Meeting Summary

Regulatory Affairs Standing Committee

Meeting Date: January 22, 2016       Time: 11:00 a.m. – 2:00 p.m.
Location: 2300 Yonge Street, 27th Floor, ADR Room

Attendees:

<table>
<thead>
<tr>
<th>Committee Members</th>
<th>OEB</th>
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<tr>
<td>Gia DeJulio, Enersource/EDA</td>
<td>Lynne Anderson, Vice-President</td>
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<td>Colin Macdonald, PowerStream</td>
<td>Kristi Sebalj, Registrar</td>
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<td>Fred Cass, Aird &amp; Berlis</td>
<td>Ted Antonopoulos, Manager</td>
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<td>Manuela Ris-Schofield, Tandem Energy Services</td>
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<td>Patrick McMahon, Union Gas</td>
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<td>Joanne Richardson, Hydro One</td>
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<td>Chris Cowell, Entegrus Powerlines</td>
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<td>Mark Rubenstein, Jay Shepherd Professional Corporation</td>
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<td>Indy Butany-DeSouza, Horizon</td>
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<td>Martin Benum, London Hydro</td>
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<td>Brenda Pinke, InnPower (Regrets)</td>
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Meeting Agenda:

1. Welcome – Lynne Anderson
   - Notes from last meeting - [http://www.ontarioenergyboard.ca/OEB/Industry/About+the+OEB/What+We+Do/Engaging+With+Stakeholders](http://www.ontarioenergyboard.ca/OEB/Industry/About+the+OEB/What+We+Do/Engaging+With+Stakeholders)

2. Follow ups from last meeting
   - Practice Direction on Settlement Conferences

3. RRFE Debrief
   - Review of RRFE decisions
   - Discussion of key elements – customer engagement, distribution, system plan, benchmarking, performance monitoring, etc.

4. Discussion of recent documents issued by the OEB
   - Staff Report on Cost of Capital
   - Funding of Capital
   - Handbook on Consolidation
1. Review of notes from last meeting

No concerns were raised. The matter of the status of the alignment between gas and electricity was briefly discussed. There was nothing new to report other than the intent is to apply the RRFE to gas at some point in the future.

2. Follow-ups from last meeting

a) Practice Direction on Settlement Conferences

The group was informed about two matters currently being considered that have been the subject of recent applications concerning confidentiality:

- The use of privilege vs confidentiality
- The fact that the practice direction is not reflective of how parties are actually behaving in settlement conferences.

Revised text for the PD to distinguish between privilege and confidentiality was reviewed. The key revisions were under confidentiality where the PD now addresses the real scenario of parties needing to share information with non-attendees for purposes of either making calculations for discussion at the settlement conference or for seeking instructions. The revisions also contemplate that attendees keep track of the information being shared and who it is shared with and that this information may need to be filed if required by the OEB.

There was no opposition to the concept. Some acknowledged it as a welcomed change as most parties are technically not abiding by the confidentiality provisions currently because they often need to not only seek instructions on settlement but also to get non-attendees involved in order to run various data scenarios and calculations to further aid the discussions. Some matters regarding implementation were discussed, such as:

- No formal undertakings need to be signed (the intent of the revisions is to make it clear and give weight to what attendees are doing by sharing information with those that need to know)
- The revisions are not intended to address 2nd and 3rd degree sharing of information. Responsibility will continue to lie with the individual parties as to how to manage the sharing of information in order to abide by the PD.
- OEB staff would be subject to the same expectations although staff is required to sign a general code of conduct annually.
- A suggestion was made to consider how to facilitate the placing of documents onto the record of a proceeding given the proposed wording.
Some operationalization issues were discussed, such as OEB Panels excluding items from settlement. No serious concerns expressed but one caution was discussed with respect to considering the impacts that it may have on other items that are part of the settlement discussions. The OEB may wish to exclude an item on a more granular level, if possible.

The impact on small LDCs of having settlements was discussed and there was general agreement that as long as the cost of engaging in an ADR process is addressed, there is no reason why a settlement process cannot work for the smaller LDCs.

3. **RRFE Debrief**

   a) **Customer Engagement**

   The group began by discussing whether their customer engagement efforts to date improved the overall business case of the application. There was general consensus that the CE efforts were very positive in that they allowed the LDC to educate their customers about the sector generally. Some of the challenges with going further were:

   - Focussing customers on issues other than TOU, smart meters, and broader policy matters.
   - Educating them enough about the science to facilitate useful feedback on the DSPs
   - LDCs are not clear how to satisfy the OEB’s requirements; LDCs need assistance to establish the threshold between education and feedback.
   - LDCs not asking the right questions when approaching customers; often being done too late in the process
   - No consequences to poor engagement
   - While “risk discussions” often happen with customers, it is difficult to explain trade-offs, and also difficult later to explain the outcomes of such discussions on the record in a meaningful way.

   The group was asked if anyone has tried to establish a consumer panel so that education is not a barrier. An issue with self-selection bias was discussed but also another idea that the OEB could establish its own panel to consider a proper way that LDCs could survey customers.

   b) **DSPs**

   There was discussion about the fact that the DSP is written in a way that requires LDCs to get feedback on approaches to engineering type of issues, which as discussed above, is very difficult to do with the ordinary consumer.
There was general consensus that the current chapter 5 is too long, and appears to be a cross between a filing requirement document and a policy document. This makes it very difficult to understand what needs to be filed. There is also quite a bit of repetition. Chapter 2 (for cost of service) is a good example of filing requirements that are clear and helpful.

There was discussion as to the approach to the applications of smaller LDCs and whether it is necessary for OEB staff to hire consultants to review them given that other consultants with similar skills and experience have already developed the DSP. A concern was raised as to whether it was necessary for customers of these smaller LDCs to pay for the DSP twice. OEB staff confirmed that all DSPs, regardless of size will be reviewed by staff in detail. It is a fundamental premise of the RRFE that planning will be reviewed. Staff also confirmed that the cost of any consultants hired to review a DSP are charged to section 26 (socialized), and not to each individual distributor (section 30).

The use of consultants as independent experts was discussed and that there may be some cases where this could be useful.

c)  **Benchmarking**

The group discussed the expectations around benchmarking. Some of the challenges discussed were:

- There is a sense that if one can battle to a standstill with an opposing expert, then that’s a success and one can check off the box that the requirement has been met.
- The goal should be to get experts together to achieve as much consensus as possible, instead of having them fight it out before the OEB.
- To date nothing has really changed; no consequences for performance.
- There are very few experts available.
- Inconsistencies in decisions, there was a suggestion that the OEB’s views on benchmarking may not be consistent.
- There was a question on the use of benchmarking if the rate proposal is not based on an index. Benchmarking may be more useful at the micro level but it is not clear the OEB wants that level of detail.
- All this is about driving outcomes and the OEB needs to be specific about what “outcomes” means. OEB staff confirmed that the expectation is that utilities will define more granular outcomes to meet their circumstances.

The group was asked if there is anything else on outcomes that they wish to discuss. It was noted that the link between ROE and IRM applications was a positive step.
**d) Application Process**

Some of the matters discussed were:

- The establishment of the issues list after IRs does not help in tracking IRs which was very useful in the past.
- The desire of Board members to identify specific issues was discussed. One suggestion was made that to try and identify true issues will mean that there won’t ever be settlements.
- Presentation days after a partial settlement could cause issues in hearings that go directly to written argument for the unsettled issues.
- Others noted that the intent of Presentation Days was to give the LDC the opportunity to tell their story to the Panel. So, advantage or not, it should be the opportunity of the applicant.
- Placing it after the settlement process will mean more time to prepare as LDC also needs to prepare for hearing.
- There was consensus from utility and the intervenor representatives that the OEB should transcribe all adjudicative events.

**4. Recent documents issued by the OEB**

The meeting ran short of time to address this agenda item in detail but a brief overview of the Cost of Capital staff report, the OEB Supplemental Report on the Capital Funding consultation and the new MAADs handbook was provided.

The concept of a handbook was discussed and whether this was seen as helpful. There were no serious concerns with the concept, but considerations were:

- While the additional context provided by a handbook approach is useful, the OEB should be careful that there is alignment between the handbook and the actual filing requirements
- The latest handbook (MAADs) seems to be based on prior decisions and the OEB should make sure there is consistency
- The term “handbook” suggests a more technical manual and perhaps there is a different term.

**5. Next Meeting**

No date was set for the next meeting.