

# Next Steps on the Regulatory Treatment of Local eDSM (Stream 2) Programs

## Comments of the Power Workers' Union (PWU)

### Introduction

On March 31, 2026, the Ontario Energy Board (OEB) issued a letter seeking stakeholder comments on draft updates to the non-wire solution (NWS) Guidelines, including a new appendix providing guidance on Stream 2 local electricity demand-side management (eDSM) programs. The proposed updates also included housekeeping changes to the existing Guidelines reflecting the current provincial eDSM framework.

The following are the comments of the PWU on selected areas of the draft updates:

#### 1. Delegation of Authority

The Board states that one of the key changes that it has made to the Working Group's proposal is with respect to the question of whether Stream 2 local eDSM program funding applications are reviewed by a delegated authority (DA) or a Panel of Commissioners.

The PWU notes that the Working Group's proposal was to have a streamlined OEB review process, with most applications reviewed under delegated authority (DA) without a hearing; with a possibility of review by an OEB panel in non-routine cases.<sup>1</sup>

In this regard, the Board's determination is:

**Review by DA will not be the default approach for Stream 2 eDSM applications; instead the Board will consider delegation of applications containing Stream 2 eDSM program funding requests on a case-by-case basis, with a determination made by the Chief Commissioner, informed by a list of considerations that the Chief Commissioner will take into account in making this determination....<sup>2</sup>**

The PWU has two main concerns over the OEB's proposed approach:

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<sup>1</sup> OEB, Next Steps on the Regulatory Treatment of Local Electricity Demand-Side Management (Stream 2) Programs – Additional Details, page 3

<sup>2</sup> Ibid.

1. There are a number of good reasons why several intervenors favoured review by a panel of Commissioners. These programs, which may be funded by rate payers or through Global Adjustment (GA), are unique and new to the OEB as well as other stakeholders. Such applications include aspects that require the OEB's use of judgment and discretion; the decisionmaker would benefit if intervenors are involved; and, finally, allowing for ratepayer participation would enhance fairness and would assist the decisionmaker.

These intervenors, while calling for the use of an OEB panel, at least in the beginning, also suggested the possibility of evolving towards appropriate use of delegated authority as the OEB continues to gain experience with these applications, and as the issues that currently appear complex and adjudicative in nature become largely mechanistic.

In this regard, it is not clear to the PWU how the current determination addresses the above concerns raised by intervenors. The PWU acknowledges that the OEB is proposing a list of considerations which are intended to assist the Chief Commissioner's determination of whether to assign an application to a DA or a panel.

However, it is too early to conclude with confidence that this list of considerations will offer sufficient guidance. It is only through the involvement of a panel of commissioners and intervenors that more issues are exposed, and hence more considerations are added to the list. The PWU submits that a sufficient learning curve by the OEB, its staff, and other stakeholders is needed to achieve reasonably complete and robust assessment of the programs in question.

The PWU therefore submits that the proposed role of the Chief Commissioner should be implemented only after sufficient experience is gained through the involvement of a panel of commissioners and intervenors.

2. The second concern of the PWU with regard to the proposed approach to the determination of approval authority (a panel or a DA) is that it lacks clarity in terms of consistency with the Board's comments and observations cited under its proposal on Performance Standards (see below) and also in the Appendix to Non-Wires Solutions Guidelines: Stream 2 Local eDSM Programs.

Under the Performance Standards section of the document referred to as Additional Details, the Board states:

**Most Stream 2 local eDSM program funding requests are expected to be submitted as part of a larger rate application.<sup>3</sup>**

Similarly, in the Appendix to Non-Wires Solutions Guidelines, the OEB states:

**If the Program funding request is made as part of a larger rate application, a Panel of OEB commissioners may be assigned to the application due to factors unrelated to the Program funding request. In this circumstance, it is expected that Panel review would also apply to the Program funding request.<sup>4</sup>**

It is not clear to the PWU what the Chief Commissioner's determination will be in cases where program funding request is made as part of a larger rate application.

If the default determination of the Chief Commissioner in such cases is to assign applications to a Panel of OEB Commissioners, then one would assume that the Chief Commissioner's judgement is largely sought only when funding requests are made as a stand-alone application, wherein the Commissioner, relying on a list of considerations, decides to assign the application for a review by an OEB Panel or a DA.

If, on the other hand, the Board is expecting that some funding requests made as part of a larger rate application will be assigned to a DA, then the PWU submits it would exacerbate the concerns raised earlier in terms of fairness and robustness of assessment. In any case, it would be helpful if the Board provided guidance on the type of "larger rate applications" (CoS, IRM, Custom IR Annual Update etc.) that should or should not be viewed as appropriate candidates for assessment by DAs.

## **2. Performance Standards**

The PWU supports the Board's decision to apply its existing Complex IRM performance standard (165-day cycle time) to Stream 2 local eDSM program funding requests, whether filed as stand-alone applications or as part of an annual rate adjustment application. The PWU agrees that a separate performance standard for Stream 2 local eDSM program applications is not needed, at least at this stage.

## **3. Benefit-Cost Analysis Framework**

The PWU notes that the Working Group and some participants had either commented on or asked the OEB to provide additional guidance or changes related to the BCA

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<sup>3</sup> Ibid. page 4

<sup>4</sup> Appendix to Non-Wires Solutions Guidelines: Stream 2 Local eDSM Programs, page 17

Framework, such as requiring use of a non-energy benefits adder, categories of costs and benefits listed as “optional” in the BCA Framework that need to be included in stream 2 eDSM applications, and requiring the IESO to quantify and value avoided transmission benefits, etc.

The Board notes that the Stream 2 eDSM Appendix (chapter 3) includes BCA filing requirements described in the current approved BCA Framework and that broader changes to the BCA Framework should be considered separate from the Stream 2 local eDSM consultation. Noting that it currently has a separate active consultation on Phase Two of the BCA Framework, which includes consideration of a ***non-energy benefits adder*** [emphasis added], the Board states that it will provide guidance on the impact of any changes resulting from the Phase 2 consultation on the use of the BCA in the context of Stream 2.<sup>5</sup>

While supporting the use of the current approved BCA Framework in the context of Stream 2, the PWU reiterates its position with respect to the appropriateness of a non-energy, societal benefit adder proposed in the Phase 2 BCA Framework consultation and its potential application in the context of Stream 2 local eDSM programs.

The PWU is of the view that it would be inappropriate to adopt such a policy by the OEB for rate making purposes. For rate making purposes, the OEB should consider only costs and benefits that can be objectively quantified on an evidence-based approach, and where such costs and benefits are tied to a definite, identifiable group. For programs paid for by the rate payer, distributors should be required to evaluate projects only from a ratepayer or the LDC’s system cost perspective, focusing on capital and OM&A costs, reliability impacts and effects on electricity rates. Societal impacts such as environmental, health or economic are difficult to quantify consistently and can vary widely depending on assumptions. This can result in uncertainty, which in turn reduces transparency and comparability across projects.

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<sup>5</sup> Ontario Energy Board | Next Steps on the Regulatory Treatment of Local Electricity Demand-Side Management (Stream 2) Programs – Additional Details, page 10