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**Re: Framework for Review of Intervenor Processes and Cost Awards - OEB File No. EB-2022-0011**

**Submitted via:** Pivotal UX

Attached please find Cornerstone Hydro Electric Concepts Association's (CHEC) comments with respect to the Framework for Review of Intervenor Processes and Cost Awards - OEB File No. EB-2022-0011.

CHEC is an association of fifteen (15) local distribution companies (LDC's) that have been working collaboratively since 2000. The comments over the following pages express the views of the CHEC members.

We trust these comments and views are beneficial to the OEB to enhance the efficiency and effectiveness of the adjudicative processes. CHEC looks forward to continuing to work with the OEB on this matter.

Yours truly,

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## **Response to APPENDIX B – LIST OF CONSULTATION QUESTIONS:**

As with the OEB, CHEC recognizes the significant benefit that intervenors bring to proceedings. Intervenors have a holistic perspective on the overall application and settlement process.

CHEC members note that the intervenors are working with the LDC community. During the Consultation on Updates to Filing Requirements for Electricity Distribution Cost of Service Applications (EB-2021-0076) as well as the Adjudication Modernization Committee, intervenors engaged with LDCs in a positive and open manner.

### **Identified Concerns**

1. Are there concerns other than those identified in this report, related to intervenor processes, or cost awards that the OEB should examine?

The objective of customer engagement is to ensure that LDCs continue to serve the needs of customers, while maintaining an appropriate balance between consumer protection and the ongoing operational needs of utilities. Given their impact, it is evident that consumer interests should be presented in the decisions affecting the nature and pace of the changes in the LDC. With that in mind, included in the filing requirements, distributors are expected to discuss how they communicate with their customers on a regular basis, how the proposals in a Cost of Service application were communicated to customers, any feedback provided in response, and how this feedback informed the final proposals included in the application. It should also be noted that the OEB takes this requirement for the provision of customer engagement very seriously.

Consumers are represented in the OEB's rate setting process. The efficacy, as well as the limited scope, of that representation is, however, an issue. The consumer interest in the energy sector is of such importance that it requires effective representation in the development of the interrogatories and the decisions of the intervenors, since this will have an impact on the prices which consumers pay for energy. Of equal importance is the very positive role that such representation could have in the avoidance of unintended consequences arising from policy and regulatory measures that are not effectively informed from a consumer perspective.

CHEC considers that the OEB should implement a requirement for intervenors to document their engagement with the groups they represent in the LDC territory and how the feedback received from the consumer groups impacted the interrogatories. CHEC considers that by addressing questions about the structure and direction of the electricity distribution activities and how those questions are answered, and by whom, will have a material impact on the interest of consumers.

## Cost Awards

2. What more could the OEB do to encourage greater collaboration of intervenors with similar views on issues and similar interests?
3. Should parties representing for-profit interests be eligible of cost awards?
4. Is there a better way to represent the interests identified by individual ratepayers?

The only formal mechanism for the representation of consumer interests in the energy sector is that provided by the OEB through its intervenor funding system. Groups and individuals representing interests affected by OEB decisions and policies may participate in OEB proceedings and claim their costs for doing so. The costs awarded by the OEB are paid by utilities and in most cases the costs awarded are recovered, in rates, from ratepayers.

However, there are deficiencies in the OEB's cost award system that make it inadequate for LDCs to make effective change. The cost award system is significant for written/oral hearings and the increased costs (paid for by ratepayers) often prevent LDCs from pursuing issues further. As moving to a full hearing creates more costs for LDCs and more revenue for the intervenors, there is an asymmetric risk which pressures the LDC into accepting settlements to avoid a hearing. In addition, it's often not clear that the additional costs of a written/oral hearing are a benefit to the consumer. There has been little or no analysis of whether the additional costs and the benefits achieved are justified.

CHEC proposes that the costs for written/oral hearings be reduced or limited based on the size of the LDC.

## Active Adjudication

5. Are there other ways Commissioners can enhance their approach to active adjudication while ensuring procedural fairness?

This may have been due to structural issues prior to the OEB Modernization, but some of the LDCs that are CHEC members only had one Board member adjudicate their hearing. While the concerns from this may be small for the system as a whole they are not for the customers of that LDC. Having three Commissioners for each Cost of Service will help with procedural fairness.

## Oversight of Scope of Proceedings

6. Are there other tools that the OEB could employ to ensure that the scope of a hearing and materiality of issues is clearer earlier in the proceeding?

Interrogatories present unique challenges for all parties involved in the proceedings. CHEC members note that the threshold for materiality is often overlooked in this stage.

Questions related to immaterial impacts are not viewed as valued added to clarify matters of fact that will be presented during proceedings.

## **Generic Proceedings**

7. Are there existing issues that do not currently have policy development work underway, which should be addressed through generic hearings instead of through individual applications?

Consumers already face certainty of increasing costs for electricity, largely as a result of initiatives beyond their control. These costs are further increased when LDCs are required to seek approval for more generic programs that should be developed and approved by the OEB. Decisions on energy issues are either driven by a concern for the interests of consumers or have a minimal effect on the prices paid by consumers for energy. That is the position with respect to all decisions which directly affect the rates which consumers pay for electricity.

One recent example is the OEB's consultation on Commercial and Industrial Rate Design (EB-2015-0043) that was initiated in May 2015 and despite numerous consultation meetings with stakeholders and consumer groups, an implementation plan has not been finalized. Consequently, each LDC is required to submit an application for a standby charge.

Requiring each LDC to incorporate the requests in their application results in additional costs, which is particularly important given the significant amount of ratepayer funds paid to support the regulatory process. Further, requiring each LDC to apply for the charge shifts the costs burden driven by a small subset of consumers to all ratepayers at large.