



September 2, 2022  
EB-2021-0118

**Ontario Energy Board**  
2300 Yonge Street  
27th Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Nancy Marconi, Registrar**

**Re: Invitation to comment on Report of the Framework for Energy Innovation  
Working Group (FEIWG) – OEB File No. EB-2021-0118**

We commend the OEB for taking on this important and timely initiative, and thank you for the opportunity to comment on the FEIWG Report. Set out below are the responses of Essex Powerlines Corporation (“EPLC”) to the six questions posed in the OEB’s letter dated July 6, 2022 inviting stakeholder feedback to the Report.

EPLC provides these comments from the perspective of a medium-sized regulated utility in Southwestern Ontario under the Essex Power group of companies. EPLC delivers electricity to approximately 30,000 customers within its four shareholder communities, including the Town of Amherstburg, the Town of LaSalle, the Town of Tecumseh and the Municipality of Leamington.

EPLC has some of the most competitive distribution rates in the province and is also ranked by the OEB as a Group II utility, indicating that it is among the most efficient utilities in Ontario.

## **General**

### *1. What is the relative priority of the issues and next steps identified by the FEIWG?*

As is the case for many distributors, EPLC expects to file its next rate application within the next year (April, 2023). As such, the issue of utility incentives for DER implementation needs to be the first priority.

As expressed in the FEIWG report, there continues to be significant regulatory uncertainty as to how the OEB will treat DER integration in future distributor rate applications. Without this regulatory certainty, distributors cannot accurately evaluate and present to the OEB the costs and benefits of DER alternatives as compared to traditional distribution system solutions.



Directly related to the issue of utility incentives is the need for regulatory certainty on the extent to which utility affiliates (such as Essex Energy Corporation) are permitted to participate in a DER market in competition with third parties. If distributor affiliates are permitted to procure, own and operate DERs, then regulatory guidance is also required as to whether such activities will be deemed by the OEB to be distribution activities as well as for the applicable accounting procedures expected to be applied by distributors.

To be clear, EPLC believes there is a need to review the scope of “distribution activities” under the *Ontario Energy Board Act* so as to include other assets like storage or local supply or generation beyond that which merely remediates comparatively poor reliability of service. EPLC’s current DSO pilot project entails its affiliate Essex Energy Corporation designing, procuring and installing, amongst other things, a two (2) MW battery storage unit which will be an active participant in the pilot DER market. It is EPLC’s expectation that the DSO pilot project will demonstrate that utility (or affiliate) owned and/or aggregated DERs provide similar reliability benefits as traditional distribution system solutions while delivering significant ratepayer savings in deferred or altogether avoided system build-out costs.

Once the issues pertaining to utility incentives are addressed, the next priority should be to develop and inform distributors of the criteria the OEB will use to determine whether a distributor has conducted the appropriate BCA analysis with respect to proposed DER solutions.

The OEB should subsequently seek to address DER integration issues including planning and operational coordination and information sharing. Treating DER integration as a third priority will also provide the time needed for EPLC’s DSO pilot project to complete the design phase and begin the implementation phase, which may be instructive to the OEB in considering potential interoperability protocols with the IESO, i.e. coordinating use at both the wholesale and distribution levels without simultaneous dispatch.

## **Developing a BCA Framework**

*2. What is the appropriate scope of a BCA Framework? In other words, should a narrow or broad set of benefits and costs be considered with respect to deployment of DERs as alternatives to traditional solutions to meet electricity distribution system needs?*

EPLC supports the BCA subgroup’s recommendation that the OEB develop a BCA framework for decision-making and information purposes, including Ontario-specific standard assumptions, inputs and methods for BCA analysis. EPLC also supports the five components for a BCA framework recommended by the BCA subgroup.

Electricity distributors like EPLC need clear guidance and direction regarding the criteria the OEB will consider in determining whether a distributor has adequately and accurately demonstrated in its rate applications that a distributor deployment of DERs is the better option over traditional distribution system solutions. This need is particularly dire given



that there was no consensus among the FEIWG about the benefits and costs the OEB should require distributors to apply in making this choice.

Likewise, EPLC needs to know the informational elements the OEB expects to be included in future electricity distributor filings that seek approval for employment of DERs. EPLC supports the BCA subgroup's recommendation for the development of a reporting template as well as associated updates to OEB regulatory documents such as the filing guidelines, the *Distribution System Code*, etc.

With respect to the scope of costs and benefits to be considered, EPLC submits that a somewhat narrow approach to a BCA framework that is based primarily on a "Distribution Customer" test where all distribution energy system impacts to the relevant LDC's customers are evaluated, is appropriate.

In EPLC's view, consideration of the provincial impacts accruing to other customers and societal impacts may not only fall outside the OEB's legislative jurisdiction insofar as it seeks to socialize DER-related distributor costs outside of the specific distributor's customers, but also invites the enigma of identifying and weighing competing policy considerations that have no clear answers. Such an approach would not only result in greater investor uncertainty, but also create a greater regulatory burden in trying to properly and consistently assess these types of broader considerations. It could also be overly cumbersome – if not altogether impossible - for an applicant distributor to try and identify and attribute a value to a full list of non-distribution level impacts for every proposed DER project.

Moreover, in most cases it is more likely than not that the implementation of a distribution-level DER will provide many non-financial benefits such as increased system resiliency, reduced environmental impacts of generation and transmission, or regional economic development. As such, EPLC submits that a broad approach to BCA framework development is unnecessary.

Instead, at this time EPLC supports a BCA framework that is limited to the evaluation of proposed DERs within the applicable distributor's franchise. This approach to a BCA framework is also better aligned with the principle of distributional fairness, where the costs of the proposed DER solution are apportioned among the users of the benefitting system. A narrow approach also better mitigates against the risk of double recovery by a distributor for the same DER solution.

## **Developing and implementing utility incentives**

### *3. How might the OEB remove disincentives for utilities to adopt DER solutions?*

EPLC respectfully submits that the OEB may remove existing disincentives by immediately providing more clarity on which elements of DER procurement and implementation can be included in rate base.



Specifically, EPLC proposes the OEB permit distributors to add capitalized DER spending to rate base and allow normal cost of capital (debt and equity) to apply over an appropriate amortization period.

In the alternative, EPLC is supportive of creating a separate capital pool for DER spending with a different cost of capital (in an amount to be stakeholdered with distributors and other impacted participants) to be recovered in rates.

Without some form of regulatory amendments allowing for a rate of return on investment, utilities like EPLC will continue to be indifferent at best, and dis-incented at worst, from adopting DER solutions (since the procurement and implementation costs are simply passed through to customers under O&M).

*4. Is providing incentives to distributors to facilitate adoption of DER solutions (i.e., non-wires alternatives) appropriate? Under what circumstances?*

EPLC submits that it is entirely appropriate for the OEB to provide incentives to distributors to facilitate the adoption of DER solutions.

Electricity distributors have a unique 'bird's eye' view of its system needs and therefore also have the expertise required to properly evaluate and determine where on their respective systems DERs can provide maximum benefit from a reliability and customer service perspective. EPLC and other distributors are the entities best situated to evaluate and ensure that customer-driven DER investments are made in the right location (i.e., do not impose upstream/downstream costs, and/or provide upstream/downstream benefits).

Moreover, by being subject to regulatory oversight by the OEB, this framework would ensure that the proposed DER solution would be subject to OEB oversight with respect to customer protection and prudence. If the OEB does not provide regulatory oversight to implement incentives for utilities like EPLC to adopt DER solutions, then DER implementation at the distribution level will continue to be directed by the IESO at the wholesale level and through its regional planning processes which is not subject to any regulatory oversight.

*5. If incentives are appropriate, how should the OEB select/develop the form of incentive that should be available?*

*a) Are there options the Incentive Subgroup did not identify that should be considered?*

As stated in response no. 3 above, EPLC proposes the OEB permit distributors to add capitalized DER spending to rate base and allow normal cost of capital (debt, equity, and taxes) to apply over an appropriate amortization period. In the alternative, EPLC is supportive of creating a separate capital pool for DER spending with a different cost of



capital (in an amount to be stakeholdered with distributors and other impacted participants) to be recovered in rates.

As to whether there are other options that should also be considered, EPLC agrees with the UI subgroup that it would be helpful for the OEB to first identify which utility actions that can affect DER implementation are currently required, allowed or prohibited.

EPLC's DSO pilot project will also provide an opportunity to test other potential incentives such as an exemption from regulatory accounting treatment and removing the need for separate customer contracts for the provision of multiple services to the electricity system.

### **Ensuring distribution planning is informed by DER adoption**

*6. What should the OEB consider when setting expectations to ensure distributors appropriately consider DER adoption when planning and operating their systems (e.g., industry guidance, additional filing requirements for Distribution System Plans, new requirements for reporting and sharing information)?*

As stated in response no. 1 above, the OEB should consider developing the criteria a distributor will be required to fulfill in order to sufficiently demonstrate in a rate application that it has adequately and accurately evaluated proposed DER alternatives to traditional distribution system solutions.

In so doing, however, EPLC submits that the OEB should consider the level of access (or lack thereof) the distributor may have to information. For example, apart from the pending DSO pilot project, there is very limited information sharing between distributors and the IESO. As such, it would be challenging for a distributor applicant to evaluate the non-distribution (wholesale) level costs and benefits a proposed DER solution may offer as well as to determine the risk of double recovery.

To the extent that information sharing protocols are developed, whether through EPLC's DSO pilot project or otherwise<sup>1</sup>, customer confidentiality and privacy issues will need to be addressed as well as potential cybersecurity risks.

Some distributors like EPLC may also have limited internal resources. While decreasing the distribution planning cycle somewhat may be warranted given the pace of change in DER development, decreasing the distribution planning cycle to less than 3 years would be administratively cumbersome for small and medium-size utilities like EPLC.



Finally, it is important that the OEB be mindful that local distributors like EPLC must balance regulatory requirements with regional planning considerations and the interests of municipal shareholders.

Regards,

A handwritten signature in black ink, appearing to be 'J. Barile', written over a horizontal line.

**Joe Barile, VP Regulatory and  
Corporate Affairs  
Essex Power Corporation**