

May 4, 2023

Nancy Marconi, Registrar
Ontario Energy Board

VIA RESS AND EMAIL

Dear Ms Marconi:

Re: EB-2022-0302 – Regulatory Framework Workshop – GEC Submissions

Please find attached submissions on behalf of the Green Energy Coalition.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

Cc: rworkshops@oeb.ca

Ontario Energy Board

Regulatory Framework Workshop

Submissions of the Green Energy Coalition (GEC)

In these submissions the GEC responds to several of the Board's Framing and Goals and Discussion Questions provided as part of the April 19th, 2023 Workshop.

Long Term Planning:

What role should the OEB play in long term planning?

The provincial government has retreated from its earlier reliance on the IESO and its predecessors as the principal planners of the electricity system and retreated from OEB and EAB oversight thereof. The government has moved to a directive-based approach in which the Minister directs resource procurement policy. However, the government still relies upon guidance from the IESO in determining its plans, i.e. in a planning assistance role and for procurements. And the Board continues to regulate the implementation of many aspects of implementation. The Board also continues to regulate the gas system's capital program subject to more limited Ministerial directives.

In GEC's submission, the Board provides critical functions: It's reviews, rules and decisions can act to protect consumer and broader public interests, and more specifically, its adjudicative processes can provide a mechanism for intervenors, especially consumer and public interest groups, to obtain transparency, accountability and an avenue to effectively challenge the otherwise opaque plans of the major players. No less importantly, the Board makes evidence-based decisions.

At present the Board's processes attempt to serve those functions on the gas side and to a lesser extent on the electricity side, as it does not regulate the IESO's planning assistance and procurement activities.

In an era of energy transition, it becomes increasingly necessary to ensure that the gas and electricity planning processes are transparent, in conformity with one another, and are

evidence based. However, past efforts at Board oversight of electricity sector long term plans (the Demand Supply Plan Hearings and the Integrated Power System Plan review) demonstrated that mega-plan reviews are unwieldy, very time consuming, and risk being out of date before they complete. (Though it should be acknowledged that the DSP hearings did hold off Ontario Hydro's ill-conceived expansion agenda long-enough for reality to take hold, saving Ontarians tens of billions.)

The current, fast evolving reality of the energy sector, coupled with reliance by both levels of government, variously, upon directives, policies and legal targets, suggests that an effective role for the Board is to ensure that the studies, plans and actions of the regulated sector and the IESO respect those government-imposed constraints and technological and market realities. The Board does not generally set environmental targets, but must regulate and protect ratepayers in the context of an 'Energy Transition' which is being driven by technology change, market forces and GHG reduction mandates.

This suggests a need for the Board's role to expand to include adjudicative review of the IESO's efforts. We say adjudicative because that is the only effective mechanism for enabling transparency and to equip consumer and public interest groups with the ability to challenge otherwise opaque planning efforts. Reliance on energy sector insiders to plan, unchecked, increases the risk that siloed planning, institutional inertia or vested interest bias can impair coordinated, impartial, and objective planning, and imperil ratepayer and broader public well-being.

The Board's challenge is to enable such transparency without resorting to the mega-plan, mega-hearing approach that the government has ruled out and that has been problematic in the past. The advent of government-imposed constraints, in particular the Net Zero by 2050 federal target, alleviates the need for such a mega-review. The Board's task is narrowed to ensure that the evolving energy transition plans and efforts of the gas and electricity sectors conform to that and similar constraints.

This begs the question:

What is required to ensure coordination or oversight of planning is clear and predictable while also nimble and responsive?

The inclusion of Energy Transition as a topic in the current Enbridge Gas rates case provides an example of a scoped process that recognizes both the constraints of government GHG goals and the realities of the uncertainties in technology evolution and market response. Enbridge has filed illustrative scenarios and the hearing process is enabling intervenors to examine and challenge that vision. The Board will then be in a position to better assess current initiatives for compatibility with what it finds as the most probable future or futures. This will not result in a hard and fast regulated 'long-term plan'. Rather, it can act as a step in an ongoing course correction approach that seeks to provide timely protection of consumer and broader public interests by adjusting current utility actions and rate setting.

What is missing from this approach is similar oversight of the IESO efforts and a means to ensure coordination of gas and electricity planning. Accordingly, the Board's mandate and practices should be expanded to include:

- Periodic adjudicative review of the compatibility of the IESO's plans and procurement efforts with likely Federal and Provincial government policy and expected technology and market developments.
- Ongoing review of the adequacy of coordination and the compatibility of gas and electricity sector plans as part of its regulatory efforts of both sectors and the power to convene a multi-fuel multi-stakeholder forum to facilitate such efforts.

Leave to Construct (Facilities) Approvals

Would it be beneficial to include, for example, net zero considerations in OEB decision making authorities related to LTC?

GEC submits that the Board already has the jurisdiction to consider the energy transition and net zero goals in its LTC decisions. What needs to be revisited are the assumptions utilized and the alternatives required to be considered in the testing of such proposals. For example, on the gas side, time periods allowed for hook up and contribution forecasts that were set when EBO 188 was decided are woefully out of date given the likelihood of shortened tenure of loads on the gas system. This results in inappropriate deferral of electrification and a corresponding increased risk of stranded or underutilized assets on the gas side that will hurt the most economically susceptible customers in future periods. And in IRPAs, the lack of recognition of net zero considerations is likely to skew economic evaluations with similar effect. The Board should address these shortcomings but we do not see the need for legislative change.

Electricity Distribution Activities:

Should Section 71 be amended to allow expansion of distribution activities?

In keeping with a recognition that the energy sector is already experiencing rapid change and uncertainty and is expected to see that continue, and in keeping with a recognition of the imperative of GHG reduction, GEC supports the suggestion that "In the nearer term, s. 71 (or a related regulation) could be modified to clarify language around distribution or to provide exemptions on a generic basis, including providing exemptions on the OEB's own initiative."

In doing so, we would expect the Board to continue to be guided by the goal of allowing monopoly interests to address market barriers while avoiding unfair competition with the non-regulated energy service delivery sector, and the need to facilitate innovation of the non-regulated sector. A growing need is to ensure fair access to the grid by distributed producers (and storage providers), both large and small (DERs). DERs are increasingly valuable for a grid facing the challenge of accommodating fuel-switched heat sensitive load. Distributor activities and rules governing distribution must recognize the broader societal value of DERs.

Innovation

Is there a need for additional support for innovation in the energy sector?

Would legislative change be desirable to give the OEB more tools to support innovation for the benefit of consumers?

GEC submits that there is little call for regulatory support for innovation in the gas sector for technologies that support reliance on gas or gas system use (as opposed to those energy efficiency efforts which conflict with the core business). The profit-making utilities already have ample incentive to invest in such business enhancing efforts. Moreover, much of any future hydrogen or RNG utilization does not need to be part of the monopoly franchise. There is no apparent market barrier to innovation by industry in those areas. There may be need for changes to permit competitive provision of Hydrogen and RNG to industry so that such activity does not offend distributor licensing requirements.

In contrast, the electricity sector faces an urgent need but inadequate incentive to invest in distributed generation and storage or efficiency innovation or to facilitate of third-party efforts in those areas. Accordingly, the Board should have a large quiver to support innovation in the distributor's role in those areas especially in distributor rules and efforts that support non-utility service delivery (including EV charging and DERs). For example, DERs can provide voltage regulation and reduce transmission investments so the Board should be empowered to recognize and compensate a distributor for its efforts that provide such benefits to the entire system.

All of which is respectfully submitted this 4th day of May, 2023

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch
Counsel to GEC