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**BY EMAIL AND WEB POSTING**

## **NOTICE OF AMENDMENTS TO A RULE**

### **AMENDMENTS TO THE NATURAL GAS REPORTING & RECORD KEEPING REQUIREMENTS: RULE FOR GAS UTILITIES**

**BOARD FILE NO.: EB-2010-0248**

**To: All Natural Gas Utilities  
All Licensed Generators  
All Participants in Consultation Processes EB-2009-0411 and EB-  
2010-0248  
All Other Interested Parties**

**Date: January 27, 2011**

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The Ontario Energy Board (the “Board”) has today issued amendments to the Natural Gas Reporting & Record Keeping Requirements: Rule for Gas Utilities (the “RRR”), as indicated below, pursuant to section 45 of the *Ontario Energy Board Act, 1998*.

#### **A. Background**

On July 29, 2010, the Board issued a Notice of Proposal to Amend Rules (the “July Notice”) in which the Board proposed amendments to the Affiliate Relationships Code for Gas Utilities (the “ARC”) and the RRR (the “July Proposed Amendments”) to keep pace with the fact that the Province’s largest

natural gas utilities are now permitted to own and operate certain renewable and other generation facilities as well as energy storage facilities (collectively, “qualifying facilities”), and to support the Board’s objective of promoting the use and generation of electricity from renewable energy sources.

Under the July Proposed Amendments, the Board proposed that:

- i. certain provisions of the ARC no longer apply in terms of the dealings between a natural gas utility and an affiliate in relation to activities associated with qualifying facilities; and
- ii. natural gas utilities be required by the RRR to provide advance notice to the Board of proposed qualifying facility investments, in order to assist the Board in its regulatory oversight of those utilities.

Further detail regarding the nature of, and the context and rationale for, the July Proposed Amendments is set out in the July Notice.

On November 26, 2010, the Board issued a further Notice (the “November Notice”) in which the Board advised that it had adopted the July Proposed Amendments to the ARC, with one correction. However, in response to comments received from stakeholders with respect to the July Proposed Amendments to the RRR, the Board was persuaded that its objectives could be adequately achieved by an annual reporting requirement relating to a natural gas utility’s qualifying facility activities and investments. The Board therefore proposed, in the November Notice, revised amendments to the RRR (the “Revised RRR Amendments”) to make provision for annual reporting rather than advance notice.

The Board received written comments in response to the November Notice from one natural gas utility, which expressed its support for the direction underlying the Revised RRR Amendments. This filing is available for viewing on the Board’s website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca).

**B. Adoption of Revised RRR Amendments**

The Board has considered the comments received in response to the November Notice, and has determined that no material changes to the Revised RRR Amendments are required. The Board has therefore adopted the Revised RRR Amendments, which are set out in Attachment A to this Notice.

**C. Anticipated Costs and Benefits**

The anticipated costs and benefits of the Revised RRR Amendments were set out in the November Notice, and are reproduced here for convenience of reference:

The Revised RRR Amendments will continue to enable the Board to monitor the qualifying facility investments of natural gas utilities on a sufficiently timely basis. The Board anticipates that the administrative costs and resource requirements involved in reporting qualifying facility investments under the Revised RRR Amendments will be less than would have been the case under the July Proposed Amendments to the RRR.

**D. Coming into Force**

As indicated in the November Notice, the Revised RRR Amendments come into force on today's date, being the day that they are published on the Board's website after having been made by the Board. The Revised RRR Amendments apply to all filings due on or after today's date.

This Notice, including the Revised RRR Amendments set out in Attachment A, will be available for public viewing on the Board's web site at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) and at the offices of the Board during normal business hours.

All inquiries relating to the Revised RRR Amendments set out in Attachment A should be directed to the Market Operations Hotline at 416-440-7604 or at [market.operations@oeb.gov.on.ca](mailto:market.operations@oeb.gov.on.ca).

The Board's toll free number is 1-888-632-6273.

**DATED** at Toronto, January 27, 2011  
**ONTARIO ENERGY BOARD**

Original signed by

Kirsten Walli  
Board Secretary

Attachment A: Amendments to the Natural Gas Reporting & Record Keeping  
Requirements: Rule for Gas Utilities

## **Attachment A**

### **Amendments to the Natural Gas Reporting & Record Keeping Requirements: Rule for Gas Utilities**

**Note: The text of the proposed amendments is set out in italics below, for ease of identification only.**

1. Section 1.8 of the Natural Gas Reporting & Record Keeping Requirements: Rule for Gas Utilities is amended by adding the following immediately after the second paragraph of that section:

*Sections 2.1.16 and 2.1.17 of this Rule, made by the Board on January 27, 2011, come into force on January 27, 2011 and are applicable to all filings due on or after that date.*

2. Section 2.1 of the Natural Gas Reporting & Record Keeping Requirements: Rule for Gas Utilities is amended by adding the following immediately after section 2.1.15:

*2.1.16 A utility shall provide, in the form and manner required by the Board, annually, by the last day of the fourth month after the financial year end, the following information regarding activities associated with qualifying facilities:*

*(a) a list of any transaction(s) in which the utility has invested in or provided guarantees or other form of financial support to an affiliate in the preceding financial year if the transaction(s) resulted in the utility investing between 25% and 35% of the utility's total equity on an aggregated basis over all other transactions with all affiliates, including:*

*i. the name of the affiliate(s) and the business activity(ies) of the affiliate(s) at the relevant time;*

- ii. *the nature and dollar value of the investment(s), guarantee(s) or other form of financial support and, where applicable, the manner in which the utility financed each investment, guarantee or other form of financial support; and*
  - iii. *the percentage of the utility's total equity that is represented by the aggregate of the investment(s), guarantee(s) or other form of financial support over all transactions with all affiliates;*
- (b) *a list of any transaction(s) in which the utility has invested in or provided guarantees or other form of financial support to an affiliate in the preceding financial year if the transaction(s) resulted in the utility investing more than 35% of the utility's total equity, on an aggregated basis over all other transactions with all affiliates, including:*
  - i. *the name of the affiliate(s) and the business activity(ies) of the affiliate(s) at the relevant time;*
  - ii. *the nature and dollar value of the investment(s), guarantee(s) or other form of financial support and, where applicable, the manner in which the utility financed each investment, guarantee or other form of financial support; and*
  - iii. *the percentage of the utility's total equity that is represented by the aggregate of the investment(s), guarantee(s) or other form of financial support over all transactions with all affiliates;*
- (c) *the number of qualifying facility investments made by the utility in the preceding financial year by direct or indirect acquisition or construction, and the following information for each such qualifying facility investment:*

- i. the method of financing of the investment;*
- ii. the dollar value of the investment;*
- iii. the percentage of the utility's total equity that is represented by the investment; and*
- iv. whether the qualifying facility is or is intended to be the subject of a contract under the Feed-in Tariff program.*

*2.1.17 For the purposes of section 2.1.16, a “qualifying facility” means a generation facility or an energy storage facility that is referred to, and meets the applicable requirements set out in, paragraph (a), (b) or (c) of the Directive issued to the Board by the Minister of Energy and Infrastructure and approved by Order in Council 1540/2009, including by virtue of paragraph (e) of that Directive.*