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Utility Remuneration and Distributed Energy Resources

EB-2018-0287 and EB-2018-0288

Submission
of the
Vulnerable Energy Consumers Coalition
(VECC)

APRIL 30, 2020

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BACKGROUND

In a letter dated March 15, 2019 (March Letter), the Ontario Energy Board (OEB) initiated two integrated consultation processes to support the evolution of the sector: Utility Remuneration and Responding to Distributed Energy Resources (DERs). That letter set out the intention of the policy initiatives to:

- Facilitate lower costs, better service and more choice for customers by encouraging utilities and other service providers to embrace innovation in their operations and the products they offer to consumers, and to
- Secure the benefits of sector transformation and mitigate any adverse consequences

On September 17-19, 2019 the OEB held three days of stakeholder meetings at which parties were invited to make presentations and comment on the scope of these two initiatives. Specifically, the purpose was to address the following questions:

- What objectives should the Utility Remuneration and Responding to DERs initiatives aim to achieve?
- What specific problems or issues should each initiative address?
- What principles should guide the development and selection of policy options?

Following the meeting the OEB invited parties to provide additional written comments. VECC did not provide comments after the first stakeholder meetings, but was generally sympathetic to the comments made at that time (October 19, 2019) by the Schools Energy Coalition (SEC). In VECC's view, and as correctly summarized by Board staff in response to parties' observations, it is important that consumers must come first and that any policy does not lose sight of fundamental regulatory principles that serve that purpose.

On February 20, 2020, OEB Staff hosted a stakeholder meeting where it reported on the input received and sets out its current thinking on scope, including objectives, issues and guiding principles for each initiative. In addition to the comments received during the meeting, the parties were invited to provide written comments on OEB staff's preliminary proposals for each initiative. These are the comments of VECC which are structured to follow the Staff presentation of February 20th.

GUIDING PRINCIPLES

At the start of the February 20th meeting Board Staff summarized the impetus for the initiatives as follows[1]:

> *Sector evolution is not new. The opportunities and challenges have been articulated in many places, including academic and industry literature. Ontario-specific examples include the ETNO report, the EDA's power to connect and various papers by the OEA.*
>
> *Some examples of technology driving consumer adoption include storage, solar, demand response, electric vehicles and advanced information and communication capabilities. These technologies are changing how energy systems are used and they're also creating opportunities for better service at lower cost.*
>
> *At the same time, they're leading the greater uncertainty risk. Which technologies will effectively be the winners? How will they impact the system? And how this will he [sic] affect load?*
>
> *The impetus for these consultations is this. Regulatory adaptation can mitigate risks and help consumers benefit from these emerging opportunities.*

In the July 2019 invitation letter that preceded the initial round of stakeholder consultations in September 2019 Board Staff had set out a number of potential guiding principles[2]. Based on the input received, Board Staff has proposed a number of refinements, such that the draft guiding principles now read as follows[3]:

- *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.*
- ***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 behavior.*
  - *It increases consumer confidence in the sector.*

[1] Transcript, pages 8-9. Refer also to Slide 5 of Staff's presentation
[2] Staff has defined a "guiding principle" as "a value, criterion or standard used to compare different policy options and develop a preferred approach" – Slide #9
[3] Slides #13&#14

- *Stable yet Evolving Sector:*
  - *The regulatory framework enables sector participants to adapt to change.*
  - *It maintains the opportunity 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, as new technologies and approaches to providing energy services are adopted.*
- *Regulatory Effectiveness:*
  - *The regulatory framework is practical to administer in terms of cost and complexity while enabling appropriate oversight.*
  - *It is predictable insofar as its rules and requirements are applied consistently in similar circumstances.*
  - *It is also adaptable, flexible and sustainable.*

One of the difficulties in establishing "guiding principles" for any regulatory policy is that they must be contained within the framework of the applicable Acts, primarily the *Ontario Energy Board Act*, but also notably the *Electricity Act* and the *Municipal Franchise Act*. [4] With respect to electricity the legislature has set out five objectives for the Ontario Energy Board. One of those objectives is to "inform and protect" consumers with respect to prices, adequacy, reliability and quality of service, one is to "facilitate" (smart grid) and the remaining three are to "promote" within the electricity system: (1) economic efficiency and cost effectiveness; (2) conservation and demand management; and (3) the use of renewable energy sources.

One of the key changes to proposed guiding principles is the change for using "customers" to "consumers". The *OEB Act* uses the term "consumer" rather than customer. However, it is clear by a plain reading of the legislation that the term consumer is specific to one consuming energy as in, for example S.47 (c) which states a "*low-volume consumer" means a person who annually uses less than the amount of gas prescribed by regulation*. The *Electricity Act* defines a consumer as "*a person who uses, for the person's own consumption, electricity that the person did not generate*; "

We are frankly a bit confused by the focus on the semantic difference as between "consumer" and ''customer." VECC is concerned that some advocates of DER are intent on using the vagaries in wording to suggest a broadening of the Board's mandate. It is clear that the OEB's mandate is only with respect to five entities in the electricity sector: generators, transmitters, distributors, energy marketers and end-use energy consumers. The Board does not have any broader legislative mandate as an advocate of technological change or social welfare. Whether

[4] As amend mostly recently by the *Fixing the Hydro Mess Act, 2019* and includes other subsidiary pieces of legislation like the *Ontario Fair Hydro Plan Act*, *Ontario Rebate for Electricity Consumers Act*, etc.

laudable or not the Board has no general legislative authority to pursue the reduction of greenhouse gases, advocate for electrical (or natural gas) vehicles. Where the Government has wanted broader social goals to be implemented by the Board it has laid these out in the specific. In the absence of legislative guidance (including regulations, etc.), promotion of any new technology, unless its aids in carrying out existing legislated obligations, would be inappropriate. What the Board does have a responsibility for is to ensure the electricity (and natural gas) systems are able to function efficiently.

The only meaningful distinction between a "customer" and a "consumer" of electricity is that the former is specific to a utility whereas the latter applies to the general body of electricity users in the Province. This distinction might be useful when one is analyzing the benefits and costs of DER. For example, benefits of DER to "customers" of a particular utility might be offset by costs to the general body of "consumers" of electricity. This would be the case if stranded assets or unutilized capacity were borne by "electricity consumers" when transmitted load is displaced by a utility's "customers".

VECC does support "Consumer Centric" as being one of the guiding principles. This is directly aligned with the OEB's statutory objective to "inform consumers and protect their interests with respect to prices and the adequacy, reliability of electricity service[5]." It fits well within the first objective of the Act. It is our view that the order of objectives is purposeful, the primary objective of the Board is to ensure that consumers have access to reliable safe power at a reasonable price.

Reasonably priced power needs to be balanced against the need for reliable supply. For that reason the use of the phrase "cost containment" which implies that costs are rising and the principle is to contain or slow the increase, is problematic. In VECC's view the focus should be on ensuring that utilities pursue activities that provide customer value and do so in the most efficient and cost-effective manner possible - with a couple of caveats. The first is that in creating "long-term value", consideration must be given to the shorter-term impacts and consequences of doing so. Secondly, electricity and gas service is only of long term value to consumers if it is affordable – that is, they are able to use it.

We are not critical of Staff's efforts to provide principles as a means of attempting to provide greater specificity. However, if adopted by the Board without sufficient discipline, broad principles might lead to the opposite and thereby cause unwarranted expansions of the Board's legislated mandate. To address this, we would suggest that the Board, in its report, explain what legislative objectives a policy principle relies upon and how the Board sees the interaction between the *Act'*s objective and the particular policy principle. The principles, like any resulting policies which follows from them, should be clear as to which of the five electricity

[5] The OEB has a similar statutory objective with respect to natural gas.

entities the Board regulates it impacts and how. Such an exercise would, we suggest, strengthen any policy by providing future Board members (Commissioners) insight into the policy and giving guidance as to the appropriate latitude in its application.

OEB ROLE AND APPROACH

With respect to the OEB's role in responding to sector evolution OEB Staff indicated its thinking as to:

- *Engage and support the sector during a time of accelerating change*
- *Take steps to adapt the regulatory framework now that certain fundamental assumptions upon which it was premised are no longer true (e.g. you cannot store electricity, generation is always large scale and centralized, load will always grow, demand is passive)*
- *Help utilities adapt to change so consumers continue to be well served*
- *Focus on removing unwarranted barriers so the market can evolve.*

At the same time staff indicated that the OEB's role should not be to:

- *Pick technology or market winners and losers*
- *Promote or prevent DER*
- *Protect utilities and consumers from change*

In explaining this approach Staff stated:

> *In contrast to the stance or attitude towards sector evolution that the OEB might choose to take, we think that the role of the OEB in responding to sector evolution is largely dictated by its statutory objectives and mandate.*
>
> *So the OEB protects the interests of consumers with respect to price and reliability, all of those things. It maintains a financially viable sector. It sets just and reasonable rates. It licenses and regulates the conduct of market participants. So with those functions and objectives in mind, our current thinking is that the OEB should focus on adapting the regulatory framework and removing barriers to markets so that they can evolve. But we don't think that the OEB should aim to promote or prevent DER, and we don't think that the observe (OEB?) should try to protect utilities and consumers from change.*
>
> *I want to be very clear about what we mean about that. We do think it is important to protect consumers from the negative impacts of change as much as we can to mitigate those negative impacts, but we can't stop change from happening. So we think it is important to focus on adapting.*

In our view the Board has no mandate to "evolve" the electricity sector. The law does not provide it with the role of advocate for (or against) distributed energy systems for the simple sake of change or even on the speculation such change might provide broader benefits (externalities). Rather the Regulator must anchor its policies to one or more of the Act's objectives. To the extent DER can be shown to provide efficiency or reliability benefits that are of value to consumers then the Board should entertain proposals from Utilities it regulates. For these reasons VECC is generally supportive of the Staff's thinking with respect to the role of the Board and the approach it should take in responding to sector evolution.

However, VECC is concerned about how the Staff's comment on the OEB's role not being to "protect consumers from change" will be interpreted. VECC sees the role more as being one of facilitating changes that consumers want rather than "picking winners and losers." At the same time the Board must consider how to protect customers who may not necessarily benefit from the change. That is, while it is possible that some change could benefit customers as a whole, it might have detrimental impacts on individual consumers or classes of customers. This type of analysis needs to be undertaken both on an " inter" and "intra" utility basis. Within the utility appropriate allocation of costs to different customer needs to be considered. If there are costs borne by consumers outside the utility these must be compensated by the customers within the utility benefiting from DER.

NEED FOR ACTION

During the stakeholder meeting Staff agreed[6] with earlier submissions made by various parties that a clear statement of the problem the policy intends to address is needed. To this end, Staff suggested the following "need statements" for both the Utility Remuneration and DER processes[7]:

- *Utility Remuneration*
  - *There is a need 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.*
  - *There is a need 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 need to manage and appropriately allocate evolving risks to mitigate adverse consequences*

[6] Transcript page 40
[7] Slides #25 and #27

- *There is a need 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.*

o *DER*

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

With respect to the Utility Remuneration, Staff stated during the stakeholder meeting that[8]:

> *Irrespective of any sector evolution concerns, we think there is a need to undertake a holistic review of the OEB's remuneration policies.*
> *A renewed regulatory framework has been in place for six years, and staff thinks it is prudent for the OEB to revisit its policy frameworks periodically to make sure they're doing what they are intended to do.*
> *And as part of that review, it includes examining whether the policy framework will continue to be appropriate given the changes that are occurring.*

There is in our view a lack of clarity as to the scope of the utility remuneration in this policy exercise. Is the discussion solely around the establishment and operation of DER? Or is this a broader question as to how a utility should be compensated in general? If it is the latter then the discussion will be far reaching and, we would suggest, beyond the discussions undertaken in this proceeding. In VECC's view there is a significant difference between scope of a review of utility remuneration in the context of whether or not it is appropriate in the light of the evolving changes in the sector as characterized by Staff (see page 8) as the impetus for the current initiatives or the later sentiments expressed by Staff that – "*Irrespective of any sector evolution concerns, we think there is a need to undertake a holistic review of the OEB's remuneration policies*"[9]. Indeed it is not clear to us that Staff have a consistent view of the matter. In VECC's view confusion demonstrates the need for a clear and precise statement of the problem the policy is attempting to address.

[8] Transcript page 42

[9] The first two sentences suggest that what is needed is a full review of the RRWF including aspects that have no link to the current sector evolution and as such would require a broader scoping of the problems and opportunities to be addressed.

If the exercise is to revisit how rate regulated utilities are to be compensated then it is worth noting that it is not strictly true under the current OEB RRWF policies that utilities are entirely compensated on a return on asset basis (i.e. cost of service). During IRM periods, compensation is delinked from assets. Price cap and other hybrid forms of "decoupled" rate setting rates ultimately all rely on cost of service as part of their underlying structure. Conceptually it is possible to imagine other forms of regulation, such as "value of service" which have no connection to capital investments, but we have no experience of seeing such a model work as the basis of setting the entire utility's compensation.

If, on the other hand the exercise is to find incentives for distribution utilities to invest in generation and/or storage assets (distributed or otherwise and leaving aside any legislative restrictions on that activity) then it is conceivable it could to do so by providing extraordinary returns to the asset class being targeted. However, this is a form of picking winners and losers which we do not think the Board should be engaged in without clear and explicit statutory authorization. If the incentives are for the purpose of utilities investing in assets that accommodate DER then the problem is finding a way of allocating the cost and benefits of such investments within the constraints of the regulated environment.

During the stakeholder meeting there were repeated references[10] to utilities currently being "incented" to pursue capital-intensive utility-owned alternatives as that is how they "make their money". There were also references to the need to "incent" utilities to pursue other more cost-effective alternatives that are not as capital intensive. VECC has a number of issues with this characterization of the problem and the suggested solutions.

The solutions seemed to focus on "incentives" in the form of additional rewards for pursuing less-capital intensive alternatives. VECC does not agree that that is the only or, necessarily, the preferred solution. It seems to just a plausible to turn the "carrot" into a "stick". Why after all should ratepayers (i.e. "consumers") pay for capital investments that are sub-optimal? If, for example, a distribution utility fails to invest in assets which ultimately reduce the cost of distributing power to customers are those investments prudent? If a distributor overinvests in distribution assets when opportunity exists to defer those investments by DER solutions should the Board provide a market based rate of return on all of its investments?

With respect to utility remuneration, it is important to note that "remuneration" is only one aspect of the Board's overall regulatory oversight of a utility – there are also licensing requirements and code requirements. In VECC's view these regulatory tools should also be leveraged to encourage greater efficiencies and cost-effectiveness (i.e., financial incentives are not the only mechanism and may not be the best mechanism in all circumstances).

[10] Transcript pages 43-44; 47; and 48;

The problem lies as much in making transparent these opportunities as in providing the regulatory framework which encourages parties to develop such solutions. To do this we think there are three different contexts[11] in which DER might be considered:

- For consumers DER can be an alternative means of supply;
- For utilities DER can be an alternative to transmission or distribution investments;
- For DER proponents DER is a business opportunity where the beneficiary (the "buyer") can be a distribution utility, a transmission utility, or an end-use consumer.

DER as a consumer supply solution is largely a private matter since the market is (at least notionally) competitive. The "problem" as we see it is finding the mechanism which captures any value in deferring distribution or transmission investments. With respect to transmission investments the matter is largely beyond the scope of the Energy Board, which does not have the expertise or the mandate to consider province-wide system planning. This job has been delegated to the IESO. If in its regional, or other planning exercises it were to identify "locational DER" value, then the Board might be able to provide the means (be it carrot or stick) to have LDCs facilitate that plan. For this to happen it seems to us that the Board would need to coordinate its policy with that of the IESO.

With respect to unearthing "distribution" value in DER the Board has more opportunity to act unilaterally. It could, for example, articulate a policy of reviewing and scrutinizing distribution system plans in cost of service proceedings for DER opportunities. This would cause LDCs to address the issue of alternatives to distribution capital investments in their planning. No obvious proponent would be required and in fact one purpose would be to cause public documentation of potential opportunities for DER proponents to act upon.

A related issue is the proposal than objective be to "encourage DER deployment where and when it has the greatest value". If DER has value for the utility and its consumers then there is role for the utility in "encouraging" it and indeed the utility should actively pursue it. However, if the value being referred to is specific to the consumers or third parties implementing it then the use of term "encourage" is inconsistent with the principle that the OEB's role should not be to promote or prevent DER. In this later context the role of the utility (and the OEB) should be to support consumers or third parties interested in pursuing such options through information sharing and supporting requests for interconnection. However, recognizing that the provision information and actual in connections is not necessarily without costs, cost sharing arrangements maybe necessary.

Another central issue with respect to distribution utilities and DER is with respect to allocation of costs and benefits. First, without a specific DER customer class or DER rate there is no clear

[11] See also September 18, 2019 Transcript, pages 96-97

mechanism to allocate and charge costs directly to a DER customer. And because a DER customers may frequently be both a load and generation connection this adds complexity to the issue (and somewhat confuses it with related net metering issues). These issues are surmountable given the time to identify the appropriate cost allocations and develop efficient rates. More problematic are utility investments that might be made to accommodate DER generally for the broader benefit of customers. For example, investments in SCADA systems and switching to accommodate the bi-directional flow of power from metered points would need to be addressed. For these types of investments there may be no obvious single beneficiary and the costs would need to broadly socialized. This becomes complex because the potential benefits of DER, such as deferred transmission investments, could accrue to consumers who are not customers of the utility in which that investment is made.

In a similar fashion to the benefits, one needs to address allocation of the risks. DER investments can be risky in meeting expected benefits especially if measured rigorously. An exogenous fall in demand can make such investments money losers. And if the utility is not the owner of the DER assets there is the risk that the projected DER source will not be built or will disappear before sufficient benefits are paid back to consumers underwriting investments paid through regulated rates.

In our view the Board must also remain cognizant that its central mandate – to ensure safe, reliable electricity at a reasonable price – might run counter to the widespread installation of DER. For example, we note that significant investments are being made in revitalization of nuclear power that will be paid for by Ontario consumers and irrespective of load shed due to alternative energy provided by DER. Much the same can be said for the installed transmission assets in this province. At the Board's consultation we heard some DER advocates shrug away these as "sunk costs" that should not be allowed to inhibit some imagined brave new world of distributed energy. This type of thinking ignores the reality that the costs and liabilities of these assets are not with private capital but rather with monopoly-using consumers. And because of the regulatory pact these costs continue to be paid for by future ratepayers[12]. Therefore the Board is obligated to take a comprehensive view of the matter. In calculating any benefit of DER the reality that "sunk" costs will remain a liability of consumers must be considered.

[12] In any event they would in the alternative become a burden of the taxpayer – who is presumable represents the superset of "consumers"

OBJECTIVES

In presenting their current thinking regarding the objectives OEB Staff set out two overarching objectives and then specific objectives with respect to DERs and Utility Remuneration:

- *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; customer choice does not negatively impact others*
- *Responding to DERs:*
  - *DER adoption and integration enhances overall value to energy consumers*
  - *Utility infrastructure is optimally utilized as DER adoption grows; underutilized and stranded assets are minimized*
- *Utility Remuneration:*
  - *Utility incentives are effective at encouraging greater efficiencies and cost effectiveness*
  - *Utilities consider all viable and practicable options for delivering utility services*

VECC generally agrees with the overarching objectives, particularly with the point that customer choice should not negatively impact others. In this regard the focus of any policy should ensure that consumers bear the cost and risk responsibility for the choices they make.

Similarly, with respect to the first DER objective, in VECC's view there is a distinction between "enhancing overall value to energy consumers" (as the objective is currently worded) and "enhancing overall value to all energy consumers". The first just looks at total value or welfare and does not consider whether there are losers as well as winners. In VECC's view, ensuring that customer choice does not negatively impact others, minimizing stranded assets and appropriately allocating the costs associated with stranded assets are key elements in ensuring that DER enhances the overall value to all energy consumers.

During the stakeholder session, the point was raised that in competitive markets there is no "protection" from stranded assets due to technological evolution. However, the point that was missed is that in competitive markets, it is the supplier of the service that is at risk if more effective/efficient alternatives become available. Consumers do not suffer, as they are free to opt for another supplier. In the case of electricity and natural gas distribution, it is not the current supplier (i.e., the utility that suffers) but rather – because it is a monopoly and regulated – utility customers who bear the cost of stranded assets.

ISSUES

In terms of issues OEB Staff presented their thinking in terms of issues that pertain specifically to Remuneration or DER and those that can be seen as pertaining to both[13]:

- *Remuneration*
  - *Incentives: What incentives (both penalties and rewards) are required for utilities to achieve desired outcomes? How to remove disincentives to optimize cost saving trade-offs between capital and operational expenditures or utility and non-utility solutions?*
  - *Risk: How to appropriately manage and allocate evolving risk?*
- *DER*
  - *Value, Cost & Benefits: How to establish common, evidence based, understanding of the costs and benefits of DER in Ontario?*
  - *Planning & Operations: How to encourage system planning and operation that optimizes assets, meaningfully considers all viable and practicable options, and results in least cost/greatest value solutions? How to encourage better coordination of planning?*
  - *Cost Recovery & Investment Signals: How to allocate costs fairly among customers, align rates with underlying costs, and provide signals for efficient investment/system use? Some issues will be addressed in Responding to DERs and some are being examined in pricing related (RPP Roadmap) and C&I Rate Design initiatives. Coordination required.*
- *Both*
  - *Performance: What should be measured to assess performance?*
  - *Roles & Responsibilities (incl. role of distributors): How to provide clarity and appropriate oversight of evolving functions within the sector? How might the role of distributors change (and what are the implications for remuneration)? How to protect consumers as provision of energy services evolves?*

As noted earlier, a key question is the scope of the Remuneration initiative which is also linked to what are determined to be the "desired outcomes". Is it strictly outcomes with respect to the planning and operation of the system (e.g. appropriate trade-offs between capital and non-capital solutions particularly with respect to the role for DERs) or are the desired outcomes to be defined more broadly?

[13] Slice 49

In the case of DERs, it is important to note that while one can develop a common understanding as to what the potential sources of costs and benefits of DER are, the actual costs and benefits will vary by utility depending upon individual circumstances. It is doubtful that a standard set of dollar values can be established for either the cost or the benefits that can be universally applied to all distributors.

Furthermore, when it comes to establishing the costs and benefits of DER, if externalities are to be incorporated in the analysis, the same challenges will arise as do with evaluation of DSM/CDM, namely, what costs and what benefits should one include?

At slide 39, Staff walk to this very issue asking the question as to how the value of externalities might be reflected in a future policy. Who is to assign such values? Leaving aside for the moment whether the Board possesses the expertise to calculate amorphous economic variables, is the regulator even mandated to determine the societal trade-off as between a lower real energy cost to ratepayers and a higher actual dollar amount which implies some form of societal benefit? Presumably if society, as represented by its democratically-elected bodies, feels the need to cause actual commodity costs to increase in order to recognize non-monetized societal costs (or benefits) then they will do so either directly (e.g., through taxation) or instruct the regulator on how to implement that objective. The fact that the Government of Ontario only recently redirected the who was to be the execution agent of electricity energy conservation programming is clear evidence that policies with larger societal objectives are directed and not to be assumed.

Also when it comes to using rates as the means of providing signals for appropriate investments and recovering underlying costs, it must be recognized that there are a number of other objectives that also go into the design of rates. Indeed, in implementing a fully fixed charge for Residential customers the Board seems to have prioritized rate simplicity and utility revenue stability over considerations about sending efficient pricing signals.

Defining the Scope – Utility Remuneration

During the stakeholder meeting OEB Staff set out its current thinking regarding the scope of the Remuneration initiative as[14]:

- *Determination of revenue requirement (assessment of efficient expenditure levels and reasonable return)*
- *Activities that attract a return for utilities*

[14] Slide #51

- *Use of specific performance incentives (rewards and penalties tied to achievement of specific objectives)*
- *Managing and sharing risk (e.g. earning sharing, variance accounts etc.)*
- *Treatment of non-utility activities within the regulated utility (e.g. legislative restrictions/exemptions on business activities)*
- *Tools the regulator can develop/employ to support the above.*

OEB Staff also suggested that the following issues would not be included in the scope:

- *Cost allocation*
- *Distribution rate design (separate consultation)*
- *Activity and program based benchmarking (separate consultation)*
- *Methods for determination of specific service charges*

With respect to the "Determination of the Revenue Requirement" a related issue is what activities should be included in the revenue requirement and recovered from customers in "rates" as opposed to what activities should be charged separately to customers. This is issue of particular importance if the introduction/evolution of new technologies gives rise to new "costs" for a utility (e.g., the costs related specifically to supporting customer initiated DERs).

If the scope is to include "activities that attract a return for utilities" then it must also include "how the appropriate return should be established" (i.e., it would be inappropriate to use the standard return on equity if "return" is calculated on some other base). Similarly, if the scope is to be broader and include other approaches to compensating utilities (besides cost plus return) then, again, the scope must include what an appropriate level of compensation would be and how it would be determined on an individual utility basis.

While rate design may be the subject of other consultations (or viewed as complete in the case of the Residential class) it does have a significant role to play both in the compensation of utilities and with respect to DER. For example, in terms of DER, rate design (and the related issue of standby rates) can significantly impact individual consumers' decisions regarding the use of DER and, therefore its future adoption. It can also impact utilities ability to recover costs when consumers choose to adopt DER options. As a result, there cannot be a total separation between initiatives related to rate design and the current plans for the utility remuneration and DER initiatives.

Defining Scope – DER

During the stakeholder meeting OEB Staff also set out its current thinking regarding the scope of the DER initiative to include[15]:

- *Common framework for identifying DER costs and benefits in Ontario*
- *Signals for investment and operation of DERs by third parties and consumers that promote efficient system use (only issues not addressed in initiatives below)*
- *Enabling DER services to the distribution system, including aligning with other initiatives on enabling DER services to the bulk system and directly to consumers*
- *Treatment of investments by utilities to enable/integrate DERs*
- *Enhancements to system planning*
- *Roles, responsibilities, rules and requirements for sector participants engaging in DER activities. There may be is issue of managing and sharing risk goes beyond ratepayers vs. shareholders.*

Again, OEB Staff set out those issues that would be considered out of scope:

- *Connection process and requirements (DER Connections Review underway)*
- *Distribution rate design (residential recently completed, C&I underway)*
- *Commodity pricing (RPP review and development of alternatives for Class B, Ministry's industrial pricing initiative)*
- *Enabling DER services to the bulk system (various IESO initiatives)*
- *Enabling DER services directly to consumers (competitive market).*

A number of OEB's other ongoing consultations (e.g., DER Connections Review and Rate Design) will also have implications for consumers and provide signals for investment and operation of DERs by third parties and consumers. In our view there is a need for the overall impacts to be assessed in an open forum.

It is not clear what is to be covered by the "Treatment of investments by utilities to enable/integrate DERs". However, in VECC's view it should include not only who pays for investments made by the utility (i.e., when are investments included in the revenue requirement and recover from all ratepayers versus when are they recovered from individual customers seeking to integrate their DER choices with the system) but also include what investments related to enabling/integrating DERS the utilities are required to make in anticipation of future DERs.

[15] Slide #52

Guiding Principles for Consultations

At the end of the stakeholder meeting the OEB Staff set out preliminary guiding principles that they'd drafted for the upcoming consultations[16]:

- *Development of regulatory policies to support sector evolution is coordinated and consistent with other related OEB, IESO and Government initiatives*
- *Issues are prioritized and addressed in a measured and timely manner*
- *Development of regulatory policy options is informed by available evidence and empirical analysis*
- *Regulatory policy options are appropriate for Ontario.*

We remain unclear what legislative mandate any proposed policy is attempting to satisfy. Whatever the case in developing any policy the Board is required to consider all parts of the electricity system. These include ensuring safe reliable electricity at reasonable prices. DER investments are not necessarily congruent with that mandate. For example, we note that significant investments are being made in revitalization of nuclear power that will be paid for by Ontario consumers and irrespective of load served by alternative energy provided prospective DER. Much the same can be said for the recent investments made to upgrade transmission assets in this province. The OEB Act lays out an objective "[T]*o promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities*." As such it seems to us any policy must satisfy one or more of the following:

- It must lower the overall cost of energy delivered to end-use consumers;
- It must accommodate renewable resources;
- It must consider the Government of Ontario policies which includes continued support for nuclear generated power;
- It must consider the investments made in transmission infrastructure and consider any stranded asset costs that will be borne by electricity consumers;
- It must contribute to the reliability of energy delivered to consumers;
- The risks and costs of DER investments must be appropriately allocated as between customer classes and any private investors.

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The policies and procedures resulting from these consultations could have profound effects on how utilities are regulated and compensated in the future as well as on the choices available to consumers and how their rates for electric service will be established. As a result, it is important that all stakeholders have an opportunity to have meaningful input throughout the process. With this in mind, the key role of working groups established by the Board (and also 3rd party consultants retained by the Board) should be to scope out the issues to addressed and identify alternative solutions. This would allow for fulsome and unbiased debate on the eventual policies and procedures to be adopted by the Board.

In our view the Energy Board must remain cognizant of the impact of any DER policy on the broad spectrum of regulated entities – including existing generators and transmitters. A transition to a more decentralized electricity generation system is a complex and potentially costly exercise and one for which the Ontario regulator has no clear mandate to attempt to influence. The recent change in provincial government carbon policy also is a cautionary lesson in the regulator trying to read the "tea leaves" of government policy. If the Regulator wants to provide incentives or even eliminate barriers to DER which have a cost for consumers, then in our view it should seek a specific mandate from the Ontario government for that exercise.

We thank the Board for providing the opportunity to provide comments on this initiative.