# ONTARIO ENERGY BOARD

## OEB Staff Discussion Paper:
## Cap and Trade Regulatory Framework for Natural Gas Utilities

**Natural Resource Gas Limited ("NRG")**
**Submissions**

**June 22, 2016**

## Introduction

The recently passed *Climate Change and Low-carbon Economy Act, 2016* (the "Climate Change Act") places significant obligations on gas distributors such as NRG. Specifically, gas distributors are responsible for meeting the obligations related to greenhouse gas ("GHG") emissions: (a) for their own facilities (e.g., compressor stations and fugitive emissions); and (b) for the facilities of the majority of their customers.

On May 25, 2016, the Ontario Energy Board ("OEB" or "Board") issued a *Staff Discussion Paper on a Cap and Trade Regulatory Framework for the Natural Gas Utilities* ("Staff Discussion Paper") setting out Board Staff's recommendations regarding how the gas utilities' obligations under the Climate Change Act would be regulated by the Board (including how the gas utilities would recover their costs associated with meeting these GHG obligations).

NRG is pleased to provide its comments on the Staff Discussion Paper. NRG is only commenting on those issues in the Staff Discussion Paper of most importance to NRG.

## Compliance Plan Assessment & Risk Management by Utility

NRG has two main concerns with the Staff Discussion Paper's suggestions related to the preparation and assessment of Compliance Plans, and the risk management requirements therein.

First, NRG is concerned about any regime wherein the utility is put at risk for the management of costs that are a pure pass-through to the customer, and for which the utility is not compensated (in terms of the assumption of that risk). This concern is compounded by: (a) the fairly complex regulatory framework that is being proposed; (b) the immaturity of the cap-and-trade regime and GHG allowance market;[1] (c) proposed regulatory requirements that include "optimization", "extracting maximum value" and "cost-effectiveness"; and (d) the relatively small size of NRG.

[1] Even Board Staff recognizes that "[i]n the early stages of Cap and Trade implementation in Ontario, the market will be nascent and there could be considerable market uncertainty." (Staff Discussion Paper, p.12)

Given that the Board is approving the Compliance Plans on a prospective basis, NRG believes that the gas utilities should be protected from any cost recovery risk provided that they implement the Compliance Plan in substantial conformity with the approved Compliance Plan. In other words, the approval of a Compliance Plan should provide complete assurance to the utility that its costs associated with implementing that Compliance Plan will be covered.

NRG's second concern is with the level of information that Board Staff is proposing be included in a utility's Compliance Plan. The content requirements being proposed by Board Staff are onerous – particularly for a small utility such as NRG. In particular, NRG would be concerned about any mandatory substantive requirements related to portfolio content, hedging strategies, abatement strategies, or risk management tools. For example, a mandatory requirement that a utility's portfolio include at least some allowances, offsets, abatement strategies, early reduction credits as well as financial hedges may not make sense for a small utility. It may entail uneconomic transaction costs merely to ensure a complete portfolio, when in fact a simpler portfolio approach would serve NRG and its customers better. For that reason, NRG suggests that any finalized Board framework use non-mandatory language for content requirements, or permit utilities (as part of the Compliance Plan approval process) to seek exemption from any mandatory requirements in the framework.

**Marginal Abatement Cost Curve (MACC)**

Board Staff has proposed that a MACC be used as part of the assessment of utility Compliance Plans – in particular, to assist in assessment of how a utility selects and prioritizes its compliance options. Board Staff has asked for comments on whether the MACC should be developed by the utilities working together or the OEB. NRG's preference would be to have the OEB develop the province-wide MACC.

**Bill Presentment (Customer-Related GHG Costs)**

NRG does not support the Staff Discussion Paper's recommendation that the customer-related GHG costs be added to gas distributors' delivery charge. NRG recommends that this cost should be a discrete cost on a separate line item on the bill, for the following reasons:

- The Board has in the past sought to promote greater transparency and understanding related to customer bills. This would be furthered by making the customer-related GHG charge a discrete line item on the bill. With a better understanding of their GHG-compliance costs, an end-use customer can make more educated decisions about potential ways to reduce their GHG emissions from natural gas.

- The customer-related GHG costs are unrelated to a utility's assets or how it runs its business. They are costs associated with the conduct of the customer, and should not be lumped in with costs that relate entirely to the ownership and operation of utility assets. They are, in fact, more like commodity charges (i.e., costs incurred on behalf of a customer, based on a customer's usage, and which the utility must treat as a cost pass-through).

**Summary of NRG's Submissions**

- A gas utility should be protected from any cost recovery risk if the utility implements the Compliance Plan in substantial conformity with the approved Compliance Plan. In other words, the approval of a Compliance Plan should provide complete assurance to the utility that its costs associated with implementing that plan will be covered.

- Any finalized Board framework should use non-mandatory language for Compliance Plan content requirements, or permit utilities (as part of the Compliance Plan approval process) to seek exemption from any mandatory requirements in the framework.

- The OEB should be responsible for developing the province-wide MACC.

- The customer-related GHG costs should not be added to gas distributors' delivery charge. These costs should be a separate line item on the bill.