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Ontario Energy Board

SPEECH

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Check Against Delivery

I am pleased to be starting off this interesting day of discussion. Let me say that the Ontario Energy Board welcomes the hard work and thoughtful submissions of the associations in the energy sector.

The theme you have chosen today could not be more fitting. We need new generation. We need new transmission. We need renewed distribution in Ontario. And we need it as soon as possible.

There is no Silver Bullet to a sustainable energy future.

Economic development cannot be achieved without energy, and cannot be sustained without a secure energy supply and the necessary supporting infrastructure. And that supply and infrastructure must be developed in a way that respects both economic and environmental requirements. Finding the right balance is a key challenge facing Ontario today.

I am here to assure you that the OEB is making every effort to facilitate needed energy infrastructure development in Ontario and we are doing that by updating as much as possible our regulatory practices.

The next session is to consider how to streamline the regulatory approval process for new energy projects.

Does streamlining mean less regulation? Does it mean exemptions from regulatory approvals where there is the power *to* exempt? Does it mean little or no duplication?

The OEB now functions within a relatively new institutional framework, particularly in the electricity sector. As part of this, the Board has an important public interest role in facilitating needed infrastructure for investment in Ontario.

We understand that regulation can shape the sector and influence investment to a certain extent. As such, while our attention is often on the firm or the utility, we must not forget the impact we have on the sector as a whole.

So the question is what kind of regulation do we need? In my opinion the balancing of interests that underpins much regulatory action can be achieved by the following<sup>1</sup>:

- Not ignoring unintended consequences
- Making regulation workable; it has to be goal oriented, cost effective and inclusive, and
- Focusing on ends, not just means.

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<sup>1</sup> *Contrived Competition, Regulation and De-Regulation in America*, Richard H.K. Vietor

Let me discuss today three examples of how we have put these principles into practice to facilitate investment in energy infrastructure. They are:

- Facilitating new gas-fired power generation
- Preparing for review of the Integrated Power System Plan - the IPSP- and
- Streamlining the filing requirements for certain kinds of facilities applications.

As you know, the Board's current Natural Gas Electricity Interface Review proceeding flowed from the Natural Gas Forum, and the recommendations from the Gas Forum Report which recognized that the demands of growth driven by new gas-fired generators is an "important and immediate priority".

After considerable analysis and consultation by Board staff, we presented the results of that work to all interested stakeholders.

This resulted in an OEB Staff Report which concluded, among other things, that a generic proceeding was required to address the question of whether new services should be offered to gas-fired generators and whether the Board should continue to regulate the storage market in Ontario.

It was anticipated that high volatility in North American gas prices and greater future power demand would increase the demand for gas storage.

In the United States, for example, such volatility has driven "developers" to consider undertaking significant expansions of existing storage and financing new projects.

The NGEIR proceeding was completed last week and the Board panel will address issues such as the appropriate rate structure as well as whether the Board should forbear from regulating the sale of natural gas storage services in Ontario.

To my knowledge, this proceeding is unique. The Federal Energy Regulatory Commission has considered many cases where an individual storage firm sought market-based rates, but I am not aware of any agency looking at the question of whether the entire storage market should be deregulated.

There is a side benefit to such a proceeding that should not go unnoticed.

And that is, this proceeding has provided the Board and stakeholders an opportunity to examine the structure and performance of the wholesale natural gas market with a view to understanding whether there may be unintended consequences to regulation.

In other words regulation directly affects market structure and if its consequences are not understood, it can create obstacles to greater efficiency and performance.

- Now let me turn to the Integrated Power System Plan.

As you know the Ontario Power Authority – the OPA - is required to prepare a 20-year Integrated Power System Plan for Ontario. The OPA must also develop procurement processes for managing supply, capacity and demand. The Board has been mandated to review and approve both the IPSP and the procurement processes.

These are new responsibilities for the OPA and the OEB.

In order to avoid process overwhelming substance, staff of the OEB has issued a Discussion Paper dealing with:

- Principles guiding the review and implementation of the IPSP
- IPSP filing guidelines and
- Principles guiding review of the OPA's procurement processes

As I indicated above we want to focus on ends not only on means. The Discussion Paper proposes an approach to determining whether the IPSP is economically prudent and cost effective, and whether it complies with the Minister's Supply Mix Directive and the regulations.

Let me add that the "means" is also important for the OEB. Stakeholder input is critical and we want to provide that with a timely and efficient process.

The Discussion Paper was posted last Friday.

Interested parties have been invited to comment on the Discussion Paper, and those comments will inform the Board in its eventual adoption of the principles and guidelines.

Parties will not need a flashlight to search for the Board's criteria. This is particularly important in the context of the IPSP because the Board is required to consider, for the first time in the electricity sector, environmental sustainability and environmental protection, as well as the environmental impact associated with certain electricity projects and a reasonable range of alternatives to those projects.

To make regulation workable, we are planning this proceeding with a view to what comes later. The Board is required to facilitate the implementation of the IPSP once approved. One of our objectives is to avoid duplication in regulatory requirements or processes for projects reviewed in the IPSP.

For example, if the need for an electricity transmission line is established through the IPSP review, the need for that project will not have to be re-established in a leave to construct or capital budget proceeding.

The focus of any subsequent leave to construct hearing would be limited to considering impacts on affected landowners. Similarly, the focus of a capital budget review would be on consistency of the budget with the costs identified in the IPSP.

The OEB does not procure supply or prescribe the supply mix goals to be achieved. But it is evident that we must constantly examine and reassess our processes and policies. Revisions may be required in order to facilitate “cost-effective and prudent” infrastructure investment in our province.

That is also, in part, the reasoning behind our development of minimum filing requirements for certain types of applications.

The proposed filing requirements for transmission and distribution rate applications and for leave to construct applications provide detailed information about the minimum amount of information that the Board requires to consider these applications.

They provide a single and comprehensive source of information for prospective applicants, filling a need that has been identified by the Board and stakeholders alike.

We sought stakeholder comment over the summer and will finalize these filing guidelines in September.

The energy sector in Ontario is complex. As such, we are also paying close attention to the responsibilities that others have.

We need to ensure that our work takes into account the context of an overall planning environment for the province. We coordinate, when it is appropriate to do so, so that we are not acting out of sequence with the other initiatives being managed by other organizations and by the government. For example, when the Board makes findings on need, including environmental impact, I would hope that other government authorities would take those findings into account. The Board has done so in the past with court approval.

This is particularly important when we are talking about billion dollar projects that will need to be financed over many years and paid for by consumers in Ontario.

So you can see the Board is committed to facilitating investment in needed infrastructure.

At the same time, we always recognize that our job, as a tribunal, is to consider the range of views about the best way to move forward, and to make decisions that are in the public interest.

There is, after all, a fundamental balance that must be maintained between those who supply and deliver energy and those who have to pay for it. The task of determining what that balance should be ultimately lies with the Board. We take this responsibility seriously.

We are mindful that regulation carries costs. In our current Business Plan, the OEB committed to review methods used to measure regulatory costs and then implement an appropriate measure for the Board. I am pleased to tell you we have done just that.

The Board asked Elenchus Research Associates, in particular, John Todd, to study regulatory cost measures used by energy regulators in the U.S., Europe and Australia.

Based, in part, on their report, the Board is adopting three measures in this area. We will track the moving average of OEB operating expenses as a percentage of industry revenue; the moving average of operating expenses per end use customer and the average percentage change in OEB operating expenses - all over a three-year period.

We are implementing this and other management initiatives so that the Board can continue to work more effectively and use its resources more efficiently.

We are publishing the Elenchus report and their survey of the practices of regulators in other jurisdictions on our web site today.

The fact that the OEA is going to be surveying its own members to identify areas for regulatory improvements is welcomed by the OEB. We look forward to those ideas being brought forward to the Board.

In my opinion, we must not only have regard for the utilities but for the sector also. Regulation must focus more on ends not just means, and we must make regulation workable. As such greater reliance on generic proceedings, code development and guidelines become important tools in the OEB's "updated regulatory practices".

Some of you would be familiar with this approach which is being used by the Board staff to determine the appropriate mechanism to set the cost of capital and incentive regulation framework for electric distribution utilities.

Early this summer, Board staff put forward proposals for setting cost of capital.

This project is still in the consultative stage, and the Board is interested in exploring all options, including those that result in different ROEs and capital structures.

The staff Discussion Paper has received mixed reviews. That is to be expected when a regulator - or any organization – embarks on a new ways of doing things. What is important to understand is that the process being utilized will enable all viewpoints to be considered before the Board determines the most appropriate approach to cost of capital.

Recall that our objective is to facilitate the maintenance of a financially viable electricity distribution sector offering services at just and reasonable rates. That is our responsibility. The process is and continues to be open, transparent and fair. The outcome, yet to be decided, will be measured and one which considers all perspectives.

So that the natural gas sector does not feel left out, let me advise you that, as of a few days ago, the Board announced a process of consultation to develop a proposal for a multi-year incentive regulation framework for the gas utilities. This was a key recommendation of the Natural Gas Forum.

The process will start with consultation, followed by a staff discussion paper to be presented to the Board. I know that many of you will be interested in participating in that process as well.

Let us make the dialogue the OEA is planning a continuing and interactive one. We are ready to talk to you any time.

Thank you.