



Ontario Energy Board: Electricity Oversight and Consumer Protection

2022 Value-for-Money Audit

Why we did this audit

- The role of the Ontario Energy Board (OEB) is to protect consumer interests in accessing adequate, reliable and quality electricity services at just and reasonable rates.
- The electricity system costs Ontarians over \$20 billion annually, including the cost to generate and deliver electricity to consumers, as well as the cost to build and maintain the infrastructure.

Why it matters

- Based on data from Statistics Canada for 2019, we estimate that most Ontario households spend between \$600 and \$1,700 on electricity annually. There was an average of over 20,000 disconnections every year from 2017 to 2021 because households were unable to pay their electricity bills.
- Effective planning and oversight of the electricity sector is important to ensure that Ontarians have access to affordable and reliable electricity services, because Ontario's electricity sector is heading into a challenging period of changes.

What we found

Not All Costs of Electricity Bills Regulated by the OEB

- While one of the primary objectives of the OEB is to protect consumer interests in electricity prices, the OEB has no authority to regulate almost 34% of charges on an average residential bill.
- Among all generating assets, the OEB only sets the rates for electricity generated by certain assets owned and operated by Ontario Power Generation. Rates for electricity from other generating assets are mostly governed by electricity supply contracts managed by the Independent Electricity System Operator (IESO); the OEB has no regulatory authority over them.

RECOMMENDATION 1

Lack of Independent Oversight on Long-Term Energy Planning

- The Ontario Power Authority, which merged with the IESO in 2015, was required by legislation to prepare a 20-year energy plan called an Integrated Power System Plan (IPSP) for the OEB to review and approve.
- However, both 2007 and 2011 IPSPs were not reviewed by the OEB. Instead, in 2010, 2013 and 2017 the Ministry issued Long-term Energy Plans (LTEPs) in place of IPSPs. None were subject to the OEB's review to ensure they were financially prudent.
- The government still has not set a definite timeline for the next LTEP. The Ministry of Energy was required by a regulation under the *Electricity Act, 1998* to issue the next LTEP by February 2021. However, the regulation was revoked on January 1, 2021 and a new LTEP still has not been issued.

RECOMMENDATION 2

Lack of Protection and Transparency for Customers of Unit Sub-Meter Providers (USMP)

- In Ontario, multi-unit buildings can obtain sub-metering services from USMPs to provide electricity meters to each unit, but the OEB has no oversight over USMP prices and services. Specifically:
 - Unlike rates charged by local distribution companies (LDCs), USMP charges are not subject to the OEB's regulation but the rates to be charged to occupants are set by contracts with developers, building owners or condominium boards, and the contract terms can vary.
 - Occupants served by USMPs have less protection against disconnection compared to LDC customers. In 2017, the OEB amended the LDCs' licence conditions to ban the disconnection of residential customers during winter months. USMPs, however, are not subject to this prohibition. About 12% of USMP customer complaints received by the OEB from 2016/17 to 2021/22 were related to winter disconnection.
- The OEB does not provide sufficient information to educate electricity customers about USMPs, despite customer concerns about the lack of transparency on USMP charges.

RECOMMENDATION 3, 4, 5

Distribution Charge Caps Outdated for Distribution Rate Protection (DRP) Program

- The DRP is a subsidy program that caps the monthly base distribution charges for residential customers of the eight eligible LDCs with the highest distribution charges at the time when the program was initiated in 2017.
- However, in 2022, these eight LDCs no longer have the highest distribution charges. Some LDCs with distribution charges above the cap remain ineligible, while one LDC remains eligible even though its charge has fallen below the cap.
- Residential customers of certain LDCs with charges above the cap could be paying less if the list of LDCs was updated.

RECOMMENDATION 6

Use and Effectiveness of Low-income and Emergency Subsidy Programs Not Sufficiently Evaluated

- The provincial government has introduced a number of subsidy programs to assist customers who face financial hardship to pay their electricity bills, including the Low-income Energy Assistance Program (LEAP), the Ontario Electricity Support Program (OESP), and the time-limited COVID-19 Energy Assistance Program (CEAP).
 - However, performance measures and targets are not established to determine if these programs are targeting and helping those who need it most.
- LEAP funding for individual LDCs is not reviewed and adjusted based on need. As such, while certain LDCs have LEAP funds remaining at year-end, others have depleted their funds and can no longer help their customers. For example:
 - In 2019, two LDCs depleted their funds as early as February (only two months into the calendar year) and about 25% of LDCs ran out of funds by end of June.

RECOMMENDATION 7, 8

Disproportionately High Regulatory Cost of Major Rate Applications for Very Small LDCs

- The OEB's rate-setting process imposes disproportionately higher costs on the very small LDCs with fewer than 5,000 customers.
- Based on our review of the 20 major rate applications filed from 2019 to 2021, the costs of adjudicating applications from very small LDCs represented 25% of the estimated five-year customer savings resulting from adjudication (i.e., the amount of rate increases sought by LDCs that the OEB disallowed). This was much higher than that from larger LDCs, where the costs of adjudication represented only 1-2% of the estimated savings.

RECOMMENDATION 9

Overdue Review of Factors Determining Allowable Returns for Companies

- The OEB sets rates allowing regulated entities to recover their prudently incurred costs and to earn a fair—but not excessive—return on their invested capital. Two key inputs set by the OEB that determine the allowed return are the deemed capital structure (i.e., debt-to-equity ratio) and the rate of return on equity (ROE).
- Two factors that help the OEB determine the allowable return were last subject to comprehensive review by the OEB in 2006 and 2009 respectively.

RECOMMENDATION 10

Insufficient Performance Monitoring of LDCs After Approving Consolidations

- The OEB does not have a standard process to monitor post-consolidation activities of LDCs to confirm that those activities progress as planned to generate long-term benefits for customers and electricity distribution sector.
- We identified cases relating to Hydro One's acquisitions where the acquisitions failed to demonstrate value (i.e., lower electricity prices) to customers of the acquired LDCs.
- Once a consolidation transaction is closed, performance metrics of the acquired or merged LDCs are combined and reported as part of the consolidated entity, instead of separately tracked in individual scorecards. This results in reduced transparency for customers and the regulator.

RECOMMENDATION 11

Improvements Needed for Transparency and Performance Monitoring of the OEB's Compliance Program

- The OEB's website provides information on the roles and responsibilities of the OEB, electricity service providers and customers, as well as the complaint resolution process.
- However, such information is fragmented and unclear in comparison to regulators in other jurisdictions, such as British Columbia and Manitoba.
- Our review of customer inquiries noted that some customers have mistakenly called the OEB when they meant to call their electricity service providers.
- The OEB has neither updated the targets of the customer service metrics for its complaints and inquiries handling processes, nor established metrics to measure the performance of its compliance and enforcement function.
- Cycle times on compliance reviews and inspections are not tracked and assessed against targets to measure the efficiency of these activities.

RECOMMENDATION 12

Conclusions

- The OEB's ability to protect consumer interests (that is, access to adequate, reliable and quality electricity services at just and reasonable rates for customers) is constrained in some areas. For example:
 - The OEB has no authority to review and regulate almost 34% of the charges in an average residential bill.
 - The OEB does not have the power to oversee the province's long-term energy planning process.
 - The OEB does not regulate the fees that USMPs charge their customers, who now represent 7% of Ontario's electricity customers: this proportion is growing.
- The OEB lacks some processes that, if implemented, would allow it to better fulfil its objective of maintaining a financially viable, economically efficient and cost-effective electricity sector. For example:
 - The OEB has not routinely reviewed the policy that it uses to determine the appropriate return for rate-regulated entities. One major component of the policy—the deemed capital structure—has not been reviewed and updated for over 15 years. Regular review of the policy will help ensure that these entities receive fair—but not excessive—returns.
 - The OEB does not have a standardized process to actively monitor LDCs after their consolidations to ensure that post-consolidation activities are progressing as planned to achieve the projected long-term efficiency gains.