



**SOCIETY of
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IFPTE 160

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**Re: EB-2020-0133 – Consultation on the Deferral Account –
Impacts Arising From the COVID-19 Emergency**

Dear Ms. Long,

Please find enclosed the Society of United Professionals' comments on the draft issues list for the Board's COVID-19 deferral account consultation.

Thank you.

[original signed by]

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ONTARIO ENERGY BOARD

**IN THE MATTER OF THE CONSULTATION ON
THE DEFERRAL ACCOUNT – IMPACTS ARISING
FROM THE COVID-19 EMERGENCY
BOARD FILE NO. EB-2020-0133**

**COMMENTS ON THE DRAFT ISSUES LIST
BY
THE SOCIETY OF UNITED PROFESSIONALS**

To: Christine E. Long
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The Society of United Professionals (SUP) is pleased to take part in the Ontario Energy Board's consultation on the recently approved deferral accounts related to the international COVID 19 emergency. As noted in SUP's letter stating its intent to participate, SUP represents approximately 8,000 professional employees based primarily in the energy sector, including approximately 1,600 professional employees at Hydro One, 600 at IESO, 3,000 employees at OPG and 50 at THESL. These professionals include engineers, supervisors and finance specialists, as well as many other occupational categories.

As requested by the OEB, and clarified in its June 4 follow-up letter, SUP's comments for this first phase of the consultation process have been limited to comments specific to the wording, clarity and completeness of the draft issues list that was issued by the OEB on May 14, 2020 and directed to the attention of virtually all the entities falling within its scope of regulation.

There was some discussion in the first consultation meeting held on the morning of May 28, 2020 that some of the draft issues list wording directly or indirectly invited interested parties to respond with substantive comments. It was SUP's conclusion that there was a consensus in the meeting that substantive comments should not be introduced at this stage and that comments should be limited to the draft issues list alone. The OEB generally agreed and its follow-up letter has clarified that it only wished to receive substantive comments on a single issue at this time (1a).

In its original letter, the OEB requested the following inputs from stakeholders:

1. Any comments stakeholders have with the Draft Issues List, including the identification of any additional issues that should be addressed
2. Discussion of whether any issues need to be expedited due to urgent requirements
3. Any other comments stakeholders have with the process

SUP will limit its comments to these 3 requests.

SUP's comments are organized to align with the draft issues list appended to the May 14 letter. Comments begin with some general observations arising from the May 28 session.

GENERAL OBSERVATIONS

With respect to the three specific comment requests the OEB made, SUP has provided its comments on specific issues below by issue. In general, SUP does not believe any issues need to be expedited as the consultation process is expected to be streamlined and complete prior to December 31, 2020. However, utilities may bring forward specific arguments for an expedited process that SUP is not currently aware of. The process, as adjusted by the OEB's June 4 letter to allow for a second round of comments after review of other respondent's' submissions, seems reasonable. While it is unlikely to be as effective as a physical meeting with back and forth discussion, this is a reasonable approach given the constraints we are all dealing with at this time. SUP supports the OEB Staff's intention to complete the process within six months. This should be achievable and will allow for conclusions/guidance to be available to utilities in advance of their year-end 2020 accounting and reporting deadlines.

SUP considers the draft issues list produced by the OEB to be relatively extensive and complete. However, given the unprecedented nature of this emergency and the potential complexity of the resulting financial impacts, as well as the differing nature of the utilities impacted directly or indirectly, SUP believes that the OEB should either add a generic "other matters" issue to allow for the retention of flexibility during the consultation, or that it be receptive to material additions to the issues list as the consultation proceeds.

During the first meeting, the absence of the IESO from the consultation was commented on by one participant. SUP also questions whether the IESO should be represented as an interested party given every other rate regulated entity under OEB jurisdiction is involved. SUP is not convinced that the IESO will not be directly or indirectly impacted by or interested in COVID 19 financial issues and resulting OEB guidance.

SUP notes that there is no mention of taxation impacts in the detailed issues discussed below. The consultation may wish to address whether there are any subtle complexities with respect to income taxation issues given known impacts include uncollectible receivables, financial systems investments, potential government recoveries etc. It may be appropriate for the consultation to opine on whether guidance should be added on how potential tax impacts should be reflected in the accounts, if at all.

COMMENTS SPECIFIC TO THE DRAFT ISSUES LIST

A. ADVANCED POLICY DIRECTION

1.a) Should the OEB provide advanced policy direction in the near term (for example at the time of establishing the Final Issues list), to provide greater certainty with respect to the recoverability of amounts tracked in the Account, such as by confirming the recoverability of any incremental bad debt expense?

Regarding issue 1a, the OEB follow up letter of June 4, "requests that stakeholders articulate the following in their written comments, with reasons:

- 1. Any proposed changes to the wording of Issue #1a.*
- 2. Whether there is a need to provide advanced policy direction in the near term, to provide greater certainty with respect to the recoverability of amounts tracked in the Account to address immediate needs. Utilities should provide specific details of the necessity for advanced policy direction such as, for example, the need for recognition of the Account as a regulatory asset on the financial statements, or the need to support borrowing from lenders.*
- 3. If so, what advanced policy direction should the OEB provide, and when?"*

SUP does not propose changes to the wording of issue 1a.

SUP's view is that complete policy direction is required as soon as feasible on all issues to enable utilities and other

stakeholders to understand near and long-term rate impacts stemming from COVID 19. However, SUP's view is that providing detailed advanced direction on a limited subset of items to be recorded in the COVID 19 deferral account (e.g. receivables) risks the creation of inconsistent guidance and may result in some issues being resolved in advance of the adoption of consensus underlying principles. As OEB Staff have stated that it is their hope to complete this process within six months (rather than in the more usual one year plus time frame for a process like this), SUP hopes that guidance and assurance on rate treatments will be available before utilities face their fiscal year-ends. SUP expects that getting expedited guidance discussed and issued would still take several months and we are not convinced that the risks of issuing expedited guidance piecemeal warrant saving a few months' time. SUP believes that it would be better to have internally consistent guidance based on consistently applied principles.

SUP considers it to be the accountability of utilities to defend their own financial accounting for regulatory asset amounts on their balance sheets to their auditors and to other external interested parties. While the OEB should provide appropriate regulatory accounting guidance, SUP does not recall the OEB previously explicitly involving itself in supporting utilities in achieving a desired financial accounting results. In any case, SUP does not consider the recoverability of recorded amounts will be overly controversial given these are generic impacts across Ontario and given they will be supported and limited by final OEB guidance.

As such, SUP does not consider that this issue needs to be included on the final approved issues list. However, we do not object to it if other stakeholders believe it to be important.

b) Should the OEB consider interim disposition of the Account, until such time as the final balance is brought forward for review and disposition?

SUP considers this to be a rate making decision that is divorced from the issue described above and it has no objection to its inclusion. However, SUP proposes the following revision in wording for clarity:

“What issues do a potential disposition of the account balance involve if interim recovery is granted in advance of the final balance being brought forward for review and disposition at the next cost of service proceeding? Based on the issues, should the OEB provide for interim recovery, how frequently, and under what criteria?”

This wording presumes that these amounts will be considered to be recorded in Group 1 regulatory accounts subject to full prudency review by the OEB at the time of final review and disposition. This view is supported by the inclusion of Issue 13 on prudency.

c) What specific accounting guidance or policy direction should the OEB provide for the Account that may enable the Utilities to better access incremental lines of credit and other types of borrowing facilities during the COVID-19 emergency?

Presumably financing authorities will ascribe the same weight to the probability of recovery as they would any other generic regulatory account, especially as the account has been created as an OEB initiative. SUP assumes that the OEB will only be in a position to provide commentary supporting the generic probability of recovery once the consultation process is complete, unless it wishes to provide piecemeal advanced guidance (e.g. for bad debts). SUP suggests the OEB resist providing early partial guidance and instead concentrate on establishing and publishing clear regulatory principles for eventual recovery in the early stages of the consultation. Utility compliance with these principles and other OEB guidance should provide appropriate comfort regarding recovery to auditors and lenders.

SUP does not believe that this issue is needed in the final issues list given the establishment of general principles is already on the draft list (See #2 below).

B. GENERAL PRINCIPLES

2. To what extent can the regulatory principles identified in previous OEB consultations be of assistance in considering matters relating to the recording and disposition of the Account?

SUP considers the wording of this Issue to be too constraining as it seems to limit the development of principles to a review of those developed in prior issue-specific consultations. In those cases, the identification of principles was influenced by the specific subject of the consultation. SUP agrees that previous experience in OEB policy consultations has shown that it is a critical process step to identify principles to guide discussion. This should include both issue-specific and overall generally accepted regulatory principles as appropriate. Given the OEB's known desire for consistency, appropriate use of precedent principles will be important. Referring to principles developed in prior consultations will give this consultation a head start and will reduce the possibility of inconsistency with past practice.

SUP proposes the following revised wording for this issue:

“To what extent should OEB guidance in this matter be consistent with generally accepted regulatory principles? What are these principles? In addition, can the regulatory principles identified in previous OEB consultations be of assistance in considering matters relating to the recording and disposition of the Account?”

SUP agrees that EB-2015-0040 and EB-2008-0408 both provide useful references for this consultation. SUP notes that the principles selected for EB-2015-0040 could be described as generally accepted regulatory principles and in that process the OEB declined to identify any principles specific to the subject matter under discussion. In that process, the OEB concluded that there was “no need for separate and distinct principles to guide its approach to the treatment of utility pension and OPEB costs. The regulatory treatment of pension and OPEB costs will be based on established regulatory principles. These principles are:

- fairness
- minimizing intergenerational inequity
- minimizing rate volatility
- appropriate allocation of risk
- transparency
- providing value to customers”

The principles selected for use in EB-2008-0408 were more specific to practical regulatory issues created by the adoption of a new financial accounting model as the basis of rate regulation (i.e. IFRS). The OEB will need to decide if generally accepted regulatory principles will suffice to guide this consultation or whether issue-specific principles are needed.

SUP has not identified additional OEB consultations where principles could be referenced.

Issue 5 below refers to benchmarking. SUP believes that OEB Staff, if practicable given time and resource constraints, should carry out some degree of intelligence gathering or comparison to identify the regulatory principles and policies being used or expected to be used by other North American regulators in their handling and review of COVID 19 impacts. SUP understands that resources are finite, and time is of the essence. However, this type of information could prove to be of high value to the consultation, especially if there is an expectation that results will be compared or even benchmarked across North American jurisdictions. There is limited value in comparing results if the underlying rules or

intent of the regulatory approach are different in different places.

3. Are there other types of costs previously considered by the OEB that provide suitable analogies for the consideration of the Account? For example, should other precedents such as the OEB's Z-factor policy be considered by the OEB?

SUP agrees with the inclusion of this issue with minor wording changes. The Z Factor mechanism provides a strong precedent for costs incurred due to a material, unexpected and uncontrollable emergency impacting both utilities and customers. However, SUP believes that the Z Factor precedent should be used cautiously as the COVID 19 impact is much more pervasive and complex in net impact than a major storm or unexpected change in government policy.

Also, given the complexity and netting of suspected impacts, it may be useful to introduce some wording around precision. SUP suspects that there will be notional calculations required with potential offsetting elements, especially in areas like load forecast impacts. SUP expects that such calculations may need to be reviewed for reasonableness and that the degree of precision normally required by the OEB in proving deferral account balances may not be achievable. This should be addressed during the consultation process.

For wording, SUP recommends:

“Are there other types of costs or impacts previously considered by the OEB that provide suitable analogies for the consideration of the Account? For example, should precedents such as the OEB's Z-factor policy be considered by the OEB? Should precision expectations and filing requirements be adjusted (e.g. relaxed) to account for the time available to utilities to react to the crisis, to reflect potential flexibility of what is to be included in the accounts, and to recognize the potential for complex and notional net impact calculations for some items?”

C. Accounting Matters

In the series of issues below, stakeholders may consider addressing the impact on each of the following sub-accounts:

• **Account 1509 – Impacts Arising from the COVID-19 Emergency, Sub-account Costs Associated With Billing and System Changes**

• **Account 1509 - Impacts Arising from the COVID-19 Emergency, Sub-account Lost Revenues**

• **Account 1509 – Impacts Arising from the COVID-19 Emergency, Sub-account Other Costs**

4. Should additional sub-accounts of the Account be established? If so, what additional sub-accounts should be established and why? For example, in order to facilitate greater certainty in the recoverability of bad debt expense that is beyond the amounts underpinning current rates, should sub-accounts be established to specifically capture temporary delays in recovering accounts receivable (Account 1100 – Customer Accounts Receivable)?

SUP notes that the existing draft issues seem to imply that only OM&A type costs are expected to be incurred by utilities. SUP believes that there should be some discussion of whether utilities will also incur capital costs. For example, capital systems costs may be incurred given relatively low materiality limits some utilities have in place for software additions or betterments. If it is shown that some utilities are incurring capital costs as a direct result of COVID 19, there should be some discussion of how such costs should be handled in the deferral account and a discussion as to whether separate sub-accounts are required.

SUP does not support the inclusion of the example wording regarding bad debt expense. SUP does not believe that the issue definition should be tilted toward supporting recoverability.

5. a) Should the OEB compare the amounts recorded in the Account to industry norms (e.g. benchmarking with other utilities in Ontario and Canada)?

SUP does not consider traditional benchmarking of costs and impacts recorded in the COVID 19 accounts to be practical or reasonable. Different utilities will likely have different types of costs and amounts recorded depending on their specific circumstances. For example, systems costs will depend on the remedial work needed to upgrade utilities' specific systems. A simple numerical comparison of amounts booked, especially if presented net of recoveries or offsets, may not yield useful information. On the contrary, it may result in misleading comparisons and wasted effort for OEB Staff to follow up on an ad hoc basis.

SUP does however support the use of comparisons of regulatory treatments for specific types of costs and impacts across Ontario, Canada and the United States. Such comparisons would likely provide useful policy information.

B) If so, what reporting should be required by Utilities to facilitate comparisons?

SUP does not consider additional numerical interim reporting requirements beyond those already in place for regulatory accounts to be necessary. At the time of an application for disposition, sufficient detail should be provided to allow the regulator and other stakeholders to evaluate the composition and prudence of account balances recorded by utilities.

6. What are the criteria to facilitate consistent accounting methods for both the electricity and gas sectors, including electricity transmitters and OPG, as opposed to establishing criteria on a case-by-case basis?

SUP is confused by the wording of this issue. The phrase "criteria to facilitate consistent accounting methods" is not clear in the context used and should be reworded.

Presumably, the issue focuses on regulatory accounting and SUP expects that the OEB will issue final guidance with an appropriate description of and criteria for qualifying costs. Where useful, SUP would expect sample journal entries will be provided by the OEB as part of that guidance, as has been done in the past for regulatory accounts.

One issue that arose in the first consultation meeting was a desire for flexibility in governing what can be included in the accounts. If the OEB adopts a flexible approach, SUP expects that this may make the provision of definitive guidance more challenging but even more important

SUP does not expect that the contents of COVID 19 accounts will be the same for electricity distributors, transmitters, OPG and gas companies. Hence there is a clear need for a solid grounding of guidance in principle to ensure consistency and fairness.

D. Nature of Costs and Materiality

7. What types of incremental identifiable costs (including pass-through amounts) and cost savings should be recorded in the Account, including the effective date of recording these components in each of the sub-accounts?

SUP has no comments on this issue. SUP has substantive comments to be provided later.

8. Should extra finance costs incurred (e.g. interest expense) related to incremental debt be allowed to be recorded in the Account, including any debt that may be incurred to finance "pass-through" cost amounts?

SUP has no comments on this issue. SUP has substantive comments to be provided later.

9. What types of incremental “offsetting” sources of funds should be recorded in the Account, and what should be the effective date of recording these components in each of the sub-accounts?

“Sources of funds” sounds like cash flow. Offsets should include all types of cost offsets but not be limited to decreased revenues, decreased costs, other direct or indirect impacts. SUP suggests this issue be reworded as follows:

“Should offsetting cost reductions, recoveries or favorable financial impacts be recorded in the account? If such offsets are recorded, should they be tracked net or in a separate sub-account? What incremental filing requirements are necessary to allow such offsets to be understood by stakeholders prior to an application for account disposition?”

10. Other than impacts arising from loss of load discussed in the next issue, what types of revenue impacts arising as a result of the COVID-19 emergency, including lost revenues associated with any actions taken to provide relief to customers, should be recorded in the Account?

SUP would not limit this issue to revenue impacts as this omits the potential for other cost reductions, which should also be considered for netting against cost increases. As a result, SUP recommends this revised wording:

“Other than impacts arising from loss of load discussed in the next issue, what other types of cost reduction, cost recovery, or revenue impacts arising as a result of the COVID-19 emergency, including lost revenues associated with any actions taken to provide relief to customers, should be recorded in the Account?”

The OEB could also consider combining issues 9 and 10 as they are very similar and the difference between revenue and cost offset impacts are likely minimal from a regulatory and mechanical perspective.

11.

a) To what extent should loss of load be recoverable in the Account?

b) If loss of load should be considered, what criteria, measurements, and limitations of the quantum impact for loss of load should be considered?

c) If loss of load should be considered, how should the OEB differentiate between permanent and temporary lost load revenues and determine the effective date of recording these components?

d) When determining the impacts arising from loss of load, how should the OEB address responsibility, including any rate class cross-subsidization?

e) As an alternative to recording loss of load amounts in the Account, should there be consideration for early rebasing or a special rates adjustment to address redistribution of the overall lower load amongst the other rate classes?

SUP agrees that each of these issues is relevant. Issue 11d addresses responsibility and that would seem to be a principles issue. As such, it is one that should be addressed early at the principles stage consultation, given that it potentially affects every amount recorded in these accounts.

12. How should the OEB address causality for the nature of the amounts to be recorded in the Account and ultimately recovered as well as establishing a consistent methodology to calculate the amounts recorded in the Account?

SUP believes the second part of this draft issue is addressed earlier under Issue 6. Revised wording could be as follows: “How should the OEB address causality for the nature of the amounts to be recorded in the Account and ultimately recovered?”

13. How should the OEB address prudence for the nature of the costs to be recorded in the Account and ultimately recovered?

SUP agrees that some discussion of prudency criteria to be used by the OEB in assessing eventual recoverability would be useful given the short time available for utilities to react to the COVID 19 issue. The first consultation meeting referenced the need for the Board to be flexible in what can be included in the accounts. If such flexibility carries through to the final guidance, SUP believes that the prudency criteria applied by the OEB may need to reflect such flexibility.

14.a) How should the OEB address materiality associated with the amounts recorded in the Account, and what should it be? For example, is it appropriate to adopt current materiality thresholds such as those used for Z-factor claims or in cost of service applications to assess costs?

b) Should the materiality level be determined on an overall Account basis, or on a sub-account basis?

SUP suggests that the issue should also have an element that discusses whether materiality of amounts recorded in the account be addressed on a gross or net basis when there are offsetting amounts.

E. Recovery Mechanism and Timing

15. How should the impact on the different rate zones and customer classes be reflected in the Account, particularly when the Utilities seek recovery of the Account, including proposed bill impact and cost allocation issues?

SUP has no comments on this issue. SUP has substantive comments to be provided later.

16.

a) Should the OEB consider a cost-sharing model between the Utilities' ratepayers and shareholders regarding the recovery of the Account?

b) What factors should the OEB take into consideration in considering any cost sharing, such as the impact of the COVID-19 emergency on the broader Ontario business environment?

c) If a cost sharing model should be considered, on what basis should the allocation of this cost-sharing be considered?

Sup has no specific comments on these proposed issues. However, these issues illustrate the necessity of developing appropriate principles early in the process. SUP has substantive comments to be provided later.

17. Should the OEB require an external audit of the Account balance, particularly in the event that a non-December 31 balance is approved for recovery?

SUP has no objection to inclusion of this issue on this list. SUP has substantive comments to be provided later.

DATED AT TORONTO, THIS 11th DAY OF JUNE 2020

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