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BY E-MAIL AND WEB POSTING

October 5, 2009

To: All Participants in Consultation Process EB-2009-0084

**Re: Consultation on Cost of Capital – Final Written Comments
Board File No.: EB-2009-0084**

On June 18, 2009, the Ontario Energy Board (the “Board”) issued a letter announcing a review of its policy regarding the cost of capital. The Board set an issues list to form the basis of its review. This issues list was posted on the Board’s web site on July 30, 2009. Interested stakeholders were invited to file written comments identifying their views and positions on the listed issues by September 8, 2009.

The purpose of these consultations is to obtain further information in three key areas:

- the potential need to adjust the established cost of capital methodology, based on the ERP approach, to adapt to changes in financial market and economic conditions;
- to determine the reasonableness of the results based on a formulaic approach for setting the cost of capital; and
- to guide the Board’s discretion to adjust those result, if appropriate.

The Board is holding a stakeholder conference to provide a forum for discussion on the issues identified by the Board. The first two days of the conference were September 21, and 22, 2009. The conference will continue on October 6, 2009.

Final Written Comments

Subsequent to the stakeholder conference, and in light of the presentations made by participants and discussions at that conference, participants are invited to provide final written comments to the Board. While participants may prepare their written comments as they determine appropriate, it is not necessary that participants reiterate positions already expressed in earlier materials. **Written comments must be filed with Board Secretary by October 26, 2009, as set out below.** Commensurate with the amount of material that has been presented for review and analysis, the Board has determined that cost awards will be available to eligible participants and their experts for up to 40 hours each to

prepare their final written comments. To clarify, an eligible participant that has retained an expert is eligible for up to 80 hours to prepare their final written comments, and an eligible participant that has not retained an expert is eligible for up to 40 hours to prepare their final written comments. **Information on cost awards in relation to consultations to date is contained in Attachment A.**

Next Steps

As indicated in June when this review was announced, the Board anticipates that any changes to the policy made as a result of this review will apply to the setting of rates for the 2010 rate year.

Therefore, following receipt of final written comments, the Board will review all of the materials, including the stakeholder conference transcripts and all of the written comments in making its determination. The Board aims to issue its report in December.

Instructions on Filing Material with the Board

All filings in relation to this consultation must quote file number **EB-2009-0084** and include your name, address, telephone number and, where available, an e-mail address and fax number. Three paper copies and one electronic copy of each filing must be provided. Paper copies are to be addressed to the Board Secretary at the Board's mailing address set out above. The electronic copy must be in searchable/unrestricted PDF format, be submitted through the Board's web portal at www.errr.oeb.gov.on.ca and conform to the document naming conventions and document submission standards outlined in the RESS e-Filing Guides (available on the Board's website at www.oeb.gov.on.ca on the e-Filing Services web page). A user ID is required for filings through the web portal. If you do not have a user ID, please visit the Board's web site on the e-Filings Services web page and fill out a user ID password request. If the web portal is not available, the electronic copy may be submitted by e-mail to BoardSec@oeb.gov.on.ca. Participants that do not have internet access may file their electronic copy on diskette or CD.

If you have any questions regarding this consultation, please contact Lisa Brickenden at 416-440-8113, or e-mail EDR@oeb.gov.on.ca. The Board's toll-free number is 1-888-632-6273, and the Market Operations Hotline is 416-440-7604.

Yours truly,

John Pickernell
Assistant Board Secretary

Attachments: A – Cost Award Information

Attachment A: Cost Award Information

As noted in the Board’s March 16th letter, cost awards will be available to eligible persons under section 30 of the *Ontario Energy Board Act, 1998* for their participation in this consultation. In light of the Board’s determination as set out in its June 18, 2009 letter to proceed with a review of its policy regarding the cost of capital, the Board has determined that the recovery of the costs awarded will be apportioned based on respective distribution or transmission revenues as follows: 1/3 of the costs awarded will be recovered from all rate-regulated licensed electricity distributors; 1/3 of the costs awarded will be recovered from all gas distributors; and 1/3 of the costs awarded will be recovered from all rate-regulated licensed electricity transmitters. The rates of licensed transmitter Cat Lake Power Utility Ltd. and the rates of licensed distributors Cornwall Street Lighting and Power Company Limited and Dubreuil Forest Products Ltd. are not currently fixed or approved by the Board, and cost awards will not be recovered from these three companies.

Activities Eligible for Cost Awards

The Board has determined that cost awards will be available to eligible participants as follows.

Activity Eligible for Cost Awards	Total Eligible Hours per Eligible Participant
<p><u>For eligible participant:</u></p> <ul style="list-style-type: none"> • Written comments addressing the issues identified by the Board; • Review written comments filed with the Board prior to the September 21, 2009 stakeholder conference; and • Preparation for, attendance at, and reporting on the stakeholder conference held during the week of September 21, 2009 (up to 12 hours per day). • Final written comment. 	<p>Up to 15 hours</p> <p>Up to 15 hours</p> <p>Up to 60 hours</p> <p>Up to 40 hours</p>
<p><u>For expert retained by an eligible participant:</u></p> <ul style="list-style-type: none"> • Expert advice to eligible participant; and • Participation at stakeholder conference (up to 12 hours per day). • Final written comment. 	<p>Up to 40 hours</p> <p>Up to 60 hours</p> <p>Up to 40 hours</p>
<p><u>For expert retained by a collaborative:</u></p> <ul style="list-style-type: none"> • Expert advice to eligible participant; and • Participation at stakeholder conference (up to 12 hours per day). • Final written comment. 	<p>Up to 40 hours + (20 hours * number of <u>additional</u> members in a collaborative))</p> <p>Up to 60 hours</p> <p>Up to 40 hours</p>

Groups representing the same interests or class of persons are expected to make every effort to communicate and co-ordinate their participation in this process.

Cost Awards

When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

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

For more information on the cost awards process, please see the Board's *Practice Direction on Cost Awards* and the October 27, 2005 letter regarding the rationale for the Board acting as a clearing house for the cost award payments. These documents can be found on the Board's website at

<http://www.oeb.gov.on.ca/OEB/Industry+Relations/Rules+Codes+Guidelines+and+Forms/Rules+Codes+Guidelines+and+Forms+-+Regulatory#general>.