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By electronic filing

April 20, 2012

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
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Toronto, ON M4P 1E4

Dear Ms Walli,

Renewed Regulatory Framework for Electricity
Board File Nos.: EB-2010-0377, EB-2010-0378, EB-2010-0379, EB-2011-0043 and EB-2011-0004
Our File No.: 339583-000098

Please find enclosed the Comments of Canadian Manufacturers & Exporters ("CME") in this matter.

Yours very truly

Peter C.P. Thompson, Q.C.

PCT\kt
c. All Interested Parties
Bruce Sharp (Aegent Energy Advisors)
Vince DeRose, Jack Hughes (BLG)
Paul Clipsham (CME)

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Renewed Regulatory Framework for Electricity

COMMENTS OF CANADIAN MANUFACTURERS & EXPORTERS ("CME")

I. INTRODUCTION

1. The following comments are provided on behalf of Canadian Manufacturers & Exporters ("CME") to assist the Board in its development of a renewed regulatory framework for electricity distributors and transmitters ("RRFE").

II. OVERVIEW

2. CME supports the Board's efforts to renew its regulatory framework by adopting an outcomes-based approach that accords a high priority to pacing and/or mitigating regulatory rate approvals to avoid total bill impacts on consumers that exceed an empirically established tolerance threshold or are otherwise unaffordable or unsustainable. An outcomes-based approach is appropriate as long as it derives from a "judicial" exercise by the Board of its statutory mandate, as a quasi-judicial tribunal, to adhere to "due process" when determining just and reasonable rates. Regulated rate increases that contribute to electricity price increases that, in turn, lead to material demand destruction are neither just nor reasonable.
3. Modifications to the existing regulatory framework should not be considered without persuasive empirical evidence that demonstrates the need for change. The Board should disregard complaints about the existing framework that are unsupported by any empirical evidence and focus on those that have evidentiary support.
4. Modifications to the existing regime to accommodate an outcomes-based approach should be considered by having regard to the historical development of the existing regulatory framework, as well as the range of options and flexibility that is currently available within its ambit.
5. CME is sympathetic to concerns expressed by some utilities with respect to the inability of the existing framework to adequately respond, in a timely manner, to utility capital requirements related to the politically mandated changing nature of electricity and infrastructure in Ontario. It appears that for some, but not all, of the electricity distributors

that the Board regulates, the Board's 3rd Generation Incentive Regulation Mechanism ("3GIRM"), including its Incremental Capital Module ("ICM"), is inadequate to accommodate significantly increasing capital expenditures prior to cost of service rebasing. Some fine-tuning of the ICM feature of the Board's 3GIRM model could be all that is needed to respond to these concerns.

6. Concerns expressed by smaller utilities about the onerous nature of the Board's filing requirements should be constructively addressed in a manner that simplifies those requirements for those utilities. CME is not as close to this issue as other intervenors because its participation in proceedings before the Board is generally confined to the larger gas and electricity utilities that the Board regulates, namely, Enbridge Gas Distribution Inc. ("EGD"), Union Gas Limited ("Union"), Ontario Power Generation Inc. ("OPG"), and Hydro One Networks Inc. ("Hydro One") for both its transmission and distribution rates. We regard the Board's filing requirements for these larger utilities to be entirely appropriate and they should not be relaxed. We are confident that an appropriately constituted Working Group, consisting of representatives of the smaller utilities and intervenors who are experienced participants in proceedings involving those utilities, can collaboratively develop recommendations that will alleviate the concerns that have been raised, without diluting the obligation on every utility that the Board regulates to discharge the onus of proof with respect to the applications for relief that the Board is asked to grant.

7. We reiterate that the Board's response to these and other criticisms of the existing regulatory framework should be based on empirical evidence. The responses should be formulated having due regard to the legal requirements related to the exercise by the Board of its statutory mandate. Any modifications that are made should take into account and build upon the range of options and flexibility that is currently available under the existing framework.

III. THE BOARD'S RATEMAKING MANDATE AND RELATED LEGAL REQUIREMENTS

8. When considering its response to criticisms of the existing regulatory framework, the Board should bear in mind that its statutory mandate is to function as an independent quasi-judicial tribunal when determining just and reasonable rates. Put another way, when determining just and reasonable rates, the task that the Board performs is "adjudicative" and not merely "administrative".

9. Because the Board regularly determines, year after year, issues effecting utility and ratepayer interests, regular communications between the Board, on one hand, and the utility and ratepayer and other interests over which the Board exercises adjudicative power, on the other hand, are both required and expected. That said, the Board needs to take care to preserve its independence and its perceived impartiality by refraining from appearing to become too closely aligned with any particular interest that is effected by its regulation. We make this comment not because of anything that the Board has done, but merely to emphasize the legal requirements that are germane to whatever regulatory framework the Board decides to apply. Public confidence in the Board, as an independent adjudicative tribunal, will rapidly erode and dissipate if the elements of the regulatory framework that the Board applies appear to be incompatible with these legal requirements.

10. Similarly, it should be borne in mind that the Board's statutory mandate to function as an independent quasi-judicial tribunal has relevance to the use that is made of performance standards in the Board's determination of just and reasonable rates. In a ratemaking context, performance standards or metrics that the Board considers are "guidelines" only. Performance standards and other guidelines can and should be established and used to assist in the evaluation of whether the consequences of a particular utility course of action are prudent, just and reasonable. That said, it should be recognized that compliance with such "guidelines" may not, in every case, lead to an outcome that satisfies the statutory requirements that rates be just and reasonable.

11. Put another way, compliance with "guidelines" cannot displace the Board's statutory obligation to hear and determine a genuine issue that arises with respect to the justness and reasonableness of rates. The development and application of a regulatory framework based on pre-determined performance standards and guidelines cannot operate to "bypass" the Board's paramount obligation to adhere to the "due process" legal requirements that apply to a determination of issues raised by parties pertaining to the justness and reasonableness of rates.

12. The legal obligation of a tribunal exercising judicial functions, to fairly hear and determine issues raised by interested parties, is paramount. The Board is legally obliged to conduct a hearing before a "guideline" outcome becomes effective. If "streamlining" of the regulatory process, by applying pre-determined performance standards to determine rate-setting outcomes, effectively deprives interested parties of their right to be heard, then the result is an outcome that is incompatible with the Board's statutory mandate.

13. Put another way, when establishing a regulatory framework that envisages the application of performance metrics and guidelines to assist in the evaluation of the justness and reasonableness of rates, it should be recognized that such performance metrics and guidelines are only a corollary of and secondary to the Board's statutory obligation to fairly hear and determine any and all disputes that arise pertaining to the justness and reasonableness of the rates that a utility asks the Board to approve.

IV. EVOLUTION OF THE EXISTING REGULATORY FRAMEWORK

14. Before considering the extent to which changes to the existing regulatory framework are necessary, it is important to step back to consider the evolution of and the complete ambit of the existing regulatory regime, including the range of options and flexibility within that arnbit.

15. The traditional Cost of Service ("COS") regulatory framework, pursuant to which rates are set annually on the basis of historic, bridge and test year information, dates back to the early 1970s. Over the years, that model has been used for multi-year cost of service test periods of two years in duration.

16. More than 10 years ago, the Board adopted a combined COS and Targeted Performance Based Rates ("PBR") model for EGD, with the Targeted PBR model being confined to a determination of EGD's Operating and Maintenance ("O&M") expenditures for a period of three years. The other components of EGD's revenue requirement are determined annually under the auspices of the traditional COS model.

17. With the release of its report entitled "Natural Gas Regulation in Ontario: A Renewed Policy Framework, Report on the Ontario Energy Board Natural Gas Forum dated March 30, 2005, the Board broadened the regulatory framework applicable to gas utilities. This in turn prompted a collaborative consideration of the appropriate components of a longer term Incentive Regulation Mechanism ("IRM") model.

18. Following a great deal of collaborative time and effort, involving Board Staff, utilities, intervenors, and their respective experts, the utilities and its stakeholders were able to agree upon the parameters of five-year IRM plans for Union and EGD. These consensus based models have operated reasonably successfully for the past five years.

19. There are differences between the Union and EGD IRM plans. The Union IRM plan is a price cap model, whereas the EGD plan is a revenue per customer cap model. Like all IRM plans, each of the Union and EGD plans retains a significant COS component in that material portions of the amounts recoverable in annual rates are subject to Y-factor COS flow-through coverage. As already noted, these consensus IRM plans could not

have been negotiated and eventually approved by the Board without the participation of experienced intervenor representatives in the process.

20. The point of all of this is that the negotiated parameters of the existing regulatory framework applicable to gas distributors convincingly demonstrate that changes to a prevailing regulatory framework, accommodating a broad range of options and considerable flexibility, can be developed in a collaborative process involving the utilities, Board Staff and experienced intervenor representatives.

21. With respect to the Board's regulation of electricity utilities, the existing regulatory framework was, again, the by-product of the issuance, by the Board, of guiding principles followed by the expenditure of significant time and effort by Board Staff, utilities, experienced intervenor representatives, and their respective experts. Where a consensus could not be achieved with respect to elements of the 3GIRM-ICP model, the Board proceeded to resolve the matters in dispute after hearing from all interested parties. This led to the establishment of the existing 3GIRM-ICP model that, in conjunction with COS rate re-basing every four years, is applied to guide the Board's determination of electricity distribution rates.

22. A two-year cost of service model is applied to determine OPG's regulated payment amounts and the transmission and distribution rates of Hydro One.

23. The point of referring to this history, pertaining to the evolution of the existing regulatory framework for both gas and electricity utilities, is that it demonstrates that a process that allows the utilities, Board Staff and experienced intervenor representatives to participate in a collaborative exercise, in an attempt to achieve a consensus, is a process that produces meaningful results. In these circumstances, the Board should refrain from imposing on stakeholders its views pertaining to the details of regulatory framework changes it favours until it is clear that a collaborative effort involving Board Staff, utilities and experienced intervenors has failed to produce a consensus. Public confidence in the regulator will tend to erode if the regulator imposes detailed measures on parties affected thereby before those parties have been afforded an opportunity to examine and test all of the implications of the detailed measures being contemplated. To the extent possible, the Board should refrain from imposing mandated outcomes, the details of which have not been the subject of prior discussion amongst affected parties. A collaborative process should precede the finalization of such details to allow all of the pros and cons to be considered by all affected parties.

24. The foregoing views with respect to the legal requirements pertaining to an exercise by the Board of its ratemaking jurisdiction, as well as the views expressed with respect to the evolution of and the range of options and flexibility under the existing regulatory regime, inform the comments that follow under the major topic headings contained in the list of questions that the Board attached to its April 5, 2012 letter to Interested Parties.

V. VISION/OUTCOMES

25. The comments that follow relate to a consideration of the outcomes that should guide the Board when determining just and reasonable rates. The perspective that we present is that of some 1,400 Ontario manufacturers who are members of CME.

(a) Manufacturer Expectations

26. Ontario manufacturers envisage a safe and reliable system that provides electricity at prices that they can afford. In terms of the outcome that manufacturers expect, affordable prices and system safety and reliability, are inseparable.

27. For there to be a sustainable and viable longer term electricity industry, of which utility regulation is a part, the outcome for consumers must be electricity prices that are affordable and sustainable in that they do not cause irreparable harm to the Ontario economy. This outcome dominates manufacturer and consumer expectations, and it is the outcome that should materially influence the Board when it exercises its ratemaking jurisdiction.

28. As outlined during the course of the March 28-30, 2012 Stakeholder Conference, the Board and the utilities it regulates currently lack essential items of information that are required to enable utilities to plan and the Board to regulate with "total bill impact in mind". The essential items of information that are required are:

(a) Annually updated forecasts of electricity price increases over the five-year planning horizon that utilities use;

(b) Annually updated consumer sensitivity surveys; and

(c) Annually updated prices of electricity in locations other than Ontario in which Ontario manufacturers can add incremental facilities or relocate their existing Ontario facilities.

29. Careful monitoring, on a prospective basis, of annually updated electricity price increase forecasts and surveys of consumer sensitivity to such price increases are critical functions in which the Board should engage on a collaborative basis with stakeholders. We commissioned and filed a five-year price increase forecast prepared by Bruce Sharp, of Aegent Energy Advisors Inc. We did this to prompt the further development of a

collaborative and hopefully consensus based method for developing and annually updating electricity price increase forecasts, being one of the items of essential empirical information that the Board lacks. The Report prepared by Power Advisory LLC was not a total electricity price increase forecast. It is a partial bill rather than a total bill analysis.

30. As indicated at pages 4 and 5 of Mr. Sharp's report, there are areas of his analysis that could be materially strengthened. In this connection, the report states as follows:

> "*Improvements to Information*
>
> *In many cases, more accurate inputs exist and would help to improve this forecast. For example, information from the OPA pertaining to the quantities of FIT supply, if any, that over the next five years will be paid revised prices, would enable a determination to be made of the extent to which revised FIT prices might affect the electricity price increase forecast results of this analysis.*
>
> *The high-level estimates of transmission and distribution cost increases shown in appendix tables 13 and 14 are other areas that could be materially strengthened if the OEB, MoE and other stakeholders were to cooperatively collaborate in the development of the electricity price increase forecast. The OEB and/or the Ontario MoE often have access to confidential, five-year business plans or have the ability to compel or influence entities that have this information to provide it. These entities could include OPG, HONI, individual local distribution companies ("LDCs"), the OPA, Ontario's Independent Electricity System Operator ("IESO") and the Ontario Electricity Finance Corporation ("OEFC").*"

31. The two additional items of empirical information described above, namely, annually updated consumer price sensitivity surveys and annually updated electricity prices in locations that "compete" for manufacturers with facilities currently located in Ontario are needed to evaluate whether the impact of price increases that manufacturers and other consumers are facing are likely to reach a level that is "unaffordable".

32. As a pre-cursor to conducting and annually updating a survey with respect to the ability of manufacturers and other consumers to tolerate the price increases that they will likely be facing, someone skilled in designing these types of surveys needs to be retained to work collaboratively with all stakeholders to objectively frame the questions that should be posed to obtain the requisite information. Similarly, the jurisdictions that Ontario manufacturers are likely to consider for the location of incremental facilities or the relocation of their existing Ontario facilities need to be identified so that current and annually updated empirical information pertaining to electricity prices in those jurisdictions can be compiled. This empirical information is needed to evaluate the "demand destruction" potential of the electricity prices manufacturers and others are facing.

33. As stated during the March 28-30, 2012 Stakeholder Conference, the Board should take the lead role in the collaborative exercise of obtaining and publishing these critical items of information for the following reasons:

(a) The Board is the independent quasi-judicial regulatory agency with a statutory mandate to act impartially and to protect consumers with respect to electricity prices;

(b) The requisite and annually updated information is "generic" to every electricity rate-setting application that the Board considers;

(c) By taking the lead with respect to obtaining these essential items of empirical information, the Board demonstrates to consumers that it really is concerned about the total electricity bills they will be facing and the likely demand destruction effect that those increases will have;

(d) The exercise will provide the Board with the more direct interface with consumers that it seeks to achieve, as well as an information base that is needed to help the Board educate consumers about all of the ingredients of the bill, including those the Board regulates and those over which it has no control; and

(e) Regular publication of the price increase forecasts, the survey results, and the prices in competing jurisdictions will disclose to those who do have influence over the portions of the bill that the Board does not control the information that they should have in mind when considering the consequences their actions and proposed actions.

34. CME's priority is to obtain a commitment from the Board to immediately take the lead in developing and providing annual updates of this essential information with collaborative input from all stakeholders. The information is essential to both utility planning and Board regulation of the pacing and prioritizing of utility infrastructure spending plans with "total bill impact in mind".

(b) <u>Utility Performance Metrics</u>

35. The primary utility performance metric that manufacturers and other consumers consider is the total amount of the electricity bill that they receive. Bill increases, linked to the regulated components of the bill, that operate, in conjunction with increases in its unregulated components, to make the total bill unaffordable will invariably lead to demand destruction and irreparable harm to the Ontario economy. When this condition occurs, and it is likely occurring already for some manufacturers, it matters not whether

the utility has complied with performance metrics that the Board establishes. Load will be lost and the economy will be harmed.

36. We have no specific proposals pertaining to the utility performance metrics that should guide the Board when it considers whether the cost consequences of a particular utility's spending plans result in just and reasonable rates. We assume that, once the Board has identified the particular metrics that it prefers, we will have an opportunity to participate in a collaborative working group process that the Board will establish to enable the pros and cons and other implications of those particular performance metrics to be identified and evaluated.

37. At a conceptual level, we do have a concern with utility performance metrics that contemplate that incentive amounts will be added on to the Board approved revenue requirement. Such incentive payment add-ons merely add to electricity price increases and increase the potential for further demand destruction.

38. It is prudently incurred costs that a utility is permitted to recover in rates, along with a Board-approved return on investment. It is prudently incurred cost estimates that are to be embedded in rates. A utility whose prudently incurred costs are less than the amount of a particular performance metric should not be entitled to an incentive payment add-on at the expense of ratepayers. Such an add-on is effectively an enhanced return on investment. Such an incentive add on is inappropriate for the same reason that it would be inappropriate to impose a penalty on a utility whose prudently incurred cost estimates embedded in rates exceed a particular performance metric the Board establishes.

39. The "incentive" amount a utility can realize should be limited to the achievement of actual costs that are less than the prudently incurred amounts embedded in rates. For the reasons already articulated, automatic and "streamlined" rate adjustments, for a particular utility that meets or exceeds defined performance standards, that effectively "bypass" the due process legal requirements that the Board is obliged to apply are not a regulatory framework option that is available to the Board having regard to its obligation to act judicially when determining just and reasonable rates.

VI. PLANNING

40. We support the utility-specific integration of planning for sustainment and expansion requirements, and smart-grid generation connection. We also reiterate the view expressed by CME in prior proceedings before the Board to the effect that the Board should exercise its supervisory powers over the Ontario Power Authority ("OPA"), the Independent Electricity System Operator ("IESO"), Hydro Transmission, Hydro

Distribution, and other electricity distributors in a way to assure that coordinated planning occurs on both a regional and province-wide basis.

41. We also reiterate that it is critical for the planners to have in hand objective empirical information pertaining to the estimated year-over-year price increases consumers will be facing over the five-year planning horizon that utilities use, and the demand destruction potential of such price increases. As previously noted, we regard this information as essential to a determination of the appropriate pacing and prioritizing of spending plans in a manner that mitigates, to the extent possible, the year-over-year total bill impact on consumers.

42. We assume that we will have an opportunity to participate in a collaborative process that considers the details of implementing matters pertaining to the integration and optimization planning measures.

VII. RATE-SETTING AND RATE MITIGATION

(a) Alignment of the Rate-setting and Planning Cycles

43. When considering options related to the alignment of the rate-setting and planning cycles, it should be recognized that, regardless of the duration of the planning cycle used by a particular utility, Board ordered rate changes to some components of the electricity bill will take place quarterly, some will take place semi-annually, and others will occur annually. The frequency of these Board ordered rate changes will not change with the adoption of a multi-year cost of service model in excess of two years or some variant of the current 3GIRM-ICP model.

44. Most, if not all, utilities that the Board regulates operate under the auspices of a five-year planning horizon. However, as indicated during the course of the March 28-30, 2012 Stakeholder Conference, the spending estimates reflected in these five-year plans become increasingly unreliable as one moves out over the planning horizon. Without appropriate ratepayer protection measures, setting rates for five years on the basis of such forecasts would be inappropriate. Conceptually, manufacturers would be reasonably comfortable with the adoption of a longer term rate-setting model provided appropriate ratepayer protection measures are put in place. Such ratepayer protection measures include earnings sharing and a range of possible customized off-ramps to prevent utilities from earning amounts in excess of the Board approved utility return. Such a result is particularly appropriate in circumstances where electricity price increases consumers are facing over the next five years are becoming more and more unaffordable.

45. As long as appropriate ratepayer protection measures are in place, the existing regulatory framework could be broadened to provide utilities with an option to propose multi-year rate-setting under the auspices of a COS model with a term longer than one year or under an IRM model with an appropriate ICM module for a term longer than three years. Longer term rate-setting options can be added to the existing framework. Such rate-setting alternatives should be optional and not mandatory, provided that any rate-setting proposal longer than two years must be accompanied by ratepayer safeguard proposals.

(b) Rate Mitigation

46. The rate mitigation measures discussed in the Report circulated by Board Staff focus on options that are available to smooth the cost consequences of year-over-year increases in the regulated component of the utility bill. These rate mitigation measures do not address a scenario where, regardless of the smoothing of increases in the regulatory component of the bill, those increases operate in combination with increases in the unregulated components of the bill to produce utility electricity price increases for critical sectors of the Ontario economy that are neither sustainable nor affordable.

47. This is an "inability to mitigate" a scenario. If this scenario emerges, then the Board will likely be required to consider an outcome whereby a portion of the increase in the regulated rates of government owned utilities must be shifted from ratepayers to taxpayers to produce regulated rates that do not contribute to total electricity prices that are unaffordable and materially harmful to the Ontario economy.

VIII. REGULATORY PROCESS

48. The Board should be wary when considering concerns expressed by utilities about the intervention component of the process that the Board follows to determine just and reasonable rates. Interventions by identifiable classes of ratepayers and other affected interests are fundamental to the quasi-judicial ratemaking process that the Board's enabling legislation requires it to apply. The Board's regulatory process cannot possibly accommodate the appearance of large numbers of individual ratepayers to express their concerns on the record. Moreover, utilities cannot and do not represent ratepayers on issues pertaining to the level and other components of rates upon which the utilities and ratepayers have different perspectives.

49. Utility criticisms of the cost to ratepayers of interventions cannot reasonably be evaluated without a prior examination of empirical information pertaining to the benefits of such interventions. One important factor to be considered is the cumulative reduction

in the as-filed revenue requirements for all of the electricity utilities for which the Board sets rates in a particular year. This is one outcome attributable, in part, to interventions by parties who are represented by experienced regulatory advisors. The data pertaining to that measure of the value of interventions is available and should be compiled. If one merely takes the cumulative revenue requirement reductions that were achieved in the most recent Hydro One Transmission and Distribution Decisions and in the most recent OPG Decision, we expect that the cumulative reductions in the as-filed revenue requirements in those three cases will be found to be approaching an amount of $1 billion. Information pertaining to the reductions from the as-filed revenue requirement requests made by other utilities can be compiled and provided by Board Staff and others who participated in those proceedings.

50. Another important benefit of the participation of experienced intervenors in utility rate proceedings are the many partial and complete settlements that these intervenors negotiate with the utilities that the Board regulates. It is the participation of experienced intervenors in the interrogatory and settlement process that prompts the Board to have confidence in the rate case settlements that are negotiated and subsequently approved by the Board year after year. The Board's ability to regulate the many utilities that are subject to its jurisdiction would be materially compromised in the absence of these settlements.

51. Board Staff are not and cannot be a party to settlement agreements. Unlike the Federal Energy Regulatory Commission ("FERC"), the Board does not have a separate subset of its organization to facilitate the settlement of utility rate cases. In this context, one potential way of estimating the value of experienced intervenors in producing settlements would be to consider the total annual costs FERC incurs for resources that it relies upon to support the rate case settlement subset of its organization.

52. That the ability of experienced intervenors to negotiate settlements with which the Board is comfortable extends to complex proceedings is evident from the five-year IRM plans that were negotiated with Union and EGD, and the two separate five-year ratemaking envelopes that were negotiated to accommodate EGD's acquisition and operation of new and expensive CIS and Customer Care resources.

53. Utility complaints with respect to the costs associated with the interrogatory process cannot reasonably be evaluated without an awareness of the total costs incurred by the utility to prepare, present and obtain the revenue requirement and rate approvals that the Board eventually grants. Costs of the interrogatory process could be a relatively

small portion of the total costs incurred. The potential for overlapping interrogatories could be materially reduced by requiring Board Staff to submit its interrogatories in advance of intervenor interrogatories. Moreover, as already noted, the fact that the interrogatory process is rigorous is one of the major reasons why cases can be settled or partially settled.

54. We reiterate the comments already made pertaining to the legal process requirements that must be satisfied when the Board is called upon to exercise its adjudicative power with respect to ratemaking. We also emphasize that the onus is on each and every utility the Board regulates to discharge the onus of proving in the judicial process that the Board is required to apply that the rates it asks the Board to approve are just and reasonable.

55. While the filing requirements pertaining to smaller utilities could probably be simplified, the filed material must be sufficient to support the relief requested. The Board and its Staff will be far more familiar than we are with the extent to which the quality of material presented by smaller utilities that the Board regulates is sufficient to meet this burden of proof.

IX. TOTAL BILL IMPACT

56. We have previously commented on the absence of three items of critical information relevant to utility planning and the Board's regulation of utility spending plans with "total bill impact in mind". We reiterate that our priority in this proceeding is to obtain a commitment from the Board to forthwith take the lead in obtaining and publishing the essential empirical information that utilities, their customers and the Board require to plan and regulate with total bill impact in mind.

X. OTHER – NEXT STEPS

57. For reasons already outlined, we urge the Board to proceed with caution when responding to the various complaints that have been made with respect to the parameters of its existing regulatory framework. Any changes that the Board considers to be warranted should be made by building on the range of options and flexibility currently available under the existing regulatory framework. The existing framework can be broadened to accommodate both multi-year cost of service and multi-year IRM ICM models of durations longer than one and three years, respectively. Longer term rate-setting should be optional rather than mandatory provided that it includes appropriate ratepayer protection measures. A collaborative process should be established to allow

all interested parties to consider and attempt to resolve, on a consensus basis, the details of any optionality that the Board wishes to add to the parameters of the existing regime.

XI. RESPONSES TO THE SPECIFIC QUESTIONS LISTED IN THE APPENDIX OF THE BOARD'S APRIL 5, 2012 LETTER

58. The foregoing comments constitute CME's responses to the 22 specific questions listed in Attachment A of the Board's April 5, 2012 letter. Please contact us if any further elaboration of CME's comments is required. CME thanks the Board for allowing it to submit these comments and sincerely hopes that these views will be of some assistance to Board members.

ALL OF WHICH IS respectfully submitted this 20th day of April, 2012.

Peter C.P. Thompson, Q.C.
Borden Ladner Gervais, LLP
Counsel for CME

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