ONTARIO ENERGY BOARD

FRAMEWORK FOR REVIEW OF INTERVENOR PROCESSES AND COST AWARDS (March, 2022)

Comments of
Industrial Gas Users Association (IGUA)

General Comments

The OEB's March, 2022 *Framework for Review of Intervenor Processes and Cost Awards* report (Report) states that the OEB is *"seeking input … on potential changes to improve both the efficiency and effectiveness of external participation in the adjudicative process"*.[1] Given the title of the Report, which focusses specifically on intervenors, it appears that the *"external"* characterization, which is repeated a number of times in the balance of the Report, is meant to apply to intervenors, presumably as distinct from the regulated utilities and the OEB and its staff.

The customers and the broader public interests represented by intervenors before the OEB should be considered central, and not "external", to the OEB's processes. It is for the constituencies represented by intervenors that the OEB regulates. Utility customers and the broader public interests impacted by utility infrastructure and services are the *raison d'être* of the OEB. The regulated utilities too are imbued with a mandate to operate in the interests of their customers and in the broader public interest, both as a matter of policy and as a matter of law.

The Report goes on to recognize *"the significant value that intervenors bring to proceedings and policy discussions at the OEB"*[2], and then offers the following characterization of what we assume to be the central purpose of the Report and associated request for comments:[3]

[1] Report, page 3, first paragraph.
[2] Report, page 3, second paragraph.
[3] Report, page 3, second paragraph.

It is important for the OEB to ensure that the cost of the interventions – both in terms of direct funding through cost awards and the costs associated with additional workload to applicants and the OEB – is commensurate with the value that is brought to the OEB's proceedings.

There are a number of foundational principles in considering what we take to be the general "problem statement" grounding the Report.

1. Intervenor costs themselves represent less than 2 one hundredths of a percent of what Ontario's energy customers pay annually for utility services (based on annual intervenor costs of $4.4 million and annual Ontario regulated utility revenue requirements of $24.6 billion as cited in the Report).

2. ***The "return" to customers of regulated utility services achieved for the modest cost of intervenor participation - both direct intervenor costs and "additional workload to applicants and the OEB" in discharging their respective customer/public interest mandates and responsibilities – far outweighs the investments made.*** This is obvious to IGUA, having participated for many years in Ontario regulatory proceedings and having made various attempts to quantify customer savings resulting from its participation and that of other intervenors. Proper consideration of the "value" of interventions in OEB proceedings would be informed by analysis of additional data, such as applied for as compared to as awarded revenue requirement for the utilities that the OEB regulates. Even if only a fraction of that delta was reasonably attributable to intervenor participation in OEB proceedings, that fraction would far outweigh the costs associated with intervenor participation.

3. ***Everything is paid for by customers.*** Not only do customers cover the costs of those who represent them in the OEB's proceedings, they also cover the costs of the utilities' regulatory resources, internal and external, and of the OEB itself. Of course, they also cover the full costs of the utility services provided to them, including the cost of shareholder capital engaged in the provision of those services. Indeed, the entire Ontario utility infrastructure "rate base" – billions of dollars worth - is funded through rates paid by utility customers. It is in the context of responsibility for all of these costs that the value to customers of the $4.4 million annual investment in direct intervenor costs, and incremental investment in costs associated with *"additional [regulatory] workload to applicants and the OEB"* should be considered.

4. ***Central to the legitimacy and the acceptability of the OEB's work is the ability of customers and other relevant public interests to participate, and be heard, in OEB processes.*** It is for the interests of the public represented by the various intervenors active in OEB proceedings that the OEB regulates. The value at issue in relation to the costs associated with intervenor participation is the value to those that the intervenors themselves represent. As recognized in the Report's discussion of the topics of procedural fairness and "the right to be heard"[4], it is both the law and sound regulatory policy that requires affording customers and other relevant public interests the meaningful (i.e. as balanced and informed as possible) opportunity to be heard.

5. ***The OEB's intervenor participation model is already the "gold standard" for such models***. As recognized in the Report, the use in some jurisdictions of a Consumer Advocate model is necessitated precisely because in those jurisdictions there is not enough customer and other stakeholder participation in regulatory proceedings. The OEB should be proud of the fact that *"[i]nsufficient representation has generally not been an issue identified for OEB processes"*.[5] The OEB's current intervenor framework has resulted in a diversity of informed and seasoned views being brought to bear for the assistance of the Board across the spectrum of interests for which the OEB regulates. It has worked exceedingly well.

The Report presents a *"preliminary list of concerns to consider"*[6], and poses a number of questions related thereto. Bearing the foregoing considerations in mind, we provide more particular comment in the balance of this submission on these stated concerns. In general, IGUA believes that;

(a) what the Report refers to as "active adjudication" is the best way to address any such concerns; and

(b) the OEB and its commissioners already have all of the tools and associated discretion necessary to engage in such "active adjudication" in order to optimize the efficiency and effectiveness of its various processes and the contributions made and value achieved by intervenor participation in those processes.

[4] Report, page 8.
[5] Report, page 12.
[6] Report page 10, bottom.

Intervenor Status/Substantial Interest

As noted in the Report, Rule 22 of the OEB's *Rules of Practice and Procedure* (July 30, 2021) already places the onus on parties seeking to intervene in an OEB proceeding to satisfy the OEB that they have a *"substantial interest"*. Rule 22.03 goes on to provide guidance on how a determination of *"substantial interest"* should be made, requiring parties to include in their intervention requests;

(a) a description of the intervenor, its membership (if applicable), its interest in the proceeding and the grounds for the intervention; and

(b) a concise statement of the nature and scope of the intervenor's intended participation.

These existing requirements elicit the information required for the OEB to understand the party's particular interest in the proceeding, based on who the party is and what its mandate is, and to validate at a high level, the relevance and materiality of that interest to the nature and substance of the particular proceeding in respect of which intervention is sought.

In the case of frequent intervenors, like IGUA, sub-rule 22.03(b) provides for the filing[7] of a document which addresses with greater particularity the first of these two requirements, and thus serves to further establish the nature of the intervenor's particular interests for consideration in respect of requests for status in particular proceedings. Frequent intervenors are to describe themselves, their mandates and objectives, their memberships as applicable, the constituency they represent, the types of programs or activities that they carry out, and the identity of their authorized representative in OEB proceedings.

IGUA supports the continuation of the requirement for regular intervenors to provide the more comprehensive information set out in sub-rule 22.03(b). This information, we presume, allows the OEB to validate the extent to which the intervenor in fact is able to represent and properly present the views of the constituency which it purports to represent. It further allows the OEB to recognize and validate the continuity, and allows the party to demonstrate the experience and professionalism, provided by the party's representative authorized to provide such representation.

[7] We understand that the information required by sub-rule 22.03(b) may be filed with each intervention request or annually. IGUA has opted for the former, but is aware that a number of regular intervenors have opted for the latter.

IGUA also supports the propositions in the Report[8] that:

1. Everyone materially impacted by a decision has the right to be heard.

2. While engagement of the Registrar in decisions regarding intervenor standing provides continuity, there may be particular instances when a hearing panel can and should directly consider whether a particular issue identified by a party seeking intervenor status is within the expected scope of the proceeding and warrants approval of intervenor status.

We caution, however, that at the preliminary stages of a proceeding a liberal approach to inclusiveness and consideration of potentially relevant and material issues should be taken. We would expect there would be only rare instances where the Registrar or a hearing panel could properly determine at the outset of a proceeding whether a particular issue and the "right to be heard" thereon is or is not properly engaged in that proceeding as it moves forward. Nonetheless, early engagement by the hearing panel in intervenor standing determinations presenting unique considerations would provide an early opportunity for the hearing panel to consider unique or unexpected issues raised, and to provide additional guidance thereon as warranted as the scope of the proceeding comes into sharper definition through continuation of the process.

In respect of the specific potential guidance that the Report indicates the OEB is considering regarding what constitutes a *"substantial interest"* supporting the granting of intervenor status:

(a) In respect of leave to construct applications, what aspects of a facility are properly considered in such applications, as opposed to subsequent rate applications, is in some important respects a nuanced matter. Facilities approved become rate base, and rate base is central to establishing rates. While many aspects of leave to construct applications (such as landowner issues and environmental issues) are discrete to those applications, and some aspects of inclusion of approved facilities in rates (such as cost allocation) are often (though not always[9]) unique to rate applications, there are areas of overlap between the two. IGUA engages in leave to construct applications both out of an interest in facilities appropriate to provide continued, reliable gas service and in deference to concerns from members on impacts on large industrial rates of certain facilities (which, once approved, will flow into rates).

(b) In respect of rate proceedings, the Report proposes that parties representing discrete customer groups of the utility seeking a rate approval will be considered to have a substantial interest in a rates proceeding. IGUA agrees with this. The

[8] Report, page 17, top.
[9] EB-2016-0186, Union Gas Application for approval to construct a natural gas pipeline in the Township of Dawn Euphemia, the Township of St. Clair and the Municipality of Chatham-Kent and approval to recover the costs of the pipeline.

same should be true, as articulated in the preceeding point, in respect of facilities applications.

(c) The existing requirements in Rule 22.03 for intervention requests, as summarized above, provide sufficient basis for parties not representing discrete customer groups to state the policy aspects of a proceeding that are relevant to their interest, and how their participation will assist the OEB in making its determinations in the proceeding. Active enforcement of the requirement for this information, and express consideration of same, should be sufficient to address the issue of whether a "substantial interest" is demonstrated so as to support intervention in any particular proceeding.

(d) IGUA does not endorse pre-defining cost award limits for limited scope (or any other) intervenors, or requiring, expressly or through "combined" cost awards, discrete parties, of limited scope or otherwise, to work together in a particular way. As discussed further below, the OEB's existing *Practice Direction on Cost Awards* provides sufficient clarity on the OEB's expectations in that respect. OEB Hearing Panels already do, and should continue to, actively engage and apply the guidance therein provided.

Cost Awards

The Report posits that cost awards allow certain parties to participate in OEB proceedings that would otherwise find it difficult to do so.[10] This is true, and may be a sufficient condition to support an award of costs. It should not, however, be elevated to a necessary condition.

As the Report further notes, the participation of all parties in OEB proceedings benefits the OEB by providing it with an understanding of a diversity of views of those impacted by a decision, and provides experience, specialized viewpoints, and expertise to bear on the matters at hand in the proceeding.[11] Providing a diversity of views is critical to both the veracity and the acceptability of the OEB's decisions. It is a requirement that is central to the proper, and lawful, discharge by the OEB of its regulatory mandate. It is the primary rationale in support of the sort of cost eligibility regime that the OEB has had in place for a long time. The salient consideration in evaluating the benefits of the OEB's cost eligibility regime should not be the means of the intervenors, but rather the intervenors' contributions to the process. Understanding the views of those impacted by OEB decisions on utility applications is the primary mandate of the OEB, and the cost award process in fact encourages participation by all affected intervenors. As noted at the outset, Ontario has achieved the "gold standard" in terms of inclusiveness and effectiveness of its regulatory processes from a public and stakeholder acceptability perspective and in terms of the quality of input and representation achieved.

The cost award process also goes some way to levelling the field as between applicants and other participating stakeholders. It is important to recognize, however, that this is only a partial levelling. Intervenors are still at a disadvantage *vis a vis* applicants. Intervenors also contribute much of their own to their participation. In IGUA's case, which we imagine is similar in most respects for most cost eligible intervenors:

(i) Cost awards compensate IGUA for less than half of its actual legal costs, which are already discounted relative to "market".

(ii) IGUA recovers 0% of its own staff and other administrative costs.

(iii) IGUA recovers 0% of the costs of active participation by representatives of its members in overseeing and informing regulatory interventions.

(iv) IGUA participates in many engagements with the OEB (including the instant process) where there is either no cost recovery or where IGUA's recovery is

[10] Report, page 18.
[11] Report, page 7.

capped at a certain number of hours, often less than time actually spent and for which IGUA in fact pays whether partially recoverable or not.

In contrast, there are no hour or hourly rate limitations on utility regulatory expenditures. As already noted, the Report does not consider the utilities' own regulatory costs, including staff costs, external counsel costs, and external expert/consultant costs, all of which are paid for by customers, and which no doubt far outstrip the modest recovery of costs by eligible intervenors.

To the extent that there is a concern regarding the impact of intervenor costs on smaller utilities[12], that is a different and discrete issue. IGUA agrees that processes should be scale appropriate. This is as true for regulatory processes as it is for industrial processes. This is an issue of tailoring regulatory processes to LDC size, not cutting intervenor participation across the board. The OEB has already turned its attention to this issue specifically, and that work should continue. It should not, however, prompt the OEB to abandon an extremely successful intervenor framework, and the eligibility for recovery of reasonably incurred costs which has, and continues to, support that framework.

In respect of the particular potential changes to cost awards set out in the Report:

1. The Report asks whether parties representing for-profit interests should be eligible for cost awards, or should have a different approach to cost awards than an hourly rate. IGUA is a non-profit organization. To the extent, however, that the Report is intended to suggest looking behind the party to its members (which, in IGUA's case, are for profit businesses), we have already articulated above why the primary consideration for cost eligibility should

[12] The Report notes that *"while the current quantum of cost awards is not material with respect to total energy costs in the province, costs awards may disproportionately impact smaller utilities with lower revenues in some proceedings"*. This proportionality concern is also reflected in the portion of the Ontario Minister of Energy's November 15, 2021 Mandate Letter cited as one of the drivers for the OEB's continued work to review its intervenor processes *"to identify opportunities to improve efficiency and effectiveness"*. The relevant passage from that Mandate letter, which articulates one of 9 recommended priorities for the OEB's business planning, is (our emphasis):

> *Modernizing and streamlining processes to reduce regulatory burden is vitally important to the work of an efficient and effective regulator. I am pleased that the OEB has taken steps in this direction in response to the 2020 Mandate Letter, including reviewing how filing requirements can be tailored to LDC size, releasing the Chief Commissioner's Plan with initiatives to enhance adjudicative processes and launching a review of the Reporting & Record-keeping Requirements. These plans should continue, ensuring they reflect the feedback of stakeholders and deliver results in the coming fiscal year. The OEB should also continue its work reviewing intervenor processes to identify opportunities to improve the efficiency and effectiveness.*

be the representative associations' contribution to the process, and not the "means" of its constituents. Associations such as IGUA support the OEB's deliberations and decision making in a number of ways. These include:

(a) Providing the OEB with a balanced, and common, industrial customer perspective. Without IGUA, industrial customers intervening in OEB proceedings directly would do so on the basis of their own, individual interests. In contrast, IGUA represents not the self-interests of individual customers, but the collective "industrial customer" perspective and interest. This results in a more balanced contribution, and one that better reflects the characteristics of the customer class rather than the particular objectives of any particular member of that class, and one that aligns with the "public interest" which the OEB is charged with protecting.

(b) Ensuring that the industrial customer perspective is provided to the OEB in a coherent and usable way. By engaging seasoned and informed representation, IGUA is able to "translate" into the OEB's regulatory processes and language the commercial concerns of its constituents, providing more directly usable input to the OEB's commissioners and to the utilities which they regulate.

(c) By working with other parties to OEB proceedings, IGUA is able to further advance the interests of its members in a manner consonant with the other interests being advanced at the OEB. For example, IGUA played a central role in fashioning a resolution to a demonstrably inequitable obligation on some large gas consumers to deliver volumes to Parkway at incremental cost, which reduced infrastructure costs for all gas consumers in Ontario. Working with all other interested parties, including (then) Union Gas, a more equitable solution that balanced the interests of all stakeholders was defined and ultimately approved by the OEB.

(d) A combined and considered industrial customer voice is a more efficient, as well as more effective, input into the OEB's deliberations. As already articulated, input from those directly affected, including in particular discrete customer groups, by the OEB's decisions is a core component of the OEB's proper and lawful discharge of its regulatory functions. Associations like IGUA enhance the efficiency and effectiveness of such critical input.

2. The Report suggests that for intervenors in rate applications seeking to represent a broad policy interest and not a specific consumer group, additional justification be required for cost awards with reference to how the policy interest is relevant to the specific application.

As discussed above, the OEB's existing rules already mandate these considerations when it comes to granting intervenor status. If the intervening party in their conduct sticks to the interests and approach articulated in support of its granted intervention request, determinations regarding its eligibility to recover its reasonably incurred costs should be no different than for other parties (i.e. participated responsibly, contributed to a better understanding by the Board of the issues in respect of which it engaged, made reasonable

efforts to co-operate with other parties, and the balance of the considerations articulated in section 5 of the OEB's *Practice Direction on Cost Awards*).

In general, IGUA firmly endorses the importance of participation of public interest "watchdog" type organizations in OEB processes. These organizations – like GEC, ED, Pollution Probe, Energy Probe, and others – represent aspects of the public interest which have historically been, and are increasingly, an important aspect of public utility regulation. This is particularly so in the context of the *"increasing complexity of applications and the evolving energy sector"* noted in the Report.[13] The appropriate forum for advancing and debating broader public interest considerations directly relevant to the OEB's energy regulatory mandate is the dedicated and expert forum provided by the OEB. Failure to include directly engaged and affected interests in that forum, where debates and determinations are fully informed, could lead to disenfranchised but legitimate interests seeking to engage a political override to the OEB's work. Such a result would compromise both the quality and the effectiveness of the OEB's work, and would be contrary to the best interests of energy customers.

3. The Report suggests setting specific levels of expected cost awards at the outset of certain proceedings. With respect, this would be counterproductive, even if reasonably possible.

Policy framework or innovation project proceedings are by nature less predictable at the outset. The very value to these types of proceedings of the diverse perspectives of intervenors is that the provision of input that would not otherwise be as effectively provided. The precise nature of the input so provided, and its value, cannot be determined until those perspectives are shared, based on information developed and provided during the course of the proceeding.

On the other hand, in respect of proceedings of limited scope, cost or impact or which are predominantly mechanistic, to the extent that these initial expectations are borne out costs incurred should be relatively modest in any event, and pre-determining them would have little salutary impact. Should costs claimed in such instances exceed expectations, hearing panels can, and should, question them, based on the various criteria already set out in the *Practice Direction on Cost Awards* and in the exercise of their own discretion. If there is

[13] Report, page 10.

good reason for such exceedance, perhaps because the matter was not so limited in scope or mechanistic as initially thought, then the costs should be allowed.

In both instances, to the extent that claimed costs are ultimately determined to be justified based on the considerations applicable to the proceeding as it ultimately unfolded, they should be awarded. To the extent they are not, they should be denied.

4. The Report suggests using cost award practices to encourage greater collaboration among intervenors with similar interests. IGUA believes that while efforts to co-operate and co-ordinate are always appropriate, should always be expected, and are generally already engaged in, more aggressive requirements for such combinations would be inappropriate. There are a number of reasons for this:

   (i) Similar interests are not identical.

   (ii) Different intervenor representatives, chosen by their constituents, bring different perspectives and different skills, and should be presumed to have been chosen by their constituents on that basis.

   (iii) Those different perspectives, skills and experience are of benefit to the quality of the resulting regulatory process and the resulting defensibility of the OEB's decisions.

   (iv) There is a fundamental right to be heard, and a fundamental value in support of the legitimacy and acceptability of the process in being heard.

   Collaboration and co-ordination among intervenors already occurs, where it makes sense and produces a better result for the particular process. The OEB's cost eligibility decisions already caution parties regarding the requirement to co-operate wherever appropriate. There is no harm, and perhaps potential benefit, in the OEB being more express in that respect in a procedural order should it have concerns regarding overlap or duplication between particular parties applying for cost eligibility in a particular proceeding. However, forcing such parties to combine efforts or defer one to the other would be inappropriate and counter productive.

   It nevertheless remains incumbent on all intervenors to satisfy the OEB in respect of the OEB's expectations for co-operation among parties, which expectations are already clearly articulated in the OEB's *Practice Direction on Cost Awards* [section 5.01]. Other than active evaluation by hearing panels of the extent to which parties ultimately meet these expectations, no further prescription need nor should be engaged.

5. The Report invites comments on the current cost award fee schedule. The cost recovery tariff for intervenor representatives has not been adjusted, even for inflation, since 2007. It was set at below market rates then, and has increasingly lagged inflationary and other market driven cost increases since. No such limits are placed on cost recovery by the utilities or in respect of the OEB's own cost recovery. This has exacerbated the challenges faced by intervenors in participating in an informed and responsible manner in OEB proceedings, and it would be timely for the OEB to reconsider and reset the applicable cost recovery tariffs.

IGUA offers the following additional comments on the topic of cost awards:

6. Parties filing cost claims should, at first instance, bear the onus of addressing the appropriateness of those costs. Where a party has taken the lead on a certain issue, for example, it should so state. Where a party feels that its efforts were hampered by obfuscation by the applicant, it should so state. Where parties co-ordinated, they should so state. And so on.

   One particular concern noted in the Report is the lack of visibility that a Hearing Panel has in respect of the conduct of parties in a settlement conference, making assessment of the appropriateness of cost claims in respect of such activities difficult.[14] This applies both in respect of parties who took a lead role in the negotiations, and parties who participated very little. This is a legitimate concern, but also an unavoidable one. The resulting lack of precision in cost determinations is, however, a worthwhile trade off considering the efficiency and effectiveness of proper settlement processes, which efficiency and effectiveness far outweighs any potential impact of "free rider" intervenor representatives. In respect of parties whose cost claims reflect a more active role in settlement, there is no reason why such parties cannot so advise the OEB when they file their cost claims.

7. In any instance where a Hearing Panel, having considered the details of cost claims submitted and any supporting rationale provided therefore, is considering denying costs claimed for reasons other than mathematical or mechanical corrections to the claims as submitted, the party whose costs are being considered for disallowance should be advised of those concerns, and be given an opportunity to respond to them.

[14] Report, page 11.

8. A number of parties have expressed concerns at the growing practice of the OEB assessing cost claims on the basis, *inter alia*, of averages or ranges of the claims submitted by cost eligible parties in the subject proceeding. We believe that practice to be appropriate, *as long as* parties whose costs are being considered for reduction/denial on that basis are provided with a description of the concern and an opportunity to respond to it. That is, those types of analysis can be indicative, but should not be determinative. Parties so compared do not have the opportunity in advance to review the cost claims of other parties, and should be provided with that opportunity, as well as an opportunity to address any resulting OEB concerns, prior to a final determination on their costs to be awarded.

Active Adjudication

The most important and appropriate steps that the OEB can take to enhance the efficiency and effectiveness of its regulatory processes are those related to what the Report refers to as *"active adjudication"*. We understand the term *"active adjudication"* to encompass a number of the topics addressed in the Report and earlier in these comments, including:

1. The OEB's Utility Filing Requirements Project.

2. Early scoping of proceedings indicating areas that the OEB intends to focus on.

3. Actively governing intervenor participation in particular proceedings, including:

   (a) A renewed focus on the requirement that requests for intervention include a description of the interest of the intervenor in the proceeding and the grounds for the intervention, and a concise statement of the nature and scope of the intervenor's intended participation.

   (b) Continued evaluation of requests for recovery of reasonably incurred costs to ensure that the costs claimed are proportional to the value received by the hearing panel from the intervention and that the costs awarded reflect the extent to which the intervention was responsibly and proportionately conducted, including in respect of co-ordination with other intervenors.

The Report lists additional potential mechanisms (see page 25). All of these are worth considering. However, any such mechanisms should retain for the OEB and its hearing panels flexibility to address issues as they arise and evolve during a proceeding.

The Report also discusses the potential for increased use of generic hearings, where issues relevant beyond a particular application are raised. IGUA has participated in generic hearings, many of which have been very successful. A very good example was the process convened by the OEB to address generic parameters for gas distribution service community expansion proposals.[15] One caveat to bear in mind, however, is that sometimes issues are determinable with a greater degree of efficiency, proportionality and applicability in the context of a particular set of circumstances. Determinations of issues of potentially broader application in a particular proceeding, when approached with care and due cognizance of the potentially broader implications, can ground a subsequent generic proceeding or other policy development process with the benefit of a decision made in a real set of circumstances and in order to provide a practical and immediately workable way to address those circumstances. We agree with the proposition in the Report that *"[t]he benefits of a generic proceeding must be considered on a case-by-case basis".*[16] Generic proceedings are properly viewed as another potential tool in the exercise by the OEB of *"active"*, in this instance proactive, adjudication.

Additional Comments

IGUA has offered comments on a number of the specific topics addressed in the Report. Informing those comments is the central regulatory principle that legitimacy and acceptability of regulatory processes are a critical attribute of "top quartile" regulation. Full and informed participation by customers and other stakeholders whose interests and perspectives are relevant to the matters at hand in any particular process engenders confidence in regulatory outcomes, maintains the authority and independence of the regulator, and best serves the public interest.

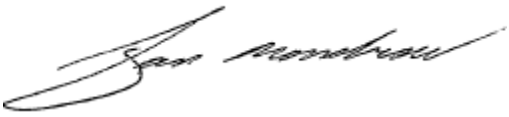
IGUA does endorse efforts by the OEB to define and encourage the use of mechanisms for more active governance by OEB hearing panels of regulatory processes and responsible participation by intervenors therein. The OEB already has the tools to do so, and should more actively engage those tools.

At the same time, applicants that come before the OEB seeking relief, generally in the form of customer funding, have the primary responsibility for framing their applications and providing full and clear supporting evidence. Applications should include material sufficient to support the relief

[15] EB-2016-0004
[16] Report, page 26, end of first paragraph.

claimed, and should not leave it to intervenors and OEB Staff to ferret out required information through interrogatories and examinations. When responding to interrogatories, applicants should provide clear and complete information, which is responsive to both the letter and the intent of the question asked, providing that question is reasonably relevant to the matters advanced in the application or otherwise reasonably justified. The larger the investment and associated customer impact, the greater the level of detail that applicants should include in their applications. The OEB in approving such investments, and those paying for such investments (i.e. customers), should have no less detail than would be appropriately required by senior management approving the investment. IGUA endorses the OEB's continued work in respect of filing requirements and other "proactive adjudication" mechanisms in this respect.

ALL OF WHICH IS RESPECTFULLY SUBMITTED by:



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