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October 18, 2019

VIA RESS and COURIER

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

Dear Ms. Walli:

RE: Utility Remuneration (EB-2018-0287) and Responding to Distributed Energy Resources (EB-2018-0288) Written Comment Phase Following September Stakeholder Meeting

In September 2019, the Ontario Energy Board ("OEB") hosted a stakeholder meeting in relation to the policy consultation concerning Utility Remuneration and Responding to Distributed Energy Resources ("DERs"). The consultation was widely attended by a number of different parties representing a wide perspective of views. Following the stakeholder meeting, the Board issued a letter to interested parties welcoming stakeholders to provide written comments summarizing their views on the issues to be addressed as the consultation moves forward.

Alectra Utilities (or "Alectra") is pleased to offer its comments herein. These comments are the result of further reflection and consideration of the discussions that took place during the course of the stakeholder meeting and should be read in conjunction with Alectra Utilities' submitted written and oral comments.

General Comments

Alectra Utilities appreciated the facilitation of open and transparent dialogue and engagement that took place over the course of the consultation.

Alectra's main proposition is that the OEB's policies regarding Utility Remuneration and DER Integration be focused on improving customer value and choice, which involves removing barriers for customers to implement energy solutions and removing barriers to utilities to optimize system investments for the benefit of all customers. Further, utilities must also be able to address the economic imbalance amongst customers that may arise if DER services are provided by private companies that are not subject to OEB regulation.

As a general comment, it was concerning that many participants provided a narrow view for the role of the OEB in addressing issues; instead they relied on the assumption that an over-simplified view of competition can solve any issues of public interest. It seemed that some participants relied upon generalizations that are either overly restrictive or out of date with respect to the underlying principles of utility regulation. For example, some argued that the single underlying rationale for utility regulation was market failure, suggesting that, in the absence of market failure, there is no role for utilities to provide services or for the Board to regulate services. They seemed to be arguing that in such instances the 'market' would provide services.

Alectra Utilities also found it concerning that, without delving into the issues, some participants made the simplistic distinction between activities that are "behind the meter" and those that are "in front of the meter". While these physical locations may provide handy demarcation points for some types of regulation, they clearly do not determine the starting and end points for regulation. That is, the OEB's public interest mandate looks to the interests of customers, not a physical location of a service on the system. In Alectra's view, these opinions are based on concepts of OEB regulation that are much too constricted both from a practical perspective (looking at the OEB's statutory jurisdiction) and from a public interest perspective.

As the OEB considers the objectives and outcomes that are expected to be achieved as a result of this consultation, Alectra Utilities encourages the OEB to maintain a focus on how the public interest will best be served.

Key Issues Emerging from Consultation

1. <u>Fundamental Regulatory Principles Should Remain</u>

Some parties took the view that this review should result in questioning key fundamental aspects of the regulatory paradigm. One party suggested that "all principles are in play. Nothing is set in stone…"[1]. In particular, the stakeholder suggested that certain regulatory constructs such as the fair return standard and cost recovery principles should be re-examined.

In contrast, during the proceeding, Alectra Utilities pointed out that one of the OEB's experts had indicated that the other jurisdictions examined had worked to establish policies to accommodate DERs within their existing regulatory constructs. That is, they didn't dismantle the regulatory compact in order to accommodate DERs. Alectra Utilities agrees with another participant who stated that, "the objective of this proceeding, as with all OEB proceedings, should be on promoting outcomes and innovation that delivers value for all Ontario customers".[2]

Alectra Utilities believes that the public interest would be materially and negatively impacted by abandoning certain fundamental principles. Alectra Utilities agrees with Board Staff's assessment of

[1] Ontario Energy Board, Stakeholder Conference, Distributed Energy Resources and Remuneration, Transcript Vol. 1, p. 28
[2] Ibid., p. 24

key principles[3] arising from stakeholder comments and that certain fundamental principles should serve as a bedrock around which new policy formulation and direction should be grounded.

Alectra encourages the Board to be clear that the focus of these consultations should be in respect of utility remuneration and responding to DERs and the incremental changes that are required to support the desired outcomes.

2. The OEB's Mandate goes beyond addressing 'market failure'

There was much discussion during the meeting that proposed to understand what 'market failure' currently exists that regulation should be trying to solve. In Alectra's view, the rationale for OEB regulation in particular, and utility regulation in general, goes well beyond the concept of market failure. For example, the statutory objectives in Sections 1 and 2 of the *Ontario Energy Board Act, 1998* go well beyond market failure; in fact, apart from the Board's rarely used forbearance power, there is nothing in the OEB Act that even refers to market failure. *Bonbright's Principles of Public Utility Regulation* lists seven grounds for regulating public utilities, of which mitigating market power (a characteristic of market failure) is only one.[4] These are the items that attract the need for regulation in respect of Utility Remuneration and Responding to DERs, rather than on presumptions of 'market failure'.

As a result, Alectra Utilities believes that the Board should apply a broad perspective on how to approach these issues and with the goals of improving customer value and choice, including removing barriers for customers to implement energy solutions and removing barriers to utilities to optimize system investments.

As the discussion progressed during the course of the consultation, it became clear that the issue is not one of 'market failure', but rather that no market exists for evaluating and incorporating the services of DERs within distribution system planning and regulation. As was clear during the stakeholder meeting, Distributors remain of the view that even if a market for DER services is created, by definition, it can only focus on servicing discrete issues. However, it cannot consider the optimization of the distribution system and the public interest that it serves.

Alectra Utilities believes that an issue should consider the construct of a market for DER services and how to integrate that within distribution system planning and operations.

[3] Ontario Energy Board, Utility Remuneration and Responding to Distributed Energy Resources, EB-2018-0287 and EB-2018-0288, July 17, 2019, Attachment A

[4] Bonbright, Principles of Public Utility Regulation (2d) Public Utilities Reports, 1988: the others include: prevention of undue price discrimination; externalities; conservation of resources; informational disparities; destructive competition; and other justifications, p.p. 33-40; see also, Stephen Breyer, Regulation and Its Reform, Harvard, 1982, p.p. 32-34.

3. <u>Optimization of Distribution System Assets</u>

It was apparent that most parties seemed to agree that a key issue to be resolved is how to properly value the benefits of DER services within the context of distribution system operations. Similarly, some participants spoke of the costs to the distribution system in integrating DERs, including items such as lost demand, increased expenses due to voltage stability, fault current, or anti-islanding, which, if not addressed, can impact other customers – that is other residents, businesses, and/or their equipment. Depending on feeder capacity and location, this practice can lead to different levels of customer access to DER service options and their associated impacts.

Most parties also agreed that optimizing the use of existing distribution assets makes the most economical sense for customers. This can include the optimization of either existing assets or as part of a system plan to address new or emerging issues. However, in order to develop plans that achieve such optimization, an understanding for the benefits and costs on distribution customers resulting from the impact of DER integration is required.

Therefore, Alectra believes that the OEB should consider including an issue(s) addressing the identification of the following items:

- ***The physical system constraints that may lead to inequitable access to DER services;***
- ***The costs to the distribution system introduced as a result of DER integration;***
- ***The benefits derived by customers and the distribution system as a result of DER integration.***

4. <u>Stranded Assets and Cross-Subsidization</u>

In Alectra's view a fundamental principle that should continue is the 'beneficiary pays' principle. That is, those who benefit from the implementation of DERs should pay. Such benefits may accrue to individual customers or all customers, depending on the specific application considered. As one stakeholder put it, this may require new types of service charges, rates, or rate structures.

An example used by one participant in the consultation may illustrate the purpose best. A question was posed as to why a neighbourhood could not band together to create their own supply and limit their connection to the grid. In Alectra's view, the relevant question in such a scenario is what happens to the distribution system's remaining customers? Should they be left to carry the costs of assets stranded as a result of the community's choice? Is it fair that there would be fewer remaining customers over which to spread costs or achieve future efficiencies?

Thus far, it appears to be only the utilities who are concerned about customers who do not, or are not able to, deploy DER assets, either due to financial constraints or the physical limitations of the distribution system. All else being equal, the rates for the remaining customers will unavoidably rise.

Therefore, a key issue to consider is how rates or rate structures should be designed to ensure equity among customers. Such design should consider utility remuneration such that the actions of some (self-selected) customers do not expose other (remaining) customers to higher cost or risk.

5. Capitalization Bias

There was an anecdotal concern that utilities necessarily over spend capital since there is an apparent motivation to do so. However, Alectra Utilities cautions that this opinion should not be taken as fact and there has been no evidence produced to substantiate the claim. It is also no less true that regulation and oversight mitigate and/or overcome this through the review of distributors' capital and OM&A plans. It is a fact that utilities do routinely rely on OM&A and/or outsourced solutions for a variety of issues. This consultation should be focused on developing outcomes that support the objectives or outcomes sought. As one stakeholder put it, "one of the streams of utility remuneration in this process is to figure out how to reward efficiencies however they're achieved, and we agree that is very important".[5]

A specific issue should be dedicated to examining how utilities should be remunerated for investments, whether capital and/or OM&A that achieve the objectives related to DER integration.

6. Enabling DERs

From Alectra Utilities' perspective, it was unclear if any consensus emerged regarding the role utilities should play in a DER-enabled future, and specifically whether or not 'non-wires' alternatives ("NWAs") should be expressly considered in distribution system planning. There were several examples provided by the utilities of situations in which NWAs could have been used but for the uncertainty of regulatory treatment. It was clear that several stakeholders including Alectra Utilities thought that clarifying the roles and responsibilities for different market players would be beneficial. One stakeholder even suggested that the OEB should mandate the utilities to investigate NWAs before any infrastructure upgrade takes place.

Therefore, a central issue must focus on roles and responsibilities in general, and the opportunities and/or expectations for utilities to investigate NWA's, specifically.

Additionally, some participants also spoke to the investments that would be necessary to enable distribution grids to accommodate the integration of DERs. For example, these investments could include the need for reinforcement and/or the ability to control voltage instability. In addition, there may be other investments required to enable or enhance grid modernization and ultimately customer choice.

[5] Ontario Energy Board, Stakeholder Conference, Distributed Energy Resources and Remuneration, Transcript Vol. 1, p. 19.

Another issue should consider what investments, and/or under what conditions, utilities should be able to invest in, or bring a business case forward to invest in, DERs or DER-enabling infrastructure.

The consultation also heard a wide variety of views and perspectives on the Affiliate Relationship Code ("ARC"). Some stakeholders suggested that utilities or their affiliates should be discouraged from participating in certain areas because they have a brand or reputation not available to competitive service providers. In Alectra Utilities' view, a utility that provides good service that is appreciated by a customer, will have a strong brand; and a utility that provides poor service will have a weak brand. Utilities have an incentive to provide excellent service delivery. This should not preclude the existence of, or the activities of, an affiliate. In any event, it was clear that many participants had views in respect of the ARC and most agreed that a review would be timely. To this end, the focus of such review should revolve around providing customers with the greatest value (from the customer's view point), and not eliminating or restricting the provision of such services.

Therefore, a comprehensive review of the ARC should be added as an issue.

Conclusion

Separate and apart from the issues and reflections presented above, Alectra Utilities would again like to reiterate the view that was shared among several participants in regard to the process going forward. The OEB should continue forward on its path of making this a meaningful consultation and engaging all stakeholders, rather than simply issuing a paper for discussion. Furthermore, virtually all participants shared a view that the OEB should ensure that this consultation is coordinated with other OEB consultations (such as Activity and Program Based Benchmarking, C&I Rate Design, and DER Connections).

Finally, the OEB should coordinate and consider the related work being undertaken by the IESO with respect to DERs. As Alectra emphasized in its earlier comments, it would be worthwhile for the OEB to establish working groups to delve into specific issue areas to recommend or advise the Board on specific issues or alternatives.

Alectra appreciates the opportunity to provide these comments to the OEB with respect to this important policy initiative. If you have any questions regarding our comments, please contact the undersigned.

Sincerely,

Original signed by Indy J. Butany-DeSouza

Indy J. Butany-DeSouza, MBA
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Alectra Utilities Corporation