By EMAIL and RESS

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Our File: 20250156

Ontario Energy Board
2300 Yonge Street
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Attn: Ritchie Murray, Acting Registrar

Dear Mr. Murray:

Re: EB-2025-0156 – Local eDSM Programs – SEC Submissions

We are counsel for the School Energy Coalition ("SEC"). Pursuant to the OEB's letter of July 23, 2025, this letter constitutes SEC's submissions on the IESO-LDC Proposal for regulation of local eDSM Stream 2programs (the "Proposal").

Please accept our apology for the late filing, which was the result of an administrative error on the part of the undersigned.

Section 1 of these Submissions represents SEC's overall input into the OEB's consideration of the Proposal. Section 2 of these Submissions responds specifically to the OEB's three questions as set forth in the July 23, 2025 letter.

SEC supports the development of eDSM programs by local distributors, and applauds the initiative of both IESO and the LDCs in working out a proposal for facilitating that result. While these submissions are quite critical of some aspects of the Proposal, that should not be interpreted as resisting either the implementation of eDSM programs, or the efforts of LDCs and IESO to make that happen.

General Submissions

At its essence, the Proposal is for a mechanism through which LDCs can seek rate funding from the OEB and global adjustment funding from the IESO for eDSM programs that will

- Produce local distribution system benefits in the form of avoiding a system constraint;

- Be pre-approved by IESO for program assumptions and bulk system benefits, in part because they will be restricted to offerings already included in the IESO Measures and Assumptions List ("MAL");

- Receive Global Adjustment funding as determined by IESO under a contribution agreement with the LDC;

- Be cost-effective (except for low income and indigenous programs) using the OEB's BCA Framework as the methodology;

- Be allocated to rate classes based on the cost allocation used for the GA, with the distribution component recovered through rate riders calculated on that basis; and

- In most cases, be reviewed by the OEB under Delegated Authority, and without ratepayer or other stakeholder input.

The effect would be to facilitate benefit stacking for non-wires solutions that provide both bulk and distribution system benefits, and to allocate the cost to deliver eDSM programs based on the respective amounts of those benefits, i.e. bulk to GA, and Dx to LDC ratepayers through a rate rider. The Proposal adopts the principle "Beneficiary Pays".

Unfortunately, the Proposal's apparent goal of minimizing the regulatory input into these programs means that it takes a number of what may be unnecessary shortcuts. Those shortcuts – really, limitations - would restrict the ability of LDCs to develop and deliver effective eDSM programs, and limit the benefits that will be generated for both the system and the customers.

On the other hand, if the OEB's normal and accepted approach to regulatory review of rate applications is applied, SEC believes the result would be more innovative programs, more robust cost-effectiveness calculations, and fairer cost allocation.

To that end, SEC proposes the following changes to the Proposal as the OEB converts it into a policy for considering eDSM Stream 2 rate applications.

Regulatory Scrutiny and Delegated Authority. The proposal to consider applications for eDSM rate funding using primarily Delegated Authority is ill-conceived. Delegated Authority is specifically designed for applications to the OEB where the role of the regulator is primarily administrative rather than adjudicative. While the end result is technically an adjudicated result, the process for getting there involves applying a specific set of mechanistic criteria to a pre-determined set of factual inputs.

The use of Delegated Authority for eDSM applications will eventually, SEC believes, be a viable end-point in many cases. However, at the outset, when the OEB has no experience with this category of applications, it would be unwise to have the first round of those applications treated as administrative rather than adjudicative.

There are two reasons for this.

First, this consultation has already demonstrated a number of areas in which the adjudicative body – the OEB – will have to use judgment and discretion in considering the details of these applications, and will benefit from intervenor involvement. A sample of those areas of uncertainty includes:

- LDC judgments[1] as to incentive levels for participants, marketing approach, and other program components, as well as underlying assumptions specific to the LDC, such as load growth.
- Any proposed innovations in the programs.
- The use of LDC affiliates to deliver eDSM programs[2].
- Assessment of the value of distribution system benefits[3], and the application of the OEB's BCA Framework in this context.
- Interactions between OEB-approved gas and electricity impacts and programs[4], including proper allocation of costs between gas and electricity ratepayers.
- IESO approvals of programs and assessment of benefits, including any local adjustments to the Measures and Assumptions List and including the terms and conditions in the IESO contribution agreement.
- Overall cost-effectiveness calculations and forecasts and the valuation of any non-monetary benefits that are not pre-stipulated in the BCA Framework[5].
- Split of the benefits between the bulk system and the distribution system.
- Proposed shareholder incentives, both structure and quantum.
- Allocation of costs between rate classes to reflect the benefits and comply with "Beneficiary Pays" principle[6].

This is a partial list. As the first applications come in, more issues will arise that the LDC proposal has not considered.

[1] See J1.6 for a partial list.
[2] Tr1:181
[3] Tr2:33-4.
[4] Tr1:183-4.
[5] Including programs that are not cost-effective, such as those for First Nations or Low Income Customers: See J1.8.
[6] The working group has amended the Proposal to add an option for an LDC to propose a cost allocation that is different from the default GA allocation: J1.5. There is no proposal to allow the affected customers to consider the appropriate cost allocation. Default GA allocation is not appropriate in most cases.

Eventually, as the OEB gains experience with these applications, most of these questions will have a known answer, and will become largely mechanistic. It will be possible to identify those applications that have become mechanistic, and those that still have live issues to be adjudicated.

That, however, is not true at the outset. The first applications will allow the OEB to consider many of these things, with input from the customers who would be paying for them. This will allow a gradual transition from applications considered by a panel of Commissioners, to applications processed using Delegated Authority, with the Chief Commissioner under By-law #1 having the visibility to identify which applications still require a panel of Commissioners, and what conditions, if any, should be placed on those assigned to Delegated Authority[7].

In short, SEC believes that with experience in these applications the OEB can get to a Delegated Authority endpoint similar to that proposed by the LDCs, but that it would be foolhardy to jump to that result before getting that experience.

Second, seeking the goal (of the working group) of Delegated Authority required that any attempt by LDCs to be innovative and thoughtful in their approach to non-wires alternatives be discouraged. This is the opposite of what the OEB should want.

As currently proposed, LDCs can use tried and true methods set out in the Measures and Assumptions List, applying them exactly as has been done in the past, and be rewarded for that with an essentially assured approval of their programs. Once IESO gives their OK, the OEB would become a rubber stamp to authorize the rate implications of the IESO decision.

Conversely, if Toronto Hydro, for example, wants to sit down with several of their biggest downtown users to work out an approach to efficient use of resources and thus minimize capital spending on the system, two things would happen. The eDSM Stream 2 rules would not be available (would benefit stacking be available?), and any OEB rate approval would require a more onerous and risky adjudicative process.

The message to Toronto Hydro would be “Don’t try to innovate, and don’t seek the best result for your customers. Aim low.”

One of the advantages of Stream2, and presumably one of the goals of the government in this regard, is to unleash the planners in the LDCs to think more broadly about their systems. Making benefit stacking available in a structured way allows LDCs to consider more options, and produce better results.

It is, of course, likely that only a few LDCs will have the resources and the desire to pursue innovative eDSM programs. The flip side to that, though, is that those innovations can provide examples and templates for other LDCs. It is not good policy to discourage those that will move forward with these programs.

SEC therefore believes that use of Delegated Authority, while a reasonable goal, should be allowed to develop organically as the OEB gains experience with eDSM rate applications, and LDCs test innovative approaches to non-wires solutions.

[7] OEB By-law #1, s. 7.5.

Roles of OEB and IESO. SEC believes that, at least early on, the division of responsibility and authority between IESO and the OEB in these applications will require careful attention. Under the Proposal, there is a risk that IESO becomes effectively the decision-maker setting distribution rates to recover eDSM program costs.

We recognize that this is not the intent of either IESO or the LDCs. However, in seeking to limit the issues being considered by the OEB, the Proposal potentially moves in that direction.

SEC wishes to emphasize that eDSM Stream2 applications are rate applications, engaging the OEB's statutory mandate to set just and reasonable rates. They are about spending ratepayer money.

In this regard, we note that the working group appears to have taken the position that, because the programs will be cost-effective, there are no "just and reasonable" issues to be considered[8].

This exhibits a fundamental misunderstanding of ratemaking. At its root, an eDSM rate rider takes money from some customers and distributes that money partially to the utility for internal costs and shareholder incentives, and partially to other customers for eDSM incentives. There are winners and losers, and even the most diligent use of "beneficiary pays" will not change that fact.

Of course, there is nothing wrong with this re-allocation between customers, because there is an overall net benefit. However, there are also limits to how much you can ask customers to pay to generate that overall net benefit. This is why, in gas DSM, the OEB has been careful to set limits on the distribution bill impacts it is willing to approve to get the overall benefits of DSM.

The same principle should apply to eDSM programs. SEC believes that one of the issues the first panels of Commissioners hearing these applications will have to grapple with is just how much customers' bills should increase to achieve what are expected to be desireable results for all[9].

In our view, the OEB's policy in this area should reflect that.

Once understood in that context, the role of IESO is much clearer. IESO has expertise that adds value in assessing certain of the impacts of eDSM initiatives, and more generally understanding what works and what doesn't work. There is no need for the OEB to reinvent the wheel on those technical issues. If IESO has done a study that shows Measure X reduces summer peak by Y kW, the OEB in almost every case should be willing to accept that result.

Further, if IESO has concluded that, on a bulk system basis, a proposed eDSM program is cost-effective, the OEB in most cases does not need to go beyond that.

The working group, though, appears to be pushing for a broader interpretation of IESO approval, in which that approval means the OEB does not need to look at either the eDSM program itself , or its costs.

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[8] There are many examples in the transcript, including Tr2:20. See also J2.2.

[9] The working group proposes that 10% total bill impact is OK: J1.1. This – likely 40-50% Dx bill impact – is more than an order of magnitude larger than the bill impacts considered acceptable by the OEB for gas DSM.

In SEC's view, the role of IESO should be seen as one of technical expertise, but the role of rate regulator is entirely that of the OEB. The fact that IESO likes or doesn't like a proposed program is irrelevant to the rate implications of that program. That is an OEB function.

All of this seems blindingly obvious, to be sure, but SEC expects that in the first applications LDCs will seek to place an oversized emphasis on IESO approval. One of the benefits of fully adjudicating the first wave of eDSM applications is that the OEB can clearly establish the scope and ambit of its regulatory oversight.

Base eDSM Model. The Proposal includes a regulatory model, initially proposed to be developed by LDCs but now proposed to be developed by OEB Staff with LDC input. A listing of the information to be contained in the model has been provided[10].

The working group's goal in proposing the model is "to provide the necessary information to support Delegated Authority approval…" In short, the model seeks to make the regulatory process more mechanistic, and therefore to reduce the likelihood that the customers will be involved in the regulatory consideration.

This is not a useful goal.

On the other hand, the OEB uses regulatory models often to systematize the consideration of applications. In our experience, these models have in the past been developed by looking at what the OEB has needed in past applications of the type the model is intended to address. Sometimes, that information is pretty obvious, so an initial model can be created in advance. That initial model has in every case evolved as the OEB gained experience and found that additional information, or different presentations of information, was regularly needed.

With that context, SEC agrees that a base eDSM model should be developed by OEB Staff – with input from both LDCs and customers – to include the information noted by the LDC working group[11], and any other information or presentation that OEB Staff identifies as necessary. This basically then operates as a kind of filing requirement, which can then become more sophisticated as the OEB hears these applications and sees what will be helpful to the Commissioners.

Cost Allocation. The Proposal would establish that the allocation of the cost of an eDSM program between rate classes should be on the basis of the most recently approved GA allocation. After the stakeholder meeting, the LDC working group has amended that to add the ability of an LDC to propose a different allocation. The GA allocation would still be the default.

The GA allocation has the benefit of simplicity, but is in all other respects a rejection of the "beneficiary pays" principle. The benefits of reduction/deferral of infrastructure capital spending, or improvement in reliability, and so on, will almost never benefit customers in the proportions the rate rider would charge them under a GA allocation. As an allocation paradigm, it may be the worst possible choice.

[10] J1.1.
[11] J1|1.

SEC believes that the allocation of eDSM costs for rate rider purposes should be based on the system benefits being achieved. Since those benefits must be set out in the cost-benefit analysis in any case, and their normal cost allocation will be known from the last approved cost allocation model of the LDC, allocating the rate rider based on the benefits would be the fairest, most principled, and most straightforward, approach.

Questions from the OEB Letter

SEC would answer the OEB's three questions as follows:

What is the appropriate review process for applications to the OEB for approval of Stream 2 Program funding? The eDSM Stream 2 Report suggests such reviews could be conducted by an employee acting under delegated authority under section 6 of the Ontario Energy Board Act, 1998, which allows such employees to determine matters with or without a hearing. The types of applications currently delegated under this authority are for reviews that are primarily mechanistic or administrative in nature. Is the review of applications for approval of Stream 2 Program funding by delegated authority appropriate? Are there changes to the approach described in the eDSM Stream 2 Report that could address any concerns you may have related to review by delegated authority (e.g., by further defining conditions on the nature of applications that can be reviewed under delegated authority)?

Please see our discussion above on the use of Delegated Authority. In short, the first wave of eDSM Stream2 applications should be considered by panels of Commissioners. As the OEB gains experience with these applications, some will become more administrative/mechanistic (based on resolution of issues in prior cases and evolution of the eDSM policy) and can be allocated to a Delegated Authority stream.

Does the proposed framework to approve distribution rate funding for Stream 2 Programs (including the respective roles of the IESO and the OEB with respect to program review, evaluation, approval, and reporting) strike an appropriate balance between ensuring the prudence of ratepayer funded spending on eDSM and facilitating the development of new energy efficiency programs that would provide both system and local distribution benefits?

As noted earlier, the division between the IESO's role as technical experts and the OEB's role as rate regulator will be a key consideration in the early eDSM applications. The central principle that must be maintained is that rates are entirely the responsibility of the OEB.

What additional changes to the NWS Guidelines (beyond those that might be needed to address the proposed framework detailed in the eDSM Stream 2 Report), if any, should the OEB consider to reduce barriers to cost effective energy efficiency program activities by rate-regulated electricity distributors?

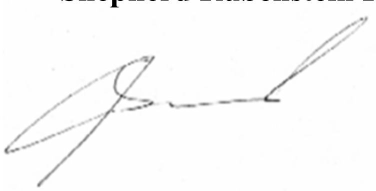
No submissions.

Conclusion

SEC once more commends the LDCs and IESO for taking the initiative to bring this policy discussion forward. SEC's comments reflect a desire to advance eDSM activity by LDCs, but within an appropriate regulatory framework that gives full consideration to the costs to be borne by ratepayers.

All of which is respectfully submitted.

Yours very truly,
Shepherd Rubenstein Professional Corporation



Jay Shepherd

cc: Brian McKay, SEC (by email)
Interested Parties (by email)