

**Ontario Energy
Board**

P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto ON M4P 1E4
Telephone: 416-481-1967
Facsimile: 416-440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**

C.P. 2319
2300, rue Yonge
27^e étage
Toronto ON M4P 1E4
Téléphone: 416-481-1967
Télécopieur: 416-440-7656
Numéro sans frais: 1-888-632-6273



VIA E-MAIL AND WEB POSTING

September 14, 2017

To: All Registered Stakeholders

**Re: Final Report on the Consultation on the Regulatory Treatment
of Pension and Other Post-Employment Benefit Costs and Notice of
Hearing for Cost Awards
Board File Number EB-2015-0040**

On May 18, 2017, the Ontario Energy Board (OEB) issued a report on the Regulatory Treatment of Pension and Other Post-employment Benefits (OPEBs) Costs and invited all registered stakeholders to provide comments on certain implementation matters by June 22, 2017. The OEB is now issuing a final Report (the Report) that will supersede the previously released version.

As noted on May 18th, the core policy of the OEB arising from this Report establishes the use of the accrual accounting method as the default method on which to set rates for pension and OPEB amounts in cost-based applications, unless that method does not result in just and reasonable rates in the circumstances of any given utility. The Report also establishes the use of a variance account to track the difference between the forecast accrual amount in rates and actual cash payments made, with asymmetric carrying charges in favour of ratepayers applied to the differential. Attached to the final Report are appendices on the accounting guidance related to the variance accounts discussed in the Report. These appendices have not changed significantly from those included in the May 18th report. The key changes made are identified below.

In developing this final Report, the OEB considered comments made in the ten submissions received by June 22, 2017, related to implementation matters outlined in the OEB's May 18th letter. The following section summarizes the OEB's position on the implementation matters, which have been reflected in this final Report:

1. Effective date of the new variance tracking account.

The May 18th report established an effective date for the new policy on the first of the month following the issuance of this Report. The OEB accepts the suggestion of certain stakeholders that the effective date of the new variance tracking account be changed to January 1, 2018 in order to allow utilities additional time to assess impacts on current processes and to align with utility fiscal years.

2. Mechanics of new variance tracking account.

Certain respondents opposed the use of asymmetric carrying charges in favour of ratepayers, primarily on the basis that it violated the OEB's principle of fairness. The OEB is of the view that the use of asymmetric carrying charges (in combination with the parameters and mechanics outlined in the report), achieves a balance of fairness to utilities and ratepayers for the reasons outlined in the May 18th report.

Some respondents proposed that the calculation of the variance and carrying charges associated with the new tracking account should be done annually instead of monthly. The OEB finds that the requirement for monthly calculations and journal entries is consistent with the treatment of most deferral and variance accounts. However, the OEB has updated Appendix C to the final Report to clarify that a utility may propose an alternate approach, such as to record annual journal entries, provided that they can demonstrate that ratepayers will not be disadvantaged as a result.

Other comments questioned whether the construction work in progress (CWIP) interest rate¹ is the appropriate carrying charge rate to apply to the variance account, whether there is sufficient clarity that the OEB's intent is to dispose of just the carrying charges and not the principal balance as well, and whether the use of the forecast accrual balance in the variance calculation is appropriate. The OEB was not persuaded by the arguments in the submissions to alter the OEB's initial position on these matters. The OEB finds that the CWIP rate and the use of the forecast accrual balance in the variance calculation continue to be appropriate for the reasons provided in the May 18th report. However, a revision was made in Section C of the final Report to enhance the clarity of the

¹ Some respondents questioned whether the rate was sufficiently discussed during the consultation process. The rate was addressed in OPG's presentation at the Stakeholder Forum on July 19-20, 2016 and in submissions received by September 22, 2016 from Coalition of Large Distributors, London Property Management Association and Hydro One Networks Inc.

requirement that only the carrying charges will be disposed at the time of disposition of the variance account.

3. The manner in which carrying charges are applied to balances tracked in previously established variance accounts.

One respondent suggested that recovery of balances in the previously established variance accounts relating to periods prior to the effective date of the new OEB policy should not be recorded in the new variance account because it would represent retroactive ratemaking. The OEB notes that deferral or variance accounts, by their very nature, keep prior periods open for further adjustments. In addition, per the reasons noted in this final Report, the carrying charges on the amounts tracked in the previously approved accounts will be applied on a prospective basis. The OEB is of the view that this does not represent retroactive ratemaking. Therefore, no change to the final Report is warranted. No parties raised any other concerns with the implementation mechanics of the application of carrying charges on the previously approved accounts.

4. The requirement to track only the gross accrual cost as opposed to identifying amounts expensed vs. capitalized.

The majority of respondents supported the methodology in the May 18th report, while a few respondents suggested that amounts that a utility capitalizes should be tracked separately and that the weighted average cost of capital (WACC) should be used to calculate the related carrying charges on those amounts. The OEB finds that the requirement to track only the gross accrual costs continues to be appropriate. The final Report continues to allow for the use of an alternate approach if amounts capitalized are thought to be material. As most utilities do not capitalize a significant portion of pension and OPEB costs, requiring utilities to track capitalized amounts separately would add unwarranted complexity and administrative burden to the process. In addition, the OEB is of the view that the difference between WACC and CWIP rates would likely not have a material impact on the calculation of carrying charges in most cases.

However, the final Report has been augmented to address certain comments that noted that any party (not just the applicant) within a rates proceeding should be able to propose an alternative approach when the capitalization of pension and OPEB costs is expected to materially impact the calculation of carrying charges.

5. The timing of the OEB's consideration of a transition to the accrual method for utilities currently on cash.

One respondent proposed that the transition to accrual should be considered as soon as practicable, and utilities should not have to wait until their next cost-based rate application. Another respondent suggested that the OEB allow for sufficient time to determine the impact of a transition to the accrual method. The OEB has updated the final Report to clarify that a utility may request an alternate transition date, supported by compelling reasons, the next time it is before the OEB with a rates case, if it so chooses.

6. The timing of the disposition of both the new and previously established variance accounts.

One respondent suggested that the disposition of its previously approved deferral and variance accounts should not be deferred until its next cost-based rate application. Others suggested that the disposition of the new carrying charges sub-account could be done annually using existing processes. The final Report has been updated to clarify that a utility may propose alternate timing for the disposition of either the previously approved account balance or the new carrying charges sub-account balance, supported by compelling reasons, as part of a rate application.

In addition, Section D in the final Report was updated to address the treatment of gains and losses upon re-measurement of pension and OPEB costs that are tracked in established deferral accounts for certain utilities. The final Report clarifies that if the OEB has approved such an account, then a utility may propose the disposition of this account balance during a cost-based rates proceeding if the gains and losses that are tracked in this account do not substantially offset over time.

Notice of Hearing for Cost Awards

In the letter initiating this consultation, the OEB indicated that cost awards would be available under section 30 of the *Ontario Energy Board Act, 1998* for participation in cost eligible activities as set out in that May 14, 2015 letter. In its June 10, 2015 letter, the OEB identified the participants eligible for cost awards.

The OEB is initiating a hearing on its own motion in order to determine the cost awards for eligible participants.

The OEB intends to proceed by way of written hearing unless a party can satisfy the OEB that there is a good reason for not holding a written hearing. If a party wants to object to a written hearing, the objection must be received by the OEB no later than

seven days after the date of this Notice. Assuming that the OEB does not receive any objections to a written hearing, the hearing will follow the process set out below.

1. Eligible participants shall file their cost claims with the OEB by **September 28, 2017**. The OEB will post the claims received on its [webpage](#). The cost claims must be completed in accordance with section 10 of the OEB's *Practice Direction on Cost Awards*.
2. Rate regulated electricity distributors, rate regulated electricity transmitters, rate regulated natural gas distributors, and Ontario Power Generation Inc. will have until **October 12, 2017** to object to any aspect of the costs claimed. The objection must be filed with the OEB and one copy must be served on the eligible participant against whose claim the objection is being made.
3. The eligible participant whose cost claim was objected to will have until **October 19, 2017** to file with the OEB a reply submission as to why its cost claim should be allowed. One copy of the reply submission is to be served on the objecting party.
4. The OEB will then issue its decision on cost awards. The OEB's costs may also be addressed in the cost awards decision.

The OEB will use the process set out in section 12 of its *Practice Direction on Cost Awards* to implement the payment of the cost awards. Therefore, the OEB will act as a clearing house for all payments of cost awards in this process.

Parties must file two paper copies and one electronic copy of their filings with the Board Secretary by **4:45 pm** on the required dates. All filings must quote file number **EB-2015-0040** and include the party's name, address, e-mail address and telephone number. All filings in this hearing (i.e., cost claims, objections, or replies), will form part of the public record. Copies of the filings will be available for inspection at the OEB's office and the filings will be published on the OEB's website.

If you do not file a letter objecting to a written hearing or do not participate in the hearing by filing written materials in accordance with this Notice, the OEB may proceed without your participation and you will not be entitled to further notice in this proceeding.

This completes the substantive portion of the consultation on the Regulatory Treatment of Pensions and OPEBs. Any future inquiries regarding this policy can be addressed to the OEB's Industry Relations Enquiries at industryrelations@oeb.ca.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary