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Review of the Ontario Energy Board Cost Assessment Model

Prepared for:

The Ontario Energy Board

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1 Executive Summary

1.1 *Background*

The Ontario Energy Board ("OEB") is self-funded with the majority of their funding derived from assessments to market participants. The assessments are determined by a Cost Assessment Model ("Model" or "CAM"). The Model is based on a November 2004 report by Navigant Consulting Ltd. ("Navigant") and stakeholder comments on that report. In 2006, EES Consulting reviewed the CAM and concluded no major changes were required. In March 2010, minor changes were made to the direct cost allocation percentages, operating reserve, administrative penalties, and the inclusion of Independent Electricity System Operator ("IESO"), Ontario Power Authority ("OPA") and Ontario Power Generation ("OPG") as classes of payors. In March 2011, the CAM document was adjusted to include a portion of the direct costs being recovered from electricity retailers and natural gas marketers.

1.2 *Project Scope*

Navigant has been retained by the OEB to determine if any changes are necessary to the current Model, especially those related to how the Board recovers its costs from the electricity retailers and natural gas marketers payor classes. More specifically, Navigant will assist the Board in determining whether it is appropriate to assess a portion of its indirect operating costs to the two new payor classes; electricity retailers and natural gas marketers.

1.3 *Approach*

Navigant's approach in preparing this report included two specific activities. First, a survey of a sample of other regulatory bodies funding mechanisms was analyzed. The analysis focused upon identifying any potential strengths or weaknesses in the OEB's Model compared to the practices of other jurisdictions. Table 1 below summarizes the regulatory agencies surveyed in this study.

Table 1: Regulatory Entities Surveyed

Regulating Entities	Jurisdiction	Regulation Type - Wholesale / Retail
The National Energy Board of Canada ("NEB")	Canada - Federal	Wholesale
The Alberta Utilities Commission ("AUC")	Alberta	Wholesale & Retail
The Maine Public Service Commission ("MPSC")	Maine, USA	Wholesale & Retail
The Rhode Island Public Utilities Commission ("RIPUC")	Rhode Island, USA	Wholesale & Retail
The New York State Public Services Commission ("NYPSC")	New York, USA	Wholesale & Retail
The Public Utilities Commission of Ohio ("PUCO")	Ohio, USA	Wholesale & Retail
The Illinois Commerce Commission ("ICC")	Illinois, USA	Wholesale & Retail
The Office of Gas and Electricity Markets ("Ofgem")	Great Britain	Wholesale & Retail
The Essential Services Commission ("ESC")	Victoria, Australia	Wholesale & Retail
The Commission of Energy Regulation ("CER")	Ireland	Wholesale & Retail

Second, an analysis of the level of participation in competitive electric and natural gas markets was prepared in order to ascertain if Ontario's participation rates are significantly below that of peers.

Last, an analysis was performed to ascertain what the impact on customer bills would be if indirect costs incurred by the OEB were assessed to electricity retailers and natural gas marketers.

1.4 Findings

Navigant's findings from this analysis are as follows:

The OEB's Approach to Cost Assessment is a Cost Based Approach, Unlike Many other Regulators

Unlike many jurisdictions, the OEB introduced a new cost assessment formula when industry restructuring occurred. The OEB's cost assessment formula differs from many of the other regulators in the survey in that it was explicitly re-designed when retail competition was introduced in Ontario. In contrast, most of the jurisdictions in the survey either did not re-design their funding mechanism, or limited re-designs were made to maintain the current funding levels. Therefore, the OEB approach better reflects the current circumstances in the province.

The OEB Actively Intervenes in Customer Complaints which is Atypical of Many Jurisdictions

Many of the regulators in the United States are not charged with addressing customer complaints against electric retailers and natural gas marketers. The state Attorney General's office often has jurisdiction over these complaints. Therefore, differences in cost allocation approaches are justified.

The Existing Saturation of Competitive Service Providers in Ontario is Similar to Other Jurisdictions

The saturation of competition in Ontario is relatively similar to other jurisdictions reviewed in this report. Navigant therefore concludes that the existing approach to cost allocation has not erected a barrier to competition in the province. This finding supports the conclusion that undue barriers to competition have not previously existed in Ontario.

The Impact of Allocating Indirect Costs to Electricity Retailers is Relatively Small

Based upon information provided by the OEB, Navigant has estimated the customer bill impacts assuming that the indirect costs are passed directly to customers. The results of our analysis indicate that the incremental impact of assessing the OEB's indirect costs to electricity retailers is 0.0062 cents/kWh. To put this into context, a typical residential customer bill consuming 1,000kWh's would see an annual bill impact of 0.75 cents. It is Navigant's opinion that this impact is negligible, especially when compared to other variable bill impact items such as the Global Adjustment Mechanism, which has an average bill impact of 2.52 cents/kWh. Annually, the Global Adjustment bill impact for a typical residential customer bill consuming 1,000kWh's is equal to $302.40. Further, it is Navigant's opinion that the assessment of indirect costs to these electricity retailers should not burden the competiveness of these entities since the assessment is a direct pass through to the end customer, and that this pass through is relatively insignificant.

1.5 Recommendations

Navigant does not see any reason to not allocate indirect costs to the electricity retailers and natural gas marketers. In fact, not allocating those costs triggers cost shifting to other industry participants thus triggering a cross-subsidy.

1.6 Organization of the Report

Chapter 2 provides a discussion of the OEB's approach to funding including a discussion of the Cost Allocation Model. Chapter 3 provides a discussion of the survey of other regulators performed by Navigant and the results of the survey. Chapter 4 provides Navigant's analyses of the impacts of assessing electricity retailers and natural gas marketers indirect costs.

2 The Ontario Energy Board's Approach to Funding

The OEB is primarily supported by assessments although other internal funding mechanisms such as license fees exist. Unlike many of the other regulators reviewed in this study, the OEB does not receive appropriations to support all or part of its operations.

The following types of entities provide funding to the OEB:

- Natural Gas Utilities;
- Electric Distribution;
- Electric Transmission;
- The Independent Electricity System Operator;
- The Ontario Power Authority;
- The Ontario Power Generation;
- Electric Retailers; and
- Natural Gas Marketers.

The OEB's cost assessment model contrasts with the two other broad categories of models which Navigant encountered. The first is an assessment to customers linked to their utility bills. An example of this is the Illinois Commerce Commission who is funded using assessments which are included in customer's utility bills. The other model is the direct appropriate model which is used by regulators such as the National Energy Board. In the direct appropriate model, a governmental entity fully funds the regulator.

2.1 Guiding Principles Governing the OEB's Cost Assessments

The following principles guided the development and implementation of the Cost Assessment Model.[1]

- The Cost Assessment Model should be clear and direct, fair, transparent, cost effective and provide incentive to use regulatory services efficiently;
- The Cost Assessment Model should ensure that ultimately costs incurred in regulating the customer groups are recovered from those customer groups;
- The Cost Assessment Model should allow the OEB to be financially self-sufficient and avoid the need to borrow funds;
- All licensed market participants should contribute to the OEB's funding;
- The Cost Assessment Model should strive for stable and predictable assessments and/or fees for market participants;
- The OEB should seek to mitigate year-over-year volatility in the apportionment of its funding requirements to each Class of market participant; and
- Allocation within a given class of payor should balance fairness, accuracy and predictability where possible.

The guiding principles for the OEB's Model are based upon a cost-of-service approach akin to a regulated utility. Users of various products and services of the OEB are required to pay the costs associated with those services.

2.2 Sources of Revenues

The OEB derives revenues from the following sources.

- Cost assessments issued under Section 26 of the Act; subject to the regulations, the Board's management committee may assess those persons or classes of persons prescribed by regulation with respect to all expenses incurred and expenditures made by the Board in the exercise of any powers or duties. Every person assessed, must pay the assessed amount or the Board may suspend or cancel that firm's license;
- Fees charged under section 12.1 of the 1998 Ontario Energy Board Act (The "Act"); these fees include charges for copies of Board orders, decisions, reasons, reports, recordings, and other documents or things, including documents certified by a member of the Board or the secretary of the Board; and

[1] *Ontario Energy Board Cost Assessment Model, March 2011*, Accessed December 5, 2011.
http://www.ontarioenergyboard.ca/OEB/_Documents/Documents/Cost_Assessment_Model.pdf

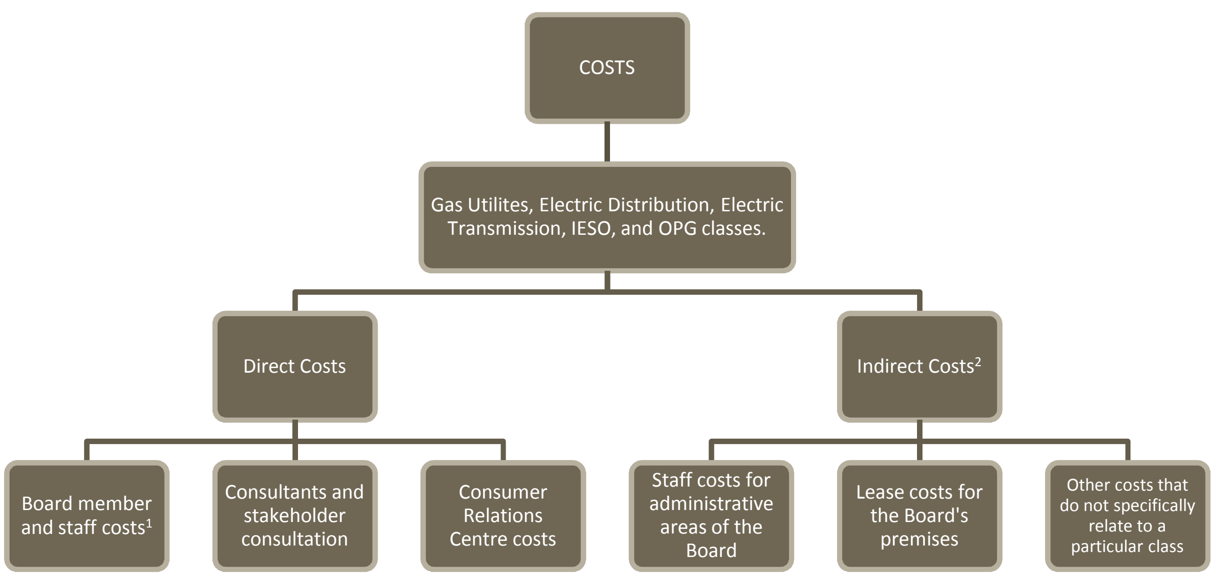
- Costs payable to the Board which are recovered under Section 30 of the Act in relation to a specific proceeding or consultation process, administrative penalties assessed against a person under section 112.5 of the Act, and income earned on investments. Section 30 outlines that the Board may order a person to pay all or part of a person's costs of participating in a proceeding before the Board, a notice and comment process, or any other consultation process initiated by the Board. Under Section 112.5, the Board may, if it feels that a person has contravened an enforceable provision, make an order requiring that the person pay an administrative penalty in the amount set out in the order for each day or part of a day on which the contravention occurred or continues.

Under the *Ontario Energy Board Act* the OEB is allowed to recover its direct and indirect costs from various payor classes. No appropriations from the provincial or federal government are provided. The Board is entirely self-funded.

2.3 *Cost Allocation Process*

The OEB cost allocation process identifies direct and indirect costs, and allocates them to each payor class. The sources of revenues are then translated into cost assessments in a manner analogous to an allocated cost of service study for a utility. Further, the OEB has determined costs that should not be recovered through assessments. These costs include License Fees, Investment Income, Other Income, and Amortization of Deferred Revenue. Figure 1 below provides a diagram of the structure of the cost assessment model.

Figure 1: The OEB Cost Assessment Methodology



[1] Board member and staff costs related to applications and regulatory audit, regulatory policy and compliance, case administration and legal staff, based on time spent on activities per payor class with the exception of electricity retailers and natural gas marketers.

[2] Indirect costs are allocated to all classes except electricity retailers and gas marketers. The Board is allocating to electricity retailers and natural gas marketers that portion of Consumer Protection costs that are attributable to those classes of licensees.

Table 2 below shows a breakdown of the OEB allocation of costs to the 8 payor class categories for the forecasted 2011/2012 budget.

Table 2: OEB Cost Allocation to Payor Classes

Total Cost ($M)	Gas Utilities	Electricity Distribution	Electricity Transmission	IESO/OPA/OPG	Electricity Retailers	Natural Gas Marketers
Direct Costs	2.92	10.67	2.09	1.34	1.15	0.79
Indirect Costs	2.77	10.11	1.99	1.28	-	-
Total Net Cost	**5.41**	**19.77**	**3.88**	**2.49**	**1.15**	**0.79**
Cost %	**16.15%**	**59.04%**	**11.59%**	**7.44%**	**3.42%**	**2.35%**

As a group, electricity retailers and natural gas marketers currently consist of less than 6% of the assessments that supports the OEB.

Direct Costs

Direct costs are costs of Board activities that can be reasonably attributed to a particular payor class. Examples of direct costs include the following:

- Staff costs related to applications and regulatory audit, regulatory policy and compliance, case administration and legal staff - allocated based upon the time spent on activities per payor class;
- Consumer Relations Centre costs, including staffing costs of the call centre and other office and admin costs – allocated based on the nature of calls received; and
- Specific project costs such as consultants and stakeholder consultation costs for studies related to a particular class and that are not recovered under section 30 of the Act.

The OEB currently apportions their 2011/2012 direct cost budget to these payors. Electric retailers and natural gas marketers are only allocated the Consumer Protection costs portion of the total direct cost category.

The OEB assesses Staff & Board Member Costs and Market Surveillance Panel costs based upon historical timesheet data on effort expended by payor class. Project Cost assessments are determined based upon historical actual project costs per payor class. Consumer Protection cost assessments are determined based upon historical call volumes per payor class.

Indirect Costs

Indirect costs are costs of Board activities that cannot be specifically attributed to a particular payor class. Examples of indirect costs include the following:

- Staff costs for administrative areas of the Board;
- Lease costs for the Board's premises; and
- Other costs that do not specifically relate to a particular class.

Indirect costs are assessed based upon the amounts assessed to payors in the direct cost category, however, electricity retailers and natural gas marketers are not included in the calculation, hence only six payor classes (gas utilities, electricity distribution, electricity transmission, IESO, OPA, and OPG) bear all the indirect costs that are incurred by the OEB. Currently, the OEB apportions their 2011/2012 indirect cost budget to these payors. Electricity retailers and natural gas marketers are not allocated any portion of the indirect costs.

Intra-class allocation

Within the electricity retailer and natural gas marketer payor classes, the total amount to be recovered from each class is apportioned to individual regulated entities within the class. The basis of intra-class allocation for each payor class is detailed below:

- Natural Gas Distribution - Apportionment within the natural gas distribution class is based on net revenues. Net revenues include distribution revenue as well as transportation of gas for other customers, storage revenue and other revenue, but exclude commodity revenue;
- Electricity Distribution - Apportionment within the electricity distribution class is based on distribution revenue;
- Electricity Transmission Apportionment within the electricity transmission class is based on transmission revenue;
- Electricity Retailers/Natural Gas Marketers – Apportionment within the electricity retailer/natural gas marketer class is based on a combination of two factors, each having equal weight (i.e. 50% each). The two factors are the total number of customers of the electricity retailer/natural gas marketer (annual average of the quarterly customers numbers) taken from the most recent annual Reporting and Record Keeping Requirements statistics and the number of complaints pertaining to the particular electricity retailer/natural gas marketer received by the Board's Consumer Relations Centre taken. This information is taken from the most recent year information for the electricity retailer/natural gas marketer; and
- There is no intra-class allocation for the IESO, OPA, or OPG as these are single entity classes.

2.4 Conclusions

The OEB cost assessment model is a cost based approach which provides full funding to the Board, with no appropriations from government. This methodology is analogous to a cost of service study used to allocate the revenue requirement of a utility.

3 Survey of the Funding of Other Regulatory Agencies

Navigant performed a survey of ten regulatory authorities in North America, Great Britain, Australia, and Ireland to ascertain how they are funded. The survey included the following regulatory agencies:

- New York Public Service Commission;
- Illinois Commerce Commission;
- Maine Public Utilities Commission;
- National Energy Board;
- Rhode Island Public Utilities Commission;
- Alberta Utilities Commission;
- Public Utilities Commission of Ohio;
- The Office of Gas and Electricity Markets (Great Britain);
- Essential Services Commission (Victoria, Australia); and
- Commission for Energy Regulation (Ireland).

Each regulator was asked a series of questions related to their funding mechanism, and the sources of this funding. The questions that were asked are summarized in Table 3 below.

Table 3: Summary of Survey Questions

Summary of Questions
Is your agency self-supporting, or are you funded in whole or in part by appropriations from the State / Federal government?
If your agency is not funded by appropriations in whole, what are the sources of funding which supports your agency?
Does your agency operate a customer call centre which processes complaints from electricity retailers/natural gas marketers?
Has the introduction of electric or natural gas open access changed the approach to which you are funded?
If costs are assessed to electricity retailers/natural gas marketers, have they suggested that the cost allocation has impaired their competiveness?

The results from the survey are summarized in Table 4 below.

Table 4: Summary of Survey Results

Regulating Entity	Funding Mechanism	Sources of Funding	Call Centre	Open Access Changed Funding	Assessments to Retailers/ Marketers Affected Competitiveness
New York Public Service Commission ("NYPSC")	Self-funded	Assessments against regulated utilities only. Customer utility bill is burdened by assessments.	Yes. Large call centre that investigates all enquiries including electricity retailers/natural gas marketers.	No	N/A
Illinois Commerce Commission ("ICC")	Appropriations in part, and self-funded	Assessments to regulated utilities and electric retailers only. Natural gas marketers avoid assessments. State appropriations as well.	Yes. However, most electricity retailer and natural gas retailer complaints are fielded by the entities themselves.	Yes	No
Maine Public Utilities Commission ("MPUC")	Self-funded	Assessments to regulated utilities only. Electricity retailers/natural gas marketers charged minimal license fees.	Yes. Fields complaints from regulated utilities only, which do not include competitive retailer/marketers.	Yes	No
National Energy Board ("NEB")	Appropriations in whole	Federal Government appropriations in full.	No	N/A	N/A
Rhode Island Public Utilities Commission ("RIPUC")	Self-funded	Assessments to regulated utilities only. Electricity retailers/natural gas marketers charged minimal license fees.	No. However, customer affairs division addresses complaints regarding regulated utilities.	No	N/A
Alberta Utilities Commission ("AUC")	Self-funded	Assessments to regulated utilities only.	No. However, customer relations group handles any customer inquiries.	No	N/A
Public Utilities Commission of Ohio ("PUCO")	Appropriations in part, and self-funded	Assessments to all utilities, including electricity retailers/natural gas marketers. Federal appropriations as well.	Yes. The call centre fields calls regarding electricity retailers and natural gas marketers.	No	No
The Office of Gas and Electricity Markets ("Ofgem")	Self-funded	Assessments to regulated utilities, however retailers/marketers assessed indirectly through pass through charges via vertically integrated transmission/distribution companies.	No. Electricity retailer/natural gas marketer complaints fielded by the entities themselves.	No	No
Essential Services Commission ("ESC")	Appropriations in part, and self-funded	Assessments to all utilities, including retailers/marketers. State Government appropriations if negative yearend balance.	Yes. Call centre fields calls regarding electricity retailers and natural gas marketers.	No	No
Commission for Energy Regulation ("CER")	Self-funded	Levies and license fees which it collects from the all electricity and natural gas market participants.	Yes. Call Centre fields calls for all customer inquiries including electricity retailers/natural gas marketers.	No	No
Ontario Energy Board ("OEB")	Self-funded	Cost based approach. Assessments made to regulated utilities, electricity retailers and gas marketers.	Yes. Call Centre fields calls for all customer inquiries including electricity retailers/natural gas marketers.	Yes	N/A

3.1 *Survey Findings*

New York State Public Services Commission

The New York State Public Service Commission ("NYPSC") is a regulatory agency whose responsibility includes oversight into public services for the State of New York. The primary mission of the NYPSC is to ensure safe, secure, and reliable access to electricity, natural gas, steam, telecommunications, and water services for New York State's residential and business customers, at just and reasonable rates.

The NYPSC's cost assessment is articulated in Section 18A of the public service law[2]. The NYPSC's budget is approved by the State legislature every year and assessments are then made for the regulated utilities (such as electricity, steam, natural gas, etc.). Regulated utilities are assessed the costs of the public service commission based on the pro-rated revenues of each entity. Prior to the start of each fiscal year, the chairman of the department estimates the total costs and expenses which will be incurred for that year. These expenses include direct and indirect costs such as the following:

- Compensation and expenses of the Commission and the Department;
- Staffing costs for officers, agents and employees;
- Retirement contributions, social security, health and dental insurance, benefits, worker's compensation, unemployment insurance and other fringe benefits;
- Operations and Maintenance expenses; and
- All other direct and indirect costs.

Electricity retailers and natural gas marketers are known as Energy Service Companies ("ESCO's") in New York State. ESCO's are not assessed or billed by the commission however their revenues are taken into account when the NYPSC assesses billings to the upstream public utility companies which supply the ESCO's. The public utility companies in turn pass through the proportioned assessment cost to the ESCO's, however the ESCO's generally directly pass through this cost to the end user customer utility bill.

The NYPSC operates a large call centre handling calls regarding complaints for regulated electric and gas utilities, as well as ESCOs. The NYPSC will investigate complaints, and take action when needed to resolve these complaints. They can induce penalties (negative revenue adjustments) if certain thresholds related to their customer service interactions are not met.

The approach to funding the NYPSC did not change with the introduction of open access competitive electricity retailers and natural gas marketers.

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[2] *Laws of New York, Public Service, Article 1*. Accessed December 6, 2011. http://public.leginfo.State.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$PBS18-A$$@TXPBS018-A+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=56193222+&TARGET=VIEW

Illinois Commerce Commission

The Illinois Commerce Commission ("ICC") is a quasi-judicial tribunal which regulates public utility services in the State of Illinois. Utilities regulated by the ICC include electricity, natural gas, telecommunications, water, and sewer. The ICC also regulates certain transportation activities, including railroad safety, towing, trucking, and household goods moving.

The ICC's funding mechanism is based upon a variety of sources, with the Gross Revenues Tax ("GRT") providing the majority of the funding, although State appropriations occur frequently. The GRT is collected from customer utility bills based upon electric kWh volume for electricity and revenues for natural gas. Neither regulated utilities, nor competitive electricity retailers and natural gas marketers are levied costs as the GRT is collected directly from end-user utility bills.

A significant difference exists between the GRT collection mechanisms for electricity and natural gas. Whereas electricity is collected based upon consumption, the GRT associated with natural gas sales is driven by revenues. The introduction of competition in natural gas markets in Illinois preceded the introduction of competition in electricity markets. The change in the GRT mechanisms which were inadvertently triggered with the introduction of competition in the natural gas market were not repeated with electric power. Therefore, a significant difference exists in the mechanisms between the two markets.

The ICC operates a call centre which primarily fields complaints from regulated utilities. Complaints regarding electricity retailers and natural gas marketers are generally handled by the individual electricity retailers and natural gas marketers call centre. If escalation is required, customer complaints to the Attorney General's Office are generally filed.

The introduction of open access has changed the approach to which the ICC is funded. Electricity and natural gas open access modified the GRT calculation with the inclusion of new electricity retail and natural gas market entities in the assessment.

Maine Public Utilities Commission

The Maine Public Utilities Commission ("MPUC") regulates the operations of electric, natural gas, telecommunications, water utilities, and water transportation for the State of Maine. The MPUC licenses Competitive Electric Providers "CEP's", oversees the retail electricity and natural gas market, and administers the competitive procurement processes for standard offer service. Standard offer service provides electricity supply for customers who do not participate in the retail market.

The MPUC is funded primarily from assessments against regulated jurisdictional utilities. CEP's and competitive natural gas marketers are not assessed any fees, although a small amount of funding is received from all entities via the Commission Reimbursement Fund for:

- Case specific filing fees;
- Fines; and,
- The Federal Government for Enforcement for Natural Gas Safety Oversight.

The assessments made to regulated jurisdictional utilities under the Regulatory Fund Assessment are based on a report and budget that the MPUC provides to the State legislature. This report details the time devoted by the MPUC staff on various tasks for regulating the electric and natural gas industries, and the amount of revenues these utilities collect. Consequently all direct and indirect costs incurred by the MPUC are recovered via this Regulatory Fund Assessment from jurisdictional utilities.

The MPUC operates a Consumer Assistance Division which assists customers with complaints against only regulated jurisdictional utilities. In general, if a complaint against a CEP involves fraud, the case will be referred to the Attorney General's Office. However, in some cases the MPUC may take action if the issue involves an electric retailer misrepresenting themselves to a customer.

National Energy Board

The National Energy Board of Canada ("NEB") is an independent federal agency established by the Parliament of Canada to regulate international and interprovincial aspects of the oil, natural gas, and electricity utility industries. The purpose of the NEB is to regulate pipelines, energy development, and trade in the Canadian public interest. These principles guide NEB staff to carry out and interpret the organization's regulatory responsibilities. The NEB does not regulate competitive electricity and natural gas transactions.

The NEB is fully funded and recovers all its direct and indirect costs via parliamentary appropriations from the Federal Government of Canada. They assess levies to the regulated industry in natural gas, pipe, and transmission electrical lines. However, all levies are then transferred to the Federal Government.

The NEB has no jurisdiction over competitive electricity and natural gas retail transactions and therefore does not operate a call centre or address complaints from electricity retailers or natural gas marketers.

Rhode Island Public Utilities Commission

The Rhode Island Public Utilities Commission ("RIPUC") is the regulator for the State of Rhode Island and Providence Plantations. The RIPUC is comprised of two distinct regulatory bodies, a three-member Commission ("Commission") and the Division of Public Utilities and Carriers ("Division"). The Commission serves as a quasi-judicial tribunal with jurisdictional powers and duties to implement and enforce the standards of conduct. The Division exercises the jurisdictional supervision, powers and duties not specifically assigned to the Commission.

The RIPUC is fully self-funded based upon a variety of sources, with assessments to regulated electric and natural gas utilities comprising the majority of their revenues. Rhode Island General Law 39.1-26 provides the RIPUC with the authority to recover its direct and indirect costs based upon the revenues collected by each regulated entity. Non-regulated electricity retailers and natural gas marketers avoid this assessment cost, however are charged minimal licensing fees. The introduction of competitive open access for electricity retailers and natural gas marketers under the *Rhode Island Utility Restructuring Act of 1996*, was a concern to the RIPUC, however no action was taken, and consequently only the minimal licensing fee is currently charged to the electricity retailers and natural gas marketers.

The RIPUC does not operate a call centre however does have a customer affairs division, which addresses complaints from customers regarding utility bills and services. Historically however, there has been no significant volume of complaints regarding electricity retailer and natural gas marketer behavior.

Alberta Utilities Commission

The Alberta Utilities Commission ("AUC") is an independent, quasi-judicial agency of the province of Alberta. It regulates the utilities sector, natural gas and electricity markets to protect social, economic and environmental interests of Alberta where competitive market forces do not. The AUC also provides regulatory oversight of issues related to the development and operation of the wholesale electricity market in Alberta as well as the retail gas and electricity markets in the province.

The AUC is self-funded based upon assessment fees from electric transmission, natural gas transmission, electric distribution, natural gas distribution, regulated electric retailers and natural gas marketers, and the Alberta Electric System Operator ("AESO"). Competitive electric retailers and natural gas marketers are not levied any of these fees as the AUC does not regulate them. However, competitive electric retailers are indirectly levied fees based upon the AESO's trading charge, which is incurred by all regulated and unregulated electric retailers when electricity is purchased or sold at the wholesale level.

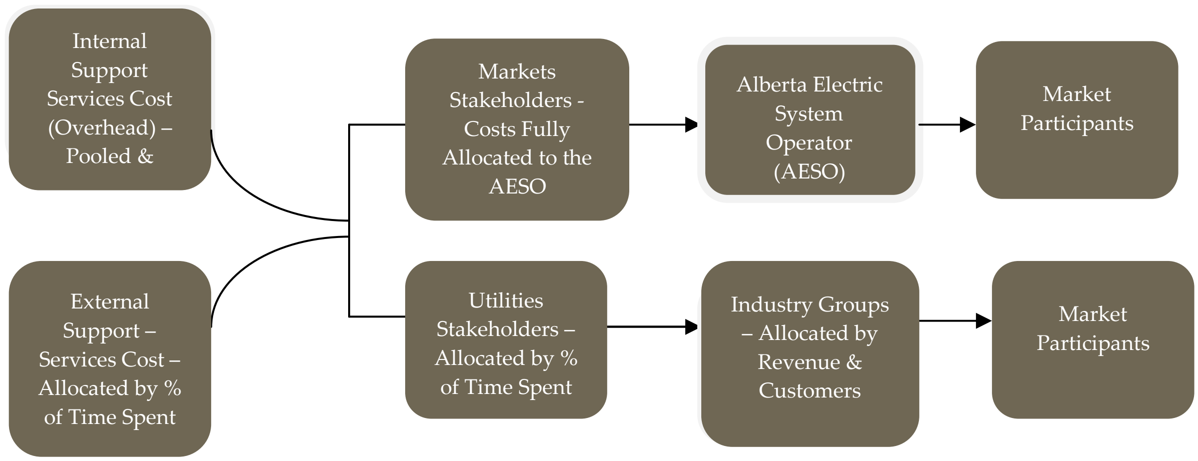
The AUC determines its assessment fees based upon the allocation of the 3 categories of its costs[3]:

- Internal Support Services;
- External Support Services; and
- External Service.

Internal Support Services represent divisions / cost centres that support the entire organization (i.e., indirect costs such as HR, IT). External Support Services represent divisions/cost centres that support the external Markets and Utilities (i.e., direct costs such as Public Affairs, Law). External Service represents divisions / cost centre's who provide the services to market participants directly (i.e., namely the Markets, Rates and Facilities divisions).

[3] Alberta Utilities Commission: Cost Allocation Model Report, April 2008, Accessed December 23, 2011.
http://www.auc.ab.ca/rule-development/administration-fee/Documents/June%2027%202008/Rule025_Report.pdf

Figure 2: AUC Cost Allocation Model Overview



The AUC performs regulation for two stakeholder categories: Markets and Utilities. The allocations of costs for these activities, and how they are consequently allocated to industry groups are shown in Figure 2 above.

Internal Support Services costs are allocated to these two stakeholder categories, Markets and Utilities, based upon the number of FTE's in each division. The External Support Services costs are allocated to these Markets and Utilities categories based upon an estimation of the percentage of time spent for each of those divisions or stakeholder categories.

The Markets stakeholder total costs are then fully allocated to the AESO since the AESO is the facilitator of the wholesale electricity market. The AESO in turn includes these AUC costs in their trading fee that they charge market participants who purchase or sell electricity at the wholesale level. Competitive electric retailers are included in this trading fee.

The Utilities stakeholder total costs are allocated to the industry groups (i.e., the regulated electric transmission, electric distribution, regulated electric retailers, natural gas transmission, natural gas distribution, regulated natural gas providers). The AESO is also responsible for planning and operating the electric transmission system, consequently, the AESO pays the assessment fees attributable to the electricity transmission entities. The AESO in turn collects the assessment fees through the tariff charges it imposes on entities that deliver electricity to end-users. The AESO transmission tariff charge takes up the majority of the Utilities stakeholder costs. The remaining Utilities stakeholder costs are charged to other industry groups by a composite allocation of Revenues (75%), and customer accounts (25%).

The AUC does not operate a call centre, although there is a customer relations group that handles any consumer inquiries. Interviews with AUC staff however indicate that they do not receive a large amount of call volume regarding electric retailers and gas marketers. Generally if a consumer has a complaint, the Utilities Consumer Advocate, or Service Alberta are approached to address these issues.

The Public Utilities Commission of Ohio

The Public Utilities Commission of Ohio ("PUCO") oversees public utility industries, including electricity, natural gas, pipelines, telephone, water, railroad, hazardous material carriers and commercial transportation carriers, including ferryboats, buses, towing companies and household goods carriers. It monitors and enforces PUCO rules and State laws against unfair, inadequate and unsafe public utility and transportation services. The PUCO also regulates and sets rates for utility delivery services.

The PUCO is fully funded through assessments to utilities, as well as through fees generated by motor carrier registrations, and federal program assistance. This includes competitive electricity retailers and natural gas marketers as the PUCO regulates intrastate transmission and distribution companies. The assessment calculation is based on all the entities that the PUCO regulates and is allocated based upon individual revenues per utility for the prior calendar year. Both direct and indirect costs are included in these assessments and therefore, competitive electricity retailers and natural gas marketers are fully assessed directly by the PUCO.

The PUCO operates a call centre that fields calls to help solve disputes with utilities, provide payment plan information, explain rules and regulations regarding utilities, and provide information on public hearings and how to participate in them. Each year, the PUCO call centre receives thousands of inquiries from customers, which include issues regarding electricity retailers and natural gas marketers. Many of these customers have a question that a representative can quickly handle, however if a closer examination is required, a PUCO investigator is assigned to look into the matter.

The Office of Gas and Electricity Markets

The Office of Gas and Electricity Markets ("Ofgem") is the independent regulator for the electricity and natural gas markets in Great Britain. Ofgem seeks to promote competition, wherever appropriate, and regulate monopoly companies which run the electric and gas networks. Ofgem is governed by an Authority consisting of executive and non-executive members whose primary duty is to protect the interests of existing and future customers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems.

In Great Britain, energy network licenses are held by the following entities (numbers in brackets indicate the amount of licenses currently held):

- Electricity Transmission (3);
- Electricity Distribution (14);
- Natural Gas Transmission (1); and
- Natural Gas Distribution (5);

Of these licensees, two of the electricity transmission licenses and four of the electricity distribution licensees operate within vertically integrated network groups who provide generation and retail business services in addition to transmission and distribution.

Ofgem is self-funded and recovers its direct and indirect costs fully from the regulated networks. The transmission system operators and distribution licensees must pay an annual license fee which is determined pro-rated based upon the number of customers connected to their network. Additionally fines will be charged to networks if there are any breaches to the license conditions, although these fines are passed to the national Treasury and not retained by Ofgem. Electricity retailers and natural gas marketers are not directly levied these license fees, however are indirectly charged through a pass through in which networks charge these electricity retailers and natural gas marketers for utilizing the networks electric and gas distribution system. Where the British Competition Commission (the appeal authority on licensing matters) incurs costs in an adjudication/hearing, it can direct Ofgem to recover these costs through an additional ad hoc license fee imposed on all licensees.

Ofgem does not directly field complaints regarding energy companies. All electricity and natural gas networks are required to have strict and thorough standards to deal proactively with complaints and enquiries from customers. If those entities do not sufficiently handle a complaint, the energy Ombudsman can investigate. The energy Ombudsman is an independent dispute resolution organization, and is not funded by Ofgem.

The Essential Services Commission (Victoria, Australia)

The Essential Services Commission ("ESC") is Victoria, Australia's independent economic regulator of essential services such as the electricity, natural gas, water and sewerage, ports, and rail freight industries. Within the energy industry, ESC's role is to manage license arrangements for the distribution and sale of electricity and natural gas in Victoria. Further, the ESC ensures compliance by licensees with conditions in codes and guidelines about service standards, and appropriate market arrangements and conduct.

The ESC is funded wholly by an appropriation from the Department of Treasury and Finance ("DTF"), however all electric and natural gas market participants are charged license fees which are directly payable to the DTF. This mechanism was put in place to address the scenario whereby license fees alone are not able to cover the operational costs of the ESC. License fees are charged retrospectively at the end of the financial year to recover the associated costs incurred by the electricity and natural gas energy staff at the ESC. These costs include direct costs such as staffing and contractor costs, as well as indirect corporate services costs such as human resources, information technology, and admin support costs. The total amount is then allocated across various electricity and natural gas entities based upon direct costs incurred by the ESC by individual project numbers, and indirect costs incurred by the ESC by relative workloads for the following sectors.

- Electric Generation;
- Electric Transmission;
- Electric Distribution;
- Natural Gas Distribution;
- Electricity Retail; and
- Natural Gas Retail.

The retail portion of the total cost is then allocated across all licensed electricity and natural gas retailers.

The ESC sets a base fee of $7,200 for all license holders, plus an additional amount that is proportional to the number of customers in each business. If the electric retailer or natural gas marketer has no customers and only holds the license, only the base fee will be charged.

The ESC has a dedicated call centre, which receives 10 to 20 calls per day from customers of electricity retailers and natural gas marketers, however call centre costs are provided free of charge to the ESC through the State Government call centre. Hence, there are no assessments for call centre costs to electricity and natural gas marketers.

Commission for Energy Regulation (Ireland)

The Commission for Energy Regulation (“CER”) is the independent body responsible for regulating the electricity and natural gas markets in Ireland. The CER protects electricity and natural gas customers by working for a safe, secure and sustainable supply of electricity and natural gas, in a competitive market which delivers reasonable prices and a good quality service.

The CER is self-funded primarily through levies which it collects from the electricity and natural gas industry participants. There are two funding mechanisms in which the CER levies the industry, these levy mechanisms were determined after consulting with industry participants in 1999 when the CER was formed. One mechanism is based upon electricity industry participants, and the other on natural gas industry participants. Electricity industry participants include generation, transmission, distribution, and supply. Natural gas industry participants include transmission, distribution, and shippers. Electricity suppliers and natural gas shippers are similar to electricity retailers and natural gas marketers in Ontario respectively. Every year, the CER sets a budget based upon their operating expenses and capital expenditures. This total amount includes all direct and indirect costs associated with the CER. The CER consequently allocates all of its expenses to the electricity and natural gas industry participants based upon the two funding mechanisms.

The electricity mechanism allocates the electricity budgeted direct and indirect costs into two fixed elements, and two variable elements. The two fixed elements each include a 25 percent allocation of the total electricity budget to the transmission and distribution industry participants. The CER regulates the transmission system operator and the transmission & distribution system owner/distribution operator. The two variable elements also each include a 25 percent allocation of the total electricity budget, however since there are numerous generators and suppliers within these segments, the allocation to each entity is based upon the forecasted megawatt-hours of electricity traded by these participants each quarter. Payments to the CER are made each quarter and the differences between the forecasted and actual are trued up at the end of the year (reconciled on a quarterly basis in arrears).

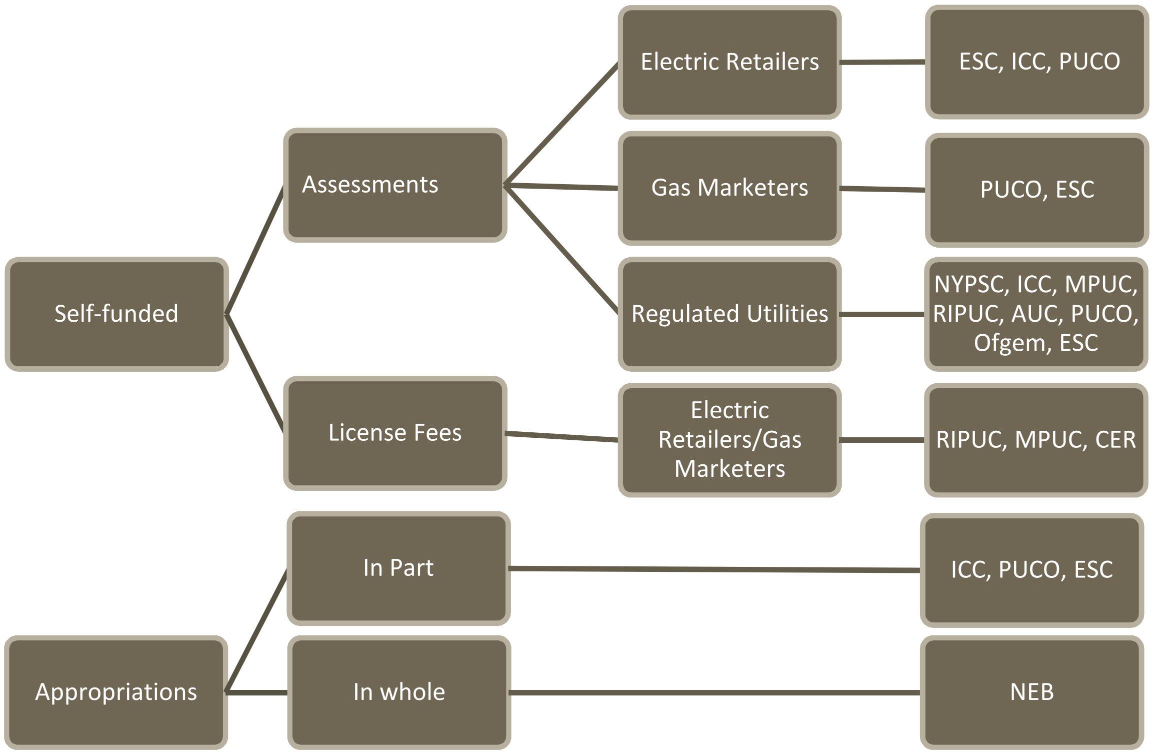
The natural gas mechanism allocates the natural gas budgeted direct and indirect costs into two fixed elements, and one variable element. The two fixed elements each include a 33 percent allocation of the total natural gas budget to the transmission and distribution industry participants. The CER regulates the transmission and distribution system operator and the transmission and distribution system owner. The one variable element also includes a 33 percent allocation of the total natural gas budget, however since there are numerous shippers within these segments, the allocation to each entity is based upon the forecasted volume of natural gas traded by these participants each quarter. Payments to the CER are made each quarter.

The CER also operates an Energy Customers Team ("ECT") which is the first point of contact for customers. The main focus for the ECT is to manage customer contacts and complaint resolution. In 2010, the ECT serviced 1,930 contacts for the energy sector in Ireland. It is important to note that half of these calls are referred back to the supplier for resolution first, and that the ECT only gets significantly involved if the supplier does not provide an initial solution. The operating costs of the ECT are included in the total direct and indirect electricity and natural gas cost budgets for the CER and are consequently allocated to industry participants.

3.2 Survey Conclusion

The mechanisms which fund the ten regulatory agencies surveyed in this study vary significantly reflecting the circumstances and customs of each jurisdiction. The funding models range from appropriations in whole to fully self-funded. The NEB is funded by appropriations in whole and does not oversee the electricity and natural gas competitive markets. This represents a form of funding that is socialized across the entire country of Canada. Just over half of the agencies surveyed are fully self-funded through either assessments or license fees. These agencies include the MPUC, NYPSC, AUC, Ofgem, CER, and RIPUC. A third form of funding mechanism employed by agencies includes both appropriations from government, and a form of self-funding. The PUCO, ICC, and ESC are examples of this type of funding mechanism. Figure 3 below summarizes the sources of funding for the agencies surveyed in our analysis.

Figure 3: Sources of Funding for Regulating Entities



3.3 *Allocation of Direct and Indirect Costs*

Of those regulators surveyed which are not funded wholly by appropriations (i.e., The NEB), all recover both direct and indirect costs through their funding mechanism. The OEB recovers only direct costs from electricity marketers and natural gas retailers through their cost assessment model. Table 5 shows whether direct or indirect costs are recovered directly by the regulator from competitive electricity retailers and natural gas marketers. For those regulators that do not assess these costs directly, they may recover them indirectly through a pass-through. This study does not quantify if this is a full pass-through to the downstream competitive electricity retailers and natural gas marketers.

Table 5: Comparison of Regulators Recovering Direct and Indirect Costs from Competitive Entities

Regulating Entity	Direct Costs Assessed to Retailers/Marketers	Indirect Costs Assessed to Retailers/Marketers	Comments
NYPSC	X	X	Costs are passed through to competitive electricity retailers/natural gas marketers via assessments to upstream public utilities. Call centre fields calls regarding both regulated default service providers and competitive electricity retailers/natural gas marketers.
ICC	X	X	Costs are recovered through a Gross Revenues Tax, direct from customer bills. Competitive electricity retailers/natural gas marketers are not assessed any fees. Call centre does not typically handle calls from competitive electricity retailers/natural gas marketers.
MPUC	X	X	Costs are assessed directly to regulated jurisdictional utilities only. Call centre does not typically handle calls from competitive electricity retailers/natural gas marketers.
NEB	N/A	N/A	The NEB does not regulate downstream electricity or natural gas utilities.
RIPUC	X	X	Costs are recovered from regulated jurisdictional utilities only. Competitive electricity retailers/natural gas marketers are not assessed, however are charged minimal licensing fees. No operational call centre.
AUC	X	X	Costs are recovered from regulated jurisdictional entities. Competitive electricity retailers/natural gas marketers are not assessed directly, however are indirectly assessed through the AESO, who passes assessment costs on to all market participants. Call centre does not typically handle calls from competitive electricity retailers/natural gas marketers.
PUCO	✓	✓	Costs are assessed directly to all market entities, including electricity retailers/natural gas marketers. Call centre handles calls from competitive electricity retailers/natural gas marketers.
Ofgem	X	X	Costs are passed through to the competitive electricity retailers/natural gas marketers via the upstream network operators. The pass through amount is determined by these upstream networks. No operational call centre.
ESC	✓	✓	Costs are assessed directly to all market entities, including electricity retailers/natural gas marketers. Call centre does handle calls from competitive electricity retailers/natural gas marketers, however this call centre is operated and funded fully by the State and hence no call centre costs are allocated to any market entities.
CER	✓	✓	Costs are assessed directly to all market entities, including electricity retailers/natural gas marketers. Call centre does handle calls from competitive electricity retailers/natural gas marketers.
OEB	✓	X	Only direct costs are assessed directly to competitive electricity retailers/natural gas marketers. Call centre does handle calls from competitive electricity retailers/natural gas marketers.

4 Impacts of the Assessments on Electricity Retailers and Natural Gas Marketers

Navigant has been requested to perform an evaluation of the impact of the Cost Assessment on the competitiveness of electricity retailers and natural gas marketers in Ontario. Specifically, the OEB wished to identify if the burden to the electricity retailers and natural gas marketers was significant.

Navigant has addressed this question performing the following analysis. First, Navigant analyzed the equity of allocating the costs to electricity retailers and natural gas marketers. Next, a comparison of the saturation of electricity retailer and natural gas marketer activity in Ontario versus other jurisdictions was prepared to determine if Ontario retail competitive energy was adversely impacted by the cost allocation. Lastly, an analysis quantifying the impact of allocating the OEB's indirect costs was determined and compared to the Global Adjustment Mechanism, which is another variable item on customer bills in Ontario.

4.1 *Equity of the Cost Allocation*

The equity issue was analyzed in order to ascertain if the OEB cost assessment unfairly disadvantaged electricity retailers and natural gas marketers. Competitive electricity retailers and natural gas marketers are generally considered a highly competitive industry with small profit margins. Therefore, the assessment of unjustified costs could potentially disadvantage these entities.

Navigant's opinion is that if the assessments are based upon cost causality, the goal of equity is served. Simply stated, the electricity retailers and natural gas marketers are being required to pay the costs which are associated with providing these services to the customers of Ontario. Inasmuch as any additional cost component will reduce profitability, or, increase the price that customers face thus reducing the competiveness of the service offering. However, if the cost is associated with providing that service, not assessing the cost to customers is tantamount to providing a subsidy.

Many of the regulatory authorities surveyed in this study do not require electricity retailers or natural gas marketers to directly support regulatory activities. Examples of these jurisdictions include the ICC, AUC, and RIPUC. A policy not requiring assessments is justified if that regulator does not provide services to the electricity retailers or natural gas marketers. Such services include support to customers with a call centre to address complaints and regulatory hearings or undertakings. These matters are otherwise typically managed by governmental agencies that address customer fraud such as the Attorney General's office, or have jurisdictional powers to address regulatory compliance.

In other cases, cost assessments are not made to electricity retailers and natural gas marketers, which reflects an apparent oversight in legislation. For example, the ICC is funded through a tax which is collected by the utility on behalf of the ICC. However, customers who procured natural gas from competitive natural gas marketers escaped this assessment since this assessment was only levied to the default natural gas service provider. In contrast, customers who received natural gas commodity from the default natural gas service provider paid a pass through assessment for the commodity on their utility bill. The State of Illinois recognized this "loophole" in the rules when the electric power industry was restructured and changed the formula to one based upon volumetric consumption of natural gas which allowed for the same level of assessment regardless of the commodity supplier (i.e., default service supplier or competitive natural gas marketer).

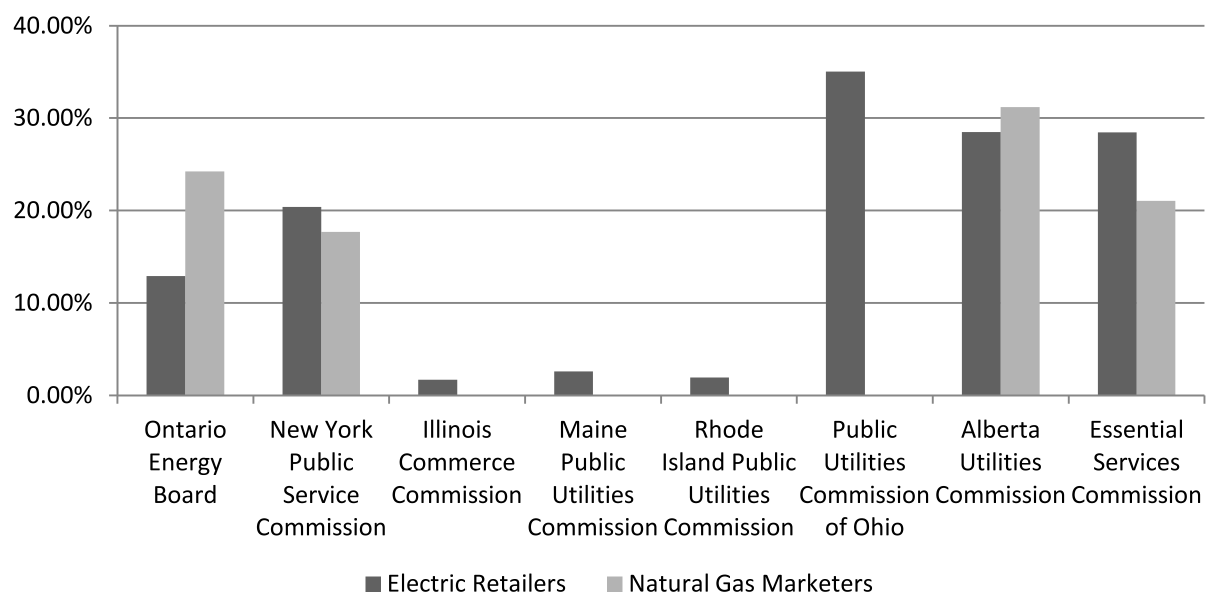
Last, an argument can be made that the cost of the regulator should be socialized to all customers. Navigant rejects this argument because socialization of the regulator's cost would remove any linkage to the level of support which the regulator provides to a specific market participant. Regulation would be perceived as a "free good" thus triggering a mis-allocation of societal resources.

It is the opinion of Navigant that the OEB CAM is equitable and superior to the approaches implemented in other jurisdictions which socialize or allow parties to avoid the regulatory costs associated with electricity retailers and natural gas marketers.

4.2 *Impact of the Assessments on Competition*

Navigant performed an analysis of the saturation rates of electricity retailers and natural gas marketers in other regulatory jurisdictions. Figure 4 below shows a comparison of these saturation rates by jurisdiction. Natural gas saturation rates were unobtainable for the ICC, MPUC, RIPUC, and the PUCO.

Figure 4: Saturation Rates of Electric Retailers and Natural Gas Marketers by Jurisdiction



Ontario's saturation rate for small customers seeking competitive electric service places them roughly in the middle of the sample. Rhode Island and Illinois have significantly lower saturations of small customers seeking service from competitive service providers. Ohio, Alberta and Victoria, Australia are regions with a greater participation rate of small customers in competitive markets. Navigant discounts the result in Ohio because of the existence of community aggregation in that jurisdiction. Community aggregation allows a large number of customers to be moved to a competitive supplier while avoiding a significant level of transaction costs. Therefore, the level of participation in competitive markets was increased through market mechanisms unrelated to regulatory assessments.

Approximately one-quarter of the low-volume customers receive their commodity from competitive suppliers of natural gas in Ontario. Only Alberta has a higher participation percentage.

4.3 *Allocation of Indirect Costs*

Most of the jurisdictions surveyed, do not address indirect costs separately in their cost recovery mechanisms. The two agencies that do make assessments for indirect costs separately include the PUCO and the ESC.

These jurisdictions have similar electric retailer and natural gas marketer saturation rates as Ontario, and are vibrant competitive markets. As long as the approach for indirect cost allocation is reasonable and cost based, then no impediment is created to the development of a competitive market.

Further, Navigant conducted an analysis to determine the impact of allocating the OEB's indirect costs to competitive electricity retailers based upon the annual billed kWh's to these entities as shown in Table 6 below. Natural gas marketers could not be included in this analysis as annual billed volumetric data is not available.

Table 6: Electric Retailers Direct and Indirect Cost Allocation Comparison[1]

Item	Direct Costs	Direct + Indirect Costs	Difference Delta
OEB Costs ($)	$1,549,216	$2,868,121	$1,318,905
Annual Billing to Retailers (kWh)	21,142,314,183	21,142,314,183	-
Cents/kWh sold to Retailers	0.0073	0.0136	0.0062

[1]These estimates are for illustrative purposes only.

As shown above, if competitive electricity retailers pass on these indirect costs to the end customer, the impact of also assessing indirect costs to competitive electricity retailers is minimal at 0.0062 cents/kWh. To put this into context, an average residential household in Ontario consuming 1,000kWh's with a contract with competitive electricity retailers would see an additional bill impact of 0.75 cents annually. Navigant's opinion is that this bill impact is insignificant, compared to other variable costs on customer bills, such as the Global Adjustment Mechanism, which has an average rate of 2.52 cents/kWh. Annually, the Global Adjustment bill impact for a typical residential customer bill consuming 1,000kWh's is equal to $302.40. Hence, it is Navigant's opinion that the assessment of indirect costs to these electricity retailers should not burden the competiveness of these entities since the assessment is a direct pass through to the end customer, and that this pass through is relatively insignificant.

4.4 Conclusion

Navigant has found no evidence that the cost assessments from the OEB are impeding the development of competitive markets for electricity retailers and natural gas marketers in Ontario. The cost assessment process is reasonable and follows transparent rules which are cost-based. Furthermore, the province is experiencing reasonable saturation rates of customers using competitive suppliers for both electricity and natural gas.