August 2, 2024

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, P.O. Box 2319
Toronto ON, M4P 1E4

Dear Ms. Marconi,

RE: EB-2024-0063: Generic Cost of Capital - Energy Probe Interrogatories

Attached are the interrogatories of Energy Probe Research Foundation (Energy Probe).

Respectfully submitted on behalf of Energy Probe.

Tom Ladanyi Digitally signed by Tom Ladanyi Date: 2024.08.02 16:51:13 -04'00'

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EB-2024-0063 Generic Cost of Capital

Energy Probe Interrogatories

August 2, 2024

M1-2-EP-1
Reference: Exhibit M1 (LEI report), Page 44
Preamble: "By design, regulated entities face less risk than competitive businesses. Existing regulatory mechanisms address load fluctuations, capital recovery, and unforeseen events, whether caused by energy transition or not. Given that ratemaking processes directly deal with these issues and equity thickness is the lever used to address differences between regulated sectors (see Section 4.2.4 wherein LEI has recommended adjusting equity thickness as the appropriate lever for addressing material changes in risk profile), LEI does not believe energy transition issues are a large driver in reviewing the process of setting the cost of capital."

Question:
How does energy transition from gas to electricity change the risk profile of gas utilities compared to electricity utilities?

M1-1-EP-2
Reference: Exhibit M1 (LEI report), Page 50
Preamble: "The Supreme Courts in both the US and Canada have upheld that publicly owned utilities are entitled to a fair return on equity, in the same way that privately owned utilities are entitled to earn a fair return. This will enable utilities to finance their capital investments appropriately.

In Bluefield Waterworks & Improvement Company v. Public Service Commission of the State of West Virginia et al (Bluefield) the US Supreme Court stated: *"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties."*

Questions:

a) Was the Bluefield Waterworks & Improvement Company owned by the City of Bluefield, West Virgina or by private investors?

b) Public utility is an organization that supplies the public with water, gas, or electricity according to Cambridge Dictionary. The word public does not refer to ownership. Does LEI agree with that definition?

M1-1-EP-3
Reference: Exhibit M1 (LEI report), page 52
Preamble: "Allowing uniform ROE regardless of ownership is also consistent with the comparable investment standard of the FRS. The comparable return standard requires the allowed ROE to be *comparable to the return available from the application of invested capital to other enterprises of like risk*. The comparable investment standard implies risk determination based on the utilities' business/investment activities, and not the ownership type."

Questions:

a) Can utilities that are government owned obtain financing on better terms than utilities that are owned by private investors?

b) Is LEI aware of any instance where a government entity that owned a utility guaranteed its debt?

M1-2-EP-4
Reference: Exhibit M1 (LEI report), pages 55 and 65
Preamble: "**Policy risk** refers to the impacts of Ontario, federal or municipal government policies/legislations. "

Questions:

a) Was the passage by Ontario of Bill 93, known as the Getting Ontario Connected Act (GOCA) a policy risk for Ontario gas and electricity utilities?

b) Are Ontario utilities compensated for policy risks through the ROE?

c) Did OEB approval of a GOCA variance account in its EB-2023-0143 decision reduce the policy risk of Ontario utilities?

M1-3-EP-5
Reference: Exhibit M1 (LEI report), page 75
Preamble: "LEI recommends impact assessments for major regulatory changes at the time of introduction i.e., before the changes goes into effect (similar to the UK example) in addition to the status quo."

Question:
Please describe impact assessments that LEI is recommending. What would they consist of and who would carry them out?

M1-10-EP-6
Reference: Exhibit M1(LEI report), page 127

Preamble:
"LEI recommends using CAPM to determine the base ROE (average estimate of 8.95%, low estimate of 8.23%, and a high estimate of 10.22%), as it meets the FRS.

The ROE can be updated annually using the adjustment factors (0.26 for LCBF and 0.13 for utility bond spread) determined simultaneously with multivariate regression analysis (as opposed to independent determination in 2009)."

Questions:

a) How often would the base ROE be determined using CAPM and who would do it, OEB Staff, outside consultants or the utility?

b) Who would annually update the ROE, OEB Staff, outside consultants or the utility?

M2-1-EP7
Reference: Exhibit M2 (Concentric report), page 20

Preamble: "Assuming that investors in Ontario's utility businesses have comparable investment alternatives, the determinative factor is the *use* of funds."

Question:
Considering that most Ontario utilities are owned by a municipality or the Province, why does Concentric believe that investors have comparable investment alternatives?

M2-1-EP.8
Reference: Exhibit M2 (Concentric report), page 23

Preamble: "At the same time, Enbridge Gas must continue to invest in its system to provide safe and reliable natural gas service while also navigating through increasing complexities for gas distributors brought on by the Energy Transition. Consequently, the Energy Transition has already increased both business and policy-related risks for all Ontario utilities and is inevitably going to continue to do so."

Questions:

a) Please confirm that Energy Transition largely consists of reducing consumption and increasing electricity use.

b) Has Energy Transition increased business and policy-related risks of Enbridge more than of electricity utilities?

M2-3-EP-9
Reference: Exhibit M2 (Concentric report), page 32
Preamble: "If the deemed equity thicknesses for Ontario utilities diverge from peer equity thicknesses (which, in Concentric's analysis, they have), then the comparable return standard is not being met, even if Ontario utilities have not experienced a significant shift in risk."

Question:
Which Ontario utilities have diverged from peer equity thickness?

M2-4-EP-10
Reference: Exhibit M2 (Concentric report), Page 34
Preamble: "Concentric specifically disagrees with the extension of the cap to Enbridge Gas and OPG under LEI's proposal."

Question:
Why does Concentric disagree with the extension of the cap to Enbridge Gas and OPG? Please discuss.

M3-1-EP-11
Reference: Exhibit M3 (Nexus report), Page 9
Preamble: "From 2016 through 2023, the Non-Coincident Peak (NCP) Demand grew annually at 0.2 percent per year. However, projections for the 2025 through 2050 period have NCP Demand growing at 3.3 percent per year, which would more than double peak demand from today's levels."

Question:
What was the actual NCP growth in 2022 and 2023, and what is the expected NCP growth for 2024?

M3-2-EP.12
Reference: Exhibit M3 (Nexus report), Page 27, Figure 6 Average Annual Investments by Ontario Distributors

Questions:

a) What are the assumptions for the Reference Scenario?

b) What are the assumptions for the Net Zero Scenario?

c) Why are annual average investments for the Net Zero Scenario lower than the investments for the Reference Scenario from 2025 to 2035?

M3-2-EP.13
Reference: Exhibit M3 (Nexus report), Pages 31and 81

Preamble: "This Figure shows the deemed ROE and the actual ROE earned, on average, by 54 Ontario electricity distributors for the period 2015-22. During that period, the average distributor did not earn the deemed ROE in any year."

Question:
Is it possible that the reason that average distributor did not earn the deemed ROE in any year is that the deemed ROE is too high? Please explain your answer.

M3-3-EP-14
Reference: M3 (Nexus report), Page 32

Preamble: "The introduction of alternatives that Ontario distributors will consider in the future, such as NWA, adds complexity to the business model for the distributors. Programs of this type are potentially valuable, but they do not decrease the risk of the utility."

Question:
If an NWA fails to meet demand requirements it will need to be replaced by a wires alternative and ratepayers will be charged for both the non-wires and the wires alternative. Please confirm that NWA increases the risk to ratepayers but not the utility.

M4-10-EP.15
Reference: Exhibit M4 (Dr. Cleary), pages 49, 90, 94, and 107

Preamble: "Based on the application of this approach, I do not consider U.S. beta estimates, since I believe U.S. utilities are too risky to be legitimate comparators".

Question:
Why are US utilities riskier than Ontario utilities? Does government ownership of many Ontario utilities have anything to do with it?