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File 92867

September 22, 2016

VIA EMAIL

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

Dear Ms. Walli

Re: Regulatory Treatment of Pensions and Other Post-Employment Benefit Costs (EB-2015-0040)

The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on the regulatory treatment of pensions and OPEBs (EB-2015-0040).

We hope you will find the PWU's comments useful.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Richard P. Stephenson
RPS:r

Encl.

Regulatory Treatment of Pensions and Other Post-Employment Benefit Costs

Comments of the Power Workers' Union

I. INTRODUCTION

On May 14, 2015 the Ontario Energy Board ("OEB" or the "Board") issued a letter indicating the beginning of a consultation on rate-regulated utility pensions and other post-employment benefits ("OPEBs") in the electricity and natural gas sectors. The Board invited all interested parties to provide comments on an initial set of questions organized into three areas: *general principles*, *information requirements* and *accounting and recovery in rates.*

The OEB retained KPMG to provide technical support and to prepare a report ("KPMG Report") to assist the OEB and stakeholders in understanding the issues and available options. The KPMG Report addressed three objectives of this consultation:[1]

- **Principles that the OEB should adopt for purposes of assessing pension and OPEB costs in rate applications, including any principles the OEB should adopt in considering the appropriate rate mechanisms for cost recovery**
- **Options for rate mechanisms for cost recovery**
- **Information requirements to support the assessment of pension and OPEB costs in rate applications, including the assessment of appropriate rate mechanisms for cost recovery.**

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[1] EB-2015-0040. OEB letter dated August 10, 2016

The OEB convened a stakeholder forum on July 19 and 20, 2016 to discuss the KPMG Report.

In a letter issued on August 10, 2016, the OEB provided guidance with respect to how parties may wish to structure and focus their written submissions scheduled for September 22, 2016. In the letter, the OEB advises that:

- The OEB would benefit from submissions on the first two objectives identified above (i.e. the principles and cost recovery mechanisms).
- Information requirements and any transitional issues will be addressed at a later time.
- Parties are invited to provide their views on all the cost recovery options that KPMG proposed for both pensions and OPEBs.
- In regards to the four options for set-aside mechanisms presented for OPEBs, the OEB is particularly interested in parties' views on whether a set-aside mechanism is necessary for OPEBs if accrual accounting values should be used for rate setting, and on the latter two options put forward by KPMG (reduction to rate base and a tracking account).
- The OEB would also appreciate parties' views on whether either of these two mechanisms could be implemented for pension costs, in the event that the OEB favours using accrual accounting values for rate setting.
- The OEB also seeks parties' views on KPMG's modified funding contribution method, as well as any method other than a pure accrual accounting method as the basis for cost recovery.

II. POWER WORKERS' UNION'S COMMENTS

A. GENERAL COMMENTS

This comment of the PWU is informed by the PWU's comments on the Board's initial questions, the KPMG Report and the stakeholder forum held on July 19 and 20, 2016.

The PWU submits that the Board should carefully weigh the costs and benefits of imposing standard pension and OPEB cost recovery methods and principles on both the electricity and gas industries and all utilities, which because of a variety of historical and legacy reasons, widely vary in the type of their pension and OPEB plans and in how they recover these costs. Imposing a standard or uniform cost recovery method on all utilities presupposes that there is a single 'optimal' cost recovery method and that the advantages of the 'optimal' method are significant enough to outweigh the costs of transition to that chosen cost recovery method.

It is not advisable to propose changes to methods simply to achieve short-term rate-relief. A long-term perspective is needed to ensure certainty, consistency and cost stability. Most of the concern over the rate impact of pension and OPEBs costs is not related to the accounting method used by utilities. Short-term rate reduction goals should be weighed against potential risks such as uncertainty, rate instability, administrative burden, inter-generational inequity, incompatibility/inconsistency with accounting standards, and adverse impacts on utilities, ratepayers, employees/retirees.

The PWU submits that the different cost recovery methods, including the two major ones – cash and accrual, in the final analysis result in the same amount of cost, save for short-term, minor differences such as those relating to the treatment of tax liability. The issue is simply a matter of timing.

KPMG provided Ontario Power Generation Inc.'s ("OPG") historical and forecast pension costs as detailed in Table 21 of the OEB's Decision with Reasons dated November 20, 2014 for illustration purposes:[2]

	$million	2008 Actual	2009 Actual	2010 Actual	2011 Actual	2012 Actual	2013 Actual	Total 2008-13	2014 Plan	2015 Plan
	Pension									
1	Accrual Basis - recoverable in (rates) payment amounts	121.4	141.4	150.1	195.0	286.1	383.3		471.3	405.3
2	Cash Basis	198.6	206.1	208.5	235.5	297.1	242.9		321.9	329.6
3	Difference (1-2)	(77.2)	(64.7)	(58.4)	(40.5)	(11.0)	140.4	(111.4)	149.4	75.7

As can be seen from the table above, OPG employing the accrual accounting method, under collected its pension costs from 2008 to 2012, over collected its pension costs in 2013 and forecasted to over collect in 2014 and 2015.

According to KPMG "there is no guarantee that one method will always result in higher (or lower) costs for a given period than the other". [3]

Moreover, as can be concluded from the KPMG Report:

- In the fullness of time, the cumulative cash (or funding) costs for a plan (or arrangement) is equal to that plan's cumulative accrual accounting costs. If rate payers pay less now they will pay more later.
- Pension and OPEB costs are seen as any other costs by almost all regulators around the world and they are assessed like other compensation costs.
- Only one regulator has distinct/separate principles with respect to pension costs, Office of Gas and Electricity Markets ("Ofgem"). All other regulators rely on the general principles for rate-making in determining pension and OPEB costs.

The KPMG Report also shows that pension-related reforms are happening in a number of jurisdictions including Ontario and it is possible that the outcomes

[2] KPMG Report to the Ontario Energy Board. Report on Pension and Other Post-Employment Benefit Costs. May 2, 2016. Page 20
[3] Ibid., Page 2

could directly impact the costs of public sector pensions. For example, the KPMG Report notes that the Ontario government is in the process of facilitating pooled asset management for the province's public sector pension funds which would provide economies of scale for the participating pension plans and could result in increased long-term investment returns thereby reducing pension costs.[4] The KPMG Report also indicates that discussions surrounding cost-sharing, pension contribution rates, and governance of plans have been taking place in Ontario. While the PWU will support or oppose any particular proposal based on evidence and at the right forum, the PWU's position is that pension and OPEBs are like any other compensation and so their costs should be negotiated by concerned stakeholders – the government/ shareholder, businesses/employers, and employees through the legally established and protected collective bargaining process. The outcomes of such negotiations could impact levels of pension costs, how those costs are determined and how they are allocated between employers.

In this regard, the PWU's comment below on principles, cost recovery methods and set-aside mechanisms does not imply that the PWU is supportive of proposed changes; in fact the PWU's comment is shaped by the concern over whether any such changes are required at all.

B. PRINCIPLES

Principles that the OEB should adopt for purposes of assessing pension and OPEB costs in rate applications, including any principles the OEB should adopt in considering the appropriate rate mechanisms for cost recovery

In its response to the Board's initial questions included in the Board's letter dated May 14, 2016, the PWU submitted that some of the Board-suggested potential principles such as intergenerational equity, stable cost levels, and financial protection for future ratepayers were reasonable and could be pursued so long as they are practically and legally achievable. On the other hand, the PWU expressed its objection to the other proposed principles such as 'consistency

[4] Ibid., Page 118

across the gas and electricity sectors', and 'pension costs which are comparable as measured by other benchmarks.' Moreover, to the extent that new principles are needed, the PWU suggested additional principles.

While the PWU adopts those initial comments, the PWU submits that there are two issues that the Board should address in light of the KPMG Report that was released subsequently and the July 19 and 20 stakeholder forum:

a) The rationale for new, separate principles; and
b) To the extent that the Board determines that separate principles are needed, which ones would be appropriate/inappropriate?

a. The Rationale for Separate Principles

The PWU submits that the Board should assess the need for new, separate principles in terms of the experience of other jurisdictions, the applicability of the general rate-making principles or any additional principles that the Board has established for specific purposes, such as those suggested by the OPG and relating to transition to International Financial Reporting Standards ("IFRS"), and finally against the cost and administrative burden that separate principles impose on utilities, the Board and stakeholders.

As KPMG's Report indicated, all surveyed Canadian and international regulators, with the exception of one, Ofgem, the regulator for Great Britain based in London, England, assess pension and OPEB costs in setting just and reasonable rates based on the same general regulatory principles that are used for assessing any other capital or operating expenditure that is incurred by a regulated entity in their jurisdictions.[5] The KPMG Report states that only Ofgem developed (in 1993) a detailed set of *separate and distinct* principles for dealing with defined benefit pension costs; in fact, Ofgem has not developed separate and distinct principles for OPEB costs.[6]

[5] Ibid., Page 126
[6] Ibid.

The PWU suggests a number of good reasons why regulators in general have refrained from establishing separate and distinct principles for pension and OPEBs. One is the recognition that benefits offered through pension and OPEB plans are a form of deferred compensation, an integral part of the overall compensation that is provided to employees and therefore pension and OPEB costs should not be viewed in isolation. The second is the realization that the general rate-setting principles such as cost causality, intergenerational equity, rate stability and predictability that regulators have in place and applicable to all types of capital and operational costs are sufficient. In other words, separate and distinct principles for pension and OPEBs would only create regulatory burden, increase administrative costs, and further complicate the already complex rate-setting process.

In its report, KPMG states that its understanding is that "the OEB is not seeking to make drastic changes to the way it sets rates as part of this review but rather to develop principles and requirements for P&OPEB costs based on established rate-making principles such as intergenerational equity, rate stability and predictability as well as statutory objectives such as financial viability of the electricity and gas industry." The PWU also notes that there are some principles that the Board has already established. As OPG pointed out in its comment, the Board adopted three principles when considering the transition to IFRS (EB-2008-0408): (i) alignment with required financial accounting and reporting, (ii) intergenerational equity and (iii) fairness. It is clear that the Board already has general and some specific principles at its disposal. The PWU is concerned that the very idea of having principles for the express purpose of assessing isolated or segregated components of utility costs runs the risk of additional regulatory burden and cost and could trump over such statutory objectives as the financial viability of the electricity and gas industry.

b. Appropriate Principles

To the extent that the treatment of pension and OPEBs warrant establishing principles, the PWU is not opposed to the majority of the principles initially proposed by the Board (intergenerational equity, stable cost levels, and financial protection for future ratepayers) and those subsequently proposed by stakeholders (general rate-making principles, fairness to ratepayers and utilities and minimizing regulatory burden). Save for differences in terminology, they are in general consistent with general rate-making principles.

The PWU also suggested in its initial comment two additional principles which the PWU adopts in this submission:

i. Financial well-being of utilities and their ability to meet their pension and OPEB liabilities/obligations:

Standards, principles, and policies relating to the rate recovery of pension and OPEB costs should not negatively impact the financial health of utilities and jeopardize their ability to fulfill their plan obligations over time. Both customers and utilities are entitled to rates which are just and reasonable. Board imposed standards, principles and policies cannot have the indirect effect of denying a utility of its ability to recover its prudently incurred costs.

ii. Legality of Board's potential standards, principles and policies relating to pensions and OPEBs

Any imposition of standards, principles and policies must be undertaken within the jurisdiction and the legal authority of the Board. Board imposed standards, principles and policies cannot have the indirect effect of interfering in the legally and constitutionally protected free collective bargaining processes. The provision of stable, secure and adequate retirement income and benefits is not a social ill, it is a provincial priority. Working women and men have nothing to apologize for when they act collectively to improve incomes and working conditions. Society has placed such value on these rights so as to enshrine them, not only in provincial labour and pension legislation, but also in the *Charter of Rights and Freedoms*.

The PWU, however, considers the two other principles proposed in the Board's initial letter misguided and unhelpful. These are:

i. Consistency across the gas and electricity sectors:

Consistency can have some value in that it allows utilities, the Board and other stakeholders to compare financial information, and in some cases help compare the performance, of utilities. In this respect, consistency in accounting methods may be desirable, at least directionally. However, this does not mean that consistency should be considered as a necessary requirement that should be imposed on businesses. The variation among utilities within a sector such as electricity, let alone variation across sectors, is significant due to a host of factors. Utilities vary in the type of pension and OPEB plans – funded/unfunded, defined benefit/contribution, single/multi-employer, accounting method, etc. Many of these distinctions have deep historical roots within the various different utilities. The objective of consistency, while desirable directionally, should not be pursued in disregard of such important differences.

Put another way, consistency as between sectors, unlike, for example, intergenerational equity, has no inherent value as a goal: its desirability turns on whether, based on circumstances, it achieves a desirable outcome. It is a means to an end, not an end in itself. To seek consistency in the face of different sets of facts (for example, differences in labour markets, terms and conditions of employment in the different utility sectors) and without regard to the outcome of forced consistency would be foolish, if not counterproductive and dangerous.

ii. Pension costs which are comparable as measured by other benchmarks:

The PWU reiterates its position in its initial comments that benchmarking that is based on flawed comparison of pension and OPEB costs of different utilities that are dissimilar in many respects is unreasonable, unfair and misguided. Benchmarking is most useful when conducted at the macro level. Total cost benchmarking can be a useful exercise. Benchmarking of segregated components of a utility’s costs can be of no use whatsoever, or even worse, fundamentally misleading, because it does not take into account the effects of trade-offs and business choices between cost categories.

Benchmarking of costs can also be misleading and counter-productive if it is not accompanied by equal dedication of resources to measurement and monitoring of system and customer metrics, such as asset condition, service quality, reliability and customer satisfaction. Improved cost performance achieved at the expense of these other metrics is no indication of improved efficiency. It simply represents the triumph of one priority over others, with no apparent net benefit.

Moreover, benchmarking studies are already filed with respect to the various components of a utility's cost such as compensation (wages, pensions, overtime, etc.), vegetation management, productivity, etc. Further benchmarking on even more segregated components of utilities' cost of service would only increase the cost of service itself. Benchmarking of any subcategory of costs is a dangerous exercise as it overlooks the historical trade-offs that management may have made within the particular circumstances of their firm; to achieve a balance of priorities that meets its particular needs. Viewing and comparing one item in isolation is unhelpful at best, and could be misleading and harmful at worst.

An efficient firm may well have relatively higher costs in a specific area because it reflects a priority for that firm. The PWU has filed evidence in prior proceedings regarding the dangers of subcategory benchmarking, in particular the dangers of OM and A benchmarking, rather than total cost benchmarking.[7] What is being suggested now is even worse than higher level subcategory benchmarking such as one for capital and another for OM and A. For the last many years, the Board has been directing utilities such as Hydro One and OPG to file compensation benchmarking studies. The Board's interest is to compare compensation levels at these utilities against the 'market' using such indictors as above, at or below the market median. For the sake of demonstration, suppose the compensation benchmarking study filed with the Board showed that compensation levels are at the market. Suppose also the same study showed that pension and OPEB levels are above the market median. What can any reasonable person conclude from this study is that management, through collective bargaining, has made a trade-

[7] EB-2010-0379. PWU Submission filed on April 20, 2012, Attachment A: Assessing Distributor Incentives and Performance: 2000 TO 2012. F. J. CRONIN

off that has kept the overall compensation level at market level. What is relevant to the ratepayer is the overall cost level. The question is whether the Board would be justified to deny cost merely on the basis of the pension and OPEB results. The PWU submits that that would corrupt the very concept of just and reasonable cost.

Using benchmarking in a prescriptive way (i.e. as a basis for disallowances) is also inappropriate in circumstances where management has little or no ability to control the relevant costs over the short to medium-term. The cost of special pension payments is a perfect example of this. By definition, these payments are required by law in order to fulfill historical pension obligations. The amount of these payments can vary, depending on factors outside the control of management, e.g. discount or mortality rates. By statute, the amounts must be paid. Any cost variances (a) reflect historical, not present management decisions; (b) arise from factors outside management control; and (c) cannot legally be avoided. In these circumstances, precisely what purpose is served by benchmarking? The PWU adds that the Board has the mandate and the means to scrutinize evidence on factors that are outside the control of management such as mortality and discount rates to ensure that it comes from a reputable source and is most recent.

In the case of multi-employer pension plans, costs may be driven by the terms of the plan, which an individual employer may have little or no power to alter or even influence. In some cases, the multi-employer group will include some firms which are regulated by the OEB, and many of which are not. In many cases, some or all the employees of the employer are unionized, and the terms and conditions of their employment are determined by the provisions of the applicable collective agreement. The terms of the pension and OPEB plans are often, but not always, incorporated into the collective agreement. In such cases the employer has no legal ability to make any unilateral change to the terms of the pension plan. No change can be made without the agreement of the bargaining agent (i.e. the employees collectively). The ability of an employer to negotiate favourable pension or OPEB terms is a complex question, and will ultimately turn on the bargaining power of the employer relative to the bargaining agent.

To summarize, the benchmarking of pension and OPEB costs offers little value because:

- Pension and OPEB costs are complex, and are explained by various factors and circumstances relevant to each utility. Apart from various legacy factors, the variation in the type of plans –single or multi-employer, defined benefit or defined contribution, funded or unfunded, registered or unregistered, etc. makes data collection and analysis difficult and renders the conclusion of little value.
- Utilities already do benchmarking and industry good practice with respect to cost. In many cases individual components of total costs are already benchmarked and filed–for example compensation (which includes pension and OPEBs) and vegetation management, productivity, etc. It is costly and unhelpful to do benchmarking for every item of cost that the utility files.

C. COST RECOVERY METHODS

i. Pension & OPEBS

Accrual Accounting Cost Method

Should the Board decide to proceed with a common regulatory mechanism, the PWU submits that the accrual method is preferred for the following reasons:

- Accrual accounting better reflects the retirement benefits an employee earns while working, i.e., accrual accounting more closely aligns the accrual of retirement benefits with the employee’s work. The liability and associated expense for pensions and other retirement benefits should be recognized at the time the employee's services are rendered and any part of that cost unpaid at the end of the period should be a liability. This matching is the most consistent with the "cost causality" principle of good rate-making.

- As FERC points out,[8] "recognition that uniform principles of cost measurements between similarly situated regulated companies and between time periods are beneficial for carrying out the commission's regulatory programs". In this regard, the PWU understands that the majority of utilities in Ontario and Canada use the accrual method and therefore adopting the widely used accrual method has benefits. In the case of utilities that currently use both the accrual and cash method, a directional move to the accrual method would mean that they will no longer need to have two books –one for financial reporting and another for rate making purposes thereby avoiding unnecessary additional cost.
- From a fairness and equity perspective, it makes more sense to attribute pension and OPEB expenses to the periods in which the employees are providing services than burdening the full cost to future customers. The accrual method reflects changes in pension and OPEB obligations and recognizes cost in the reporting period in which an employee has provided the service that gives rise to the benefits.
- The accrual method is consistent with US Generally Accepted Accounting Principles ("US GAAP"), the cost of service standard and the principle of intergenerational equity.
- The accrual method has a rate smoothing effect. According to OPG,[9] the amortization of the underlying unamortized balance in accumulated other comprehensive income ("AOCI") as components of the benefit costs are recognized over future periods and, in the PWU's view, its corresponding rate smoothing effects, were recognized on the expectation that the cost recovery would remain unchanged. To force utilities that have employed

[8] United States of America 61, FERC _ 61, 330 Federal Energy Regulatory Commission, Post-Employment Benefits Other Than Pensions, Statement of Policy. Issued December 17, 1992.
[9] EB-2013-0321. Exhibit L, Tab 2.1, Schedule 6, EB-003, Attachment 1. OPG Consolidated Financial Statements, December 31, 2013, Page 29

the accrual method to a different method would not only complicate matters but could also be financially punitive depending on the manner by which the utilities make the transition, which the Board has indicated will be addressed in the future.

- The impacts on financial reporting would be minimized because many utilities have already made the transition to the accrual method.
- Given the transition utilities are expected to make to IFRS, the use of the accrual method for both financial reporting and regulatory purposes would result in consistency between financial and regulatory accounting thereby avoiding the administrative burden of reconciling financial and regulatory accounting.

Funding Contribution (Cash) Method

The PWU notes that there are utilities that use the cash based cost recovery method and as indicated at the outset, the PWU's preference is for such utilities to continue to do so as long as that is what their specific circumstances warrant. However, it is the PWU's view that the accrual method is generally preferable because under the funding contribution method ("FC method" or "cash basis"):

- Costs and benefits are recognized when the actual contributions or benefit payments are made not when they are incurred/earned. Further, current treatment of recovering pension and OPEB expenses on a FC method is unfair to current ratepayers as they bear the burden of an accumulation of years of employee services rather than current year employee services, thereby creating intergenerational equity and cost causality issues.
- The FC method is vulnerable to irregularity in the contributions employers make to pension funds and therefore does not accurately reflect the relatively smooth manner in which benefits are earned by employees. This is true not only with respect to the most common pension plans, i.e., registered, defined benefit pension plans but also with respect to OPEBs. As FERC points out, there should be a recognition that:

> **"measurement of PBOPs [post-employment benefits (other than pensions)] for a given rate test is a process of allocating accrued costs between periods in a rational manner so that each period bears its equitable portion of such costs"[10]**

- There is an ongoing mismatch between the utilities costs and the revenues earned which results in the erosion of income and shareholder returns.
- The cash basis has the potential for adverse financial consequences. According to OPG, in the EB-2013-0321 proceeding, the change from accrual accounting to the cash basis method would result in a reduction to OPG's net income of $379.1 million in the test year period[11] and a further weakening of its financial ratios and the corresponding increase in OPG's financial risk. OPG also stated that it may have to reverse its recognition of the $3 billion in regulated assets for unamortized amounts recorded in AOCI[12] in respect of pension and OPEB obligations. Consistent with one of the Board's statutory objectives, i.e., ensuring the financial viability of regulated utilities, it is important that the Board recognize these potential financial adverse impacts.
- The PWU's understanding is that the cash basis cannot be used for financial reporting purposes for OPEB under US GAAP or IFRS. The KPMG Report does not explicitly confirm whether this understanding is correct:

> **OPEB costs: US GAAP explicitly prohibits the recognition of regulatory assets when OPEB costs are recovered on a 'pay-as-you-go' basis. For those OPEB costs that are not recovered in rates on a 'pay-as-you-go' basis, and subject to certain specified criteria being met, regulatory assets and liabilities are generally recognized. As such, regulatory assets may be recognized (emphasis added) for OPEB costs as long as the method of recovery is not 'pay-as-you-go' and the other specified criteria are met.[13]**

[10] United States of America 61, FERC _ 61, 330 Federal Energy Regulatory Commission, Post-Employment Benefits Other Than Pensions, Statement of Policy. Issued December 17, 1992.
[11] EB-2013-0321. Undertaking J13.7
[12] EB-2013-0321. Undertaking J13.7
[13] KPMG Report, Page 8

- The cash basis method will not allow utilities that have a finite life (i.e. nuclear generating stations that are projected to shut-down in the medium-term) to fully recover projected future payments on OPEB obligations that extend well into the future.[14]
- The cash basis method will result in a fusion of costs that are the result of compensation decisions made over decades which creates uncertainty, inconsistency and cost instability.
- Increased complexity and administrative costs.
- Under US GAAP, there is a prohibition to record a regulatory asset for Other Post-retirement Benefits ("OPRB") for the difference between accounting costs and the costs included in rates if OPRB costs underpinning rates are determined on a cash basis (US Accounting Standards Codification 980-715-25-4). As a result of this provision, if the Board required a utility to move from the accrual method to the cash basis method to determine the OPRB costs underpinning the utility's rates, the utility would be required to write-off regulatory assets for OPRB.[15]

Modified Funding Contribution Method

The PWU does not support the Modified Funding Contribution Method ("MFC method") for the following reasons:

- Similar drawbacks as the FC method detailed above.
- Includes the use of conservative assumptions when calculating normal cost contributions and going concern special payments which could defer costs causing potential concerns about which generation of customers are responsible to pay for which costs.[16]
- The *Pension Benefits Act* requires solvency payments as part of funding. According to OPG solvency payments are an acceleration of future going concern payments and cannot be considered in isolation. OPG must make

[14] KPMG Report, Page 58
[15] In EB-2013-0321, OPG submitted that it would need to reverse pension and OPEB regulatory assets of approximately $1-$3 billion depending on the manner in which the Board implements such a change.
[16] KPMG Report, Page 28

any required solvency payments and cannot use letters of credit. LDCs may be unable to identify the “solvency” portion of their payments.

- Additional tracking and record-keeping introduces administrative complexity.

D. SET-ASIDE MECHNISMS

The PWU submits that the status quo is working and making changes based on short-term rate relief is not advisable. Introducing any form of set-aside mechanism will create additional administrative burden and costs for utilities and the Board, with no apparent benefit.

III. CONCLUSION

The PWU submits that the Board should carefully weigh the costs and benefits as well as consider the consequences of changing the existing regulatory treatment of pension and OPEB cost recovery and how it will impact the financial health, financing needs and risk profile of utilities and their ability to fulfill their plan obligations over time.

The PWU believes that the current framework is working and that short-term discrepancies are reasonable and should be tolerated. Utilities should have the flexibility to choose the approach that fits with their unique circumstances, including their specific types of plans and consistency with the accounting standard that they choose or are required to use for external reporting. Ultimately, the Board has the power to ensure the interests of ratepayers are protected within the context of any proposed method and within its mandate.

All of which is respectfully submitted.