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May 25, 2009

BY EMAIL & BY COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

Board File No. EB-2008-0408

**Consultation on Transition to International Financial Reporting Standards
Comments of Energy Probe**

Pursuant to the May 14, 2009 letter of the Board to all Consultation Participants, Energy Probe Research Foundation (Energy Probe) is hereby providing two hard copies of its comments in respect of the Board Staff Proposals dated April 23, 2009 in the EB-2008-0408 consultation for the Board's consideration. An electronic copy of this communication in PDF format is being forwarded to your attention.

Should you require additional information, please contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc Randy Aiken, Aiken & Associates (By email)
Peter Faye, Counsel to Energy Probe (By email)

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Ontario Energy Board

CONSULTATION ON TRANSITION TO INTERNATIONAL FINANCIAL REPORTING STANDARDS

**COMMENTS OF
ENERGY PROBE RESEARCH FOUNDATION
("ENERGY PROBE")**

May 25, 2009

**CONSULTATION ON TRANSITION TO
INTERNATIONAL FINANCIAL REPORTING STANDARDS
AND CONSEQUENT
AMENDMENTS TO REGULATORY INSTRUMENTS**

Comments of Energy Probe Research Foundation

EB-2008-0408

Background

By its December 23, 2008 letter to Ontario rate-regulated gas distributors, licensed electricity distributors, licensed electricity transmitters, Ontario Power Generation and other stakeholders, the Ontario Energy Board (“Board”) initiated a broad consultation process to examine the issues associated with the transition to International Financial Reporting Standards (“IFRS”). The stated intent of the consultation is to examine and set regulatory policy regarding the transition to IFRS.

In the first of two phases, the Board is soliciting comment from all interested stakeholders to assist it in formulating policy principles involved in the transition. The second phase will involve amendments to the appropriate regulatory instruments in order to implement the Board’s policy principles.

Pursuant to the May 14, 2009 letter of the Board to all Consultation Participants, Energy Probe is providing its comments in respect of the Board Staff Proposals dated April 23, 2009.

Energy Probe is a member of the 8 intervenor groups which retained Mr. John Browne C.A. to support their participation in the consultation, and was greatly assisted by Mr. Browne’s expertise. Energy Probe was provided with the opportunity to review a draft of the submission of Mr. Randy Aiken on behalf of the London Property Management Association and the Building Owners and Managers Association of the Greater Toronto Area, and was greatly assisted by that.

B. Principles

1. The methodologies used by the Board to establish just and reasonable rates have not always been the same as those used for external financial reporting purposes. The Board has and will retain the authority to establish regulatory accounting and regulatory reporting requirements. IFRS accounting requirements will not be the sole driver of regulatory requirements.

Energy Probe is in agreement with this principle.

2. Future regulatory accounting and regulatory reporting requirements established by the Board will continue to be based on sound regulatory principles. These principles include fairness, minimizing intergenerational inequity and minimizing rate volatility.

Energy Probe is in agreement with this principle.

3. Future regulatory accounting and regulatory reporting requirements established by the Board will, in taking into account IFRS requirements, balance the effects on both customers and shareholders.

Energy Probe is in agreement with this principle.

4. Future regulatory accounting and regulatory reporting requirements established by the Board will be aligned with IFRS requirements as long as that alignment is not inconsistent with sound regulatory rate making principles.

Energy Probe is not in agreement with this principle as presented and submits that it should be restated in reverse order, so that to be adopted by the Board, IFRS requirements must be consistent with sound regulatory rate making principles. The current Board practices should be the default position where IFRS is not in alignment with sound regulatory rate making principles. Where the impacts of IFRS are not clear, the current Board practices should not be changed.

5. Future regulatory accounting and regulatory reporting requirements established by the Board will be universal and standardized for all utilities, while recognizing that utility-specific issues can be addressed through a utility's applications.

Energy Probe is in agreement with this principle.

C. Major points of departure between existing regulatory accounting and rate making as compared to IFRS

2. Regulatory Assets and Liabilities

2.1 Should the Board continue to use deferral and variance accounts in the event that they are not recognized under IFRS?

Energy Probe is in agreement with the Board Staff Proposal.

2.2 Should the Board approve definitions for deferral and variance accounts if the Board retains their use for regulatory purposes?

Energy Probe is in agreement with the Board Staff Proposal.

3. Property, Plant and Equipment

3.1 For the purpose of first-time adoption of IFRS, should the Board require historic cost (NBV) or the IFRS adoption requirements (fair value or retrospective restatement) to be used as the basis for setting opening rate base values and reporting to the Board?

Energy Probe is in agreement with the Board Staff Proposal.

3.2 After adoption, what should be the basis for reporting PP&E for regulatory purposes (e.g. historical acquisition cost, fair value)?

Energy Probe is in agreement with the Board Staff Proposal.

3.3 Should the Board require PP&E to conform to IFRS capitalization requirements (e.g. capitalize less indirect overhead and administration cost)?

Energy Probe submits that this Board Staff Proposal falls under Principle 4 above, and has the same objection to it. The current Board practices should be the default position where IFRS is not in alignment with sound regulatory rate making principles. Where the impacts of IFRS are not clear, the current Board practices should not be changed.

3.4 What changes to existing regulatory or rate making treatments should the Board require for other PP&E related items as a result of the adoption of IFRS?

- Borrowing costs applied to PP&E (as opposed to deemed interest or AFUDC)
- Customer contributions received for PP&E
- Asset reclassifications from PPE to intangible assets (e.g., computer software and land rights).
- Asset retirement obligations
- Gains and losses on disposition of assets
- Treatment of asset impairment

Energy Probe supports the submissions of BOMA & LPMA in respect of all aspects of 3.4.

4. Depreciation

4.1 Should the Board set parameters for depreciation accounting for regulatory purposes (e.g. depreciation methods, the level at which sub-componentization should be applied to specified asset classes)?

Energy Probe is in agreement with the Board Staff Proposal.

4.2 Should the Board set the parameters for electricity distributors to establish their own depreciation rates rather than continue to use depreciation rates historically provided by the Board (co-ordination of depreciation studies may be possible)?

Energy Probe opposes the Board Staff Proposal and supports that the current practice whereby depreciation rates are utility specific.

5. Other Issues

5.1 What changes to existing regulatory accounting and rate treatments should the Board require for other items?

- Inventory valuation (based on lower of cost and net realizable value)
- Payments in lieu of corporate income taxes
- Pensions and employee future benefit costs

Energy Probe is in agreement with the Board Staff Proposal.

D. External Uncertainties

6. Decisions of Accounting Standard-Setting Bodies

6.1 What are the potential implications on the Board's decisions of the questions now before accounting standard-setting bodies? These uncertainties include:

- Potential exemption from the requirement for retrospective or fair value restatement of PP&E (International Accounting Standards Board)
- Recognition of regulatory assets and liabilities, e.g., deferral and variance accounts (International Accounting Standards Board)
- Whether accounting standards will require municipal and provincial government-owned distributors (government business enterprises) to adopt IFRS (Public Sector Accounting Board – Canada)

Energy Probe is in agreement with the Board Staff Proposal.

- Other developments from accounting standard-setting bodies

The 8 intervenor groups proposed an Evaluation Framework to assist the Board in dealing with new developments. Energy Probe supports that process.

7. Rate Impact

7.1 Compared to rates established under current regulatory accounting, what are the direction and estimated magnitude of rate impacts created by establishing rates on the basis of various IFRS accounting options?

Energy Probe is in agreement with the Board Staff Proposal.

7.2 Should a mechanism be developed to phase-in or otherwise mitigate the rate impacts, if any, of adopting IFRS?

Energy Probe is in agreement with the Board Staff Proposal.

7.3 Should rate increase thresholds be set?

Energy Probe is in agreement with the Board Staff Proposal.

8. Utility and Shareholder Impact

8.1 Should the administrative costs (e.g. new systems, special audits, consulting) to transition to IFRS be recovered from ratepayers? On what basis?

Energy Probe is in agreement with the Board Staff Proposal.

8.2 Should incremental on-going compliance costs be recovered from ratepayers? On what basis (z-factor treatment? threshold amounts?)?

Energy Probe is in agreement with the Board Staff Proposal.

8.3 How can the Board encourage minimization of IFRS implementation costs?

Energy Probe supports the submissions of BOMA & LPMA in respect of all aspects of 8.3.

8.4 Should any proposed increases in revenue requirement that may arise from changes in accounting for rate base and operating costs prompted by the adoption of modified IFRS be recovered from ratepayers? If yes, on what basis?

Energy Probe supports the submissions of BOMA & LPMA in respect of all aspects of 8.4.

F. Filing and Reporting Requirements

9. Filing Guidelines for Rate Applications

- 9.1 What are the filing requirements for rate applications for entities regulated by the Board during and after the transition to IFRS?**
- 9.2 What financial filings should the Board require for use in cost of service rate applications for historical and test years subsequent to 2009?**
- 9.3 Should the Board prescribe any specific rate making measures in its incentive regulation mechanisms to take account of the adoption of IFRS?**
- 9.4 Should rate applications under an incentive regulation mechanism be required to include a reconciliation of reported annual performance to the same financial reporting standard as that upon which the incentive framework was approved?**

Energy Probe supports the submissions of BOMA & LPMA in respect of all aspects of 9.

10. Electricity Distributor and Gas Utility Reporting and Record-Keeping Requirements (RRR)

- 10.1 What changes are required to financial reporting requirements for entities regulated by the Board during and after the transition to IFRS?**
- 10.2 Should the Board require all rate-regulated entities to report information to the Board using IFRS beginning January 1, 2011, regardless of whether they are otherwise required to use IFRS?**
- 10.3 Should the Board require all rate-regulated entities to continue to report information to the OEB using Canadian GAAP until December 31, 2010 (regardless of early adoption by the utility)?**
- 10.4 Should the RRR include requirements for reconciliations between financial reporting under IFRS and regulatory accounting information?**
- 10.5 Should the RRR include a requirement for supplementary audit assurance regarding regulatory accounting values where they differ from IFRS reported values and that are not otherwise audited?**

10.6 Should the periodic reporting to the Board by utilities under incentive regulation include a reconciliation of reported annual performance to the same basis of accounting as that upon which the incentive framework was approved?

In respect of 10.1 to 10.6 inclusive, Energy Probe is in agreement with the Board Staff Proposal.

In Conclusion

Energy Probe Research Foundation appreciates the opportunity to comment on these most important issues.

Respectfully submitted at Toronto, Ontario this 25th day of May, 2009.

Energy Probe Research Foundation