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## **BY E-MAIL AND WEB POSTING**

November 8, 2011

**To:** All Participants in Consultations EB-2010-0377, EB-2010-0378, EB-2010-0379, EB-2011-0043 and EB-2011-0004  
All Licensed Electricity Transmitters and Distributors  
All Other Interested Stakeholders

**Re: Renewed Regulatory Framework for Electricity Board Staff Discussion Papers, Consultants' Reports and Stakeholder Consultation Process**  
**Board File Nos.: EB-2010-0377, EB-2010-0378, EB-2010-0379, EB-2011-0043 and EB-2011-0004**

On December 17, 2010, the Ontario Energy Board (the "Board") initiated a coordinated consultation process for the development of a renewed regulatory framework for electricity distributors and transmitters ("RRFE"). Today the Board released five staff discussion papers and supporting consultant reports which are available on the Board's web site at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). The purpose of this letter is to provide further details on the consultation process.

The Board's objective for the RRFE is to encourage and facilitate greater efficiency through a focus on performance-based outcomes and a disciplined, long-term approach to network investment planning. This will help to ensure the reliable and cost-effective delivery of electricity to Ontario consumers. The context for the RRFE is further explained in Attachment A to this letter – "A Renewed Regulatory Framework".

The staff discussion papers being released today address five inter-related policy initiatives which support RRFE development. The issuance of the papers and the consultation process set out below are intended to initiate a dialogue with stakeholders. The staff discussion papers are entitled:

- Distribution Network Investment Planning (EB-2010-0377);
- Regulatory Framework for Regional Planning for Electricity Infrastructure (EB-2011-0043);

- Establishment, Implementation and Promotion of a Smart Grid in Ontario (EB-2011-0004);
- Approaches to Mitigation for Electricity Transmitters and Distributors (EB-2010-0378); and
- Defining and Measuring the Performance of Electricity Transmitters and Distributors (EB-2010-0379).

The Board has also posted on its web site three reports prepared by Board staff's expert consultants. The consultants' reports provide supporting research and expert advice in relation to the staff discussion papers as identified below:

- a report and a spread sheet model prepared by Power Advisory LLC, entitled "Report on a Methodology to Estimate the Bill Impacts of Electricity Distributor Network Investment Plans" and "Bill Impact Model for Incremental Investments", respectively, in relation to the Distribution Network Investment Planning (EB-2010-0377) initiative;
- a report prepared by Navigant Consulting Ltd., entitled "Transmission and Distribution Rate Mitigation Measures for Ontario", in relation to the Approaches to Mitigation (EB-2010-0378) initiative; and
- a report prepared by Dr. Lawrence Kaufmann and Pacific Economics Group Research, entitled "Defining, Measuring and Evaluating the Performance of Ontario Electricity Networks: A concept paper", in relation to the Defining and Measuring Performance of Electricity Distributors and Transmitters (EB-2010-0379) initiative.

### **The Coordinated Consultation Process**

Next steps in the coordinated consultation process will include a staff Information Session, a Stakeholder Conference and provision for written comment. Details are set out below.

#### Staff Information Session

Staff will hold a two-day Information Session commencing on **December 8, 2011**. This session will be held at the Board's offices and will be broadcast over the web to allow remote participation. It will not be transcribed. The session is intended to be an informal question and answer session to give participants an opportunity to ask staff and staff's experts clarifying questions to better understand the documents issued with this letter. This informal session will help better inform participants leading up to a Stakeholder Conference planned in February, 2012. Details regarding participation in the Information Session will be issued shortly.

Stakeholders that intend to participate in the Information Session are asked to email notice of their intention to [RRF@ontarioenergyboard.ca](mailto:RRF@ontarioenergyboard.ca) by **November 21, 2011** including in the subject line "Information Session Attendance". Participants are asked to indicate in their email whether they intend to attend in person or by web.

### February, 2012 Stakeholder Conference

The Board will hold a Stakeholder Conference in February, 2012 to facilitate a dialogue with stakeholders on the development of the RRFE. Further details regarding the conference will be provided by the Board at a later date.

### Written Comments

Following the conclusion of the Stakeholder Conference, participants will be invited to provide written comments on issues identified by the Board, and on the presentations and discussions at the conference.

### Next Steps

Following receipt of the written comments, the Board will issue further information regarding the next steps in the development of the RRFE.

### **Cost Awards**

Cost awards will be available to eligible participants in relation to the consultation activities described in this letter. The Board will also allow eligible participants to seek eligibility to claim the costs of an expert to prepare a separate expert report for the Board in this coordinated consultation. **Important information regarding cost awards is set out in Attachment B.** Filings to the Board in relation to cost awards must be made in accordance with the filing instructions set out below.

### **Filing Instructions**

Two (2) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto, Ontario M4P 1E4

The Board requests that interested stakeholders make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca). A user ID is required to submit documents through the Board's web portal. If you do not

have a user ID, please visit the “e-filings services” webpage on the Board’s website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca), and fill out a user ID password request. Additionally, interested stakeholders are requested to follow the document naming conventions and document submission standards outlined in the document entitled “RESS Document Preparation – A Quick Guide” also found on the e-filing services webpage. If the Board’s web portal is not available, electronic copies of filings may be filed by e-mail at [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca).

Those that do not have internet access should provide a CD or diskette containing their filing in PDF format.

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote the applicable file number(s) (**EB-2010-0377**, **EB-2010-0378**, **EB-2010-0379**, **EB-2011-0043** and/or **EB-2011-0004**) and include your name, address, telephone number and, where available, your e-mail address and fax number.

All written comments, requests for cost award eligibility and other filings received by the Board in relation to the initiatives described in this letter will be available for viewing at the Board's offices and will be placed on the Board's website.

If the written comment, request for cost award eligibility or other filing is from a private citizen (i.e., not a lawyer representing a client, not a consultant representing a client or organization, not an individual in an organization that represents the interests of consumers or other groups, and not an individual from a regulated entity), before making the written comment, request or other filing available for viewing at the Board's offices or placing the written comment, request or other filing on the Board's website, the Board will remove any personal (i.e., not business) contact information from the written comment, request or other filing (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the written comment, cost award eligibility request or other filing will be available for viewing at the Board's offices and will be placed on the Board's website.

If you have any questions regarding the consultation process, please contact Board staff by e-mail at [RRF@ontarioenergyboard.ca](mailto:RRF@ontarioenergyboard.ca).

The Board’s toll free number is 1-888-632-6273, and the Market Operations Hotline is 416-440-7604.

Yours truly,

*Original Signed by*

E. Kirsten Walli  
Board Secretary

Attachment A – A Renewed Regulatory Framework  
Attachment B – Cost Awards

## **ATTACHMENT A**

To Letter Dated November 8, 2011

### **A Renewed Regulatory Framework**

Energy policy in Ontario has undergone considerable change in recent years. Environmental goals have become increasingly important in energy policy and regulation. The *Green Energy and Green Economy Act, 2009* establishes important responsibilities for the Board and other entities in achieving the objectives of conservation, promotion of renewable generation, and technological innovation through the smart grid.

Recent applications filed with the Board indicate that significant levels of investment in transmission and distribution networks may be needed over the next few years for the renewal of assets to maintain appropriate service levels and system reliability and to connect new generation.

Specifically, investment is underway for the renewal of assets to maintain appropriate service levels and system reliability, for the continued deployment of smart meters and implementation of time-of-use pricing, and for the achievement of conservation and demand-management targets.

System investments, together with new investment in generation, have understandably led to an increased focus on the total cost to consumers. How best to manage these costs is perhaps the main challenge for the entire sector. As indicated in the letter issued by the Board on October 27, 2010 (the October 27<sup>th</sup> Letter), the Board's authority with respect to new generation costs is limited. While the "delivery" component of an electricity bill, which includes the transmission and distribution costs that are regulated by the Board, may comprise less than half of the total bill to consumers, this does not diminish the need for ensuring that the total cost to consumers is managed

The current regulatory framework for the electricity distribution and transmission sectors has been in place since 2001. Given the challenges outlined above, it is appropriate at this time to consider how existing regulatory approaches and tools may need to be adapted to ensure that public policy goals are met in a cost effective manner

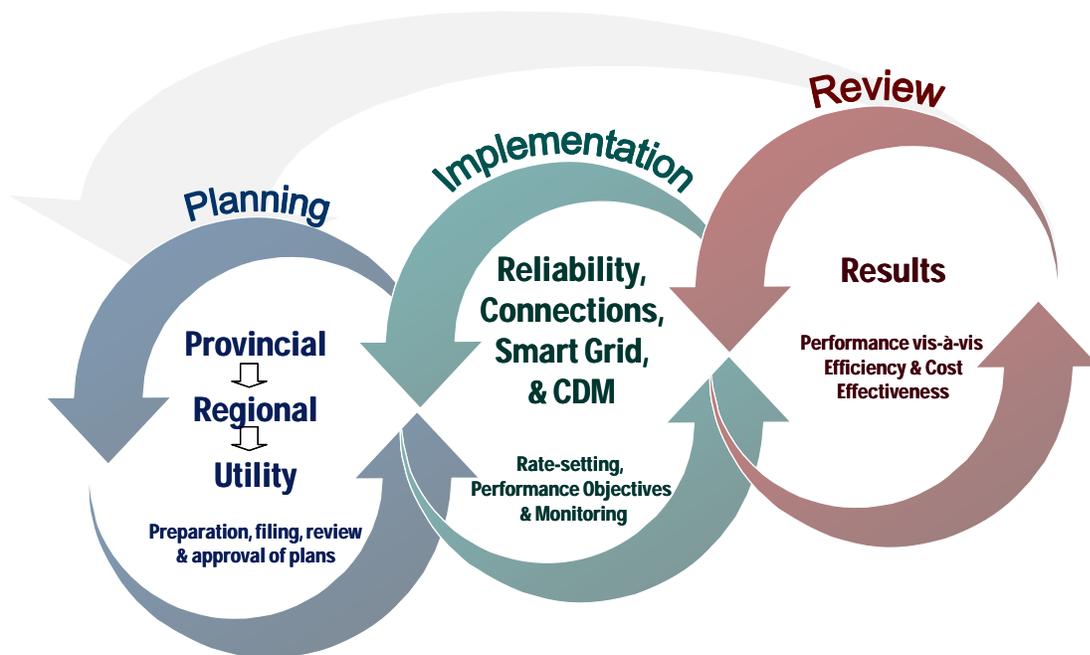
#### ***Objectives for the Renewed Regulatory Framework***

The Board oversees the Province's electricity sector through effective, fair and transparent regulation to promote a viable, sustainable and efficient sector that serves the public interest and assists consumers to obtain reliable electricity services at reasonable cost. The Board is guided in all of its work by a set of statutory objectives. In terms of the electricity sector, those objectives are set out in section 1 of the *Ontario Energy Board Act, 1998* (the "Act").

This consultation process will lead to the formulation of Board policies in relation to network planning, rate mitigation and network utility performance. As set out by the Board in the October 27<sup>th</sup> Letter, an overarching objective for the development of a renewed regulatory framework is to ensure that transmitters and distributors are encouraged to manage the prioritization and pace of network investments having regard to the total bill impact on consumers. Such prioritization and pacing will both facilitate the recovery of costs by utilities and control rate and/or bill impacts on consumers. In this way, the Board seeks to further align the interests of utilities and consumers.

The Board envisions that the renewed regulatory framework will lead to a more outcome-based approach to regulation of the sector, supported by clearly defined objectives and responsibilities.

### ***A Life-Cycle Approach to the Regulatory Framework***



**Figure 1:** Developing a Renewed Regulatory Framework

This diagram shows how regulatory policies involving planning, implementation and the review of utility performance are inter-related and inter-dependent.

Planning, implementation, and review cycles and/or processes are common in business and generally constitute a life-cycle approach to management and analysis. A life-cycle view can be a useful tool throughout these consultations. Such an approach can facilitate discussions with stakeholders on potential outcome-based approaches to encourage transmitters and distributors to control costs *ex ante* and thereby reduce the need to mitigate rate and/or bill increases *ex post*. When developing inter-related policies, a life-cycle view should also help maintain awareness of the “big picture” of

how individual parts of the greater whole relate to each other and thus may help to identify inter-dependencies and co-dependencies.

### ***Guiding Concepts***

In order to achieve the desired outcomes and vision for the sector, the renewed regulatory framework should be designed as far as possible on the basis of the following guiding concepts:

- The pursuit of economic efficiency;
- Maintenance of an appropriate level of reliability and quality of service for the benefit of current and future consumers;
- Consideration of the timing and pattern of expenditures and the corresponding recovery of the associated costs so as to help manage rate and/or bill impacts; and
- Continued opportunity to earn a fair return on capital and to increase earnings in circumstances where performance exceeds established standards.

The framework should be predictable and understood by stakeholders, and capable of being implemented through efficient and effective regulatory processes.

### ***Five Core Initiatives***

The five initiatives at the core of the development and implementation of a renewed regulatory framework in electricity distribution and transmission sectors are intended to:

- ensure that distributor investment plans are economically efficient and cost-effective, and paced so as to match required expenditures with fair and reasonable rate adjustments and predictable changes to the elements of customer bills affected by the plans (EB-2010-0377);
- ensure that individual utility plans are optimal from a regional perspective and that, in developing network plans, distributors and transmitters seek to coordinate and employ the best solution for meeting new demands on the electricity system (EB 2011-0043);

- ensure that the development and implementation of a smart grid within Ontario achieves the objectives set out in the Minister's Directive, meets consumers demands, and does so in a cost effective manner (EB-2011-0004);
- provide utilities and the Board with a range of approaches and supporting tools to help mitigate the effects of any unavoidable and significant rate and bill impacts (EB-2010-0378); and
- create conditions which will foster the cost-effective and efficient implementation of Board-approved network investment plans by transmitters and distributors through the establishment of appropriate standards for performance and efficiency, the provision of appropriate incentives, and the review of utility performance (EB-2010-0379).

**Attachment B**  
To Letter Dated November 8, 2011

**Cost Awards**

Cost awards will be available under section 30 of the *Ontario Energy Board Act, 1998* in accordance with this letter.

**Cost Award Eligibility**

The Board, in various decisions as noted below, determined that the following participants that had applied to the Board for cost award eligibility status prior to the issuance of this letter in each of the five initiatives are eligible for cost awards (the “eligible participants”). The **eligible participants** are identified below by the symbol “✓” under the respective initiative. The **ineligible participants** are identified below by the symbol “✗” under the respective initiative. Finally, a blank space connotes that the participant did not request cost eligibility.

**Table 1:** Summary of Participants in Each Initiative

Participant	EB-2010-0377 <sup>1</sup>	EB-2010-0378 <sup>2</sup>	EB-2010-0379 <sup>3</sup>	EB-2011-0043 <sup>4</sup>	EB-2011-0004 <sup>5</sup>
1 Association of Major Power Consumers in Ontario (AMPCO)	✓	✓	✓	✓	✓
2 Association of Power Producers of Ontario (APPrO)	✓		✓	✓	
3 Building Owners and Managers Association of the Greater Toronto Area (BOMA)					✓
4 Canadian Energy Efficiency Alliance (CEEAA)	✗	✗	✗		
5 Canadian Federation of Independent Business (CFIB)	✓	✓	✓		
6 Canadian Manufacturers & Exporters (CME)	✓	✓	✓	✓	
7 City of Thunder Bay (Thunder Bay)				✗	
8 Consumers Council of Canada (CCC)	✓	✓	✓	✓	
9 Council of Canadians (CoC)	✓	✓	✓		

<sup>1</sup> EB-2010-0377, EB-2010-0378, EB-2010-0379 February 1, 2011 Decision on Cost Eligibility and May 16, 2011 Supplemental Decision on Cost Eligibility.

<sup>2</sup> *ibid.*

<sup>3</sup> *ibid.*

<sup>4</sup> EB-2011-0043 May 4, 2011 Decision on Cost Eligibility.

<sup>5</sup> EB-2011-0004: April 4, 2011 Decision on Cost Eligibility and April 8, 2011 Supplemental Decision on Cost Eligibility.

Participant		EB-2010-0377 <sup>1</sup>	EB-2010-0378 <sup>2</sup>	EB-2010-0379 <sup>3</sup>	EB-2011-0043 <sup>4</sup>	EB-2011-0004 <sup>5</sup>
10	Electrical Contractors Association of Ontario (ECAO)	✓	x	✓		
11	Energy Probe Research Foundation (EPRF)	✓	✓	✓	✓	
12	Federation of Rental-housing Providers of Ontario (FRPO)	✓	✓	✓		
13	Kinectrics					x
14	London Property Management Association (LPMA)	✓	✓	✓	✓	✓
15	Low-Income Energy Network (LIEN)	✓	✓	✓		
16	National Chief's Office (NCO)	✓	✓	✓	✓	
17	Nishnawbe Aski Nation (NAN)				✓	
18	Northwestern Ontario Associated Chambers of Commerce (NOACC) <sup>6</sup>				✓	
19	Northwestern Ontario Municipal Association (NOMA)				x	
20	Ontario Sustainable Energy Association (OSEA)	✓	✓	✓	✓	✓
21	Pollution Probe				✓	
22	REGEN Energy					x
23	School Energy Coalition (SEC)	✓	✓	✓		
24	Town of Atikokan (Atikokan)				x	
25	Vulnerable Energy Consumers Coalition (VECC)	✓	✓	✓	✓	
<b>Number of Participants in Each Initiative as of November 8, 2011</b>		<b>16</b>	<b>15</b>	<b>16</b>	<b>15</b>	<b>6</b>

### New Requests for Cost Eligibility

The Board determines eligibility for costs in accordance with its *Practice Direction on Cost Awards*.

**A participant that has not yet applied for cost eligibility status in an initiative may do so by filing** with the Board a written submission requesting eligibility in accordance

<sup>6</sup> NOACC's cost award eligibility is limited to participation that is focused on the interests of small commercial or business consumers in their capacity as ratepayers and not in relation to the broader business interests of this class of consumers in terms of matters such as regional economic development.

with the filing instructions set out in the attached letter. The submission must be received by the Board by **November 14, 2011**. It must identify the policy initiative(s) in respect of which the participant is requesting cost eligibility, the nature of the participant's interest in the initiative(s) so identified and the grounds on which the participant believes that it is eligible for an award of costs (addressing the Board's cost eligibility criteria as set out in section 3 of the Board's *Practice Direction on Cost Awards*). An explanation of any other funding to which the participant has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the participant intends to retain.

All requests for cost eligibility will be posted on the Board's website. Licensed electricity distributors and transmitters will be provided with an opportunity to object to any of these November 14, 2011 requests for cost award eligibility. If an electricity distributor or transmitter has any objections to any of the requests for cost eligibility, such objections must be filed with the Board by **November 21, 2011**. Any objections will be posted on the Board's website. The Board will then make a final determination on the cost eligibility of the requesting participants.

### **New Provision for Experts**

Eligible participants may now seek eligibility to claim the costs of an expert in preparing a separate expert report for consideration by the Board in this coordinated consultation. The Board strongly encourages participants to coordinate regarding the preparation of any such separate legal reports. In this regard, please note:

- i. An eligible participant (or group of eligible participants) that plans to retain an expert should advise the Board by letter by **November 14, 2011** in accordance with the filing instructions set out in the attached letter.
- ii. The letter submitted by the requesting participant(s) must:
  - a) identify the policy initiative(s) for which the expert is being retained;
  - b) provide the name and the credentials of the expert demonstrating relevant subject-matter expertise and special knowledge or experience relevant to the initiative(s) in question; and
  - c) advise if the expert will also attend meetings (the attendance of experts at meetings will be permitted by the Board, within reason).
- iii. Based on the foregoing information, the Board will make a determination on the eligibility of the participant (or group of participants) to claim the costs of the proposed expert in this coordinated consultation.

**Activities Eligible for Cost Awards**

Cost awards will be available to each eligible participant as follows. Important clarifications are provided following the table.

Activity Eligible for Cost Awards	Maximum Number of Hours
<u>For each eligible participant:</u> <ul style="list-style-type: none"> <li>• Review of staff's discussion papers and staff's consultants' reports prior to the Information Session</li> </ul>	50 hours
<ul style="list-style-type: none"> <li>• Participation at the Information Session (up to 2 days)</li> </ul>	10 hours per day
<ul style="list-style-type: none"> <li>• Preparation for, attendance at, and reporting on a Stakeholder Conference</li> </ul>	TBD
<ul style="list-style-type: none"> <li>• Written comments</li> </ul>	TBD <u>per EB number</u>
<u>For each expert retained by an eligible participant:</u>	
<ul style="list-style-type: none"> <li>• Participation at the Information Session (up to 2 days)</li> </ul>	10 hours per day
<ul style="list-style-type: none"> <li>• Preparation of separate expert report</li> </ul>	40 hours <u>per EB number</u>
<ul style="list-style-type: none"> <li>• Preparation for, attendance at, and reporting on the Stakeholder Conference</li> </ul>	TBD
<u>For each expert retained by a collaborative (i.e. group of eligible participants):</u>	
<ul style="list-style-type: none"> <li>• Participation at the Information Session (up to 2 days)</li> </ul>	10 hours per day
<ul style="list-style-type: none"> <li>• Preparation of separate expert report</li> </ul>	40 hours + (20 hours * number of <u>additional</u> members in a collaborative) <u>per EB number</u>
<ul style="list-style-type: none"> <li>• Preparation for, attendance at, and reporting on the Stakeholder Conference.</li> </ul>	TBD

Eligible participants that submit both written comments and an expert report must ensure that they do not claim cost awards twice for the same underlying work.

Cost Awards for Jointly Sponsored Expert Reports

The Board encourages eligible participants with common viewpoints to collaborate. The Board believes that eligible groups should have flexibility to budget potential cost awards as needed to best assist the Board throughout this consultation. As such, costs should be pooled when groups with common viewpoints collaborate and pool their resources.

To recognize that time will be spent developing a shared understanding of the positions among multiple participants in a collaborative, the Board will, as indicated in the table above, allow for an additional 20 hours for the expert to prepare the expert report for each additional member in a collaborative. For example, if an expert is sponsored by three eligible participants, then the Board will provide for up to 80 hours (40 hours + (20 hours \* 2)) for the expert retained by the collaborative.

## Cost Awards for Participation at the Information Session and the Stakeholder Conference

With regard to the Information Session and the Stakeholder Conference, the Board clarifies that the “maximum eligible hours” applies to each eligible participant and each expert. For example, an eligible participant that makes an expert available for the Stakeholder Conference will be eligible for cost awards for up to 20 hours per day (up to 10 hours per day for each of the eligible participant and the expert). In the example of a collaborative outlined above, this would mean up to 10 hours per day for each of the three eligible participants in the collaborative, plus up to 10 hours per day for the expert.

### **Cost Awards by EB Number**

Eligible participants will be required to provide a breakdown of their claims by EB number because costs will be recovered as follows:

- **Integrated consultation activities** (i.e., the Information Session and the Stakeholder Conference which will address all initiatives): costs will be recovered from all rate-regulated licensed electricity distributors (65% of the costs awarded) and all rate-regulated licensed transmitters (35% of the costs awarded).
- **Activities specific to an initiative** (i.e., expert reports and written comments): costs will be recovered as follows:
  - EB-2010-0377 from all rate-regulated licensed electricity distributors; and
  - EB-2010-0378, EB-2010-0379, EB-2011-0043 and EB-2011-0004 from all rate-regulated licensed electricity distributors (50% of the costs awarded) and all rate-regulated licensed transmitters (50% of the costs awarded).