SURVEY OF REGULATORY COST MEASURES

A Survey Conducted by
Elenchus Research Associates Inc.

On Behalf of the
Ontario Energy Board

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elenchus
Research Associates

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1 INTRODUCTION

1.1 OVERVIEW

The Ontario Energy Board (OEB or Board) retained Elenchus Research Associates Inc. (ERA) to undertake a review of methods used by other regulatory bodies to measure regulatory cost in order to assist it in implementing and publishing (for fiscal 2007 and ongoing) an appropriate measure of the Board's regulatory cost.

ERA used published sources to survey regulatory agencies in Canada, USA, Australia and Europe to examine the methodologies used to determine (and monitor) the regulatory cost. ERA augmented the information obtained from the initial environmental scan using a written questionnaire and/or by telephone contact with knowledgeable regulatory tribunal staff. The results of the survey are summarized in section 2.

The survey addresses two important issues with respect to the measures used by other regulators. First, it examines the advantages and disadvantages of each identified measure. Second, it assesses the "fit" of different approaches by examining the differences and similarities between the OEB and the other regulatory regimes examined. As a basis for this comparison, ERA undertook an assessment of Board costs by collecting and examining publicly available data pertaining to: the annual budget of the Board, audited actual Board operating expenses, the Board's mandate, and regulatory processes used by the Board. ERA's discussion of the Board's costs can be found in section 2.2 of the report.

Based on the survey results, section 3 identifies possible measures that could be used for evaluating the Board's regulatory cost taking into account the type of costs incurred by the OEB and the drivers for such costs. This section also discusses key "lessons learned" from the other regulatory bodies surveyed.

The purpose of this project is to provide information that will assist the Board in developing appropriate procedures and measures for evaluating its regulatory cost in an objective way. ERA's recommended measures, based on the information produced by this survey, are contained in a separate report prepared by ERA for the Board.

1.2 PERFORMANCE MEASUREMENT PRINCIPLES

In Australia[1] and the United Kingdom[2], best practice principles of utility regulation have been developed. Some of the principles of best practice in utility regulation focus on communication, consultation, consistency, predictability, flexibility, independence, effectiveness and efficiency, accountability, transparency, proportionality and targeting. These principles of best practice regulation have been successfully incorporated into performance indicators, providing a more meaningful way to measure regulatory performance.

A review of these papers and relevant literature[3] indicates that performance measures and targets based on best practices should link the agency's activities back to its mandate and to its strategic directions. With well-defined and reported performance measures, agencies will know if and how well they are meeting their planned performance goals. Outcomes can be evaluated with a view to identifying possible areas of improvement. The literature suggests that multi-year targets are preferred.

As well, the literature prefers the use of measures that relate specifically to the achievement of each core business goal. Ideally only a few measures are needed for each goal. A small number of well-crafted measures are considered to be more effective than copious measures that gather too much information without answering the question of whether the goal was achieved. For comparison purposes, it is important to report on the prior year's targets and discuss reasons for any changes in targets over the planning horizon.

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[1] The Office of Water Regulation, Best Practice Utility Regulation (Perth, Australia: Utility Regulators Forum Discussion Paper, July 1999).

[2] Better Regulation Task Force, Economic Regulators (United Kingdom: Better Regulation Task Force, July 2001)

[3] For example, The Performance-Based Management Handbook (A Six-Volume Compilation of Techniques and Tools for Implementing the U.S. Government Performance and Results Act of 1993), sponsored by the U.S. Department of Energy, Volume 5, Analyzing, Reviewing, and Reporting Performance Data, September 2001; U.K. Government library of local performance indicators (link to publications: http://www.local-pi-library.gov.uk/publications.html) and The Conference Board of Canada Discussion Paper, Improving Efficiency and Effectiveness in Natural Gas Regulation, November 2004

In addition, the general view in the relevant literature is that an ideal performance management process will have these basic elements:

- **Goal** (what to achieve - the outcome)
- **Strategy** (how to accomplish)
- **Performance Measure** (how to determine success)
- **Standards and Targets** (Standard: predefined, quantifiable level of performance that serves as a basis for judging or comparing actual performance. Target: clear and quantifiable proposal to meet or exceed the standard within a specific timeframe)

Although benchmarking is difficult and results must be interpreted with care, it can be useful. Benchmarking is the process of doing comparisons against the best. Benchmarking performance information against either an internal or external best practice or standard will help to identify more effective and efficient processes for achieving intended results.

There are three commonly accepted forms of benchmarking.

Standards Benchmarking: Setting a standard of performance, which an effective organization could be expected to achieve. The publication of a challenging standard can motivate staff and demonstrate a commitment to improve services provided.

Results or Comparative Benchmarking: Comparing the performance of a number of organizations that provide similar services. This approach enables stakeholders to judge whether the service provider makes effective use of resources, compared to similar providers.

Process Benchmarking: Undertaking a detailed examination within a group or organization of the process that produces a particular output, in order to understand the reasons for the variances in performance and incorporating best practices.

Considerations that are relevant to the design of a performance measurement system for the OEB that is consistent with best practice principles is discussed further in section 3.1.

1.3 COMMONLY USED PERFORMANCE MEASURES

Several methodologies are used by regulatory agencies to report on strategies aimed at delivering their services in the most efficient and effective manner. Initiatives undertaken generally relate to cost management objectives or corporate objectives that involve efforts to continuously improve the quality and value of services delivered to market participants and the industry in a commercially-focused and cost efficient way.

The most common cost measures employed by regulatory agencies by which their financial management is monitored can be categorized as cost-efficiency (internal efficiency) and cost containment measures and includes one or more of the following short-term or long-term key performance indicators:

- To operate within an approved budget
    - Costs are expressed in nominal dollars
    - Costs are normalized in real terms, base year actuals, index equals 100 (CPI is used as the discount factor)
- To set revenue requirements based on fees per unit of end-use consumption
    - Cost per unit of delivered volume (e.g., Mcf, cubic metres, MWh)
    - Cost per unit of energy delivered (e.g., petajoules)
- To maintain Commission budgets and core expenditures at or below current levels, adjusted for inflation, as measured by:
    - Commission expenditures (constant dollars)
    - Staffing levels
    - Regulatory cost per customer (commission expenses in constant dollars)
    - Regulatory cost per unit of energy sold (e.g., GJ or kWh/GJ)
    - Use of a CPI – X indexing formula (anomalous)
- Benchmarking costs
    - Comparing the annual operating cost of similar regulators on a per capita served basis ($/year), excluding costs not related to energy regulation
    - Comparing staffing levels (staff numbers per million customers)
    - Comparing regulatory costs per employee

2 SURVEY: REGULATORY COST MEASURES

ERA conducted a survey of other Canadian energy regulatory tribunals and selected non-Canadian energy regulatory tribunals to identify benchmarks of regulatory costs that are currently in use, with particular emphasis on the methodology used by each to determine (and monitor) the cost of regulation and develop cost measures and targets. The survey includes regulatory agencies from four jurisdictions, as listed below.

- Canada
    - Alberta Energy and Utilities Board (AEUB or EUB)
    - British Columbia Utilities Commission (BCUC)
    - National Energy Board (NEB)
- United States
    - Federal Energy Regulatory Commission (FERC)
    - Michigan Public Service Commission (MPSC)
    - New York Public Service Commission (NYPSC)
    - Pennsylvania Public Utility Commission (PPUC)
- United Kingdom
    - Office of Gas and Electricity Markets (Ofgem)
- Australia
    - Essential Services Commission, Victoria (ESC)
    - Independent Pricing and Regulatory Tribunal, New South Wales (IPART)
    - Australian Competition and Consumer Commission (ACCC)

2.1 OVERALL SUMMARY OF SURVEY

The following table summarizes the performance measure methodologies used by each regulatory agency surveyed. More comprehensive descriptions of performance management systems used by each regulatory agency are provided in the sections following the survey summary table.

Survey Summary – Methods Used to Measure Regulatory Cost					
Jurisdiction	**Published Measures (Yes / No)**	**Regulatory Cost Measure**			**Benchmarking (Yes / No)**
		Goal (Corporate Objective, Planned Result)	**Measure (Key Performance Indicator)**	**Standard (Cost Target)**	
EUB	Yes (No cost measures included)	No	No	No	No
BCUC	Yes	Cost Control	Per Capita Cost of Regulation ($/Year) Cost of Regulation Per Customer ($/Customer per annum) Costs per equivalent GJ of energy sold (cents/GJ)	Budget and core expenditures to be at or below current levels adjusted for inflation and new responsibilities	Yes
NEB	Yes	Cost Efficiency	Per Capita Cost of Regulation ($/Year)	Not Specified	Yes
FERC	Yes	Targeted Cost Efficiency	Average IT costs per FTE Percentage of directors operating within designated salary budgets	Below industry average for Federal agencies Not Specified	Yes (IT Expenditure only)
MPSC	No	Implicit (budget control)	Implicit (budget control)	Implicit (budget control)	Yes (ad hoc, number of employees per million customers compared to other US jurisdictions)
NYPSC	No	Implicit (budget control)	Implicit (budget control)	Implicit (budget control)	No
PPUC	No	Implicit (budget control)	Implicit (budget control)	Implicit (budget control)	Yes (ad hoc, cost per employee compared to other US jurisdictions)

Survey Summary – Methods Used to Measure Regulatory Cost					
Jurisdiction	**Published Measures (Yes / No)**	**Regulatory Cost Measure**			**Benchmarking (Yes / No)**
		Goal (Corporate Objective, Planned Result)	**Measure (Key Performance Indicator)**	**Standard (Cost Target)**	
Ofgem	Yes	Cost Control	RPI-X Cost Control Formula (2004/05 base year)	RPI =3.5% (inflation) and X=3.0% (productivity) (2005/06)	No
ESC	Yes	Budget Control	$ million Total Output Cost (i.e., operate within approved budget)	≤ $ million Target Total Output Cost (i.e., approved budget)	No
IPART	Yes	Budget Control	Controlled net cost of service within budget (2000/01 base year) Regulation expenditure per capita (NSW) (2000/01 base year)	Yes <$2	No
ACCC	Yes	Implicit (Budget Control)	Implicit (Total Output Cost)	Implicit (Target Total Output Cost or Approved Budget	No
OEB	Yes	Cost Efficiency	Undertake a review of methods used to measure the regulatory cost and then implement and publish an appropriate measure for the Board	An appropriate measure of Board regulatory cost is reported (FY 2006-07 and ongoing)	No

2.2 CURRENT OEB PERFORMANCE MEASUREMENT SYSTEM

The Ontario Energy Board is the regulator of Ontario's electricity and natural gas industries. The Board also provides advice on energy matters referred to it by the Minister of Energy and the Minister of Natural Resources. The OEB's role includes rate setting, licensing and monitoring compliance of market participants, responding to consumer inquiries and complaints, and providing consumer information and education.

The OEB exercises regulatory oversight over 103 gas and electricity utilities and administers licences for in excess of 500 electricity sector participants and gas marketers. Regulatory processes are generally formal, quasi-judicial hearings (oral or written); less formal public consultations are relied on for public policy forums. Traditionally, the OEB has used cost of service regulation for rate-setting.

Fiscal 2004–05 marked the first full year that the Ontario Energy Board has operated as a self-financing Crown corporation, responsible for delivering many of the corporate services previously provided by the Ontario government– at the same time as it was taking on an expanded role in Ontario's energy sector.[4]

To meet these demands, the number of OEB employees increased to 148 permanent staff and Board members and its operating expenses increased to $24.5 million in fiscal 2004-05. Staffing levels and operating expenses for the fiscal year 2005-06 (actuals) and the next three fiscal years, 2006-07 to 2008-09 (budget) inclusive, ranging from 160 FTEs to 173 FTEs and $25.5 million to $33.3 million respectively. The majority of operating expenses, approximately 60-70 percent, relate to employee costs.

The OEB fully recovers its operating and capital costs from the natural gas and electricity market participants that it regulates through licence fees, hearing cost recovery and general cost recovery (cost assessment). General cost recovery represents the majority of OEB's revenues. Under the Board's Cost Assessment

[4] Prior to the completion of its transition to a self financing Crown corporation on August 1, 2003, the OEB was a regulatory agency operating within the Ontario Public Service framework for Agencies, Boards and Commissions, the OEB had used cost per customer (targeted ($) cost per customer per annum) as the measure of the Board's regulatory cost.

Model, the general assessment amount is based on the approved OEB Budget for the year being assessed. The OEB has recently refined its cost tracking capabilities to better enable costs to be assigned to both particular market participant groups and major projects for both planning purposes and to track actual costs as they are incurred.

Since fiscal 2004-05, under its new governance model the Ontario Energy Board has developed and published annually business plans with associated performance measures. The progress made against the stated objectives is tracked and monitored throughout the year to ensure achievement of the business plan goals. An audit trail of deliverables has been developed and updated internally to validate the stated progress against goals. The OEB's actual performance against its stated Business Plan performance measures is independently reviewed.[5]

Currently the Ontario Energy Board is measuring its performance, utilizing goals, activities and measures that are based on actions taken by the agency or are explicitly controllable by the agency.

In its first multi-year Business Plan, which covers the period 2005-08, the OEB indicated that an appropriate measure of the Board's regulatory cost would be developed in fiscal 2005-06 for implementation commencing in fiscal 2006-07.

2.3 COMPARISON OF METHODOLOGIES USED BY OTHER JURISDICTIONS

2.3.1 ALBERTA ENERGY AND UTILITIES BOARD

The Alberta Energy and Utilities Board (EUB or AEUB) is a quasi-judicial agency of the Alberta government regulating Alberta's energy resources and utilities. Although the EUB makes decisions independently, it is part of the Alberta Ministry of Energy. The EUB regulates the safe, responsible, and efficient development of Alberta's energy resources—oil, natural gas, oil sands, coal, and electrical energy—and the pipelines and transmission lines to move the resources to market. On the utilities side, the EUB

[5] OEB Performance Measurement of 2004/2005 Business Plan.

regulates investor-owned natural gas, electric, and water utilities and certain municipally owned electric utilities (as of January 1, 2004) to ensure that customers receive safe and reliable service at just and reasonable rates.

EUB's budget for its Energy Regulation program for fiscal 2005 was $113.3 million[6]. The actual expenditures for fiscal 2005 totalled $112.2 million and EUB's two core businesses, Adjudication and Regulation and Information and Knowledge, accounted for 68% and 32% respectively. The majority of this program's funding is from the combination of an Alberta government grant and a general mandatory levy applied to the industry. The ratio of funding provided by the Alberta government has increased over the last five years from 26 to 40 percent and is approved to reach 43 percent in fiscal 2006. Over the next few years the government plans to reach a 50/50 split between government funding and industry funding for the EUB's costs.

EUB's budget for its other program - Orphan Abandonment - for fiscal 2005 was $13.4 million and the cost of this program is fully recovered from industry.

The AEUB's planning process deals with its core businesses including adjudication and regulation. Performance measures developed are oriented toward fairness, quality, transparency and timeliness. Performance targets are established and results achieved are published. [7] In this respect, the AEUB utilizes a tier system of measures.

The first level focuses on outcome measures. Board outcomes are the desired collective effect of its actions, processes, programs and outputs on the Alberta public. The Board's performance measures track its progress towards achieving these outcomes.

The second level of measures (supplemental measures) focuses on the Board's efficiency in meeting its responsibilities.[8] Examples of supplemental measures include: application turnaround time for routine energy facility applications; and progress reports

[6] Alberta Ministry of Energy 2004-2005 Annual Report
[7] Business Plan 2004-07
[8] Business Plan 2003-06

on incorporation of public safety and sour gas recommendations. Although financial data are readily available, the AEUB has not established any cost targets per se.

2.3.2 BRITISH COLUMBIA UTILITIES COMMISSION

The British Columbia Utilities Commission (BCUC or Commission) is a regulatory agency of the Provincial Government operating under and administering the *Utilities Commission Act* (UCA). The Commission's primary responsibility is the regulation of public utilities under its jurisdiction. Of these utilities, the crown-owned British Columbia Hydro and Power Authority (BCH) is the major one whereas the rest are smaller investor-owned electric and natural gas utilities and municipally-owned electric utilities serving customers outside of their municipal boundaries. Effective August 12, 2003, the BCUC also assumed the regulation of basic automobile insurance provided by the Insurance Corporation of British Columbia (ICBC). The Commission also regulates the provincially-owned BC Transmission Corporation (BCTC). In this capacity, the Commission:

- Approves the construction of new facilities planned by energy utilities and their issuance of securities;
- Reviews energy-related and basic insurance matters referred to it by Cabinet and these reviews usually involve public inquiries, followed by a report and recommendations to Cabinet;
- Establishes tolls and conditions of service for intra-provincial oil pipelines;
- Has responsibilities under the UCA for electricity transmission facilities, energy supply contracts and the issuance of gas marketer licences and according to the Commission, these latter responsibilities are likely to become more active as the reorganization of the energy industry proceeds.

In general, the primary areas of activities for the Commission are revenue requirements; rate design; capital projects review and resource planning review; oversight of energy commodity cost and competitive market development; safety and reliability; and information service and complaints.

The Commission's total expenditure for fiscal 2004/05 was $4.3 million; the approved budget was $4.7 million[9]. Annual budget surpluses are refunded back to the energy utilities usually in the first quarter of the following year. All of the Commission's costs are recovered from industry, most of it from a "per gigajoule" administrative levy assessed on each utility, based on the amount of energy it sold in the previous calendar year. The BCUC also bills utilities for its public hearing costs that are attributed directly to those utilities. Minor revenues are also collected from intra-provincial petroleum pipeline companies and from other utility regulatory agencies that contract with the BCUC for advice and assistance.

As an economic regulatory agency, the BCUC strives to produce fair and equitable decisions and findings with due diligence, at a reasonable cost, and in accordance with the principles of due process. The Commission's annual service plans, prepared in accordance with the *Budget Transparency and Accountability Act*, indicate that the Commission utilizes a comprehensive set of performance measures and targets that include output-, time-, quality-, and cost-based indicators. In this respect, one of the goals pursued by the BCUC on an ongoing basis is to control and reduce the cost of regulation. To monitor and improve its performance, the Commission annually tracks and publishes several indicators[10] including, but not limited to:

- Commission expenditures (constant 1992 dollars);
- staff levels;
- regulatory cost per customer (regulatory commission expenses in constant 1992 dollars); and
- regulatory cost per unit of energy sold (BCUC costs per GJ of energy sold in constant 1992 cents).

The Commission's performance over time with respect to expenditures, staff levels, and regulatory cost per customer and per unit of energy sold is published regularly. The BCUC's ongoing target is to maintain Commission budgets and core expenditures at or

[9] British Columbia Utilities Commission Annual Report 2004/05
[10] Service Plans 2002/2003-2004/2005 and 2004/2005-2006/2007

below current levels, adjusted for inflation, as measured by costs per utility customer and costs per unit of energy sold. As well, the BCUC has benchmarked its staffing and budget statistics against those of comparable tribunals including the OEB (expressed on a per capita (population) regulatory cost basis for regulatory commission expenses). In this connection, the BCUC's target is to maintain favourable benchmarking statistics.

2.3.3 NATIONAL ENERGY BOARD

The National Energy Board (NEB or Board) is a quasi-judicial body regulating certain areas of the oil, gas, and electric utility industries and is responsible for authorization regarding: the construction and operation of inter-provincial and international pipelines; pipeline traffic, tolls and tariffs; the construction and operation of international and designated inter-provincial power lines; the export and import of natural gas; the export of oil and electricity; and frontier oil and gas activities. Other responsibilities of the NEB include providing energy advice to the Minister of Natural Resources in areas where the Board has expertise derived from its regulatory functions, carrying out studies and preparing reports when requested by the Minister, conducting studies into specific energy matters, holding public inquiries when appropriate and monitoring current and future supplies of Canada's major energy commodities. The Board's mandate also includes the provision of expert technical advice to the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB), the Canada-Nova Scotia Offshore Petroleum Board (C-NSOPB), Natural Resources Canada (NRCan) and Indian and Northern Affairs Canada (INAC). The Board may, on its own initiative, hold inquiries and conduct studies on specific energy matters as well as prepare reports for Parliament, the federal government and the general public.

NEB's actual expenditure for FY 2004/05 was $38.1 million and 90% of the Board's operating costs are recovered from regulated industries and the remaining 10% is provided by the government.

As part of its planning process the NEB has developed five corporate goals.[11] Two relate to regulatory and economic efficiency. In addition, Goal 5, which states that "The NEB delivers quality outcomes through innovative leadership and effective processes", specifically deals with regulatory efficiency. In this connection, performance measures used are both qualitative (e.g. evidence that the Board's regulatory processes are efficient and effective) and quantitative (e.g., benchmarking its regulatory costs against comparable tribunals on a per-capita regulatory cost basis). However, no specific units of (quantitative) measure or cost targets have been published in relation to the cost of regulation.

The per capita regulatory cost measure compares the annual operating cost of seven different regulators; five provincial (including the OEB) and two federal, on a per capita of population served.[12] The comparison is intended to provide a relative measure of overall efficiency for the included regulators and to provide the NEB with information to evaluate its own performance relative to other similar regulatory organizations. Costs not related to provincial utility regulation, such as for auto insurance regulation, have been excluded for this comparison.

2.3.4 FEDERAL ENERGY REGULATORY COMMISSION

The Federal Energy Regulatory Commission (FERC or Commission) is an independent agency that regulates the inter-state transmission of electricity, natural gas, and oil. FERC also reviews proposals to build liquefied natural gas (LNG) terminals and interstate natural gas pipelines as well as licensing hydropower projects.

The Energy Policy Act of 2005, which expanded FERC's responsibilities so that as part of its current responsibilities FERC

- Regulates the transmission and sale of natural gas for resale in interstate commerce; the transmission of oil by pipeline in interstate commerce; the transmission and wholesale sales of electricity in interstate commerce;

[11] Strategic Plan 2006-2009
[12] 2004-2005 Performance Report, Figure 15

- Licences and inspects private, municipal, and state hydroelectric projects;
- Approves the siting of and abandonment of interstate natural gas facilities, including pipelines, storage and liquefied natural gas;
- Ensures the reliability of high voltage interstate transmission system;
- Monitors and investigates energy markets;
- Uses civil penalties and other means against energy organizations and individuals who violate FERC rules in the energy markets;
- Oversees environmental matters related to natural gas and hydroelectricity projects and major electricity policy initiatives; and
- Administers accounting and financial reporting regulations and conduct of regulated companies.

The Commission incurred expenditures of $207 million in FY 2005[13]. Of this, roughly $98 million went to the electric industry, $52 million to natural gas & oil pipelines and $57 million to hydropower. Approximately, over 70 percent of obligations are used for salaries and benefits and the remaining 30 percent is used to obtain technical assistance for the Commission's principal regulatory programs, to cover operating expenses, staff travel, and reimbursable work. FERC has requested funding of $230.8 million and 1,320 FTEs for FY 2007. This request includes the resources needed to implement the Commission's increased responsibilities under the Energy Policy Act of 2005 (EP Act 2005).

The Commission recovers the full cost of its operations through annual charges and filing fees assessed on the industries it regulates. The Commission deposits this revenue into the Treasury as a direct offset to its appropriation, resulting in a net appropriation of $0.

In accordance with the Government Performance and Results Act of 1993 (GPRA), the Commission develops its Strategic and Business Plans, as well as its performance

[13] FERC: FY 2007 Congressional Performance Budget Request, February 2006

measures, to ensure it is fulfilling its mission. The set of performance measures used include:

- *Cost-based*: This is limited to two specific areas where FERC strives to achieve cost targets. The first is average IT costs per FTE, the target being achieving an average IT cost per FTE that is 'below industry average for Federal agencies'. This can also be considered as a benchmarking mechanism. The second is that FERC monitors the percentage of directors operating within designated salary budgets.
- *Output-based:* For example, percentage of cases completed in specified time;
- *Time-based:* For example, timely issuance of notices/orders; timeliness of corporate application orders; timeliness of audits; percentage of pipeline certificate cases completed in specified time frames, etc.;
- *Quality-based:* For example, percentage of processes that achieve consensual agreements; percentage of high-and significant-hazard potential dams meeting all current structural safety standards; percentage of customers satisfied with ADR processes, etc

In October 2004, the Commission also implemented new time and labour codes based on the structure of its Business Plan, which aligns all of the Commission's activities to a strategic goal and objective. Using the Business Plan as the basis for tracking employee's time, the Commission is now able to track actual full-time equivalent (FTE) usage at an aggregate activity level within its strategic goals and objectives. In line with the President's Management Agenda goal to improve budget and performance integration, this new reporting capability is expected to provide a direct link to its strategic goals and objectives; improve the accountability and accuracy of its time reporting; identify potential problem areas by comparing actual and projected FTE usage against specific workload items; and identify potential time reporting discrepancies by comparing actual FTE usage against planned or projected FTE usage. The Commission plans to use this new reporting capability to allocate its budget dollars against its strategic objectives by the end of FY 2007.

2.3.5 MICHIGAN PUBLIC SERVICE COMMISSION

The Michigan Public Service Commission (MPSC or Commission) is an agency within the Michigan Department of Labour & Economic Growth. The Commission is currently responsible for regulating 31 energy utilities (12 gas distributors, 9 investor-owned electric distributors, and 10 rural electric cooperatives); intrastate motor carrier; and telecommunications. The MPSC also administers the licensing program for competitive energy retailers. Municipally- owned electric companies are not subject to regulation by the MPSC.

The MPSC is a traditional economic regulator. It generally rate-regulates the gas and investor-owned electricity utilities using the cost of service approach. Extensive use is made of settlement processes. The MPSC utilizes a (prescribed) formula approach to rate-regulate the rural electric coops. As well, the MPSC has adopted PBR for the 113 telecommunications companies under its jurisdiction

The MPSC has adopted the administrative law judge (ALJ) model not unlike several other U.S. regulatory jurisdictions. While the MPSC's Rules of Practice and Procedure provide for simplified procedures and the Commission encourages all parties to proceedings before the Commission to enter into settlements when possible, the MPSC relies heavily on quasi-judicial oral hearing processes for contested cases. For contested cases, a major (general) rate case is typically a legal process. An ALJ presides at the hearing. Parties are represented by attorneys. Hearings are conducted similar to proceedings in civil and other courts. The ALJ prepares the draft decision but the Commission renders the final decision and order.

The MPSC is funded initially from the Consolidated Revenue Fund and receives an appropriation through the Department of Labour & Economic Growth budget. All recoveries are paid into the Consolidated Revenue Fund. The statute (MCL c. 460 s. 111-120, Act 299 0f 1972) provides that all monies paid into the state treasury by a public utility under the Act shall be credited to a special account, to be utilized solely to finance the cost of regulating public utilities.

In fiscal 2004/05, the Commission's budget was $18.7 million and it had a staffing level of 157 FTEs including 3 Commissioners. The MPSC's operating costs are recovered from the regulated utilities through an annual cost assessment that is based on the prior calendar year's intra-state operating revenues. For 2004/05, $13.1 million or 70% of the total budget was cost assessed to the natural gas and electricity industries.

The Commission has recently experienced a significant reduction in staff and is in the process of upgrading its staff numbers because it has insufficient resources to effectively deliver its mandate (staff reduction from 240 FTEs to 132 FTEs in the 2002-2004 time period, was in part due to deregulation and early retirement incentives offered by the State).

The Commission does not engage in strategic planning and business planning activities. Published Annual Reports are designed to report on activities undertaken during the year and highlights of accomplishments. MPSC financial data is not published.

Although the MPSC does not have a formal performance measurement system in place, it has legislated review time limits of nine months for rate applications and one year for Leave-to-Construct applications and the Commission must report formally to the State Legislature on its performance and compliance with the statute. As well, the MPSC has benchmarked its staff levels against other U.S. regulatory agencies because of concerns about lack of resources.

2.3.6 NEW YORK PUBLIC SERVICE COMMISSION

The New York Public Service Commission (NYPSC or Commission) regulates the state of New York's electric, gas, steam, telecommunications and water utilities and oversees the cable industry. NYPSC is responsible for setting rates, ensuring adequacy of service, siting major gas and electric transmission facilities, and ensuring the safety of natural gas and liquid petroleum pipelines. The NYPSC regulates 45 electric utilities (municipal and rural electrics represent the majority) and 18 gas utilities (including several small systems).

The NYPSC is funded initially from the Consolidated Revenue Fund and receives an annual appropriation through the General Assembly. Annual appropriations are proposed by the Governor and enacted by the Legislature. All recoveries are paid into the General Fund of the State Treasury for general regulatory purposes. The General Assembly determines the amount of utility taxes that may be levied each year to recover commission budget costs. The NYPSC receives the vast majority (over 97%) of its funding from assessments on the public utilities that it regulates. The remainder is provided through government grants and minor fees[14].

The Commission has been operating under financial constraints for several years as it is not exempt from budget reductions or other cost containment tools levied by the State Legislature.

For fiscal 2005-06, the NYPSC has an approved funded complement of 545 (including Commissioners) and an Agency operating budget of $72.8 million.

The NYPSC uses a mixture of traditional cost of service and incentive regulation methodologies for ratemaking purposes. There is no standard approach; it varies by individual utility and rate approvals are handled on a case-by-case basis.

Regulatory processes include such public review processes as public statement hearings and evidentiary hearings, written and oral, which are presided over by an Administrative Law Judge (ALJ). ALJs oversee development of the official case record, analyze arguments and evidence offered by parties, offer advice and recommendations about how issues should be resolved by the Commission, and draft Commission decisions. Judges also participate in a broad range of cases or other disputes in which Alternative Dispute Resolution techniques may be employed to help interested parties reach agreement among themselves about how the issues presented should be resolved by the Commission.

The NYPSC does not use strategic planning and performance measurement methodology to measure and evaluate its performance. A strategic plan is prepared

[14] Chymko Consulting Ltd., Electricity Cost Recovery Alternatives, Report to the National Energy Board, June 2005

which sets out the priorities and work plan for the year, but it is not published and is developed for internal use only. The NYPSC publishes Annual Reports that focus on activities for the business year. NYPSC financial data is not published and is not readily available.

2.3.7 PENNSYLVANIA PUBLIC UTILITY COMMISSION

The Pennsylvania Public Utility Commission (PPUC or Commission) regulates public utilities furnishing the following in-state services: electricity, natural gas, telephone, water, wastewater collection and disposal, steam heat, transportation of passengers and property by motor coach, truck and taxicab, pipeline transmission of natural gas and oil, and public highway-railroad crossings. Municipal utility service is exempt from PPUC regulation, with the exception of that part beyond a municipality's corporate boundaries. Rural electric cooperatives also are exempt from PPUC regulation.

PPUC's budget for Fiscal Year 2004-05 was $44.9 million in state funds and $2.0 million in federal funds, for a total of $46.9 million. Subject to budget approval, the PPUC may assess utilities up to three-tenths of one percent of gross intrastate revenue to cover the cost of regulation. All assessments are paid into the General Fund of the State Treasury through the Department of Revenue for use solely by the Commission. The PPUC is primarily (up to 93%) funded by assessment of the regulated public utilities and the remainder comes from fees and charges related to specific utility filings/hearings, government grants, and miscellaneous fees for photocopying, audits, and other items.[15]

The Commission does not use performance measures and targets in support of its business strategies, plans and goals.[16] On the other hand, the Commission uses other types of performance measures to a certain extent including the following:

- *Benchmarking:* The PPUC compares its budget and staff levels to other jurisdictions in the U.S., using information assembled by the NRRI. While the Commission is of

[15] NRRI: State Regulatory Commission Budget Reductions and Cost Containment: Results of a Survey, February 2003
[16] Source: Karen Moury, Director of Operations, PPUC

the view that its budget per employee compares favourably with other state public utility commissions, it also recognizes that comparisons can be difficult due to differences in regulatory responsibilities.

- *Output-based indicators:* The Commission measures performance of this type at the level of individual bureaus, who maintain statistics as to the quantity of assignments that are completed.
- *Time-based indicators:* Some Commission responsibilities have statutory requirements mandating action within a specific number of days or months. For example, the PPUC must rule on a rate request within nine months from the date the request is filed at the Commission. Also individual bureaus track the amount of time it takes to complete projects.
- *Quality-based indicators:* Individual bureaus monitor the quality of their work product, with feedback from Commissioners and Director of Operations

2.3.8 OFFICE OF GAS AND ELECTRICITY MARKETS (OFGEM)

The Office of Gas and Electricity Markets (Ofgem) regulates the electric and gas distribution and transmission utilities in England, Wales, and Scotland (Northern Ireland has a separate authority) and develops regulatory price control plans for these utilities that typically run for a term of five years. Ofgem operates under the direction and governance of the Gas and Electricity Markets Authority ("GEMA"), which makes all major decisions and sets policy priorities for Ofgem. The Department of Trade and Industry ("DTI") oversees energy policy and the operation of the energy sector as a whole. Rate regulation (and other regulatory functions as well) has been delegated to Ofgem (through GEMA).

Ofgem's budget is approved by Parliament following a consultation process with industry and other interested parties. For 2004-2005, Parliament approved a resource budget of £38.1 million. Operating costs in 2004-2005 amounted to £36.5 million, as

compared to £37.3 million and £38.5 million in 2003-2004 and 2002-2003 respectively.[17] In 2004-2005, payroll (46%), contractors (18%) and accommodation (23 %) accounted for 87% of Ofgem's total operating costs.

Ofgem is funded by the energy companies who are licensed to run the gas and electricity infrastructure. According to Ofgem, its costs represent around 0.1 per cent of gas and electricity industry turnover[18], which stands at almost £37 billion a year.

Ofgem's published information[19] on key deliverables, priorities and performance indicators, including report-backs, are heavily oriented toward output-based and time-based outcomes respectively. In addition, detailed budget information is presented by theme (e.g. creating & sustaining competition, regulating monopoly networks, protecting the environment, etc.). Moreover, it is significant to note that Ofgem is committed to controlling its costs. For example, Ofgem agreed to a 2004-2005 budget that was six percent below the 2003-2004 budget level or eight percent when inflation was taken into account. Ofgem not only has undertaken an independent detailed scrutiny of its cost base (for example for fiscal year 2004-05), but also has adopted, starting from April 2005 (i.e. fiscal 2005-06) an RPI-X (retail price index, minus a productivity factor) budget cap or cost control regime. Over the next five years, Ofgem will prioritize all work within the constraint of an RPI-3 per cent cost control.

2.3.9 ESSENTIAL SERVICES COMMISSION, VICTORIA

The Essential Services Commission (ESC or Commission) regulates all utility services supplied by the electricity, gas, water, ports, grain handling, rail freight industries and aspects of the insurance industry in Victoria, Australia. Within the electric sector the regulated areas include generation, transmission, distribution and retailing; within the gas industry the regulated areas include distribution, underground storage and retailing.

[17] Ofgem: 2004-2005 Annual Report
[18] Industry revenues
[19] Ofgem Corporate Strategy & Corporate Plan 2004-2007

The primary objective of the Commission is "to protect the long-term interests of Victorian consumers with regard to the price, quality and reliability of essential services." The Essential Services Commission is the primary economic regulator of essential utility infrastructure services in Victoria. In this connection, the ESC regulates eight gas and electricity distribution utilities and administers a licensing regime for gas, electric and water businesses. Eight (8) local and non-local energy (both gas and electricity) retailers are licensed by the ESC.

The Commission comprises one full-time Chairperson and two part-time Commissioners. The Commission employs a Chief Executive Officer to manage the staff of the Commission. The Commission is supported by approximately 65 staff. The role of management is to be responsible for the conduct of the Commission's business within the directions of the Commission, to ensure the Commission meets its regulatory obligations, to ensure implementation of the Commission's Corporate Plan and Work Program, and to report to the Commission regularly on all aspects of its operations.

The Commission is predominantly funded by accrual based Parliamentary appropriations, received in the form of grants from the Department of Treasury and Finance. The appropriation of certain receipts (categorized as retained revenue) represents the balance of funding sources. Retained revenue does not include licence fees or fines and penalties. These and certain other administered revenues are collected by the Commission but such amounts are required to be paid to the Consolidated Fund.

Commission budgets are prepared on an output budgeting basis in accordance with Victorian Government standards. For 2004-05 (the twelve-month period ended June 30, 2005), the ESC had actual operating expenditures of $15.2 million. The operating budget for 2005-06 is targeted to be $14.2 million.

The ESC provides opportunities for stakeholders to comment (via written submissions) on its proposed approach to consultation and on the key issues related to its regulatory decisions. Typically, public consultations are administrative processes and stakeholders have an opportunity to discuss regulatory issues and proposals through such public forums as public hearings (informal), workshops and meetings, and the ESC facilitates

working groups where appropriate and feasible. While the ESC aims for these occasions to be as informal as possible, it may sometimes take a transcript of the proceedings or prepare notes to publish on its website, so as to provide a reference for discussion and allow others to understand the issues raised. The ESC's Charter of Consultation and Regulatory Practice sets out the consultation principles and the manner in which stakeholders will participate in the decision making process. Light-handed rate regulation methods are employed (e.g., 5 year price cap plans).

Within the framework of its statutory objectives, functions and powers, the Commission is responsible for setting out the goals, strategies and initiatives of the Commission. These are set out in the Corporate Plan and Work Program. The Commission's Corporate Plan and Work Program are revised and published annually following consultation with stakeholders and the executive team. Operational and budgetary objectives and performance against objectives are published annually.[20]

For economic regulatory services, the ESC has established several major outputs/ deliverables performance measures, with traditional units of measure, that deal with quantity (e.g. number of regulatory decisions, audits, etc.), quality (percentage of regulatory decisions upheld), timeliness (e.g. percentage of major projects that meet statutory deadlines) and cost (absolute nominal dollars in $ million). The ESC also publishes output targets for the following business year at the time it publicly reports on results achieved for the business year under review. As examples, with respect to:

- Quality of regulatory decisions
    - Performance measure: percentage of regulatory decisions upheld
    - Performance standard: no regulatory decisions are successfully appealed (i.e., target is100%)
- Timeliness of major projects
    - Performance measure: percent of statutory deadlines met for major projects
    - Performance standard: 98% of major projects are completed in accordance with statutory deadlines

[20] ESC Annual Report 2004-05

2.3.10 INDEPENDENT PRICING AND REGULATORY TRIBUNAL, NSW (IPART)

The Independent Pricing and Regulatory Tribunal (IPART) is an independent body that oversees regulation in the water, gas, electricity and public transport industries (rail access, fares-taxi, public transit, ferries and private buses, ambulance services) in New South Wales (NSW), Australia. While its responsibilities have increased significantly over time, its primary purpose is its economic regulation role.

IPART provides an integrated system of economic regulation and licence regulation in NSW that covers both pricing for water, electricity network and gas industries and monitoring licence compliance for water, electricity and gas. In this respect, IPART regulates eight gas and electricity distribution companies and administers licences for 34 energy retailers.

IPART is headed by a Tribunal that comprises three permanent members (including the Chair), plus a varying number of temporary members. The Tribunal is supported by a Secretariat that provides research and advisory services, and assists the Tribunal in its investigations and public processes

IPART is primarily funded from Government Contributions and Appropriations. IPART is allowed to retain certain revenue (e.g., sale of goods and services, investment income) which represents the balance of the funding requirements. However, recoveries from the regulated industry (e.g., licence fees), while administered by IPART, are not retained by IPART and are paid directly into the Consolidated Revenue Fund. For fiscal year 2004-05 (the twelve-month period ended June 30, 2005), IPART's actual expenses were $16.1 million and, as at June 30, 2005, IPART had a funded complement of 76. The operating budget for 2005-06 is $16.8 million.

Regulatory processes involve extensive public consultations that are informal and administrative in nature; analogous to "Notice and Comment" regulatory processes utilized in Ontario for stakeholder consultations. The distributors are rate-regulated under light-handed, multi-year, incentive-based regulatory schemes.

IPART measures annually its performance against corporate objectives utilizing goals, strategies, activities and measures that are based on actions taken by the agency or are

explicitly controllable by the agency. Report back on progress towards implementation of the strategic commitments for the business year is made and published at the time of the Annual Report. Several key performance indicators are developed as part of IPART's Results and Services Plan, the service delivery and funding plan prepared by agencies to demonstrate the relationship between the services they deliver and the results they are working towards.

With respect to financial administration, the following three measures were developed with a base year 2000-01, and reported on through fiscal 2003-04:

- Controlled net cost of service within budget[21] (yes/no)
- Regulation expenditure per capita (NSW) (target: <$2)
- Compliance with Public Finance & Audit Act (target: 100% compliance)

2.3.11 AUSTRALIAN COMPETITION AND CONSUMER COMMISSION (ACCC)

The Australian Competition and Consumer Commission (ACCC) is an independent statutory authority, set up in 1995 as part of the national competition policy reform program. It is the only national agency dealing with competition matters.

When regulating infrastructure service markets and other markets where competition is restricted, the ACCC promotes competition in the network industries: electricity, gas, telecommunications, aviation and airports, waterfront and shipping, rail, and post.

The ACCC exercises regulatory oversight over electricity, gas, telecommunications, aviation and airports, waterfront and shipping, rail, postal services, petrol prices (price monitoring) and insurance

In its role as the national regulator, the regulatory functions of the ACCC have included: regulating the electricity, gas, telecommunications and transport sectors to ensure equality of access to infrastructure, and monitoring of services and prices. The ACCC currently regulates 22 energy transmitters under its jurisdiction.

[21] Net Cost of Services is equal to total expenses net of retained revenue

From 1 July 2005 a new statutory authority, the Australian Energy Regulator (AER), has assumed direct responsibility for the regulation of electricity transmission networks and enforcement of the market rules. Responsibility for regulating the gas transmission and distribution pipeline systems and enforcement of natural gas pipeline laws will also be transferred to the AER in 2006–07 (by the end of calendar 2006). It is expected that the AER will also eventually have responsibility for the retail and distribution networks in the energy sector (other than retail pricing). Upon implementation, this will represent a significant shift in regulatory responsibilities from the state jurisdictional regulators like the ESC and IPART to the national regulator. While the AER is a separate legal entity, it is a constituent part of the ACCC.

The ACCC has a Chair, Deputy Chair, five full-time Commissioners and seven associate and ex-officio members (collectively referred to as the Commission) and a CEO. The Commission is the decision-making body and it is assisted in its activities by a range of internal and corporate governance committees and external consultative committees.

The ACCC's revenue is mainly provided through government appropriation. In 2004-05 the ACCC had an operating budget of $99.2 million of which $98.4 million (or 99%) was government funded. The remainder ($0.8 million or 1%) was generated through retained revenue (i.e., the sale of goods and services) and free services from government.

The ACCC also administers revenues (and expenses, assets, liabilities and cash flows) relating to the core operating activities performed by the Commission on behalf of the Commonwealth (e.g., fines and costs, authorization fees). Such revenue is collected by the Commission for use by the government rather than the Commission. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. Administered revenues totalled $12.7 million in 2004-05.

Actual expenses for 2004/05 were $85.4 million (resulting in a net surplus of $13.8 million). The ACCC is a people-based organization with significant in-house legal capacity, with staff and related costs accounting for 47 per cent of total expenditure. The 2005-06 budget provides the ACCC with $85.5 million for operating expenses and

$1 million for capital funds. Within this, the ACCC received $4.8 million to fund the ongoing operations of the AER for 2005–06. The total number of staff employed (including commission members, part-time employees, employees absent on leave and secondments) at 30 June 2005 was 519 (501 on 30 June 2004). The 2005–06 budget provides funding for 511 FTEs. The increase in staff numbers reflects, in part, the creation of the AER.

Not unlike state regulatory bodies in Australia, the ACCC relies on extensive public consultations (administrative processes) with stakeholders as an integral part of its decision-making processes. There is a statutory requirement that the regulatory processes must provide all affected parties with a reasonable opportunity to participate in the process. Network service providers are rate-regulated by the ACCC under light-handed, incentive-based revenue cap mechanisms at five-year intervals. As well, the ACCC is responsible for the promulgation of the regulatory test, the economic cost-benefit test used by transmission and distribution businesses in Australia to assess the efficiency of network investments.

The ACCC's corporate plan sets out the commission's purpose, objectives and the key areas of focus for the business year. The ACCC's budget papers (Estimates submission) for the business year detail how revenue will be applied by outcome, administered and departmental classification. Output performance indicators shown in the budget papers are used to measure evaluation activity for the outcomes. The results of the evaluation are shown in the ACCC Annual Report.[22]

Feedback is sought from key clients on a regular basis on the effectiveness in achieving the outcomes.

While the ACCC uses performance indicators in the evaluation process, targets are not set to define the level of performance that the organization is setting out to attain.

While comprehensive financial analysis is provided by the ACCC in relation to its budgeted financial statements, no specific cost measures are used. It is implied that the ACCC is expected to operate within its approved budget.

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[22] As measured against performance indicators defined in the ACCC portfolio budget statements 2004–05

3 OPTIONS FOR THE OEB

ERA's review of best practices in strategic planning and performance measurement methodology provides context for the consideration of regulatory cost performance measures that would be appropriate for the Ontario Energy Board. Section 3.1 discusses performance measurement design considerations based on best practice principles. Section 3.2 sets out several observations based on ERA's review of the practices used in other jurisdictions.

3.1 DESIGN CONSIDERATIONS BASED ON BEST PRACTICES PRINCIPLES

As discussed in section 2.1, effective performance measurement takes place within a broader strategic process that involves first setting goals and objectives, and then identifying key strategies for achieving appropriate targets.

Goals:

Goals are the organization's intentions. They are appropriate to the vision and mission. Goals describe the outcomes must be realized in order to achieve the vision.

Objectives:

Objectives are the organization's intended results for the planning period. Objectives are specific and measurable by results or outcomes; whereas goals relate to the longer term vision of the organization.

Key Strategies:

Developing key strategies involve identifying the macro-level trends to which the organization must respond. This includes identifying forces that may impede stated objectives. Key strategies are developed from a planning process that evaluates actions and initiatives required to achieve stated goals and objectives.

Performance Measures and Targets:

Measuring performance is an evaluative process to track the effectiveness of strategies. Targets define the level of performance that the organization is seeking to attain.

3.1.1 THE ROLE OF THE OEB BUSINESS PLANS

The Board's current performance management system, which is integral to the existing process for developing its annual Business Plan, is robust, well advanced and reflects best practices in strategic planning and performance measurement methods. It would be consistent to extend the positive attributes of the Board's current practices to its regulatory cost measures.

Each of the Board's key objectives is accompanied by a brief description of its strategic context, the steps that the Board will take to achieve it, and a set of measurable outcomes, so that the public and stakeholders will know the OEB has succeeded in its commitments.

The 2006-2009 Business Plan projects the OEB's strategic and business outlook through to the end of fiscal year 2009. Like the 2005-2008 Business Plan, it outlines the Board's strategic objectives and the external factors that will affect its success in achieving them, some key initiatives the Board is planning and the performance measures by which it will hold itself accountable. While the 2006-2009 Business Plan's core objectives remain the same, the strategic context, key initiatives and performance measures have been updated.

In the 2005-2008 Business Plan, the Board has identified six strategic objectives for the three-year business plan. The Board's budget, which accompanies the plan, was developed based on the priorities set out in the plan. The business plan concludes with a description of several management initiatives that support the strategic objectives.

In the 2006-09 Plan the Board stated that it "continues to undertake management initiatives that support its strategic objectives and that will enable it to work more effectively, using its resources efficiently and in a fair and transparent manner to serve stakeholders, internally and externally".[23] With respect to regulatory cost, one of the management initiatives identified was the Board's commitment to publish an appropriate measure of the regulatory cost for the Board commencing in fiscal year 2006-07.

[23] Ontario Energy Board, 2006-2009 Business Plan, page 13.

STRATEGIC CONTEXT

It is the aim of the Board to deliver regulation that is effective, fair and transparent and that contributes to a healthy energy sector with informed consumers and stakeholders. The Board's business plans aim to be prudent, cost-effective and sensitive to the burdens that a regulatory agency asks of its stakeholders and, ultimately, ratepayers to bear.[24] It would be consistent for the Board's cost measure to reflect this goal.

KEY CONSIDERATIONS

Key considerations in determining an appropriate cost measure for the Board include:

Attributes

- The cost measure should be achievable, that is, it should be reasonably within the OEB's control.
- The cost measure should be responsive to stakeholder concerns about the cost of regulation.
- The cost measure should be simple, easily understood and easily administered, but, at the same time, considered to be meaningful and perceived to be effective by the public and immediate stakeholders.
- To be meaningful, the cost measure should make provision for a cost target.
- The cost measure should not create unnecessary costs upon implementation and implementation issues should be kept to a minimum. To the maximum extent possible, data collection, data compilation and data interpretation issues should be kept to a minimum.

Background Information

- The OEB has operated as a self-financing Crown corporation for the past three years and has essentially completed the transition to a Crown corporation.

[24] Ontario Energy Board 2005–2008 Business Plan, page 2

- While the Board's costs have increased to meet the demands associated with its new corporate status[25] and the expanded role it was taking on in Ontario's energy sector, the OEB's staffing levels and projected costs show a levelling trend, commencing in fiscal 2006-07, and are expected to be stable for the foreseeable future. The majority of the Board's costs relate to labour costs.
- Since the Board fully recovers its costs from the utilities it regulates, it is ultimately the ratepayers who pay for the regulatory services they receive.
- While significant changes to the structure and mandates of the OEB and the public institutions that it regulates have had and will continue to have a corresponding impact on its regulatory costs, the Board has indicated that it will strive to monitor and contain the cost increases associated with its expanded responsibilities. In spite of its efforts, however, the scope of the new activities to be undertaken by the Board under its expanded mandate could drive up costs. This may result in the need for the Board to explain, if applicable, how and why actual results vary from targeted performance at the time of performance assessment.
- It is common ground that the business plan is a living document, since legislative changes and government policy developments can affect the manner and degree of the Board's regulatory responsibilities at any given time. This may necessitate a refinement to the cost measure in future as necessary and appropriate.

Best Practices

The Board's consideration of an appropriate cost measure can be informed by a study of the methods employed in other jurisdictions. The Board's deliberations should incorporate, where practical and feasible, best practices and lessons learned based on a review and assessment of methods used elsewhere to measure the regulatory cost, including findings arising from the survey of benchmark jurisdictions conducted as part of this project.

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[25] For example, the OEB's new status required it to assume responsible for delivering many of the corporate services previously provided by the Ontario government including responsibility for its own accounting, budgeting and planning, finance and administration, human resources, information and information technology, and other business services

OPTIONS

Based on the survey results and best practices from other jurisdictions, some of the criteria the Board could use to measure its cost performance include:

- OEB expenditures
- Staff levels
- Regulatory cost per customer
- Regulatory cost per capita
- Regulatory cost per unit of energy sold
- Regulatory cost as a percentage of industry revenue
- Benchmark statistics for any the above measures, compared to other jurisdictions

The Board can use these tools to assist it in monitoring and improving its performance, by annually tracking one or more of these performance indicators.

Some other possible measures of efficiency are:

- Number of tribunal staff per utility
- Average cost per case
- Annual budget, as a percentage of industry revenue
- Annual budget, as a percentage of industry Operating, Maintenance & Administrative expense
- Regulatory cost per unit of distribution volume

However, these efficiency measures are generally not used. It is arguable whether some of these measures are as meaningful as others that are used more commonly. Several require appropriate resources to collect and tabulate the data, while others require data interpretation and consistency in presentation (e.g., volume and revenue regarding the reporting of sales, including off-system sales, and transportation data).

3.2 LESSONS LEARNED FROM OTHER JURISDICTIONS

Based on the survey results in relation to regulatory cost performance management, certain relevant "lessons learned" are discussed below.

3.2.1 BCUC

For several years the BCUC has published regulatory cost performance indicators in Annual Reports and Annual Service Plans. The BCUC aims to control and reduce the regulatory cost on an ongoing basis. Specifically, the BCUC's objective is to maintain Commission budgets and core expenditures at or below current levels, adjusted for inflation and new responsibilities. The reported annual performance indicators are in relation to staffing levels, Commission expenditures, Commission costs per customer, and Commission costs per (equivalent) gigajoule of energy sold. The target or quality Indicator is to maintain or improve performance as measured by indicators. As well, the BCUC maintains and publishes annually comparisons of certain benchmark costs against those of selected other jurisdictions[26], namely staff levels, annual budgets (showing separately total budget amounts and the portion devoted to energy utility regulation, where applicable) and per capita regulatory cost calculations. In this regard, the BCUC's target or quality indicator is to maintain favourable benchmarking of BCUC staffing and budget statistics against those of "comparable" tribunals.

A time series of Commission expenditures ($ million), Commission cost per customer ($/customer) and Commission cost per gigajoule of energy sold (cents) respectively, are presented in either constant 1992 dollars or current year dollars.

The regulatory cost per customer is calculated by dividing Commission expenditures by the total number of customers of regulated utilities.

[26] For 2005, BCUC compared its budget statistics to: OEB, Quebec Régie de l'énergie, Newfoundland Board of Commissioners of Public Utilities, Alberta Energy and Utilities Board, National Energy Board, New Brunswick Board of Commissioners of Public Utilities, Washington State Utilities and Transportation Commission and Nova Scotia Utility and Review Board

The regulatory cost per gigajoule (equivalent) of energy sold is calculated by dividing Commission energy regulation expenditures by the amount of energy sold or transported by utilities in that year.[27]

In ERA's view, the value of using a unit of measure (¢/GJ) that results in a unit of cost expressed in fractions of a cent is questionable. The general public in Ontario is accustomed to units of measure expressed in volumetric terms and would better comprehend units of measure that are currently used by utilities in their energy bills (i.e., billing units of cubic metres for gas and kWh for electricity). The determination of equivalent energy sold for different commodities requires a series of calculations and appears to be unnecessarily complicated.

The BCUC uses benchmarking analysis to substantiate its claim that it is the most efficient and effective energy utility regulator in Canada. This strategy is questionable given the significant differences among regulators with respect to their mandate and other factors.

3.2.2 NEB

The NEB has adopted per capita regulatory cost as its cost measure[28]. This measure compares the annual operating cost of seven different regulators; five provincial and two federal[29], on a per capita of population served. According to the NEB, the comparison provides a relative measure of overall efficiency for the included regulators and is intended to provide the NEB with information to evaluate its own performance relative to other similar regulatory organizations. Costs not related to provincial utility regulation, such as for auto insurance regulation, have been excluded for this comparison.

However, the NEB has not established a cost target for this measure.

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[27] The equivalent energy sold includes both natural gas by gas utilities and the electricity sold (converted to gigajoules) by electrical utilities. One gigajoule (one billion joules) is roughly equal to energy from 915 cubic feet of natural gas, 29 litres of gasoline, or 278 kWh of electricity. One gigajoule (GJ) is approximately equivalent to 0.910 mcf (mcf = one thousand cubic feet) or 0.0258 103m3 of natural gas or 0.376 mcf of propane vapour in L.P. gas grid systems.

[28] NEB 2004-2005 Performance Report

[29] NEB, BCUC, AEUB, OEB, FERC, Newfoundland Board of Commissioners of Public Utilities and Régie de l'énergie Quebec

3.2.3 AUSTRALIAN STATE REGULATORS

Both the ESC and IPART have adopted variations of the same cost measure, to operate within the approved budget.

As well, IPART has adopted regulatory expenditure per capita (NSW) as a cost measure, using a constant cost target (<$2) that was established in 2000/2001. In its annual reporting, IPART provides a continuity statement of financial data that compares actual results to output targets applicable to each year reported (with 2000/2001 defined as the base year).

3.2.4 NEMMCO[30]

Since December 1998, the National Electricity Market Management Company Limited (NEMMCO) has been responsible for operating and managing the interconnected power system and wholesale electricity market in the Australian National Electricity Market (NEM). The cost measures adopted by NEMMCO have merit.

One of the objectives of NEMMCO as set out in the NEMMCO Members' Agreement is to establish and conduct the National Electricity Market efficiently in accordance with the National Electricity Code (Code) and the Statement of Corporate Intent, on a self-funding and break-even basis in accordance with NEMMCO's budget.

Market participants have expressed concerns about the high level of costs.

With respect to Business Management, NEMMCO's Corporate Objective is to continuously improve the quality and value of services delivered to market participants and the industry in a commercially-focused and cost efficient way. For 2004-2005, NEMMCO adopted the following two strategies:

- To operate within NEMMCO's approved budget, and
- To set revenue requirements at 37 cents for each MWh of energy traded in the NEM

Reported Achievements include:

[30] NEMMCO Statement of Corporate Intent 2005; NEMMCO 2005 Annual Report

- Maintained expenditure within the set budget
- Met revenue requirement target of 37 cents for each MWh of energy traded in the NEM

Future objectives include a commitment to improve cost management and budgeting processes to improve overall business efficiency.

At the beginning of the 2003-04 financial year NEMMCO began reporting against the published Key Performance Indicators (KPIs).

With respect the Key Result Area dealing with cost efficiency, two performance indicators are used:

- Costs (excluding Full Retail Competition costs and applicable fees which are covered separately) normalized in real terms. Base year 2000-01 actuals. Index equals 100 (cost target: <95 percent of base year actuals)
- Continuous improvement in the formal long-term cost-efficiency measure of fees per MWh by which NEMMCO's financial management is monitored (cost target: cents per MWh)

3.2.5 OFGEM[31]

In response to criticisms expressed by some regulated companies that Ofgem's direct costs were too high and that Ofgem employed too many staff, Ofgem pledged to implement a RPI - X cost control formula on its own operations similar to that which Ofgem imposes on the network monopoly businesses that it regulates. Ofgem will be operating under a new five-year cost control regime of RPI - 3 percent from April 2005.

This decision is expected to achieve savings of £5.3 million in real terms over the five-year period of the control and, according to Ofgem, will strike the right balance in controlling costs, without compromising Ofgem's ability to protect customers' interests. However, Ofgem has a safety net whereby it can go to its Audit Committee to seek

[31] Ofgem Corporate Strategy and Plan 2005-2010

additional budget should there be significant additional costs relating, for example, to new projects that were not anticipated.

While certain stakeholders may view this as a positive development and Ofgem appears to be exhibiting leadership in the area of cost containment, there is a danger that this commitment may compromise Ofgem's ability to effectively deliver its mandate over the control period and may have unintended consequences. While noteworthy, adopting a revenue cap for a regulator is not an appropriate solution having regard to the regulator's constituting instrument and its statutory obligations. This development raises several issues. For example, the determination of an appropriate productivity factor for a regulatory agency would be both difficult and problematic.

Appendix A: Survey Details by Jurisdiction

Alberta Energy and Utilities Board

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The Alberta Energy and Utilities Board (EUB or the Board) is a quasi-judicial agency of the Alberta government that regulates Alberta's energy resources and utilities. Although the EUB makes decisions independently, it is part of the Alberta Ministry of Energy. The EUB regulates the safe, responsible, and efficient development of Alberta's energy resources—oil, natural gas, oil sands, coal, and electrical energy—and the pipelines and transmission lines to move the resources to market. On the utilities side, the EUB regulates investor-owned natural gas, electric, and water utilities and certain municipally owned electric utilities (as of January 1, 2004) to ensure that customers receive safe and reliable service at just and reasonable rates. The EUB also ensures electricity-generating facilities are built, operated and decommissioned in an efficient and environmentally responsible way. The EUB ensures that the discovery, development, and delivery of Alberta's energy resources and utilities services take place in a manner that is fair, responsible, and in the public interest. The Alberta Electric System Operator (AESO or Alberta ISO) is responsible for long-term transmission planning and need identification. The AESO must seek EUB approval before directing transmission facilities owners (TFOs) to upgrade or build new facilities. TFOs must file facilities applications with the EUB and the EUB must grant a permit to construct before construction on transmission facilities can begin (60 kV and above). The AESO works with TFOs to develop specifications and stakeholder consultation. Regulation is done through two core functions: adjudication and regulation, and information and knowledge. Other functions include surveillance and enforcement.

Regulator's Mandate	**Industry Regulated**	Energy resources development (electricity, gas, oil, oil sands, coal) Utilities (Electricity, Natural Gas, Water) The EUB has two distinct business lines: – the Energy group, which regulates exploration and exploitation of resources, and the Utilities group, which regulates utilities.
Regulator's Mandate	**Governing Legislation (optional)**	The following are the Acts under which the AEUB operates. It will be noted that the Energy Resources Conservation Act and the Public Utilities Board Act still exist, and accordingly the AEUB gets much of its mandate from the acts which created its predecessor boards (the Energy Resources Conservation Board and the Public Utilities Board). Alberta Energy and Utilities Board Act (and Rules of Procedure) Electric Utilities Act (and 23 regulations) Public Utilities Board Act (and 2 regulations – Designation Regulation designates the utilities which are subject to the Board's regulation, and General Assessment Order for the Fiscal Year 2004-2005 sets out the assessments to utilities) Water, Gas and Electric Companies Act
Regulatory Methods Used (processes, mechanisms)	Written or oral proceedings. The majority of applications are dealt with by written process. The EUB mainly employs traditional cost of service regulation. On an exception basis, if a utility and its stakeholders can arrange an incentive regulation agreement, the EUB has demonstrated that it will approve. Generally, facilities applications are dealt with through a mixture of administrative processes and/or quasi-judicial hearings (written or oral) with ADR, depending upon nature of application. For example, the EUB is responsible for approving permits to construct and licenses to operate electricity transmission lines (generally >60 kV) typically using a quasi-judicial public hearing (oral or written depending upon the scope of the project). Prior to beginning construction, the TFO must have a permit to construct from the EUB. Decisions of the AEUB are subject to appeal to the Alberta Court of Appeal. Jurisprudence makes	

	it clear that the Court will hear issues of law or jurisdiction, but will not hear matters within the sole competence of the Board.
Regulatory Commission Expense	**Energy Regulation** In fiscal 2005, the original budget estimate of $110.8 million ($109.8 operating expenses and $1.0 net capital investment) was increased by $2.5 million. This change reflects the recovery of funds from industry which were used to address the continuation of the abandonment of a suspended underground coal mine in northern Alberta ($1.7) and the Tariff Billing Code project, which is directed at improving billing accuracy for electricity consumers ($0.8). Fiscal 2005 expenditures totalled $112.2 million ($110.4 operating expenses and $1.7 net capital investment) distributed between EUB's two core businesses as follows: - Adjudication and Regulation: 68% - Information and knowledge : 32% **Orphan Abandonment** Fiscal 2005, the original estimate of $10.0 million was increased to a total of $13.4 million ($12.0 in levy and $1.4 in first-time licensee fees).
Sources of Funding (optional)	Cost recovery. Sec. 22 of the Public Utilities Board Act provides that the Board may, by order, impose the payment of an assessment by a person over which the Board has jurisdiction. **Energy Regulation**: The majority of this program's funding is from the combination of an Alberta government grant and a general mandatory levy applied to the industry. The ratio of funding provided by the Alberta government has increased over the last five years from 26 to 40 percent and is approved to reach 43 percent in fiscal 2006. This change is in response to efforts to return to a 50/50 ratio. **Orphan Abandonment:** Fully recovered from industry
Staffing Levels (including Commissioners)	780 , including 9 Board members (Source: 2004-05 Annual report)

Regulated Utilities		No. of Utilities	No. of Customers	Throughput	Per Customer Cost of Regulation	Cost Per Unit of Throughput
	Gas	Not readily available	Not readily available	Not readily available		
	Electric	Not readily available	1,374,102* (2004)	49,535.3 GWh (2004)		
	Total Energy	7 investor-owned utilities and some munis	Not readily available	Not readily available		
	Other		* Total residential, industrial, commercial, farm (includes customers of non-regulated)			
Per Capita Cost of Regulation (based on population)	$2.56/year (utilities only)					

PERFORMANCE MEASURES USED-COST OF REGULATION		
	Yes/No	**Description of Method**
Cost Targets	No	
Benchmarking	No	
Other	No	

PERFORMANCE MEASURES USED-OTHER		
	Yes/No	**Description of Method**
Output-based	Yes	Output based performance measures are used with specific targets, such as “95% of decisions to be rendered in 90 days or less from the end of the hearing”
Time-based	Yes	Examples include: - Power Plant Applications Turnaround time (Target: decision issued within 6 months after EIA is deemed completed) - Application Turnaround Time (Target: 3 - 3.5 working days (average) for routine facility applications)
Quality-based	Yes	Examples of the criteria the EUB uses to measure its performance include: - For Siting & Environmental Assessment applications, the EUB sets a target percentage in relation to applicants ranking the quality of EUB Staff in ADR processes to be satisfactory or better (86% target for 2005/2006) - Applications with objections resolved without a hearing (2005 target: 90%) - Stakeholder Satisfaction, percentage of stakeholders that are satisfied with EUB information and access to it (2005 target: 74%) - Satisfied complainants (Targets: 87% each for fiscal years 2005 and 2006)
Other	Yes	**Staff Retention,** percentage of voluntary turnover, is used as an indicator for the Board’s goal of building an organizational environment for success. The target is to keep voluntary turnover at a level equal to or lower than that reported by industry (the target for 2005 was 6.9%, actual was 5.4%).

COMMENTS			
Comparability of Regulatory Body to OEB		**Yes/No**	**Explanation of Equivalency**
		No (except for regulation of utilities**)**	Major focus of the EUB is on energy resources development (electricity, gas, oil, oil sands, and coal). The EUB consolidates the functions of the former Alberta Energy Resources Conservation Board and the Public Utilities Board (the Alberta Geological Survey is also part of the EUB organization), and therefore has operations far more extensive than most public utility boards and commissions in other provinces.
Cost of Regulation Performance Measure	**Strengths**	Not applicable	
	Weaknesses	The EUB has not adopted a cost measure**.**	
	Ease of Administration	Not applicable	
	Other	In its annual reports, the EUB addresses its goals, performance and results. Its performance measures all have specific targets. Performance is compared to past results.	

British Columbia Utilities Commission

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The British Columbia Utilities Commission (BCUC) operates under, and administers, the Utilities Commission Act (UCA or Act) and its primary responsibility is the regulation of the public utilities under its jurisdiction and, effective August 12, 2003, the regulation of certain aspects of automobile insurance. These include the crown-owned British Columbia Hydro and Power Authority (BCH) and the newly created British Columbia Transmission Company (BCTC) as well as several smaller investor-owned electric utilities, the largest of which is Fortis BC. It also includes investor-owned natural gas utilities, an investor-owned district heating utility, and municipally-owned electric utilities' service outside of their municipal boundaries. The Commission approves the construction of new facilities planned by energy utilities and their issuance of securities The Commission also reviews energy-related and basic insurance matters referred to it by Cabinet. These reviews usually involve public inquiries, followed by a report and recommendations to Cabinet. In addition, under Part 7 of the Pipeline Act, the Commission establishes tolls and conditions of service for intra-provincial oil pipelines. The Commission also has responsibilities under the UCA for electricity transmission facilities, energy supply contracts and the issuance of gas marketer licences. In general, the primary areas of activities for the Commission are revenue requirements; rate design; capital projects review and resource planning review; oversight of energy commodity cost and competitive market development; safety and reliability; and information service and complaints.
	Industry Regulated	Electricity, Natural Gas, Insurance

	Governing Legislation (optional)	The Utilities Commission Act. In addition, under Part 7 of the Pipeline Act, the Commission establishes tolls and conditions of service for intra-provincial oil pipelines.
Regulatory Methods Used (processes, mechanisms)	The BCUC's function is quasi-judicial and it has the power to make legally binding rulings. The Commission's regulatory "tool kit" includes public hearings (both oral and written), Alternative Dispute Resolution (ADR) and Negotiated Settlement Processes (NSP). BCUC makes use of public hearings, both oral and written, and extensive use of alternative dispute resolution and negotiated settlement processes. Decisions and Orders of the Commission may be appealed to the Court of Appeal on questions of law or jurisdiction. Through an open and transparent regulatory review process, the Commission strives to ensure that: rates charged for energy are fair, just and reasonable; energy utility operations provide safe, adequate and secure service to their customers; shareholders of public utilities under its jurisdiction are afforded a reasonable opportunity to earn a fair return on their invested capital; Insurance Corporation of British Columbia (ICBC) universal compulsory automobile insurance is adequate, efficient, just and reasonable; and ICBC optional insurance is not subsidized by other ICBC operations. Rate setting mechanisms include both traditional cost of service regulation and incentive-mechanisms such as performance-based ratemaking. Rate plans result from traditional utility rate applications and a public hearing process (utilizing both oral and written hearings), extensive use of negotiated settlement processes to achieve resolution on issues involving workshops and information publications. The BCUC must issue certificates of public convenience and necessity (CPCN) in order for utilities to construct new infrastructure.	
Regulatory Commission Expense	The total expenditure for fiscal 2004/05 was $4,266,799.41; the approved budget was $4,677,000.	

Sources of Funding (optional)	Fully cost-recovered. The BCUC has been self-funded since 1988. Its costs are recovered primarily through a levy on the energy utilities and pipelines companies that it regulates.					
Staffing Levels (including Commissioners)	Commissioners: 3 Full-time, 6 Temporary Staff: 22					
Regulated Utilities		**No. of Utilities**	**No. of Customers**	**Throughput**	**Per Customer Cost of Regulation***	**Cost of Regulation Per Unit of Throughput**
	Gas	11	915,957 (2004)	245,160 (2004) (GJ)(000)		
	Electric	13	1,838,565 (2004)	52,448.7 GWh (2004)		
	Total Energy	25 (including one steam-heat utility)	2,754,522 (2004)		$1.40 (in 2004 dollars, down from $1.56 in 2003/04)	$0.89 cents
	Other	1 Insurance	*As calculated by the BCUC, the total cost of regulation of $0.77 (includes customers of energy services and ICBC, in 2004 dollars, down from $1.09 in 2003/04)			
Per Capita Cost of Regulation (based on population)	$1.11/year (2005), as calculated by the BCUC (Source: 2004/2005 Annual Report)					

PERFORMANCE MEASURES USED-COST OF REGULATION		
	Yes/No	**Description of Method**
Cost Targets	Yes	BCUC strives, on an going basis, to control and reduce the cost of regulation using such targets as Commission budget and core expenditures are at or below current levels, adjusted for inflation and new responsibilities; staff levels; cost of regulation per customer; and cost of regulation per unit of energy sold (BCUC costs per GJ of energy sold in constant 1992 cents)
Benchmarking	Yes	Maintain favourable benchmarking of BCUC staffing and budget statistics against those of comparable tribunal including per capita cost of regulation.
Other	No	
PERFORMANCE MEASURES USED-OTHER		
	Yes/No	**Description of Method**
Output-based	Yes	Examples of the criteria the BCUC uses to measure its performance include: proceeding days summary; customer complaints and inquiries; decisions issued; Commission expenditures; cost of regulation per customer; and staffing levels.
Time-based	Yes	Cycle/turnaround times for applications; for example, in relation to turnaround time for Environmental Assessment Office. EAO has a legislated review time limit of 180 days.
Quality-based	Yes	Examples include: settlement agreement endorsed by all participants; well reasoned decisions; customer satisfaction with the Commission's management of their complaints as evaluated through periodic surveys, etc.
Other	Yes	Objectives related to specific projects are also identified in the strategic plan.

COMMENTS			
Comparability of Regulatory Body to OEB		**Yes/No**	**Explanation of Equivalency**
		Similar (but regulates insurance as well)	Similarities in mandate (traditional economic regulatory responsibilities, licensing, consumer protection) and regulatory mechanisms used (evidentiary hearings, ADR, mixture of COS and PBR rate regulation)
Cost of Regulation Performance Measure	**Strengths**	Performance measures are very specific. Comparisons can be made with targets or standards, past performance or other jurisdictions. A multi-year plan for corporate performance indicators provides consistency and tracks performance over time, against objectives.	
	Weaknesses	The BCUC gives undue weight to the results of the benchmark comparisons.	
	Ease of Administration	Yes	
	Other	The BCUC has prepared three-year service plans and has included performance indicators in its annual reports for a number of years. Each goal in the service plan has objectives, strategic activities, output/outcomes, and targets or quality indicators.	

National Energy Board (Canada, Federal)

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The NEB is responsible for authorization regarding: • the construction and operation of inter-provincial and international pipelines; • pipeline traffic, tolls and tariffs; • the construction and operation of international and designated inter-provincial power lines; • the export and import of natural gas; • the export of oil and electricity; and • Frontier oil and gas activities. Other responsibilities of the NEB include: • providing energy advice to the Minister of Natural Resources in areas where the Board has expertise derived from its regulatory functions; • carrying out studies and preparing reports when requested by the Minister; • conducting studies into specific energy matters; • holding public inquiries when appropriate; and • monitoring current and future supplies of Canada's major energy commodities. The NEB doesn't regulate electricity rates The Board's mandate includes the provision of expert technical advice to the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB), the Canada-Nova Scotia Offshore Petroleum Board (C-NSOPB), Natural Resources Canada (NRCan) and Indian and Northern Affairs Canada (INAC). The Board may, on its own initiative, hold inquiries and conduct studies on specific energy matters as well as prepare reports for Parliament, the federal government and the general public. The Board is accountable to Parliament, to which it reports, through the Minister of Natural Resources.

Regulator's Mandate	**Industry Regulated**	Certain areas of the oil, gas, and electric utility industries.
Regulator's Mandate	**Governing Legislation (optional)**	The Board's powers and jurisdiction are based on the *National Energy Board Act, the Canada Oil and Gas Operations Act and certain provisions of the Canada Petroleum Resources Act.* The Board's corporate purpose is to promote safety, environmental protection and economic efficiency in the Canadian public interest within the mandate set by Parliament in the regulation of pipelines, energy development and trade. This principle guides the Board in carrying out and interpreting its regulatory responsibilities. The public interest is inclusive of all Canadians and refers to a balance of economic, environmental, and social interests that changes as society's values and preferences evolve over time. As a regulator, the Board must estimate the overall public good a project may create and its potential negative aspects, weigh its various impacts, and make a decision.
Regulatory Methods Used (processes, mechanisms)	The Board deals with approximately 750 applications annually. For major applications, the Board holds public hearings where applicants and interested parties can participate. These hearings can be either written or oral proceedings and are usually held at locations across Canada where there is a particular interest in the application and which will be most affected by the Board's decision. Normally, a panel consisting of three Board Members is assigned to hear applications. The Board operates as a court of record, very similar to a civil court. Its powers include the swearing in and examination of witnesses and the taking of evidence. Before a hearing, individuals, interest groups, companies and other organizations are given an opportunity to register as intervenors or interested parties and in this way actively participate in the process. The NEB regulates tolls and tariffs of inter-provincial and international pipelines on the basis of "just and reasonable rates" and no "unjust discrimination". Methodology was traditionally cost of service regulation for the larger pipelines and on a complaint basis for the smaller ones. In the mid and late 1990s virtually all of the large pipelines moved to negotiated incentive settlements with their shippers, but lately the emphasis has been back to cost of service regulation. Some of the large pipelines have a "tolls task force" which reviews operational, tariff, toll, and rate application issues in an attempt to arrive at a consensus position outside of a hearing process.	

	Membership in the Tolls Task Force is normally open to any party with a discernible interest in, or who may be affected by, toll, tariff and operational matters, such as shippers, industry associations and governments of consuming and producing provinces. In determining the suitability of a Leave-to-Construct application, the NEB reviews through written or oral hearings, among other things, the technical feasibility of the project, its effect on adjacent provinces and its environmental impact. Permits or licences are issued for exports and facilities approvals.					
Regulatory Commission Expense	The NEB's actual expenditures were $38.1 million in fiscal 2004-05.					
Sources of Funding (optional)	Funding for the NEB is provided by the Government of Canada. The government, in turn, recovers costs from companies whose facilities are regulated by the NEB. The NEB continues to recover approximately 90 percent of its operating costs from regulated industries.					
Staffing Levels (including Commissioners)	The NEB is comprised of 8 Full- time Board members (including the Chair and the Vice Chair) and 1 Part- time Board member. Staff complement was approximately 299.6 FTEs in fiscal 2004-05.					
Regulated Utilities		**No. of Utilities**	**No. of Customers***	**Throughput**	**Per Customer Cost of Regulation**	**Cost of Regulation Per Unit of Throughput**
	Gas	Not readily available	Not readily available	Not readily available		
	Electric	Not readily available	Not readily available	Not readily available		

	Total Energy	Not readily available	Not readily available	Not readily available		
	Other	Not readily available	* inter-provincial and international pipelines have relatively few, but large, customers			
Per Capita Cost of Regulation (based on population)	Estimated Canadian Population: 33,098,932 (July 2006 est.) Source: http://www.cia.gov/cia/publications/factbook/geos/ca.html					
PERFORMANCE MEASRES USED-COST OF REGULATION						
	Yes/No	**Description of Method**				
Cost Targets	No	While per capita cost of regulation is used as the performance measure, a cost target is not specified.				
Benchmarking	Yes	NEB compares its Per Capita Cost of Regulation to other selected provincial/federal energy regulatory jurisdictions.				
Other	No					
PERFORMANCE MEASURES USED-OTHER						
	Yes/No	**Description of Method**				
Output-based	Yes	The NEB, not unlike energy regulators in a number of jurisdictions in Canada, has adopted longer-term corporate or strategic plans with annual business plans that list specific goals or actions. The NEB's plans incorporate performance measures. For example, with respect to Goal No. 1, NEB- regulated facilities and activities are safe and perceived to be safe, the Board uses such performance measures as: number of pipeline ruptures and incidents per year, number of fatalities per year, public perception of pipeline safety, etc.				

		Also, the percentage of major actions achieved across all goals are tracked and reported.
Time-based	Yes	For example, Average Cycle Time for Non-Hearing Facilities Applications is tracked.
Quality-based	Yes	As examples, the NEB uses such performance measures as: public perception of pipeline safety, etc; employees' satisfaction surveys; survey of overall satisfaction of stakeholders with regulatory process, information, and interaction.
Other	Yes	

COMMENTS			
Comparability of Regulatory Body to OEB		**Yes/No**	**Explanation of Equivalency**
		No	As the national energy regulator, the NEB's mandate is very different than the OEB's. While the NEB's regulatory processes and mechanism's are similar to the OEB's (particularly in relation to the NEB's regulation of natural gas and oil pipelines), the OEB's roles and responsibilities are more aligned to the Canadian provincial energy regulators.
Cost of Regulation Performance Measure	**Strengths**	Benchmarking is a useful exercise from the NEB's perspective**.**	
	Weaknesses	Cost target is not specified.	
	Ease of Administration	There are no apparent issues.	

	Other	The National Energy Board (NEB) is committed to the concept of "smart regulation," which means dedicating its resources to issues that matter most to Canadians, while streamlining regulatory processes. For instance, the NEB has made moving from prescriptive to goal-oriented regulation a key component of its smart regulation initiatives. Over the past few years, the NEB has developed a performance framework that is consistent with the premise for reporting described in Canada's Performance 2002. The NEB's Strategic Plans list several goals, with a number of measures for each. The NEB's Business Plans reiterate those goals, with specific actions for the year and with the same measures as the strategic plan. Some of the measures are very specific, while others do not enumerate concrete measures, but are more general in nature. Although the measures are very brief and sometimes lacking in specificity, the annual performance report is more extensive in addressing the specifics of how the measures have been achieved.

Federal Energy Regulatory Commission (U.S. , Federal)

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The Federal Energy Regulatory Commission (FERC) is an independent agency that regulates the interstate transmission of electricity, natural gas, and oil; FERC also reviews proposals to build liquefied natural gas (LNG) terminals and interstate natural gas pipelines as well as licensing hydropower projects. The Energy Policy Act of 2005 also gave FERC additional responsibilities and as part of that responsibility, FERC: • regulates the transmission and sale of natural gas for resale in interstate commerce; the transmission of oil by pipeline in interstate commerce; the transmission and wholesale sales of electricity in interstate commerce; • Licences and inspects private, municipal, and state hydroelectric projects; • Approves the siting of and abandonment of interstate natural gas facilities, including pipelines, storage and liquefied natural gas; • Ensures the reliability of high voltage interstate transmission system; • Monitors and investigates energy markets; • Uses civil penalties and other means against energy organizations and individuals who violate FERC rules in the energy markets; • Oversees environmental matters related to natural gas and hydroelectricity projects and major electricity policy initiatives; and • Administers accounting and financial reporting regulations and conduct of regulated companies. Under the current two-tiered regulatory regime in the U.S., FERC's responsibilities, as national regulator with respect to energy regulation, is different than each of the fifty states. In this respect, FERC's main regulatory oversight responsibilities focus on:

		• Wholesale transactions (sales of energy for resale; i.e., approve rates for wholesale electric power sales of electricity in interstate commerce for: power marketers, power pools, power exchanges); and • Interstate transmission (transfers of power across state lines; i.e., approve rates, including terms and conditions of service, for investor-owned electric transmission utilities engaged in interstate commerce, and Independent System Operators/Regional Transmission Organizations (ISOs)/RTOs) The FERC ensures reliable, affordable energy through reliance on competition and effective regulation.
Regulator's Mandate	**Industry Regulated**	Certain areas of the Electricity, Natural Gas, Oil industries
Regulator's Mandate	**Governing Legislation (optional)**	Federal Power Act (FPA) of 1935, Sections 205 & 206. Public Utility Regulatory Policies Act (PURPA) Energy Policy Act of 1992
Regulatory Methods Used (processes, mechanisms)	Regulatory processes involve/include: Notice of Proposed Rulemaking (NOPR), technical conferences, public statement hearings, evidentiary hearings (written and oral) and ADR. A non-standard approach to rate setting is used. The FERC is open to both incentive regulation (PBR) and traditional COS regulation. Facilities applications are processed through evidentiary hearings (written and oral).	
Regulatory Commission Expense	Commission expenditures were Cdn$237.8 Million (2005) (Source: Fiscal Year 2007 Congressional Performance Budget Request, February 2006) FERC has requested funding of US$230,800,000 and 1,320 FTEs for Fiscal Year 2007. This request includes the resources needed to implement the Commission's increased responsibilities under the Energy Policy Act of 2005.	

Sources of Funding (optional)	The Commission recovers the full cost of its operations through annual charges and filing fees assessed on the industries it regulates as authorized by the FPA and the Omnibus Budget Reconciliation Act of 1986. The Commission deposits this revenue into the Treasury as a direct offset to its appropriation, resulting in a net appropriation of $0. Year begins with appropriations from the General Fund to be repaid through annual revenues.					
Staffing Levels (including Commissioners)	Staff: 1,258 FTEs (2005) Commissioners: 3 (Currently there are two vacant Commissioner slots)					
Regulated Utilities		**No. of Utilities**	**No. of Customers**	**Throughput**	**Per Customer Cost of Regulation**	**Cost of Regulation Per Unit of Throughput**
	Gas	Not readily available	Not readily available	Not readily available		
	Electric	Not readily available	Not readily available	Not readily available		
	Total Energy	Not readily available	Not readily available	Not readily available		
	Other	Not readily available				
Per Capita Cost of Regulation (based on population)	$0.81/year United States population: 295,734,134 million (July 2005 est.) Source: Address link is http://www.cia.gov/cia/publications/factbook/rankorder/2119rank.html					

PERFORMANCE MEASURES USED-COST OF REGULATION		
	Yes/No	**Description of Method**
Cost Targets	Targeted	Restricted to Salary Budgets and IT Expenditures, namely: • Percentage of directors operating within designated salary budgets; • Average IT costs per FTE (target is 'below industry average for Federal agencies')
Benchmarking	No	
Other	No	
PERFORMANCE MEASURES USED-OTHER		
	Yes/No	**Description of Method**
Output-based	Yes	For example, percentage of cases completed in specified time frame
Time-based	Yes	Examples include: timely issuance of notices/orders; timeliness of corporate application orders; timeliness of audits; percentage of pipeline certificate cases completed in specified time frames
Quality-based	Yes	Examples include: percentage of processes that achieve consensual agreements; percentage of high-and significant hazard potential dams meeting all current structural safety standards; percentage of customers satisfied with ADR processes, etc.
Other	Yes	FERC has made strategic planning a corporate priority and is developing business plans with measurable goals.
COMMENTS		

Comparability of Regulatory Body to OEB		Yes/No	Explanation of Equivalency
		No	As the national regulator, the FERC's mandate is very different than the OEB's. While the FERC's regulatory processes and mechanism's are similar to the OEB's, the OEB's roles and responsibilities are more aligned to the U.S. state energy regulators.
Cost of Regulation Performance Measure	**Strengths**	Each year, FERC publishes an annual performance report, with detailed performance measures listed by program goal. Each performance measurement (e.g., percentage of litigated cases reaching initial decision) has performance target(s) (e.g., 95 per cent of simple litigated cases within 29.5 weeks; 95 per cent of complex litigated cases within 47 weeks; and, 95 per cent of exceptionally complex cases within 63 weeks) and results listed for each target (average processing time for fiscal year 2003: 24.3 weeks; 38.4 weeks; and 46.2 weeks, respectively)	
	Weaknesses	Targeted cost measure, not comprehensive	
	Ease of Administration	Like Ofgem, FERC's performance measures are extensive and require appropriate resources to collect and tabulate the data**.**	
	Other	FERC has adopted strategic plans and business plans, as well as performance measures. These were established in accordance with the Government Performance and Results Act of 1993 to ensure that progress is made towards fulfilling its mission.	

Michigan Public Service Commission (U.S.)

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The Michigan Public Service Commission (MPSC) is an agency within the Michigan Department of Labour & Economic Growth and is responsible for regulating natural gas utilities; investor-owned electric distribution companies and rural electric cooperatives; intrastate motor carrier; and telecommunications. Municipally owned electric or water utilities are not subject to regulation by the MPSC. This is a historical practice. One of the major functions of the MPSC is to regulate the rates, revenue requirements, and terms & conditions of service for regulated services. The MPSC also administers the licensing program for competitive energy retailers. The mission of the Michigan Public Service Commission is to grow Michigan's economy and enhance the quality of life of its communities by assuring safe and reliable energy, telecommunications, and transportation services at reasonable prices. The goals of the Commission are to: • Establish fair and reasonable rates for regulated services and adopt and administer fair terms and conditions of service for the State's utility customers. • Assure adequate and reliable supplies of regulated services to all Michigan customers, and the safe and efficient production, distribution, and use of the State's energy, telecommunications, and transportation services. • Assure the security of the State's critical infrastructure by promoting homeland security. • Promote the State's economic growth and enhance the quality of life of its communities through adoption of new technologies like broadband telecommunications and efficient renewable energy resources. • Provide customers with the opportunity to choose alternative electric, natural

		gas, telecommunications, and transportation providers. • Provide regulatory oversight in a prudent and efficient manner while implementing legislative and constitutional requirements.
	Industry Regulated	Electricity, Natural Gas, Petroleum, Telecommunications, Transportation (Motor carrier)
	Governing Legislation (optional)	The MPSC's constituting instrument is Michigan Compiled Laws (MCL), Public Utilities Chapter 460-MCL.
Regulatory Methods Used (processes, mechanisms)	The MPSC is a traditional economic regulator. It generally rate-regulates using traditional cost of service methodology and relies heavily on lengthy, time-consuming quasi-judicial oral hearing processes for contested cases. The MPSC has adopted the administrative law judge (ALJ) model not unlike several other U.S. regulatory jurisdictions. For contested cases, a major (general) rate case is typically a legal process. An ALJ presides at the hearing. Parties are represented by attorneys. Hearings are conducted similar to proceedings in civil and other courts. However, the ALJ does not render the final decision. The presiding ALJ issues his/her decision in a proposal for decision (PFD). Parties respond to the decision by filing exceptions to the PFD. The Commission renders the final decision and order in all rate cases. Key steps in the process include: • Public Notice: Public hearings are scheduled and notices of hearing are published; Parties (intervenors) are determined ; MPSC auditors review the applicant's financial books and records; MPSC staff and parties study the rate request, ask and answer written questions, prepare evidence and submit testimony • Public Hearings: The utility company presents proof in a courtroom setting before the presiding ALJ; MPSC staff and parties present their evidence and witnesses; All parties may ask questions of any witness; All parties may present written arguments • ALJ Issues Proposal for Decision: Parties may file exceptions to the PFD	

	• Commission Issues Order: The commission prepares and issues its opinion and order; Parties may appeal the order to the MPSC by requesting a rehearing or reconsideration of the order, or to the court of appropriate jurisdiction. The MPSC's Rules of Practice and Procedure provide for simplified procedures and the Commission encourages all parties to proceedings before the Commission to enter into settlements when possible. The MPSC uses widely negotiated settlement processes as a method for settling differences between market participants but with mixed results. Generally traditional Cost of Service regulation for ratemaking, with a few cases of performance-based regulation (PBR) in the past. Previously, PBR was used, but was applied on a case-by-case basis only and was not implemented long enough for any re-basing to occur. The MPSC utilizes a (prescribed) formula approach to rate-regulate the rural electric coops under its jurisdiction. As well, the MPSC has adopted PBR for the 113 telecommunications companies under its jurisdiction. For Leave-to-Construct applications, the MPSC issues Certificates of Public Convenience and Necessity (CPCN) in relation to the location and construction of major electric transmission lines and gas pipelines. Rulemakings are used to develop policy.
Regulatory Commission Expense	For fiscal 2004/05 (i.e., the twelve-month period ending September 30, 2005) the MPSC had a total approved budget of $21.7 million. Based on 2004/05 cost assessments, 70% of the total budget can be allocated to regulatory oversight over the natural gas and electricity industries.
Sources of Funding (optional)	The MPSC is funded initially from the Consolidated Revenue Fund and receives an appropriation through the Department of Labour & Economic Growth budget. All recoveries are paid into the Consolidated Revenue Fund. The statute (MCL c. 460 s. 111-120, Act 299 0f 1972) provides that all monies paid into the state treasury by a public utility under the Act shall be credited to a special account, to be utilized solely to finance the cost of regulating public utilities. The MPSC's operating costs are recovered from the regulated utilities through an annual cost

	assessment that is based on the prior calendar year's intra-state operating revenues. There is also provision for an adjustment (i.e., true up) in relation to any over/under collections resulting from the previous year's assessments. In addition, fines assessed to utilities through Commission orders for violations of Public Acts, safety violations, anti-competitive behaviour, etc, are collected and deposited to the State of Michigan, General Funds (source: MPSC Administrative Staff).					
Staffing Levels (including Commissioners)	157 FTEs including 3 Commissioners (fiscal 2004/05) The Commission had experienced a significant reduction in staff in the 2002-2004 time period (from 240 FTEs to 132 FTEs, a 30 percent reduction alone in 2002), in part due to deregulation and early retirement incentives offered by the State, and in 2004 Michigan ranked 45th among the 50 states in its staff levels per one million people served by regulated utilities (sources: MPSC Administrative Staff, MPSC 2002-2004 Annual Reports).					
Regulated Utilities		**No. of Utilities**	**No. of Customers***	**Throughput***	**Per Customer Cost of Regulation**	**Cost of Regulation Per Unit of Throughput**
	Gas	12 (includes 1 propane)	Not readily available (approx. 3 million)	Not readily available (approx. 900 Bcf or 25.5 billion cubic metres of natural gas per year)		
	Electric	19 (9 investor –owned and 10 rural	4,450,894	84.6 TWh		

		coops)				
	Total Energy	31	About 7.5 million			
	Other	113 telecoms 34 telephone companies 41 licensed alternative energy suppliers or retailers (14 gas, 27 electricity)	*Source: MPSC web site, Statistical Data of Retail Sales for MPSC-Regulated Electric Utilities in Michigan (2004 data). Data is incomplete (for investor-owned and regulated rural electric co-ops only, excludes data for municipally owned electric (munis) utilities which are not subject to MPSC regulation). Total COOPs & IOUs electricity sales revenue reported for 2004 is $6 billion. Note: Michigan EIA-sourced data, which can be found at www.eia.doe.gov, may be more comprehensive but is stale-dated (2002 and 2003). For example, in 2003, Michigan had 3,396,522 total gas customers who consumed 785 billion cubic feet of natural gas. The most recent electricity statistics reported (customers, consumption and revenue) are in relation to 2002.			
Per Capita Cost of Regulation (based on population)	$2.15/year The 2005 population estimate for Michigan is 10,120,860. Comparable figures for 1990 and 2000 are 9,295,297 and 9,938,444 respectively (Source: U.S. Census Bureau, 2005 Population Estimates, Census 2000, 1990 Census).					

PERFORMANCE MEASURES USED-COST OF REGULATION		
	Yes/No	**Description of Method**
Cost Targets	No	
Benchmarking	Yes	Generally no. Ad hoc benchmarking only. The statistic, number of employees per

		one million customers, has been benchmarked against other U.S. state regulatory agencies because of resourcing concerns.
Other	No	
PERFORMANCE MEASURES USED-OTHER		
	Yes/No	**Description of Method**
Output-based	No	
Time-based	Yes	MPSC has legislated review time limits of nine months for rate applications and one year for Leave-to-Construct applications and has a statutory obligation to report to the State Legislature on its performance. On an ad hoc basis, processing times for major rate cases have been compared to other U.S. state regulators for statutory reporting requirement purposes in support of non compliance submissions.
Quality-based	No	
Other	No	.

COMMENTS			
Comparability of Regulatory Body to OEB		**Yes/No**	**Explanation of Equivalency**
		Similar (but regulates sectors other than energy)	Similar mandate (traditional economic regulatory activities, oversight of competitive activities, consumer protection); and similar regulatory processes and mechanisms (traditional litigation with ADR; generally traditional COS regulation, formula approach to rate-regulate the rural electric coops, PBR for telecommunications, administers licensing regime for energy retailers)
Cost of Regulation	**Strengths**	Not applicable	

Performance Measure	**Weaknesses**	Has not adopted strategic plans and business plans, as well as performance measures with measurable goals.
	Ease of Administration	Not applicable
	Other	Published Annual Reports are limited to reporting on activities for the year.

New York State Public Service Commission (U.S.)

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The Department of Public Service has a broad mandate to ensure that all New Yorkers have access to reliable and low-cost utility services. The Department is the staff arm of the Public Service Commission. The Commission regulates the state's electric, gas, steam, telecommunications, and water utilities. The Commission also oversees the cable industry. The primary mandate of the NYPSC is to ensure safe, secure, and reliable access to energy, telecommunications, and water services for New York State's citizens and businesses at just and reasonable rates. With an emphasis on promoting competitive markets, the Department seeks to maximize customer choice and value for these services by stimulating innovation, strategic infrastructure investment, and the use of resources in an efficient and environmentally responsible manner. Where competition is not present or viable, the Department will exercise its regulatory authority judiciously to ensure equitable rates and high-quality service. In sum, the Commission is charged by law with responsibility for setting rates and ensuring that adequate service is provided by New York's utilities. In addition, the Commission exercises jurisdiction over the siting of major gas and electric transmission facilities and has responsibility for ensuring the safety of natural gas and liquid petroleum pipelines.
	Industry Regulated	Electricity, gas, steam, telecommunications, cable and water utilities.
	Governing Legislation (optional)	Laws governing the PSC include: Public Service Law and Compilation of the Rules and Regulations of the State of New York (NYCRR) (e.g., NYCRR 16 Rules & Regulations - Chapter 8 Cable Television). There are several related statutes (e.g., Public Authorities Law, Public Service Law § 1842 (New York State Energy Research and Development Authority or NYSERDA)) Public Service Law Chapter 48 § 5, and Article 4 § 66 sets out Commission

		authority. Article X, New York State Public Service Law–sets out process for generating facility review process and also outlines a public review process for consideration of any application to construct and operate an electric generating facility ≥ 80 MW. Article VII, New York State Public Service Law–sets out process for transmission siting
Regulatory Methods Used (processes, mechanisms)	Traditional quasi-judicial (litigation) regulatory model. Regulatory processes include such public review processes as public statement hearings and evidentiary hearings, written and oral, which are presided over by an Administrative Law Judge (ALJ). Negotiated settlement processes are used (ADR). Facilities approvals involve evidentiary hearings (written and oral) and requirement for certification (i.e., certificates of public convenience and necessity or CPCN). Rate-setting mechanisms involve a mixture of traditional Cost of Service and Incentive Regulation. There is no standard approach; varies by individual utility and rate approvals are handled on a case-by-case basis. Performance incentives (rewards and penalties) are set out in Rate Orders. The Commission may introduce/target incentives on an as needed basis in the rate plans approved by the Commission.	
Regulatory Commission Expense	The NYPSC's budget for fiscal 2005-06 is $72.8 million. Financial data is not readily available.	
Sources of Funding (optional)	The NYPSC receives an annual Appropriation from the New York State Assembly. All recoveries are paid into the General Fund of the State Treasury for general regulatory purposes. The General Assembly determines the amount of utility taxes that may be levied each year to recover commission budget costs. The NYPSC receives the vast majority (98 %) of its funding from fees and charges on utilities/phone companies for general regulatory purposes; the remainder is provided through government grants (2 percent federal funding).	

<table>
<tr><td>Staffing Levels (including Commissioners)</td><td colspan="6">The targeted fiscal 2005-06 year-end employee count is 545 (including 5 Commissioners).
The Commission consists of up to five members.</td></tr>
<tr><td rowspan="5">Regulated Utilities</td><td></td><td>No. of Utilities</td><td>No. of Customers*</td><td>Throughput*</td><td>Per Customer Cost of Regulation</td><td>Cost of Regulation Per Unit of Throughput</td></tr>
<tr><td>Gas</td><td>17 (incl. 12 major investor owned)</td><td>4,438,833</td><td>0.6 Bcf</td><td></td><td></td></tr>
<tr><td>Electric</td><td>45 (incl. 6 major investor owned)</td><td>6,362,648</td><td>109.1 TWh</td><td></td><td></td></tr>
<tr><td>Total Energy</td><td>62</td><td>10,801,481</td><td></td><td></td><td></td></tr>
<tr><td>Other</td><td colspan="2">215 water utilities (incl. 8 major water businesses), one steam, and 40 major investor-owned telephone companies (plus numerous other telecoms)</td><td colspan="3">* 2004 (source: NYPSC 5-Year Statistics Book). Data is incomplete (for major investor-owned utilities only) and has been adjusted (e.g., excludes other operating revenues for electric utilities and gas (including transportation), excludes transportation and off-system sales for gas). Incomplete revenue data reported include: Electricity Sales Revenue ($11.5 billion) and Gas Sales Revenue ($7.6 billion).
Note: EIA-sourced data, which can be found at www.eia.doe.gov, may be more comprehensive but is stale-dated (2002 and 2003).</td></tr>
</table>

Per Capita Cost of Regulation	Population : 19,227,088 (2004)	
PERFORMANCE MEASURES USED-COST OF REGULATION		
	Yes/No	**Description of Method**
Cost Targets	No	
Benchmarking	No	
Other	No	
PERFORMANCE MEASURES USED-OTHER		
	Yes/No	**Description of Method**
Output-based	No	
Time-based	No	
Quality-based	No	
Other	No	
COMMENTS		

Comparability of Regulatory Body to OEB	**Yes/No**	**Explanation of Equivalency**
	Similar (but regulates other sectors in addition to energy)	Similar mandate (traditional economic regulatory activities, oversight of competitive activities, consumer protection); and similar regulatory processes and mechanisms (traditional litigation with ADR; combination of COS and Incentive Regulation)

Cost of Regulation Performance Measure	**Strengths**	Not applicable
	Weaknesses	Has not adopted strategic plans and business plans, as well as performance measures with measurable goals.
	Ease of Administration	Not applicable
	Other	Strategic plans are prepared annually to set priorities and the work plan for the business year. Published Annual Reports are limited to reporting on activities for the year. With respect to data collection and data tabulation, the NYPSC publishes annually updated financial and operating statistics (e.g., no. of customers, sales volume and sales revenue) of the major investor-owned utilities (electric, gas, water, telecom) in New York State on a rolling five-year basis (called the Five Year Book). The information collected is useful but incomplete (information is not collected from all utilities). Notwithstanding, it is noteworthy that the NYPSC dedicates 1- 2 FTEs per year to perform this task.

Pennsylvania Public Utility Commission (U.S.)

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The Pennsylvania Public Utility Commission (PPUC) regulates a large number of public utility entities (approximately 6,600) furnishing the following in-state services for compensation: electricity, natural gas, telephone, water, wastewater collection and disposal, steam heat, transportation of passengers and property by train, bus, truck, taxicab, aircraft and boat, and pipeline transmission of natural gas and oil. Municipal utility service is exempt from PPUC regulation, with the exception of that part furnished beyond a municipality's corporate boundaries. Rural electric cooperatives also are exempt from PUC regulation. The PPUC exercises broad powers in meeting its regulatory obligations. The PPUC ensures that electric, natural gas, water and local telephone service should be available upon request at a reasonable cost and should be provided safely with a reasonable level of service. Similarly, customers using taxis, moving trucks or buses also expect fair rates and adequate service. The PPUC's mission is to ensure safe, reliable and reasonably priced electric, natural gas, water, telephone and transportation service for Pennsylvania consumers, by regulating public utilities and by serving as responsible stewards of competition.
	Industry Regulated	Electricity, Natural Gas, Water, Telephone, Transportation
	Governing Legislation (optional)	The Public Utility Commission was created by the Pennsylvania Legislative Act of March 31, 1937 (and the Public Utility Law of May 28, 1937), which abolished the Public Service Commission. The governing legislation is Public Utility Code in 66 Purdons.
Regulatory Methods Used (processes, mechanisms)	The Commission uses the traditional litigation regulatory model. The PPUC must hold hearings; consumers must have a chance to voice their opinions and give testimony; briefs must be submitted and reviewed; a recommendation must be made; and, finally, the matter must be	

	brought before the PPUC for a vote. A description of the hearings & decision-making processes follows: pending cases are assigned to Administrative Law Judges (ALJs), who are lawyers with experience in administrative law. The ALJ presides at formal hearings, gathers the facts and submits to the PPUC a written report recommending approval, disapproval or modification of the original rate request. At a formal hearing, the company, the PPUC's Office of Trial Staff and other parties present their cases and are subject to cross-examination. The ALJ presides over the hearing, which is open to the public and is conducted as a formal court proceeding. Customers may become participants in the case by formally applying in writing to do so. Ratepayers may speak for themselves, or lawyers may represent individual ratepayers or groups of ratepayers. After the facts have been gathered, the ALJ writes a recommended decision resolving each issue within the limits set by law. The recommended decision is then sent to the Commissioners for their vote at a public meeting. The Commissioners make the final decision. Regulatory methods (processes and mechanisms) used include: petitions, applications, complaints, general rate case filings, and automatic adjustment clause filings.
Regulatory Commission Expense	For fiscal 2004-05, the Commission's approved budget was $54.4 million. The Commission is operating with an approved budget of approximately $50 million for the current fiscal year.
Sources of Funding (optional)	The Commission's budget must be approved by the Pennsylvania General Assembly and the Governor of Pennsylvania. Subject to budget approval, the PPUC may assess utilities up to three-tenths of one percent of gross intrastate revenue to cover the cost of regulation. All assessments are paid into the General Fund of the State Treasury through the Department of Revenue for use solely by the Commission. The PPUC is funded by assessment of the regulated public utilities.
Staffing Levels (including Commissioners)	The Commission has an approved complement of 523, plus 5 Commissioners.

Regulated Utilities		No. of Utilities*	No. of Customers*	Throughput*	Per Customer Cost of Regulation***	Cost of Regulation Per Unit of Throughput
	Gas	Not readily available	2,800,454 (2003)	415 Bcf (2003)		
	Electric	79 (2002)**	5,692,097 (2002)	140.8 TWh (2002)		
	Total Energy	Not readily available	8,492,551			
	Other	Not readily available	*Source: Pennsylvania- EIA data. Link address is: http://www.eia.doe.gov/. The PPUC regulates approximately 6,600 public entities in the following sectors: electricity, natural gas, telephone, water, wastewater collection and disposal, steam heat, transportation of passengers and property by train, bus, truck, taxicab, aircraft and boat, and pipeline transmission of natural gas and oil; but a breakdown by industry is not readily available. **includes 10 Investor-Owned, 36 Public, 13 Cooperatives and 20 Energy Service Providers (2002) ***for approx. 5 million households, approx. cost is $10 per year per Pennsylvania household in relation to the total cost of regulation			
Per Capita Cost of Regulation (based on population)	$4.38/year Population is 12,406,292 (2004 estimate) Source: U.S. Census Bureau					

PERFORMANCE MEASURES USED-COST OF REGULATION		
	Yes/No	**Description of Method**
Cost Targets	No	
Benchmarking	Yes	Generally no. On an ad hoc basis, the PPUC compares its budget and staff levels to other jurisdictions in the U.S., using information assembled by the National Regulatory Research Institute (NRRI).
Other	No	
PERFORMANCE MEASURES USED-OTHER		
	Yes/No	**Description of Method**
Output-based	No	However, the Commission measures performance of this type at the level of individual bureaus, who maintain statistics as to the quantity of assignments that are completed.
Time-based	Yes	Not formally. However, some Commission responsibilities have statutory requirements mandating action within a specific number of days or months. For example, the PPUC must rule on a rate request within nine months from the date the request is filed at the Commission. If it does not issue a decision within that timeframe, the request is automatically approved. Also individual bureaus track the amount of time it takes to complete projects.
Quality-based	No	However, individual bureaus monitor the quality of their work product, with feedback from Commissioners and Director of Operations
Other	No	
COMMENTS		

Comparability of Regulatory Body to OEB		Yes/No	Explanation of Equivalency
		Similar (but exercises regulatory oversight over several other sectors in addition to energy)	Similar mandate (traditional economic regulatory activities, oversight of competitive activities, consumer protection); and similar regulatory processes and mechanisms (quasi-judicial public hearings, traditional cost of service regulation, traditional regulatory instruments)
Cost of Regulation Performance Measure	**Strengths**	Not applicable	
	Weaknesses	The Commission does not use mechanisms to measure its performance in support of its business strategies, plans and goals. Lack of specific outcomes and performance indicators does not permit results achieved to be measured against targets.	
	Ease of Administration	Not applicable	
	Other	Published Annual Reports focus on activities for the year. While individual bureaus monitor the quality of their work and the time it takes to complete projects, and maintains statistics on the quantity of assignments that are completed, report-backs through Annual Reports are much less meaningful because performance measures have not been adopted that focus on outcomes and effects.	

Office of Gas and Electricity Markets (U.K.)

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The Office of Gas and Electricity Markets (Ofgem) regulates the electric and gas distribution and transmission utilities in England, Wales, and Scotland (Northern Ireland has a separate authority) and develops regulatory price control plans for these utilities that typically run for a term of five years. Ofgem operates under the direction and governance of the Gas and Electricity Markets Authority (GEMA), which makes all major decisions and sets policy priorities for Ofgem. While the Department of Trade and Industry (DTI) oversees energy policy and the operation of the energy sector as a whole, rate regulation (and other regulatory functions) has been delegated to Ofgem through GEMA. Ofgem protects and advances the interests of consumers by promoting competition where possible, and through regulation only where necessary. Ofgem is also responsible for licensing each participant in the electricity market, including the distributors, transmitters, generators and power supply companies. Ofgem oversees the day-to-day operations and investigates instances where quality of supply, connection access, and other terms-of-service may not be up to standard.
	Industry Regulated	Electricity & Natural Gas
	Governing Legislation (optional)	Ofgem's powers are provided for under the Gas Act 1986, the Electricity Act 1989, as amended by the Utilities Act 2000. It also has enforcement powers under the Competition Act 1998.
Regulatory Methods Used (processes,	Light-handed form of regulation (PBR); regulatory processes are administrative processes involving public consultation (equivalent to OEB Notice & Comment regulatory processes). Monopoly grid companies are regulated by incentive-based price control plans of the form RPI-X.	

mechanisms)	The price control plans generally run for a period of 5 years. In determining allowable price, Ofgem also takes into account the effect of growth and other factors on revenues. There is also revenue exposure to quality of service incentives, incentive for distributed generation, and innovation.					
Regulatory Commission Expense	Ofgem's costs during 2005-2006 are forecast to be £34 million (or Cdn$69 million). For 2004-2005, Ofgem's approved budget was £38.1 million (or Cdn$77.3 million) and its operating expenses were £36.5 million (or Cdn$74.1 million) respectively.					
Sources of Funding (optional)	Ofgem s funded by the energy companies who are licensed to run the gas and electricity infrastructure. Ofgem's budget is approved by Parliament following a consultation process with industry and other interested parties. Ofgem says that its costs represent around 0.1 per cent of gas and electricity industry turnover, which stands at almost £37 billion a year.					
Staffing Levels (incl Commissioners)	291 (2004-2005 Average)					
Regulated Utilities		**No. of Utilities**	**No. of Customers**	**Throughput**	**Per Customer Cost of Regulation**	**Cost of Reg Per Unit of Throughput**
	Gas	Not readily available	Not readily available	Not readily available		
	Electric	Not readily available	Not readily available	Not readily available		
	Total Energy	Not readily available	Not readily available	Not readily available		
	Other	Not applicable				

Per Capita Cost of Regulation (based on population)	United Kingdom population: 60,441,457 (July 2005 est.) Source: Address link is: http://www.cia.gov/cia/publications/factbook/rankorder/2119rank.html	
PERFORMANCE MEASURES USED-COST OF REGULATION		
	Yes/No	**Description of Method**
Cost Targets	Yes	Ofgem has imposed a revenue cap on its operations similar to regulated monopolies. From April 2005, Ofgem has placed itself under a cost control formula, similar to that adopted for the pipes and wires companies it directly price regulates. Ofgem has agreed to operate under an RPI-X (retail price index, minus a productivity factor) regime which will be set by its audit committee, with external audit review. Ofgem is committed to controlling its costs and had agreed to a 2004-2005 budget that was six percent below the 2003-2004 budget level, or eight percent when inflation is taken into account. Ofgem also undertook an independent detailed scrutiny of its cost base (for fiscal year 2004-05) and for the following five years from April 2005 (i.e., fiscal 2005-06) will operate under an RPI-3 budget cap or cost control regime. Ofgem says that this decision will bring savings of £5.3 million in real terms over the five year period of the control and will strike the right balance in controlling costs, without compromising Ofgem's ability to protect customers' interests (Ofgem strategic Plan 2005-10)
Benchmarking	No	
Other	Yes	Ofgem also measures its costs against industry revenue. In 2003-2004, average staff numbers were 291, slightly lower than the previous year. Turnover figures were reduced from 28 per cent four years ago to 12.6 per cent in 2003-2004, below the Government average.

PERFORMANCE MEASURES USED-OTHER		
	Yes/No	**Description of Method**
Output-based	Yes	Ofgem's corporate plan sets out the detailed areas of work that Ofgem intends to undertake in a business year in support of the key themes identified in its corporate strategy. Both the strategy and plan are updated annually so that there is a three-year rolling plan for both. Ofgem's performance indicators are numerous and very detailed.
Time-based	Yes	Examples include: • Respond to 90 per cent of customer contacts requiring a substantive response from Ofgem within 10 working days of receipt • 90 per cent of competitive market licence applications to be processed within 12 weeks of receipt • Respond to Freedom of Information queries within 20 days of receipt of request • Pay 98 per cent of undisputed bills within 30 days
Quality-based	Yes	For example, quality of service-single standards of performance determinations are resolved or an alternative course of action is recommended within 16 weeks in 95 per cent of cases
Other	Yes	

COMMENTS		
Comparability of Regulatory Body to OEB	**Yes/No**	**Explanation of Equivalency**
	Similar (regulates natural gas and electricity sectors)	Mandate is similar (economic regulation, consumer protection, promote competition), although regulatory processes and mechanisms are different (Ofgem relies on administrative public consultation processes; and has adopted light-handed forms of rate regulation)

Cost of Regulation Performance Measure	**Strengths**	In its corporate plan, Ofgem has paid particular attention to setting deliverables that reflect its priorities for the year. A multi-year plan for corporate performance indicators provides consistency and tracks performance over time, against objectives. Performance measures are focused on outcomes rather than on activities; comparisons can easily be made with targets or standards and past performance.
	Weaknesses	While demonstrating leadership, an RPI-X budget cap may not be an appropriate cost measure for a regulator having regard to the regulator's legislated mandate.
	Ease of Administration	Ofgem's performance measures are extensive and require appropriate resources to collect and tabulate the data.
	Other	Ofgem has adopted regulatory impact assessments (RIAs) as a way to set out the potential costs and benefits of regulatory initiatives. It has also committed to improving its consultation process, seeking to engage industry and consumers in its regulatory impact assessment process, and regularly reviewing the way its work is prioritized.

Essential Services Commission (Victoria, Australia)

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The Government of Victoria established the Essential Services Commission (ESC) on 1 January 2002 under the Essential Services Commission Act 2001 (Act), subsuming the former Office of the Regulator-General (the economic regulator of regulated utility industries in Victoria from 1994). The Act establishes the ESC as the primary economic regulator of essential services in Victoria. These services include electricity, gas, water and sewerage, ports, rail access and export grain handling. The ESC also provides advice to the Government in relation to these services and others in the transport and insurance sectors. In addition, the Commission maintains a strong presence in the areas of customer compliance and customer advocacy. The ESC's role in the electricity, gas, water and sewerage, ports, rail, export grain handling, insurance and transport sectors differs for each regulated industry but generally involves regulating prices, service standards and market conduct. The ESC also advises the Government on regulatory matters that affect Victoria's essential services. While its role and functions differ for each regulated industry, the ESC's broad functions include: • reviewing prices and service standards • undertaking investigations of electricity, gas, water, transport, and insurance and other matters (as referred by Ministers) • issuing, amending and revoking licences, and monitoring compliance with licence conditions • developing, amending and monitoring businesses' compliance with regulatory instruments licences, codes and guidelines, for example)

		• monitoring and reporting on regulated businesses' performance • approving tariffs and charges that regulated businesses' levy on regulated services • conducting public education programs on the regulatory framework and ensuring that framework adequately protects customers • resolving access and other disputes between service providers and users • responding to customer enquiries and complaints about regulatory matters. The primary objective of the Commission is "to protect the long-term interests of Victorian consumers with regard to the price, quality and reliability of essential services." This objective is central to the framework of economic regulation that facilitates efficiency and financial viability in regulated industries, encourages competition, prevents misuse of monopoly power and ensures customers benefit from the gains from competition and efficiency (section 8, Essential Services Commission Act 2001). The Commission's particular **energy** industry objectives and functions are outlined below. • To promote a consistent regulatory approach between the electricity industry and the gas industry. • To promote the development of full retail competition.
Regulator's Mandate	**Industry Regulated**	At 30 June 2005 the regulated industries included electricity, gas, water, ports, rail and grain export facilities. Regulated Industries and Relevant Legislation At 30 June 2005, the following industries were regulated industries within the ambit of the Commission by virtue of the relevant legislation specified below: • the electricity industry – generation, transmission distribution and retailing, under

		the Electricity Industry Act 2000 • the gas industry – distribution, underground storage and retailing, under the Gas Industry Act 2001 • the water industry – prices, service standards and conditions of service for the Victorian water industry including Melbourne Water and three metropolitan retailers under the Water Industry Act 1994 and 17 regional and rural businesses under the Water Act 1989 • the industry of facilitating the export shipping of grain from 1 July 1995, under the Grain Handling and Storage Act 1995 • the port industry in the ports of Melbourne, Geelong, Portland and Hastings from 1 January 1996, under the Port Services Act 1995 • the rail (including trams) industry from 29 April 1999, access only, under the Rail Corporations Act 1996. regulatory program across a range of industry sectors With respect to gas, the ESC regulates 3 distribution network service providers (Multinet Gas, Envestra (Victoria, Albury) and TXU Networks). There are also 3 gas retailers stapled to the gas distributors (TXU Retail, Origin Energy and Pulse Energy) and a number of independent gas retailers. With respect to electricity, the ESC regulates 5 distribution network service providers (3 metropolitan distributors: AGL Electricity, CitiPower and United Energy; 2 rural distributors: TXU (formerly Eastern Energy; as well, in 2005 TXU became SP AusNet.) and Powercor). There are also 3 local electricity retailers (AGL, Origin Energy and TXU) and a number of independent electricity retailers
Regulator's Mandate	**Governing Legislation (optional)**	The Essential Services Commission operates under the Essential Services Commission Act 2001 ("the Act"). The Act designates the Commission as an economic regulator (pricing, standards and monitoring for anti-competitive conduct) and lays a foundation for the Commission to perform its functions and exercise its powers in respect of regulated industries operating under relevant legislation.

<table>
<tr><td>Regulatory Methods Used (processes, mechanisms)</td><td>PBR, light-handed rate regulation, through administrative processes involving public consultation (5 year price cap plans). Heavy-handed reporting, compliance and enforcement. Implemented licensing regime for gas and electricity distributors and retailers. No responsibility for facilities approvals (however, capital and operating cost consequences are reflected in rate plans).

The ESC provides opportunities for stakeholders to comment (via written submissions) on its proposed approach to consultation and on the key issues related to its regulatory decisions. Typically, public consultations are administrative processes and stakeholders have an opportunity to discuss regulatory issues and proposals through such public forums as public hearings (informal), workshops and meetings, and the ESC facilitates working groups where appropriate and feasible. While the ESC aims for these occasions to be as informal as possible, it may sometimes take a transcript of the proceedings or prepare notes to publish on its website, so as to provide a reference for discussion and allow others to understand the issues raised.

The Charter of Consultation and Regulatory Practice, developed by the Commission pursuant to section 14 of the Essential Services Commission Act 2001, sets out the consultation principles and the manner in which stakeholders will participate in the decision making process.</td></tr>
<tr><td>Regulatory Commission Expense</td><td>The Operating Budget for 2004/05 was $15.2 million. The Commission budget for 2004/05 was prepared on an output budgeting basis in accordance with Victorian Government standards.

A breakdown of the estimated costs of the Commission’s Regulatory Operations in relation to each regulated industry and to special references are publicly available

The major categories of expenses are ($ million): Employee Costs-$6.3, Depreciation-$0.2, and Supplies & Services-$8.7 (including Operating Leases-$0.7 and Consulting Fees-$4.4).

Comparative Financial Data is presented below.

<table>
<tr><th></th><th>1999/00</th><th>2000/01</th><th>2001/02</th><th>2002/03</th><th>2003/04</th><th>2004/05</th></tr>
<tr><td></td><td>$m</td><td>$m</td><td>$m</td><td>$m</td><td>$m</td><td>$m</td></tr>
<tr><td>Operating Budget</td><td>14.1</td><td>13.2</td><td>20.2</td><td>17.2</td><td>12.8</td><td>15.2</td></tr>
<tr><td>Actual Operating Expenditure</td><td>12.8</td><td>12.7</td><td>14.0</td><td>11.5</td><td>12.9</td><td>15.2</td></tr>
</table>
The operating budget for 2005/06 is $ 14.20 million.</td></tr>
</table>

Sources of Funding (optional)	The Commission is predominantly funded by accrual based Parliamentary appropriations for the provision of outputs. These funds are received in the form of grants from the Department of Treasury and Finance. All revenue received by the Commission is generally required to be paid into the Consolidated Fund. In this regard, the Commission acts on behalf of the Victorian Government in collecting licence fees under the Electricity Industry Act 2000, the Gas Industry Act 2001, the Grain Handling and Storage Act 1995, the Water Industry Act 1994 and the Port Services Act 1995, which are administered by the Commission. These and certain other administered revenues are collected by the Commission but not controlled by it, and are not recognised as revenues/receivables within the body of the Financial Statements, but are reported as administered revenues/receivables. Such amounts are required to be paid to the Consolidated Fund. Licence fees totalled $13.0 million in 2004/05 and $ 8.3 million in 2003/04.
Staffing Levels (including Commissioners)	Total Staff Employed as at 30 June 2005 (By Division): Regulatory Operations 24 Electricity Distribution Pricing 11 Water 12 Organisation and Operations 17* Total Staff **64** * Excluding the Commissioners, outsourced services and contractors Commissioners 3 The Commission comprises one full-time Chairperson and two part-time Commissioners. Total staff employed as of 30 June 2003 and 30 June 2004 was 41 and 56 respectively.

Regulated Utilities		No. of Utilities	No. of Customers*	Throughput**	Per Customer Cost of Regulation	Cost of Regulation Per Unit of Throughput
	Gas	3	1,520,732			
	Electric	5	2,304,105			
	Total Energy	8	3,824,837 * Energy Retail Businesses Comparative Performance Report For The 2004-05 Financial Year 2004/05 dated December 2005	**Not readily available		
	Other	20 water businesses 8 energy (both electricity and gas) retailers (3 local retailers, 5 non-local retailers)				

Per Capita Cost of Regulation (based on population)	$2.52/year	
PERFORMANCE MEASURES USED-COST OF REGULATION		
	Yes/No	**Description of Method**
Cost Targets	Yes	For economic regulatory services, total output cost (unit of measure-$ million)-2005/06 target-$14.20 million For 2004/05, the target was $15.12 million and the actual was $15.20 million
Benchmarking	No	
Other	No	
PERFORMANCE MEASURES USED-OTHER		
	Yes/No	**Description of Method**
Output-based	Yes	With respect to economic regulatory services, for regular services such as: company performance reviews and audits, new or revised regulatory guidelines, industry performance reports, price approvals/reviews, and price determinations, performance measure is based on quantity (unit of measure-number)
Time-based	Yes	For economic regulatory services, timeliness is based on whether deadlines are met for major projects (unit of measure-per cent), 2005/06 target-95 per cent
Quality-based	Yes	For economic regulatory services, quality is based on regulatory decisions upheld (unit of measure-per cent), 2005/06 target-100 per cent
Other	Yes	H.R. related (dealing with hiring practices, labour relations, code of conduct, etc.)

COMMENTS			
Comparability of Regulatory Body to OEB		**Yes/No**	**Explanation of Equivalency**
		Similar (but regulates other sectors in addition to energy)	Similar roles and responsibilities (expanded traditional regulatory activities to include oversight of competitive activities, including licensing and consumer protection function) but regulatory mechanisms are different. Australian federal/state energy regulators have consistently adopted light-handed forms of regulation (informal public consultations, administrative regulatory processes, multi-year incentive regulation plans)
Cost of Regulation Performance Measure	**Strengths**	Specified cost target using a simplified approach	
	Weaknesses	None that are apparent	
	Ease of Administration	Yes	
	Other	In Australia, a Utility Regulators' Forum (1999) discussion paper set out nine principles of best practice in utility regulation. They are: communication, consultation, consistency, predictability, flexibility, independence, effectiveness and efficiency, accountability and transparency. The paper suggested that these principles should be looked at as a package in order to balance the principles. For instance, flexibility could be seen as contrary to consistency and predictability in some circumstances, but the goal of maximizing public benefit should be kept in mind when competing priorities are considered. Within the framework of its statutory objectives, functions and powers, the Commission's goals, strategies and initiatives are set out in the Corporate Plan and Work Program. This document are revised and published annually following consultation with stakeholders. Operational and budgetary objectives and performance against objectives are published annually.	

Independent Pricing and Regulatory Tribunal (New South Wales, Australia)

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The Independent Pricing and Regulatory Tribunal (IPART) is an independent body that oversees regulation in the water, gas, electricity and public transport industries in New South Wales (NSW). When it was established by the NSW Government in 1992, its primary purpose was to regulate the maximum prices charged for monopoly services by government utilities and other monopoly businesses. While its responsibilities have increased significantly since then, its primary purpose is its economic regulation role. IPART provides an integrated system of economic regulation and licence regulation in NSW that covers both pricing for water, electricity network and gas industries and monitoring licence compliance for water, electricity and gas. IPART now has seven core functions. These functions are to: • set maximum prices for monopoly services provided by government agencies in NSW (including water and public transport) • regulate revenues or prices of electricity networks under the National Electricity Code and electricity legislation • regulate natural gas pricing and third party access to gas networks • administer licensing or authorisation of water, electricity and gas businesses, and monitor compliance with licence conditions • register agreements for access to public infrastructure assets and arbitrate disputes about these agreements • investigate complaints about competitive neutrality referred by the Government • administer the Greenhouse Gas Abatement Scheme including the Register of certificates.

		IPART's specific purpose varies according to the different regulatory arrangements in the industries it regulates. However, in general, its goals are to • regulate monopoly utility prices • promote competition (or simulate its effects) in regulated industries • protect consumers by ensuring the quality and reliability of regulated services and by considering the social impacts of its decisions • monitor the way utilities comply with their license obligations • encourage economic efficiency and reinvestment in infrastructure • encourage environmental sustainability • promote a stable regulatory environment • investigate complaints about competitive neutrality referred by the Government. In addition, IPART regulates access prices for electricity and gas networks under the National Electricity Code and the National Gas Code.
Regulator's Mandate	**Industry Regulated**	Water, gas, electricity and public transport industries With respect to energy, the Tribunal currently regulates three electricity distribution network service providers (DNSPs): Energy Australia, Integral Energy and Country Energy (the merger of a fourth DNSP, Australian Inland, with Country Energy took effect on July 1, 2005). IPART currently approves access arrangements for five gas distributors (ActewAGL Distribution (partnership of ACTEW Distribution Limited and AGL Gas Company (ACT) (Limited), AGL Gas Networks Limited, Albury Gas Company, Allgas Energy Limited, Ltd.) and Country Energy Gas Pty Limited).

Regulator's Mandate	**Governing Legislation**	IPART was established under the Independent Pricing and Regulatory Tribunal Act 1992 (IPART Act). It performs functions, which are conferred by legislation, codes and access regimes established by legislation (i.e., under the IPART Act, and also under the Gas Supply Act 1996, Gas Pipelines Access (New South Wales) Act 1998, Electricity Supply Act 1995, Hunter Water Act 1991, Sydney Water Act 1994, Sydney Water Catchment Management Act 1998, Water Management Act 2000, Passenger Transport Act 1990 and State Water Corporation Act 2004. IPART also has significant functions under the National Electricity Code and the National Third Party Access Code for Natural Gas Pipeline Systems (or National Gas Code), and has minor functions under the Prices Regulation Act 1948, the Gaming Machines Act 2001 and the Motor Accidents Compensation Act 1999. The governing legislation is the independent Pricing and Regulatory Tribunal Act 1992 (IPART Act). Under various statutes and other authorities (these include the Independent Pricing and Regulatory Tribunal Act 1992, the Gas Supply Act 1996, the Electricity Supply Act 1995, the National Electricity (NSW) Law 1997, the Transport Administration Act 1996 and the Energy Market (gas and electricity) Code of Conduct), IPART is responsible for ensuring regulated entities (i.e., gas and electric distributors and retailers, water businesses) are meeting their licence requirements for quality of product, environmental impact and consumer protection.
Regulatory Methods Used (processes, mechanisms)	IPART uses administrative public consultation processes; analogous to "Notice and Comment" regulatory processes utilized in Ontario. Since the 1990s, electricity and gas distribution network service providers (DNSPs) have been rate-regulated under light-handed, multi-year, incentive-based regulatory schemes through the use of administrative regulatory processes involving extensive public consultations. For example, for electricity the form of light-handed rate regulation is preset and implemented on an industry- wide basis (i.e., currently 5 year weighted average price cap plans applicable to the regulatory control period 2004/05 to 2008/09).	

	IPART has no direct responsibility for network planning and development in NSW. However, for price determination purposes IPART jointly considers capital expenditures (historic and forecast) and operating & maintenance expenses as part of its deliberations (i.e., calculation of notional revenue requirements).
Regulatory Commission Expense	For fiscal year 2003/04, IPART's actual expenses were $15.7 million. IPART's budget for 2004/05 was $14.9 million (actual expenditures were $16.1 million). Of this amount, IPART engaged technical consultants for a total expenditure of $3.42 million. IPART's operating budget for 2005/06 is $16.8 million. A breakdown of fiscal year 2004/05 expenses is provided below. Operating Expenses ($ million) Employee-related 8.1 Other* 7.5 Maintenance 0.1 Depreciation 0.4 Total Expenses 16.1 * includes lease payments, insurance, EDP expenses, travel, legal, contractors, corporate services, etc. For 2004/05, it is estimated that approximately 30% of the budget or $5.0 million relates to regulatory oversight of the energy (gas and electricity) sector. This amount is partially offset by recoveries through licence fees from the energy sector (source: IPART).
Sources of Funding (optional)	The Tribunal is a single program entity. The Tribunal is consolidated as part of the NSW Total State Sector Accounts. IPART is funded from the Consolidated Revenue Fund and recoveries (i.e., it earns and retains revenue generated from the sale of goods and services (comprises revenue from the provision of products and services, through user charges and recoveries; for example, rendering of services in relation to reimbursement of both external consultancies and in-house costs)). However, IPART is primarily funded from Government Contributions and Appropriations. As well, IPART administers (but does not control) revenues from such sources as: licence fees, application fees, certificate fees and gas authorizations, which are paid directly into the

<table>
<tr><td></td><td colspan="6">Consolidated Revenue Fund. For fiscal 2004/05, administered revenues totalled $6.6 million.

When appropriations are unspent at year-end, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Revenue Fund in the following financial year.</td></tr>
<tr><td>Staffing Levels (including Commissioners)</td><td colspan="6">IPART is headed by a Tribunal that comprises three permanent members (including the Chair), plus temporary members, who are appointed by the Premier. The Tribunal is supported by a Secretariat that provides research and advisory services, and assists the Tribunal in its investigations and public processes.

As at June 30, 2005, IPART had a funded complement of 76 (73 staff including the Chair and a Permanent Member (who is the CEO), plus 1 Part-time Tribunal Member and 2 Temporary Members).</td></tr>
<tr><td rowspan="5">Regulated Utilities</td><td></td><td>No. of Utilities</td><td>No. of Customers</td><td>Throughput</td><td>Per Customer Cost of Regulation</td><td>Cost of Regulation Per Unit of Throughput</td></tr>
<tr><td>Gas</td><td>5</td><td>Not readily available</td><td>Not readily available</td><td></td><td></td></tr>
<tr><td>Electric</td><td>3</td><td>Not readily available</td><td>Not readily available</td><td></td><td></td></tr>
<tr><td>Total Energy</td><td>8</td><td>Not readily available</td><td>Not readily available</td><td></td><td></td></tr>
<tr><td>Other</td><td>15 gas retail suppliers

19 electricity retail suppliers

7 water</td><td colspan="4"></td></tr>
</table>

		businesses	
Per Capita Cost of Regulation (based on population)	$1.97/year		
PERFORMANCE MEASURES USED-COST OF REGULATION			
	Yes/No	**Description of Method**	
Cost Targets	Yes/No	Awaiting confirmation on current status of performance measures. However, prior to 2004/05, two cost targets were used: controlled net cost of service within budget (yes/no) and regulation expenditure per capita (NSW) using a 2000/01 base of <$2. The comparative figures from 2001/02 through 2004/05 (target/actual) are as follows: <$2/$1.42, <$2/$1.60, <$2/$2.05 and <$2/n.a.	
Benchmarking	No	The Tribunal does not compute or compare its own regulatory costs (i.e., benchmark regulatory commission expense data) with other energy regulatory tribunals.	
Other	No		
PERFORMANCE MEASURES USED-OTHER			
Output-based	**Yes/No**	**Description of Method**	
Output-based	Yes	Commencing fiscal 2004/05, the following outcome/output based performance measures were developed as part of IPART's Results and Services Plan, the service delivery and funding plan prepared by agencies to demonstrate the relationship between the services they deliver and the results they are working towards. With respect to **licensing monitoring and enforcement**, the following key services were reported on (with service measures identified in parentheses):	

		• Monitoring of water licences (acceptance by Minister of annual water compliance reports (# of reports)) • Monitoring of energy licences (acceptance by Minister of annual energy compliance reports (# of reports)) • Administration of Greenhouse Gas Abatement Scheme targets (# of accredited certificate providers (per year) and # of abatement certificates registered (/year)) With respect to **competitive business environment in NSW**, the following planned (intermediate) result was reported on (with result indicators in parenthesis): • Independent oversight of prices for energy, transport and water services (graph of real cost to public over time and graph of real cost to businesses over time (per "Impacts" statement in Annual Reports), perceived quality of leadership – practical outcomes and independence (expressed as % from stakeholder survey)) With respect to **healthy and sustainable energy and water supplies in NSW**, the following planned (intermediate) results were reported on (with result indicators shown in parenthesis): • Suppliers of energy and water meet licence obligations (acceptance by Ministers of annual water and energy compliance reports (# of reports)) • CO_2 reduction targets are monitored and enforced (tonnes per capita CO2 emissions in NSW from electricity usage) **Prior to fiscal 2004/05**, in relation to regulation–outputs several performance measures were reported on (based on number of events) including: number of price determinations and industry reports completed; number of price determination and industry reports in progress; number of licence audits completed; number of licence compliance reports to Minister; number of licences granted, amended and cancelled; rules and guidelines completed; rules and guidelines in progress; and applications for associate contracts considered under the National Gas Code.

Time-based	No	IPART does not track application processing cycle times per se and does not make available publicly relevant information on the cycle times for regulatory reviews (e.g., the time elapsed between the receipt of an application and a Tribunal decision) associated with regulatory processes before the Tribunal. However, **prior to 2004/05** IPART used a specific regulation-related timeliness performance measure. IPART tracked the average response time on notified price increases to customers (Target 60 days for networks and 30 days for retail). Comparative data for 2001/02 through to 2004/05 are presented as follows: 2001/02 Networks-60/20.25 days and Retail-30/16 days; 2002/03 Networks-60/27 days and Retail-30/13 days; 2003/04 Networks-60/11 days and Retail-30/8 days; and 2004/05 Networks-60/n.a. and Retail-30/n.a.
Quality-based	Yes	With respect to **pricing of water, transport and energy**, key services reported on, commencing fiscal 2004/05, with service measures in parentheses, are as follows: • Wide consultation on issues (perceived quality of consultation processes (expressed as % from stakeholder survey)) • Rigorous process of review (perceived professionalism of staff (expressed as % from stakeholder survey)) • Fair and balanced decisions (perceived clarity of reports (expressed as % from stakeholder survey); # of public hearings, forums and workshops; # of papers and reports) The Tribunal tracks the number of public meetings held during the year, as well as the number of submissions received in relation to projects during the reporting year and the number of publications. During 2004/05, the Tribunal held 47 meetings (as well as 19 delegated Tribunal meetings), and hosted 3 public hearings (these are not quasi-judicial hearings), 3 public forums, 1 public presentation, 3 workshops and 2 stakeholder forums (12 in total). The Tribunal also invited stakeholders and the public to make submissions to the projects in progress during 2004/05, and received a total of 390 submissions. The number of papers and reports published by the Tribunal totalled 51 for the year.

Other	Yes	**Commencing fiscal 2004/05**, IPART measured performance against Corporate Objectives. Throughout fiscal 2004/05, IPART particularly focussed on meeting five core objectives: 1 To reach a reasonable, balanced answer 2 To demonstrate a fair and open process 3 To apply a rigorous and credible approach to our work 4 To manage resources efficiently and effectively 5 To administer the Greenhouse Gas Abatement Scheme In its Annual Report 2004/05 at pages 10-13, IPART provides a scorecard of the implementation of its strategic commitments for the year (i.e., a summary of its strategies, key actions and progress towards meeting these objectives by fiscal year end). **Prior to fiscal 2004/05**, IPART used a combination of outcome and output based performance measures. Examples include: **Regulation Outcomes**: -Survey of stakeholder perceptions of integrity, process and quality of work (every 2 years) **Financial Administration**: -Compliance with Public Finance & Audit Act (percentage against 100 per cent target) **Staff**: - Average sick leave days taken (target<5 days) -Personnel Enhancement System coverage (target-100%) -Training follows skills audit (target-100%) -Employee satisfaction index (staff survey every 2 years) – Leadership, Remuneration, Working conditions, Support services (each has a target of >90%)

		IT: -System availability (target >98%) -System security breaches (target-Nil) -Internal service quality rating (staff survey every 2 years) (target >95%) **Office Services**: -Accounts paid on time (target-90%)
COMMENTS		
Comparability of Regulatory Body to OEB	**Yes/No**	**Explanation of Equivalency**
	Similar (but regulates other sectors in addition to energy)	Similar roles and responsibilities (expanded traditional regulatory activities to include oversight of competitive activities, including licensing and consumer protection function) but regulatory mechanisms are different. Australian federal/state energy regulators have consistently adopted light-handed forms of regulation (informal public consultations, administrative regulatory processes, multi-year incentive regulation plans)
Cost of Regulation Performance Measure	**Strengths**	Specified cost targets; comparisons are made with targets and standards as well as past performance.
	Weaknesses	None that are apparent
	Ease of Administration	Yes
	Other	In Australia, a Utility Regulators' Forum (1999) discussion paper set out nine principles of best practice in utility regulation. They are: communication, consultation, consistency, predictability, flexibility, independence, effectiveness

		and efficiency, accountability and transparency. The paper suggested that these principles should be looked at as a package in order to balance the principles. For instance, flexibility could be seen as contrary to consistency and predictability in some circumstances, but the goal of maximizing public benefit should be kept in mind when competing priorities are considered IPART measures annually its performance against corporate objectives utilizing goals, strategies, activities and measures that are based on actions taken by the agency or are explicitly controllable by the agency. Report back on progress towards implementation of the strategic commitments for the business year is made and published at the time of the Annual Report. Several key performance indicators are developed as part of IPART's Results and Services Plan, the service delivery and funding plan prepared by agencies to demonstrate the relationship between the services they deliver and the results they are working towards. A survey of stakeholder perceptions of integrity, process and quality of work is conducted (every 2 years).

Australian Competition and Consumer Commission/Australian Energy Regulator

BACKGROUND INFORMATION		
Regulator's Mandate	**Scope of Regulation**	The **Australian Competition and Consumer Commission (ACCC)** is an independent statutory authority, set up in 1995 as part of the national competition policy reform program. It is the only **national** agency dealing with competition matters. The primary responsibility of the ACCC is to ensure that individuals and businesses comply with competition, fair trading and consumer protection laws, in particular the Trade Practices Act. The ACCC applies these laws, helping to make sure that competition in the market place is efficient and fair. In this respect, The ACCC deals with competition and consumer protection matters of national and international significance. The objectives of the ACCC are to: • promote effective competition and informed markets • encourage fair trading and protects consumers • regulate infrastructure service markets and other markets where competition is restricted. When regulating infrastructure service markets and other markets where competition is restricted, the ACCC promotes competition in the network industries: electricity, gas, telecommunications, aviation and airports, waterfront and shipping, rail, and post. With respect to electricity, the ACCC: • ensures access to wire networks • sets revenue caps for the transmission network service providers • authorizes changes to the National Electricity Code With respect to gas, the ACCC:

		• implements the National Gas Code • determines conditions of access to gas transmission pipelines • arbitrates access disputes As the national regulator, the regulatory functions of the ACCC have included: regulating the electricity, gas, telecommunications and transport sectors to ensure equality of access to infrastructure, and monitoring of services and prices. From 1 July 2005 a new statutory authority, the **Australian Energy Regulator (AER)**, has direct responsibility for the regulation of electricity transmission networks and enforcement of the market rules. Responsibility for regulating the gas transmission and distribution pipeline systems and enforcement of natural gas pipeline laws will also be transferred to the AER in 2006–07 (by the end of calendar 2006). It is expected that the AER will also eventually have responsibility for the retail and distribution networks in the energy sector (other than retail pricing) **(this represents a shift in regulatory responsibilities from the state jurisdictional regulators like the ESC and IPART).**
Regulator's Mandate	**Industry Regulated**	The ACCC exercises regulatory oversight over electricity, gas, telecommunications, aviation and airports, waterfront and shipping, rail, postal services, petrol prices (price monitoring) and insurance.
Regulator's Mandate	**Governing Legislation (optional)**	Trade Practices Act, 1974 (TFA). Parts of the Trade Practices Act dealing with regulated industries and prices surveillance are as follows: **IIIA- access to the services of essential national infrastructure facilities, such as access to transmission wires networks, natural gas pipelines, rail tracks and airport facilities** **VIIA- price monitoring and surveillance in relation to industries or businesses declared by the Australian Government** X- establishes limited exemptions in relation to international liner cargo shipping

		XIB- anti-competitive conduct in telecommunications XIC- access to services for telecommunications The ACCC is established under the TFA and is responsible for functions affecting the gas and electricity industry in Australia, including: • enforcement of competition law and authorization of anti-competitive conduct; • enforcement of consumer protection and fair trading laws; • access regulation under Part IIIA of the TPA; and • price monitoring under Part VIIA of the TPA. Other laws that grant the ACCC jurisdiction: • Airports Act 1996; focusing on access, prices and the quality of service at Australia's privatized airports • Australian Postal Corporation Act 1989; defining access to the postal network • Broadcasting Services Act 1992; covering the payment of TV licences • Gas Pipeline Access Law (National Gas Code) • National Electricity Law (and Rules) • Telecommunications Act 1997; implements a regulatory framework for the telecommunications industry • Telecommunications (Consumer Protection and Service Standards) Act 1999; provides a range of safeguards that are available to consumers of telecommunication services • Trade Marks Act 1995; governing the approval of a trade mark that certifies that goods or services are of a particular standard of quality, origin, material or mode of manufacture The AER is a separate statutory authority established by the Trade Practices Act 1974. It is a constituent part of the ACCC.

Regulatory Methods Used (processes, mechanisms)	Not unlike state regulatory bodies in Australia, the ACCC relies on Public Consultations (administrative processes). For example, since 1999 electricity transmission service providers (TNSPs) in the NEM have been rate-regulated by the ACCC under light-handed, incentive-based revenue caps at five-year intervals following completion of administrative regulatory processes relying on extensive public consultations. Not unlike state/jurisdictional regulators (e.g., ESC, IPART), ACCC has no direct responsibility for network planning and development in the National Electricity Market (NEM). However, for price determination purposes ACCC considers capital expenditures (historic and forecast) and operating & maintenance expenses as part of its deliberations on Electricity Transmission Pricing. As well, the ACCC is responsible for the promulgation of the regulatory test, and may vary it from time to time. The regulatory test is an economic cost-benefit test used by transmission and distribution businesses in the National Electricity Market to assess the efficiency of network investment. The ACCC regularly monitors the financial and operating performance of network service providers including performance against prescribed service standards (financial incentives apply).
Regulatory Commission Expense	Actual expenses for 2004/05 were $85.4 million (resulting in a net surplus of $13.8 million which essentially represent deferred expenditures). The ACCC is a people-based organization with significant in-house legal capacity, with staff and related costs accounting for 47 per cent of total expenditure. A further 30 per cent of expenditure was on legal costs with the balance spent on other program costs (21%) and depreciation (2%). It is noteworthy that consultancy expenditures are minor ($2.5 million total expenditure in 2004/05). **Note: A breakdown of actual expenses by regulated sector is not provided.** The 2005/06 budget provides the ACCC with $85.5 million for operating expenses and $1 million for capital funds. Within this, the ACCC received $4.8 million to fund the ongoing operations of the AER for 2005–06. The 2004/05 budget provided additional funding of $77 million for the ACCC over the next four years. This included $53.1 million for agency expenses and $23.9 million for capital funding.

Sources of Funding (optional)	The ACCC's revenue is mainly provided through government appropriation. In 2004/05 the ACCC had an operating budget of $99.2 million of which $98.4 million (or 99%) was government funded, including resources received free of charge. The remainder ($0.8 million or 1%) was generated through retained revenue (i.e., the sale of goods and services) and free services from the government. The ACCC also administers revenues (and expenses, assets, liabilities and cash flows) relating to the core operating activities performed by the Commission on behalf of the Commonwealth (e.g., fines and costs, authorization fees). Such revenue is collected by the Commission for use by the government rather than the Commission. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. Administered revenues totalled $12.7 million in 2004/05.					
Staffing Levels (including Commissioners)	In 2004/05, the **ACCC** comprised the chairman, deputy chair and five full-time members (as well as 2 associate members on an ex officio basis). The **AER** is comprised of the Chair, 1 full-time member and 1 part-time member. The ACCC's budgeted staff level for 2004–05 was 484 (460 in 2003–04), including 7 full-time holders of public office (commission members). The total full-time equivalent employees during the year were 457.5 people (up from 449.1 in 2003–04). The difference between the budgeted and actual staff level is as a result of the delay in commencement of the Australian Energy Regulator. The total number of staff employed (including commission members, part-time employees, employees absent on leave and secondments) at 30 June 2005 was 519 (501 on 30 June 2004). The 2005–06 budget provides funding for 511 FTEs. The increase in staff numbers reflects, in part, the creation of the AER. **AER staff are employed by the ACCC.**					
Regulated Utilities		**No. of Utilities**	**No. of Customers**	**Throughput**	**Per Customer Cost of Regulation**	**Cost of Reg Per Unit of Throughput**
	Gas	12	Not readily available	Not readily available		

	Electric	10	Not readily available	Not readily available		
	Total Energy	22	Not readily available	Not readily available		
	Other	Not readily available				
Per Capita Cost of Regulation (based on population)	$3.49/year					
PERFORMANCE MEASURES USED-COST OF REGULATION						
	Yes/No	**Description of Method**				
Cost Targets	No					
Benchmarking	No					
Other	No					
PERFORMANCE MEASURES USED-OTHER						
	Yes/No	**Description of Method**				
Output-based	Yes	The objectives of the Commission are to: • promote effective competition and informed markets • encourage fair trading and protect consumers • regulate infrastructure services market and other markets where competition is restricted.				

		The Commission's outcome is to enhance social and economic welfare of the Australian community by fostering competitive, efficient, fair and informed Australian markets. Commission activities contributing toward this outcome are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the Commission in its own right. Administered activities involve the management or oversight by the Commission on behalf of the government of items controlled or incurred by the government. The Commission's **outcome** is separated into two outputs as follows: **Output 1:** Compliance with competition, fair trading and consumer protection laws and appropriate remedies when the law is not followed. **Output 2:** Competitive market structures and informed behaviour. A wide-ranging number of performance indicators are reported on (source: ACCC Annual Report 2004/05 pages 19-134).
Time-based	Yes	For example, response times in relation to inquiries and complaints made by businesses and consumers (call centre statistics). It is noteworthy that Under the Trade Practices Act, the Commission must make a decision on each merger application within a specified time frame, otherwise, authorization is deemed to be granted (within 30 days of having received them, plus any time taken by the applicant to provide the ACCC with additional information sought; the period may be extended to 45 days in complex matters) (reference: ACCC Journal No. 43, page 88).
Quality-based	Yes	For example, key improvements in financial management processes and an increased managerial focus on financial management (i.e., making improvements in the quality and presentation of the monthly financial data that is made available to the chairman, CEO and executive managers for evaluation and monitoring purposes.

Other	No	In its Corporate Plan and Priorities for 2005/06, for each of the each of the three main objectives: • promote vigorous, lawful competition and informed markets • encourage fair trading and protect consumers • regulate national infrastructure services and other markets where there is limited competition The ACCC has only identified its key areas of focus for the next twelve months (i.e., the ACCC has identified those activities (and direct its resources to) that will have the greatest benefit for business and consumers. While strategies are discussed, performance indicators are general in nature and targets have not been established.

COMMENTS		
Comparability of Regulatory Body to OEB	**Yes/No**	**Explanation of Equivalency**
	Similar (only in relation to regulation of utilities)	The ACCC is not comparable to the OEB in relation to its prime responsibility. The ACCC is the only **national** agency dealing with competition matters. The primary responsibility of the ACCC is to ensure that individuals and businesses comply with competition, fair trading and consumer protection laws, in particular the Trade Practices Act. In this respect, The ACCC deals with competition and consumer protection matters of national and international significance. However, the business unit (AER) that deals with the regulation of energy utilities has similar roles and responsibilities to the OEB (traditional regulatory activities, oversight of competitive activities, market rules, licensing and consumer protection functions) but uses different regulatory mechanisms (Australian federal/state energy regulators have consistently adopted light-handed forms of

			regulation (informal public consultations, administrative regulatory processes, multi-year incentive regulation plans)).
Cost of Regulation Performance Measure	**Strengths**	Not applicable	
	Weaknesses	Lack of performance measure with specified target. There is a general weakness in the performance measures used by the ACCC. While the ACCC uses performance indicators in the evaluation process, targets are not set to define the level of performance that the organization is setting out to attain.	
	Ease of Administration	Not applicable. Generally, ACCC's performance measures are extensive and require appropriate resources to collect and tabulate the data.	
	Other	The ACCC's corporate plan sets out the commission's purpose, objectives and the key areas of focus for the business year. The ACCC's budget papers (Estimates submission) for the business year detail how revenue will be applied by outcome, administered and departmental classification. Output performance indicators shown in the budget papers are used to measure evaluation activity for the outcomes. The results of the evaluation are shown in the ACCC Annual Report. Feedback is sought from key clients on a regular basis on the effectiveness in achieving the outcomes.	

Appendix B: Sample Benchmark Table

Illustration of Benchmark Cost Comparisons to Other Jurisdictions (2004/2005)

	Industry Regulated	Utilities Regulated	Customers Served (million)	Populat'n (million)	No. of Staff (including Commission)	Regulator Costs (million CAD$)	Per Capita Cost ($/year)
CANADA							
BCUC	Electricity, natural gas, insurance	25	2.7	4.3	31	4.7 (incl. auto insurance)	<2.0
OEB	Electricity, natural gas	103	7.4	12.4	148 (actual)	24.5	<3
Régie de l'énergie	Electricity, natural gas, petroleum	13	7.5	7.6	31	8.0 (excl. monitoring petroleum)	<2
Nfld. PUB	Electricity, petroleum marketing and auto insurance	2 (energy utilities)	0.28 (Electricity)	0.5	24	1.2 (utilities), 0.5 (auto insurance)	<4
EUB	**Utilities**: Elec., natural gas, water **Energy development**: electricity, gas, oil, oil- sands, coal	7 (investor-owned utilities); some municipally-owned		3.3	780	112.2 (Total) 8.2 (utilities)	<3

	Industry Regulated	Utilities Regulated	Customers Served (million)	Populat'n (million)	No. of Staff (including Commission)	Regulator Costs (million CAD$)	Per Capita Cost ($/year)
NEB	Certain areas of the oil, gas, and electric utility industries	Not readily available	Not readily available	32.4	308	38.1	<2
New Brunswick PUB	Electricity, natural gas, auto insurance, pipelines, motor carrier			0.75	16, 1 PT	3.4	<5
Nova Scotia UARB				0.94	45	4.7	<2
UNITED STATES							
MPSC (Michigan)	Electricity, natural gas, petroleum, telecom, transportation (motor carrier)	31 (Energy) 147 (Other)	Not readily available	10.1	157	21.7	<3
NYPSC (New York)	Electricity, as, steam,telecom, water utilities, cable	62 (energy-20 being major) 215 (other)	10.8	19.2	545	84.4	<5
PPUC (Pennsylvania)	Electricity, natural gas, water, telephone, transport	Not readily available	5	12.4	528	54.4 (All utilities)	<5

	Industry Regulated	Utilities Regulated	Customers Served (million)	Populat'n (million)	No. of Staff (including Commission)	Regulator Costs (million CAD$)	Per Capita Cost ($/year)
FERC	Electricity, natural gas, oil industries	Not readily available	Not readily available	293.7	1,230	237.8	<1
AUSTRALIA							
ESC	Electricity, gas, water, ports, rail and grain export facilities	8	3.8	5.0	64	12.6	<3
IPART	Electricity , gas, water, and public transport	8	Not readily available	6.8	76	13.4	<2
ACCC-AER	Electricity, gas, telecom, aviation, waterfront and shipping, rail, postal, petrol (price monitor) and insurance	22	Not readily available	20.3	458	70.9	<4
UK							
Ofgem	Electricity & natural gas	Not readily available	Not readily available	58.1 (excludes N. Ireland)	300	74.1	<2

Source: ERA Survey and BCUC 2004/05 Annual Report

Appendix C: Questionnaire

Introduction

Elenchus Research Associates Inc. (ERA), a Canadian energy consulting firm, is currently conducting a survey on behalf of the Ontario Energy Board (OEB or Board), a Canadian regulatory tribunal. The OEB is the regulator of Ontario's natural gas and electricity industries. The contents of the report that we will produce will be factual in nature and will not reflect the opinions of either the authors or the sources beyond those generally contained in the published information of regulatory tribunals. The intention is that this report will form part of the record in support of decisions to be taken by the Board regarding an appropriate performance measure for the Board's regulatory costs. The subject matter of the report relates to methods used to measure the tribunal's own cost of regulation, which the Board has identified as one of its key management initiatives in support of its strategic objectives. The Board is, therefore, interested in a report that examines the methods used by equivalent bodies in other jurisdictions. In this connection, the Pennsylvania Public Utility Commission (PPUC) has been selected as a benchmark jurisdiction for consideration in determining an appropriate measure for the Board.

Note: If the information we are requesting is publicly available, you are only required to provide us with links to the relevant electronic documents.

Information Request (with a focus on energy-Natural gas and electricity)

1. Performance Measures used by the Commission

   a) Does the Commission use mechanisms to measure its performance in support of its business strategies, plans, goals, targets, etc.? Please describe.

   b) Are there any issues or concerns regarding tracking and reporting back on established targets? Please explain.

c) Does the Commission use Cost of Regulation as one method of measuring its performance? If so, which of the following are used?

i. Does it set Cost Targets (e.g. cost not exceeding current levels as measured by costs per utility customer; capped budget? etc.) Please describe

ii. Benchmarking (Comparisons to other jurisdictions e.g. per capita staffing levels, per customer cost of regulation, etc.) Please explain.

iii. Other? Please, describe

iv. Basis for selecting performance measures (e.g. pros and cons, strengths and weaknesses). Please explain

d) Does the Commission use other measures of performance dealing with quantity, quality, processing times, regulatory efficiency, etc., namely:

i. Output-based? Please describe

ii. Time-based? Please describe

iii. Quality-based? Please, describe

iv. Other? Please, describe .

2. How do you describe the Commission's Mandate

a) Scope of Regulation

b) Industries regulated-(electricity, etc)

c) Commission's governing legislation?

d) Regulatory methods used (processes, mechanisms)?

3. Please provide information relating to the Commission's expenses (budgets), source of funding & staffing levels including Commissioners

   a) What is the latest available figure for the Commission's Annual expense/budget

   b) What is Commission's source of funding?

   c) Commission's Staffing Levels (Full Time, Part-time, identifying Commissioners separately)

4. Please provide information with respect to the regulated utilities under the Commission's jurisdiction

   a) Please identify the number of utilities regulated by type (Electricity. Gas, Other)?

   b) Please identify the number of customers served by these Utilities? (Electricity, Gas, other)?

c) Please identify level of throughput (energy) by sector

5. Can you provide us with electronic links to the Commission's Annual Reports, Commission's Business Plans and other relevant documents which we can use as a basis for a response or to augment the information you have provided us?

6. Could we please obtain the appropriate contact information for the tribunal staff member(s) responsible for handling this information request in case we have to communicate further with the tribunal to clarify anything? Is it preferable to communicate with the tribunal contact person(s) by e-mail?

Organization:

Contact Person:

Title:

Telephone:

Fax:

E-Mail:

Appendix D: References

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