Ontario

MINISTRY OF
ENERGY

Roles of Ontario Energy Board

Panel Briefing

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Who/What the OEB Regulates

The Ontario Energy Board Act, *1998* (OEBA) establishes the Ontario Energy Board (OEB) and sets out its mandate and authority as the regulator for the energy sector. [See Appendix for details].

Regulates, Licenses and Approves:

- The OEB sets “just and reasonable” rates in the public interest (Rate Regulates) for the following:
  - Natural Gas Distributors (Enbridge, Union and Epcor)
  - Local Distribution Companies (~70, e.g. Hydro One, Alectra, Toronto Hydro)
  - Transmitters (Hydro One, Canadian Niagara Power, Five Nations, B2M LLP)
  - Nuclear and majority hydro assets for OPG
  - Unit Sub Meter Providers - new authority (e.g. Carma, Enercare)
- Licenses other generators (Feed-in-Tariff and Standard Offer)
- Licenses ~ 50 electricity retailers and 30 gas marketers
- Approves leave to construct applications for gas pipelines and electricity distribution/transmission lines
- Approves IESO usage fee and smart metering entity charges
- Approves LDC service area amendments; acquisitions, mergers and divestitures; certain business arrangements
- Approves natural gas storage areas, adjudicates landowner compensation
- Approves franchise agreements for gas distributors which outlines the terms and conditions of the agreement between the municipality and the gas distributor

Protects the Interests of Consumers:

- Protects consumers through enforcement of the *Energy Consumer Protection Act* (ECPA) and other customer service rules.
- Administers programs for Low Income Consumers.

LTEP

- Develop Implementation plans to support the Long Term Energy Plan

Who/What the OEB doesn’t regulate

Fuel/Electricity Prices

- On a quarterly basis, the OEB sets natural gas commodity prices, based on a projection of market prices for the quarter. A true-up mechanism adjusts the price to reflect over or under collection from the previous period.
- At least once a year, the OEB sets the electricity commodity price for regulated price plan customers. (e.g. TOU rates). The price is based on projected input costs, including the global adjustment as well as any true-ups from previous periods.
- The OEB does not have oversight over gasoline prices; however, the Energy has commissioned a report from the OEB on the “Transportation Fuels Market”
- Other fuels, such as propane, LNG, CNG etc. are not rate regulated.

Small/Municipal Distributors

- A very small number of natural gas distributors do not have their distributions rates regulated by the OEB. These include some very small natural gas distributors who fall under the threshold for rate regulation as well as municipal natural gas distributors (e.g. Kingston Utilities) whose rates are set by the municipality.

Safety

- The OEB does not have oversight over safety: the Electrical Safety Authority and the Technical Standards and Safety Authority are responsible for safety

Environment

- The OEB is an economic regulator with no direct oversight over the environment; however, through the leave to construct process, proponents affirm that they’ve met siting requirements.
- The OEB recently developed a regulatory framework for gas distributors’ Cap and Trade Compliance Plans in support of the implementation of the Cap and Trade program.
- The OEB has some oversight over electricity and gas conservation.

How the OEB Regulates: Rate Setting (Distribution)

Rate Setting

- Electricity distributors apply to the OEB to determine which costs they can pass on to their customers through rates (revenue requirement).
  - The OEB has a mandate to set just and reasonable rates for LDCs that protect the interests of consumers while facilitating the maintenance of a financially-viable electricity industry.
- The OEB rate setting process is quasi-judicial and involves close scrutiny and examination, often under oath, of evidence submitted by the applicant. Numerous stakeholders representing different consumer, commercial, and other interests can, and do, take an active role in these proceedings.
- When establishing distribution rates, the OEB must evaluate a number of costs to establish the approved revenue requirement that is the basis for the rates charged by the LDC.
- Once the revenue requirement is established, the OEB must approve a fair allocation of those costs to the various customer classes (residential, commercial, industrial etc.)
- From that the OEB approves the specific rates charged to each customer class, which can include some fixed charges as well as ones based on volume.

Set Revenue Requirement (Semi-adjudicative hearing) → **Cost Allocation** (Divide costs across different customer classes) → **Load Forecast** (Forecast # of customers and volume of sales) → **Rate Design** (Set rates)

How the OEB Regulates: Licenses

Licencing and Setting Conditions for how entities operate

- The OEB has statutory authority to license transmitters, distributors, generators, retailers/marketers & USMPs.
- The OEB also has statutory authority to prescribe the conditions under which licenced entities may operate.
- The OEB may make changes to license conditions without requiring a hearing or stakeholder input.
- Selected examples of licence conditions cited in the Act include:
  - requiring entities to provide information as the Board may require;
  - governing the conduct of a licensee;
  - specifying performance standards, targets and criteria;

How the OEB Regulates: Codes & Rules

- As established under Section 70 of the OEBA, the OEB has the ability to set rules governing the conduct of distributors, transmitters, USMPs and retailers/maketers (codes, guidelines). These rules are considered a condition of licence that licensed entities must follow, in the case of lie.
  - The OEBA requires that the OEB provide “interested persons” notice and opportunity to comment on new codes or material changes to existing codes, unlike changes to license conditions, which do not require opportunity for comment on changes.
- The OEB has the ability to issue rules governing the conduct of natural gas distributors/transmitters.
- Examples of important codes include:
  - **Affiliate Relationships Code** which regulates the relationship between the distributor and transmitter their affiliates)
  - **Distribution System Code** and the **Transmission System Code** which have specific rules of conduct and behaviours for distributors and transmitters to follow.
  - **Retail Settlement Code** which sets out the minimum obligations that an electricity distributor and retailer must meet in determining the financial settlement costs of electricity retailers and consumers
  - **Standard Supply Service Code** which sets out the rules that govern the conduct of Ontairo electricity distributors in the provision of electricity.
  - **Unit Sub-Metering Code** which sets out the minimum conditions and standards that a licensed unit sub-metering provider must meet when providing unit sub-metering services on behalf of a master consumer
  - **Code of Conduct for Gas Marketers** and **Electricity Retailer Code of Conduct** sets out specific rules of conduct and behaviours to follow
  - **Gas Distribution Access Rule** - Establishes conditions of access to gas distribution services provided by a gas distributor and sets out rules governing the conduct of gas distributors toward gas vendors, including gas marketers.

How the OEB Regulates: Leave to Construct

Gas Pipelines

- To receive official approval to build or expand a natural gas pipeline or new transmission line - gas distributors must apply to the OEB for a leave to construct.
  - Prior to applying to the OEB, natural gas distributors must complete a number of steps, as laid out in the OEB's "Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario".
  - This includes: selecting the preferred route; conducting public consultations affected parties, identifying ways to mitigate impacts of expanding the pipeline; and providing an Environment Report to the Ontario Pipeline Coordinating Committee (OPCC) for review.
- The OEB determines whether pipeline expansion projects are in the public interest. This involves considering economic feasibility and environmental impacts.

Transmission & Distribution Lines

- Section 92 of the *Ontario Energy Board Act, 1998* (Act) requires transmitters and distributors to obtain approval from the OEB for the construction, expansion, or reinforcement of electricity transmission and distribution lines or interconnections.
- Under section 96.1 (1) of the Act, the Lieutenant Governor in Council may make an order declaring that the construction, expansion or reinforcement of an electricity transmission line specified in the order is needed as a priority project. However, even if an electricity transmission line is declared a priority project, OEB approval under section 92 of the Act is still required.
- Section 96.1(2) of the Act sets out that when the OEB considers an application under section 92 of the Act in respect of a priority project, the OEB shall accept that the construction, expansion or reinforcement is needed when forming its opinion under section 96 of the Act.

Policy Making

- The OEB has the statutory authority to specify "methods or techniques" to be applied in determining "just and reasonable" rates, as well as broad authority to develop policies that support the delivery of its core mandate.
- In recent years the OEB has advanced a number of policy initiatives to that end including:
  - Performance based regulation (Renewed Regulatory Framework),
  - Review of customer service rules
  - Service Area Amendment and Mergers, Acquisition, Amalgamation, and Divestitures Policy Review
  - Rate design (for residential, commercial & industrial customers)
  - Representing Consumer Interests in OEB proceedings – reviewing intervenor framework
  - Regional Planning and Cost Allocation Review
  - Distributor Gas Supply Planning
- The OEB has the flexibility to undertake policy reviews through formal adjudicative proceedings (hearing), or through less formal administrative proceedings. Many policy proceedings extend over multiple years.
- The Government has interest in following the outcomes of these initiatives, but has no authority to direct the OEB in its policy development.

Consumer Protection/Literacy/Outreach

Energy Consumer Protection Act, 2010 (ECPA)

- The OEB administers the ECPA which allows for the oversight of electricity and gas retailers and marketers.
- The ECPA was recently updated to provide more robust provisions for protecting consumers against predatory/high pressure sales practices.

Consumer Charter

- The OEB recently released a Consumer Charter that is intended to provide a clear outline of consumer rights and responsibilities. The Charter is based on rules and codes that are in place today.

Consumer Complaints

- The OEB manages a consumer complaint call center for consumers to report unfair business practices or issues that they are unable to resolve with their utility.

Community Meetings/Consumer Outreach

- The OEB recently instituted community meetings as part of cost of service rate applications to allow consumers the chance to talk to their utility.
- The OEB regularly attends community events to promote consumer awareness of the OEB and promote energy literacy.

Enforcement/Compliance

- The OEB has authority to require a licensed entity to comply with the requirements of its licence.
  - The OEB can issue compliance orders and can, in extreme cases, revoke or suspend a licence for non-compliance where a compliance order has been issued and not complied with.
  - Before issuing an order suspending a licence, the OEB would conduct an investigation and likely hold a hearing
- The OEBA provides the OEB with tools to enforce compliance with defined "enforceable provisions" including the ability to impose administrative fines and penalties.
  - Enforceable provisions include not only provisions within the OEBA, but also provisions under the ECPA, the Ontario Rebate for Electricity Consumers Act, rules issued to gas distributors, codes, license conditions etc.
- Recent amendments in 2015 further empowered the OEB to have increased discretion when setting penalties, as well as increasing the amount of administrative penalties the OEB may impose on a non-compliant entity, up to one million dollars per day.

Adjudicative Decision-Making Process

- Rate applications are reviewed independently through a public process, which begins with an LDC submitting an application and includes a number of activities at each stage.
- The process includes opportunities for various representatives (intervenors) to make arguments about the facts of the application.
- The application review process can vary from a few months to up to a year depending on complexity of the application.
  - Cost-based applications tend to take a longer review timeline than IRMs.
  - More complex applications will also typically have an oral hearing.

LDC Rate Application Stages

Application → **Customer Input** → **OEB Reviews Information** → **Hearing (Written or Oral)** → **Decision**

Social Program Administration - OESP

ONTARIO ELECTRICITY SUPPORT PROGRAM

- Upon the Ministry of Energy’s request, the Ontario Energy Board (OEB) has developed the Ontario Electricity Support Program (OESP), which provides an ongoing rate reduction directly on the bills of low-income electricity consumers who have applied and meet the eligibility requirements.
- On January 1, 2017, the OEB added the following customers / medical devices to the eligibility list for the higher level of assistance: (i)Inuit customers; and (ii) In-home dialysis machines.
- Starting May 1, 2017, the OEB increased OESP credit amounts by 50 per cent and expanded eligibility for the program. OESP monthly credits now range from $35 to $75. Customers with unique electricity needs, are eligible for an enhanced amount, which ranges from $52 to $113 per monthly bill.
- The OEB set the rate of the OESP charge that is applied to all customer electricity bills, effective January 1, 2016 at $0.0011/kWh. A variance account was established by the IESO to manage revenues and expenditures related to the program.
- In order to support a Fair Hydro Plan initiative to transfer program funding from the rate base to provincial revenues, the OEB issued a Decision and Order to its rate-regulated distributors to rescind the charge on electricity consumed or estimated to have been consumed on and after May 1, 2017.
- The variance account will deplete when compensation is paid to LDCs / USMPs for February 2018 credits. The IESO will send its first invoice for tax-based OESP funding in March 2018. The OEB will continue to administer the program and the Ministry of Energy will have oversight spending activities.

Social Program Administration - LEAP

LOW-INCOME ENERGY ASSISTANCE PROGRAM

- The Low-Income Energy Assistance Program (LEAP), introduced by the OEB in January 2011, is a comprehensive province-wide strategy designed to help qualifying low-income electricity and natural gas customers.
- The program includes: (i) Emergency financial assistance in the form of grants; (ii) Special, more flexible customer service rules implemented by electricity and gas utilities to help qualified low-income consumers through difficult situations; and (iii) Energy conservation programs to help qualified Ontario homeowners, tenants and social housing providers improve energy efficiency.
- The program is administered by the OEB, and includes one-time grants of up to $500 ($600 for natural gas), special rules that utilities have to follow when dealing with customers with limited finances, and conservation programs to improve energy efficiency.
- In order to access financial assistance, special rules and conservation programs offered through the LEAP strategy, consumers must go through a social service or government agency.
- To determine eligibility for LEAP's emergency financial assistance and customer service components, the OEB takes the Statistics Canada determination of low-income levels, which is called the Low Income Measure.

Appendix

Mandate of the OEB

The government determines the legislative framework in which the OEB operates. The *Ontario Energy Board Act, 1998* sets out the Board's objectives in electricity, natural gas and implementation plan under LTEP.

Board's objectives in electricity:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
   1.1 To promote the education of consumers.

2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.

4. To facilitate the implementation of a smart grid in Ontario.

5. To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities.

Mandate of the OEB

Board's objectives in gas:

1. 1. To facilitate competition in the sale of gas to users.
2. To protect the interests of consumers with respect to prices and the reliability and quality of gas service.
3. To facilitate rational expansion of transmission and distribution systems.
4. To facilitate rational development and safe operation of gas storage.
5. To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.

   5.1 To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.
6. To promote communication within the gas industry and the education of consumers.

Board's objectives in LTEP implementation plan:

1. The Board, in exercising its powers and performing its duties under this or any other Act, shall be guided by the objective of facilitating the implementation of any directives issued under subsection 25.30 (2) of the *Electricity Act, 1998* in accordance with the implementation plans submitted by the Board and approved under clause 25.31 (5) (a) of that Act, including any amendments submitted by the Board and approved under that clause.

Cost of Service Rate Application Schematic