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Ontario Energy Board
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February 12, 2026

EB-2025-0108 Spending Pattern Analysis
Pollution Probe Comments

Dear Mr. Murray:

The Ontario Energy Board (OEB) initiated a consultation to engage stakeholders in a review of electricity distributors' spending patterns. The Spending Pattern Analysis (SPA) consultation is intended to improve the OEB's regulatory oversight of spending trends and capitalization policies in Ontario's electricity sector. This initiative forms part of the OEB's broader integrated approach to utility remuneration under Utility Remuneration – Next Generation Rate Framework¹. Pollution Probe has previously recommended an integrated framework approach to align initiatives that have a common or related purpose. Mapping each of these initiative activities and intended outcomes in an open and transparent manner also provides greater clarity and effectiveness to supporting the intended outcomes. This also helps to avoid a siloed approach given that there are a large number of initiatives under way. Pollution Probe commends the OEB for aligning this and related initiatives under the Utility Remuneration – Next Generation Rate Framework to drive alignment and collective results. The open and transparent review is just as important as what the outcomes will be.

The SPA consultation was initiated in the following three phases.

- *Phase 1 – Stakeholder Meeting Kickoff on April 25, 2025.*
- *Phase 2 – Surveys and Interviews conducted by Pacific Economics Group Research, LLC (PEG).*
- *Phase 3 – Initial Report of the Board*

¹ EB-2026-0002

Pollution Probe participated in phases 1 and 2. The initial SPA report² released by the OEB on January 8, 2026 represents Phase 3. The following are Pollution Probe's comments related to the initial SPA report. The comments below do not highlight all the information and findings from the SPA report, but do generally validate the importance and value of the work conducted. This information can be used to enhance the structural requirements of regulatory filings and also to provide a lense to review specific applications. Utilities filing applications can also use the information in this report to consider issues that are likely to arise and to proactively include relevant details in their applications. This leads to a more effective and efficient approach.

PEG notes that ten Ontario electricity distributors, six Ontario intervenors, and regulators from three jurisdictions outside Ontario responded to the survey. The response rate from electricity distributors was very low, but this is not surprising since there may be no urgency for electricity utilities to proactively recommend changes to the existing approach since it meets or exceeds utility and shareholder needs. Electricity utilities may also be waiting for the outcomes of the process before they actively review and comment. The OEB will know how engaged stakeholders are based on the responses it receives to this comment process. PEG notes that responding distributors were generally not inclined to acknowledge spending pattern problems³.

Overall, the process and SPA report does a good job of reflecting on the environment and facts over the time period reviewed. PEG notes that regulators in all of the jurisdictions reviewed have been concerned about utility spending patterns during multi-year rate plans (MRPs)⁴. This results in many useful observations. Even when patterns are identified, there is some variation which may be specific to a distributor or their circumstances at the time. Each rebasing application can be assessed against industry patterns, but the applicant needs to provide evidence to support proposed budgets (particularly increased spending) based against their specific performance and circumstances. OEB approved spending over a specific rate term should not set a false baseline for future rate applications. In other words, one size may not fit all. It is also important to consider relevance when comparison data is selected to support a specific outcome (e.g. potentially biased peer group selection applied to narrow areas of spending) rather than being objectively applied. This approach is likely to be seen more in custom IR applications where comparable benchmarking could be more difficult.

² OEB Staff Report_Spending Patterns and Capitalization Policy_20260108.

³ *ibid*, page 3.

⁴ *ibid*, page 2.

Issues related to this topic were also assessed during the recent OEB Utility Cost of Capital proceeding⁵ which outlined areas of balance between enabling effective returns and avoiding excess spending or ratepayer costs. The OEB's consideration of those issues led to a fair and balanced approach. In the SPA report, PEG reiterates some of the same concerns which occur across the jurisdictions reviewed.

Based on the evidence provided, no Ontario utilities have failed to deliver on minimum requirements during a rate term, but often a request for increases to capital and/or operating budgets is significantly above inflation and does not commit to measuring incremental innovation and efficiencies that would provide the same or better level of service at the same or less cost to ratepayers. There are many cases where a utility is provided significantly less capital and/or operating budget envelope over a rate term than what is originally requested and the utility is able to continue to deliver safe and reliable energy with the lower budget. This supports the effectiveness and net ratepayer benefits of the OEB process to review those applications and ensure that excess funding is not approved. PEG does correctly note that capex and opex growth can be influenced by external business conditions that include, most notably, growth in the operating scale of distributors and the input prices they pay⁶. Also, specific years can be influenced by lumpy expenditures when there is a isolated project that influences the spending pattern (e.g. a new building or isolated storm event). This should be visible from comparative analysis and review of evidence outlining cost anomalies.

PEG's analysis identifies trends during a rate term and directly before a rebasing application. The report highlights potential tools from the literature review to mitigate potential information biases. For example, the research notes that "the timing of regulatory hearings and the use of average rather than [single] test-year costs can have important effects on the regulated price and on capital and effort distortions."⁷

It has been difficult for the OEB to assess spending patterns specific to individual distributors. Information asymmetry exists, where the utility has all the information and selects what to include in an application, subject to filing requirements. It is common for the OEB to have access to important information through the hearing discovery phase, including interrogatories and technical conferences. PEG notes feedback on the benefit of requiring specific long-term plans and then tracking spending and results against those plans. One notable example is a distributor's distribution system plan (DSP). If a DSP is efficient and prudent, then spending can

⁵ EB-2024-0063.

⁶ OEB Staff Report_Spending Patterns and Capitalization Policy_20260108, page 11.

⁷ *ibid*, page 37.

be spread out over time with tracking against plan completion occurring over multiple rate terms. These kinds of tools are important, valuable and help avoid rate shocks.

Better comparable detailed performance information would make it easier to confirm if there are consistent performance benefits leading to cost efficiencies. Utilities typical balance budgets at a spending envelope level and vary spending from the detailed plan filed once they receive OEB approval. This makes it hard to compare what has been done to what is proposed in a MRP. This is similar to the challenges encountered in utility mergers, where in some cases sustainable merger (ratepayers) benefits are illusive and/or hard to validate. It is often stated by utilities that efficiencies are baked into their applications, but specific detailed examples of sustained cost decreases are often not provided. Applications that result in settlement agreements typically provide significant cost savings that are implemented by the utility over the rate term, based on areas of proposed over-spending and opportunities for savings.

PEG notes that capitalization policies are limited by accounting standards. The modified international financial reporting standards (“MIFRS”) that most Ontario energy distributors use is more restrictive regarding capitalizations than the U.S. generally accepted accounting principles (“GAAP”) that some distributors use. Changes in capitalization policies have nonetheless occurred in Ontario and have not always been transparent. Utilities have been afforded some flexibility in the policies that they use⁸. The accounting standards have been assessed in proceedings and do not allow for capitalization of indirect costs unless there is a special approval granted by the utility regulator. This is meant to avoid incentives to build excess capital into rate base, which lead to long term higher rates for ratepayers.

Pollution Probe agrees that the OEB should be cautious in consideration of recommendations concerning the capitalization of asset repair and field work expenses⁹. The accounting standards have an appropriate treatment which only enables utilities to capitalize operating expenses when there is a special approval granted by the regulator. This is a natural protection from excessive rate base that rate payers are on the hook to pay for over long periods of time. Capitalising operating expenses may seem attractive in the short term, but the long-term consequences can be costly to ratepayers.

PEG highlights that the MRPs used by the OEB to regulate gas and electricity distributors have been in place more than two decades. Much of what PEG has highlighted applies to both natural gas and electric utilities. Many examples are included in the SPA report for both

⁸ OEB Staff Report_Spending Patterns and Capitalization Policy_20260108, page 2.

⁹ *ibid*, page 3.

electricity and natural gas in Ontario. The OEB will need to determine how to apply the relevant elements to both the natural gas and electricity sector as improvements and efficiencies are considered. Pollution Probe recommends an evolutionary approach which retains the benefits of the existing OEB approach, while enhancing the opportunity to reduce costs and increase benefits. Measuring the net benefits over time would help validate the effectiveness of the proposed changes.

Respectfully submitted on behalf of Pollution Probe.



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