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EB-2025-0149 Stakeholder Consultation on the Review of the OEB's Filing Requirements for Electricity Transmission Applications - Chapter 1 and Chapter 2
Pollution Probe Comments

Dear Mr. Murray:

The Ontario Energy Board (OEB) initiated a consultation on July 5, 2025 for a review of the OEB's Filing Requirements for Electricity Transmission Applications, specifically Chapter 1 and Chapter 2. The Filing Requirements, originally developed in 2016, are being reviewed to identify any necessary updates. The OEB noted that this includes accounting for the passage of time, incorporating insights from past transmission revenue requirement proceedings, and enhancing regulatory process efficiencies achieved to date or still attainable.

It is important to review requirements occasionally and it has been almost a decade since these requirements were established. The OEB should monitor on a regular basis the need to do a formal review of requirements since timelines for a formal review can vary depending on the changes in industry, environmental landscape or other regulatory drivers. A robust set of requirements (like done for Cost of Capital) should reduce the frequency of changes required. One of the strengths of the OEB process is that the OEB panel of Commissioners for a proceeding has the authority and ability to ensure consideration of all relevant factors in a proceeding, even if there are elements that had not been specifically noted in the filing requirements. The OEB has a broad range of rules and guidance which provide ample flexibility which is supplemental to the granular details in the filing requirements. Making references to those documents rather than duplicating wording helps extend the lifespan of a filing requirements version. Actual proceedings also provide a real time validation on whether filing requirements remain fit for purpose. This can be used as a feedback loop to assess whether adjustment are required. Additionally, stakeholders have the ability at any time to identify potential issues to the OEB and request a review of filing requirements.

It is important that the process (including Commissioner flexibility during a proceeding) retains adequate flexibility since filing requirements only provide the baseline information required and any individual proceeding requires the ability to assess all relevant information specific to the application. An electricity transmission application is not a paint by numbers exercise and retaining flexibility in the process is important. It is also important that filing requirements remain robust and are not changed on too frequent a basis. If the filing requirements are not stable over time, this could represent an inherent problem with the requirements.

Environmental and policy changes continue to occur that relate to transmission applications. One example is the accelerating impacts of the Energy Transition, including transmission planning impacts to the Regional Planning process. The pace of change and impact to utilities from the Energy Transition was assessed as part of the recent Cost of Capital proceeding and the evolutionary pace of change combined with the existing flexibility in the regulatory process was determined sufficient to manage these issues over rate terms to mitigate.

Duplication of wording in filing requirements that is already addressed in another primary OEB document should be avoided where possible. A reference to the primary document avoids unnecessary duplication and the problem of keeping multiple OEB documents up to date when something changes in the primary document. This includes references to the OEB's Rules of Practice and Procedure which include a broad range of rules which apply to transmission proceedings. Additional time and effort can be saved when references are used rather than duplicating current wording from a primary source that can be subject to change in the future. The OEB systematically reviews these primary documents and active reviews of portions of those reference documents are underway in parallel to this review of the transmission filing requirements. Misalignment between wording in different OEB documents can cause confusion and simply referencing the primary source document avoids that problem, should changes occur. Including a reference and hyperlink to the principal reference document each time it is referenced is also recommended. Highlighting the clear ability for the Commissioners to include the full scope of issues for consideration in a proceeding also ensures the flexibility required. Clarity and consistency on this approach across all Commissioners is important, particularly noting the diversity of backgrounds and knowledge across Commissioners.

Although this consultation is focused on Chapter 1 and Chapter 2 of the filing requirements, the principles noted above apply to all parts of the filing requirements. The following are specific comments related to the six items where OEB Staff specifically requested feedback in this consultation.

Item 1: Custom IR revenue requirement setting framework for single asset transmitters, and a longer rate term

Section 2.0.3 Custom IR Guidance for Transmitters with Minimal Capital Expenditures indicates that the Revenue Cap IR option may be inappropriate for transmitters that have low capital expenditures over the rate term and experience a declining rate base. Specifically, the Revenue Cap IR option inflates the entire revenue requirement annually, even if the capital components, namely, return on capital and capital depreciation, may not require an inflationary increase. To address this gap the OEB proposes changes to this section of the filing requirements to define “material capital expenditures”, then provides further guidance on the Custom IR option for transmitters that do not expect to incur material capital expenditures over the rate term. The OEB notes that it expects an eligible transmitter to file revenue requirement applications consistent with this option unless it can demonstrate a strong rationale for departing from it. The principle of this change appears logical. However, this may appear to require a transmitter that falls into this category to proceed with a Custom IR application only. Was that the OEB’s intent or simply to require the adjustment to “material capital expenditures” regardless of the option selected by the applicant?

Item 2: Review of the materiality thresholds for provision of evidence

Materiality thresholds as outlined in Section 2.1.5 Materiality Thresholds are related to a topic that extends more broadly than the Electricity Transmission Applications filing requirement. Consistency is important unless there is a specific reason for variances. There are some reasons why variation from established materiality thresholds may be valid, but overall the OEB attempts to maintain these thresholds. It is unclear what the basis of the proposed change is other than a general inflation adjustment. It is notable that 0.65% of a transmission revenue requirement of \$199 million would equate to a \$1.3 million compared to a \$ million threshold for a revenue requirement of \$200 million. No approach is perfect, but consistency where possible is advisable. It is not likely that the OEB is intending that the proposed changes act as a precedent elsewhere, but it would not restrict stakeholders from suggesting this. Pollution Probe looks forward to reviewing other specific proposals from stakeholder submissions.

Item 3: Application filing deadline to coordinate annual UTRs update

No changes proposed from edits provided.

Item 4: Incorporate the generic cost of capital proceeding decision

No changes proposed from edits provided. There is a reference to the most recent Decision and requirements which could change in the future, but the draft also notes that the most recent requirements must be referenced which protects against future changes.

Item 5: Updates to address passage of time, and align with the Filing Requirements for Electricity Distribution Rate Applications as appropriate

2.0.2 Revenue Requirement-Setting for Transmitters outlines two options for applications. The Custom IR wording required a period of 5 years or greater. Stakeholders asked OEB Staff in the June 25th stakeholder session what the basis of setting a 5 year minimum for a Custom IR term was. There has been significant assessment of how much material change likely occurs in a 5 year term which is not already addressed by the flexibility, rules and decisions issued by the OEB. This issue was also extensively considered in the OEB's recent generic Cost of Capital proceeding, where it was concluded that the changes are evolutionary and the existing OEB processes allow adjustments if required. There were no examples put forward where a 5 year term was required to be cut short in reality based on those external factors. Although it has not been used in reality, the OEB has enabled flexibility for an applicant to raise issues at any time which would enable the OEB to consider an early reassessment. To address the concerns of transmitters, this same approach could be used. The proposed changes include reference to an off-ramp option based on over earnings and other options may be proposed by stakeholders in their submissions. It is possible not to exclude custom rate terms less than 5 years, but the onus would lie with the applicant to justify this request. The onus would lie with the party requesting an early OEB review and must be subject to the same high requirements the OEB would use for early review of any rate term. Any change to wording would also need to be reflected in the table on page 3 of Chapter 2, as appropriate.

Section 2.2 relates to accounting standards. Referencing current accounting standards may be helpful for clarity, but it is also important that most recent applicable accounting standards be applied and that could change in the future from the references included. A simple note to recognise this may be appropriate.

Section 2.3.2 Transmission System Overview includes information requirements for the application. The OEB could consider adding the following bullet to the list:

- Transmission System Plan and relevant policy context and changes, including current issues identified through Ontario's Regional Planning exercise.

This aligns with requirements outlined in Section 2.4.2.1 Planning Process and Section 2.4.3 Regional Planning Considerations.

Item 6: Updates to address common interrogatories and intervenor concerns from past proceedings

Page 3 of Chapter 1 indicates “The OEB may impose a limit on the number of interrogatories (or sub-parts of interrogatories) that may be filed by a party. If the OEB imposes limits, details will be provided through a Procedural Order”. It is recommended that this paragraph be deleted since there is already a reference included to the OEB’s Rules pertaining to interrogatories. Duplication of wording from a separate OEB primary document like the OEB Rules of Practice and Procedure is administratively inefficient given that the source document is subject to change for requirements pertaining to interrogatories and a broader range of specific requirements. Pilot projects are going on which are planned to inform potential changes in the future. It is recommended that the OEB simply refer to the primary source document so that the current version can be applied and provide the full range of procedural options to the OEB when issuing procedural orders. For the same reasons, it is recommended to delete the proposed change: ~~“The OEB may impose a limit on the number of interrogatories (or sub-parts of interrogatories) that may be filed by a party. If the OEB imposes limits, details will be provided through a Procedural Order”~~. It makes no sense to reference only one of the abilities of the Commissioners already present in the OEB Rules when the OEB has broader flexibility that can be applied as appropriate to each application, including direction in the Procedural Order.

Proposed wording to be added to Chapter 1, page 5 duplicates OEB Rules already in place. It is recommended to reference those Rules and then if there are any future changes to the Rules the filing requirements document would remain in sync. It is unclear why the filing requirements would duplicate this specific item when the Rules include this and many more elements relevant to transmission proceedings. For those reasons, it is recommended to delete the proposed wording change: ~~The OEB expects parties to explore items that are material. For rate applications, parties should be guided by the materiality thresholds documented in Chapter 2. Intervenors who explore excessively detailed, non-material issues, risk disallowances on cost claims submitted.~~

2.0.2 Revenue Requirement-Setting for Transmitters outlines two options for applications. The Revenue Cap IR is noted as the second option, but the OEB typically uses this as the default option and when a utility requests approval for a Custom IR application, it is a requirement for the utility to explain why Custom IR is required and appropriate. Although utilities have the ability to make customer proposals, the OEB and stakeholders often benchmark those customisations against other similar utilities to validate their reasonableness. Moving the Revenue Cap option up and the Custom IR option to second in the list would align better with

the wording and requirements outlined in Section 2. Including the additional wording changes proposed by the OEB in Chapter 2 further highlights this point.

The OEB has recognised the importance and value of the settlement process, which has resulted in significant efficiency and ratepayer benefits. It is common for the OEB to accept settlement proposals that provide a balance of trade-offs across participating stakeholders as a package. Parties to a settlement are not restricted from considering innovative options to resolve issues and create a proposal that is agreeable to parties. Recognition of the value and flexibility of the settlement process is important and reinforces the OEB's commitment to supporting that process.

Pollution Probe understands that additional comments and proposals are being made through submissions by other parties. Pollution Probe looks forward to reviewing those submissions and providing greater feedback in the process defined by the OEB.

Respectfully submitted on behalf of Pollution Probe.



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