



Framework for Governing Intervenor Participation (EB-2013-0301)

Stakeholder Consultation

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Public Interest

- Those in pursuit of the Public Interest:
 - Board
 - Board staff
 - Utilities
 - Stakeholders
- Public Interest = sum(Private Interests)
- OEB discerns through adjudicative and policy proceedings, aided by participants



Public Interest

- OEB discerns in adjudicative and policy proceedings
- OEB aided by Applicant, Intervenors and Staff
- Regulatory Compact
- “Regulation as a Collaborative Enterprise” – Tony Prosser
- Engagement: inclusive, advanced, continual



Substantial Interest

- Constituents – Have it
 - Advocates – Represent it
 - *Amici* – Aid in understanding it
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- Constituent – e.g. Ford Motor Company
 - Advocate – e.g. AMPCO
 - *Amici* – e.g. Energy Probe



Substantial Interest

1. “What substantial interest does this stakeholder have to warrant standing in the proceeding?”
2. “How can this stakeholder be effectively engaged and their perspective efficiently incorporated into the Board’s process of making an adjudicative or policy decision in the public interest?”



Intervenors in Context

- Effectiveness of regulation requires stakeholders as Intervenors to:
 - articulate their private interests
 - share perspectives on other private interests
- Efficiency of regulation requires that Intervenors:
 - Not incur costs disproportionate to their role
 - Not create undue costs for the Board or Applicant



Latter point subject of a separate policy proceeding on OEB procedures.



Intervenor Status and Cost Eligibility

- Premise: Stakeholders participating as Intervenors is desirable
- Status – *de jure* participation
- Cost Eligibility – *de facto* participation
- Cost Awards – Focal point for balancing effectiveness with efficiency



Cost Award Caps

- Feasible for the Board to “put a price” on adjudicative and policy proceedings
- Currently “stage-by-stage; hours per Intervenor” caps in many policy proceedings
- This or other models could be implemented in all proceedings
- Extraordinary, unanticipated reasons to adjust caps could be raised by motion



Cost Award Cap Considerations

- Set based on budgets vs. by generic policy
- Set at outset vs. set stage-by-stage
- Cap for entire proceeding vs. stage-by-stage
- Set for Intervenors individually vs. in groups
- Set for groups based on Intervenor type, rate class, etc.
- Allocate among groups by Intervenor type, customer mix, etc.



Cost Award Cap Models

| Cap by individual Intervenor and by Intervenor type | Total Revenue Requirement: \$50M All Intervenors Total Cost Award Cap: 0.2% or \$100,000 |
|---|--|
| Jane Doe | \$500 |
| Bocce Club of Windsor | \$500 |
| City of Windsor | \$500 |
| Ford Motor Company | \$500 |
| AMPCO | \$24,000 |
| SEC | \$24,000 |
| Energy Probe | \$24,000 |
| VECC | \$24,000 |
| EDA | <u>\$2,000</u> |
| Total | \$100,000 |

Cost Award Cap Models

| Cap by Intervenor rate class and by customer mix | Total Revenue Requirement: \$75M All Intervenors Total Cost Award Cap: 0.2% or \$150,000 |
|--|--|
| Residential | \$50,000 |
| GS < 50 kW | \$50,000 |
| GS 50-5,000 kW | \$25,000 |
| Large Use | \$10,000 |
| Street Lighting | \$5,000 |
| USL | \$2,500 |
| Generators | \$2,500 |
| Utility-side | <u>\$5,000</u> |
| Total | \$150,000 |

Cost Award Cap Models

| Cap by Intervenor type and split consumer/utility sides | Total Revenue Requirement: \$100M All Intervenors Total Cost Award Cap: 0.2% or \$200,000 | |
|---|---|--|
| | Consumer-side Intervenors Cap: 90% of Total Cap | Utility-side Intervenors Cap: 10% of Total Cap |
| Constituents | \$18,000 | \$4,000 |
| Advocates | \$72,000 | \$14,000 |
| <i>Amici</i> | <u>\$90,000</u> | <u>\$2,000</u> |
| Subtotals | \$180,000 | \$20,000 |
| Total | \$200,000 | |

Thoughts on Caps

- Once designed, total cost award caps and other sub-caps provide greater certainty:
 - Board – Efficiently compensating stakeholders for enhancing regulatory effectiveness
 - Intervenors – Reduce after-the-fact applicant challenges to cost awards in respect of sunk costs
 - Utilities – Full cost award certainty allows for full cost recovery in adjudicative proceedings and reasonable limits on costs borne by ratepayers



Next Steps

- Many alternatives to be identified and evaluated in structuring cost award caps
- Best alternatives will protect and promote effectiveness and efficiency of regulation
- Establish and assign to a Working Group
- Concurrently proceed with Phase 2
- Working Group Report and Phase 2 material may provide alternative visions for discussion

