed in EB-2007-0031 (re Rate Design) and EB-2010-0060 (Revenue Decoupling).

The Board has indicated[5] that for the current initiative it will have regard to the following objectives:

[3] Rate Design for Recovery of Electricity Distribution Costs, March 2008, page 9
[4] Board's Letter of March 22, 2010
[5] Draft Report, page 2

- Providing stability and predictability to consumers on their bills,
- Enhancing consumer literacy of energy rates
- Providing consumers with tools for managing their costs;
- Focusing distributors on optimal use of assets and improving productivity;
- Removing or reducing regulatory costs; and
- Supporting the achievement of public policy objectives.

VECC notes that while the Board's Draft Report[6] acknowledges the relevance of the Bonbright principles adopted for EB-2007-0060, the foregoing stated objectives do not encompass all of Bonbright's principles. For example, there is not specific reference to the issue of fairness (in terms of tracking costs and cost causality) although the Report itself deals extensively with this issue (per pages 14-15).

Also, while the objectives make reference to "providing consumers with the tools for managing their costs", in VECC's view this is materially different than Bonbright's efficiency objective which focused on providing customers with pricing signals that encourage efficient use of the electricity system and discouraged wasteful use. For example, in the extreme a rate that was 100% volumetric could be viewed as one that gives consumers the maximum ability to control their bills although it may not be the best rate design from a cost causality or efficiency perspective.

In VECC's view "providing consumers with tools to manage their costs"; "setting rates that are fair and track costs" and "encouraging efficient use of the electricity system" are all relevant objectives for the current exercise. VECC notes that it is generally accepted[7] that these objectives may conflict with each other and that the task of the regulator is to achieve an appropriate balance. Furthermore, with respect to these particular principles, VECC notes that encouraging efficient use of the system, as espoused by Bonbright, is not the same as "encouraging

[6] Page 5
[7] Rate Design for Recovery of Electricity Distribution Costs, March 2008, page 10

maximum use of the system" as the Draft Report[8] has characterized Bonbright's principle in this regard.

Finally, while the objectives set out in the current Draft Report do not specifically reference "recovery of the revenue requirement", one of Bonbright's principles, it is clear from the Draft Report[9] that revenue certainty is the ultimate intent behind the stated objective of "focusing distributors on optimal use of assets and improving productivity". VECC notes that while this was the principle purpose of the Board's initial revenue decoupling initiative it is only one of the objectives associated with establishing an appropriate rate design. As a result, in the current circumstances, where the Board is seeking to address the issue of revenue decoupling through a change in rate design it is paramount that the Board recognize these other objectives have merit and that they are not to be automatically "trumped" by the objective of revenue decoupling (i.e., revenue requirement recovery).

CASE FOR A FIXED RATE DESIGN

Definition

The Draft Report signals the Board's intention to address these objectives through a "fixed rate design". By this the Board means[10] a rate design for distribution that relies on a fixed charge per month rather than a combination of a fixed monthly service charge and a volumetric charge. However, as illustrated by some of the options proposed, while the Residential and GS<50 rates set for a particular year would be fixed (i.e. not include a rate that depends on the amount of electricity used), this does not necessarily mean that all customers in either rate class will see the same fixed charge per month.

In outlining its rational (or case) for adopting such an approach the Board has addressed the objectives in terms of the perspective of consumers, distributors, regulatory simplicity and new public policy priorities.

[8] Page 5
[9] Page 8
[10] Page 11

Consumer Perspective

Cost Drivers

From a consumer perspective, the Board notes that the current use of a volumetric (i.e., per kWh) charge is not aligned with cost drivers for distribution service which have been demonstrated to be number of customers and peak demand[11]. VECC notes that this observation is not new. Rather the use of volumetric (i.e. kWh) charges for small volume customers arose from the fact that meters which measured demand and energy were considerably more expensive historically and not readily justifiable for low volume consumers. Also, for such consumers energy (i.e. kWh) use was a more easily understood concept than peak (i.e., kW) use. However, with the introduction of smart meters for (effectively) all low volume customers and the use of time-of-use pricing for the commodity the situation has changed considerably in the last few years.

The Board's Draft Report clearly acknowledges[12] that the distribution "cost drivers are primarily numbers of customers and consumer peak demand" but then immediately jumps to the conclusion that a "fixed rate design" is the best approach for communicating to consumers the cost drivers underlying the provision of distribution service.

In VECC's view, a fixed service charge that is same for all consumers in a particular customer class will do nothing to communicate to consumers the role that demand plays as a cost driver. Furthermore, when/if the fixed charges are set based on historic "peak" usage the link between a consumer's consumption choices and costs is watered down by time (i.e., by the lag between changes in usage and the impact on the bill). A more direct link to a distributor's cost drivers would be to apply a usage charge that is based on current "peak" use[13].

[11] Pages 13-14
[12] Page 14
[13] There are various ways that "peak use" could be determined/measured ranging from the peak kW established by the consumer over the year to a consumer's peak period energy use

Also, the Draft Report[14] appears to play down the role of peak usage as a cost driver by noting that an electricity distributor's costs are largely fixed over the near term. However, this rationale is inconsistent with the previous acknowledgement that peak demand is a key cost driver for distribution.

In VECC's view, if rate design is to provide a price signal that links the consumer to distribution cost and planning as suggested by the Board, then it must signal to customers that their usage (i.e. demand) has an impact on costs. Clearly, a fixed rate design (even one where the fixed charge is linked to historic demand) provides less of a link to demand as a cost driver than a rate design that incorporates current "peak use". However, this approach is not even acknowledged as an alternative/option in the Draft Report let alone assessed in terms of the various objectives.

From VECC's perspective, the main reason for this appears to be the fact that use of a "peak" charge would continue to mean revenue uncertainty for the utility. In this regard, it appears that revenue certainty has "trumped" the Board's other stated objectives.

Furthermore, while it is generally accepted that it is peak demand and not energy that is the cost driver for distribution, it is questionable as to whether such a fixed rate design provides a better link to peak demand as a cost driver than a volumetric based rate, since kWh usage is likely to be correlated with peak demand. Again, this issue was not explored/addressed in the Draft Report[15].

Managing Bills

The Draft Report suggests[16] that adopting a fixed rate design for distribution will allow consumers to focus on the costs they can control which are presumably the commodity costs. Clearly a fixed rate design (even one that links the fixed charge to historic peak use) reduces the ability of consumers to "manage" the distribution component of their bills and hence their overall electricity bill when

[14] Page 13
[15] The availability of smart meter data means that this issue can now be easily examined.
[16] Page 14

compared to the current rate design which links the bill to current use. As a result, VECC finds this logic to be less than compelling. It also ignores the fact that the more obvious solution is to align the rates for both distribution and commodity (through the adoption of pricing that focuses on peak use) such that customers see a consistent message with respect to the system's cost drivers.

Value of Being Connected

The Draft Report states[17] that consumption is not linked to the distributors' cost to serve and, therefore, there is no connection to the value of service for the customer. However, in VECC's view, "value of service" from the consumers' perspective is not the same as the "distributors' cost to serve". At a very simple level one might consider that the more uses a consumer employs electricity for the greater the value the consumer would assign to being "connected" and able to access electricity. However, this would ignore the fact that consumers are likely to assign different values to different uses of electricity and, in doing so, assign a higher value to uses that are viewed as being fundamental or necessities of life (e.g. electric heating during the winter or home respirators). As a result, VECC does not see how a fixed rate design would better communicate the "value of service" to consumers. Indeed, a fixed service charge that is same for all consumers in a particular customer class suggests that the value of being connected is the same in all cases although the value derived by individual customers from their use of electricity will vary widely. A service charge that reflects historic peak use would address this somewhat but only if peak use was considered to be indicative of "value" and even then it would fail to communicate the value of currently being connected.

It is also worth noting that as long as the recovery of distribution costs continues to be bundled in the bill with the recovery of other costs (e.g. transmission); customers will continue to have little direct insight into how this portion of their bill is determined which, in turn, will reduce their ability to manage their bills and their overall understanding of the service they are receiving.

[17] Page 12

Bill Stability

A fixed rate design would clearly promote bill stability. However, there are currently other mechanisms available, such as equalize billing, that consumers can use avail themselves of to achieve somewhat the same end.

Distributor Perspective

The Draft Report[18] highlights the recent decline in usage by low volume consumers. However, further analysis by Navigant suggested that in both the Residential and GS<50 classes, while some utilities showed statistically significant reductions in average use per customer, others exhibited statistically significant increases, and the greatest number in each group showed neither an increasing or decreasing trend that was statistically significant.

The Draft Report then expresses the view[19] that the integrated five year capital plans that the Board is now requiring distributors to prepare can best be implemented when the distributor has a stable and reliable revenue flow. However, while this assertion is made, VECC notes that no evidence is provided that revenue uncertainty has been or will be a material impediment to distributors implementing their capital plans.

The Draft Report[20] points out that with volumetric charges there is potential for rewarding negative outcomes with respect to conservation and penalizing those utilities that help their customers to conserve. It also notes that distributor returns could increase solely due to increased throughput instead of them making gains through their own efficiency initiatives and therefore has a negative impact on the Board's efficiency incentive mechanism.

The Draft Report acknowledges[21] that limited revenue decoupling (in the form of an LRAM related to CDM impacts) has already been implemented but expresses concerns regarding customer acceptance of broader true-up mechanisms. In

[18] Page 15
[19] Page 15
[20] Page 16
[21] Pages 16-17

particular, it notes the affect that subsequent true-ups could have on consumers' decisions to invest in efficiency and expresses the view that increasing true-ups would be inconsistent with a focus on the customer.

However, while the Board expresses concerns about customer acceptance of broader true-ups, this matter was not explored with the Distribution Charge Focus Groups and there is no assessment of the relative merits of achieving revenue decoupling through such an approach as opposed to via a fixed rate design.

Regulatory Simplicity

The Draft Report expresses the view[22] that a fixed rate design would allow for greater regulatory simplicity by eliminating the need for the detailed kWh forecasts necessary for determining volumetric rates. It would also eliminate the need for deferral and variance accounts associated with CDM and LRAM calculations.

VECC notes that while the fixed rate design would eliminate the need for the deferral and variance accounts associated with CDM and LRAM, it would not eliminate the need for load forecasts to be prepared and filed as part of a distributor's cost of service-based rate application. Such forecasts would still be needed at the wholesale (i.e. purchased power) level in order to forecast working capital requirements. Furthermore, for most distributors it is this wholesale forecast (and not the subsequent breakdown by customer class) that is the primary focus during individual rate cases. Also, until the use of volumetric charges for distribution cost recovery is eliminated for all customer classes there will still be a need to decompose the total purchases power forecast by customer class.

[22] Page 17

Public Policy

The Draft Report notes[23] that distributors are expected to play a significant role in meeting the Provincial Government's "conservation first" agenda as set out in the 2013 LTEP. It states that "a rate design based on fixed charges to recover the entire revenue requirement of certain customer classes supports the public policy objectives set out in the LTEP". While a fixed rate design may help facilitate the role of distributor in delivering conservation to consumers, eliminating the role of volumetric charges and, at best, adopting fixed charges that are linked to historic peak use will likely reduce the incentive for consumers to participate in conservation initiatives.

The Draft Report also notes[24] the government's expectation that small distributed generation will be an important supply source and that most such generation will be installed with net metering. To the extent distribution rates involve volumetric charges, net metering could further negatively impact distributors' revenues. While this concern is addressed through the use of a "fixed rate design", VECC notes that it could also be addressed by government revising the basis for net metering of "deliveries" to the distribution system so as to exclude volumetric distribution charges.

Overall

The Draft Report claims that by addressing the pricing mechanism (through a change to a monthly fixed charge rate design) the Board is able to address all of the regulatory and public policy objectives it has set out for the electricity sector. In VECC's view the assessment undertaken by the Board was not comprehensive as it did not fully explore and test (against its stated objectives) other viable alternatives. Also as discussed above the use of a fixed rate design does not fully address all of the Board's stated objectives nor all of its rate making principles. While it is unlikely that any approach would do so the failure to adequately explore and assess alternatives means that there is no clear

[23] Page 18
[24] Page 18

demonstration that the Board's proposed fixed rate design is the preferred alternative. Indeed, the only objectives that the fixed rate design appears to clearly best serve are the desire for revenue certainty for distributors and bill stability for consumers.

PROPOSED FIXED RATE DESIGN METHODOLOGIES

In its Draft Report[25] the Board has set out three proposals as to how a fixed rate design could be implemented for low volume customers and indicted that it may select one proposal for implementation. It has also invited comment on the proposals and posed specific questions that it is looking for responses to[26]. The questions focus how the different proposals affect the achievement of the Board's objectives, should distributors be allowed to choose which method they will use and what are the implementation issues. The first three sections address the first and last questions for each proposed approach in turn. The next section addresses general implementation issues and the fourth section addresses the question of distributor choice.

Proposal 1

Proposal 1 would see a single fixed monthly charge established for all customers within a rate class.

Objectives

While this approach does align the distribution rates with the primary cost driver[27] – number of customers – it does not recognize at all the demonstrated role that demand plays as a driver for distribution costs. In this sense it is questionable as to whether option is even an improvement over the current rate design, particularly in situations where kWh use is correlated with peak demand. In this vein, the proposal also does not provide any link between how customers use electricity, the need for distribution assets and distribution planning.

[25] Page 21
[26] Page 29
[27] Page 22

This alternative is also likely to fail from a consumer acceptance perspective. As all consumers are charged the same regardless for distribution service regardless of their level of use fundamental questions of fairness are likely to arise. Furthermore there is no scope for consumers to manage the distribution portion of their bill.

Indeed the only objectives that this approach truly appears to serve are those related to bill stability for customers and revenue stability for distributors (whether due to unforeseen changes in load, CDM initiatives or net metering). However, while it strengthens the incentive for distributors to support conservation, it reduces the incentive for consumers to participate in CDM programs.

Implementation

As noted in the Draft Report, this approach would be relatively easy to implement. This being said, it is likely that such an approach would increase the scrutiny that customer count forecasts are subject to in cost of service-based rate applications.

Proposal 2

Under Proposal 2 the size of a consumer's fixed charge would be based on the size of the electrical connection to the distribution system[28]. In this regard the rate would be linked to how much power the consumer can draw from the system and not how much power is actually drawing from the distribution system.

Objectives

While this proposal goes someway to addressing the issues raised with Proposal 1 regarding fairness and signalling demand as a cost driver, it does so in a very crude manner and one over which the consumer may have little control. The size of a consumer's service (e.g. connection current/amps) is generally established when building concerned is initially constructed. The Draft Report suggests[29] that consumers can "make a conscious decision to choose a

[28] Page 24
[29] Page 25

connection current on design of the premises". However, in the case of Residential customers, it is not clear to VECC whether the consumer has any real input into this decision or whether it is a standard set by the builder or developer (or perhaps even the utility) for each new subdivision. A similar observation applies in the case of GS<50 consumers and of new commercial developments.

The Draft Report also suggests that consumers could choose to change their connection current[30]. This observation ignores the fact that the consumer may not own the premise, a situation that could well exist for many Residential consumers[31] and is highly likely to be the case for GS<50 consumers where leasing of premises is common. Even in cases where the consumer could reduce the connection current there is no indication as to what this would cost relative to the reduction that would be experienced in monthly distribution charges.

As a result, it is VECC's view that this proposal would, therefore, only frustrate those consumers who are unable to influence their connection current and thus unable to manage the distribution portion of their electricity bill. For those customers who may be able to do so (i.e. influence/change their connection current) the process will be complex as consumers seeking to "right size" their connection will have to consider not only their present electricity usage and how that translates into connection current requirements but also anticipate what additional uses they may have for electricity in the future and how they too would impact current connection requirements.

Finally even where consumers can "right size" their connections, there is no indication that it is connection size or current that is used by distributors for distribution planning purposes and that, as a result, connection current provides any link to distribution planning and/or distribution costs. Indeed, the fact that

[30] Page 25
[31] Examples would be renters and even condominium owners subject to suite metering.

many distributors do not currently track and record this information[32] would suggest that this is not the case.

Overall, VECC does not see Proposal 2 offering a material advantage over Proposal 1 in terms of the Board's stated objectives, particularly those related to allowing consumers to manage their bills, linking rates to distribution cost drivers and fairness[33].

Implementation

There would likely be major implementation issues associated with Proposal 2. First, as the Draft Report notes[34], information regarding individual consumers' connection current is not gathered and maintained by all distributors. Furthermore, changes would likely be required to distributors' billing systems in order to incorporate this additional information once it is available. Then, going forward, distributors will have to establish processes that allow them to track any changes in the connection current for each low volume consumer. Furthermore, such processes could be complicated since changes to a consumer's connection current are generally made by a private electrical contractor as opposed to the utility.

Proposal 3

Under Proposal 3 there would be fixed monthly charge where the size of the charge would be based on the consumer's historical use during peak hours relative to the historical peak hour use of other consumers in the same rate class[35]. If the consumer's peak use was substantially lower than the class average, they would be assigned to the lowest use sub-group with the lowest charge. If their peak use was substantially higher than the class average peak usage they would be assigned to the highest use sub group and the highest

[32] Page 24
[33] Fairness is a concern from two perspectives. First, not all customers will be able to influence their connection current and second consumers may question why they have to incur additional cost to reduce their connection current when the smart meter (which they are also paying for) has clearly demonstrated that they have reduced their peak usage.
[34] Page 24
[35] Draft Report, pages 26-27

distribution rate. Finally if the consumer were substantially the same as the class average they would be assigned to the middle group.

Objectives

Of the three proposals, basing size of the fixed monthly charge on the consumer's usage during the peak period likely comes closest to linking distribution rates to distribution planning and costs.

Also, according the Gandalf Report[36], there appeared to more consumer acceptance for such an approach as compared to one that employed a common fixed monthly charge for all consumers in a rate class. Part of this acceptance was linked to the view that it would give consumers an ability to manage their bill. However, upon reading the Gandalf Report it is not clear that the participants in the focus groups were advised that under Proposal 3 it would not be their peak usage that would lead their assignment of a particular fixed charge tier but rather their usage relative to the usage of other consumers in the same class. In VECC's view, there is a fundamental difference. As frequently noted in the Gandalf Report[37] consumers are looking for way to manage their bill. Of particular note is the statement that "individually, for themselves, consumers expect to be able to decrease each bill amounts as their consumption comes down"[38].

Proposal 3 does not give consumers this direct/individual control over their bills as their distribution rate (and charges) will be impacted not only by their efforts to manage their electricity use but also by the efforts of the other consumers in their utility. Furthermore, if new customers are added to the utility (particularly if they are in-suite metered apartment/condominiums) the average consumer use in the utility could decline through factors other than customer conservation efforts.

[36] Pages 4 and 6
[37] Pages 4, 6, 8, 10 and 11
[38] Page 10

VECC submits that a consumer's distribution charges should be based on its own requirements and reflect that consumer's specific efforts to (or not to) conserve. In this regard, VECC sees some similarities with the Board's decision[39] to base distributors' stretch factor assignments on each distributor's actual costs relative to its predicted costs and not compare distributors with each other. In this instance, distributors wanted to be judged based on their own efforts and, in VECC's view, consumers want and deserve the same consideration.

Implementation

If the Board were to proceed with Proposal 3, key implementation issues would include:

- What are the "peak hours? While distribution planning focuses on a narrow definition of peak use, the results of the Focus Groups make it clear that consumers do not want to be "judged" for their conservation efforts based their usage in a limited number of hours.
- Should the peak hours be the same for all distributors and /or the same as for TOU pricing? All distributors do not peak at the same time and it is the individual utility's peak that drives its distribution planning and costs. However, consumer understanding and acceptance would be likely be greater if a common definition of "peak" was adopted.
- Should peak usage be based on actual or weather normalized usage? Consumers are likely to be more accepting if usage was weather normalized. However, many distributors do not currently have the capability to weather normalize individual consumer's usage data, particularly over discretely defined hours/periods.

[39] EB-2010-0379, Report of the Board, November 21, 2013, pages 20-21

Implementation - General

The Gandalf Report indicates[40] that many consumers would be expecting to see little to no change in their distribution charges and that, if anything, their charges will decrease as a result of their conservation efforts to date. Clearly these expectations will create communication challenges for utilities and the Board both before and after implementation. Also, to the extent bill impacts are material, consideration should be given to phasing in the bill impacts.

Also, given the revenue certainty that a fixed rate design provides distributors one would expect there to be a reduction in the business risk faced by distributors and correspondingly a reduction in their allowed return on equity upon implementation.

Distributor Choice

The Draft Report raises the question[41] as to whether distributors should be allowed to choose which proposal they would implement or should there be a common approach across the province.

In VECC's view a sufficient and satisfactory case has not been made for transitioning to a fixed rate design and there are fundamental issues (from a consumer perspective) with each of Board's proposals.

Having said this, if the Board decides to proceed at this time with the implementation of a fixed rate design for distribution, it is not at all clear why the distributor should be given a choice as to which proposal to adopt. All three proposals guaranteed the distributor's revenue recovery. The main issue for distributors will be implementation and, in such cases, the problem should be addressed by giving distributors sufficient time to address any implementation issues and not by simply allowing them to implement the one that is the easiest to adopt.

[40] Page 11
[41] Pages 2 and 29

Indeed, it is consumers (and not the utilities) that will be primarily impacted by any choice as between the proposals. Given this fact and the Board's new "consumer focus" the decision as to which "proposal" to adopt should be based on consumer and not utility priorities.

A more fundamental question is whether the fixed rate design would be "mandatory" for all distributors or whether individual distributors would be able to apply to the Board for a different distribution rate design if they choose to do so. Clearly, in such cases, evidence would have to be provided as to why their alternative approach was more appropriate. Also, if such an option is open to distributors as part of their cost of service rate cases would other parties have the same ability? In VECC's view, the answer to both questions should be yes.

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