



January 24, 2019

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th floor
Toronto, ON
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Board File No.: EB-2018-0287

Submitted via email

Re: Advisory Committee on Innovation

AMPCO is the voice of industrial power users in Ontario. Our mission is industrial electricity rates that are competitive and fair.

Attached are AMPCO's comments on the Report crafted by the Advisory Committee on Innovation, released publicly on November 22, 2018 as well as some limited comments on the recently launched OEB Sandbox. AMPCO appreciates the opportunity to provide such feedback.

Best Regards,

[Original signed by]

Colin Anderson
President

cc. Doug Yates, AMPCO Chair

Report of the Advisory Committee on Innovation

Submissions of the Association of Major Power Consumers in Ontario (AMPCO)

INTRODUCTION

Ontario's electricity system is complex. AMPCO provides Ontario industries with effective advocacy on critical electricity policies, timely market analysis and expertise on regulatory matters that affect their bottom line. We are the forum of choice for major power consumers who recognize that their business success depends on an affordable and reliable electricity system.

These comments are made in relation to the November 22, 2018 Report of the Advisory Committee on Innovation, and the January 16, 2019 Stakeholder session conducted by the Ontario Energy Board ("OEB" or "Board") at 2300 Yonge Street. AMPCO's members are major power consumers, responsible for over 15 TWh of annual load in the province. Any changes to the electricity system that could result in a material price impact - including changes falling under the general subject of "Innovation" - are of interest to AMPCO members, which is why we are participating in this consultation.

AMPCO appreciates the opportunity to provide feedback.

BACKGROUND AND CONTEXT

In the recent past there have been numerous articles and discussions on "innovation" in the electricity sector that have served to provide strategic insights into what tomorrow's electricity systems will ultimately look like. The transition from today's

framework to that of tomorrow will, no doubt, be exciting and will feature radically different paradigms in regards to the supply, delivery and use of electricity. However, as compelling as we find these glimpses into the future, we need to maintain an appropriate level of concern for the resulting costs associated with adoption of “innovation”.

In specific reference to this particular Consultation, it was AMPCO’s hope that since this Advisory Committee was initiated by the OEB itself, that it would have an appropriate cost and customer focus, or at least consider these as a backdrop to the other, more exciting, innovation elements. Sadly, that does not appear to have been the case.

The Board’s Charge to its Committee reads as follows - *“The Committee will focus on identifying actions that a regulator can take to support and enable cost effective innovation, grid modernization, and consumer choice to help inform regulatory policy development.”*

Whether the problem was with the charge itself or with its interpretation by the Committee is irrelevant. What is relevant is the direction endorsed by the Committee; a direction that appears to focus on reduced regulatory burden for utilities and contemplation of ways to ensure that utility revenues are maintained in the face of innovated product and service offerings. In AMPCO’s submission, the Report includes such specific recommendations as:

- Relaxation of elements of the Affiliate Relationships Code (1D)
- Strong consideration of utility remuneration in order to keep them whole in an innovated sector (2A)
- Significant focus on DER project proponents and their ability to be appropriately compensated (2C)
- Significant emphasis placed on reduction of oversight (4A, 4B, 4C, 4D), and in particular, regulatory reviews and timelines are to be streamlined and shorter

(4C, 4D) even though risk associated with Innovation is, admittedly, going to be higher (2D)

- Provision of additional funding to utilities to accelerate innovation (2D)

It is AMPCO's opinion that these recommendations appear prejudiced toward the utility view. There is little evidence of the consideration of the consumer perspective nor does there appear to be any meaningful focus on electricity affordability and what innovation can do to facilitate that. It is our submission that these are fatal flaws, requiring a fundamental review of the goal of this exercise.

KEY ISSUES WITH THE REPORT

There are at least two major omissions to be highlighted in regards to this Report. One is with respect to the Committee itself and one is with respect to the Committee's analysis and findings:

- Composition of the Committee - With no disrespect intended to existing Committee Members, this Committee had no customer representation at all - notwithstanding that the Terms of Reference document specifically calls out "representation from ... consumer interests". Interestingly, the consumer is the only group specifically listed in the Terms of Reference that was excluded. Instead, the Committee appears to be generally comprised of utilities and their consultants - with little apparent interest as to how to assess and integrate the needs of the end use customer - the one who ultimately pays the bill.
- The Issue of Stranded Costs - references to "costs" by the Committee in its Report appear to be on a going forward basis only - and in relation to utility costs. There is NO consideration of the potential for stranded costs to occur as a result of the move towards innovation in the energy sector. This is a glaring omission and requires further elaboration:

- As a result of “innovation”, the potential for stranded costs associated with a grid defection approach is high.
- Yesterday’s electricity system relied on a centralized model for planning and operation. It evolved that way due to the desire to achieve economies of scale and the need for improved reliability. It seemed reasonable to only have one major system, since it was so capital intensive to build it.
- Almost all of the innovation discussions taking place now regarding tomorrow’s system revolve around a somewhat different theme - decentralization or, “grid defection” - with the idea being that we can maintain the benefits of a centralized system, while enjoying the new found products and choices that will exist in an innovated world. It is important at this point to remember what it is that is driving this grid defection. It is not dissatisfaction with reliability, nor is it an unquenchable thirst for that which is novel; it is quite simply, the current cost of electricity.
- The problem occurs in the transition between these two worlds. We already have the old world system - and we continue to pay for that every time we pay our electricity bills - bills that are already too high. Utility infrastructure in the province is worth tens of billions of dollars - generally included within utility rate base. That rate base is paid for by all consumers on an ongoing basis. Many of the forms of innovation being discussed provide incentives to reduce reliance on the existing grid. Reduced reliance will lead to the perception of reduced responsibility for the costs of that centralized system. Those costs still need to be paid - but fewer and fewer people will feel obligated to do so.
- The resulting redundancy of certain elements of the electricity system is how stranded costs could be created. We need to understand this undesirable effect and neutralize it before we end up with costs that could pave the way to a second wave of debt retirement charges.

- This Committee appears to have ignored that concern, instead focussing on the need for regulatory reform, and the safeguarding of future utility and project proponent revenues.

INNOVATION SANDBOX

At the consultation session on January 16, 2019, the OEB unveiled the launch of an “Innovation Sandbox” - an online tool to allow the OEB to support innovators to test new ideas, products, services, and business models in the electricity and natural gas sectors. The Sandbox provides a mechanism whereby project proponents can engage with Board Staff for regulatory guidance and have conversations that will potentially result in temporary relief from certain regulatory constructs in order to facilitate and encourage innovation in the sector. As far as AMPCO is aware, the session on the 16th was the first time that this initiative was discussed publicly.

While, at first blush, this may appear reasonable in a world where innovation is generally regarded as a positive step forward, the details of the Sandbox process must be fully considered.

- While there is no direct statement on the OEB website that these conversations will be confidential, the following language is used to describe the interactions “An informal and open dialogue between innovators and OEB staff may be used...”. This suggests that the conversations will not be made public, which was the impression that AMPCO had from the consultation session.
- Exemptions from regulatory requirements will be decided by Board Staff, under the action of delegated authority from the Board itself.
- The OEB expects that Sandbox proposals will typically be handled through an administrative process without a hearing.

- Generally speaking, the OEB is empowered to exempt regulated entities from requirements under OEB Codes, Rules, Licences or Orders. The OEB is also authorized to grant exemptions from certain statutory provisions.

When the points above are considered in totality, it becomes apparent that the process in question will be conducted without public knowledge or input, with the outcome not having benefitted from a public hearing process, and with the exemptions being granted potentially including statutory provisions. For a quasi-judicial tribunal that has objects under the *Ontario Energy Board Act* to protect the interests of the consumer, this seems unnecessarily mysterious. It certainly does not seem to support an open and transparent approach to business. The Board's imposition of this, with no opportunity for discussion prior to its implementation, appears inconsistent with the consumer focus that exists in numerous OEB documents including, but not limited to, its Business Plan, its Handbook to Utility Rate Applications and its Strategic Blueprint itself. AMPCO finds the Sandbox, as well as the unstakeholdered manner in which it was introduced, to be a step backward in terms of inclusiveness and transparency.

AMPCO RECOMMENDATIONS - NEXT STEPS

In the Invitation Letter issued by the Board for its January 16, 2019 consultation session, the following three questions are framed for stakeholder input:

1. What actions should be the highest priority for the OEB?
2. What interdependencies should be considered for planning and sequencing the OEB's next steps regarding further policy development and consultations?
3. Are there any gaps or complementary areas of inquiry that need to be considered?

In AMPCO's submission, these three questions can only drive next steps in a situation where one considers the steps that have already been taken to be the correct ones. That is not the case here.

Given the two major omissions highlighted above, AMPCO believes that a different approach must be taken. A new stakeholder forum should be established - an engagement forum with full representation from all stakeholders, including customers. The engagement should be externally facilitated and its scope should be broader than the scope used by the current Advisory Committee. In addition where possible, related industry initiatives¹ should be merged into a single exercise in order to guard against competing "innovation forums" and to provide a comprehensive path forward.

Only after this inclusive exercise is concluded, can a discussion of potential regulatory reforms to enable innovation (while preventing stranded costs) take place. Even then, strict objectives for those reforms must be established up front - objectives that not only consider the financial viability of the regulated utilities, but also reflect consumer needs and economic realities.

All of which is respectfully submitted.

¹ Such as the Independent Electricity System Operator's "Innovation Roadmap" initiative.