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January 8, 2025

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

Attention: Registrar

Dear Madam/Sir:

Re: Board File No. EB-2024-0129 - Low-Income Energy Network ("LIEN")
LIEN Comments re Advancing Performance-Based Rate Regulation

Please find enclosed Low-Income Energy Network ("LIEN")'s comments on Advancing Performance-Based Rate Regulation.

Yours truly,

Matt F. Gardner

Matt Gardner
Partner
Certified as a Specialist in Environmental by the Law Society of Ontario

cc: LIEN Legal Subcommittee
Judy Simon

Encl.

1379-0624-4876, v. 1

Advancing Performance-Based Rate Regulation

EB-2024-0129

LIEN Comments

Per Ontario Energy Board (OEB) Staff's request to stakeholders at the stakeholder meeting of November 19, 2024, LIEN will focus its comments on key aspects regarding the two questions posed in the OEB presentation dated November 19, 2024, titled "Advancing Performance based Rate Regulation" (pp. 39-41). The first question relates to performance incentive mechanisms (PIMs) and the second question relates to fundamental change. Each question is addressed below.

Question 1 - PIMs

1. **a. What do you see as the advantages and disadvantages (or opportunities and risks) of incorporating PIMs?**

   PIMs provide incentives for the distribution utility to produce certain outputs. PIMs do so by adjusting utility remuneration so that the utility outputs align with certain policy objectives such as performance targets related to customer service, affordability, or environmental goals. The OEB has put in place a scorecard system comprised of metrics that distributors must meet and report on annually, based on data for at least 5 years. These scorecards are not considered PIMs as the metrics do not have associated financial incentives.

   PIMs would enhance the existing distributor scorecard by adding metrics with financial incentives either as part of the existing scorecard or in another scorecard (e.g. PIM scorecard; existing scorecard could be renamed, for example to operations scorecard).

   The addition of PIMs would reward utilities for meeting certain policy objectives that the utilities would otherwise not meet, given competing objectives for their capital and operating budgets. Examples of these policy objectives include climate change mitigation plans and implementation, electrification readiness, beneficial electrification, resilience, low-income customer service enhancement. As a result, the PIMs, if designed properly, would better align utility corporate decisions and actions with government policy objectives. This would attract corporate interest for the PIMs and buy-in by corporate leadership to invest money, time and resources into meeting these objectives.

PIMs for DSM performance have been in place for natural gas utilities in Ontario since the 1990s and have proven effective in motivating and achieving high DSM performance over the years. In previous IESO frameworks, where electricity distributors had a leading role in CDM (now DSM), there was a contract between the IESO and each utility that provided a performance incentive related to achieving the distributor's assigned energy saving target and meeting the saving target with less than the budgeted dollars for program delivery. The OEB has also allowed an LRAM to recover lost distributor revenues from CDM/DSM.

While there is experience in Ontario with PIMs related to energy efficiency, PIMs have not been used for broader policy objectives. This lack of experience increases the risk that initial PIMs may generate too low or too high a reward for performance. More research, consultation and piloting the more uncertain PIMs may mitigate this risk.

One level of financial reward may not be suitable for all distributors. Further research and consultation is needed to determine if a tiered system of reward based on certain factors (e.g. utility customer base, utility grid structure, geography, climate) may be appropriate.

There is a benefit to broaden the scope of the existing scorecard by adding baseline metrics that should be met by all distributors (e.g. climate change mitigation plans and implementation, enhanced service for low-income customers such as referrals for those on the Ontario Electricity Support Program, utility arrears management, and/or LEAP to appropriate DSM programming and vice versa). In addition to this baseline, there would be financial reward for metrics that achieve a higher than baseline performance.

b. What are the most important considerations to keep in mind when developing PIMs?

In order to be effective, PIMs must be: 1) appropriately sized, 2) symmetrical/asymmetrical in design (i.e. reward and/or penalty) matched to the metric, as appropriate, and 3) easy to measure in an agreed upon protocol for transparent calculation and reporting. PIMs may need to be tailored to specific types of distributors; some PIMs may follow a one-size-fits-all approach and others may require different levels of incentive based on certain and differing factors.

c. What outcomes do consumers value?

Consumers value quality customer service. Consumers also value affordable electricity rates, environmental protection, climate mitigation, and reliability and resiliency in their electricity supply, opportunities and support to better manage their own supply through solar PV, storage, vehicle-to-grid opportunities and other two-way electricity options. Low-income consumers, in particular, value availability of emergency financial support, ongoing rate support, arrears management and tools to better manage energy consumption such as being able to take advantage of all available low-income DSM programming and support.

d. To which outcomes or performance measures do you believe PIMs should be tied?

The existing scorecard should expand to include policy objectives that all distributors need to meet at a baseline level ('operations scorecard'). These policy objectives should include climate change mitigation plans and implementation, customer service, electrification readiness plans and implementation, environmental protection, and beneficial electrification assistance through decarbonization.

For example, the state of California uses a system that employs mandates rather than performance incentives. Having a baseline in Ontario that applies to all utilities would be somewhat analogous to the California mandates. The PIMs scorecard would provide financial incentives to enhance the base level of performance and may also include other metrics not covered by the 'operations scorecard'.

e. What PIM structure/design is likely to be most effective and most suited to Ontario considering the existing rate-regulation framework?

More research is currently needed to determine what PIM structure is the most effective in Ontario. The OEB may wish to consider another Innovation Sandbox Challenge to solicit pilots to test different structures and levels of PIMs. An appropriate starting point in parallel to the suggestion regarding the use of a Sandbox Challenge, may be a design that applies key features from the Enbridge Gas DSM scorecard such as having a scorecard with a set of measurable metrics which rewards performance at below and above the target within a specified range.

It is worthwhile for the OEB to explore in more detail, remuneration options that enable a 'made in Ontario totex'[1] approach, that allows utilities to rate base certain operating expenditures as well as capital expenditures, similar to existing approaches in Great Britain and Italy. Being permitted to rate base certain operating expenditures may be particularly important for non-wire solutions to be rewarded in a similar manner to 'wires and poles' solutions. However, given the additional barriers associated with non-wire solutions (e.g. knowledge/awareness barriers, inertia, lack of experience), a higher basis point reward may be necessary for non-wire solutions or package of non-wire and wire solutions to address particular grid constraints or opportunities.

The totex approach and PIMs are not mutually exclusive. Both may be appropriate in the Ontario context to achieve certain policy objectives. Further research, consultation and testing is needed to explore these options more fully.

f. Should PIMs be applied uniformly to all utilities, or should they be utility specific?

There is advantage expanding the existing scorecard to include policy objectives to be achieved at a baseline level. PIMs which reward higher performance would be added. It may be appropriate to have different levels of reward that match distributor network, size, customer base, geography and other factors, and there may be metrics where a one-size-fits-all approach may be appropriate. Jurisdictions such as New York State allow distributors to recommend PIMs for approval from the regulator. The New York Public Service Commission "requires each utility to propose performance incentives in system efficiency, energy efficiency, and interconnections, and also welcomes proposals related to the decarbonization of end use and customer engagement" [2] (e.g. improve load factor, achievement of energy efficiency savings beyond lighting and behavioural).

g. What timeline would be appropriate for PIM implementation, and should there be a phased approach?

A phased approach is appropriate in order to allow for designing and testing of PIMs before wider rollout. Within 18 months, it may be possible for the OEB to establish through consultation, a set of broader based 'operations scorecard' metrics to add to the existing scorecard as a pilot as well as establishing a pilot process within a new Innovation Sandbox Challenge to test out various PIM designs and PIMs. Subsequent phases would be based on lessons learned, including wider PIM rollout.

[1] In the UK under its Revenue using Incentives to deliver Innovation and Outputs regulatory framework (RIIO), 'totex' refers to a return on total expenditures, which contains both capital and operating expenditures. From Christensen Associates, Jurisdictional Review of Utility Remuneration Models, September 2024. P. 53.
[2] Christensen Associates, Jurisdictional Review of Utility Remuneration Models, September 2024. P.29.

h. How should baseline performance levels be established, and how frequently should targets be reviewed?

Baseline performance levels should be based on further research, consultation with stakeholders and piloting with various types of LDCs. The OEB should review metrics, targets and progress toward their achievement annually, especially in the early years of implementation, and adjustments made based on lessons learned.

i. How should PIMs account for factors outside utility control (e.g. weather events)?

A PIM scorecard that has a set of measurable metrics and rewards performance below and above the target within a specified range would mitigate factors outside utility control by providing incentives above and below target. Having a PIM related to climate change mitigation and implementation would also help to address distribution system factors such as fires, flooding, and high winds.

Question 2 - Fundamental Change

2. **a. Is fundamental change required? Why or why not?**

Fundamental change is required to effectively address energy transition in Ontario. This includes meeting policy goals related to climate change in a timely manner, ensuring a reliable, resilient and affordable grid, and protecting all customers from undue rate impacts, especially customers least able to manage their transition in particular low-income energy customers.

Part of ensuring an effective transition is to foster the successful investigation, evaluation and implementation of least-cost solutions. Least-cost solutions comprised of non-wire solutions either alone or together in packages of wire and non-wire solutions must be placed on a level playing field with wires solutions from both analysis and remuneration perspectives. The analysis should take into account inherent bias toward capital expenditures and away from non-wire solutions with less market experience and therefore more perceived/actual risk. To level this playing field may require higher rewards for non-wire solutions components.

b. What are the advantages and disadvantages of pursuing this approach?

If carried out successfully, the grid transition should result in lower electricity rates, more customer choice and support, a more reliable, resilient and renewable energy sourced grid based on least cost mix of NWS and wires and poles assets, and new roles for distributors in DERs and grid management (e.g. DSOs).

A ‘made in Ontario’ solution is needed. This will take time to research, consult on and test. The process and design should continue to take advantage of the experience and learnings in other jurisdictions. There are likely to be mistakes along the way, and therefore it will be important to choose solutions that are flexible, can monitor and track performance, and can make course adjustment as needed.

c. How would this fundamental long-term change impact stakeholders in the sector, both throughout its development and upon implementation?

If the process and design are successful (i.e., responsive to changing conditions and learnings and demonstration of effective progress toward achieving policy objectives throughout implementation), then the long-term change will have a positive impact on stakeholders in the sector.

In order to achieve success, there must be meaningful and timely stakeholder involvement such that a buy-in to the process and design is achieved at each phase of design and implementation. This will help identify early in the process, both positive and negative impacts which may be occurring or are likely to occur and take effective action to course-enhance or course-correct, as appropriate.

d. What transition measures could be put in place to provide stability during a period of change?

There should be further research and consultation on an ongoing basis to identify and implement transition measures as we undergo the transition process. If rates are expected to rise in the short term, then mitigating measures to pace, prioritize and optimize implementation should be taken. For low-income customers, this could include higher rate subsidization and deeper energy saving DSM programs with considerably more funds available per participant for transitioning off carbon-based fuels.

e. Are there quick wins that the OEB can advance in the short term?

Here are some suggested quick wins:

- Implement a similar rate support program for low-income customers of natural gas distributors similar to the Ontario Electricity Support Program. This will help to protect low-income customers who are likely to be one of the last customer groups to transition and likely will bear more of the brunt of any natural gas stranded assets as we move through the transition. Being so experienced with the OESP, the OEB should implement a natural gas rate support program within 18 months.

- Set up an Innovation Sandbox Challenge to enable distributors to test out pilots for different models of remuneration for non-wire solutions and packages of non-

wire solutions and wire solutions to address grid constraints and/or to facilitate grid transition.

- Conduct more detailed research on the UK, Italian and other jurisdictions' experience with rate basing expenses as well as other models of rate regulation so that there is a broader basis of knowledge and debate in Ontario on alternative models. The OEB could build on the work already done in this proceeding and continue with more in-depth research and analysis.