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September 27, 2013

**VIA COURIER & E-MAIL**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, Suite 2700  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**Re: Review of Framework Governing the Participation of Intervenors in Board Proceedings – Phase 1 – Board File No. EB-2013-0301**

Pursuant to the letter dated August 22, 2013, please find the attached submission for the above mentioned proceeding on behalf of Enbridge Gas Distribution Inc.

Yours truly,

(Original Signed)

Stephanie Allman  
Regulatory Coordinator

cc: All interested parties

**EB-2013-0301**

**REVIEW OF FRAMEWORK GOVERNING THE PARTICIPATION OF  
INTERVENORS IN BOARD PROCEEDINGS : PHASE I**

**SUBMISSIONS OF  
ENBRIDGE GAS DISTRIBUTION INC.**

**September 27, 2013**

## **ENBRIDGE SUBMISSIONS IN RESPONSE TO PHASE I OF THE BOARD'S REVIEW OF INTERVENOR PARTICIPATION FRAMEWORK**

1. In its August 22, 2013 Notice, the Ontario Energy Board (OEB, or the Board) indicated that it had initiated a review of the framework governing the participation of intervenors in applications, policy consultations and other proceedings before the Board (the "Intervenor Framework"). The stated objective of the review is to determine whether there are ways in which the Board's current Intervenor Framework may be modified in order to better achieve the Board's statutory objectives.
2. The Board's review will proceed in two phases. Within the first phase, the Board will consider whether modifications should be made in the near term to the Board's existing Intervenor Framework. To focus this review of the Board's current approach, parties have been asked to provide written responses to several questions.
3. The following are the responses of Enbridge Gas Distribution Inc. (Enbridge, or the Company) to the Board's questions, starting with an Overview and Context section setting out Enbridge's perspective on the role of intervenors and the Board's current Intervenor Framework.

### **A. Overview and Context**

4. Enbridge is involved in a wide variety of OEB regulatory proceedings, including rates and facilities applications, consultatives for ongoing initiatives and policy and rule-making proceedings. Intervenors are involved in most of these proceedings, representing the interests of various customer groups and customers.
5. Enbridge's experience is that intervenors can play an important role in these proceedings, by providing the Board and the Company with different perspectives on the public interest and the implications of the utility's proposed courses of action. This helps Enbridge and the Board to fully understand the implications of the Company's applications.
6. The role of intervenors within settlement conferences is also valuable. In that context, intervenors (with the participation of Board Staff) are often able to work collaboratively with applicants to find a mutually acceptable outcome for utility applications. This can

provide efficient and creative outcomes, either of which can be difficult to achieve within contested hearings that can become lengthy and which often offer only binary outcomes, parties either win or lose.

7. A third way that intervenors play an important role within OEB proceedings is through consultative processes. Enbridge has many years of experience with consultatives, through activities such as Open Bill, DSM and its CIS/Customer Care contracting activities. In many instances, these consultation activities allow the Company and intervenors to reach constructive and lasting agreements on important activities. The resulting agreements have been approved by the OEB as being in the public interest, and have led to a positive relationship between Enbridge and its ratepayer representatives, and valuable outcomes from a “rates” perspective. Occasionally, however, Enbridge observes intervenors seeking to move beyond an advisory role within consultative processes and instead purporting to direct the Company’s activities. This is not appropriate. Consultative processes will not succeed where stakeholders take the view that they have a direct say in an applicant’s operations. The ultimate decisions to be made are the applicant’s, subject in appropriate scenarios to OEB oversight.
8. Enbridge also consults regularly with stakeholders in relation to upcoming rate applications. The Company notes the Board’s comment within the Notice that this type of consultation is expected to increase in coming years, at least for electricity distributors. Enbridge expects that intervenors will continue to play a key role within these ongoing consultation activities.
9. Without losing sight of the benefits just detailed, Enbridge notes that in some instances intervenor participation is not as effective, focused or responsible as one would expect and hope.
10. Enbridge has identified three areas where the current Intervenor Framework could be improved, to enhance the proper role of intervenors within Board proceedings.
11. The first area relates to the overlapping and even duplicating representation by intervenor groups within OEB proceedings. There is little benefit from having multiple intervenors with seemingly overlapping constituencies participate within a proceeding. Whether these multiple intervenors represent general service consumers, environmental

groups, low-income customers or residential and commercial landlords, the effect can be the same. An applicant is left to respond to discovery questions, examinations and argument from multiple parties who appear to represent the same customers or interests, and who generally take very similar positions on issues within the proceeding. This adds to the time, effort and cost awards (which are ultimately paid by ratepayers) for each proceeding. Moreover, in the rare cases where seemingly similar or overlapping intervenors take different positions, confusion is raised as to what the impacted constituencies actually think.

12. Enbridge suggests that improvements in this area can be achieved by requiring proposed intervenors to clearly identify the constituencies and/or interests that they represent. The Board should then evaluate whether those constituencies and/or interests will also be represented by one or more other intervenors. An approach should be established under which the Board will either choose one intervenor to represent the interest or constituency, or else require the multiple representatives of the same interest to combine their efforts, and share a cost award.
13. The second area relates to the need for intervenors to demonstrate that they are truly representative of and receive instructions from the constituency that they represent. Concern arises where there is no apparent connection between an intervenor and any identifiable group of ratepayers or other impacted parties. The Board should expect that an intervenor representative will obtain guidance and instructions from steering committees or others who can be shown to be fair representatives of their constituency. The legitimacy of the intervention process is harmed when there is a perception that an intervenor representative is simply pursuing his or her own personal interests and issues. This is seen from time to time, where there is no way to discern how an intervenor representative chooses to take the positions that are advanced. It is also seen when an intervenor representative changes clients, yet continues to pursue the very same issues as had been raised on behalf of the initial intervenor.
14. Enbridge suggests that improvements in this area can be achieved by requiring proposed intervenors to clearly demonstrate the manner in which they obtain instruction and direction from an organization or persons who clearly represent the intervenor's constituency and/or interests and that those instructions and directions fairly represent

the positions of the organization's general constituency. This is consistent with the Board's initiative to ensure that utilities' customers have been consulted on planning and spending matters of significance,

15. Looking at this more granularly, proposed intervenors should also be required to know the position of its constituents within the applicant's franchise area. Intervenors should be required to determine whether their constituency in the franchise area(s) impacted by the application would share the view generally felt to represent the broader constituency of the intervenor. Otherwise, the generally applied position of an intervenor based on its broad constituency may be contradictory to the directional feedback received from customers of a utility in its franchise area.
16. The third area relates to the need for responsible participation by intervenors within Board proceedings. While not a common occurrence, Enbridge has sometimes observed behaviour that adds to the time and cost of proceedings, while not advancing the interests of the constituencies represented by intervenors. Examples include intervenors taking active roles within settlement conferences, consultatives and hearings on issues that do not appear to have any meaningful impact on the ratepayers who they purport to represent, intervenors seeking to micromanage through their conduct at consultatives and through interrogatories, examination and argument on items of little impact, and intervenors slowing the pace of proceedings to pursue items unlikely to be of material consequence to the final outcome of that application.
17. Enbridge suggests that significant improvements in this area can be achieved through renewed focus on intervenor cost awards, to ensure that the Board is appropriately responding to ineffective behaviour through reduced cost awards. One way that this can be achieved is through having Board Staff provide the Board with an informed perspective on the conduct of intervenors in each proceeding.
18. The Company's answers to the Board's questions (set out in the next section) are intended to address each of the three areas of improvement just described.
19. Enbridge plans to address issues and suggestions for improvement related to the intervenor framework for its DSM consultative processes in future DSM framework related proceedings. The Company specifically requests that the Board allow for

consideration of the rules governing the role of intervenors within the proceeding that will set the DSM framework for 2015 and beyond.

## **B. Responses to the Board's Questions**

20. The questions set out within the Board's August 22<sup>nd</sup> Notice, are organized into three categories: Intervenor Status, Cost Eligibility and Recommended Modifications. What follows are Enbridge's responses to each of the Board's questions.

### **Intervenor Status**

*Question #1: What factors should the Board consider in determining whether a person seeking intervenor status has a "substantial interest" in a particular proceeding before the Board? For instance, should the Board require a person seeking intervenor status to demonstrate consultation or engagement with a constituency directly affected by the application?*

*Enbridge Response:* Among the factors that the Board should take into account when determining whether to grant intervenor status are the following:

- The proposed intervenor should be expected to represent a constituency that will be directly impacted by the application. In that regard, the proposed intervenor's intervention request should explain who it represents, and what potential impacts the application would have upon that group. These impacts should not be of a general public interest nature (which is already represented by Board Staff), but instead should be direct economic or social impacts on the actual members of the constituency. The proposed intervenor should also establish that the impacts are substantial. If the intervenor cannot establish that it represents a directly impacted constituency that will be substantially impacted by the application, then intervenor status should not be granted.
- The proposed intervenor should explain the nature of the organization and/or constituency that it represents, and should be expected to have an effective means to obtain instruction and direction from representatives of that constituency. Where the

intervenor is an umbrella organization, it should detail all of the participating organizations (to allow for an evaluation of whether there is overlap with other proposed intervenors). Ideally, the intervenor will provide the Board with a detailed communication plan which explains how decisions on positions to be taken are made and instructions are provided to the intervenor representative. Where the Board cannot determine how an intervenor will obtain instruction and direction from informed members of the subject constituency, this should call into question whether the proposed intervenor is actually a proper representative, and should be granted intervenor status.

- The proposed intervenor should represent a constituency that is not already being represented by another intervenor. Where it appears that more than one proposed intervenor represents the same (or a similar) class of ratepayers or other constituency, then each proposed intervenor should explain how their interests and constituency are different. If there is overlap between intervenors, the Board should impose conditions on each (more on this below).

In order for the Board to be able to fully consider the above factors in the context of intervention requests, it is important for opposing perspectives to be provided to the Board. The Board's procedures (see Rule 23.07 of the Board's *Rules of Practice and Procedure*) currently allow for applicants to submit responding submissions to intervention requests within 10 days. The problem with that approach is that an applicant is almost immediately put in the position of objecting to the participation of parties who may very well be granted intervenor status. Applicants may be concerned that this will poison the relationship with such intervenors right from the outset, and make proceedings more acrimonious than they would otherwise be. To avoid this concern, Enbridge suggests that Board Staff should be required to provide comments to the Board on all intervention requests received, before any decision is made on the interventions. Among other things, Board Staff comments would identify concerns in cases where it is not clear how an intervenor's constituency is impacted by an application, or where there is potential overlap/duplication between intervenors, or where it is not clear that proposed intervenors are properly representative of and instructed by the constituencies they purport to represent. Board Staff are well-positioned to take this role. Board Staff are neutral, well-informed about such matters as the prior participation and conduct of intervenors in other

proceedings, and knowledgeable about the issues likely to arise from any particular application and the anticipated impact on various constituencies.

*Question #2: What conditions might the Board appropriately impose when granting Intervenor status to a party? For instance, should the Board also require an intervenor to demonstrate how the intervening group or association governs the participation by its legal counsel and other representatives in the application?*

*Enbridge Response:* Taking into account the discussion above, Enbridge suggests that the Board should consider imposing the following conditions when granting intervenor status:

- The Board should set out its expectation that an intervenor's participation within a proceeding or consultative process will be consistent with the potential impacts of that proceeding upon the intervenor's constituency. This includes an expectation that the intervenor will act in accordance with instructions and direction from representatives of that constituency. Where an intervenor represents a public interest relevant to the Board's mandate, the intervenor should only participate on issues directly and substantially relevant to that particular public interest.
- The Board should stipulate its expectation that intervenors with common interests and similar positions will work together where possible to avoid duplication. This requirement should apply not only to the intervenors' participation within a hearing, but also to the discovery phase of the case, so that applicants are not overburdened by immense numbers of similar interrogatories. Where such parties choose not to work together, they should be required as part of their cost award request to justify why they did not do so.
- Where it appears from intervenor requests that more than one party seeks to represent substantially similar constituencies, then the Board should either choose one representative, or alternately require the two intervenors to work together on one intervention (with one cost award). This approach will lessen duplication, and hopefully avoid the scenario where two intervenors representing the same constituency separately pursue the same issue and potentially take different approaches in doing so. Enbridge notes that the one cost award approach has been applied by the Board previously, for

example within Enbridge's RP-2003-0048 proceeding, where Ontario Association of School Board Officials and Ontario Public School Boards' Association were both granted intervenor status. In that case, the intervenor status granted to both parties was subject to the following stipulations: (i) both parties were eligible to one cost award, to be shared between them; (ii) both parties were to organize their participation to avoid duplication; and (iii) radical divergence in the positions of each party on any issue could lead to reduced weight being given to either position.

To the extent that an intervenor fails to comply with some or all of these conditions during the course of a proceeding, this fact should be taken into account when cost awards are determined, and in subsequent requests for intervenor status by that same intervenor.

### **Cost Eligibility**

*Question #1: What factors should the Board consider in determining whether a party primarily represents the direct interests of consumers (e.g. ratepayers) in relation to services that are regulated by the Board? For instance, should the Board require the party to demonstrate consultation or engagement with a class of consumers directly affected by the application?*

*Enbridge Response:* Where a potential intervenor has not satisfied the Board that it is a proper representative of a directly impacted constituency then intervenor status, or (at a minimum) cost eligibility should not be granted. As described above, factors that the Board should consider in determining whether to grant intervenor status (including cost eligibility) to a party that purports to primarily represent the direct interests of consumers include:

- The nature of the intervenor, and whether and how those represented by the intervenor are directly and substantially impacted by the subject application,
- Whether and how the intervenor obtains instruction and direction from members/representatives of its constituency, and to the extent possible, the specific constituency in the applicant's franchise area affected by the application, and
- Whether the constituency represented by the intervenor will already be adequately represented by other intervenors or Board Staff.

*Question #2: What factors should the Board consider in determining whether a party primarily represents a public interest relevant to the Board's mandate?*

*Enbridge Response:* The Board should be cautious in granting cost eligibility to intervenors that purport to represent public interest mandates (as distinguished from intervenors that represent actual customer groups). Before granting cost eligibility, the Board should be convinced that:

- The interest being advanced by the intervenor is clearly relevant to the Board's mandate (taking into account the Board's statutory objectives),
- The intervenor is a legitimate and informed representative of that interest, and will act upon instructions from representatives of its constituency (as opposed to simply pursuing the interests of its counsel or consultant), and
- The interest is not already being represented by another intervenor, taking into account the role played by ratepayer groups and Board Staff.

*Question #3: What conditions might the Board appropriately impose when determining the eligibility of a party for costs? For instance, what efforts should the Board reasonably expect a party to take to combine its intervention with that of one or more similarly situated parties? Should the Board reasonably expect parties representing different consumer interests to combine their interventions on issues relating to revenue requirement (as opposed to cost allocation)?*

*Enbridge Response:* The Board has the right, under section 4.03 of the *Practice Direction on Cost Awards*, to provide direction to an intervenor at the time that cost eligibility is granted in respect of any matter that the Board may later consider in determining the amount of a cost award. As explained above in response to Question #2 related to Intervenor Status, among the conditions or requirements that the Board should consider imposing when determining cost eligibility are the following:

- That the intervenor act responsibly and efficiently through the proceeding,
- That the intervenor's participation will focus on issues within the proceeding that directly impact its constituency,

- That the intervenor's participation will focus on issues directly relevant to the proceeding,
- That the positions taken will be based on instruction and direction from representatives of that constituency,
- That intervenors who represent substantially the same constituency and who each wish to participate within a proceeding, must combine their efforts and share one cost award, and
- That the intervenor work collaboratively (on all aspects of the case) with other intervenors who share a common interest on issues where their positions are identical or similar. In the event that the intervenor chooses to pursue issues independently of other parties who take the same position, it should be required that the divergent intervenors justify within their cost award requests why that approach was taken.

On a related topic, Enbridge believes that there is merit within this consultation to having the Board consider not only the factors/conditions to be considered when granting eligibility for costs, but also the process to be followed when the Board is determining cost awards. It is at that point (not when intervenor status is granted) that the Board is best able to evaluate whether an intervenor has participated responsibly by engaging on issues that impact its constituency, adding to the Board's understanding of issues and collaborating with other intervenors where appropriate.

Where an intervenor's participation fails to satisfy the conditions set out above, then the Board should consider a reduced cost award as compared to what the intervenor has requested. Enbridge acknowledges that section 5 of the *Practice Direction on Cost Awards* already addresses each of the conditions set out above (along with several other items) as matters the Board can consider when determining the amount of a cost award. Enbridge suggests that intervenor cost submissions should address how the intervenor has satisfied each of the conditions set out above through its conduct during the proceeding.

Enbridge also believes that the Board's process for considering cost award requests (under Section 11 of the *Practice Direction on Cost Awards*) could be improved. As is the case when opposing intervention requests, an applicant does find itself in a difficult situation when it is asked to comment upon and criticize an intervenor cost submission. This may jeopardize future

relations with that intervenor and make ongoing consultative processes less fruitful. To avoid this concern, Enbridge suggests an approach where, at the end of each proceeding, Board Staff would be required to provide comments on all cost submissions made, in the context of how each intervenor participated within the proceeding and represented its constituency. This approach would ensure that the Board has the benefit of informed, impartial submissions about the actual conduct and contribution of an intervenor throughout all phases of a proceeding before making a determination as to whether all claimed costs should be approved.

Another approach that could be applied is to assign a Board representative (Board Member, staff or third party contractor) to act as a sort of “case manager”. That person would supervise and direct the intervenor processes by keeping all intervenors focused and acting effectively. The “case manager” would have to act carefully, to ensure that efforts to promote efficiency and effectiveness would not interfere with procedural fairness or the rights of individuals to participate and be heard. At the conclusion of the proceeding, the “case manager” could report to the Board on the participation and conduct of all intervenors in the proceeding, and that information would be used by the Board in assessing and determining cost award requests.

As a final note on the topic of cost awards, Enbridge recognizes that there can be a disincentive to any particular intervenor combining its efforts with others, thereby reducing its own role. On the other hand, such actions definitely benefit the process and ratepayers as a whole. In order to encourage and reward intervenors who succeed in improving the efficiency of the OEB’s regulatory activities, Enbridge submits that it is appropriate to provide the Board with discretion to award costs at a rate up to 33% above the tariff to those particular intervenors who clearly demonstrate that they have substantially contributed to the increased efficiency of a particular proceeding. While others may argue that there are a variety of circumstances where it would be appropriate for the OEB to award costs in excess of the tariff rates, Enbridge submits that it is appropriate to strictly reserve this discretion solely to situations where a particular intervenor has substantially contributed to improving the efficiency of a proceeding. In those circumstances, the existence and cost of the incentive will be justified by the fact that everyone involved with the regulatory process benefits from increased efficiency.

*Question #4: Should the Board consider different approaches to administering cost awards in adjudicative proceedings? For instance, should the Board consider adopting an approach that provides for pre-approved budgets, pre-established amounts for each hearing activity (similar to the approach for policy consultations), and pre-established amounts for disbursements?*

*Enbridge Response:* Enbridge does not believe that it is necessary, or even feasible, to pre-set budget expectations for adjudicative proceedings. The unpredictable nature of such proceedings makes it difficult to forecast what level of activity would be appropriate. That being said, Enbridge also believes that implementation of the enhancements to the Intervenor Framework, as suggested above, will provide appropriate controls upon the level of intervenor costs, and help ensure that the amounts spent are incurred constructively.

### **Recommended Modifications**

*Question #1: Are there modifications that the Board should consider making to the Rules and the Practice Direction?*

*Enbridge Response:* In large part, Enbridge's suggestions for improvements to the Board's Intervenor Framework can be accommodated within the existing *Rules of Practice and Procedure* (see especially Rule 23 re Intervenor Status) and *Practice Direction on Cost Awards* (see especially Sections 3, 4, 5 and 11). If the Board is inclined to accommodate Enbridge's suggestions, one would expect that the Board would become more open to determining, in appropriate situations, that an intervention request would be denied or limited, or that the part or all of a cost award request would be denied.

If the Board agrees with Enbridge's suggestions for improvements to the Intervenor Framework, then there are a number of changes that could be made to the *Rules of Practice and Procedure*, and the *Practice Direction on Cost Awards*. These proposed changes are set out below, in clean and blacklined formats. Additional changes would be required if the Board were to adopt the suggestion to appoint a "case manager" for each proceeding or the suggestion to allow for an incentive cost award above the tariff for intervenors who contribute substantially to the increased efficiency of a proceeding.

**Proposed Changes to the *Rules of Practice and Procedure*, and the *Practice Direction on Cost Awards in Clean Format***

First, Rule 23.03 of the *Rules of Practice and Procedure* could be updated to read as follows:

23.03 Every letter of intervention shall contain the following information:

- (a) a description of the nature of the intervenor organization, including the constituency it represents and its membership (including any other groups that are members or part of the intervenor organization);
- (b) a description of how the intervenor is directly and substantially impacted by the proceeding, taking into account the interests of the members of the intervenor's constituency who will be directly impacted by the proceeding;
- (c) a description of how the representatives of the intervenor will obtain instruction and direction from the intervenor organization in relation to the proceeding;
- (d) subject to Rule 23.04, a concise statement of the nature and scope of the intervenor's intended participation;
- (r) a description of how the intervenor intends to work together with other intervenors with similar interests;
- (f) a request for the written evidence, if it is desired;
- (g) an indication as to whether the intervenor intends to seek an award of costs;
- (h) if applicable, the intervenor's intention to participate in the hearing using the French language; and
- (i) the full name, address, telephone number, and fax number, if any, of no more than two representatives of the intervenor, including counsel, for the purposes of service and delivery of documents in the proceeding.

Second, Rule 23.07 of the *Rules of Practice and Procedure* could be updated to read as follows:

23.07 Within 10 calendar days after the time limit directed by the Board for intervention requests to be received, Board Staff shall file written submissions setting out a position as to whether each intervention request should be accepted, and as to whether any conditions should be imposed on any intervenor, pursuant to Rule 23.09.

23.07.1 A party may provide additional comments on any intervention request by filing and serving written submissions within 3 calendar days after the Board Staff submissions are filed pursuant to Rule 23.07.

Third, Section 4.02 of the *Practice Direction on Cost Awards* could be updated to read as follows:

4.02 Within 10 calendar days after the time limit directed by the Board for intervention requests to be received, Board Staff shall file written submissions setting out its position as to whether the cost eligibility request within each intervention request should be accepted, and as to whether any direction should be provided to any intervenor, pursuant to Section 4.03.

4.02.1 An applicant in a process may provide additional comments on any cost eligibility request within an intervention request by filing and serving written submissions within 3 calendar days after the Board Staff submissions are filed pursuant to Section 4.02.

Finally, Section 11.01 of the *Practice Direction on Cost Awards* could be updated to read as follows:

11.01 Within 10 calendar days after the time limit directed by the Board for cost claims to be filed, Board Staff shall file written submissions setting out its position as to whether any adjustments should be made to any cost claim, taking into account such factors as may be relevant, such as whether an intervenor complied with directions made under Section 4.03, and how the intervenor participated within the proceeding and represented its constituency.

11.01.1 An applicant in a process may provide additional comments on any cost claim by filing and serving written submissions within 3 calendar days after the Board Staff submissions are filed pursuant to Section 11.01.

## **Proposed Changes to the Rules of Practice and Procedure, and the Practice Direction on Cost Awards in Blacklined Format**

First, Rule 23.03 of the *Rules of Practice and Procedure* could be updated to read as follows:

23.03 Every letter of intervention shall contain the following information:

(a) a description of the nature of the intervenor, organization, including the constituency it represents and its membership, if any, the interest (including any other groups that are members or part of the intervenor in the proceeding and the grounds for the intervention organization);

(b) a description of how the intervenor is directly and substantially impacted by the proceeding, taking into account the interests of the members of the intervenor's constituency who will be directly impacted by the proceeding;

(c) a description of how the representatives of the intervenor will obtain instruction and direction from the intervenor organization in relation to the proceeding;

(d) subject to Rule 23.04, a concise statement of the nature and scope of the intervenor's intended participation;

(e) a description of how the intervenor intends to work together with other intervenors with similar interests;

(f) a request for the written evidence, if it is desired;

(g) an indication as to whether the intervenor intends to seek an award of costs;

(h) if applicable, the intervenor's intention to participate in the hearing using the French language; and

(i) the full name, address, telephone number, and fax number, if any, of no more than two representatives of the intervenor, including counsel, for the purposes of service and delivery of documents in the proceeding.

Second, Rule 23.07 of the *Rules of Practice and Procedure* could be updated to read as follows:

~~23.07 A party may object to a person applying for intervenor status~~Within 10 calendar days after the time limit directed by the Board for intervention requests to be received. Board Staff shall file written submissions setting out a position as to whether each intervention request should be accepted, and as to whether any conditions should be imposed on any intervenor, pursuant to Rule 23.09.

~~23.07.1 A party may provide additional comments on any intervention request by filing and serving written submissions within 403 calendar days of being served with a letter of intervention after the Board Staff submissions are filed pursuant to Rule 23.07.~~

Third, Section 4.02 of the *Practice Direction on Cost Awards* could be updated to read as follows:

~~4.02 —An applicant in a process will have 10 calendar days from the filing of the letter of intervention or request for cost eligibility, as applicable, to submit its objections to the Board, after which time the Board will rule on the request for eligibility.~~Within 10 calendar days after the time limit directed by the Board for intervention requests to be received. Board Staff shall file written submissions setting out its position as to whether the cost eligibility request within each intervention request should be accepted, and as to whether any direction should be provided to any intervenor, pursuant to Section 4.03.

~~4.02.1 An applicant in a process may provide additional comments on any cost eligibility request within an intervention request by filing and serving written submissions within 3 calendar days after the Board Staff submissions are filed pursuant to Section 4.02.~~

Finally, Section 11.01 of the *Practice Direction on Cost Awards* could be updated to read as follows:

~~11.01 A party which the Board has determined shall pay the costs shall have 10 calendar days from the date of submission by a party claiming costs to file any objection to any aspect of the costs claimed. One copy of the objection is to be filed with the Board and one copy is to be served on the party against whose claim the objection is being made.~~Within 10 calendar days after the time limit directed by the Board for cost claims to

be filed, Board Staff shall file written submissions setting out its position as to whether any adjustments should be made to any cost claim, taking into account such factors as may be relevant, such as whether an intervenor complied with directions made under Section 4.03, and how the intervenor participated within the proceeding and represented its constituency.

11.01.1 An applicant in a process may provide additional comments on any cost claim by filing and serving written submissions within 3 calendar days after the Board Staff submissions are filed pursuant to Section 11.01.