

SUBMISSIONS OF THE CONSUMERS COUNCIL OF CANADA
TO THE ONTARIO ENERGY BOARD
RE: RENEWED REGULATORY FRAMEWORK FOR ELECTRICITY
April 20, 2012

1. INTRODUCTION:

On October 27, 2010, the Ontario Energy Board ("Board") initiated "A Renewed Regulatory Framework for Electricity". The Board set out three key elements to this new framework:

- The examination of the Board's existing approach to network investment planning by transmitters and distributors;
- The review of the Board's rate mitigation policy; and
- Defining and measuring the performance of electricity distributors and transmitters

The Board held a stakeholder conference on February 2, 2011 to discuss the scope of each policy initiative, provide greater detail about the consultation activities that would be involved, and to identify the expected timeframe for those activities.

On November 8, 2011, the Board released five staff discussion papers and supporting consultant reports. This was followed by a further stakeholder session on December 8, 2011. The purpose of that session was to provide parties with an opportunity to ask questions to better understand the content of the papers.

On March 20, 2012, the Board informed stakeholders the RRF process would lead to the formulation of Board policies in relation to a renewed regulatory framework for electricity which will:

- Establish performance outcomes that reflect consumers' expectations and encourage enhanced productivity;
- Provide for efficiently planned investments in grid sustainment, expansion and modernization that consider pace and prioritization;
- Align rate setting cycle and investment planning horizons and provide for efficient recovery of costs;
- Increase efficiency in the regulatory process through greater focus on outcomes; and
- Consider the total bill impact on consumers.

On April 5, the Board set out a number of questions to guide stakeholders in providing the Board with input relevant to its consideration of the issues.

The Consumers Council of Canada ("Council") has been participating in all phases of this consultation process. These are the submissions of the Council provided in response to the Board's letter dated April

5, 2012. The Council will set out some general points, then address the questions identified by the Board in Appendix A to its April 5, letter.

2. GENERAL COMMENTS:

In the development of a renewed regulatory framework it would be helpful for the Board to identify the deficiencies in the current framework and explain how that framework fails to achieve the five objectives outlined by the Board. One of the stated goals of this review process is "to establish outcomes that reflect consumer expectations". The existing framework allows the Board to be informed by consumer expectations. Any modifications to the existing system would have to include a better, and more cost-effective way of doing so.

Given its extensive experience in regulatory proceedings, and based on what we have heard through the stakeholder consultations the Council can agree that there are improvements that could be made to the current regulatory process. The Council recognizes that there is a need to address issues around capital plans and how best to recover the costs of those plans in rates. In addition, as discussed at the stakeholder consultation the week of March 28, improvements are required in to ensure that cost-effective regional planning is undertaken and barriers to that planning addressed. Finally, the Council recognizes that the filing requirements for local distribution companies ("LDCs") and transmitters, particularly those regarding capital, should be revised in order to ensure that on the one hand the Board has the right information for its decision-making processes, while on the other hand those filing requirements are not unnecessarily onerous for the LDCs. As set out below, in more detail, the Council is recommending that the Board establish working groups for each of these initiatives.

Although the Council does accept that changes to the Board's regulatory framework are warranted the Council does not see the need for a complete overhaul of that framework. The current framework has evolved over time and has been adapted to respond to the many changes that have occurred in electricity sector in recent years, primarily driven by Government policy initiatives. To completely unravel that framework, at this time, in the absence of clear evidence that it is not working, would be unwarranted. However, making some changes to improve the overall efficiency of the Board's regulatory processes should be pursued.

The Council believes that the current framework, which sets rates on the basis of periodic cost of service reviews followed by several years of formula based rates, is an appropriate regulatory structure for the following reasons:

- The Board is an economic regulator of monopolies. In order for the Board to pursue its primary mandate, to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service, effective regulatory oversight is required. Periodic cost of service reviews allow the Board to exercise that oversight;
- Given the large number of LDCs in the Province, the current incentive rate-making model ("IRM") allows the Board to manage its oversight of these LDCs by staging the IRM terms;
- Included in the IRM framework is an incremental capital module ("ICM") which allows LDCs to recover the costs of capital investments to address extraordinary or special needs that arise during the IRM term (projects beyond the normal capital spending programs undertaken by the LDCs);
- To the extent an LDC is experiencing inferior returns (300 basis points below the allowed return) they can come before the Board for relief through the "off-ramp" mechanism;

- The current process, where the Board makes decisions based on facts and evidence which have been tested, is consistent with its role as an independent adjudicative body;
- The current process allows for the participation in the Board's rate-making processes of a variety of important ratepayer groups and other stakeholders. Allowing those affected by the decisions of the Board to participate in those processes brings credibility to the process. It also provides the Board with important ratepayer perspectives to assist its decision making;
- The current process is transparent. Transparency ensures the Board's accountability. Transparency also benefits the LDCs as their rate proposals are scrutinized in a public forum.

The Board currently regulates over 70 LDCs. Some of these LDCs are relatively small, in terms geographic area and the numbers of customers served. Going forward the Council does see merit in potentially developing a modified framework for the smaller LDCs. These LDCs, in most cases, have relatively simple distribution systems. They are not necessarily faced with the same types of capital and operating requirements that the larger LDCs are. Board oversight is still required for these LDCs, but a simpler type of regulatory model warrants consideration.

Electricity bills are rising. According to the analysis provided by Aegent Energy Advisors Inc. consumers in Ontario will see their bills increasing by more than 45% over the next five years. Although the Board does not oversee all elements of the bill, it has complete oversight over the distribution and transmission components. It is important, more now than ever, for that oversight to be exercised in order to protect the interests of consumers. Making improvements to the current regulatory regime where required is appropriate. The Board should, as a first stage in this process, prioritize the issues that should be addressed in the short term and facilitate a process to make those necessary improvements to the current regulatory structure. In making those changes the Board must carefully consider how those changes will impact bills and ensure that the changes are being pursued in order to enhance its ability to pursue its legislated mandate to protect the interests of consumers with respect to prices.

3 PLANNING (EB-2010-0377)

How do we optimize planning across the sector to ensure that investment decisions achieve the level of reliability and quality of supply that consumers demand and are paying for?

It is incumbent on LDCs to provide safe and reliable power to their customers. We have not seen any evidence that reliability issues are necessarily a big problem in Ontario. The Board undertook a consultation process regarding Electricity Distribution System Reliability Standards (EB-2010-0249) beginning in 2010. In the Board Staff Report to the Board it was concluded that, "Based on the results of this consultation, it appears that there is no widespread sense that consumers are being provided with poor service and it also appears that consumers prefer the status quo rather than risking an increase in rates for the purpose of funding reliability improvements." (Staff Report to the Board, Electricity Distribution System Reliability Standards, EB-2010-0249)

Through that consultation it was also determined that most, if not all LDCs have procedures in place that track outage information and system reliability performance. In addition, most LDCs have formal processes in place for using system reliability performance as a criterion for evaluating and prioritizing capital and maintenance projects. It is assumed that senior management within these LDCs make reliability issues a high priority.

Currently, the Board evaluates the extent to which LDCs maintain their historical levels of reliability in cost of service proceedings at the time of rebasing. What is not clear is the extent to which moving towards Province-wide standards for reliability would be a superior approach. From the Council's perspective, as a part of this review, we do not see the need to move to a new reliability regime. Moving beyond current reliability levels ultimately comes with a cost and unless ratepayers are prepared to pay for increased reliability, those costs would not be justified.

Although the Council does not see a need to implement a new framework for evaluating LDC reliability the Board should always be looking for ways to assess reliability and, to the extent it is useful, to compare reliability across LDCs. Some form of benchmarking might promote those "less reliable" LDCs to take steps to improve. At this time, as the Board is undertaking some changes to its regulatory framework, we do see wholesale changes to the way it assesses reliability as being a priority issue.

The question posed refers to planning "across the sector". As set out in the section below, the Council does support enhanced regional planning as a priority issue for the Board to address.

How might coordinated regional planning between utilities and third parties (e.g. municipalities) promote the efficient and cost-effective development of infrastructure and enhanced regulatory predictability, while maintaining reliability and system integrity? What are the implications, if any, for distribution network investment planning?

As set out by Board Staff the objective of the Regional Planning initiative is to develop a regulatory framework for regional planning in a manner that is consistent with the principles articulated in earlier Transmission System Code consultations as well as the following:

- that an optimized solution is desirable as being the lowest cost in the long-term;
- that a coordinated solution is desirable and allowing for a consideration of broader needs and for involvement by a large set of stakeholders; and
- that cost responsibility for optimized solutions is attributed in an appropriate manner (Board Staff Discussion Paper, Regulatory Framework for Regional Planning for Electricity Infrastructure, p. 1)

Furthermore, the consultation is expected to focus on the development of regional planning requirements that will apply in circumstances where a localized geographic issue can be resolved through a number of different transmission and/or distribution solutions.

A number of things regarding regional planning became apparent during the March stakeholder meeting. Across the Province regional planning does take place. This may involve municipalities, LDCs, transmitters and the Ontario Power Authority ("OPA"). Long-term regional planning can ultimately benefit ratepayers by making provisions for investments that may not occur for many years (e.g. securing right of ways for future transmission or distribution needs) .

There are barriers to effective regional planning that need to be overcome. One of the barriers is that cost recovery for things like securing right of ways, is not possible until the assets are in-service. In addition, a number of issues were identified regarding cost recovery. Under existing rules set out in the Transmission System Code LDCs simply cannot withstand the rate impacts associated with some transmission upgrades. The result is that those upgrades do not occur, even when they are required.

To the extent that regional planning ultimately results in a more cost-effective approach rather than relying on individual LDCs to do planning essentially in a vacuum, it should be encouraged. From the

Council's perspective the OPA can play a major role in facilitating regional planning. The barriers to regional planning that exist in terms of regulatory policy and procedure need to be removed. In addition, issues regarding cost responsibility must be resolved.

The Council submits that the Board should establish a working group to resolve these issues with a mandate to recommend alternative policies, procedures and rules (through the relevant code revisions) that will facilitate efficient and cost-effective regional planning. The working group should include representatives from LDCs, the OPA, transmitters, municipalities and ratepayer groups. The issues to be addressed by the group should include, but not be limited to:

- Identifying all of the existing barriers to cost-effective regional planning, and ways those barriers can be eliminated or reduced;
- Reviewing the Transmission System Code to identify the provisions that may have to be changed or clarified to facilitate regional planning;
- Considering the various options regarding cost responsibility and how those options could be implemented;
- Considering how, from a regulatory perspective, regional plans and the associated costs would be reviewed by the Board and recovered through rates.

Overall, the Council is supportive of regional planning to the extent these plans ultimately benefit ratepayers. During the March stakeholder session it became apparent that the Board needs to consider the extent to which its current regulatory framework is hindering the development of regional plans. This should be identified as one of the key priority issues for consideration by the Board within the context of its renewed regulatory framework.

How might the Board facilitate regional planning and the effective execution of the resultant plans as appropriate?

As noted in the previous section above the Council sees merit in the Board considering ways to facilitate regional planning. The Council supports the establishment of a working group to consider the relevant issues and identify potential solutions. Once the working group prepares a report, the Board can consider the recommendations and seek further input from the broader stakeholder community. The Council is of the view that one of the issues that could be considered by the working group is, how from a regulatory perspective, regional plans and the associated costs would be reviewed by the Board and recovered through rates. This may well depend upon the extent to which the Board moves away from the current 3rd GIRM framework and implements a new model.

If we revise cost responsibility under the Transmission System Code in respect of transmission line connection facilities to pool the costs, should the pooling be on a province-wide basis, a regional basis, or some combination? Should cost responsibility rules for industrial customers and distributor customers be the same? Why or why not?

It became apparent at the stakeholder session on March, that the transmission cost responsibility rules set out in the Transmission System Code are barriers, to some extent, to the development and execution of regional plans. Currently, in some cases, the costs to LDCs, and ultimately their customers of certain transmission solutions are simply too much. Other solutions, that may not be the best ones in the long run are often pursued, or supply to communities compromised. To a large extent this is a function of how the transmission system has been developed over time. As noted above, the Council has proposed

a working group and we are of the view this group should develop options around the cost responsibility issue.

How can the Board satisfy itself that multi-year investment plans are appropriate?

Under the existing framework capital plans are reviewed when LDCs come forward with cost of service rate applications. The Board approves what it views as a typical level of spending for that LDC, and to the extent extraordinary or special requirements arise during the IRM term the LDC has available to it the ICM which allows for recovery of capital expenditures beyond the LDC's typical level of spending. To date very few LDCs have opted to apply for approval of rates during IRM which have included relief under the ICM.

As a part of this consultation there has been a great deal of discussion around the need for LDCs to invest in infrastructure and how the current model is not designed to accommodate this need. Although some LDCs have significant challenges regarding infrastructure renewal, it is not clear to what extent there is an overwhelming need for significant infrastructure renewal for all LDCs. Before embarking on a wholesale change to the current structure the Board should be clear about the extent to which the capital needs of the LDCs are changing. As was discussed during the March stakeholder meeting, the Board needs empirical evidence regarding the capital requirements of the LDCs, and evidence as to why the ICM cannot accommodate those needs.

As a part of its overall business planning processes LDCs undertake capital planning exercises. This involves Asset Condition Assessments and Asset Management Plans. The LDCs continually assess the condition of their assets and plan capital programs in response to those assessments. In addition, like with other businesses there are trade-offs between expenditures on capital versus expenditures regarding Operating and Maintenance ("O&M"). Spending money to maintain an asset may be a way to defer capital spending required to replace that asset. Capital and O&M spending are inextricably linked. In addition, capital spending and O&M spending have different impacts on rates.

The Council is of the view that the current process for reviewing capital plans is appropriate and necessary. LDCs are required as part of its cost of service rebasing proceeding to put forward evidence to support its capital requirements. That evidence is tested through a hearing process and approvals granted for expenditures that have been sufficiently justified. In many cases the evidence is sufficient to allow for settlement. In other cases LDCs have not provided sufficient evidence to justify its plans.

The *Filing Requirements for Transmission and Distribution Applications* ("CoS Filing Requirements") set out extensive requirements for LDCs to file in support of its capital plans. In addition, the Board's *Filing Requirements: Distribution System Plans - Filing Under Deemed Conditions of Licence* ("GEA Filing Requirements") provide direction to the distributors as to the content of Green Energy Act Plans ("GEA Plans") which relate to planned investments to connect renewables and to smart grid development activities and expenditures. LDCs have further filing requirements which are prescribed by the *Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under Ontario Regulation 330/09* ("Benefits Framework")

Although the CoS Filing Requirements are subject to an annual review and revision, the Council is of the view that a priority for the Board should be to review all of the filing requirements, as they relate to capital spending, and consolidate them. There is likely information currently required that may not be helpful for the Board, Board Staff and intervenors. In addition, there may be more useful information that is currently not required. The Council proposes that a working group be established to develop new

filing requirements for capital spending. Dialogue between stakeholders and LDC representatives would hopefully arrive at a consensus as to what information is relevant to justify capital plans.

Revising the required filing information has a number of advantages. It will potentially reduce the filing requirements for the LDCs. In addition, it will allow the Board to have before it the right information it needs to make decisions as to the appropriateness of the capital plans.

How should smart grid investments be treated (i.e. part of rate base, or based on type of activity/asset)?

The *Green Energy and Economy Act* ("GEA") added the following objective for the Board to consider namely, "the facilitation of a smart grid in Ontario." In addition, as noted above, it created a new deemed licence condition that obligated distributors to file plans for: i) the expansion of reinforcement of the licensees transmission or distribution system to accommodate the connection of renewable generation; and ii) the development and implementation of the smart grid in relation to the licensees' transmission or distribution system. The deemed licence condition also requires a licensee to make the investments set out in the plan once it has been approved by the Board.

As identified in the Smart Grid Discussion Paper (EB-2011-0004) the primary benefit of smart grid investments for customers will be better information which can and should result in better service , reduced costs and the facilitation of localized decision-making by customers.

The Council has been generally supportive of smart grid investments to the extent they are justified on the basis of a business case analysis. The introduction of smart meters and smart grid investments has been made in part to create efficiencies in distribution operations. At the Stakeholder Conference in March, Mr. Robertson from Elster metering indicated that in Ontario we have not made the LDCs use smart meters in a business sense. In terms of potential opportunities where LDC investments could benefit the customers he referred to outage detection, loss reduction, theft, asset management an in - home displays. He also referred to improvements in safety and credit and collection.

The Council submits that these types of investments should be considered in the same way that other investments are treated. Business cases should be required to demonstrate that the investment will bring good value to utility customers. We have a concern that in the absence of Board scrutiny LDCs might attempt to add smart grid technology to their systems that is not required. LDCs should also be encouraged to invest in smart grid technologies that have been proven to be cost-effective and efficient.

Some LDCs have brought forward applications to pursue pilot programs. The Council support pilots as long as the LDCs provide sufficient justification for the pilot. The Board may want the LDCs to address the following considerations:

- Why is that technology appropriate for a particular LDC?
- Does it have the appropriate customer base that will benefit from that technology?
- Is the technology being tested by others?
- Is the LDC coordinating its work with other LDCs?

4. PERFORMANCE AND INCENTIVES (EB-2010-0379)

What outcomes for customer service and company cost performance should be established?

The Board has established reliability and customer service measures. As noted above these will continue to be useful especially when determining the extent to which an LDC is maintaining historical levels of reliability and standards for customer service. Although the Council does not consider it appropriate at this time to move to a whole new reliability regime, it does see value in some level of benchmarking and reporting in order to encourage those with less favorable levels of reliability and customer service standards to improve.

What standards and metrics for customer service and company cost performance should be established in regard to these outcomes? How do the performance benchmarks that are in place today relate to your proposed metrics?

Again the Council supports the continuation of existing performance benchmarks. These are common standards and benchmarks used throughout electricity sectors across the world. The Board should undertake customer surveys on a regular basis in order to assess customer expectations regarding service and reliability. These surveys should look at all customer groups, as the expectations of large users may well differ from the those of residential consumers.

What are characteristics of a "high performing regulated entity" (i.e., what specific metrics can be used to evaluate the level of performance of the regulated entity)?

From the Council's perspective a "high performing utility" can mean a number of things. From a shareholder perspective a high performing utility is one that maximizes its returns. From a customer perspective a high performing utility is one that provides safe, reliable electricity efficiently and cost-effectively.

What incentives, if any are appropriate to reward utilities for cost-effective and efficient performance, including rewards for exceeding standards for customer service, and company cost performance? What incentives, if any, are appropriate for the purposes of rewarding performance with regard to multi-year capital programs?

As set out in several sections above the Council is not of the view that utilities should receive rewards for exceeding customer service standards. Incentive regulation regimes may have penalties for inferior standards, but typically customers are not willing to pay bonuses to LDCs for exceeding perfectly acceptable levels of reliability and service. LDCs should have a natural incentive to provide its customers with good service. Internal scorecards for employees are a good way to ensure the appropriate level of customer service.

With respect to rewarding performance with regard to multi-year capital programs the Council discusses this below within the context of the question, "How might the Board align rate-setting with multi-year investment plans?"

How might the Board enhance the alignment of customer and company interests through the use of incentive mechanisms?

IRMs provide incentives for the LDCs to be efficient. To the extent LDCs can find productivity improvements during an IRM term LDCs can enhance their returns. If those productivity improvements are sustainable ratepayers benefit upon rebasing.

5. RATE-SETTING AND MITIGATION

How might the Board align rate-setting with multi-year investment plans? Do you have a preferred approach and what are its benefits and disadvantages?

Should the Board amend the ICM rules as proposed by some participants to provide for an interim solution? What are the implications of such an interim change in the context of the longer-term RRFE approach of incorporating multi-year capital plans in rates?

During the stakeholder session, there was considerable discussion around the issues related to capital spending, multi-year plans, and the regulatory mechanisms that would facilitate approvals of those expenditures. To the extent the Board is not convinced that the ICM provides LDCs with sufficient rates to support its capital plans the Council proposes that the Board establish a working group to consider all of the issues relevant to the regulatory treatment of multi-year investment plans. The issues to be considered by the working group should include but not be limited to:

- What evidence should be required to support multi-year capital plans?
- What process should the Board undertake when approving multi-year capital plans?
- What is meant by "pre-approval" of capital plans?
- If an LDC's risk of recovery is reduced through pre-approvals, should the approved ROE and/or debt/equity ratio be changed to reflect a reduced risk?
- What will be recovered in rates, actual expenditures or forecast expenditures? Should forecasts be trued-up to reflect actual expenditures?
- What if conditions change during a plan - more or less capital required?
- What type of annual reviews or reporting would be required?
- How should capital spending be reflected in rates? Is rate-smoothing required?
- How should capital requirements arising from Government directive be considered and dealt with from a rat-making perspective?
- Should approval of multi-year plans be accompanied by ratepayer protection mechanisms like earning sharing to ensure forecasting risk is addressed?

The list is not exhaustive, but the Council is of the view these very important issues need to be addressed. The working group could come up with alternative approaches for consideration by the Board and other stakeholders.

How might further benchmarking be used to (a) help determine appropriate cost levels; (b) achieve further efficiencies; and/or (c) assist in managing cost increases?

The Board has, for many years, been collecting and disseminating LDC data. Although benchmarking has been a highly contentious exercise the Council is of the view that it can be useful. To the extent "like" utilities can be identified comparisons can be an important tool for the Board and stakeholders. The problems have been primarily related to accounting differences among Ontario LDCs. Capitalization policies may differ potentially skewing the data. Having said that the Council encourages the Board to continue to collect LDC data and strive to create benchmarking that can assist the Board in its review of LDC applications and policies.

How might the Board's approach to the application review process be proportionate to the characteristics of the application (including quality) and the performance of the applicant?

There is an obligation on the LDCs to provide good quality evidence, consistent with the filing requirements, in support of its applications. The quality of evidence provided has varied significantly. At times it takes several rounds of interrogatories and a technical conference to sort out evidence in order to test the facts. At other times good quality evidence has facilitated shorter and less contentious proceedings. The Board must continue to demand comprehensive and meaningful evidence in support of applications. Applications not in compliance should be sent back.

The question implies that the Board's review of an application might be less onerous if the quality of the evidence is good. From the Council's perspective the quality of the evidence may result in a more efficient process, but simply because the evidence is complete does not necessarily mean the proposals contained in the application are appropriate. The Board will always have an ongoing obligation to assess the application to ensure it carries out its mandated responsibility to ensure the proposed rates are just and reasonable.

To support cost-effective and efficient implementation of Board-approved network investment plans by transmitters and distributors and to help mitigate the effects of any unavoidable and significant bill impacts, what mechanisms might be appropriate?

The Council submits that this question should be one of the issues considered by the working group.

6. OTHER ISSUES

Role of Stakeholders in Board Proceedings

Any review of the existing regulatory model, and any proposals for a modified regulatory model, must account for the ability of the regulatory process to protect the interests of consumers with respect to prices. That is the legislative obligation of the Board. It is also one of the stated goals of this review.

The Council is not aware of any information as to how the existing regulatory system fails to protect the interest of consumers with respect to prices. On the contrary, based on the Council's extensive experience, the existing regulatory system does protect the interests of consumers with respect to prices.

The existing regulatory system allows the participation of representatives of consumer groups, including residential, commercial, industrial and institutional consumers. The participation of those representatives helps to ensure the following:

1. That information and perspectives that might not otherwise be apparent to the Board and its Staff will be presented;
2. That LDCs are made publicly accountable for their actions, and the costs of those actions;
3. That the Board's decision-making process is transparent and accountable;
4. That the rates paid by consumers are lower than they might otherwise be.

The only criticism of consumer participation in the existing regulatory process, that the Council is aware of, is that it imposes an unfair cost burden on the utilities, and therefore on their ratepayers. Comments in the recent Auditor General's report have been taken, the Council believes unfairly, as an implicit criticism of the cost burden imposed by intervenor participation. However, the Council is not aware of any thorough and systematic analysis of intervenor costs in relation to the overall spending of the utilities, and, more importantly, in relation to the reduction in costs, and therefore rates, achieved as a result of incurring those costs. In addition, the Council is not aware of any analysis of the impact of the prospect of consumer participation in hearings, *ex ante*, on utility costs.

The Council is aware of an earlier analysis undertaken by the Board, in 2008, on intervenor costs in a number of electricity proceedings. That analysis indicated that intervenor costs amounted to approximately \$1.50 for each ratepayer. The analysis did not compare those costs to the amount of reduction in rates, for each ratepayer, as a result of that participation. In addition, that analysis took no account of the incidental benefits of intervenor participation in the form of transparency and accountability.

The Council is aware of a recent study of the impact of consumer advocates on utility rates of return and rates in the United States. That study examined the impact of publicly-funded consumer advocates in formal rate review hearings and processes conducted by state public utility commissions. A conclusion of the study was that States with consumer advocates permit ROEs that are on average 1.25 percentage points lower than States without advocates, which was equivalent to a \$22 million reduction in average utility revenues, or a 1.6 percent reduction in average consumer rates. The study also concluded that consumer advocates are associated with lower residential rates relative to other consumer classes.

The Council is not proposing the creation of a consumer advocate for Ontario. The costs of such an office are, in the study referred to, between \$1 and \$2 million annually. In addition, the consumer advocates dealt with in the study represented the interests of residential consumers only. Representation from other categories of consumers is equally important and would, presumably, increase these costs materially. The point is simply that having independent representation for consumers has material benefits for those consumers.

The Council believes that the participation of ratepayer representatives in Board proceedings provides an essential check on utility spending. The Council believes that the participation of consumer representatives has provided enormous benefits to consumers, in the form of lower utility rates. Finally, the Council believes that the participation of ratepayer representatives has materially improved Board decision-making by ensuring that it is open, transparent, and accountable. At the March stakeholder session several LDC representatives indicated that they saw value in having intervenor participation, particularly with respect to transparency. In effect, there is a benefit in having their proposals have n vetted and scrutinized in a public forum.

If, in any renewed regulatory framework, there are to be changes made in the nature and extent of the participation of consumer representatives, then those changes must be based on the following:

1. An analysis of the costs and benefits, direct and indirect, of the existing system of ratepayer representation;
2. An analysis of the alleged defects in that system of representation;

3. An analysis of how a different system of consumer participation will be a material improvement over the existing system.

7. CONCLUSIONS

The Council urges the Board not to, at this time, undertake a complete overhaul of the existing regulatory framework, as it has been the product of a great deal of thoughtful work and has adapted over the years to significant changes in the industry. The Council recognizes, however, that a number of issues need to be addressed in the near term and changes made to enhance that framework. Accordingly, as set out above the Council's main recommendations are follows:

1. A working group should be established to determine how the Board's filing requirements could be consolidated and simplified, ensuring the Board has the right level of information required for it to carry out its role in setting just and reasonable rates, while reducing the current obligations of the LDCs;
2. A working group should be established to consider ways to encourage and facilitate regional planning;
3. A working group should be established to consider how to deal with multi-year capital plans;
4. The Board should develop a modified regulatory frame work for the smaller LDCs.