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Proposal to create a regulation under the Ontario Energy Board Act, 1998 to change cost responsibility rules for certain electricity system connection infrastructure for high-growth areas where load growth materializing in the future is very likely

ERO 019-9300

Comments from CELA and ACTO

The Ministry of Energy and Electrification (Ministry) is consulting on potential regulatory changes to change the cost responsibility framework for certain electricity infrastructure which would only apply to customer connection infrastructure (distribution assets to expand distribution system to connect a specific customer or customer group and for transmission infrastructure, a line or transformer connection asset). The Ministry is considering developing a regulation that could:

- Reduce the cost and financial burden on ‘first mover customers’ where electricity infrastructure is insufficient to meet demand, and
- Provide the transmitter or distributor with the assurances they need to build certain connection infrastructure to support anticipated growth without a confirmed customer for all the capacity.

The Ministry has embarked on this consultation with a focus on 3 questions:

- 1) What criteria should be considered when determining which projects would be subject to new allocation of costs or financial risk? What type of projects should be subject?
- 2) What approach should the regulation or regulations take to fairly allocate costs and financial risks between specific connecting customers and ratepayers?
- 3) What controls should be put in place to ensure that the proposed amendments do not lead to over-building, and to minimize risk to ratepayers, i.e. the risk of stranded assets?

We provide comment on each of the questions below.

1. Eligibility criteria for projects

The Ministry has indicated that the proposed regulatory change would be for:

- projects of first-mover customers in strategically significant locations that would lead to the need for new electricity system infrastructure, either distribution, transmission or both, and
- where there is excess electricity system capacity that results from serving the first-mover customer.

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We concur with these criteria.

In addition, there should be criteria to identify strategically significant locations. These locations related to transmission infrastructure should be identified by and be an outcome of the regional planning processes the IESO leads. These IESO led processes would determine transmission constrained, high growth areas. The IESO should provide a published list of these locations, updated on an annual basis. The Ministry should require the IESO to consult on the process and criteria it would use to identify such locations.

Regarding strategically significant locations for distribution infrastructure, local distribution companies (LDCs) should lead the identification of these locations. To facilitate this work, cost recovery should be permitted by the LDC for costs for the identification and application of their location identification process, to be carried out in collaboration with IESO and the affected municipalities. The OEB should make it clear to LDCs through policy that the LDCs can expect to recover costs, prudently incurred, through distribution rates, for those costs which are associated with the design and implementation of their location identification process.

Locations in the LDC territory that are identified by the IESO as strategically significant should also be treated as strategic locations for the LDC. In addition, the LDC should consult with their local municipalities to identify high-growth areas from a municipal perspective and over what time frame. The LDC would then determine which high-growth areas identified by the municipality/municipalities would also overlap the distribution-constrained areas of the LDC, and these screened locations would be strategically significant locations. Taken together, the IESO, LDC and municipally identified and LDC screened locations would comprise the strategically significant locations for the LDC and should be updated by the LDC on an annual basis.

2. Cost allocation

Under the existing regulatory framework first-mover customers bear the full costs and financial risk of building new connection infrastructure, even if that new infrastructure results in capacity that exceeds the customer's requirements. The Ministry's proposed changes could re-allocate the costs and financial risk associated with the excess capacity.

We support a fair risk-sharing for the allocation of the risk and financial burden associated with this excess capacity. It should be shared among the first-mover customer, the LDC and transmitter (LDC if just applies to distribution assets, transmitter if just applies to transmission assets, or both LDC and transmitter if it applies to transmission and distribution assets).

The level of risk and financial burden regarding the excess capacity (e.g. 50% first-mover customer, 25% ratepayers, 25% LDC/transmitter) to be shared among the three parties should be a matter for future consultation and include research by the OEB and by the IESO on what would constitute an appropriate methodology for cost and risk sharing and the supporting information needed to determine the allocations.

The costs and risk allocated should be based on beneficiary pays principle. For excess capacity of the distribution system only, all ratepayers within the LDC have the potential to benefit and so should bear a portion of the financial cost and risk. For excess capacity of the transmission system only, all ratepayers connected to the transmission system should pay some portion of the cost.

Developing an appropriate methodology for both cost determination and cost allocation by the OEB and IESO for excess transmission asset is likely to be very challenging. For such costs, it may be administratively easier and more consistent with provincial policy for all provincial taxpayers to be responsible for covering these excess transmission asset costs. For excess capacity generated for distribution and transmission assets, both cost allocation approaches, with costs allocated according to the costs for each of excess transmission and distribution asset, should be applied.

3. Controls needed

LDCs and transmitters earn their rate of return on their rate base, which is comprised of their assets. As a result, there is a built-in regulatory bias in favour of building assets to earn a return over the life of the asset. Controls are needed to avoid over-building and stranded assets. We recommend the following be put in place to protect ratepayers:

- **For excess distribution assets needed**, LDCs should be required to identify and implement the least cost asset solution for the first-mover customer. The least cost asset solution should be comprised of the appropriate mix of non-wire solutions and wire solutions. Non-wire solutions (NWS) include, but are not limited to, energy efficiency, demand response, and distributed energy resources. The least cost asset solution would be reviewed and approved by the OEB, consistent with OEB requirements for asset approvals.

As part of its filing to the OEB for approval of the asset, the LDC should be required to file the first-mover's development forecast it provided to the LDC for the strategically significant location in which the associated distribution asset is proposed. The LDC would independently review this development forecast in collaboration with the municipalities that are part of the strategically significant location within the LDC service territory. As part of the review, the LDC would indicate the level of risk to ratepayers and the LDC, and what steps will be taken to mitigate and manage this risk.

The OEB should make it clear as part of its policy regarding approval of these types of assets that the LDC can expect to recover costs, prudently incurred, associated with these assets.

- **For excess transmission assets needed**, the transmitter would be required to work with the IESO to identify the least cost transmission asset solution. The least cost transmission

asset solution should comprise an appropriate mix of non-wire solutions and wire solutions. Non-wire solutions include, but are not limited to, energy efficiency, demand response, and distributed energy resources. The least transmission asset solution would be reviewed and approved by the OEB, consistent with OEB requirements for transmission asset approvals.

In order to determine the optimum mix of solutions to comprise the transmission asset, the IESO would apply its DER cost-benefit analysis and the transmitter the appropriate OEB energy and system tests. The IESO as part of its regional planning process and Local Initiatives Program (LIP) under its DSM framework, would integrate, as needed, new initiatives under the LIP as part of the least cost solution. The transmitter would file this work as part of its filing for OEB approval of the transmission asset.

As part of its filing to the OEB for approval of the transmission asset, the transmitter would file the regional planning related material which demonstrates that the asset is needed in a strategically significant location and the location is transmission constrained.

- **Where both excess transmission and distribution assets are needed**, the distribution asset and the transmission asset requirements described above for each would both apply.
- As an additional control, the OEB and the IESO should be required, every 5 years to review in consultation with stakeholders, how well the regulatory changes they are responsible for implementing to expedite electricity system connection related to electricity system connection for high growth areas are working and what improvements are needed to enhance ratepayer/taxpayer protection.

Yours truly,



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