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**BY E-MAIL AND WEB POSTING**

March 10, 2016

**TO: Enbridge Gas Distribution Inc.  
Union Gas Limited  
Natural Resource Gas Limited  
All Other Interested Parties**

**RE: Consultation to Develop a Regulatory Framework for Natural Gas  
Distributors' Cap and Trade Compliance Plans  
(Board File No. EB-2015-0363)**

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The OEB is initiating a consultation to develop a natural gas regulatory framework to support the implementation of Ontario's Cap and Trade program. The framework will guide the OEB's assessment of natural gas distributors' Cap and Trade Compliance Plans, including the cost consequences of these plans and the mechanism for recovery of costs in rates.

This letter provides an overview of the policy initiative and the consultation process, including how interested stakeholders may participate.

## **Background**

On February 24, 2016, the Government of Ontario proposed Bill 172, the *Climate Change and Low-carbon Economy Act, 2016*. The government also released draft regulation – *The Cap and Trade Program* – on February 25, 2016, which provides details about the proposed Cap and Trade program.

Under the draft regulation, the natural gas distributors will have the greenhouse gas (GHG) emission compliance obligations for:

- Residential, commercial and industrial customers (excluding Large Final Emitters, defined as emitting > 25,000 tonnes CO<sub>2</sub>e per year) and natural gas-fired generators
- Facilities owned or operated by natural gas distributors

The Cap and Trade program is intended to begin on January 1, 2017. The first compliance period is intended to run from January 1, 2017 until December 31, 2020, with subsequent three year compliance periods.

Under the proposed legislation, natural gas distributors will be required to comply with the Cap and Trade program. This will include activities such as GHG abatement and purchasing emissions credits. These activities will be described in the natural gas distributors' Cap and Trade Compliance Plans. The OEB is responsible for assessing these Plans for the purpose of cost recovery from ratepayers.

While the proposed legislation has not been passed and the regulation is under consultation at this time, the OEB has determined that given the January 2017 timeline for implementation, the development of the regulatory framework must begin immediately. For the purposes of this consultation, the OEB will be relying on the proposed legislation and draft regulation. The framework will reflect the final legislation and regulation.

### **The OEB Regulatory Framework**

The OEB is establishing a regulatory framework to assess the cost consequences of natural gas distributor Compliance Plans and to establish a mechanism for recovery of these costs in rates. The framework is intended to guide the natural gas distributors in the development of their Compliance Plans and to provide greater consistency in the implementation of cap and trade across natural gas customers in Ontario.

The OEB is inviting interested stakeholders to participate in a consultation to:

- Identify issues regarding the natural gas distributors' Cap and Trade activities and develop options to address these issues, within the context of the OEB's regulatory responsibility.
- Develop approaches to assess natural gas distributors' Compliance Plans and methods for cost recovery.

This consultation will not determine the actual costs for each natural gas distributor, only a framework to assess those costs. Actual costs will be determined through a hearing following the issuance of the OEB's regulatory framework.

The design of Ontario's Cap and Trade program is not the subject of this consultation and is out of scope.

### **The Consultation Approach**

Given the government's January 2017 implementation date, it is important to begin consultations as soon as possible to allow sufficient time for stakeholder input.

#### Stakeholder Meetings

OEB staff intends to hold targeted preliminary meetings with selected stakeholders to help confirm issues and some of the possible options for the regulatory framework. Specifics about these meetings (date, location and agenda) will be announced in due course.

#### Staff Discussion Paper

OEB staff will prepare a Discussion Paper to set out the issues and options as well as proposals with respect to the regulatory framework in order to gather broader stakeholder input.

#### Working Group

Following receipt of stakeholder comments, staff will establish a working group to assist with the review and assessment of proposals to be addressed in the regulatory framework. The OEB will then issue a draft regulatory framework for comments.

The OEB expects to conclude the development of the framework by October 2016. Subsequent to the issuance of the cap and trade regulatory framework, the natural gas distributors will file their Compliance Plans with the OEB.

### **Invitation to Participate**

The OEB encourages participation in this consultation process by all interested parties. Those interested in participating should indicate their intent by filing a letter with the OEB by **March 22, 2016** in accordance with the filing instructions set out below. The letter should include a statement as to whether the participant wishes to request cost eligibility. All requests for cost eligibility should comply with the requirements referred to under "Cost Awards" below.

## Cost Awards

Cost awards will be available to eligible persons under section 30 of the *Ontario Energy Board Act, 1998* for participation in cost eligible activities as set out in Appendix A. Appendix A also contains information regarding cost eligibility requests and objections. Costs awarded will be recovered from Enbridge Gas Distribution Inc., Union Gas Limited and Natural Resource Gas Limited based on their respective distribution revenues.

Filings to the OEB in relation to participation and/or requests for cost awards eligibility must be made in accordance with the filing instructions set out below. In order to facilitate a timely decision on cost eligibility, the deadlines for filing cost eligibility requests and objections will be strictly enforced.

## Filing Instructions

Please submit electronic copies of filings in searchable/unrestricted Adobe Acrobat (PDF) format through the OEB's web portal at [pes.ontarioenergyboard.ca/eservice](http://pes.ontarioenergyboard.ca/eservice) and also file three paper copies at the address below. You will need a user ID to make filings through the OEB's web portal. If you do not have a user ID, visit the "[e-filings services](#)" webpage on the OEB's website at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca) and fill out a user ID password request.

Please use 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 to [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca). If you do not have internet access, please provide a CD containing your filing in PDF format as described above to the Board Secretary at the following address:

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

All filings to the OEB must be received by the Board Secretary by **4:45 p.m.** on the required date. Filings must quote file number **EB-2015-0363** and include your name, address, telephone number and, where available, your e-mail address and fax number. All filings received by the OEB in relation to this consultation will be available for viewing at the OEB's offices and will be placed on the OEB's website.

Questions about this consultation process should be directed to Laurie Klein at [laurie.klein@ontarioenergyboard.ca](mailto:laurie.klein@ontarioenergyboard.ca) or at 416-440-7661 or Rachele Levin at [rachele.levin@ontarioenergyboard.ca](mailto:rachele.levin@ontarioenergyboard.ca) or at 416-440-7673. The OEB's toll-free number is 1-888-632-6273.

Yours truly,

*Original signed by*

Kirsten Walli  
Board Secretary

Attachment: Appendix A Cost Awards

## Appendix A

To Cover Letter Dated March 10, 2016

EB-2015-0363

### COST AWARDS

#### 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 file with the OEB a written submission to that effect by **March 22, 2016**, identifying 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*). All requests for cost eligibility will be posted on the OEB's website.

If a natural gas distributor has any objections to any of the requests for cost eligibility, such objections must be filed with the OEB by **March 31, 2016**. Any objections will be posted on the OEB's website. The OEB will then make a final determination on the cost eligibility of the requesting participants.

#### Eligible Activities

Cost awards will be available in relation to participation in the Stakeholder Consultation and in relation to the submission of written comments on the Staff Discussion Paper.

ACTIVITY	TOTAL ELIGIBLE HOURS PER PARTICIPANT
Preparation for, attendance at, and reporting on a stakeholder meeting of up to one (1) day in length	Up to 11 hours
Written comments on Staff Discussion Paper	Up to 24 hours

As other activities are scheduled as part of this consultation, the OEB will provide participants with further details regarding costs for those activities.

The eligible hours per activity listed above do not currently provide for participants to claim the costs of an expert to prepare a separate expert submission. It would be helpful to the OEB if participants requesting cost eligibility would indicate in their request whether costs for separate expert submissions should be provided for in this consultation.

## 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 interests or class of persons will make every effort to communicate and co-ordinate 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. For more information on this process, please see the OEB's [Practice Direction on Cost Awards](#) and the [October 27, 2005 letter](#) regarding the rationale for the OEB acting as a clearing house for the cost award payments. These documents can be found on the OEB's [Rules, Codes, Guidelines and Forms](#) webpage.