

Chris G. Paliare
Ian J. Roland
Ken Rosenberg
Linda R. Rothstein
Richard P. Stephenson
Nick Coleman
Donald K. Eady
Gordon D. Capern
Lily I. Harmer
Andrew Lokan
John Monger
Odette Soriano
Andrew C. Lewis
Megan E. Shortreed
Massimo Starnino
Karen Jones
Robert A. Centa
Nini Jones
Jeffrey Larry
Kristian Borg-Olivier
Emily Lawrence
Tina H. Lie
Jean-Claude Killey
Jodi Martin
Michael Fenrick
Ren Bucholz
Jessica Latimer
Lindsay Scott
Alysha Shore
Denise Cooney
Paul J. Davis
Danielle Glatt
Lauren Pearce
Elizabeth Rathbone
Daniel Rosenbluth
Glynnis Hawe
Emily Home
Hailey Bruckner
Charlotté Calon
Shawna Leclair

COUNSEL
Stephen Goudge, Q.C.

HONORARY COUNSEL
Ian G. Scott, Q.C., O.C.
(1934 -2006)

Richard P. Stephenson
T 416.646.4325 Asst 416.646.7419
F 416.646.4301
E richard.stephenson@paliareroland.com
www.paliareroland.com

File 97491

June 11, 2020

VIA RESS FILING

Ms. Kirstin Walli,
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto ON M4P 1E4

Dear Ms. Walli,

Re: Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency (EB-2020-0133)

The following are the PWU's comments regarding the draft issues list.

A. Advanced Policy Direction

1.

- a) Should the OEB provide advanced policy direction in the near term (for example at the time of establishing the Final Issues list), to provide greater certainty with respect to the recoverability of amounts tracked in the Account, such as by confirming the recoverability of any incremental bad debt expense?

The Covid-19 pandemic has required significant effort by utilities to maintain service while creating considerable financial uncertainty. This uncertainty is worsened by the absence of policy direction and information with respect to the recovery of incremental costs and lost revenues, and related cash-flow issues. This uncertainty limits a utility's ability to plan and make prudent decisions to serve its customers. The PWU submits that advanced policy direction should be provided in the near term to mitigate the uncertainty and consequences of uncertainty brought on by the pandemic. In the PWU's view, advanced policy direction is in the interest of both utilities and their customers.

C. Accounting Matters

5.

- a) Should the OEB compare the amounts recorded in the Account to industry norms (e.g. benchmarking with other utilities in Ontario and Canada)?

- b) If so, what reporting should be required by Utilities to facilitate comparisons?

The PWU submits that Issue 5 should be removed from the issues list. Any benchmarking exercise will be expensive, time consuming and of marginal, if any, benefit. The interests of consumers can be fully protected by the Board's application of the proposed criteria for assessment of recorded expenses and losses.

Utilities were put in an unprecedented position of responding to the pandemic while maintaining their essential service without substantial guidance. Five full months after the World Health Organization declared Covid-19 pandemic, the OEB is now receiving comments regarding whether it should provide advance policy direction. It is not clear what precedent or "industry norms" Ontario utilities could have been expected to adhere to and be evaluated against.

Costs incurred and lost revenues resulting from the Covid-19 pandemic will vary greatly by province and by LDC service territory depending on the virus's infection rate and the decisions made by local and regional health officials, lawmakers, and business leaders in efforts to contain the virus. Cost performance cannot be compared given the non-controllable and unmeasurable factors that affect each utility differently.

Recoverable costs and lost revenues for Ontario utilities cannot be reasonably compared with utilities in other jurisdictions given the differences in regulatory structures and provincial responses to the pandemic. Most jurisdictions in Canada do not have more than a few local distributors for which regulators would prescribe a generalized policy. The application of regulatory accounts is difficult to compare across jurisdictions given different definitions of materiality, causality, and prudence and the relationship between those concepts and regulated utilities' capital structures and return on equity premiums.

It is not clear how amounts would be compared given the different policies and directives applied in other jurisdictions. For example, a significant energy policy response to the pandemic by the Ontario government temporarily removed peak and mid-peak prices for TOU customers. This directive provides relief for customers through lower commodity prices and required distributors to incur costs to modify billing systems. It would be impractical to compare regulatory account

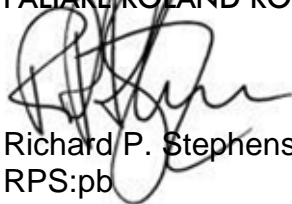
amounts in jurisdictions with different policies, but jurisdictions with the same policy are still not comparable due to different regulatory and pricing structures. Most jurisdictions have variable residential distribution charges that will offset lost revenues from commercial classes. Most jurisdictions also have a principal, vertically-integrated utility that may not clearly distinguish the application of those policies to cost recovery of its distribution, transmission, and generation functions.

In many jurisdictions the decisions of what will be recovered will likely be decided or influenced by provincial governments and not the relevant regulator. Benchmarking with other provinces would also require Ontario to wait for decisions made in other jurisdictions. This would prolong financial uncertainty and unnecessarily cause a delay to cost recovery, further harming utilities' financial positions to their detriment and to the detriment of ratepayers.

The PWU therefore submits that benchmarking should not be considered as part of this consultation and that Issue 5 should be removed from the issues list.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Richard P. Stephenson
RPS:pb

Doc 3359277 v1