



Facilitation Report: September 17-19, 2019

Ontario Energy Board
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Introduction

In March 2019, the OEB initiated two integrated consultation processes to support the evolution of the sector: Responding to Distributed Energy Resources (DERs) and Utility Remuneration.

Following earlier feedback from the Modernization Review Panel that stakeholder processes in policy consultations should be clear, accessible and transparent, the OEB refreshed its approach to stakeholder engagement with respect to these two integrated consultation processes.

As part of this refreshed approach, the OEB retained StrategyCorp to facilitate a stakeholder meeting on September 17-19, 2019.

In this report, we outline:

- The objective of the stakeholder meeting;
- The process and structure of the meeting; and
- The key trends and themes that emerged throughout the participants' discussion over the course of the meeting.

Objective

The purpose of the three-day stakeholder meeting was to seek a wide range of input early in the OEB's consideration of the interrelated issues of DERs and utility remuneration. The session brought together a considerable diversity of perspectives from the consumer sector, local electricity distribution companies, DER service providers, natural gas distributors, sector organizations/associations and other stakeholders.

The OEB provided a set of general foundational questions to stakeholders in its July invitation letter:

- What objectives should the Utility Remuneration and Responding to DERs initiatives aim to achieve?
- What specific problems or issues should each initiative address?
- What principles should guide the development and selection of policy options?

The objective of the stakeholder meeting was not to present or prioritize solutions, but rather to level set on the questions that need to be brought forward, scoped and addressed as the OEB undertakes its next stage of work.

Accordingly, no attempt was made over the course of the meeting to "vote" on or seek consensus on various mechanisms, instruments or policy directions. In fact, this was a deliberate design feature consistent with this meeting being an early step by the OEB into the subject matter areas of DERs and utility remuneration.

The Process

The stakeholder meeting was designed to ensure both that participants had the opportunity to share their input on the issues of utility remuneration and DERs and that there was ample opportunity to engage in a meaningful dialogue as a group. In other words, our goal as facilitators was to enable participants to both “present to” and “engage with” the many other stakeholders present.

Twenty-four stakeholders accepted the invitation to make an in-person presentation, and twenty-four stakeholders presented. In addition, OEB’s staff expert consultants, London Economics International and ICF, drew on international examples to present on the fundamental concepts of utility remuneration and DERs.

In drafting the agenda in consultation with OEB staff, we gave effect to the following priorities:

- Thematic grouping of presentations;
- Allowing sufficient time for questions and discussion; and
- Accommodating scheduling requests.

In addition, we designed a flexible facilitation plan that enabled us to respond to participant interest in different topics and/or presentations as well as “deep dive” into some of the key themes that stretched across multiple presentations.

In part, this was to manage the risk of participant fatigue, given that all 24 presentations addressed fundamentally the same questions. We used these “deep dives” to explore different themes, rather than going over the same ground, lightly, each time.

Our intent was to enable and empower stakeholders to provide input while also being respectful of participants’ time and ensuring that the meeting was productive and meaningful for all stakeholders involved.

We were also mindful of the fact that there were many participants engaging in the stakeholder meeting remotely, through the teleconference line or Webex. To enable remote participants to engage in the meeting and to provide an additional forum for in-person attendees to share their input, we used Slido, a digital audience interaction tool.

In sum, there were multiple ways for participants to engage and provide input:

- Written presentations;
- Oral delivery of the written presentations;
- Q&A sessions following the presentations;
- Facilitated discussions; and
- Submission of questions or comments through Slido.

Overall, there was no shortage of active engagement by participants.

Key Themes

The following summary reflects our judgement of the “mood of the room,” based on what was said by those who were actively participating. Given the purpose of the meeting, no “votes” or formal consensus was taken, so it is possible that some participants were keeping their thoughts to themselves.

Most participants indicated an understanding that Ontario’s electricity system is evolving. While DERs hold the potential to provide a variety of – if not fully defined – benefits, they can also be disruptive to utility planning and design, rates, etc.

With respect to the overall regulatory framework, there was a high degree of consensus on the fundamental risks, or the ways to “get it wrong.” Thus, most seemed to agree that the system would fail if it:

- Incited the wrong investments to be made;
- Incited over or under-investments; and/or
- Improperly advantaged or disadvantaged some participants.

Given the many different perspectives in the room, there was not necessarily agreement on what each of these problems would look like in practice.

With that in mind, most participants agreed on the need to develop a shared understanding of the issues and the questions that need to be answered as the first step in the process. There seemed to be a high degree of consensus around the premise of ICF’s framework that there needs to be clarity on the “what” and the “why” before advancing to the “how” and the “who” stages of problem-solving.

Several interrelated trends and themes emerged during the stakeholder meeting that reflect a general alignment on the issues and questions that need to be addressed as part of the consultation process on DERs and utility remuneration. The major thematic areas included:

- The Need for Definitions;
- Principles;
- Infrastructure and Planning;
- The Ontario Context;
- Competition and Markets;
- Role of LDCs;
- Role of the OEB; and
- The Engagement Process.

The Need for Definitions

Although there was a general understanding of the terms under discussion, there were no uniform, common definitions that inspired consensus among participants. Rather, most participants agreed that key terms and issues need to be clearly defined and scoped in order to level the playing field and ensure alignment in terms of what is being discussed.

Stakeholders identified several areas and terms requiring definition and parameter-setting, including but not necessarily limited to:

- *Distributed Electricity Resources (DERs)*: What is/constitutes a DER?
- *Value of DERs*: What are the system benefits of DERs? How are these benefits measured and assigned value?
- *Distribution services*: What constitutes a distribution service? Does this include connecting DERs? What are the utility's obligations to DER owners?
- *Customers*: Who are the customers? Are we talking about today's customers or tomorrow's customers?
- *Utility remuneration*: What does it mean? What is under review? (e.g. derivation of revenue requirement, rate design changes, performance incentives, etc.)

Principles

There seemed to be a consensus that the OEB's Draft Guiding Principles were on the right track, although there were many recommended additions and changes.

There was overwhelming support for the principle that customers must come first. There was less agreement, however, on what this signifies at an operational level – what does it mean to be “customer focused”, for example? Participants also shared how customers' wants and needs vary. Some customers are focused on the lowest cost, whereas others prioritize the assured quality of power. Others mentioned the need to provide customers with choice. That said, participants widely aligned on the need for customers to be protected as DERs advance.

There was general agreement among participants about the three-legged stool of service: reliability, sustainability and affordability. However, many expressed concerns that affordability had not been adequately weighted in this equation. A number expressed the view that the OEB should focus on facilitating cost reduction as a corrective measure. On the other hand, participants also raised concern that if the priority became incentivizing or requiring the lowest cost solutions, there might be unwelcome impacts on safety and reliability.

Substantial feedback was also shared with respect to the elements and core principles to be considered in developing a new framework to deal with sector evolution, such as:

- “Physics trumps politics”: The framework must be performance and outcome based and grounded in quantitative analysis;
- Scalability, or understanding of the size and scope of the opportunity; and

- Costs must follow benefits, and both of these need to be defined in the short and long term.

Finally, general alignment also surfaced on the innovation question. Innovation should be encouraged where it is cost effective and efficient, not simply for the sake of innovation.

Infrastructure and Planning

Most participants agree that infrastructure is at the core of the discussion on sector evolution. Traditional infrastructure projects are 40 to 60-year investments, and utilities need to be encouraged to make the right investments. Against the backdrop of this theme was the overall context of climate change, carbon pricing, power supply and surplus generation and the Global Adjustment.

- Many participants referenced the need to optimize existing assets and infrastructure before looking to new or alternative solutions.
- Many also referenced stranded assets as a real concern.
- Some stakeholders discussed the need to consider upstream impacts to distributors connecting DERs and impacts on the transmission system.

Much discussion also centered on NWAs (Non-Wire Alternatives). Many participants made the point that utilities should be neutral to wire or non-wire solutions.

- Some participants argued that the current system has a built-in bias to traditional infrastructure as utilities earn a return on capital (wires and pipes).
- Some participants indicated that clear policy signals could help inform the discussion on traditional versus non-wire or non-pipe solutions.
- Some participants also argued that scalability matters, particularly in assessing the potential value of DERs. For example, DERs may have long-term value if they prevent the need for a new transmission investment but in the short-term the value may not be as evident. For DERs to have value, they must be integrated into system planning, which will account for timing and location aspects.

The Ontario Context

There was substantial discussion about the specificity of the Ontario context and the usefulness of jurisdictional examples. Many participants stated that the resulting framework must reflect the reality of Ontario; in other words, the solution should be Ontario-made.

- Most agreed that information and models from other jurisdictions like New York, California, Hawaii and the United Kingdom can inform and help guide the discussion but cannot be directly translated to or mapped onto Ontario.
- Some participants referenced the distinctiveness of Ontario's current model, including but not limited to:
 - The relatively large number of distributors all operating within the same

regulatory framework;

- Significant provincial/municipal ownership;
- Approximately 20 years of regulatory experience;
- The effect and impact of the Global Adjustment; and,
- The deployment of performance-based regulation (PBR).

In the end, there was consensus that jurisdictional examples are informative, particularly in understanding the advantages and disadvantages of various approaches and models, but that Ontario's specificities still need to be front and centre in developing a policy and regulatory framework.

Competition and Markets

Over the course of the meeting, the issue of competition and markets, and specifically how to appropriately enable competition, came up repeatedly. The fundamental question was whether there should be a "policy push" or a "market pull."

- Many participants discussed need for the right rules and roles to be defined in order to enable competition.
- Some expressed the view that market competition was the way to drive the best outcomes and choices for customers.
- Most participants seemed to be aligned that part of the issue relates to the need to define the value of DER outcomes, which will help assess how big the opportunity is and then, in turn, the right market mechanisms.
- Participants also seemed to generally agree that appropriate market signals for investment should follow and be commensurate with this value of DERs.

Role of LDCs

Directly related to the issue of competition and markets was the role of LDCs. The core question relating to LDCs was "what activities should distributors be permitted to be engaged in?"

- Many participants commented on how LDCs were historically monopolies for a reason, but that that reason is no longer relevant or necessary for DERs.
- Some noted that LDCs have become gatekeepers for the network and there is a mismatch in their incentives because as monopolies they have a vested interest in the operation of the network, and that this is neither correct nor appropriate.
- Other participants noted that LDCs are not gatekeepers but the enablers of markets.
- Some participants discussed the Affiliate Relationship Code and how the rules around what distributors can and cannot do were established for a different market structure.

The discussion revealed a fundamental tension between the LDC as a gatekeeper and competitive market player.

- Some participants argued that LDCs should not be directly involved in competition – “if you are a gatekeeper, you cannot be a player.”
- Some suggested that the regulated entities could engage in the DER market through their affiliates.

Ultimately, most participants appeared to agree that the role of LDCs with respect to competition needs clarity, as does the role of affiliates.

Participants also noted the need for greater clarity on the relationship between DERs and LDCs. Several issues require definition, including:

- Whether DERs are customers of LDCs;
- Whether the LDC is the owner/operator of DERs;
- How DERs connect and when DERs pay for access; and
- How to recover investment costs and the risk/reward balance of the investment.

Some stakeholders advised caution regarding cross-subsidization as DERs emerge and integrate into the system. Generally, there was agreement that the current rules do not tell us how to proceed.

Role of the OEB

Participants discussed at length the possible role(s) of the OEB as the sector continues to evolve, particularly within the framework of whether there should be a “policy push” or “market pull.”

- Some participants argued that a policy platform should be in place – “managed is better than unmanaged.”
- Other participants stated that the OEB’s role is not to promote or prevent DERs but to examine whether the current regulatory approach is effective in light of the rapid change occurring in the sector.
- Many stakeholders supported the idea that the role of the regulator is to facilitate and adapt – not to protect utilities from change but to help them address barriers to change as the market and customer expectations evolve.

There was discussion with respect to whether the OEB’s role should be:

- Proactive;
- Reactive; or
- Coactive.

This observation spurred a conversation about a “bumper and guardrail” approach to regulation.

Participants also engaged in substantial conversation about what the appropriate mechanisms should look like – “carrots”, “sticks” or both.

- A number of participants indicated that there needed to be a mix of both incentives and

requirements, including penalties where required, to encourage utilities to consider non-traditional solutions.

- Several participants also discussed that the OEB needs to create an environment that establishes a level playing field for information and data sharing, and that this is part of sending appropriate market signals.
- Some stakeholders also inquired about whether there might or should be a role for the regulator beyond the monopoly. For example, to the extent that microgrids are discrete from utility grids, will or should the OEB regulate the outcomes for customers in relation to that electricity service?
- Others advocated against doubling down on regulation and noted that a market for services exists, the market will do this work.

In general, there was some alignment on the following points with respect to the OEB's role:

- Change should be incremental and evolutionary, not revolutionary;
- The approach should be flexible and prepared for the unforeseen;
- The OEB needs to strike the right balance between a proactive and reactionary approach—it should not lag in its response but also not be out in front, paving the way;
- Policies and regulations need to be timely and responsive, and the logic behind them transparent; and
- The OEB and the regulatory approach should facilitate effective investment decisions.

The Engagement Process

There was broad agreement among the participants that the consultation process on the DER and utility remuneration initiatives needs to be ongoing, coordinated and transparent.

- Most stakeholders stated their support for continued engagement and their desire for clear, transparent communication from the OEB.
- Many participants commended the OEB for the opportunity to provide input at this stage in the process, the size of the consultations and the breadth of stakeholders at the table.
- Some participants also indicated an interest in understanding how their feedback and comments would be addressed moving forward.
- Some cautioned that consultation needs to be balanced between time and robustness; without this balance, scope creep may occur, and prevent decisions about what needs to be in a timely fashion.
- Some participants referenced other consultations currently underway by the OEB, including the DER Connections Review, as well as IESO and were keen to understand how these were being coordinated. Many participants stated that they want to see a coordinated process that avoids the “siloining” and duplication of work.

Conclusion

The OEB's stakeholder meeting on DERs and utility remuneration was designed to be an open, transparent forum for stakeholders to have a meaningful discussion on these interrelated issues.

Based on comments made about the process, and the content of the discussion, it appears to have delivered on that objective and presents a positive model to build on.

We hope the feedback and input garnered throughout the meeting will assist the OEB in identifying the next steps in this policy consultation and that the key themes and trends identified by participants will help shape the questions and issues that need to be addressed moving forward.