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February 16, 2021

Christine E. Long
Registrar
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Toronto ON
M4P 1E4

Dear Ms. Long,

**RE: EB-2018-0287&0288 Utility Remuneration & Responding to DERs
Energy Probe Submission**

Energy Probe participated in the February 2, 2021, webinar where the OEB Staff consultants London Economics International (LEI) and ICF presented the results of their studies. At the conclusion of the presentations and the discussion Board Staff invited participants to submit by February 17 comments on the next steps in the consultation. The following is the submission of Energy Probe Research Foundation (Energy Probe).

Energy Probe believes that the next steps should be guided by the Mission, Vision, and Mandate of the OEB as stated on the OEB website and quoted below.

Mission, Vision and Mandate of the OEB

Mandate

The Ontario Energy Board is an independent regulatory body that makes decisions and provides advice to the government in order to contribute to a sustainable, reliable energy sector and to help consumers get value from their natural gas and electricity services. We do this by:

- *Establishing rates and prices that are reasonable to consumers and that allow utilities to invest in the system*

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- *Encouraging higher performance from natural gas and electricity utilities and measuring progress*
- *Making the consumer's own usage, and the broader energy issues, easier to understand*
- *Looking out for consumer interests, investigating complaints and applying penalties, where appropriate*
- *Thinking about the long-term needs of the energy sector and developing regulatory policy to meet emerging challenges.*

Vision

The OEB supports and guides the continuing evolution of the Ontario energy sector by promoting outcomes and innovation that deliver value for all Ontario energy consumers.

Mission

We will pursue this Vision by:

- *Strengthening the focus on demonstrable consumer value during a period of sector evolution*
- *Incenting and enabling innovation in a way that enhances consumer choice, control and value*
- *Strengthening and sustaining the confidence of consumers during a period of accelerating change*
- *Equipping our own organization to meet the challenges presented by sector evolution.*

Not all parts of the Mandate, Vision and Mission apply to the EB-2018-0287 & 0288 initiative. Energy Probe will base its comments on the parts that apply.

Mandate: Thinking about the long-term needs of the energy sector and developing regulatory policy to meet emerging challenges.

The adoption of distributed energy resources (DERs) by certain customers are an emerging challenge for the OEB. Some customers are in part motivated to install DERs because DERs allow them to avoid paying the Global Adjustment (GA). This was reported by LEI¹ and

¹ LEI Presentation, February 3, 2021, Slide 13

confirmed by ICF². The OEB is now aware that customers use DERs to avoid paying a charge approved by the OEB. This is a clear challenge to the authority of the OEB.

Vision: The OEB supports and guides the continuing evolution of the Ontario energy sector by promoting outcomes and innovation that deliver value for all Ontario energy consumers.

Customers with DERs avoid paying all or part of the Global Adjustment (GA) charge. This causes the amount of the GA charge paid by customers without DERs to increase by an equivalent amount. This was confirmed by LEI in response to a question from Energy Probe.³ If the customers with DERs are exporting power into the grid they may even be increasing the total amount of the GA charge. Therefore, use of DERs by some customers does not deliver value to all Ontario Energy consumers. In fact, it causes the rates paid by some consumers to increase. Energy Probe submits that to be true to its vision, the OEB should ensure that the evolution of the Ontario Energy sector deliver value to all Ontario energy consumers.

Mission

We will pursue this Vision by: Strengthening the focus on demonstrable consumer value during a period of sector evolution.

DERs provide value to certain customers because it allows them to avoid paying the GA charge. By avoiding payment of the GA, the customers with DERs cause the customers without DER's to pay a larger part of the GA. Energy Probe submits that use of DERs by certain customers reduces consumer value for consumers without DERs. The OEB should ensure that customers with DERs do not avoid paying the GA.

² ICF Presentation, February 3, 2021, Slide 5

³ Transcript, pages 28-29

We will pursue this Vision by: Incenting and enabling innovation in a way that enhances consumer choice, control and value.

It makes no sense for the OEB to incent and enable innovation that would enhance consumers choice not to pay to the GA. Would Canada Revenue Agency incent and enable innovation that would enhance taxpayer choice not to pay HST? Taking this to the extreme, what would be the outcome if all customers were to avoid paying the GA?

We will pursue this Vision by: Strengthening and sustaining the confidence of consumers during a period of accelerating change.

The way to strengthen and sustain the confidence of consumers is to have policies in place that will ensure that all customers are treated fairly. The OEB should ensure that there is no preferential treatment for consumers with DERs. To avoid preferential treatment of large customers with DERs, seven Ontario electricity distributors applied for OEB approval of a standby charge over the last few years. Considering that DER's are the cause of the requests for a standby charge by distributors it is surprising that the LEI study did not deal with the standby charge⁴. The standby charge issue is further addressed below.

Standby Charge

Consumers with DERs expect that the utility supply them with power when they stop or reduce amount of power that they are self-generation or withdrawing from storage batteries. They expect the utility to have facilities on stand-by with sufficient capacity to supply them, but they are unwilling to pay for those facilities with a standby charge.

Over the years, seven distributors have applied for OEB approval of a standby charge: Guelph Hydro⁵, Niagara On the Lake Hydro⁶, Lakefront Utilities⁷, Erie Thames Hydro⁸, Energy+⁹, Waterloo North Hydro¹⁰ and Halton Hills Hydro¹¹. The proposed methodologies and outcomes varied from proceeding to proceeding. One application, by Halton Hills Hydro is currently in progress.

⁴ Transcript, pages 27 and 27

⁵ EB-2015-0073 Guelph Hydro

⁶ EB-2018-0056 Niagara on the Lake Hydro

⁷ EB-2018-0049 Lakefront Utilities

⁸ EB-2017-0038 Erie Thames Hydro

⁹ EB-2018-0218 Energy+

¹⁰ EB-2020-0059 Waterloo North Hydro

¹¹ EB-2020-0026 Halton Hills Hydro

Some like Waterloo North Hydro agreed in settlement to withdraw their application for approval of a standby charge¹² with the expectation that the OEB would issue a policy that would deal with the standby charge issue. For example, note the words in the Waterloo North Hydro Settlement Agreement on what was Issue 3.5 in that case.¹³

“3.5 Are the proposed standby charges for customers who have load displacement generation or storage equal to or exceeding 50kW in the General Service > 50kW and Large Use rate class appropriate?”

Complete Settlement: WNH agrees to withdraw its request for a utility specific standby charge.

Nothing in this Settlement Proposal shall limit WNH’s ability to create or apply standby charges in the future in compliance with future OEB policies, directions, or orders, or to apply for a utility specific standby charge in future proceedings. The settlement of this issue and the positions of the Parties are without prejudice to the rights of WNH to raise the same issue in any other proceeding.”

The application by Energy+ was notable because it resulted in a thorough examination of the standby charge issue. The OEB did not approve the standby charge proposed by Energy+ but acknowledged the need for the standby charge in its June 18, 2019 decision¹⁴.

“The OEB acknowledges that the non-implementation of a standby charge means that TMMC would not be allocated real costs of Energy+ in maintaining sufficient capacity to ensure reliability of service in the event of failure of TMMC’s LDG. However, it is important that any charge be developed with a methodology that accomplishes that goal in an efficient and understandable fashion so that all customers are protected while customer innovation is also encouraged. The current OEB Commercial and Industrial (C&I) consultation, followed by a subsequent OEB report should provide some guidance on the proper calculation of standby charges in circumstances of embedded generation that meet those objectives.”

The consultation the OEB referred to is the EB-2015-0043 consultation on Rate Design for Electricity Commercial and Industrial Customers¹⁵ which started in 2015. Board Staff issued a report in 2016. In February 2019, the OEB initiated further consultation under the same docket with a stakeholder conference in March 2019. The OEB report has not been issued yet. Energy

¹² EB-2020-0059 Waterloo North Hydro Application

¹³ EB-2020-0059 Decision, Waterloo North Hydro, December 10, 2020, Settlement Proposal, page 36

¹⁴ EB-2018-0218 Decision, Energy+, page 39

¹⁵ EB-2015-0043

Probe submits, that the need for the OEB report and a standby charge policy has become urgent. There is no need for further consultation.

Next Steps

Energy Probe submits that the OEB should proceed with the following two steps.

- 1) The implementation of policies that would remove the incentive for customers to avoid paying the GA through the use of DERs.
- 2) The release of the EB-2015-0043 Report of the Board on Rate Design for Electricity Commercial and Industrial Customers that would include the methodology for the calculation of a standby charge and the policy for its implementation.

Respectfully submitted on behalf of Energy Probe by,

Tom Ladanyi
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cc. Patricia Adams (Energy Probe Research Foundation)