

ONTARIO ENERGY ASSOCIATION ON BEHALF OF CLD+

CONSULTATION ON THE DEFERRAL ACCOUNT – IMPACTS ARISING FROM THE COVID-19 EMERGENCY: EB-2020-0133

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To shape our energy future for a stronger Ontario.



Ontario Energy Association

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INTRODUCTION

1. The Ontario Energy Association (“OEA”) is providing written comments with respect to the Draft Issues List on behalf of the following member organizations: Alectra Utilities Corporation, Elexicon Energy Inc, Enbridge Gas Inc., Hydro One Networks Inc., Hydro Ottawa Limited, and Toronto Hydro-Electric System Limited (collectively, “CLD+”). The CLD+ notes that its collaboration in this proceeding is supportive of the OEB directive for regulatory efficiency.
2. The OEA has reviewed stakeholders’ June 11, 2020 submissions and submits that interveners’ proposals for adding additional issues to the Issues List or their proposed minor wording changes are intended to address a false concern that interveners have, which is that the current wording of the issues shows favourability or a prejudged recoverability of amounts on behalf of the Utilities. The OEA does not share this viewpoint.
3. The OEA observes that the Draft Issues List reflects the OEB recognition that the Utilities needed a mechanism to potentially address the impact of the COVID-19 emergency¹. In establishing the Accounts, the OEB expressed two key objectives: 1) to provide the Utilities with the ability to record the financial impact of the COVID-19 emergency²; and 2) to provide visibility and tracking of the impact of COVID-19 on each of the Utilities³.
4. The OEA submits that, as the OEB finalizes its Issues List and sets out the procedural steps to complete this consultation, it should not be swayed by intervenor submissions to expand, extend or morph this consultation into one

¹ OEB Letter March 24, 2020

² OEB Letter March 25, 2020

³ OEB Letter May 12, 2020

that strays from the OEB's own objectives⁴ in this proceeding or, as set out in the *Ontario Energy Board Act*.

5. The OEA's proposed issues list and requested advanced direction allows for all parties to raise questions and evaluate items that pertain to their area of interest. For example, the OEA's proposed wording of the issues allows for a review that covers savings achieved, incremental costs, and both losses or increases in load. The OEA submits that no additional issues or changes to the OEA's proposed issues list are needed to enable a comprehensive consultation.
6. As noted in its June 11th submission, the OEA believes that there is an urgent need for the OEB to issue appropriate guidance so that utilities can fully understand the financial challenge that they must manage as they make operational decisions during the pandemic. The OEA notes that several interveners have proposed changes to existing issues or entirely new issues, which would increase the scope of the consultation and result in full re-examination of established and well-tested regulatory principles (e.g. financial viability). Such broad increases to the scope of this consultation are likely to lengthen the amount of time required for the OEB to issue its guidance resulting in further uncertainty for the sector. The OEA submits that the OEB should be mindful of finalizing the scope of the consultation such that it achieves an appropriate balance between ensuring a robust process while being mindful of need for urgency and expediency of these matters.

⁴ Objectives as set out in the OEB Letters of March 24, 25, 2020 and May 12, 2020 and the OEB Act, 1998.

SUMMARY OF THE OEA'S PROPOSED ISSUES LIST

7. The OEA has reviewed stakeholder's June 11, 2020 submissions and provides the following summary of its proposed Issues List:
 - a. The OEA reaffirms its request of the OEB in its June 11, 2020 submission:
 - i. That the OEB set out the procedural steps for an accelerated consultation timeline, so that the final regulatory guidance can be issued as soon as possible.
 - ii. The OEB create the separate sub-account for Bad Debt immediately. Just as the OEB created the original three sub-accounts without a proceeding, separating Bad Debt from Other Costs can be separated without further consultation. The regulatory treatment of Bad Debt will remain a live issue during this policy proceeding.
 - b. The OEA proposes that the references in the Draft Issues List to OPEB and Transition to IFRS consultations in Issue 2 be replaced with references to the Smart Meter and Recovery of Regulatory Assets ("Market Opening") consultations.
 - c. The OEA submits that Issue #5 should be removed from the Issues List.
 - d. The OEA proposes that the OEB replace Issue #16 (b) with the following wording: "What factors in addition to those already outlined in the OEB guidelines for electricity and natural gas distributors, and any public policy imperatives, should the OEB take into consideration in considering any cost sharing?"

- e. The OEA proposes that the OEB add as an Issue: “What is the appropriate way to dispose of each subaccount? What rate design, cost allocation, and disposition timelines elements should be adopted?”
 - f. The OEA requests the OEB reconsider its plans to publish data broken down by utility as outlined in its letter dated June 4, 2020. Given the limited regulatory guidance currently in place, the data entries by the utilities will necessarily be disparate and lack common meaning. Publishing that data at this stage will likely create confusion in this proceeding.
 - g. With respect to all other Issues in the Draft Issues List, the OEA submits that the List is complete and the wording is appropriate.
8. The OEA’s detailed review of stakeholders’ submissions follow.

SUBMISSIONS

Interveners' Submissions Expand and Extend this Proceeding

9. The proposed additional issues of LPMA and many other interveners set out their desire to see this proceeding expanded to include a vast range of reassessments of the economic business model for utilities, and their interest is not to undertake a focused review. The OEA submits that the final Issues List in this policy proceeding must be kept concise and manageable, in the interest of regulatory efficiency and effectiveness.

10. A prime example of this expansion is LPMA's submissions of twelve additional issues being added to the final Issues List. The OEA submits that the OEB should reject this request and other intervener requests for additional issues to the final Issues List. In the case of LPMA, it states that the rationale for inclusion of these twelve issues is self-explanatory. Besides LPMA not providing a rationale for why each of these issues should be included, the OEA notes that the question in each of the twelve can be raised as part of one or many of the OEA's proposed issues. The seventeen issues included in the OEA's proposal cover the breadth of items that impact this consultation; the wording of each issue allows for all parties to argue for their areas of interest.

11. The OEA addresses in its comments within this submission several intervener requests for additional issues being added to the final Issues List. The OEA submits that, overall, the Draft Issues List amended for the proposed changes from the OEA⁵, covers all of the relevant topics of this consultation and combined with its requested advanced direction, enables regulatory efficiency.

⁵ Three changes proposed by the OEA are: removal of proposed Issue #5, accept proposed wording for Issue #16 (b) and add new issue "What is the appropriate way to dispose of each subaccount? What rate design, cost allocation, and disposition timelines elements should be adopted?"

Advanced Policy Direction

Issue #1: Response to Stakeholder Comments on Advanced Policy Direction

12. In its June 11 submission, the OEA requested that the OEB provide the following early guidance as it finalized its Issues List:
- a. Create an additional sub-account within the Accounts to record Bad Debt separately from Other Costs.
 - b. The OEA requests that when it publishes the finalized Issues List, the OEB also set out all of the remaining steps and timeline for this policy proceeding.
 - c. The OEA requests the OEB expedite the policy proceeding, consistent with its previously expressed intention, and the feedback received from numerous utility and non-utility stakeholders during the May 28 stakeholder meeting. The OEA requests that the OEB provide final regulatory guidance by completing this policy proceeding, at the latest, prior to when utilities finalize their Q3 financial statements (in the weeks following September 30, 2020).
13. Many interveners have made submissions that the Board should not provide any early direction and only provide guidance at the end of this consultation⁶. The OEA proposal implements a comprehensive consultation which will be completed in an expeditious timeframe, which meets stakeholders overall objective.
14. In addition to requests that no early guidance be set out by the OEB, some interveners have made submissions for an extended duration of this consultation⁷. These proposals disregard the uncertainty with which the Utilities are now conducting their daily operations, due to a lack of clarity on how the

⁶ Submissions from SEC, IGUA, AMPCO, CCC, Energy Probe, Pollution Probe, BOMA, LPMA

⁷ Submissions from SEC, LPMA

Utilities can use the Accounts. Pending finalized regulatory guidance, the impact to financial statements cannot be determined and therefore the Utilities are operating with very high degrees of financial uncertainty, which adversely affects business decision-making. The OEA submits that OEB can meet its objectives for a comprehensive consultation by setting out the procedural steps for a completion well before the utilities finalize their Q3 financial statements.

15. The OEA submits that the Board should dismiss SEC's request that the Board provide a directive to Utilities that they must implement mitigation steps to reduce the 'size of the problem'. The OEA notes that the SEC request is tantamount to a request of the OEB to dictate the operation and issue management on to Utilities rather than a request of the OEB to perform its function of economic regulator.
16. SEC set out examples for the Utilities to take actions. These examples included reducing their capital expenditures, undertaking operating expense reviews and revising Utility System Plans. From the CLD+ perspective, the Board implementing SEC's proposal can create unintended consequences. Unintended consequences such as utilities implementing different cost containment measures which may result in different customer impacts, and in the extreme, the Utilities may have to choose to implement less generous customer relief programs, in order to meet a solely cost containment focused mandate. The OEA submits that SEC's request is inappropriate and is counter to the primary objectives of the Board.

General Principles

Issue #2

17. Most stakeholders proposed alternate wording for Issue #2 which broadened the scoping of Issue #2. The OEA submits that the most appropriate sets of

principles to be used in this consultation are those from alike past consultations. To that end, the OEA proposed to leave the wording of Issue #2 as is and replace the cited references in that issue with the Smart Meter and Recovery of Regulatory Assets (“Market Opening”) consultations.

Issue #3

18. The OEA submits that the proposed wording of Issue #3 is sufficiently generic to meet most parties proposed alternative wording; therefore, no changes are needed. Parties proposed wording to expand Issue #3 to evaluate other OEB policies and one party proposed revisions to evaluate how to measure a utility’s financial viability⁸. The OEB should reject these proposals.

19. With respect to SEC’s proposed rewording of Issue #3 to evaluate how to measure a utility’s financial viability, the OEA submits that this consultation is not evaluating the measure of a utility’s financial viability. This consultation is evaluating what and how the utilities may be able to record in the OEB established Accounts. Furthermore, the Board has already set out both policy and guidance on how it measures a utility’s financial viability⁹. Therefore, the Board does not need to include an issue evaluating how to measure a utility’s financial viability in this consultation.

Accounting Matters

Issue #4

20. The OEA submits that the wording of Issue #4 should remain as is. Parties have raised concern that the inclusion of an example in Issue #4 introduces a bias toward supporting recoverability. The OEB should reject this premise given it is clear that Bad Debt was included as an example and not as final guidance. In

⁸ Submissions from SUP, LPMA & SEC proposal

⁹ EB-2009-0084 Cost of Capital Review

fact, the OEA notes that the inclusion of the example provides clarity to parties on the type of item it sees qualifying as a sub-account.

21. One party suggested the addition of a fourth subaccount which would track capital, OM&A, or other savings¹⁰. The OEB should reject this request, at this time. The treatment of cost savings is already captured within the scope Issues #7 and #9. Through the scope of discussion in the consultation, parties can recommend whether savings and other “offsetting” amounts should offset balances recorded into the sub-accounts or be tracked separately.

Issue #5

22. The OEA proposed that the OEB remove Issue #5 from the final Issues List and the majority of parties filed similar submissions¹¹. The OEA submits that the OEB remove Issue #5 as it finalizes the Issues List.

Issue #6

23. The OEA submits that the current wording of Issue #6 be retained. A few parties proposed alternative wording for Issue #6, which focused on replacing the start of the Issue with ‘Should’ rather than ‘What’¹². The OEA submits that the current wording intends to evaluate the relevant question of what amounts can be recorded on a consistent basis across all regulated entities. This is relevant given the regulated entities party to this consultation operate under different accounting methods¹³.

¹⁰ Submission from BOMA requesting a sub-account to record savings

¹¹ Submissions from SUP, PWU, Energy Probe, VECC, FRPO, LPMA (provided alternative)

¹² Submissions from LPMA and SUP

¹³ Appendix A of OEA submission, Section 2 provides an explanation of different accounting standards applied to regulated entities

24. The OEA notes that its proposed new Issue specific to establishing criteria for recording and disposition of amounts in the Accounts may alleviate parties' concerns with Issue #6. The OEA proposed new issue focuses on the concept of establishing criteria as part of the final guidance, which is what some stakeholders raised as a concern.

Nature of Costs and Materiality

Issue #7 - #14

25. The OEA submits that the current wording of Issue #7 to Issue #14 be retained as is and that alternative wording proposed by some stakeholders be rejected.

Specific to Issue #8 and Issue #10, the OEA makes the following submissions:

- d. The OEA submits that the current wording of Issue #8 focuses on the intent of this consultation, which is a review of impact of the COVID-19 emergency on utilities' financing needs. Interveners can explore a utility's overall financing costs, which includes where both extra costs and cost savings arise, within the current wording of Issue #8.
- e. The OEA submits that Issue #10 in combination with Issue #11 cover the topic of lost revenues appropriately. The OEA notes that Issue #10 is necessary for the capture of potential items other than lost load which is covered in Issue #11. With respect to some parties who provided alternative wording¹⁴, the current wording allows for these parties to raise their areas of concern during the framework of the consultation.

26. The OEA notes that LPMA has submitted that the OEB should direct all utilities to provide estimates of the lost load and lost revenues by rate class in advance of

¹⁴ Submission by SUP proposed revised wording and LPMA request to include separate issue focusing on CDM & DSM revenue not lost.

the stakeholder meetings in July. The OEA submits that the OEB should deny this request. Given the lack of guidance currently available regarding an appropriate methodology for calculating the lost load and the significant variation in class definitions across utilities in the province¹⁵, the OEA does not believe that such information would yield meaningful information for stakeholders. Should stakeholders be interested to see how consumption patterns of different types of customers have been impacted by COVID, they may be assisted by the information made available by the IESO¹⁶, to date. Notably, the IESO observed that overall system peak and consumption have declined, despite the increase in load from residential customers.

Recovery Mechanism & Timing

Issue #15 - 17

27. The OEA submits that the current wording of Issue #15, Issue #16 including the OEA's proposed wording of Issue #16 (b) and Issue #17 be retained as is and that the alternative wording proposed by some stakeholders be rejected.
28. The current wording of these issues with the modified Issue 16 (b) provides focus to the question of recovery and timing of amounts in the Accounts. The OEA notes that its proposed new issue: "What is the appropriate way to dispose of each subaccount? What rate design, cost allocation, and disposition timelines elements should be adopted?" will provide additional clarity to the area of recovery mechanisms and timing and should offset concerns raised by stakeholders.

¹⁵ Not only do class definitions differ between sectors, the OEA notes that class definitions are often not consistent between utilities in the same sector (e.g. demand-based rates classes greater than 50 kW for electricity distributors).

¹⁶ IESO Update on Electricity System Impact of COVID-19, May 20, 2020 and April 23, 2020, <http://ieso.ca/Sector-Participants/Engagement-Initiatives/Overview/Public-Information-Sessions>.

Conclusion

29. The OEA appreciates the opportunity to provide these additional comments to the OEB regarding this important policy consultation. In conclusion, the OEA submits that its proposed Issues List and requested advanced direction is in line with the OEB's overall statutory objectives for utilities and the objectives it has set out for this proceeding. The OEA requests that the final Issues List in this policy proceeding be kept concise and manageable, in the interest of regulatory efficiency and effectiveness.

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