



July 10, 2015

Ontario Energy Board
Attn: Kirsten Walli, Board Secretary
PO Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Re: Consultation on the Regulatory Treatment of Pensions and Other Post-Employment Benefit Costs Board File EB-2015-0040

Dear Ms. Walli,

The Electricity Distributors Association (EDA) has registered as a participant in the OEB's consultation on the Regulatory Treatment of Pensions and Other Post-Employment Benefit Costs.

The EDA understands that the OEB has retained KPMG as a consultant and that the initial opportunity for written submissions is to gather views and information on certain questions. As a result, the EDA has gathered input from its members but has not carried out a detailed review of the implications of different approaches as it is expected that the OEB consultant has been retained to address these implications.

For the most part, EDA members believe that there are no significant concerns with utilities under the Ontario Municipal Employees Retirement System (OMERS) as their pension costs are generally well managed and their Other Post-Employment Benefits (OPEB) are reasonable when they are provided.

It is important for the OEB to note that section 7.1 of the *OMERS Act*, 2006 stipulates that "a municipality or a local board shall not make a contribution for the provision of a pension to any of its eligible employees unless the contribution is made under the Canada Pension Plan or to an OMERS pension plan."

Further, for any employer to exit the OMERS Pension Plan it would require consent of the OMERS Sponsors Corporation (section 8(1), *OMERS Act*) which has set out in policy that an employer must provide evidence that 100 per cent of employees who participate in the OMERS pension plan has voted in favour for exiting the plan.

When municipal electric utilities were incorporated under the *Electricity Act, 1998*, all employees of the LDCs retained all their existing benefits and employment-related entitlements (section 147, *Electricity Act*) therefore, employees and employers were able to continue under OMERS.

OMERS serves almost 1,000 employers and almost 450,000 members, retirees and survivors, including municipal workers, firefighters, police, emergency services staff, school board staff (non-teaching), and transit and hydro workers. The benefits and services OMERS provides are funded by equal contributions from members and their employers, and the investment earnings of the OMERS fund.

The EDA looks forward to further opportunities to address any proposals OEB staff will bring forward for stakeholder input.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. S.', is positioned above the typed name.

John Loucks
Executive Vice President

1. What principles should the OEB adopt in addressing pension and OPEB issues?

Potential principles include: consistency across the gas and electricity sectors; intergenerational equity; financial protection for future ratepayers; ensuring the most efficient level of costs for ratepayers; stable cost levels; pension costs which are reasonable in the circumstances. The core principle is to ensure that there is fairness between ratepayers and employees recognizing the unique, local circumstances and long term protection for all ratepayers.

2. Are there other types of costs previously considered by the OEB that provide suitable analogies for the consideration of pension and OPEB issues? (for example: deferred taxes; asset retirement obligations; site restoration costs)

No other types of costs are directly comparable as employees benefits are based on OMERS and local management decisions on compensation which include OPEB. There are significant differences in OPEB costs between LDCs. In terms of accounting treatment there are some analogies with collecting revenue for benefits earned currently for dispensation later when current employees retire.

3. Should the applicants be required to compare their pension and OPEB costs to industry norms and/or other benchmarks?

Most LDCs are members of OMERS and, as a result, OMERS provisions would be the industry norm for pension costs. For OPEB there is considerable variation based on past collective bargaining. For example, some LDCs do not offer OPEB, which would make comparison of OPEB costs difficult amongst all utilities. LDCs note that during negotiations on compensation, tradeoffs are made between providing higher compensation or benefits today versus future benefits in retirement. As a result, it is difficult to make comparisons on just one element of compensation.

4. What other relevant information should the Board evaluate in order to effectively assess the pension and OPEB costs that a rate-regulated entity is seeking to be included in the rates charged to customers?

LDCs presently file sufficient information in cost of service (COS) applications to determine whether the pensions and OPEB costs are reasonable. What is also relevant is the ability of the utility to demonstrate that the pension and OPEB obligations and costs are sustainable and will not create undue pressure on ratepayers in the future. Generally actuarial information filed in COS applications, which are updated every three years, will provide the information necessary to assess whether the pension and OPEB obligations are sustainable.

5. a) Should the OEB establish accounting and recovery methods for both the electricity and gas sectors?

There is no need to change the current accounting or recovery methods for LDCs under OMERS as the current approach is working reasonably. LDCs generally use the accrual (accounting cost) basis although there may be some LDCs that are presently using pay-as-you-go as an interim measure.

b) What criteria should be considered to determine the appropriate approach?

The appropriate approach for most LDCs under OMERS is to continue to use the accrual (accounting cost) basis. This approach has been generally accepted by regulators. FERC has noted that OPEB are a form of deferred compensation to employees for the services that they provide during their working years. Therefore, the costs of providing these benefits are properly included in the COS during the period that the benefits are earned. FERC says this supports the accrual basis using accounting costs.

c) If one method is adopted, what should it be: cash (pay-as-you-go) basis, funding contribution basis, accrual (accounting cost) basis or another method? (please provide details)

The current method using accounting costs has not been demonstrated to be deficient and should be the method used if only one is adopted, with allowance for an adequate transition for those using pay-as-you-go.

d) Should the method for recovering costs relating to registered pension plans be different from that used for unregistered pension plans and OPEB plans?

EDA does not believe there should be any difference in the method for recovery for registered or unregistered pension and OPEB plans.

6. a) Should the OEB take into account impacts on financial reporting (US GAAP, ASPE and IFRS), legal, and tax matters?

A utility using IFRS would likely experience large year-to-year swings due to actuarial volatility, whereas a US GAAP utility would see that volatility smoothed out. A utility using IFRS for regulatory purposes should be allowed to use a modified IFRS which includes a variance account to deal with the actuarial volatility.

The OEB should also consider tax matters as they can significantly impact the costs and obligations.

b) If so, what are the issues that should be considered when determining the appropriate approach?

As noted above there are issues with different financial reporting and for LDCs moving into IFRS financial reporting they should be allowed to use a modified IFRS which includes a variance account for actuarial volatility.

c) For comparative analysis, how should the OEB address differences that arise from (driven by) the basis of accounting that is used by a rate-regulated utility?

The treatment of re-measurements under IFRS is different to their treatment under US GAAP and ASPE. As noted above a variance account for actuarial volatility will help address some differences.

7. a) Would it be appropriate to establish a deferral or variance account(s) in association with the approaches discussed above in numbers 5) and 6) respectively?

As we noted above a variance account for actuarial volatility is needed under modified IFRS. A variance account for other cost variables is not needed. There are a number of approaches by which LDCs can satisfy their pension and OPEB obligations. Many of these approaches are available to any business that is a going concern. The OEB should expect that as a default a LDC would utilize one of these conventional approaches without recourse to special regulatory accounting, such as the use of deferral and variance accounts. It would be preferable to avoid establishing new deferral and variance accounts unless needed to address actuarial volatility.

b) How should the account(s) operate?

Variance accounts for actuarial volatility are already in use by some LDCs. Other variance accounts are not needed.

c) Should interest be applied to the account(s), and if so, why?

There is no need to charge interest on the variance account for actuarial volatility.

d) How should the transition from the current practice to the new method of recovery be addressed?

i. Should the transition be phased-in, applied retrospectively with catch-up adjustments for prior periods, prospectively with no adjustments for prior periods or a combination of any of these methods?

ii. Should a generic approach be used or should the transition be addressed on a case-by-case basis?

The OEB should allow LDCs to maintain their current methodology, pending a review at their next COS application, and as a result should be on a case-by-case basis.

8. a) Would it be appropriate to establish some form of segregated fund or similar set-aside mechanism for amounts which are collected from ratepayers before they are paid out?

As going concerns, there should be no expectation that a well-managed LDC would require a segregated fund.

b) What tax, legal, accounting or other issues arise?

There are tax implications for an irrevocable trust (i.e. trusts are generally taxable at the highest marginal tax applicable to individuals). Other tax implications may depend on the particular circumstances. This approach would require additional accounting and administrative costs as well.

c) How should the transition to the new practice be addressed?

i. Should the transition be phased-in, applied retrospectively with catch-up adjustments for amounts collected from ratepayers to date but not yet paid out, prospectively with no adjustments for prior periods or a combination of any of these methods?

ii. Should a generic approach be used or should the transition be addressed on a case-by-case basis?

The EDA does not support establishing a segregated fund for LDCs under OMERS as there has not been any demonstrated need or issues of sustainability that require a change in current practices.

**9. What information should the utilities report and how frequently should it be reported?
Any other views which the OEB should be made aware?**

The EDA believes the OEB should focus its attention on utilities that have had issues of sustainability. LDCs under OMERS can continue to report on the status of their pension and OPEB obligation and costs, which include actuarial studies, through their COS applications.