Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

September 26, 2022

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

Re: Ontario Energy Board (OEB) Staff Responding Submission
Generic Hearing on UTR Issues
Export Transmission Service Rate
OEB File Number: EB-2021-0243

Please find attached OEB staff's responding submission in the above referenced proceeding, pursuant to Procedural Order No. 3.

Yours truly,

Michael Price Digitally signed by Michael Price Date: 2022.09.26 16:43:29 -04'00'

Michael Price
Senior Advisor, Generation & Transmission

Encl.

cc: All parties in EB-2021-0243

ONTARIO ENERGY BOARD

OEB Staff Responding Submission

Generic Hearing on UTR Issues

Export Transmission Service Rate

EB-2021-0243

September 26, 2022

1. Background

The Ontario Energy Board (OEB) commenced a generic hearing on its own motion under sections 19, 21 and 78 of the *Ontario Energy Board Act, 1998* (OEB Act) to consider various issues related to Ontario's Uniform Transmission Rates (UTR). The first phase of the hearing has focused on reviewing and setting the Export Transmission Service (ETS) rate.

Intervenors and OEB staff filed submissions on the first phase of the hearing on or about September 6, 2022, in accordance with Procedural Order No. 3. Procedural Order No. 3 provided that any additional submissions from OEB staff and intervenors, in response to the submissions of other parties, shall be filed by September 26, 2022.

The following is OEB staff's submission in response to those of the parties to this proceeding. OEB staff repeats and relies upon its September 6, 2022 submission. This responding submission addresses a small number of matters raised by parties that require further comment by OEB staff.

2. OEB Staff Responding Submission

a. OEB staff maintains its recommendation for a cost-based ETS rate, phased-in to mitigate impacts and recognize uncertainties

OEB staff reaffirms its recommendation to adopt a cost-based ETS rate, using the methodology outlined by Elenchus Research Associates Inc. (Elenchus) in this proceeding and accounting for the curtailable level of service that the export class receives (Curtailment Model).

A cost-based approach to setting the ETS rate is fair: it aligns with "user pay" and "no free rider" principles and assigns costs to users of Ontario's transmission system in proportion to their use of it. The Elenchus Curtailment Model scenario is an appropriate starting point for setting the ETS rate because, in addition to being cost-based, it reasonably acknowledges the difference in the level of service that the export class receives compared to the domestic class.

Some intervenors that support a cost-based approach that is consistent with the Curtailment Model scenario have recommended that the OEB should set the ETS rate somewhere between the current $1.85/MWh rate and the Curtailment Model scenario rate of between $5.42 and $5.48/MWh.[1] This would correspond to an ETS rate between $3.00/MWh[2] and $3.64/MWh followed by annual adjustments and future reviews.[3] OEB staff has also recommended an ETS rate that is consistent with the Curtailment Model

[1] EB-2021-0243, VECC written submission, September 6, 2022, p.47. VECC has proposed a refined rate of $5.48/MWh for the curtailment scenario rather than $5.42 as calculated by Elenchus,
[2] EB-2021-0243, VECC written submission, September 6, 2022, p.48 ($3.00/MWh); EB-2021-0243, CCC written submission, August 6, 2022 [sic], p. 1 ($3.00/MWh)
[3] EB-2021-0243, SEC written submisison, September 6, 2022, pp.18-19 ($3.64/MWh)

scenario and has proposed that the ETS rate should be increased to $3.66/MWh over time before subjecting it to further review. OEB staff does not take issue with the values ranging between $3.00/MWh and $3.64/MWh with annual adjustments and future reviews that have been proposed by some intervenors.

OEB staff also reaffirms its recommendation that electricity market and operability implications, uncertainties related to future market participant behavior change, market renewal implementation, technology change and rate impacts to the export class ought to be considered when setting, and implementing any increase to, the ETS rate.

OEB staff continues to recommend that a cost-based increase to the ETS rate be phased-in over a suitable period of time - in keeping with a precautionary approach - to mitigate rate impacts to the export class; to allow for continued assessment of electricity market and operability implications of an ETS rate increase; and to recognize the uncertainties noted in the preceding paragraph.

b. Periodic review of the ETS rate: timing and frequency

OEB staff continues to recommend a periodic review of the ETS rate. Some intervenors have recommended that the ETS rate should be reviewed at the same time as Hydro One's future cost of service applications.[4] OEB staff does not have strong or opposing views on this.

However, OEB staff suggests that undertaking the ETS rate review between Hydro One cost of service proceedings, instead of in parallel with them (or as part of them), might better levelize the workload involved for all parties and facilitate focus on the ETS rate issue. In this regard, OEB staff recommends an initial review of ETS rate performance in or about 2029. A review in 2029, for instance, would occur after Hydro One's 2023 through 2027 rate term, and during its subsequent rate term, assuming that the next rate term will be for the period 2028 through 2032.

Some intervenors have suggested that the ETS rate should be reviewed every five years or so.[5] In its submission, OEB staff proposed a review every ten years with interim reviews as deemed necessary by the OEB. OEB staff proposed a ten year review frequency as a matter of proportionality given the relatively small amount of revenue that is collected through the ETS rate compared to the total transmission network pool revenue requirement.[6] However, OEB staff is not opposed to a more frequent, five year

[4] EB-2021-0243: Hydro One, Submission, September 6, 2022, p. 7; SEC, Submission, September 6, 2022, pp. 20-21; IESO, Submission, September 6, 2022, p. 16; CME, Submission, September 6, 2022, p. 15; VECC, Submission, September 6, 2022, p. 49; Anwaatin, Submission, September 6, 2022, p. 4; CCC, Submission, September 6, 2022, p.1

[5] EB-2021-0243: LPMA, Submission, September 6, 2022, p. 6; Hydro One, *op. cit*., p. 7; SEC, *op. cit*., pp. 20-21; IESO, *op. cit*., p. 16; APPrO, Submission, September 6, 2022, p. 19; CME, *op. cit*., p. 13; Pollution Probe, Submission, September 6, 2022, p. 6; Anwaatin, *op. cit*., p.4

[6] Annual revenue collected through the ETS rate is approximately $37 million, while the 2022 network pool revenue requirement is approximately $1.3 billion

review, as has been proposed by others.

c. Information and analysis to support periodic review of the ETS rate

OEB staff continues to recommend that information be collected and analyzed by an independent party to support future reviews of the ETS rate.

In its submission, the IESO cautioned the OEB "against mandating further studies or ongoing monitoring by the IESO" and reminded that the IESO "does not engage in economic forecasting and 'actual market conditions will result from a multitude of factors'".[7]

OEB staff wishes to clarify that the purpose of its recommended monitoring and analysis program would be to help understand actual, rather than forecasted, impacts of changes to the ETS rate on operability, electricity markets and any other relevant considerations. While forecasts might be produced by parties to support future ETS rate reviews, the focus of OEB staff's recommendation for monitoring and analysis is on present and past ETS rate performance.

The implications of changes to the ETS rate on operability and markets have been key considerations in this proceeding. The importance of other factors and uncertainties, such as behaviour change and technology, has also been highlighted. A monitoring and analysis program would help the OEB and intervenors understand the actual interplay of the ETS rate with these and any other relevant considerations. As the School Energy Coalition (SEC) has observed, the "IESO did not undertake any quantitative analysis to show the expected financial or operational impact of a change in the ETS rate" in this proceeding.[8]

The general scope of what should be monitored and analyzed ought to be established well in advance of the next ETS rate review to ensure that the right information will be collected and available. The scope should be developed in collaboration between the party responsible for undertaking the monitoring and review, and interested parties, such as interested intervenors in this proceeding. The party responsible for undertaking the monitoring and analysis could be the IESO, a third party or parties commissioned by the IESO to undertake the work, or another independent party as appropriate.

Power Advisory identified significant data limitations which hindered its ability to provide analysis to the OEB in this proceeding. OEB staff notes that the IESO has agreed to "engage an independent third-party to conduct a jurisdictional review of the types of market and planning information and data that are made available in other comparable jurisdictions and how such information and data is made available."[9] OEB staff will look forward to the results of the jurisdictional review, which will be made public by the end of

[7] EB-2021-0243, IESO written submission, September 6, 2022, p.17
[8] EB-2021-0243, SEC written submission, September 6, 2022, p.12
[9] EB-2021-0243, IESO written submission, September 6, 2022, p.17

Q2 2023. OEB staff anticipates that the OEB will provide further guidance on the scope of what should be monitored and analyzed once the results of the jurisdictional review have been released.

d. Forbearance

The Association of Power Producers of Ontario (APPrO) has submitted that the OEB should forbear[10] from establishing an ETS rate because “electricity exporters’ use of the Ontario transmission system is subject to competition through the [Intertie Congestion Price] mechanism sufficient to protect the public interest”.[11] APPrO bases its submission on subsection 29(1) of the OEB Act, which provides that:

> On an application or in a proceeding, the Board shall make a determination to refrain, in whole or part, from exercising any power or performing any duty under this Act if it finds as a question of fact that a licensee, person, product, class of products, service or class of services is or will be subject to competition sufficient to protect the public interest.

OEB staff does not agree. In its September 6, 2022 submission, OEB staff explained at some length the functions and flows of the ETS rate and the Intertie Congestion Price (ICP). To summarize, the ETS rate is a charge paid by exporters for their use of the Ontario transmission system for exports and wheel-throughs. The ICP is administered by the IESO to allocate access to interties when there is more demand than capability through the use of a dynamic pricing mechanism that automatically adjusts to changing market conditions. The ICP reflects the real-time value of transmission access based on competition (exporters’ willingness to pay for access) and market conditions in Ontario and neighbouring jurisdictions. OEB staff concluded that part of its submission by stating that ETS rates and the ICP do different things, and that their revenues offset different types of costs paid by Ontario customers. Fixed ETS rates recover transmission costs from exporters while the variable ICP mechanism allocates access to interties. ETS rate revenue reduces Ontario’s transmission revenue requirement, while ICP revenue reduces wholesale market service charges. One is not a substitute for the other; it is therefore appropriate to continue to rely on both.[12]

APPrO’s position appears to be that because there are times when it is not possible to move all exports through an intertie to another market, and because at those times exporters have to compete (through their willingness to pay the ICP) to move their exports through the intertie, they should not have to contribute to the cost of the transmission system that enables them to move their exports to the intertie. This, in OEB staff’s view, would appear to support an argument that the OEB should refrain from regulating the ICP, as there is competition for the movement of exports through the

[10] Pursuant to section 29(1) of the OEB Act
[11] EB-2021-0243, APPrO written submission, September 6, 2022, p.17
[12] EB-2021-0243, OEB staff written submission, September 6, 2022, pp.3-5

interties and ICP values are set by the competitive ICP market (reflecting what exporters are willing to pay to get their product through the intertie to an external market), as opposed to supporting an argument that the OEB should refrain from regulating the ETS rate. However the OEB does not set ICP prices, nor does it allocate access to the interties. It does not exercise a power or perform a duty under the OEB Act in respect of the ICP, and there is therefore nothing from which the OEB is in a position to forbear under section 29.

In contrast, the ETS rate has a very different purpose: to recover a portion of the costs of Ontario's regulated transmission system from exporters, in proportion to their use of it. However, APPrO seeks to have the OEB set the transmission rate for exporters at zero, thereby allowing them to use the regulated transmission system at no cost, because exporters sometimes must compete with each other and pay a price to cross the interties. To be clear, the transmission system-related costs avoided by exporters would not disappear; they would become the responsibility of the rest of the users of Ontario's regulated transmission system.

APPrO places a great deal of weight on the OEB's findings in the Natural Gas Electricity Interface Review (NGEIR) decision. OEB staff notes the two-part test for forbearance discussed in that decision, and in the OEB's 2015 decision on an application by Union Gas Limited for approval of rates and charges for an interruptible natural gas liquefaction service in which the OEB determined that it would refrain from regulating that service, pursuant to section 29 of the OEB Act.[13] OEB staff submits, however, that while the OEB found that the test was met in the circumstances of the NGEIR case and the Union Gas case, the test is not met with respect to the regulation of export transmission service.

The issue of forbearance arose in the NGEIR proceeding in the context of natural gas storage services, and the OEB determined that the test was met in respect of a portion of the province's storage capacity. As a result, a fixed amount of storage remains regulated while the remaining capacity at the time of the NGEIR Decision and any new capacity is not rate regulated. Parties needing access to the non-regulated capacity will compete for it. OEB staff submits that this is similar to electricity exporters competing to move through the interties. It is important to note, though, that parties using the competitive storage capacity must still pay regulated rates to transport gas to and from the storage pools. They are not given free access to the regulated transportation system simply by virtue of their having succeeded in competing for storage capacity. The APPrO approach to ETS rates would allow exporters free access to the transmission system at all times.

As discussed above and in OEB staff's September 6, 2022 submission, the cost-based approach to setting the ETS rate proposed by OEB staff aligns with "user pay" and "no free rider" principles; it assigns costs to users of Ontario's transmission system in

[13] EB-2014-0012

proportion to their use of it. The Elenchus Curtailment Model scenario is consistent with this approach, and it reasonably acknowledges the difference in the level of service that the export class receives compared to the domestic class. OEB staff emphasizes, however, that while a difference in the level of service received by exporters may need to be addressed in establishing an appropriate rate, it is not a justification for relieving exporters of any responsibility for their appropriate share of the costs of Ontario's transmission system.

In summary, APPrO effectively recommends that the OEB should forbear from setting ETS rates which recover regulated transmission revenue requirements because of the existence of a competitive ICP market which the OEB does not regulate; which performs a different function than the ETS rate; and whose revenues flow to offset different costs[14]. OEB staff does not support APPrO's recommendation.

~All of which is respectfully submitted~

[14] The flows of ETS rate and ICP revenues are described on pages 3-5 of OEB staff's September 6, 2022 submission in this proceeding.