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RP-2003-00242

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## NOTICE OF PROPOSAL TO MAKE A RULE

### NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS

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The Ontario Energy Board (the 'Board') is proposing to exercise its authority under section 44 of the *Ontario Energy Board Act, 1998* (the 'Act') to make a rule on natural gas reporting and record keeping requirements applicable to the gas utilities it regulates.

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**The Board will not be granting cost awards in this consultation.**

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The main purpose of the proposed Natural Gas Reporting and Record Keeping Rule is to restate and clarify the current reporting and regulatory relationship between the Board and those entities it regulates. The present requirements exist in various Board decisions issued over a number of years, Board rules and current practice. The proposed reporting and record keeping requirements (RRRs) reflect changes affecting the environment within which the Board exercises its regulatory function (eg issuance of GDAR, changes in rate making methodologies, impact of legislative changes, symmetry with electricity RRRs, etc).

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In developing the requirements, consideration was given to the level and necessity of information being requested. We reviewed what other regulators receive, had staff working groups generate potential requirements, had managers screen the requirements, had a Board panel review the requirements, conducted consultation sessions with industry, received their comments and deleted many of the requirements listed by staff. Some existing requirements have been dropped because conditions have changed. Integration of reporting and other Board processes (rate applications in particular) was considered to avoid duplication and minimize the reporting burden. Utilities will be given time to implement the requirements which should help them manage their costs.

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As well, much thought was given to the balance between the reporting and record keeping requirements and the complementary function of auditing. The ideal balance entails obtaining the assurance of regulatory compliance required by the Board while minimizing the resources required of both Board and regulated entities. All these considerations are incorporated in the current proposed reporting and record keeping requirements. Given these extensive efforts to constrain costs, it is anticipated that gas utilities will incur minimal costs due to implementation of the proposed Rule.

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The Rule defines reporting and record keeping requirements going forward. After a thorough consideration of the Board's needs, some current requirements have been deleted, some amended, some clarified and some new requirements created. The present requirements exist in various Board decisions, rules and current practice. Consolidating these requirements is a convenience for both those being regulated and the regulator. In proposing this Rule, the Board is of the view that the benefits of restating and clarifying the current reporting and regulatory relationship between the Board and those entities it regulates outweigh the anticipated minimal costs to be incurred.

The cost-benefits of the RRRs are as follows:

1 General benefits - Traditional regulation is built around the hearing process, which has been criticized as time-consuming and expensive for all those involved. The proposed RRRs are consistent with a move toward more "light-handed" regulation, such as performance-based regulation. Under this approach, hearings will be less frequent. More monitoring and occasional audits are used for high level information and for determining whether companies are in compliance with regulatory requirements.

2 Board benefits - The RRR requirements will ensure the Board has more and better information to effectively monitor and regulate the industry,

3 Industry Benefits - Gas utilities and marketers will have their reporting and record keeping requirements clearly spelled out for them in one place.

4 Ratepayers Benefits - the Board will be able to use reported information to discern whether the forecast on which the approved rates were based were realistic and whether the rate of return was in line with what was anticipated. This will help it to better protect the interests of consumers with respect to prices and the reliability and quality of gas service.

5 Analysis of Costs

The cost impact of the RRRs on gas utilities and marketers will be different:

a Gas utilities are not expected to incur any significant costs under the proposed RRRs. Most of the proposed RRRs for gas utilities already exist, though perhaps in a slightly different form. This means the costs of compliance are already being incurred. Any new requirements were developed with an eye to their costs. Furthermore, they were designed to be consistent with the Board's electronic regulatory filing (ERF) process and they will be integrated with rate applications.

b Although gas marketers have never formally filed information with the regulator, their one reporting requirement under the RRRs is not very onerous. This requirement is consistent with the electricity retailer requirement. The Board understands, based on our initial consultation, that the information is readily available to gas marketers.

- c Again, the reporting requirement is designed to be compatible with ERF. This will improve the efficiency of information submission, storage, access and analysis. Many gas marketers are also electricity retailers and are already familiar with ERF.

The Board intends to treat information filed under certain sections of the proposed RRRs, specified in the proposed Rule, in confidence. All other information filed will be placed on the public record directly. The Board is subject to the Freedom of Information and Protection of Privacy Act (FIPPA). Section 28 of that Act would require the Board to give notice to the gas utility before releasing information which may be commercially sensitive and has been given in confidence. The utility then has the opportunity to make submissions. If the Board decides to release the information, the utility can appeal this and the information will not be disclosed pending the outcome of the appeal. If the Board decides not to release the information, the party requesting the information may appeal this decision to the Information and Privacy Commissioner.

All persons are invited to comment on the proposed reporting and record keeping requirements (RRRs) for gas utilities. Documentary material in connection with this proposal is available on the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) under 'What's New'. While general comments are somewhat useful, comments on each specific requirement would be more helpful. In particular, please comment on the following issues:

- 1 appropriateness of the requirement for the information to be filed or for records to be kept;
- 2 completeness of the proposed requirements;
- 3 adequacy of the detail requested;
- 4 appropriateness of proposed filing frequency and timing; and
- 5 public access, reporting versus record keeping and related confidentiality issues.

Any person who wishes to make a written representation with respect to the Rule **must** file nine (9) paper copies of the representation, and an electronic copy in Adobe Acrobat (PDF), or WordPerfect or Word, if possible, with the Acting Board Secretary by **4:30 pm on May 12, 2004**. The Board requests that the representation specifically reference the relevant sections of the Rule. Your submission must quote file number **RP-2003-0242** and include your name, address, e-mail address and fax number.

The Rule and the written representations received by the Board with respect to the Rule will be available for public inspection on the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) and at the office of the Board during normal business hours.

If you have any questions regarding the proposed Rule, please contact Bendimia Castellanes at 416-440-8130 or toll free at 1-888-632-6273.

**IMPORTANT**

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**IF YOU DO NOT FILE A WRITTEN SUBMISSION OBJECTING TO A WRITTEN HEARING OR DO NOT PARTICIPATE IN ACCORDANCE WITH THIS NOTICE, THE BOARD MAY PROCEED WITHOUT YOUR PARTICIPATION AND YOU WILL NOT BE ENTITLED TO FURTHER NOTICE IN THIS PROCEEDING.**

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**DATED** at Toronto April 15, 2004.

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ONTARIO ENERGY BOARD



Peter H. O'Dell  
Acting Board Secretary