July 31, 2015

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St., Suite 2700
Toronto, ON, M4P 1E4

via RESS and Courier

Dear Ms. Walli:

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

On May 14, 2015, the Ontario Energy Board ("OEB") notified stakeholders that it was initiating a consultation on rate-regulated utility pensions and other post-employment benefits ("OPEBs") in the electricity and natural gas sectors. The consultation process began with an invitation to stakeholders to provide submissions on an initial set of questions.

This is the submission of the Coalition of Large Distributors ("CLD"). The CLD consists of Enersource Hydro Mississauga Inc., Horizon Utilities Corporation, Hydro Ottawa Limited, PowerStream Inc., Toronto Hydro-Electric System Limited, and Veridian Connections Inc. On May 21, 2015, the CLD advised the OEB of its intent to participate in this proceeding. The CLD appreciates the opportunity to provide the following submissions on the initial set of questions.

General Comments

Distribution companies in both the gas and electricity sectors have diverse pensions and OPEBs that have been developed over many years. Many of these benefits have been negotiated through collective bargaining where a balanced approach to overall compensation is reached between parties. Some entities report financial results on a United States Generally Accepted Accounting Principles ("US GAAP") basis, while others have or are in the process of adopting International Financial Reporting Standards ("IFRS"). Some have single employer pension plans while most electricity distribution company pension plans are provided through the Ontario Municipal Employees Retirement System ("OMERS"). OMERS manages the pensions of approximately 450,000 members over 1,000 participating employers and is strongly governed. It oversees in excess of $70 billion of net assets invested in a diversified global portfolio of publicly traded investments, real estate, infrastructure and private equity. Funding for OMERS is provided equally by employers and employees. Most electricity distribution utilities provide limited OPEB to age 65 with very few of those benefits remaining in effect beyond age 65.

These differences are some of the reasons why the CLD respectfully submits that it is not practical to develop a "one size fits all" regulatory policy on this issue. The policy needs to have the flexibility to recognize that there are differences in reporting results and recognizing costs.

Both natural gas and electricity sectors report a considerable amount of information to the OEB through annual reporting and the filing of rebasing applications. Information already available to the OEB in consideration of rate regulation includes, but is not limited to, financial statements, actuarial reports and collective agreements. The CLD submits that this is sufficient information for the OEB to determine recovery of pension and OPEB costs on a case-by-case basis. The introduction of further information requirements could create material and unnecessary costs to ratepayers.

It is essential that electricity distribution utilities continue to be financially responsible to their customers and employees. Members of the CLD have been diligent in managing OPEB costs at reasonable levels. Historically, distribution revenue requirements have generally included amounts to recover these costs on an ongoing basis. Within this historical rate making treatment, the volatility of new accounting requirements for recording actuarial gains and losses presents some challenges regarding when and how these costs should be recovered. The OEB's policy should consider the volatile nature of these costs and provide direction that mitigates the impact of this volatility on customer bills.

With respect to the establishment of a special fund or trust to manage pensions and OPEBs, the CLD submits that there are other methods that could be considered without the introduction of added costs to ratepayers. The CLD's position on these and other issues is presented in response to the OEB's questions below. The CLD's responses to the questions posed by the OEB are consistent with the comments and positions presented in Toronto Hydro's submission on this matter.

General Principles

Question 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 comparable as measured by other benchmarks, etc.*

Response:

The CLD supports: (i) basic principles of rate setting; (ii) the utilization of accepted accounting principles and standards; (iii) fairness to electricity distribution customers and utilities; and (iv) stable costs principle, i.e., smoothing out rate increases.

Question 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)

Response:

Deferred taxes are not part of ratemaking on the basis that future investment in plant likely will continue. In future years, deferred taxes will not be drawn down such that current taxes payable are reflective of the ongoing cost. Asset Retirement Obligations ("AROs") may be capitalized and amortized and the costs recovered within distribution rates.

The CLD identifies that pensions and OPEB costs are more complex than capital expenditures, AROs and site restoration costs because pension and OPEBs involve periodic actuarial estimates and revaluations, which increase the volatility in cost levels. These factors, in part, distinguish pension and OPEB costs from the examples provided.

Information Requirements

Question 3

Should the applicants be required to compare their pension and OPEB costs to industry norms and/or other benchmarks? (Note: It is the OEB's expectation that the next phase of the consultation will consider the development of a complete set of new or incremental information that should be filed in applications seeking cost recovery for pensions and OPEBs).

Response:

The CLD respectfully submits that pension and OPEB costs are too specific in scope for benchmarking. Pension and OPEB costs will vary among participants in the electricity and gas sectors; these costs are components of overall compensation packages for employees. In many cases, the level of benefits is the result of negotiated agreements that balance employee expectations with respect to mix of wages and benefits. For this reason, the CLD submits that it would not be appropriate to benchmark pension and OPEB costs, as plans are not necessarily comparable.

Question 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?

Response:

The CLD submits that many electricity distribution utilities provide pensions through OMERS and have limited OPEB. This factor should be considered, when assessing the nature and amount of detail required.

The following may assist the OEB in assessing appropriate levels of costs to be included in rates:

- Description of plan and benefits;
- Contribution rates for employees and employers;
- Flexibility to changes, i.e., who is responsible for the cost risk of changes to plans (shareholder; ratepayer; or employees);
- Assumptions included in actuarial valuations, pension plans and OPEB; and
- Financial sustainability of the plan and future impacts on ratepayers (i.e., through actuarial valuations).

Accounting and Recovery in Rates

Question 5

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

Response:

The CLD submits that the structure and obligations of pensions and OPEB can vary across electricity distributors. Establishing a single standard accounting and recovery method is not appropriate. Accounting methods should be determined on a case-by-case basis. Regulated entities should have the option to select and defend accounting and recovery methods through evidence in a re-basing application.

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

Response:

The CLD submits that, at the time of rebasing, electricity distribution utilities may provide evidence on the appropriateness of their proposed accounting and recovery methods. Criteria to be considered could include the following:

- Type of plan;
- Accepted accounting principles and standards;
- Fairness to customers;
- Rate Stability through managing fluctuations and volatility by using variance and deferral accounts to track differences;
- Administrative ease; and
- Minimize the burden on the sectors to reconcile between OEB reporting and audited financial statements.

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)
• "Pay-as-you-go" cash payment: is equal to the benefit payment to the plan beneficiaries, as specified by the terms of the plan
• Funding contribution: the minimum amount of contribution required to be made by a sponsor of a registered pension plan that is subject to the requirements of pension legislation in Ontario under the Pension Benefits Act, Ontario (PBA), and related rules and regulations
• Accounting cost: this is the accrued cost determined by accounting rules (in accordance with a given accounting framework) and recognized and reported in general purpose financial statements (ultimately split between capital expenditures and operating expenditures)

Response:

As noted, the CLD respectfully submits that the OEB adopt a case-by-case approach. Electricity distribution utilities should be able to propose the accounting and recovery methods they feel are most appropriate given their situation. The CLD expects that the accounting cost method will be appropriate for most electricity distribution utilities, subject to the CLD's response to question 7 (b).

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

Response:

The CLD does not believe there should be any different treatment between registered and unregistered plans.

Question 6

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

Response:

The CLD submits that the impacts of the appropriate legal, financial and tax matters should be considered individually, consistent with the CLD's proposed case-by-case treatment.

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

Response:

The main issues to be considered are whether the costs are properly identified and valued; the recovery is appropriate given the accounting treatment; and that the electricity distribution utility can meet its financial obligations with respect to pensions and OPEB.

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? For example, the treatment of re-measurements under IFRS is different to their treatment under US GAAP and ASPE.

Response:

The CLD recognizes that the method of accounting for costs such as re-measurements, may create differences of a material nature. Some electricity distribution utilities received approval for these costs to be recorded in a deferral account to be considered for disposition at the next re-basing application. Others have not requested approval to record these costs in a deferral account and continue to record these costs in Other Comprehensive Income. The CLD suggests that the balances of such re-measurements, whether recorded in a deferral account or not, should be reviewed at the next re-basing application.

Question 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?*

Response:

Consistent with the CLD's proposed approach, any requirement for deferral or variance accounts should be established on a case-by-case basis.

b) *How should the account(s) operate?*

Response:

The CLD submits that in the event that the electricity distribution utility has received OEB approval for an OPEB-related deferral account, actuarial gains and losses would be recorded in the deferral account and subject to OEB review during its re-basing application proceeding. Disposition of this account would be based on evidence provided by the electricity distribution utility at that time and determined on a case-by-case basis.

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

Response:

Interest would not apply since these are non-cash entries.

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?*

Response:

The CLD supports the retrospective application of the transition to the new method of recovery. Some electricity distribution utilities have transitioned to IFRS in prior years resulting in gains or losses realized on transition and in years subsequent to the transition date. These amounts have been recorded in Other Comprehensive Income and have not been included in the determination of rates in most cases. In addition, other amounts currently included in the liability account for pensions and OPEB have not been included in rates of prior years. Any transition methodology needs to consider the recovery of such amounts in the determination of rates.

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

Response:

The CLD submits that the transition from the current practice to the new method of recovery should be considered by the OEB on a case-by-case basis.

Question 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?*

Response:

The CLD does not support the requirement to establish a special fund or trust for this purpose. For electricity distribution utilities that are members of the OMERS pension plan, funds are paid to and held by OMERS. For many electricity distribution utilities the amounts related to OPEB are much smaller and may not warrant the additional cost of segregated funds or similar set-aside mechanisms.

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

Response:

Establishing a special fund or trust would require substantial incremental funding to cover legal, tax, and administrative costs.

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?*

Response:

(i) While the CLD does not support the requirement to establish a special fund or trust for this purpose, should the OEB determine that this is a requirement, the transition to such would occur at the entity's next re-basing.

(ii) The application of the new requirement should be considered on a case-by-case basis.

Question 9

What information should the utilities report and how frequently should it be reported?

Response:

In addition to the RRR filings, electricity distribution utilities may provide copies of actuarial reports as part of rebasing rate filings. Any additional information required should be on a case-by-case basis at the time that the electricity distribution utility is proposing to update the amount recovered through rates.

The CLD appreciates the opportunity to provide input into the OEB's process to develop new methods of recovery for pensions and OPEB costs. The CLD trusts that the comments provided above will be useful to the OEB and looks forward to participating in the next steps in this consultation.

Sincerely,

[Original signed on behalf of the CLD by]

Indy J. Butany-DeSouza, MBA
Vice President, Regulatory Affairs
Horizon Utilities Corporation

Gia M. DeJulio
Enersource Hydro Mississauga Inc.
(905) 283-4098
gdejulio@enersource.com

Indy J. Butany-DeSouza
Horizon Utilities Corporation
(905) 317-4785
indy.butany@horizonutilties.com

Pamela Jones
Hydro Ottawa Limited
613-738-5499 ext. 7663
regulatoryaffairs@hydroottawa.com

Colin Macdonald
PowerStream Inc.
(905) 532-4649
colin.macdonald@powerstream.ca

Andrew Sasso
Toronto Hydro-Electric System Limited
(416) 542-7834
asasso@torontohydro.com

George Armstrong
Veridian Connections Inc.
(905) 427-9870 x2202
garmstrong@veridian.on.ca