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April 30, 2020

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Long,

RE: EB-2018-0287/0288 – Written Comments of the London Property Management Association on OEB Staff's Preliminary Proposals

Introduction

The Ontario Energy Board ("OEB") held a stakeholder meeting on September 17 – 19, 2019 to receive input on the objectives, issues and guiding principles for Utility Remuneration and Responding to Distributed Energy Resources ("DERs") initiatives.

The invitation letter for the September stakeholder meeting indicated that Staff would prepare a report describing the input received and setting out Staff's proposals. The letter further indicated that stakeholders would be invited to comment on the Staff report.

On January 21, 2020 the OEB issued a letter indicating that in light of the volume and diversity of stakeholder views, the OEB decided to provide an additional opportunity for dialogue between Staff and stakeholders. Staff prepared a presentation that reported on the input received and set out its current thinking on the scope, including objectives, issues and guiding principles for each initiative.

Interested parties were invited to a stakeholder meeting where Staff summarized input from stakeholder presentations, comments made during the September stakeholder meeting and written comments received. Staff further outlined and sought input on their current thinking for the scope of each initiative. This stakeholder meeting took place on February 20, 2020.

The January 21, 2020 letter invited stakeholders to comment on staff's preliminary proposals for each initiative. These are the comments of the London Property Management Association ("LPMA") on those preliminary proposals.

LPMA has organized it comments under the same major headings used in the February 20, 2020 Staff report titled Sector Evolution: Utility Remuneration & Responding to DERs – Defining the Scope & Approach to Work Based on Stakeholder Input.

Background

The Staff report indicates that the impetus for these initiatives is that new and/or increasingly cost-effective technologies are changing the way energy can be produced, delivered and consumed.

This can result in consumer-driven changes and adoption across all types of customers – industrial, commercial and residential. The adoption of these new technologies is being driven by falling technology costs relative to grid supply costs and government policies.

The Staff report also notes that the consumer adoption of these new and cheaper technologies may change how energy systems are used. This may displace conventional utility infrastructure. This creates additional uncertainty risk, mainly for the utilities. The goal is for regulatory adaptation is to mitigate risks and help consumers benefit from emerging opportunities.

LPMA submits that the goal of regulatory adaptation should not be to mitigate risks. Rather the goal should be consumer oriented and be based on what consumers want. Not all consumers will want the same thing. Some will want lower prices and the same reliability as currently provided by the sector. Some will want lower prices and higher reliability. Some will be willing to pay for higher reliability. Some will want to accept less reliability in exchange for lower costs. Some will want to adopt new technologies as soon as they are available. Some will opt to wait until the technology has been proven.

Throughout the Staff report, LPMA notes an emphasis on mitigating utility risks, protecting utilities and providing incentives to utilities to lower their costs. LPMA submits that this emphasis on mitigating utility risks and providing protection for utilities is misplaced and will ultimately hinder the adoption of new technologies that are and will be available to consumers.

LPMA submits that DERs are not an evolution of the utility sector, but rather are a disruption to the utility sector. Disruptions to various sectors have been common throughout history. An oft cited example is the demise of blacksmith shops as a result of the invention of the automobile assembly line. Blacksmith shops used to be common everywhere. The only mode of transportation for most people was by horse and carriage. Only the very wealthy had an automobile. With the invention of the assembly line, the cost of automobiles fell dramatically and soon everyone replaced their horse & carriages with the horseless carriage. The entire blacksmith industry was impacted since the need for horseshoes and the shoeing of horses was pretty much eliminated. The number of blacksmith shops dropped significantly and quickly. Today few blacksmith shops remain, focused on niche markets such as horse racing and regions where horse & buggies are still used by a significant portion of the population, such as Mennonites in the

Waterloo-Wellington area. In short, the blacksmith industry was disrupted by the assembly line.

A more recent disruption is the invention and use of GPS map/navigation systems in most vehicles made today. The use of this new technology has virtually eliminated the old paper maps that never folded back up the way they should have.

The point of the above two examples is that nobody tried to reduce the risks for blacksmith or map printers. If they had been provided some sort of regulatory protection, the end result would have been the same, but it would have taken more time for the new technology to eliminate the old technology. They were simply overtaken by technology that was embraced by consumers.

Utilities should not be afforded protection at the expense of the adoption of new technologies if that is what consumers want. If in the near future consumers can generate and store their electricity requirements by themselves and no longer need (or want) to be connected to the distribution system, why should a regulator try to stop or delay this cutting of the cord simply to protect a dying industry? Evolutions can be managed, revolutions cannot be.

Guiding Principles

Each of the proposed guiding principles are listed below, along with proposed wording changes/additions, which are highlighted in bold. Comments follow each of the guiding principles.

- Economic Efficiency and Performance: The regulatory framework focuses on outcomes and promotes economic efficiency, cost-effectiveness, safety, reliability, service quality and long-term value for consumers.

  While LPMA supports this principle, it should be made clear what economic efficiency, cost-effectiveness and long-term value for consumers. For example, a cost-effective solution for a consumer may not be the most efficient use of a distributor's assets. Similarly, long-term value for consumers may not coincide with cost-effectiveness for a distributor.

- Consumer Centric: The regulatory framework prioritizes cost containment and demonstrable value to consumers. It enables greater consumer choice and control and empowers efficient investment decisions and behaviour. It increases consumer confidence **and choice** in the sector **and opens the sector to more competition and competitive services**.

  Any guiding principle centered on the consumers must reflect greater choice for consumers and this can only be accomplished through access to greater competition and more competitive services from which the consumers can chose.

- Stable yet Evolving Sector: The regulatory framework enables sector participants to **quickly** adapt to changes. It maintains the opportunity**, but not a guarantee,** for utilities to earn a fair return. It neither precludes alternative business models that may be desirable nor impedes the entry of new entities. It encourages optimal use of existing assets **over their remaining lives** as new technologies and approaches to providing energy services are adopted.

  The question of what is a desirable alternative business model could easily have conflicting answers depending on who is evaluating the business model. The competitive market may well have a different view of what is a desirable business model as compared to a regulated utility. Similarly, consumers will also have different views as to what constitutes a desirable business model. LPMA submits that the OEB should be determining what constitutes a desirable business model. That should be left to competitive forces, which will ultimately reflect what consumers want.

- Regulatory Effectiveness: The regulatory framework is practical to administer in terms of cost and complexity while enabling appropriate oversight **by all stakeholders**. It is predictable insofar as its rules and requirements are applied consistently in similar circumstances. It is also adaptable, flexible and sustainable **and is not a barrier to the entry of new entities or the provision of new services**.

  LPMA believes that effective regulation is essential and that this regulation has to be practical, predictable and easily understood by all stakeholders. In addition, effective regulation cannot be a barrier or a hinderance to changes in the sector.

<u>OEB's Role & Approach</u>

LPMA generally supports Staff's current thinking with respect to the OEB's role and approach. In particular, LPMA supports the need for the OEB to keep up with sector evolution rather than following or leading.

Following, or being reactive to change, causes regulatory lag. In a rapidly changing environment this lag can be years in length and can result in consumers being denied potential benefits of changes in the industry for a long period of time.

The current framework was developed under a number of assumptions that no longer true today. In the past, only utilities could generate, store and distribute electricity. That is no longer the case. Commercial and industrial consumers can do all of this themselves. Even residential consumers have the ability to generate power for their own consumption or to sell into the distribution system. Consumers can also store the power in batteries, including in their cars. And if they can do both, they need less electricity from the distribution system. In fact, they may not need it at all. All consumers can also use the power of conservation to reduce their energy usage, whether it be natural gas or electricity.

Leading, or being proactive, assumes that the OEB knows where the industry is heading and how and when it will get there. The problem, of course, is that nobody, including the OEB, knows where the industry will go, how it will change or the pace of the change. By trying to provide a leading role, the OEB would most likely lead the industry down a path that will ultimately lead to nowhere, or even worse, to an economic inefficient outcome.

The OEB should not, and cannot, pick technologies or market winners and losers. Similarly, it should not, and cannot, promote or prevent DERs or protect utilities and consumers from change.

LPMA supports the OEB in keeping up, or being coactive, with the industry. This will involve the OEB and stakeholders identifying potential issues and reviewing current approaches in continuous manner. While change does not happen overnight, it does not have a predictable timetable.

LPMA believes that the OEB's role should continue to be that of an economic regulator. It should continue to facilitate the orderly evolution and adaption of the industry and not to protect utilities and consumers from change. The OEB must address and remove barriers to change and let the markets and technology evolve while ensuring that system reliability and safety are maintained or improved. The OEB must be focused on what consumers want and must enable consumer choice.

Need for Action

The "need" for action may not be the appropriate word. It should be the "requirement" for action. It is also incorrect to frame the need or requirement for action around problems. Instead of problems, the wording should reflect changes, as noted below:

- What change is each consultation intended to deal with?
- The appropriate objectives and issues depend on the change to be addressed.

Change is not a problem, it is an opportunity to do things differently, more effectively, and more focused on consumer choice.

Remuneration

In the Preliminary Need Statement: Remuneration, LPMA suggests that the word "need" should be changed to "requirement" in all places (changes below are highlighted in bold):

- There is a **requirement** for utilities to consider all viable and practicable options (e.g. less capital-intensive solutions) in order to pursue the most cost-effective ones, so that customer value is maximized.

A need for utilities to do something is not a requirement. Customers deserve service from utilities that are required to pursue the most cost-effective option as long as they remain regulated monopolies.

The likely push back from utilities on this need/requirement is that with less capital-intensive solutions, their rate base will not expand as quickly, or it may even stay flat or decrease over time, reducing their profitability. This is, of course, nonsense. While their total profits may not be as high, neither will their equity investments. LPMA wants to make it clear to the OEB that less profits for the utilities is not a bad outcome. It lowers costs for customers, and has no impact on the return on equity, just the level of equity. If the OEB is reviewing remuneration with the goal of protecting the level of profits then it has lost focus of the customer. Utilities should still have the opportunity to earn an allowed return on equity. The amount of equity (and rate base) should not be guaranteed.

- There is a **requirement** for the regulator to continue to have appropriate information and tools to assess utility proposals to ensure that rates are set appropriately and incentives are effective.

  There is a **requirement** to manage and appropriately allocate evolving risks to mitigate adverse consequences.

  These are not things that regulators need to do. These are the things that regulators should be required to do.

  LPMA is also concerned with the inclusion of the phrase “and incentives are effective”. It has not been determined if incentives are even needed, or if they are, in what specific circumstances. If incentives are meant to mean additional profit for utilities, paid for by customers, then LPMA submits that this phrase should be removed. If incentives are meant to mean that the utility has the ability to earn its allowed rate of return and/or face penalties for failure to ensure that customer value is maximized, then this phrase should be expanded to make that clear.

- There is a **requirement** to review the OEB’s approach to utility remuneration holistically, to integrate adjustments in response to sector evolution with improvements to the broader rate-setting framework.

  Again, a requirement is more definitive than a need and should be reflected in these need/requirement statements.

  This requirement to review the OEB’s approach should not be limited to the existing methodologies reflected in utility remuneration, but should include new ideas that are currently outside of the box of current regulation. The emphasis should be on enhancing competition and consumer choice rather than protecting the profits of utilities.

LPMA further notes that it may not be appropriate to approach utility remuneration in the same manner for all utilities. There may be warranted differences in the approaches to distributors, transmitters and Ontario Power Generations. There may be warranted differences between natural gas and electricity. There may be warranted differences between large regulated companies and small regulated companies.

There may also be merits associated with the use of common distribution rates across all electricity distributors, in the same manner as that currently used by the OEB for electricity transmission rates. Or perhaps the common distribution rates approach could be used on a regional basis across the province.

In any event, a broader rate-setting framework should be just that. Broad.

<u>DERs</u>

As above, in the Preliminary Need Statement: DERs, LPMA suggests that the word "need" should be changed to "requirement" in all places (changes below are highlighted in bold):

- There is a **requirement** for system planning and control to take into account DER adoption so that consumer value is maximized.

  A requirement places more onus on the utility than does a need.

- There is a **requirement** for utilities to take advantage of DER assets when cost-effective to do so (regardless of who owns them) so that opportunities to achieve mutual benefits are captured and consumer value is maximized.

  It is almost comical, in the view of LPMA, to have to say that utilities are required to take advantage of DER assets when cost-effective to do so, regardless of who owns them. Does this requirement not also apply to other assets used by the utility already, such as billing systems, office buildings and contract labour?

- There is a **requirement** for sufficient information sharing (hosting capacity, beneficial locations etc.) between utilities, consumers and DER providers to encourage DER deployment where and when it has the greatest value.

  LPMA is concerned that if utilities are involved in the deployment of their own DER assets, they will have an unfair advantage over other DER providers. For example, a utility may know where it wants or needs a DER facility in a year or two and plans for such an asset, but only goes to other potential providers a few months ahead of when this asset is required with short deadlines for proposals.

Clearly this favours the host utility and should not be permitted. Mutual benefits cannot be captured and consumer value cannot be maximized unless a fair and competitive system is put in place for DERs.

All information, for all utilities, should be shared through a common platform that is available for all stakeholders. This platform should be administered by a non-utility entity such as the IESO or the OEB. Whomever administers the platform should be responsible for the accuracy and completeness of the information and ensure that it is updated on a timely basis.

Objectives

In reading the objectives in Staff's current thinking, LPMA believes that there is too much emphasis, or bias, towards protecting the utility and not enough focus on protecting consumers and providing consumer choice. For example, one of the overarching objectives includes the statement that customer choice does not negatively impact others. Does this mean that a customer who choses to implement some combination of measures that reduces their reliance on a distributor would be prohibited from doing so because it might negatively impact the revenue of the distributor? Similarly, under utility remuneration Staff appears to already have determined that incentives are required for utilities to encourage greater efficiencies and cost-effectiveness. LPMA does not believe this is appropriate.

In addition, there is no mention of competitive markets or services.

The suggested changes to the objectives are shown in bold below:

- Overarching

  Strengthened utility focus on cost effectiveness and providing value for energy consumers as the sector evolves

  Consumers continue to be appropriately protected as markets for energy services evolve; **consumer choice is enhanced**

  Utilities are required to maintain or enhance reliability and resilience

  The OEB should ensure that there are no barriers to the establishment and growth of competitive markets and competitive services that have been provided by utilities in the past

- Responding to DERs

  DER adoption and integration enhances overall value **and choice for** energy consumers

Utility infrastructure is optimally utilized as DER adoption grows; underutilized and stranded assets are minimized; **the recovery of the cost of any stranded assets should be dealt with only as part of a cost of service rebasing application**

- Utility Remuneration

  Utilities have a responsibility to achieve greater efficiencies and cost-effectiveness

  Utilities **are required to** consider all viable and practicable options for delivering **regulated** utility services

Issues

LPMA believes the issues identified by stakeholders and summarized by Staff are appropriate. However, LPMA believes that any issues list should not be set in stone, as there are likely to be new issues that may need to be considered as the review progresses.

LPMA is providing some comments on some of the identified issues below as well as suggestions on additional questions under some of the issue headings.

- Working Definition of DER

  LPMA believes that with the combination of technologies currently available and those which may be available in the future, but not yet known, a broad definition is required. LPMA suggests something along the lines of "Anything that impacts the need for distribution services or the use of the distribution system."

  It should be noted that this DER definition needs to encompass not only the electricity sector, but also the natural gas sector in such areas as renewable natural gas and the production of natural gas in Ontario.

- DER Value, Costs & Benefits

  Is a common, province wide understanding of the total costs and benefits of DER appropriate, or should there be a regional or location specific approach to DER?

- Cost Recovery & Investment Signals

  Should the OEB be providing signals for efficient customer investment decisions/actions using rates and charges if these rates and charges do not reflect cost causation and recovery?

- Planning & Operation

Who should be responsible for the planning associated with DERs? – local distributors, transmitters, IESO, etc.?

Who should be involved in the integration and the coordination of the planning between fuel types?

- Utility Incentives

  Are utility incentives (positive and/or negative) needed to ensure utilities do what is required of them?

- Risk

  What is the impact, **if any,** of DERs on utility risk profiles?

  Should DERs be allowed if the impact on utility risk profiles increases risk, cost of capital and costs for customers?

- Role of Competition

  With changes in technology, will the OEB have any role in enabling markets and/or consumer choice?

- Roles & Responsibilities

  Are there any existing functions that are no longer needed as a result of DERs/sector evolution, and if so, what are they?

- Performance

  What will performance measuring be used for and how will they be reflected in rates, if at all?

- Access to Information

  Who will be responsible/accountable for the timely availability and accuracy of the information?

Defining the Scope

Utility Remuneration:

It is not clear to LPMA about the scope related to utility remuneration. One area that the Staff report indicates should be explored is the determination of the revenue requirement.

It is not clear if this means the entire revenue requirement of the utility or only that part of the revenue requirement associated with enabling DERs. This needs to be clarified. For its part, LPMA does not believe that determination of the revenue requirement for the entire utility needs to be included in the scope. There is no indication from anyone that the calculation of the revenue requirement associated with existing utility assets needs to be explored.

On the contrary, LPMA believes that the scope related to utility remuneration should be limited to expenditures related to enable DERs. This could be done in a manner similar to the approach taken with respect to the incremental and accelerated capital modules.

Activities that attract a return for utilities, the use of specific performance incentives (including penalties), the sharing of risks and the treatment of non-utility activities within the regulated utility (and whether such activities should be allowed) are all items that LPMA believe should be included in the scope related to utility remuneration, but they should be limited to the expenditures and activities related to enabling DERs.

LPMA is concerned about the exclusion - at this time – of the areas noted in the Staff report. These areas include cost allocation, rate design and benchmarking. LPMA notes that some of these areas are being dealt with in other consultations, however, from a consumer perspective these areas are as important, or even more important, than remuneration. For example, cost allocation is key in what consumers pay relative to others and is, in part, based on how costs are allocated to different groups of customers. With the forecasted change in the type of assets that utilities will be required to invest in in order to accommodate DERs, the allocation of such assets may well be different from the assets they are ultimately replacing. Without knowing how these costs will be allocated and who will end up paying for them, remuneration is an empty concept that lacks customer focus.

<u>Responding to DERs:</u>

LPMA is again concerned with the areas that Staff indicated should not be explored. All of the areas that are proposed to be excluded, such as distribution rate design and commodity pricing have direct impacts to consumers. LPMA does not know how a common framework for identifying DER costs and benefits in Ontario can be identified or calculated without knowing which consumers will be hit with costs and who will benefit. It is unlikely that the costs and benefits will be allocated in the same manner across all customer rate classes.

As indicated in the Issues section of the Staff report, the allocation of costs, rate design and cost recovery are all issues that have been highlighted. Ignoring these issues, or pushing them off into other consultations, and excluding them from the scope of this consultation is short-sighted and will only result in problems down the road.

The primary area of exploration should be how to enable utilities to adapt in a short period of time to get information out to third party DER providers in a market that is not evolving (implying slow changes), but is rather being disrupted on a scale and on a timeline never before seen in the utility sector. At the same time, this disruption needs to provide net benefits to consumers in terms of service options, reliability and cost reductions. Otherwise, why would any of this even be considered?

The scope with respect to responding to DERs is simple. How can the OEB encourage third party competitive providers to provide services to utilities and/or consumers that results in lower costs paid by consumers?

Consultation Process

LPMA generally agrees with the preliminary guiding principles for consultations but notes the lack of any mention of consumers. While the development of the OEB's regulatory policies with respect to remuneration and responding to DERs needs to be coordinated with other related OEB initiatives, such as changes to rate design, as well as IESO and government initiatives, the regulatory policies need to be driven by what consumers want and do not want. The consumer should be the overarching driver of regulatory policies.

LPMA also notes that the development of regulatory policies is proposed to support sector evolution. It is assumed that this sector evolution is meant to refer only to the regulated utility sector in the province, as the OEB has no jurisdiction over any other sectors of the energy industry, including the development of more competitive energy services. Any regulatory policies should only impact on regulated utilities and should be focused on helping consumers adapt new technologies and competitive services, if that is what the consumer wants. This should be clarified in the guiding principles for consultations.

LPMA also believes that this should be expanded to not only sector evolution but also sector disruption. Sector evolution implies a gradual change and that regulatory policies need to change to reflect this change over time. Sector disruption implies a more rapid and a larger scale change. It can also reflect the potential for the displacement of parts of the current regulated utility sector with new and, as of yet, undefined competitive sectors of a new energy environment.

Yours very truly,

Randy Aiken

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