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Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Suite 2700
Toronto ON M4P 1E4

Attention: Ms Kirsten Walli
Board Secretary

Dear Ms. Walli:

Re: Renewed Regulatory Framework
Board File Numbers: EB-2010-0377; EB-2010-0378; and EB-2010-0379

This letter is written in my capacity of Chair of the Distribution Regulation Review Task-Force (the "DRRTF"). The DRRTF is an initiative of the leading gas and electric distribution utilities in Ontario aimed at encouraging thought and discussion on how the OEB's approach to regulating energy distribution can be enhanced. These utilities are: the Coalition of Large Distributors (which consists of Enersource Hydro Mississauga Inc., Horizon Utilities Corporation, Hydro Ottawa Limited, PowerStream Inc., Toronto Hydro Electric System Limited, and Veridian Connections Inc.), Enbridge Gas Distribution Inc., Hydro One Networks (Distribution), and Union Gas Limited.

The DRRTF has come together because these consultations address matters of fundamental strategic importance to the future of the OEB's regulation of the energy sector. In its October 27, 2010 letter announcing this initiative, the Board described it as "transformational" and addressing "perhaps the main challenge for the entire sector." Similarly, in describing this initiative in its draft Business Plan, the Board stated that this process was "a major initiative on the part of the Board and will encompass an open and transparent review."

The members of the DRRTF, as well as other stakeholders, attended a session at the Board on February 2, 2011 where Board staff provided a brief summary of the major issues to be addressed under each initiative. Stakeholders were told that Board staff was in the process of engaging consultants to do research on various issues and that, only after the research was completed, parties will have the opportunity to comment on staff papers. It appears from the current documentation that following the release of the consultant reports and Staff discussion papers, stakeholders would be permitted an opportunity only to 'engage in discussions' regarding these documents, and not have an opportunity to question the basis of the reports, lead independent evidence, or rebut the conclusions or challenge the assumptions in these documents.

As a result, it does not appear that parties will have the opportunity to provide input on scope and process prior to consultants being retained and their mandates being effectively finalized by Board staff. Further, the opportunities to participate after the consultant reports are completed are also very limited.

The DRRTF requests the Board to provide a more meaningful opportunity for stakeholders to participate in establishing the scope and process of issues to be addressed in this review. Recognizing that the Board has set the strategic goals for the initiatives – Distribution Network Investment, Performance Measures, and Rate Mitigation - it is clear that there is considerable scope for discussion of the issues to be addressed in each of those goals.

It should be borne in mind that the Board typically offers a significant role for stakeholder participation in scoping areas for review. The DRRTF believes that this approach – which applies to all matters of Board decision making – should also apply to this “transformational” review.

A more open consultation model has also been used by the Board when it has considered policy framework reviews in the past as well, for example, in the Natural Gas Forum.¹ Another helpful analogy is found in the review leading to Ofgem’s final decision on “Regulating Energy Networks in the Future”. That process started with a “first phase” in which, according to Ofgem, “we aim to understand the issues affecting network regulation and identify areas where change may be needed. We are ruling nothing out of scope in this stage. The phase will culminate in the publication of an emerging thinking consultation document...”² That “emerging thinking” document (a series of preliminary proposals) led to more consultation in September, 2010 and culminated in a final decision in October, 2010.

Even in less transformational types of reviews, stakeholders views are canvassed early so that the scope and process for review can take them into account. Thus, for example, in January of this year, the Board established a smart grid working group that will provide input on the types of issues that the Board will consider in settling the scope of that review.

As the Board noted in commencing the Regulatory Framework review, “The success of this approach will depend to a large extent on the efforts of transmitters and distributors.” Transmitters and distributors – and likely a broad range of OEB stakeholders - are prepared to make the effort required to make this a successful process. However, it is not clear that the process is structured to allow for their effective participation.

In light of this, the DRRTF requests that, prior to staff finalizing the issues under consideration by providing detailed instructions to consultants hired under this project, the Board hold a session where parties are given the opportunity to present their views on the scope and process for the Renewed Regulatory Framework consultation. It would be helpful to make these points directly to Board members that are responsible for this project so that they have the opportunity to hear from and question presenters directly. Again the Board has done this in the past (for example in the Generator Connection policy review and the Cost of Capital review).³ The DRRTF also specifically requests that the process ensures the opportunity to test the consultants’ reports and permit the filing of stakeholder materials so that other perspectives on these topics are also taken into account.

¹ Letter dated October 24, 2003 announcing the launch of the Natural Gas Forum

² Regulating energy networks for the future: RPI-X@20 Principles, Process and Issues, February 27, 2009.

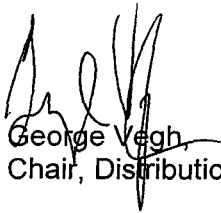
³ EB-2008-0003 and EB-2009-0084.

It is also consistent with past practice – and appropriate here – that consultants would interview interested persons (such as DRRTF members) to ensure that their reports are informed by the experience and insights of the industry on these important matters.

The DRRTF believes that this important process would only benefit from being informed by the issues and concerns of stakeholders and hopes that the Board will make this opportunity available to all stakeholders.

In conclusion, the DRRTF appreciates that the Board has taken up the opportunity to address the strategically important issues involved in the Renewed Regulatory Framework and looks forward to full participation in contributing to this process in an open and transparent manner.

Sincerely,



George Vegh

Chair, Distribution Regulation Review Task-Force

- c: Norm Ryckman – Enbridge Gas Distribution Inc.
 Gia DeJulio – Enersource Hydro Mississauga Inc.
 Indy Butany-DeSouza – Horizon Utilities Corporation
 Ian Malpass – Hydro One Networks Inc.
 Jane Scott – Hydro Ottawa Limited
 Colin Macdonald – PowerStream Inc.
 Colin McLorg – Toronto Hydro Electric System Limited
 Mark Kitchen – Union Gas Limited
 George Armstrong – Veridian Connections Inc.
 Participants in EB-2010-0377; EB-2010-0378; and EB-2010-0379