

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
2300, rue Yonge
27^e étage
Toronto ON M4P 1E4
Téléphone: 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



VIA E-MAIL AND WEB POSTING

May 14, 2015

**To: All Rate Regulated Electricity Transmitters
All Rate Regulated Electricity Distributors
All Gas Distributors
Ontario Power Generation Inc.
All Other Interested Parties**

**Re: Consultation on the Regulatory Treatment of Pensions and
Other Post-Employment Benefit Costs
Board File Number EB-2015-0040**

The Ontario Energy Board (OEB) is beginning a consultation on rate-regulated utility pensions and other post-employment benefits (OPEBs) in the electricity and natural gas sectors. The purpose of this letter is to describe the initial steps in the consultation process and to invite submissions on an initial set of questions.

Historically, the OEB has addressed pension and OPEB issues on a case-by-case basis. The objectives of the consultation are to develop standard principles to guide the OEB's review of pension and OPEB costs in the future, to establish specific information requirements for applications that will be incremental to current filing requirements, and to establish appropriate regulatory mechanisms for cost recovery which can be applied consistently across the gas and electricity sectors for rate-regulated entities. In conducting this consultation, the OEB will also take into consideration the Government of Ontario's ongoing review of pensions and any actions which arise from that initiative that may overlap with the OEB's consultation.

The Consultation Process

The consultation will begin with initial written submissions:

- **Initial Written Submissions:** The OEB has developed a list of questions which are designed to elicit initial views on some of the key issues of interest to the OEB. Those questions are set out in this consultation letter. Submissions on these questions are due by **June 26, 2015**.

The OEB has retained KPMG to provide assistance to the OEB on technical issues with respect to pensions and OPEBs.

Stakeholders are required to register their interest in this consultation in order to continue receiving information about the process. The OEB will make provision for cost awards, and further information on the cost eligibility process is set out in Appendix A.

How to Participate

The OEB encourages participation in this consultation by all interested parties. Those interested in participating in stakeholder consultation activities should indicate their intent by letter addressed to the Board Secretary no later than **May 21, 2015**.

Initial Submissions

For the initial round of submissions, the OEB would like to focus stakeholder attention on a number of issues which are of interest to the OEB. Some of these issues have arisen in recent rate proceedings, including Enbridge Gas Distribution (EB-2012-0459), Ontario Power Generation (EB-2013-0321) and Hydro One Distribution (EB-2013-0416); they are also issues which other regulators have been considering.

The OEB has developed a list of questions to elicit initial views on these issues, and which are organized into three areas: general principles, information requirements, and accounting and recovery in rates. Stakeholders are welcome to supplement their submissions with views on other issues which they believe warrant the OEB's attention at this time.

General Principles

1. What principles should the OEB adopt in addressing pension and OPEB issues? Potential principles include: consistency across the gas and electricity sectors; intergenerational equity; financial protection for future ratepayers; ensuring the most efficient level of costs for ratepayers; stable cost levels; pension costs which are comparable as measured by other benchmarks, etc.
2. Are there other types of costs previously considered by the OEB that provide suitable analogies for the consideration of pension and OPEB issues? (for example: deferred taxes; asset retirement obligations; site restoration costs)

Information Requirements

3. Should the applicants be required to compare their pension and OPEB costs to industry norms and/or other benchmarks? (Note: It is the OEB's expectation that

the next phase of the consultation will consider the development of a complete set of new or incremental information that should be filed in applications seeking cost recovery for pensions and OPEBs).

4. What other relevant information should the Board evaluate in order to effectively assess the pension and OPEB costs that a rate-regulated entity is seeking to be included in the rates charged to customers?

Accounting and Recovery in Rates

5. a) Should the OEB establish accounting and recovery methods for both the electricity and gas sectors?
 - b) What criteria should be considered to determine the appropriate approach?
 - c) If one method is adopted, what should it be: cash (pay-as-you-go) basis, funding contribution basis, accrual (accounting cost) basis or another method? (please provide details)
 - “Pay-as-you-go” cash payment: is equal to the benefit payment to the plan beneficiaries, as specified by the terms of the plan
 - Funding contribution: the minimum amount of contribution required to be made by a sponsor of a registered pension plan that is subject to the requirements of pension legislation in Ontario under the Pension Benefits Act, Ontario (PBA), and related rules and regulations
 - Accounting cost: this is the accrued cost determined by accounting rules (in accordance with a given accounting framework) and recognized and reported in general purpose financial statements (ultimately split between capital expenditures and operating expenditures)
 - d) Should the method for recovering costs relating to registered pension plans be different from that used for unregistered pension plans and OPEB plans?
6. a) Should the OEB take into account impacts on financial reporting (US GAAP, ASPE and IFRS), legal, and tax matters?
 - b) If so, what are the issues that should be considered when determining the appropriate approach?

- c) For comparative analysis, how should the OEB address differences that arise from (driven by) the basis of accounting that is used by a rate-regulated utility? For example, the treatment of re-measurements under IFRS is different to their treatment under US GAAP and ASPE.
7. a) Would it be appropriate to establish a deferral or variance account(s) in association with the approaches discussed above in numbers 5) and 6) respectively?
- b) How should the account(s) operate?
- c) Should interest be applied to the account(s), and if so, why?
- d) How should the transition from the current practice to the new method of recovery be addressed?
- i. Should the transition be phased-in, applied retrospectively with catch-up adjustments for prior periods, prospectively with no adjustments for prior periods or a combination of any of these methods?
 - ii. Should a generic approach be used or should the transition be addressed on a case-by-case basis?
8. a) Would it be appropriate to establish some form of segregated fund or similar set-aside mechanism for amounts which are collected from ratepayers before they are paid out?
- b) What tax, legal, accounting or other issues arise?
- c) How should the transition to the new practice be addressed?
- i. Should the transition be phased-in, applied retrospectively with catch-up adjustments for amounts collected from ratepayers to date but not yet paid out, prospectively with no adjustments for prior periods or a combination of any of these methods?
 - ii. Should a generic approach be used or should the transition be addressed on a case-by-case basis?

9. What information should the utilities report and how frequently should it be reported?

All interested parties are invited to file submissions responding to these questions by **June 26, 2015**. Filing instructions are set out in Appendix B.

All submissions received by the OEB will be available for public viewing on the OEB's web site at www.ontarioenergyboard.ca and at the office of the OEB during normal business hours.

If you have any questions, please contact Keith Ritchie at keith.ritchie@ontarioenergyboard.ca or at 416-440-8124. The OEB's toll free number is 1-888-632-6273.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary

Appendices: Appendix A – Cost Awards
Appendix B – Filing Instructions

Appendix A
To Cover Letter Dated May 14, 2015
EB-2015-0040
COST AWARDS

**Consultation on the Regulatory Treatment of Pensions and
Other Post-Employment Benefit Costs**

Cost Award Eligibility

The OEB will determine eligibility for costs in accordance with its [Practice Direction on Cost Awards](#). Any person intending to request an award of costs must include such request, including the grounds on which the person believes that it is eligible for an award of costs (addressing the OEB's cost eligibility criteria as set out in section 3 of the OEB's *Practice Direction on Cost Awards*). An explanation of any other funding to which the person has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known. All requests for cost eligibility will be posted on the OEB's website.

If a rate regulated electricity distributor, rate regulated electricity transmitter, rate regulated natural gas distributor, or Ontario Power Generation Inc. has any objections to any of the requests for cost eligibility, such objections must be filed with the OEB by **May 28, 2015**.

Eligible Activities

Cost awards will be available in relation to the provision of written comments, participation in any stakeholder forum or meetings that may take place and such other consultation activities as may be advised. Further details will be provided in due course.

Participants will also be eligible to claim costs for other eligible activities that may arise as part of this consultation process.

Cost Awards

When determining the amount of the cost awards, the OEB will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the OEB's Cost Awards Tariff will also be applied. The OEB expects that groups representing the same interest or class of persons will make every effort to communicate and coordinate their participation in this process.

The OEB 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 OEB will act as a clearing house for all payments of cost awards in this process.

Appendix B

To Cover Letter Dated May 14, 2015

EB-2015-0040

FILING INSTRUCTIONS

Consultation on the Regulatory Treatment of Pensions and Other Post -Employment Benefit Costs

Three (3) 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, 27th Floor
Toronto Ontario M4P 1E4

The OEB requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the OEB's web portal at

<https://www.pes.ontarioenergyboard.ca/eservice/>. A user ID is required to submit documents through the OEB's web portal. Any party that does not have a user ID may visit the "e-filings services" webpage on the OEB's website at

www.ontarioenergyboard.ca, and fill out a user ID password request. Additionally, interested parties 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 OEB's web portal is not available, electronic copies of filings may be filed by e-mail at boardsec@ontarioenergyboard.ca. Those that do not have internet access should provide a CD containing their filing in PDF format.

Filings to the OEB must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2015-0040** and include the following information: name, address, telephone number and, where available, e-mail address and fax number.

If the 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 filing available for viewing at the OEB's offices or placing the filing on the OEB's website, the OEB will remove any personal (i.e., not business) contact information from the 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 filing will be available for viewing at the OEB's offices and will be placed on the OEB's website.