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STANDING COMMITTEE ON PUBLIC ACCOUNTS

VALUE-FOR-MONEY AUDIT: ONTARIO ENERGY BOARD: ELECTRICITY OVERSIGHT AND CONSUMER PROTECTION

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ONTARIO)

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The Honourable Ted Arnott, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

A handwritten signature in cursive script that reads "Tom Rakocevic".

Tom Rakocevic, MPP
Chair of the Committee

Queen's Park
May 2024

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INTRODUCTION

On October 16, 2023, the Standing Committee on Public Accounts held public hearings on the value-for-money audit on the Ontario Energy Board: Electricity Oversight and Consumer Protection (*2022 Annual Report of the Auditor General of Ontario*).

The Committee thanks the Auditor for the audit. In this report, the Committee presents its own findings, views, and recommendations. The Committee requests that the Ministry of Energy and the Ontario Energy Board provide the Clerk of the Committee with written responses to the recommendations within 120 calendar days of the tabling of this report with the Speaker of the Legislative Assembly, unless otherwise specified.

ACKNOWLEDGMENTS

The Committee extends its appreciation to officials from the Ministry of Energy and the Ontario Energy Board. The Committee also acknowledges the assistance provided by the Office of the Auditor General, the Clerk of the Committee, and Legislative Research.

BACKGROUND

The Ontario Energy Board (OEB) is a Crown agency responsible for regulating the province's electricity and natural gas sectors. The OEB's authority is outlined in a number of statutes, and mainly in the *Ontario Energy Board Act, 1998*.

The OEB has a broad mandate, including the authority to

- set rates for electricity distributors, electricity transmitters, and some assets owned by the Ontario Power Generation (OPG);
- license most participants in the electricity sector;
- approve the construction of electricity transmission lines;
- approve changes in ownership or control of Local Distribution Companies (LDCs) and transmitters or their assets; and
- establish codes that govern participants in the electricity sector and enforce compliance with the codes.

The OEB serves several key functions, including adjudication, compliance and enforcement, LDC performance reporting, policy development, and market surveillance.

Ontario's Electricity Sector

The Ministry of Energy (Ministry) sets the overall energy sector policy. The OEB regulates the electricity and natural gas sector, with a focus on consumer protection and the financial viability of the industry. The Independent Electricity

System Operator (IESO) operates the province's wholesale electricity market, directs the operation of the high-voltage grid, and conducts electricity system planning. Generators produce electricity for sale, while transmitters transmit electricity from generators to LDCs, who in turn deliver low voltage electricity to consumers. Retailers sell electricity to consumers under contracts, while Unit Sub-Meter Providers (USMPs) provide metering and billing services in multi-unit buildings.

The province's long term energy planning framework is outlined in the *Electricity Act, 1998*. Under the Act, the Ministry is responsible for releasing a Long-Term Energy Plan (LTEP) and may issue directives to the IESO and the OEB to implement elements of the plan. The last LTEP was published on October 26, 2017.

Electricity Pricing

The price of electricity includes the cost of generation, delivery, and the cost of building and maintaining the infrastructure. The electricity bill of an average residential and small business consumer includes an electricity charge, a delivery charge, a regulatory charge, a rebate, and taxes.

The electricity charge is based on consumption, and depends on whether the consumer is buying electricity from an LDC, or under a contract signed with a retailer. In 2021, the vast majority (98.7%) of residential and small business electricity consumers bought their electricity from an LDC, with the majority paying the Regulated Price Plan (RPP) prices that the OEB sets annually. The electricity charge has two components:

- a market component, based on supply and demand; and
- the Global Adjustment (accounting for the majority of the electricity charge), which is mostly made up of the difference between market prices and the guaranteed prices paid to contracted producers.

The remaining 1.3% of residential and small business consumers, who had a contract with a retailer, do not pay the RPP prices. Rather, they pay the contract price and the Global Adjustment. The OEB does not regulate contract prices.

The delivery charge includes the costs of building and maintaining both the high-voltage transmission lines and the low-voltage distribution lines. The OEB sets the delivery charge rates for each LDC, based on the age and condition of the LDC's equipment, the service area size, the geographical location of consumers, and the consumer density.

The regulatory charge is aimed primarily at recovering the cost of administration of the wholesale electricity market and maintaining the reliability of the grid.

The Ontario Electricity Rebate (OER) was introduced in November 2019 to hold annual electricity bill increases to 2% for low-volume consumers.

Distribution Rate Protection (DRP), Low Income and Subsidy Programs

The Distribution Rate Protection (DRP) program was launched in 2017 with the aim of providing electricity bill relief to customers living in areas with high

distribution rates. The program is taxpayer-funded, and is designed to set a cap on the distribution rate based on the monthly distribution charges paid by the consumers, and provide relief to customers whose distribution rate is higher than the cap. The DRP cap is set annually by the OEB based on parameters set in DRP regulations.

The OEB also established the Low-income Energy Assistance Program (LEAP) in 2011 and the Ontario Electricity Support Program (OESP) in 2016, targeting customers who face financial difficulties in paying their electricity bills. LEAP is a grant program providing financial assistance to eligible customers who meet certain “low-income” criteria and whose electricity bills are in arrears to avoid service disconnection. LDCs maintain a dedicated budget for LEAP, funded through distribution rates and additional contributions. OESP was implemented to provide continued financial support through on-bill credits. During the recent COVID-19 pandemic, the Ministry of Energy introduced a time-limited COVID-19 Energy Assistance Program (CEAP), which provided eligible customers with grants to pay electricity bill arrears accumulated during the pandemic.

AUDIT OBJECTIVE AND SCOPE

The objective of the audit was to “assess whether the Ontario Energy Board (OEB) has effective systems and procedures in place to:

- Inform consumers and protect their interests with respect to prices and the adequacy, reliability and quality of electricity services;
- Promote economic efficiency and cost-effectiveness of the electricity sector and facilitate the maintenance of a financially viable electricity sector; and
- Measure and report on the performance of the OEB in achieving its mandate.”

The audit was conducted between January and October 2022.

ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE

Accountability and Transparency

The Committee mentioned a recent London Economics International (LEI) report prepared for the OEB in order to “analyze and define resilience within the context of climate change and assess related policy questions as they apply to electricity distributors in Ontario.” LEI recommended a series of ten steps to begin addressing the climate resiliency of the electricity system in Ontario, and the Committee asked whose responsibility it was to implement those steps. The OEB stated that the LEI was one input in a series of consultations undertaken by the OEB to provide the Minister of Energy (Minister) with recommendations on the resiliency, responsiveness, and cost efficiency of the electricity system in Ontario. The OEB has considered LEI’s recommendations, alongside the outcomes of other consultations, and prepared five high-level themes for the recommendations to the Minister. The recommendations were submitted to the

Ministry at the end of June 2023, and were not publicly available at the time of the hearing.

Committee members cited a recommendation from the LEI report, focusing on the resilience of transmission and distribution systems connected to critical infrastructure, and asked whether the Ministry has a timeline for implementing a resilience program. The Ministry stated that some of the resilience work is already being done, as utility companies are including system-hardening and fault detecting technologies in their asset management plans.

In November 2023, the Minister issued a letter of direction to the OEB, which directed the OEB to post its Distribution Sector Resiliency, Responsiveness, and Cost Efficiency report online. It also endorsed several actions outlined in the report, and asked that the OEB begin to develop and implement policies including, but not limited to, requiring local distribution companies to engage in a regular assessment of the vulnerabilities in their distribution systems and operations in the event of severe weather.

In the audit report, the Auditor mentioned that the deemed capital structure, a component in the OEB's determination of appropriate rates of return for rate-regulated entities, has not been updated for over 15 years. The OEB was asked whether it was in the process of reviewing the deemed capital structure in the return-on-equity (ROE) formula. The Committee heard that the review of the cost of capital policy is included in the OEB's draft work plan for 2023-25. The outcomes of the multi-phased review will inform the OEB in updating or confirming the validity of the deemed capital structure, and determine the ROE formula to be used when setting rates of return of regulated entities, and define the frequency of future review.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

1. The Ministry of Energy report back to the Standing Committee on Public Accounts on the status of its efforts to secure resilience in the electricity system, and report back on the recommendations on resilience from the OEB submitted to the Ministry in June 2023.

Consumer Protection and Electricity Affordability

In terms of consumer protection, the Committee focused their questions on the regulation of power generating assets and Unit Sub-Meter Providers (USMPs). As noted by the Auditor, "[t]he OEB has no authority to review and regulate an estimated 34% of the charges in an average residential bill ... [with the portion] largely related to electricity supply contracted by the Independent Electricity System Operator (IESO) under Ministerial direction." Further, "[t]he unregulated amount is about 57% of the entire electricity charge portion of the bill." The Ministry was asked how it can regulate power costs for consumers without having the ability to regulate the majority of the power generating assets. The Committee heard that the Ministry believes that the IESO can regulate the power generating assets outside of OEB's jurisdiction in an effective and transparent manner. The Ministry will, however, be looking for advice from the Electrification and Energy Transition Panel around governance to see what, if anything, the

Ministry would change in the governance and oversight of different forms of energy procurement and pricing.

USMPs were also discussed. In response to the Auditor's report, the Ministry stated that it "agrees with the importance of fair and transparent pricing for all energy consumers, and will continue to work with the OEB and USMPs to gather relevant data and information for performing its analysis and to protect consumers."

During the hearing, Ministry staff indicated that they have been tended to undertake work over the next two years in collaboration with the OEB and the USMP sector to understand the issue of cost fairness and consumer protections.

Electricity affordability was another topic of interest, with the Committee asking what the Ministry is doing to make power more affordable to private consumers and businesses. The Ministry focused its response on its two largest programs – the Ontario Electricity Rebate (OER), which reduces bills for private consumers and small businesses by 11.8%; and the Industrial Conservation Initiative (ICI), which enables large industrial companies to reduce the global adjustment portion on their electricity bills by voluntarily curtailing power use during peak times in the year. The Committee further heard that the Ministry received positive feedback on the ICI from participants, and that the initiative has been helpful in attracting investment to the province.

Another line of questioning focused on the Distribution Rate Protection (DRP) program. The Auditor found that "[r]esidential customers in certain areas with high electricity distribution charges are ineligible for Distribution Rate Protection (DRP) due to outdated program criteria." The Committee asked the Ministry about the apparent mismatch, and heard that the Ministry incorporated inflationary measures through the OEB to adjust the DRP monthly distribution charge cap and tie it to inflation. The Ministry has been reviewing the effects of the inflationary measure for the past year, and intends to keep collecting and analysing data for another year before deciding whether any other changes to the DRP are needed.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

2. The Ministry of Energy report back to the Standing Committee on Public Accounts on its engagement with the Electrification and Energy Transition Panel with regard to the governance and oversight of different forms of energy procurement and pricing within one year.
3. The Ministry of Energy report back to the Standing Committee on Public Accounts on the fairness and cost analysis of Unit Sub-Meter Providers (USMPs) within a year.

Long Term Energy Planning, Economic Growth and Environmental Impact

Committee members were also interested in the long-term energy plan (LTPE), and whether it will be subject to an OEB hearing. The Ministry shared that it is

still too early in the process to answer this question, but highlighted the Ministry's 2021 consultations on the approach to long term energy planning, and the work done by the Electrification and Energy Transition Panel. The OEB is also seeking advice around governance from the Electrification and Energy Transition Panel, established in 2022, which is tasked with providing short-, medium-, and long-term recommendations on electricity planning specifically and energy planning in general. With respect to expanding the LTEP beyond just electricity to include all forms of energy, the Ministry stated that the focus of the Panel is to look at all forms of fuels in the province. Further, the Ministry is conducting its own studies and looking at a series of options, including different technologies and fuel sources when considering future trends in energy use, such as home heating, electric vehicle adoption, the role of hydrogen in the system, and so on.

In January 2024, the Electrification and Energy Transition Panel released its final report, *Ontario's Clean Energy Opportunity*. The Minister has indicated that he will review the report's recommendations before announcing next steps towards an integrated energy planning process later in 2024.

The Ministry was asked to comment on the economic value that the electricity system brings to the province, mainly in terms of the growth of the manufacturing sector. The Ministry shared that the province started to experience a load increase recently following a number of years where the load was stable or declining. The load increase has led to IESO's Pathways to Decarbonization work, and the Ministry's subsequent Powering Ontario's Growth plan. The Ministry added that the plan provides a degree of certainty on future energy projects, some of which, such as nuclear projects, can take 10 to 15 years to complete due to federal impact assessment and community engagement.

In terms of projects benefitting Indigenous communities, the Ministry mentioned a number of equity partnership projects, including the solar installation in Nanticoke, the Bruce-to-Milton transmission line, and the Peter Sutherland hydro generating station.

When asked about the environmental impact of the electricity grid in Ontario, the Ministry asserted that 90% of the electricity generated in the province is from non-emitting sources, and represents one of the environmentally cleanest grids in the world, which attracts investment from firms looking to fulfil their environmental commitments.

Emerging Technologies

A number of emerging technologies were also discussed, namely Small-Modular Reactors (SMRs) and Electric Vehicles (EVs).

The Committee was interested in the timeline for the first commercial SMR going online, and heard that, for the Ontario Power Generation's Darlington site SMRs, the target for commercial operation is 2029. The current commitment is for four SMRs at the Darlington site, with plans for up to 4,800 MW of new nuclear generation at the Bruce Power site at Kincardine. The Ministry also confirmed that most suppliers in the nuclear power supply chain have a presence in Ontario, and that interest in the technology is coming from other provinces and internationally.

Another prominent topic of discussion was the integration of electric vehicles and the charging capacity required for widespread adoption. The Committee heard that, overall, charging options for EVs are increasing. The Ministry shared that it reached out to the OEB to support local utilities on EV integration through guidance on the investment needed to meet demand. Further, the Ministry stated that the Government has a number of initiatives to support EV adoption, including the installation of level 3 fast chargers, which allow for a full battery charging time of 30 to 40 minutes. The Ministry also mentioned that the Government has launched a new, ultra-low overnight (ULO) electricity pricing scheme to provide an incentive for overnight charging. The program was well received, and the Ministry expected the 59 LDCs in Ontario to offer the ULO rate to customers by November 2023.

The OEB added that it launched the electric vehicle integration initiative last year. As part of the initiative, the OEB conducted a survey of electricity distributors and EV charging service providers, with the results used to inform the OEB's work and determine the guidance provided to the sector. The OEB issued a bulletin containing guidance on providing new residential connections with enough capacity to accommodate EV charging demand. The OEB is also developing a streamlined process for connecting new EV charging stations through the Distributed Energy Resources (DER) connections review consultation, focusing on standardized information-sharing and greater certainty around costs and timelines. In February 2024, the Minister announced that the OEB had, in response to his letter of direction, issued the final Electric Vehicle Charging Connections Procedure (EVCCP), to make it easier to set up new charging stations and support the adoption of electric vehicles in Ontario.

When asked whether Ontario's power grid is ready for the expected increase of demand brought on by EV adoption, the Ministry explained that a lot of the current initiatives are aimed at meeting the increased demand, including the procurement of assets for power generation and storage, transmission build-out and technological advancements at the distribution level.

CONSOLIDATED LIST OF COMMITTEE RECOMMENDATIONS

The Standing Committee on Public Accounts recommends that:

1. The Ministry of Energy report back to the Standing Committee on Public Accounts on the status of its efforts to secure resilience in the electricity system, and report back on the recommendations on resilience from the OEB submitted to the Ministry in June 2023.
2. The Ministry of Energy report back to the Standing Committee on Public Accounts on its engagement with the Electrification and Energy Transition Panel with regard to the governance and oversight of different forms of energy procurement and pricing within one year.
3. The Ministry of Energy report back to the Standing Committee on Public Accounts on the fairness and cost analysis of Unit Sub-Meter Providers (USMPs) within a year.