

BY EMAIL

October 4, 2025

**Ministry of Energy and Mines
77 Grenville Street, 5th floor
Toronto, ON M7A 2C1**

Re: ERO-025-0993 – Bill 40 - Proposed Amendments to the Electricity Act, 1998, Ontario Energy Board Act, 1998 and the Municipal Franchises Act, to secure energy for generations.

The Electricity Distributors Association (EDA) is the voice of Ontario's local electricity distributors, representing the full spectrum of members across the province. The EDA represents Ontario's local hydro utilities, the part of our electricity system closest to customers. Publicly and privately owned utilities deliver electricity to residential, commercial, industrial, and institutional customers—powering every community in the province. The sector owns more than \$33 billion in electricity system infrastructure and invests more than \$3 billion annually in the electricity grid—that is the Power of Local Hydro.

Introduction

The EDA is pleased to provide its comments in response to *Bill 40 – An Act to amend various statutes with respect to energy, the electrical sector and public utilities*. We commend the government's proactive and strategic approach to addressing the province's future energy needs. *Bill 40*, along with the Integrated Energy Plan, signals a fundamental and necessary shift in policy towards a more strategic and coordinated energy system. This new paradigm is essential to meet the IESO's forecast of a 75 percent increase in electricity demand over the next 25 years, driven by electrification, industrial growth, and a rapidly expanding population.

Ontario's electricity distributors are uniquely positioned to serve as key partners in realizing the government's vision of an affordable, secure, and resilient energy future. This submission provides the EDA's perspective on four key aspects of the proposed legislation.

Enabling Managed Growth for Data Centres

Historically, Ontario's electricity distributors have been required to provide non-discriminatory access to all customers, including data centres, regardless of economic or system impacts. However, the proposed amendments signal a shift towards prioritized access for "specified load facilities," primarily data centres, based on criteria set out in future regulations. If passed, these amendments will establish a framework for evaluating electricity connection requests from large data centres and could potentially prohibit connections if specific requirements are not met. Additionally, they will grant regulatory powers to establish conditions for "specified connection requirements" and to define "specified load facility" for data centres and other entities. These criteria, enabled by new regulation-making authority granted to the Lieutenant Governor in Council, will consider factors such as size (likely above 50 MW), location, and local benefits. Electricity

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distributors will be required to obtain explicit approval from the Minister of Energy and Mines before connecting covered data centres. Connection requirements may include impact assessments, documentation demonstrating local economic benefits, data sovereignty protections, and credible job creation projections.

The EDA supports the government's recognition of energy-intensive industries, like data centres, and its commitment to their responsible growth. The proposal to add section 28.1 to the *Electricity Act*¹ and related amendments would create a new provision that prohibits transmitters and distributors from connecting "specified load facilities" unless they meet new requirements specified in future regulations. The EDA views this change as an important step to ensure that rapid load growth does not compromise the stability and reliability of the provincial grid. In designing this new framework, the EDA urges the government to consider the lessons learned from other jurisdictions that have faced similar challenges. For example, regulators in Ireland are in the final stages of their consultation with stakeholders on a comprehensive new policy for data centres.² Specifically, Irish regulators are considering the following measures for transmission-connected data centres - requiring data centres to have dispatchable generation either on-site or nearby. The ramp-up of demand for the data centres will be linked to the delivery of the required generation capacity. Additionally, system operators should consider locating data centers based on available capacity. System operators will be required to publish information on existing and future grid capacity, while data centres will need to self-report their use of renewable energy and emissions. While the EDA appreciates this opportunity to provide comments, it submits that the government should specifically consult LDCs during the development of the regulations.

The proposed amendments effectively create an exception to the long-standing principle of non-discriminatory access, shifting new responsibilities onto distributors and transmitters. The EDA supports this change in principle; however, for it to be successful, the upcoming regulations must provide clear, prescriptive, and measurable criteria for high-demand users to meet. Without a robust and transparent framework, distributors could find themselves in a legally and operationally ambiguous position, exposing them to unintended risk.

Establishment of Deferral and Variance Accounts to Record Higher Costs from Procurement

Recent changes under the *Protect Ontario by Unleashing Our Economy Act, 2025*, allow the government to restrict procurements based on the country, region, or territory of origin of goods and services. These restrictions may lead to higher procurement costs for distributors. The proposed amendments to the *Ontario Energy Board Act, 1998* (OEB Act)³, which enable the establishment of deferral and variance accounts to track these incremental costs, are a positive and necessary step. This change, which aligns with the *Protect Ontario by Unleashing Our Economy Act, 2025*, will allow distributors to record costs incurred from complying with the procurement restrictions.

The creation of deferral accounts represents an essential safeguard for electricity distributors, protecting utility balance sheets during periods when procurement options are limited by government policy. This ensures distributors can continue to deliver reliable service while

¹ And complementary amendments to section 114 of the *Electricity Act*; and corresponding amendments to section 3 and section 70 of the *Ontario Energy Board Act*

² <https://consult.cru.ie/en/consultation/review-large-energy-users-connection-policy>

³ Amendments to sections 73 of the *Ontario Energy Board Act* respecting deferral and variance accounts connected to costs arising from compliance with those sections and specified interest costs

maintaining prudent cost management and enabling transparency for regulators and customers. The EDA supports this proposal and emphasizes the importance of timely OEB review, clear cost recovery guidelines, and mechanisms to ensure prudent, unavoidable cost increases are eligible for rate recovery. Regarding the establishment of clear cost recovery guidelines, the EDA emphasizes that LDCs should be permitted to recover all prudently incurred costs without being restricted by the OEB's materiality thresholds.

Adding Economic Growth to the Objectives and Objects of the IESO and the OEB

The EDA supports the government's proposal to formally codify "economic growth" as a statutory objective for both the IESO and the OEB.⁴ This is a timely shift in the regulatory paradigm. For decades, the OEB's mandate has been interpreted primarily through the lens of cost minimization for ratepayers. This new objective explicitly recognizes that energy infrastructure is not merely a cost to be minimized, but a strategic asset that enables economic development, job creation, and industrial competitiveness.

The inclusion of economic growth aligns with the realities of modern energy planning. As Ontario faces unprecedented demand growth, electricity distributors will need to make anticipatory, strategic investments in grid modernization and expansion to attract new industries and support high-value economic activity. Under the traditional framework, such investments could be seen as "overbuilding," which could jeopardize cost recovery. The proposed amendment provides the statutory basis for the OEB to approve and support these essential long-term investments. The proposed amendment will allow LDCs to make necessary anticipatory investments to ensure system reliability amid rising demand. Electricity distributors are prepared to collaborate with the government, the IESO, and the OEB to develop a new, forward-looking regulatory framework that encourages strategic grid investments of this nature.

Enabling Scoped Policies by the OEB Chief Executive Officer regarding aspects of the OEB's Adjudicative Process

The proposed amendments to the *Ontario Energy Board Act*⁵, if passed, would authorize the OEB's Chief Executive Officer (CEO) to issue internal policies governing various procedural matters related to adjudicative hearings. According to the government's proposal, this authority would not bind Commissioners or OEB staff to make determinations in alignment with government direction or policy and instead, provide a mechanism to enhance consistency and transparency in how adjudicative timelines for proceedings are managed and the information to be considered, such as a specific government policy that is relevant to the matter before the OEB.

⁴ The objects of the IESO in subsection 6 (1) of the *Electricity Act* are amended to add provisions relating to supporting economic growth. Subsection 1 (1) of the OEB Act is amended to add a new objective of the OEB respecting economic growth in relation to the regulation of the electricity sector. Section 96 of the OEB Act is amended, and economic growth is added to the list of matters the Board is permitted to consider when deciding whether granting leave is in the public interest.

⁵ A new section 13.1 of the *Ontario Energy Board Act* authorizes the CEO to issue internal policies respecting various procedural matters in relation to hearings and determinations. ("Procedural matters" refer to: Timelines for conducting a hearing; Timelines for making determinations in applications adjudicated by DA; Information and documents in a hearing; And any other matters prescribed by regulations).

The EDA understands that the current procedural policies are determined by the Chief Commissioner, the Registrar, and the Panel of Commissioners in a hearing. While ensuring regulatory consistency and efficiency are important, the EDA proposes that the OEB establish clear rules outlining the circumstances under which the CEO's powers will be exercised. It is crucial to avoid any overlap between the new powers of the CEO and those of the Chief Commissioner⁶ and the Registrar⁷. These rules should provide guidance on oversight mechanisms and maintain adjudicative independence. Any process that reduces visibility into decision-making or undermines opportunities for stakeholder participation could introduce uncertainty and risk. Finally, the EDA urges the government to ensure that the development and implementation of any new procedural policies involve a robust consultation process and are conducted transparently and in an accountable manner.

Conclusion

The EDA commends the government for its vision and leadership in introducing *Bill 40*. The proposed legislation, particularly its emphasis on economic growth and its measured approach to connecting data centres, provides a strong foundation for building the energy grid of the future.

If you have any questions, please do not hesitate to contact Rudra Mukherji, Senior Regulatory Affairs Advisor, at rmukherji@eda-on.ca.

Sincerely,



Teresa Sarkesian
President & CEO

⁶ [Powers of the Chief Commissioner \(Article 7, By-Law#1\)](#)

⁷ [Registrar's Delegation \(Parts 6, 7 and 9\)](#)