September 2, 2022

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

Attn: Ms. N. Marconi
Registrar

Dear Ms. Marconi:

Re: **EB-2021-0118 – Framework for Energy Innovation**

Ontario's electricity customers know that their local distribution company (LDC) is their front-line representative to the electricity system. LDCs are knowledgeable about what their customers want and, more importantly, what their customers need. Insights into customers' existing and future needs for electricity and delivery services support LDCs in appropriately deploying technology on an ongoing basis. Whether traditional poles-and-wires, supported by the enabling infrastructure (e.g., fuses compatible with one-way power flow) or innovative technologies (e.g., non-wires alternatives, price signals) coupled with the enabling or foundational infrastructure, LDCs have the technical skills, experience, and ability to responsibly deploy the technology that will provide the distribution service(s) customers need and want, reliably and at an appropriate level of quality. LDCs meet their customers' expectations and are 'part of the solution'.

These are the Electricity Distributors Association's (EDA) comments to the Ontario Energy Board (OEB) on the Framework for Energy Innovation (FEI) Working Group's Report to the OEB (the "Report"). Our comments reflect that LDCs know what their customers want and that they understand that a grid designed to serve needs of a past period using legacy infrastructure (e.g., one-way power flows) can't be expected to be capable of serving all future needs.

The sector is evolving rapidly. To prepare for this evolution, we urge the OEB to form and expediently act with a sense of urgency on a plan that will:

- Clarify the potential harms that consumers may experience if DERs are inappropriately deployed on the distribution grid (e.g., through an expedient process that is suitably stakeholder-centric)

Electricity Distributors Association

3700 Steeles Ave. W., Suite 1100, Vaughan, Ontario L4L 8K8 Tel/Fax 647.EDA.5300 1.877.262.8593 email@eda-on.ca www.eda-on.ca

- Clarify the role of the LDC (e.g., when serving a customer who can self-provide an aspect of service versus a customer who cannot)
- Develop an appropriate policy on the ownership and/or operation of innovative devices and distributed energy resources (DERs) that is, where appropriate and to the extent possible, agnostic with respect to the owner and that does not risk market distortions
- Clarify the recovery through regulated rates and charges of the LDC's prudently incurred costs associated with innovative devices and DERs, and of the related enabling infrastructure
- Clarify the OEB's approach to providing regulatory oversight (e.g., by relying on Commissioners' decision-making powers exclusively led adjudication during all phases of the regulatory and adjudicative processes, by assessing the suitability of the OEB's existing suite of rate making approaches and tools) of the investment in, and deployment of, innovative devices whether the preceding steps are underway or complete.

Energy is an input to virtually all economic activity in Ontario. The ability to supply reliable energy, at an appropriate level of quality and for a fair price is critical to Ontario's economic growth. Customers are making decisions on an ongoing basis about their use of electricity and how to best obtain the electricity commodity and services they need. LDCs need to prepare their systems in the near term so that they can deliver the services their customers are expected to need and when they are expected to need them. This preparation will also support providing customers with the information they need to make sound decisions and assuring customers that they can act on their decisions without undue delay.

<u>Clarifying the Consumer Harms that are to be avoided</u>

Among the OEB's legislative objectives is to provide consumer protection. Concurrent with developing the enabling regulatory policies, we propose that the OEB consider engaging stakeholders in initiatives that will identify and scope:

- the potential consumer harms (e.g., whether undue subsidies may occur, whether inappropriate levels of reliability and/or quality of service may occur if a DER proponent does not follow the LDC's requirements or direction) that can arise upon the deployment of innovative technologies and/or DERs
- the steps that the OEB is prepared to take to ensure that these harms do not occur
- the steps that the OEB is prepared to take if a consumer experiences a harm.

We propose that the OEB communicate these positions at the earliest possible opportunity.

The OEB tasked the FEI WG with exploring the OEB's two priority workstreams:

- investigate and support utilities' use of DERs they do not own, as alternatives to traditional wires solutions to meet distribution needs

- ensure that utilities' planning is appropriately informed by DER penetration and forecasts.

While these issues have relevance, we suggest that it is important for the regulator to understand from what customers need to be protected.

Clarifying the Role of the LDC

We propose that the OEB clarify the role of the LDC (e.g., the electricity service(s) that must be provided by the LDC to all customers, the services the customer can select, the services the LDC may offer, the applicable conditions when the LDC deploys innovative devices that it owns and operates).

LDCs' customers expect that their utility will continue to serve them. LDCs engage with their customers on an ongoing basis (e.g., when responding to customer contact, through surveys) and understand their customers' enduring priorities as:

- their LDC is appropriately prepared to serve them
- their LDC will not unduly delay providing a modernized delivery system
- their LDC will not unduly delay connecting and serving the devices that the consumer has invested in
- their LDC will charge fair rates.

While these needs are enduring, as technology changes, LDCs will have more options available to them to support providing service. Customers, LDCs and device proponents all need clarity of the role of the LDC going forward in satisfying customers' enduring needs.

LDCs plan, operate and maintain their distribution grids so that they can fulfill customers' expectations. LDCs manage their distribution grids on both a day-to-day basis and over the long term and are best situated to act on customers' priorities and expectations with respect to grid enabled services. LDCs know where, and to what extent, DERs can be deployed on their systems. They know what their existing systems are capable of generally, and at specific locations (e.g., whether the system is congested, has available short circuit capacity, requires reactive power management, is at risk of harmonics), whether the existing system needs to be adapted or whether it needs to be replaced so that the consumer can be provided with service on an ongoing basis. The availability of more options doesn't change the LDC's duty to provide a safe and appropriately reliable system.

To date, the issue of who is liable, whether and to what extent is shared (e.g., if the distribution system is unavailable) has not been addressed. We suggest that this issue be addressed when the OEB clarifies the role of the LDC.

The role of the LDC that is providing service using natural monopoly infrastructure is well understood; it is the premise of today's codes, regulations, and legislation. In the future, as the consumer's needs for electricity services evolve (e.g., provision of two-way power flow; the ability to select the provider of certain services) the role of the LDC will evolve too. Parties will benefit from a clear and accurate understanding of the rate-regulated LDC's role - and at the earliest opportunity.

Develop Policy on the Ownership and Operation of Innovative Devices

To assist LDCs in fulfilling their customers' expectations, we propose that the OEB provide policy and guidance on the ownership and operation of innovative devices that is suitably 'agnostic' (i.e., applicable to non-LDCs and LDCs) when the device is to be used to provide an aspect of distribution service. Such guidance can be expected to reduce the risk of creating market distortions. The policy and guidance should clarify:

- the LDC's provision of electricity service(s) (e.g., which services must be provided by the LDC to all customers, which services the customer can select, which services the LDC may offer and to which customer groups)
- the regulatory treatment of the costs incurred by the LDC when it uses innovative devices to provide services to customers
- the processes for connecting innovative devices that is, to the extent possible, agnostic with respect to the owner/operator

Clarify the Recovery of Costs Through Regulated Rates and Charges

As the Planning subgroups' Report explicitly discusses, the transition from legacy infrastructure to the infrastructure-of-tomorrow will require a 'package' of investments (e.g., foundational infrastructure, delivery infrastructure). LDCs will require that the majority, if not all, of the components of the 'package' be available, and clarity of its role so that it can provide customers with the services they will need, expect, and desire. The investment in the foundational infrastructure will be essential and could precede the deployment of the associated delivery infrastructure.

As the Benefits-Cost Analysis (BCA) subgroup's Report clarifies, the benefits attributable to an LDC's investment in and deployment of DERs can be realized beyond the physical limits of the distributor's service territory. These benefits should be treated consistently, whether the DER is owned and/or operated by a third party or by an LDC, and with clarity so that all decision makers have as much certainty as possible and as early as possible.

Regulatory Oversight

LDCs will continue to:

- connect innovative technologies owned and operated by their customers and/or third parties
- deploy innovative technologies that they own or control to support the provision of distribution electricity services to their customers
- seek to recover the costs of these activities and investment, potentially through regulated rates and charges
- evolve and adapt the resources they rely on to provide distribution services (e.g., LDCs will be required to manage increasingly complex power flows using automation)

Innovative projects are expected to proceed whether or not enabling regulatory policy and guidance are available. A recent example is Sault Ste. Marie PUC's application for approval to modernize its grid infrastructure (EB-2018-0219). This successful application was novel, and the regulatory process was lengthy, requiring 24 months. It is important to recognize that this successful application was supported by the OEB's existing suite of rate making approaches and tools. We anticipate that all parties will leverage the 'lessons learned' from this proceeding (e.g., the usefulness of the Benefit Summary) to the benefit of future applications seeking approval of innovative infrastructure – whether the OEB has issued policy and guidance, or not.

We propose that OEB Commissioners be responsible for all aspects of the adjudication of applications seeking regulatory approvals of innovative infrastructure – especially while the OEB's development of the applicable policy and guidance continues. This will create a body of knowledge among the Commissioners on the issues and how they affect different stakeholders. The Commissioners' findings and Reasons for Decision are expected to benefit from their adjudication of applications.

We encourage the OEB to develop its policy and guidance over a suitable timeframe that will appropriately reduces the risk of inconsistent findings or Decisions (e.g., by minimizing 'case by case' processing). We anticipate that clear and certain policy and guidance will support the deployment of innovative technologies that will yield ongoing benefits to electricity distribution customers. To be clear, we do not support processes that risk inappropriate delay to customers.

The deployment of smart meters and parties' participation in the Industrial Conservation Initiative (ICI) program both benefited from clarity and certainty and that, as a result, these initiatives achieved their intended outcomes. We suggest that clear and certain direction will support achieving the benefits of deploying DERs and innovative technologies.

Conclusion

We urge the OEB to act with urgency. Customers act in their best interests on an ongoing basis, whether or not policy is complete, certain or clear. Customers' willingness to act is evidenced by the increase in the number of customers participating in the ICI program[1] in the period since the OEB commenced its combined proceedings on Responding to DERs and Utility Remuneration (EB-2019-0287 and EB-2019-0288 respectively) and today; the number of facilities participating in 2018-19 was 1,822 and it has increased to 2,232 in 2021-22.

LDCs' customers need their LDC to be 'part of the solution': able to appropriately provide the services the customers need and/or desire, and able to provide the information to support making informed decisions.

The EDA's responses to the six questions set out in the OEB's letter are provided in Appendix A. Thank you again for the opportunity to comment on this Report. If you have any questions or require any clarification, please do not hesitate to contact Kathi Farmer, Senior Regulatory Affairs Advisor at kfarmer@eda-on.ca or at 416.659.1546

Sincerely,

Ted Wigdor
Vice President, Policy, Government and Corporate Affairs

Encl.

[1] https://data.ontario.ca/dataset/industrial-conservation-initiative-participant-list

APPENDIX A

Question
What is the relative priority of the issues and next steps identified by the FEI WG?

Response
The EDA proposes that the following next steps be acted on and in the order they appear:

1. That the OEB articulate the outcomes against which customers are to be protected.

2. That the OEB provide policy developed through a coordinated approach that considers all stakeholders. A coordinated approach to the broader sector's evolution as an integrated whole will benefit all stakeholders. It can set out the objectives and vision for how non-wires alternatives, DERs and other devices will be deployed, address using these devices whether in developing and emerging markets or when providing regulated services to captive customers and address appropriate cost recovery or rate making alternatives and approaches.

3. Provide guidance on the ongoing role of the LDC. This could be provided in the form of a roadmap that depicts the expectation and supporting rationale (e.g., to achieve energy system benefits, distribution system benefits, and/or to facilitate customer-specific benefits) that describes how the LDC will support achieving benefits across the entire energy sector (e.g., the conditions under which the LDC may offer either curtailable or interruptible service rather than firm supply)

4. Establish an economic evaluation framework. An appropriate economic evaluation framework should support effective decision making (e.g., appropriately safeguarding against identifying and implementing inappropriate projects) and be capable of identifying disincentives. The use of standardized assumptions and/or supporting information should be considered.

5. Promote information sharing. LDCs, DER providers, customers, the IESO and others will need to know and understand the information they are expected to share, how that information will be used, and that the information is fit-for-purpose (e.g., for distribution system planning, to coordinate device settings). Whether it is necessary for the OEB to initiate or lead to a policy formation initiative on information sharing should be examined.

6. Develop Regulatory Reporting Requirements for DERs. Any regulatory reporting should be fit-for-purpose, effective and efficient.

Developing a BCA Framework

Question
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?

Response
Setting the scope of a BCA Framework too narrowly risks inappropriately or prematurely rejecting some alternatives, and setting it too broadly risks identifying an unwieldy set of alternatives. As the example provided in Section 5.3 of the Report of the BCA Subgroup demonstrates, a narrow scope may not support investment. We encourage the OEB to explore both the narrow and wide options (e.g., through a role-playing exercise) to better understand these – and likely other - implications.

We also encourage the OEB to periodically review any BCA Framework (e.g., for whether the scope continues to be relevant) and to consider other ways to organize the analysis (e.g., based on criticality or urgency of need, that provides flexibility to accommodate the emergence of additional benefits or improvements in quantification methods). We expect that a BCA framework will treat the costs of the enabling or foundational infrastructure differently from the costs of the customer facing infrastructure.

Clarifying the role of the LDC will assist in managing the identification and evaluation of the appropriate treatment of the benefits and costs that will accrue to the broader energy system. For example, if the role of the LDC is to act as the system operator that provides a suitably reliable and efficient grid that 'enhances' or 'complements' the system as a whole, then the LDC should identify the benefits and costs that accrue to its customers and to the energy customers situated beyond its service area.

Please refer to our response to question 1.

Developing and implementing utility incentives

Question
How might the OEB remove disincentives for utilities to adopt DER solutions?

Response
Disincentives take many forms, some are qualitative (e.g., lack of clarity, lack of data) and others are quantitative (e.g., arising from the application evaluation and/or decision-making tools). We propose that the OEB provide clear guidance on the development and applicability of any identified and authorized incentives (e.g., capitalization, margins and/or the other incentives identified and discussed in the "Report of the Utility Incentives Subgroup") and that it provide LDCs with suitable flexibility.

Under all circumstances, the OEB is required to fulfill its legislative objectives, including that of maintaining a financially viable sector. Customers need to know that their regulated LDC is a going concern capable of serving them on an ongoing basis (e.g., it has been appropriately protected from the financial consequences of stranded infrastructure) and that when their LDC deploys innovative infrastructure, it will be authorized to charge just and reasonable rates. It is vital that the OEB clarify the nature of the costs that will be eligible for recovery through regulated rates and charges (e.g., the costs of providing grid control), the period over which recovery will or may occur, and the available recovery mechanism(s) (e.g., Standby Charge, LRAM-like mechanisms, range rates).

There is a variety of steps that the OEB should prepare to take including:

- distinguishing disincentives from system issues that will manifest themselves as limitations or barriers to connecting DERs
- understanding and addressing the supporting services that connected DERs may seek (e.g., standby service, backup service) that will need to be fairly priced.

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

Response
As discussed in our comments the first step should be to identify and scope the role of the LDC. This will provide the appropriate context to identify and scope any disincentives, whether they are quantitative or qualitative (e.g., by clarifying the rate making treatment of the necessary foundational investments, by clarifying how the regulator will treat qualitative benefits/costs). The analysis and evaluation of disincentives should be balanced and objective. We encourage the OEB to monitor and detect the disincentives that result in the rejection of a device or technology for whether it is due or can be overcome.

We anticipate that the LDC will continue to be expected to adopt the most economic solution supported by quantified and qualitative data, that meets the customers' needs now and, in the future, be chosen. As the BCA Report discusses, it is essential that the economic analysis appropriately treat the investment in foundational infrastructure.

Question
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?

Response
The EDA proposes that the OEB clarify the objective that the LDC is expected to achieve and provide forward guidance on how it will review project economics. The analytical tool(s) that

LDCs are to use in their regulatory filings can then be scoped appropriately. If these tools identify that DERs are uneconomic, either systematically or persistently, the OEB can explore the appropriate revisions to either the tools or the objectives. The identified incentives all have advantages and disadvantages, and they accrue to the different parties in varying degrees and extent.

Ensuring distribution planning is informed by DER adoption

Question
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 (DSPs), new requirements for reporting and sharing information)?

Response
Distribution planning that includes due consideration of DERs deployed in the field will require prior or concurrent investment in foundational infrastructure. The OEB should provide regulatory policy, regulatory guidance and clear expectations that will appropriately support LDC decision making on all aspects of the provision of DER infrastructure (e.g., whether the LDC invests in foundational infrastructure in advance or simultaneously with the deployment of DERs in the field).

As the BCA subgroup's report correctly points out, the OEB's rate making treatment of these costs (e.g., whether the OEB will apply the user pays principle) is a key piece of information and will inform LDCs' decision making.

We suggest that the OEB review previously filed DSPs for how they dealt with the deployment of DERs. This review may also reveal how the OEB's DSP filing requirements could be clarified or enhanced to provide clear expectations of how LDCs' planning processes are to address and incorporate DERs.

It will be helpful for the OEB to provide policy and guidance on the treatment of the financial implications of stranded infrastructure. Planners will need to understand this policy so that they can correctly identify the existing infrastructure that should continue to serve, be modified or be abandoned and replaced (e.g., when managing short circuit capacity or controlling voltages to the accepted limits, when planning for, and designing, the system to support two-way power flow).

An OEB initiative to clarify the role of the LDC is a necessary first step that will provide LDCs and stakeholders with appropriate forward guidance. An initiative that clarifies the LDC's ability to rely on rate design as an alternative to physical DERs should also be considered.