



BY EMAIL and RESS

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Our File: EB20210183

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Christine Long, Registrar

Dear Ms. Long:

Re: EB-2021-0183 – Green Button Guidance – SEC Submissions

We are counsel to the School Energy Coalition (“SEC”). Pursuant to the Board’s letter of October 12, 2021, this letter constitutes SEC’s submissions on OEB Staff’s draft guidance to distributors on the implementation of the Green Button as required by O.Reg.633/21.

SEC does not have any submissions on the proposed amendments to the Retail Settlement Code.

Overview

OEB Staff is proposing to provide only limited guidance at this time. SEC agrees. As the implementation of Green Button unfolds, both the Board and the industry will gather knowledge on what is working, and what is problematic. A prescriptive regulatory approach by the Board at this time is, with respect to most issues, likely to be premature.

SEC therefore has only brief comments on certain areas of the draft guidance and accompanying letter.

Customer Authorization and Revocation

SEC agrees with the proposed guidance, and in particular with the template provided by OEB Staff.

We do note that it is important for the technical working group to establish standard/default authorization and revocation protocols, and for all distributors to adopt them unless they have a strong reason not to do so. Consistency across the many distributors in the province will facilitate both the Green Button rollout itself, and the competitive offerings that will release the benefits of the program. SEC believes that the OEB Staff guidance should strongly encourage standardization across the province.

Distributor Policing Function

Section 3(6) of O.Reg. 633/21 says:

(6) An energy provider may, in accordance with such requirements as may be established by the Board, terminate any authorizations for a person or entity that were made in accordance with subsection (1) by one or more account holders if there has been a significant violation of the terms and conditions under which access to the energy data was provided. [emphasis added]

OEB Staff correctly points out in the guidance that “it would generally not be a distributor’s role to monitor the behaviour of a third party once the customer agrees to share their data with the third party”, and SEC agrees with that statement. Consumer protection in unregulated markets – and the Green Button service providers are one such market – is not the responsibility of the distributor, and it is generally also not the responsibility of the OEB. It is the responsibility of the government, and there are already laws in place to protect consumers from improper actions of unregulated third parties.

That having been said, the Regulation specifically delegates a responsibility to the OEB to establish “requirements” that limit the ability of distributors to terminate access by third parties. SEC believes that the OEB should take up that responsibility by stipulating that

- a. **Technical Issues.** Distributors may terminate access in the event that a third party’s actions are harming the distributor’s information systems (for example through viruses and other such technical issues).
- b. **Consumer Protection.** Distributors shall not terminate or limit access for reasons related to the relationship between a third party and the distributor’s customers.
- c. **Competition.** Distributors shall not terminate or limit access for reasons related to the unregulated business activities of the distributor or its affiliates.
- d. **OEB Notice and Review.** At any time that a distributor terminates or limits access by any third party, the distributor shall immediately provide a full report to the OEB on the termination, and the reasons for it, and the third party will have standing to challenge the distributor’s actions before the OEB.

SEC believes that the Green Button program depends for its success on a robust open market for goods and services related to the data being shared. Early direction from the Board that requires distributors to allow that market to flourish is one way the Board can help that to happen.

Performance Metrics

SEC agrees with OEB Staff that it is premature to establish performance metrics related to this program. At some point in the future, it will likely be appropriate to add one or more scorecard metrics, but more experience with the program would be useful before that is done.

Conclusion

The Green Button program has the potential to significantly alter electricity and gas consumption in Ontario. SEC agrees with the thrust of the OEB Staff guidance, subject to the few comments noted above.

All of which is respectfully submitted.

Yours very truly,

Shepherd Rubenstein Professional Corporation



Jay Shepherd

cc: Ted Doherty, SEC (by email)
Interested Parties (by email)