



18<sup>th</sup> June, 2020

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**Email and RESS Filing**

Christine E. Long  
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2300 Yonge St.  
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**Re: EB-2020-0133 – Consultation on the COVID-19 Deferral Account –  
Comments on Other Participants’ June 11, 2020 Submissions**

Dear Ms. Long,

Please find enclosed the Society of United Professionals’ comments on the June 11, 2020 submissions made by other participants regarding 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 PARTICIPANT SUBMISSIONS  
ON THE DRAFT ISSUES LIST  
BY  
THE SOCIETY OF UNITED PROFESSIONALS**

To: Christine E. Long  
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As requested by the Ontario Energy Board (OEB), the Society of United Professionals (SUP) is pleased to provide high level comments on the June 11, 2020 submissions made by other industry and intervenor participants in the consultation on the COVID-19 deferral accounts. SUP has reviewed all the submissions received and posted by the OEB on its web site. SUP's comments are at a high level as we have determined that a point by point response to the individual comments made in a multitude of submissions would likely not be helpful to the Board at this time.

**GENERAL PHILOSOPHY – INDUSTRY VS INTERVENOR GROUPS**

SUP is not surprised to see a very wide gulf in philosophy between industry and intervenor responders regarding the general approach the OEB should take. Industry submissions generally assume that prudently incurred costs and lost revenues should and will be recoverable based on Z Factor and other precedents occurring under the cost of service regulatory model.

Intervenor responses unanimously adopt a “misery loves company” approach and argue that incremental costs, other losses and reduced revenues mirror economic losses suffered by other unregulated businesses and that they should only be recoverable if utility financial distress is proven and needs to be remedied.

SUP is not going to table its arguments on the two competing views at this time. The OEB has not yet invited substantive comments on the principles that should drive issue resolution. However, it is very apparent to SUP that the approach suggested by some intervenors would potentially imperil the whole cost of service model should it become a precedent or should it bleed into wider usage.

**DEVELOP APPROPRIATE PRINCIPLES FIRST**

Given this potential impact, SUP restates its view that it is imperative that appropriate principles be discussed and adopted early to guide issue resolution in this consultation. These principles should be consistent with the OEB's legal and regulatory framework and with past practice, not generated to try and reflect what is happening to unregulated companies across the world. The principles adopted must allow for just and reasonable rates, as well as for continuance of the regulatory compact in the specific form the OEB deems appropriate under its mandate and statute.

SUP recognizes that most industry respondents were in favour of receiving advanced policy direction to allow them to defend their financial accounting treatments for expected regulatory assets at their quarterly and annual financial filing dates. SUP did not support advanced policy direction in its initial comments because it was difficult to see how such interim direction did not tilt the process toward a certain pre-ordained outcome. Also, given the planned shorter than normal time frame expected for this consultation, SUP expected final guidance to be available in advance of the 2020 fiscal year end.

Given the unanimity and strength of intervenor objections to advanced policy direction being provided, SUP continues to believe that the best approach for the consultation is to develop and approve guiding principles, and only then resolve issues in conformance with them. This general approach provided the necessary discipline to complete an extraordinarily complex consultation when Modified International Financial Reporting Standards (MIFRS) was adopted as the OEB's default regulatory accounting model in EB-2008-0408.

## **REGULATORY VS. FINANCIAL ACCOUNTING**

The OEB has not made a practice of designing its guidance to intentionally influence or support the financial accounting of utilities. The OEB directs the regulatory accounting and reporting of the utilities it regulates and it is up to those utilities to reflect that economic substance in their external financial reporting. While the substance and form of OEB guidance may have a direct bearing on the financial accounting decisions and disclosures made by utilities and concurred by their auditors, SUP does not recall a circumstance where the OEB structured its processes or decisions to achieve a specific financial accounting outcome for utilities. SUP considers this an important distinction to make because several participant submissions focused on whether the amounts recorded in the COVID-19 deferral account would/should qualify as regulatory assets. SUP considers the best way to clarify this for utilities is to proceed with a well-managed consultation process, resolve the identified issues, and provide regulatory accounting guidance on a timely basis.

## **PROJECT PLAN AND COMPLEXITY**

SUP agrees with those respondents who suggested that an overall project plan and timeline should be developed and provided now. This will help ensure that the intended six-month duration for the consultation does not drift past yearend 2020. The complexity of the issues to be resolved was already apparent before the scale of the differences between industry and intervenor positions was clarified in their June 11 submissions. These submissions included many additional specific issues that will need to be resolved. In addition, if issues like load forecast and measurement of utility financial distress are to be addressed, new tools or approaches may need to be developed to allow impacts to be quantified.

## **BENCHMARKING**

SUP suggests that this issue be dropped as there is near consensus that benchmarking is not appropriate or unworkable in this instance. Comparisons with the general approach taken in other jurisdictions would be of value but numerical benchmarking would seem to be of limited value, be resource intensive and a distraction.

## **CONSISTENT GUIDANCE VERSUS CASE-BY-CASE**

Several respondents discussed whether a single approach should be applied to all utilities or whether the COVID-19 issue should be managed on a case-by-case basis for each utility. It was not totally clear if the choice was focused only on what can be recorded in the COVID-19 accounts or whether it included how those amounts should be disposed of. SUP believes that a consistent principles-based solution is necessary for fairness and to allow for an efficient, reasonably equitable and defensible result.

## INTERIM UTILITY FINANCIAL DATA REGARDING AMOUNTS RECORDED IN THE COVID-19 ACCOUNTS

Utilities have generally balked at providing this data while intervenors have seen it as a valuable input to the consultation. A similar discussion occurred during EB-2008-0408 when OEB staff asked for detailed overhead capitalization information from utilities to measure the impact of certain possible accounting decisions. SUP would suggest that rather than publishing this data without context, it could be provided on a confidential basis to participants in this consultation only using standard confidentiality measures. In that way, it may be possible to provide a greater breakdown and context than would be seen in the periodic RRR deferral account filings.

SUP looks forward to taking part in the remaining stages of the consultation. Important theoretical decisions will need to be made by the regulator to deal with an unprecedented and hopefully non-recurring event. SUP expects that the participants will work together to produce a consensus solution that results in a just and reasonable outcome.

DATED AT TORONTO, THIS 18th DAY OF JUNE 2020

*[original signed by]*

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