June 22, 2016

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Re: Staff Discussion Paper: Cap and Trade Regulatory Framework for the Natural Gas Utilities
AMPCO Comments
Board FileNo.EB-2015-0363

Dear Ms. Walli:

Attached please find AMPCO's comments on Board Staff's Discussion Paper released May 25, 2016.

Please do not hesitate to contact me if you have any questions or require further information.

Sincerely yours,

(ORIGINAL SIGNED BY)

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Chair, Board of Directors

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Staff Discussion Paper:
Cap and Trade Regulatory Framework for the Natural Gas Utilities
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The OEB is developing a framework to support the successful implementation of the provincial government's Cap and Trade ("C&T") program by the rate-regulated natural gas utilities: Enbridge Gas Distribution Inc. (Enbridge), Natural Resource Gas Limited (NRG), and Union Gas Limited (Union) ("the natural gas utilities").

The framework will outline the OEB's approach for assessing the cost consequences of the natural gas utilities' plans for complying with the C&T program and establishing a mechanism for recovery of these costs in rates.

Board Staff released a discussion paper on May 25, 2016 that sets out initial thoughts on the key elements, issues and options for the development of a C&T regulatory framework for the natural gas utilities.

The Association of Major Power Consumers in Ontario ("AMPCO") is the voice of industrial power users in the province. AMPCO's objective is industrial electricity rates that are competitive, fair and efficient.

AMPCO's members represent Ontario's major industries: forestry, chemical, mining and minerals, steel, petroleum products, cement, automotive and manufacturing and business consumers in general. Transparency and electricity rate predictability is important to AMPCO members.

AMPCO has reviewed Board Staff's discussion paper and makes the following comments.

<u>Overview of AMPCO's position on C&T</u>

AMPCO has been actively engaged in C&T consultations since the concepts were first announced last year. The Ontario Energy Board's regulatory framework for natural gas utilities is extremely relevant to AMPCO members. How compliance costs are determined and passed through to natural gas generators will have an impact on electricity prices for consumers and will directly impact AMCPO's members.

It is essential to ensure our electricity system adapts to the new C&T program without causing increases to electricity costs so industry can have an equal playing field with competing jurisdictions such as China, Russia, India and the United States of America.

AMPCO has expressed concern that the cost of electricity will increase with the implementation of the C&T program. The full impact of the new program is not yet known. Recently, the IESO identified C&T as one of the major sources of uncertainty around its business plan, depending on the implementation choices and the role of the IESO.[1] This uncertainty, in particular the uncertainty post-2020, affects electricity rate predictability.

AMPCO believes there are fundamental elements that need to be included in the program and regulatory design to prevent carbon leakage. For the OEB's reference, throughout stakeholder consultation with respect to the development of the C&T program AMCPO has recommended that the policies and regulations have no negative impacts on electricity rates for any large industrial consumers. We have also advised on the need for transparency and have recommended that the government and its agency take the appropriate time to understand the consequences of C&T on electricity rates by phasing in the electricity sector during the second compliance period.

AMPCO is concerned Board Staff's paper does not adequately address overall cost impacts for electricity ratepayers. The framework does not include a mechanism to limit rate impacts, in particular rate impacts which may be passed on to natural gas generators, which is very concerning for AMPCO as we believe it allows natural gas utilities the opportunity to ramp up costs *and flow costs through C&T* without built-in checks and balances.

As mentioned above, AMPCO continues to advocate for transparency in the C&T program and believes it is fundamental for the government to achieve success with its broader climate change strategies. AMPCO believes the costs of C&T should be clearly visible to customers on *their gas and electricity bill* so they are aware of the types of costs under the program and the resulting impacts.

The development and implementation the framework by 2017 is ambitious. AMPCO cautions the OEB to e ensure the elements of the framework are not rushed and the appropriate planning is conducted.

<u>C&T Regulatory Framework</u>

Board Staff proposes that the Framework be guided by six objectives: cost-effectiveness, rate predictability, cost recovery of prudently incurred costs, transparency, flexibility and continuous improvement.[2] For the reasons discussed below, AMPCO proposes that the framework should also be guided by fairness and rate impact considerations (including impacts on electricity rates).

[1] Exhibit A-2-1, Page 2 of 2
[2] Board Staff Paper, Page 8

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Under the framework, natural gas utilities are required to develop Compliance Plans to meet their obligations. Board Staff identified five issues to be addressed:

1. Level of OEB Guidance
2. Duration of the Compliance Plans
3. Forecasting
4. Assessment of Compliance Plans
5. Treatment of Longer-term investments

1. Level of OEB Guidance

Board Staff proposes that the OEB follow a light-handed approach requiring the utility to have a cost-effective portfolio of C&T instruments. The OEB would assess the plans to ensure cost-effectiveness and reasonableness for the purpose of cost recovery.

AMPCO supports the light-handed approach provided there are appropriate mechanisms in place for the Board to adequately assess the utilities' Compliance Plans. AMPCO provides further comments on this issue under 4. Assessment of Compliance Plans.

In AMPCO's view, the gas utilities are in the best position to determine the make-up of their portfolios and the appropriate prioritization, timing and pacing of investments, provided the OEB's framework elements provide a suitable level of guidance.

2. Duration of Compliance Plans

Board Staff considered two options for the Compliance Plan term: annual plans and full compliance period plans.

The government's C&T program lays out an initial 4-year compliance period by 3-year compliance periods. Board Staff's preference is to have Compliance plans that span the entire compliance period. AMPCO agrees with Board Staff's approach to require that Compliance Plans span the entire compliance period for the reasons put forward.

Board Staff identified a number of difficulties with an annual approach in that although annual plans may increase forecasting accuracy of load and carbon prices, they do not facilitate the flexibility and strategic planning inherent in longer multi-year term plans. AMPCO and its members take a longer term view of energy forecasts and electricity costs and believe that longer term Compliance Plans will facilitate a more balanced approach to the selection of instruments in each utility's portfolios. A longer term approach will also help to facilitate rate predictability, one of the guiding principles of the framework.

Board Staff proposes that an exception should be made for the first year of C&T. For the year 2017, Board Staff proposes that the utility submit a one-year Compliance Plan to allow for experience to be gained before developing a longer term plan. This approach is reasonable provided it is positioned strategically within the context of a longer term C&T program.

3. Forecasting

Utility forecasts are key inputs to the Compliance Plans: load forecasts, GHG emission forecasts (new) and carbon price forecasts (new). The utilities already prepare load forecasts for the purpose of rate-setting.

Board Staff proposes that the forecasting period must align with the duration of the Compliance Plans. Board Staff proposes that for the first year of the C&T program (2017), the utility should prepare an annual forecast, followed by 3-year forecast that would span the length of the following compliance periods (e.g., 2018-2020, 2021-2023, etc.) Board Staff indicates that longer term forecasts could increase the risks involved in forecasting accuracy.

AMPCO believes that the forecasting period should extend beyond year three of the compliance period to allow for a view of potential issues on the horizon that could impact future forecasts. Parties are better served with a sightline that includes longer term forecasts with the understanding that forecasts beyond year three will be updated in the next Compliance Plan period. Having advance knowledge of factors that may impact forecasts and costs supports rate predictability for customers, one of the guiding principles of the Framework. From AMPCO's perspective, this information is critical when forecasting future industrial electricity prices.

AMPCO proposes that a minimum five-year forecasting period be provided. This aligns with the five-year incentive regulation rate setting cycle. In AMPCO's view a three-year forecasting period is too narrow.

Under Section 5 below, the treatment of longer term investments is discussed and the expectation is that Compliance Plans should reflect long-term thinking and planning for GHG abatement beyond a single year or single compliance period. AMPCO's proposed five-year forecasting period better aligns with long term strategies to deal with facility-related emissions and investments. Five-year to 10-year capital plans should be developed. Most AMPCO members prepare a 10-year outlook regarding capital investment plans.

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Board Staff suggests two carbon forecasts be prepared: an annual carbon price forecast and long term 10 year forecast. AMPCO supports Board Staff's proposals that the utilities use the Intercontinental Exchange (ICE) for its annual carbon price forecast and that the OEB issue a 10-year carbon price forecast that would be updated annually. The OEB currently sets other values used by utilities such as interest rates for the approved regulatory accounts and the inflation factor for incentive rate setting. AMPCO does not support the utilities together procuring a longer term carbon price forecast.

4. Compliance Plan Assessment

Compliance Plan Assessment is a critical component of the Framework as it is the means for the OEB to approve the plans and recover costs. Board Staff indicates that consistent with the six guiding principles, Compliance Plans should be optimized, integrated and adaptable.

AMPCO notes that the proposed Framework is silent on customer bill impacts (including potential impacts on electricity prices). At the Stakeholder Session attended by AMPCO, Board Staff indicated that the impact of Union's Plan compared to Enbridge's Plan will be used in part to assess the reasonableness of customer cost impacts. AMPCO submits that this approach invites agreement between the utilities. In AMPCO's view, customers would be better served if minimizing rate impacts was added as a guiding principle or objective of Compliance Plan Assessment.

Inputs

Board Staff proposes that the inputs to the plan include the forecasts and a Marginal Abatement Cost Curve (MACC). The MACC will be used to determine optimization and prioritization and will include all potential options that could be used for compliance. Board Staff proposes that the timeframe for the MACC be 10 years to align with the long-term carbon price forecast. Board Staff proposes that there be one single consistent MACC that outlines all general, non-utility specific abatement activities to ensure a standard description of costs of C&T and GHG abatement activities that are broadly available in the market. AMPCO supports the development of a single general MACC with a 10-year timeframe to facilitate consistency in options and costs and align with the long-term carbon price forecast.

The single general MACC could be developed by the utilities together or the OEB could develop it. AMPCO supports the development of an MACC by the OEB with input from the utilities as required. AMPCO submits the OEB will be in a better position to review and assess the utilities'

Compliance Plans if it has the role of developing the general MACC.

In addition to the general MACC, the utility needs to develop its own company specific MACC to inform the development of its Compliance Plan that reflects its own unique circumstances and customer base profile. AMPCO submits that this may be an area where the utilities could work together as there will likely be many activities available that apply to these utilities.

<u>Plan Optimization</u>

Board Staff expects that optimization of the Plan will be demonstrated by an Options Analysis and Optimizing of decision-making that considers:

- Selection of compliance options
- Prioritization and pacing of compliance options
- How utility achieved optimal decision making to manage costs and risks
- How the approach meets guiding principles and assessment objectives
- How the approach considers long-term strategies
- Performance metrics

Board Staff takes the approach that the utility should provide a qualitative and quantitative explanation of how the instruments selected achieved optimal decision making to manage cost and risks. To assess Risk Management Board Staff suggests that the utility's governance systems and its approach to risk identification, scenario analysis and risk mitigation be reviewed. In order to assess the robustness of the utility's compliance plans Board Staff suggests that the utility develop high, medium and low risk scenarios associated with: forecasting; forecasts associated with carbon price in the short and long term, including exchange risk; and forecasts that combine forecasting risk and carbon price risk. Board Staff invites comments on strategies for the OEB to assess risk mitigation as well as input to different approaches to risk management including the potential use of risk management strategies such as Value at Risk.

Optimizing risks and costs are at the core of assessing the Compliance Plans.

AMPCO believes there will likely be a set of core compliance options that are the most economical that will be included in each utilities portfolio. AMPCO submits a sensitivity test is needed to assess variations in compliance options. AMPCO agrees risk identification is a key component of the assessment. AMPCO supports an assessment of the robustness of the utility's Compliance Plan based on high, medium and low risk forecasts.

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AMPCO also submits that the sensitivity analysis needs to include cost optimization (high, medium and low) along with risk so that the relationship between risk mitigation and costs is evaluated and optimized. Under each scenario test, each utility should provide cost per customer information.

5. Treatment of Longer Term Investments

Under the *Climate Change Mitigation and Low-carbon Economy Act, 2016,* natural gas distributors have the following compliance obligations:

- Facility-related obligations for facilities owned or operated by the utility; and
- Customer-related obligations for natural gas-fired generators and residential, commercial and industrial customers who are not Large Final Emitters (LFEs) or voluntary participants.

Longer term investments refers to investments and activities that relate to GHG mitigation that could span 3 years or longer and could include, for example, investments in new technologies and new infrastructure.

AMPCO agrees the Compliance Plans should include a qualitative and quantitative description of the strategies and activities that reflect long term thinking to reduce facility-related GHG emissions and customer-related GHG emissions.

For abatement programs, the utility will likely develop targeted programs for its customers and facilities. AMPCO submits customer costs should be tracked and reported on separately by the utility based on customer type (residential, commercial, industrial, gas-fired generator). For emission units procurement, the cost includes both customer-related and facility-related obligations so it will be tracked and reported on a total cost basis.

Board Staff proposes that descriptions of long term investments would be included in the Compliance Plans and forecast capital expenditures would be dealt with in rates applications. Thus, approval of costs and cost recovery would be reviewed like any other type of investment. Board Staff suggests this approach is most appropriate as the rationale behind capital expenditures and operating costs will be underpinned by a range of factors, only one of which is C&T.

AMPCO has concerns with this approach around transparency related to the costs of C&T. AMPCO submits that capital and operating costs where C&T is the primary driver should be identified and tracked as such. Many of AMPCO members who are LFEs will be separately tracking and reporting on C&T costs. AMPCO has also recommended that C&T costs are clearly provided on industrial electricity bills.

Other Considerations

Cost Recovery & Cost Causation

C&T compliance obligations result in the following costs:

- Facility-related obligations for facilities owned or operated by the utility; and
- Customer-related obligations for natural gas-fired generators and residential, commercial and industrial customers who are not Large Final Emitters (LFEs) or voluntary participants; and
- Administrative costs.

Facility-related and customer-related obligation costs will be incurred for GHG abatement programs and for emission units procurement.

Board Staff proposes that customer-related obligation costs should be borne by all customers except LFEs and voluntary participants who are responsible for managing their own compliance obligations. AMPCO submits this approach is appropriate and consistent with cost causality principles. As noted above, AMPCO submits that customer related costs should be tracked by customer type.

Some AMPCO members who are LFEs and voluntary participants have raised concerns about Board Staff's proposal to have all customers including LFEs and voluntary participants share in the utility's facility-related obligation and administrative costs on the basis that they are already responsible for their own compliance and administrative costs in order to comply with the C&T program and payment of additional C&T costs adds an additional burden. AMPCO disagrees with Board Staff statement that administrative costs are not expected to be material. AMPCO acknowledges that a change in cost allocation impacts other customer classes; however, AMPCO is of the view that the consequences of all cost allocation scenarios needs to be fully analyzed, including any potential impacts to costs in the electricity sector.

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Cost Allocation

Board Staff suggests that customer-related and facility-related obligation costs should be allocated on a volumetric basis to each rate class because the cost driver is load and associated GHG emissions. AMPCO agrees. AMPCO submits the customer-related costs should be tracked by customer class and allocated by customer class.

Board Staff proposes that both of these rates should be included separately on the utility's OEB approved tariff sheets to provide transparency. AMPCO agrees. This approach makes it easier to track the amounts collected and facilitate the annual update, which is imperative for AMPCO electricity price forecasting.

AMPCO does not agree with Board Staff that administrative costs should be allocated with similar existing administrative costs and not tracked separately. AMPCO members who are LFEs will be tracking and reporting on all C&T costs separately including administrative costs. Customers value transparency. Any accounting concerns should be overcome. It is not appropriate for C&T administrative costs to be buried in with existing utility administrative costs so that customers can no longer see or track these costs. Administrative costs should also be included on the tariff sheets.

Bill Presentment

AMPCO does not agree with Board Staff's proposal that facility-related obligation costs and administrative costs should be included in the delivery charge on the customer's bill on the basis that this approach is inconsistent with the OEB's transparency objective. AMPCO submits these costs should be recovered as a separate line item on the bill in addition to line item for customer related costs to provide full transparency (and be provided on utility tariff sheets.) AMPCO has also recommended that the cost of C&T be included transparently on industrial electricity bills.

All C&T costs should be tracked by customer class, allocated by customer class and therefore should appear differently on the bill depending on the rate class.

All customers not just low-volume customers are concerned with overall bill impacts. AMPCO does not believe that an additional line item on the bill will increase customer confusion. In fact, having the costs included in the delivery charge inhibits the goal of transparency Board Staff have set out.

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Rate Setting Approaches

In the multi-year Plan, rates are adjusted annually. To set annual rates, Board Staff proposes two options based on:

- Annual Forecast - annual rates based on the utility's annual forecasted weighted average price of each of the utility's compliance options (customer and facility related) for each year of the compliance plan weighted by the annual volume forecast; or an annual carbon price forecast such as the ICE.

- Compliance Period Forecast - forecasted weighted average price of the utilities compliance options (customer and facility related) for the entire compliance plan weighted by the total volume forecast.

AMPCO prefers setting annual rates based on an annual forecast consistent with Board Staff's recommendation that it is premature at this time to use the forecast for the entire compliance period until the utilities better understand the implications of these forecasts. This approach is consistent with AMPCO's desire for rate predictability. Significant true-ups after the fact are harmful to industry.

Also, given that annual rates based on a total volume forecast acts to smooth rates over the compliance period, AMPCO does not support this option. In general, AMPCO does not support rate smoothing. AMPCO believes annual rates should reflect true costs to the best extent possible.

Under the first option above, another approach is to set rates based on an annual carbon price forecast which links the customer's annual consumption with its GHG emissions, regardless of the utilities procurement and investment strategies. AMPCO is less supportive of this approach as AMPCO believes the link to the utilities' procurement and investment strategies provides the right transparency.

Recalibration & True-Up Processes

AMPCO agrees generally with Board Staff that re-calibration and true-ups should be done on an annual basis unless large deferral account balances exist. AMPCO agrees annual re-calibration and true-ups should be filed as a separate rate application.

AMPCO submits deferral account balances need to be apportioned between customer and facility related obligations as well as administrative costs.

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AMPCO is concerned about the potential for large deferral account balances. Large true-ups after the fact affect rate predictability for AMPCO members and are harmful to industry. If this is the case, a quarterly review of balances may be required and/or thresholds need to be set to trigger a review if the threshold is exceeded.

Monitoring and Reporting

AMPCO agrees that each utility should file annual monitoring reports to align with the utility's annual C&T application.

Customer Education and Outreach

Board Staff proposes that the utility develop a communication strategy/plan and proposed messaging which would be reviewed and approved by the OEB.

This approach allows the utility flexibility to develop a communication plan that best responds to its customers and unique conditions but also ensures consistent messaging between utilities. AMPCO supports this approach for the reasons identified.

Confidentiality of C&T Information

Board Staff recommends that certain C&T information, auction and market sensitive information, be filed by the utility requesting confidential treatment. Board Staff also recommends that auction information and market sensitive information be reviewed by OEB staff and panel members only, and that the applicant should file redacted versions of such documents for the public record. Parties in the proceeding would not be provided the information on a confidential basis.

AMPCO does not support this approach as it does not allow proper examination by ratepayers to determine the prudency of costs and reasonableness of the Compliance Plans. Specifically, ratepayers would be compromised in their ability to evaluate if the utility achieved optimal decision making to manage costs and risks.