

Energy Law Forum

Impacts of COVID Emergency Conditions on the Electricity Sector: Actions Taken & Lessons Learned

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March 2020: It Begins

- Like many organizations, the OEB was caught by surprise by the swiftness of the lockdown and associated measures in March 2020: physical office closed March 15, provincial emergency declared March 17
- OEB was in the midst of a significant corporate restructuring: executive leadership team was not entirely in place
- Once the scale of the crisis became apparent, the OEB moved quickly to blunt the impacts of the pandemic for both regulated entities and customers
- OEB implemented about a dozen discrete measures by July 2020, some in conjunction with government and some on its own initiative
- Additional measures have been implemented since that time, and the OEB continues to monitor the situation carefully

Examples of Immediate OEB Initiatives

Supported implementation of 24 hour off-peak electricity commodity pricing for residential customers through May 2020.

Amended all electricity distributor licences to ban disconnections for non-payment until July 31, 2020.

Provided distributors with the option of deferring the implementation of their ordinary annual inflationary adjustment to rates

Waived certain filing requirements with respect to hard copies: move toward fully electronic filings.

Covid Deferral Account

- In March and April 2020 there was significant uncertainty about the economic impacts of the pandemic, and significant concerns from utilities regarding their economic health
- The OEB immediately (March 25) established a Covid impacts deferral account, with details to follow
- A consultation process to establish the specific rules for the account was commenced in May 2020; a final report was issued in June 2021
- OEB was one of very few regulators that established this type of account

Covid Deferral Account

- Report established a means test, and restrictions on recovery
- Amounts in account must be Covid related, reasonable and necessary for the utility to earn a fair return over the long run
- Any costs associated with OEB or government mandated activities are recoverable, unless utility over-earned by more than 300 basis points
- Other Covid related costs (e.g. bad debt, PPE) are eligible for recovery only where utility under-earns against OEB approved ROE by more than 300 basis points, and only 50% of these costs are recoverable

Covid Deferral Account

- Approximately 10 utilities filed 2022 cost of service applications where the account was eligible for recovery, and about half of them sought disposition of the account
- Balances in the account were generally modest, and some didn't seek recovery at all
- These applications were filed in early to mid 2021, when the ultimate impacts of the pandemic were still uncertain
- Given the uncertainty, the OEB did not clear any of the accounts; they were rolled over for future consideration
- Applications for 2023 cost of service rates are starting to be filed now: so far only 1 of 3 has sought disposition

CEAP and CEAP-SB

- Covid-19 Energy Assistance Program (CEAP) was designed to provide rate relief grants up to \$750 to residential customers having difficulty in paying their gas and electricity bills during the pandemic
- Later expanded to include certain small businesses (CEAP-SB)
- Funded by the Provincial Government, but largely implemented by the OEB
- Initially \$9M, later increased to \$32M
- Involved several licence amendments for all distributors and for the IESO
- Programs ended by end of 2021

Electronic hearings

- Like many organizations, the OEB's physical offices were more or less completely closed by mid-March 2020
- Fortunately no oral hearings were scheduled for March-July 2020
- First ADRs took place by electronically in late March 2020, first full technical conference in July via Zoom, first full hearing oral hearing in early 2021 through Zoom
- No significant delays in issuing decisions or other key documents

Electronic Hearings

- Electronic hearings have generally worked very well
- Convenient and inexpensive
- Hearings are streamed on Youtube, enabling easier public access
- To date we have not scheduled any in-person oral hearings, though we expect to be back to in-person hearings for some matters at some point
- OEB had conducted a mock electronic hearing in 2017; technology significantly better by the pandemic in 2020

Lessons Learned

Although we cannot plan for every possible emergency, the OEB's regulatory regime proved to be resilient and continued to exercise all of its important functions

Be nimble and responsive to events as they unfold

Be proactive

Covid created very significant incremental workload

No turning back the clock on electronic hearings