Ontario Energy Board
2300 Yonge Street, 27th floor,
P.O. Box 2319, Toronto, ON, M4P 1E4

Submitted via e-mail to Registrar

May 1, 2024

RE: EB-2024-0092 - Feedback on the OEB Distribution System Expansion for Housing Developments Consultation

Dear Ms. Marconi,

On April 3, 2024, Ontario Energy Board ("OEB") staff hosted a stakeholder consultation on distribution system expansion for housing developments. The consultation purpose was to provide an overview of the current policy framework on cost recovery, with an emphasis on the connection horizon and the customer revenue horizon. Stakeholders were invited to provide written feedback on the issues discussed at the meeting.

Elexicon Energy Inc. ("Elexicon") appreciates the opportunity to provide additional comments. Elexicon's recent experience with distribution system expansion to housing developments, particularly to "greenfield" developments, has provided us with, perhaps, a unique insight into potential regulatory barriers facing developers. In order to further support OEB staff's understanding of the issue, and why changes to the connection and revenue horizon will not address the issue, we are submitting additional feedback below.

Thank you for your consideration of our comments; we look forward to further stakeholder engagement on this essential and timely work.

Sincerely,

Stephen Vetsis
Vice President, Regulatory Affairs & Stakeholder Relations
Elexicon Energy Inc

Elexicon Energy Inc. Comments
Distribution System Expansion for Housing Developments Consultation
Ontario Energy Board File Number: EB-2024-0092
May 1, 2024

Introduction

In a letter addressed to the Ontario Energy Board ("OEB") from the Minister of Energy dated November 29, 2023, the government outlined its commitment to build at least 1.5 million new homes by 2031. The government has tasked the OEB with ensuring "*that Ontario's electricity and gas transmission and distribution systems are built to support these goals in a timely manner, while protecting ratepayers*."

On March 13, 2024, the OEB announced the launch of a consultation to inform its policy review of the electricity distribution system expansion for housing developments, with a specific focus on the customer connection and revenue horizons. On April 3, 2024, OEB staff held a virtual stakeholder meeting to discuss existing rules for connection and revenue horizons, exploring various cost recovery models and associated considerations. OEB staff have requested further stakeholder comments be submitted by May 1, 2024 in order to meet its deadline to report back to the Minister of Energy by June 30, 2024.

Elexicon Energy Inc. ("Elexicon") is pleased to offer its comments on the review of the electricity distribution system expansion for housing developments. Elexicon is the fourth largest municipally owned electricity distributor in the province of Ontario. It distributes electricity to over 178,000 customers across a nearly 800 square kilometer service territory. This large service territory is non-contiguous and spans the communities of Ajax, Belleville, Brock, Clarington, Gravenhurst, Pickering, Port Hope, Port Perry, Uxbridge and Whitby. The majority of Elexicon's service territory is within the Region of Durham, the population of which grew 9.3 per cent between 2018 to 2023 reaching 750,000 and is forecast to grow to 1.3 million by 2051[1]. Additionally, in the city of Belleville, forecast housing development is expected to average 350 units annually between 2021 and 2051, substantially higher than the historical average of 200 housing units annually over the past 15 years[2].

The pace of development in the regions that Elexicon services has placed Elexicon at the forefront of the issues currently being experienced in development of housing within Ontario. Based on Elexicon's experience:

- The existing rules around system expansions work well in most circumstances and do not require wholesale changes.

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[1] Envision Durham
[2] Population, Housing, and Employment Growth Forecast Update - City of Belleville

- The main barrier to development arises in circumstances where expansions to distribution infrastructure are required to bring electricity to multi-phase/multi-developer “greenfield”[3] projects that may be kilometers from the nearest connection (a “primary expansion”).

- The current “beneficiary pays” model means the first-mover developer(s) in these multi-phase greenfield developments bear the costs to bring the infrastructure to the location, in addition to downstream costs for the subdivision itself despite the fact that the primary expansion will also benefit future developers.

- Changes to the connection and revenue horizons alone will not address the issue with primary expansions as the first-mover developer(s) would still have the burden to fully fund a significant capital contribution without guarantees of future recovery.

- To facilitate the building of 1.5M homes, it is prudent for the OEB to urgently revisit the funding model for primary expansions to the distribution system to service greenfield multi-phase housing developments. A different approach is needed to find a balance between facilitating the public policy need for additional housing with the need to ensure that connecting customers fairly contribute to the costs of connections without unduly burdening existing ratepayers.

Elexicon provides further details in the submissions, below.

Main Issue: First-Mover has Disproportionate Share of Costs

The current beneficiary pays model generally works well, particularly in circumstances where there is nearby useful infrastructure, e.g., linear expansions with a limited number of load customers.

However, development in several areas of Elexicon’s service territory is in greenfield areas, not adjacent to existing useful infrastructure and for which lengthy trunk lines, or primary expansions, are required to bring power to the edge of the development to provide service to initial and future housing developments. In Elexicon’s recent experience, these housing developments involve numerous developers (often more than 10), seeking to build hundreds or thousands of homes in an expansive geographic area identified in the draft plan of approval registered by the municipality, over an extended period of time.

In these cases, the strict application of the beneficiary pays model as it relates to the primary expansion serves as a major roadblock to greenfield developments. Distributors such as Elexicon find themselves at the intersection of the government’s initiative to build new homes and existing

[3] Areas in which there is no existing infrastructure.

regulatory policy that prevents such developments from obtaining electricity service in a timely and cost-efficient manner.

The request for the primary expansions to bring infrastructure to the location of the greenfield development is generally made by first-mover developer(s). Design for the primary expansion needs to take into account the longer-term needs of planned development in the new community which results in the first-mover bearing a disproportionate share of the cost with no guarantee of recovery from others. In this case, there is no doubt that the beneficiary pays model imposes an extraordinary financial burden on first-mover developers even though they may only account for a percentage of the overall need.

The Evolution of 'beneficiary pays' in Ontario

Prior to December 2018, the Distribution System Code ("DSC") provided discretion to electricity distributors regarding cost responsibility for expansions. However, in amendments first set out in a Notice of Proposal to Amend a Code dated September 31, 2017, and revised amendments set out in a Notice of Revised Proposal to Amend a Code dated August 23, 2018, the OEB proposed to remove this discretion.

In December 2018, the DSC was formally amended to remove the discretion that electricity distributors previously had with respect to cost responsibility in relation to expansions to the main distribution system (the "Amendment"). Specifically, the Amendment changed "may" to "shall" in certain provisions of the DSC. The Amendment simply removed distributors' discretion not to charge specific customers or customer groups capital contributions for expansions.

In the Notice of Amendments to Codes published December 18, 2018, the OEB identified three purposes underlying the Amendment: first, to better align with the Transmission System Code, second, to apply the beneficiary pays principle such that the customers who cause the need for a distribution investment are responsible for the costs of that investment, and third, to achieve more consistent treatment of all load customers so that consumers' cost responsibility does not depend on the distributor that serves them.

The need for housing in Ontario has become prevalent, and this need is only expected to grow. Families and individuals living in new communities provide a guaranteed source of revenue over the long term. These are distinctly divergent circumstances to those arising from true expansions of the distribution system serving a single commercial or industrial customer. Such load customers are susceptible to volatile market forces and under certain adverse circumstances the customer's ability to pay a deferred cost may vanish. The beneficiary pays model and the economic evaluation methodology used to calculate the upfront capital contribution works well in this scenario.

As noted, the current model does not work in a service territory such as Elexicon's where development is in greenfield areas not adjacent to existing useable infrastructure and for which lengthy primary expansions are required to bring power to the edge of the growing community to provide service to current and future housing imposing an extraordinary financial burden on first-mover developers. The shift in the DSC from "may" to "shall" has had the unintended consequence of removing a distributor's ability to pre-build some infrastructure in anticipation of large development. Where historically a distributor may have started incrementally building infrastructure to be ready for developments identified in a municipal plan, it no longer has the ability to do so.

Finding the right balance - aligning energy regulatory policy with provincial policy

The Electrification and Energy Transition Panel's (the "Panel") report entitled *Ontario's Clean Energy Opportunity* (the "Report") acknowledges the central role of electricity distribution in Ontario's social and economic development. Regarding Ontario's beneficiary pay model:

> The Panel believes that ratepayers cannot and should not be expected to be the sole funders of the energy transition in Ontario [...] *The transformation will require investments that do not solely, or even primarily, benefit ratepayers*, and the scale of investments required will often dwarf the capacity of the rate base to support it. This is particularly true in cases where energy sector investments are made to support economic development and decarbonization. [emphasis added] The parallels between Ontario's energy sector evolution and public policy to expand housing must be urgently reconciled. The Panel underscores the need to consider different funding models to achieve the energy transition. In doing so, it reenforces the need to consider different funding models for housing developments.

Such an exercise has long been an important part of the OEB's own policy evolution. For example, sections 3.2.5A, 3.2.5B and 3.2.5C of the DSC are the product of specific measures taken to accommodate expansions connecting renewable energy generation facilities. These changes were made specifically to incorporate public policy objectives into Ontario's electricity system, following a review of the roadblocks that previously impeded progress.

As a result of Elexicon's recent experience with several proponents of new housing developments[4], and the delays associated with costs related to primary expansions, Elexicon believes it is prudent for the OEB to urgently revisit the funding model for primary expansions to the distribution system to service greenfield multi-phase housing developments. Elexicon and the communities we serve have seen firsthand the necessity for such a change to support the building of 1.5M new homes by 2031.

Possible Alternate Cost Recovery Approaches

To address the particular issue of the disproportionate share of costs to the first-mover developer initiating a primary expansion to a greenfield development, a different approach to cost recovery is

[4] See evidence in Elexicon's ICM application EB-2022-0024

required. As noted later in this submission, changes to the customer connection and revenue horizons will not resolve this inequity.

Elexicon has identified two possible approaches to funding greenfield subdivision primary expansions for the OEB's consideration. The approaches are at opposite ends of a spectrum of options and are meant to provide a conceptual starting point for discussions in balancing public policy need, broader load growth, system benefits and customer cost responsibility. Additional consultation on development of a solution would be required to align on the right balance between enabling housing and ensuring cost causality.

<u>Treat primary expansions for greenfield subdivisions as enhancements</u>

The DSC differentiates between an enhancement and an expansion of a distribution system. While the former is paid for by a distributor's rate base, the latter must be funded by the customers. The DSC defines expansion as "increasing the length of the main distribution system". In the context of multiphase residential developments, there is often the need for a primary extension of the distribution system to bring electricity service to the development location which falls under the definition of an expansion. As discussed elsewhere in this submission, the significant costs associated with the primary expansion presents a very real roadblock for first-mover developers.

In the context of multi-phase residential development, a case can be made that these primary expansion investments are made to meet the broader load growth of the community and thus should be categorized as an enhancement. Redefining enhancement in the DSC to include greenfield subdivision expansions would remove a barrier to housing development. Such an amendment would better recognize the difference between residential homes and businesses from revenue risk perspective, as well as better facilitate policy objectives regarding the timely construction of homes. No changes would be required to connection or revenue horizons, all subsequent subdivision expansion work would follow the exiting cost allocation methods (e.g. 5-year connection horizon, 25-year revenue horizon).

Distributors would include planned primary expansions as part of their cost-of-service ("COS") application and should further be allowed to access additional capital funding for un-forecasted primary expansions through an incremental capital model ("ICM") application. As Custom IR applicants are not eligible for ICM funding, a variance account for such customer-driven work would be required to ensure funding is available for the primary expansions.

Having established the policy direction that a primary expansion is an enhancement and can be funded by the broader rate-base, the focus in either COS, Custom IR or ICM applications would be to confirm the project expansion meets the characteristics of a primary expansion and that the costs are prudent. Further work would be needed to appropriately define a trunk line/primary expansion in order to ensure than undue burden is not placed on ratepayers to fund such primary expansions in circumstances that are not aligned with the spirit of the desired policy outcomes.

Hourly Allocation Factor (HAF)-Type Expansion

Enbridge Gas Inc. (Enbridge) has an OEB-approved method of allocating costs of a gas distribution pipeline project to multiple customers forecasted to require additional capacity (firm service) within an identified "area of benefit". The HAF methodology is applied for a specific geographic area where the costs of capital contributions were unduly onerous and delaying development.

At a high level, based on a certain set of established eligibility criteria, distributors would construct the primary expansion to the development location and, as they connect, developers would be charged for only their share of the capacity utilized from the primary expansion. This approach would remain consistent with the beneficiary pays principle and would eliminate the need for costly capital contributions which has created the first-mover disadvantage that is currently delaying some of Ontario's new housing developments. Extending the connection horizon to 10 years would allow time for load associated with the multi-phase developments to materialize.

Costs related to construction of these primary expansions can be significant and distributors would require a funding mechanism to assist with the carrying costs of these system investments between rebasing applications. Elexicon also notes that a HAF-type approach would result in significantly greater administrative burden on distributors. Particularly, in comparison to treating primary expansions as enhancements.

Characteristics of a Primary Expansion

In either alternative cost-recovery approach, defining a "primary expansion" will be key to ensure it is truly those unique circumstances that are treated as such in order to limit the impact of any shifts in cost responsibility.

Based on initial thinking, Elexicon's submits that the following characteristics could be considered:

- The development must be included in an approved municipal plan. This would ensure that there is a link to supporting the policy objectives of the local municipalities who are responsible for planning for the growth of their communities
- That there be no nearby, useful infrastructure at the proposed development location
- That the development is multi-phase and/or involves multiple developers
- The primary expansion would only include bringing infrastructure to the edge of the planned of the greenfield development so that there is infrastructure that "lies along"
- That the primary expansion be a substantive line that will benefit more than the initial first-mover developer. For example, the line would be of higher voltage, enable sufficient capacity to all known phases of the development, and ensure reliability (e.g. multi-circuit design).

Elexicon acknowledges that further work would be required to properly define a primary expansion. Elexicon is available to work with the OEB and stakeholders to determine how to define the criteria which, if met, would qualify the buildout of electricity distribution infrastructure to service greenfield subdivision expansions as an enhancement, as a HAF-type expansion or other approach along the spectrum balancing cost responsibility with cost effectiveness.

Customer Connection and Revenue Horizons

In its presentation at the April 3rd meeting, OEB staff proposed possible changes to both the customer connection horizon and the customer revenue horizon.

<u>Connection Horizon</u>

The potential change for discussion in the OEB presentation was to extend the connection horizon for the subdivision development to cover all phases or up to a maximum of (for example) 15 years, whichever comes first. OEB staff's approach considered that subsequent subdivision phase developers would be required to contribute to the initial system expansion over the horizon period and the initial developer(s) to benefit from rebates. OEB staff further supposes that, while the initial developer(s) would still cover the capital contribution for the initial system expansion, there was the potential for increased revenues to be included in the economic evaluation potentially reducing the capital contribution required.

Elexicon notes first that, an extended connection horizon creates inefficiencies and places incremental administrative burdens on a distributor, particularly with multi-phase and multi-developer projects, forcing the re-calculation of the value of various expansions over time and a subsequent attempt to ascribe the costs (and rebates) to multiple developers. The risk of future disputes is high if future developers chose to dispute the methodology or amounts allocated by the distributor for connections occurring following the completion of the initial expansion. Elexicon submits that, should the OEB consider any extension to the maximum connection horizon, that it not exceed a period of 10 years and remove the requirement to provide an explanation to the OEB.

Further, changes to the connection horizon are not likely to resolve the main issue of the magnitude of the initial outlay of costs for the primary expansion by the developer to bring infrastructure to the edge of the development. While the first-mover bears the disproportionate cost of primary expansion, there is no guarantee that there will be additional connections during the connection horizon from which they can recoup any of the primary expansion costs.

<u>Customer Revenue Horizon</u>

The OEB's presentation proposed a potential change for the maximum revenue horizon from 25 to 40 years for residential customer connections. Elexicon agrees the change may more accurately reflect the revenue stream associated with such projects.

As with the connection horizon, however, a change to the customer revenue horizon will not resolve the main issue of the first-mover developers bearing a disproportionate share of the costs for the primary expansion.

Conclusion

Urgent action is needed to address the funding of primary expansions to remove barriers to planned multi-phase greenfield developments currently at an impasse.

In order to facilitate the building of 1.5M homes, it is prudent for the OEB to urgently revisit the funding model for primary expansions to the distribution system to service greenfield multi-phase housing developments. A different approach is needed to find a balance between facilitating the public policy need for additional housing with the need to ensure that connecting customers fairly contribute to the costs of connections without unduly burdening existing ratepayers. Distributors need to regain the flexibility to pre-build infrastructure in anticipation of growth in greenfield areas, where warranted.

In Elexicon's experience, the primary barrier to new construction is the disproportionate burden that is placed on first-mover developers to fund primary extensions of the distribution system to greenfield areas away from existing infrastructure that are planned for development by municipalities. Adjustments to the customer connection and revenue horizons alone will not fully address this issue.

Elexicon notes that any change in treatment of primary expansions would also need supporting changes to enable funding of these investments including, between rebasing applications. As shown in Elexicon's recent ICM application before the OEB, primary expansions can be a significant investment that cannot be enabled solely by deferring other capital projects. Similarly, changes to either the connection or revenue horizons will also likely impact distributors' capital budgets and the amount of funding necessary through rates.

In summary, the above issues require the OEB to determine a new funding model for greenfield subdivision expansions, and in particular to determine how to enable and fund distributors to pre-build infrastructure in anticipation of long-term growth. In Elexicon's experience, adjustments to the customer connection and revenue horizons alone will not fully address the issue.

Elexicon appreciates the complexity of the issue before the OEB in trying to solve how to pay for the servicing of multi-phase housing developments. Elexicon wishes to provide its support, in any manner or format that the OEB finds helpful, to help solve this issue in a way that ensures affordability and reliability for the municipality, the rate base and future homeowners, while helping to meet the province's goals to quickly expand housing.