



IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15 (Schedule B);

AND IN THE MATTER OF a generic proceeding
commenced by the
Ontario Energy Board on its own motion to consider the cost
of capital parameters and deemed capital structure to be
used to set rates

DECISION ON PROCEDURAL MATTERS AND PROCEDURAL ORDER NO. 3
August 7, 2024

On March 6, 2024, pursuant to sections 36, 78 and 78.1 of the *Ontario Energy Board Act, 1998*, the OEB issued a Notice of Hearing on its own motion to initiate a generic proceeding to consider the OEB's cost of capital and other matters.

Procedural Order No. 1 issued on March 28, 2024 approved the parties and set out procedural steps for this generic proceeding.

On April 22, 2024, the OEB issued a letter approving the final Issues List.

Procedural Order No. 2 issued on May 17, 2024 approved requests to file expert evidence.

On June 26, 2024, the OEB issued a letter approving late intervention requests.

On July 26, 2024, the OEB issued a letter providing an update regarding the calculations of the prescribed interest rates for deferral and variance accounts and the deemed short-term debt rate.

September 2024 Presentation Day

In accordance with Procedural Order No. 1 issued on March 28, 2024, the OEB provided for a transcribed Presentation Day for OEB staff and all other parties to make presentations to the panel of Commissioners. The Presentation Day will be on

September 5 and continue on September 6, 2024 (if necessary). The Presentation Day will be a hybrid meeting.

The OEB's expectations for the Presentation Day are set out in Procedural Order No. 1. However, the OEB provides the following further clarity on its expectations for the Presentation Day.

1. The OEB is only expecting presentations from participants' experts, as opposed to the participants (and/or their counsel) themselves, despite the wording in Procedural Order No. 1.¹
2. The presentations will be separated by expert and the experts will present their recommendations by issue or general topic area. The Issues List is intended to guide experts in preparing their presentations. It is expected that the experts provide a summary of their reports, including key recommendations. However, the focus should be on issues where there is a difference of opinion among the experts, preferably focusing on the merits of the expert's evidence rather than criticism of opposing evidence.
3. Only the Commissioners will have the opportunity to ask questions of the experts.

Those interested in attending the Presentation Day are requested to register in advance by e-mail to the Registrar by August 29, 2024, indicating whether the attendance is in person or virtual. Please include your name, organization, telephone number and e-mail address.

All parties filing evidence must be available for questions from Commissioners and can do so either virtually or in-person. Experts who intend to make a presentation are asked to indicate so as part of their registration and to make an electronic copy of any presentation materials available to the OEB in advance. Although Procedural Order No. 1 stated that presentation materials must be sent to the Registrar by August 29, 2024, the OEB has extended this deadline to September 3, 2024.

¹ The experts include:

- OEB Staff – London Economics International LLC
- Ontario Energy Association on behalf of the CLD+ – Concentric Energy Advisors
- Electricity Distributors Association – Nexus Economics
- IGUA/AMPCO – Dr. Sean Cleary

Interim Cost Awards

In Procedural Order No. 2 issued on May 17, 2024, the OEB determined that IGUA/AMPCO's request that the OEB consider making provision for an interim award of costs, as it relates to expert evidence approved for cost-eligible intervenors, was reasonable. The OEB stated that it would provide directions at a later date regarding interim cost awards.

In particular, IGUA/AMPCO suggested that an appropriate point in the process at which to consider an interim cost award would be following the filing of interrogatory responses on party evidence. Interrogatory responses are scheduled for August 22, 2024.

In most proceedings, cost claims would be filed with the OEB at the conclusion of the proceeding. In the current case, considering the length of this proceeding and the costs incurred by some intervenors, the OEB will permit cost-eligible intervenors to file interim cost claims up to and including September 6, 2024, which is the conclusion of the Presentation Day.

The interim cost claims are to be filed by **September 9, 2024**, in accordance with the OEB's [Practice Direction on Cost Awards](#). The OEB does not intend to conduct a detailed review of the claims at that time, and does not require responding submissions from utilities. OEB staff will review the accuracy of the calculations in the claims, and the OEB will determine the amount to be awarded on an interim basis.

The OEB will conduct a complete review of all cost claims at the conclusion of the proceeding, pursuant to the Practice Direction. An intervenor claiming costs will be required to submit an incremental cost claim at the conclusion of the proceeding. Utilities will have an opportunity to file objections at that time, and intervenors whose claims were subject to objections will have an opportunity to reply. The OEB will then determine an intervenor's entitlement to a cost award, including any amount received as an interim award, and interim awards of costs may be subject to adjustment at that time.

SBUA Withdrawal

On July 19, 2024, the Small Business Utility Alliance (SBUA) advised that, "[d]ue to unforeseen circumstances," it was withdrawing from this proceeding, and that it would not be filing expert evidence or requesting cost recovery. Pursuant to Rule 20 of the *Rules of Practice and Procedure*, the OEB accepts SBUA's withdrawal.

The OEB is making provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

THE ONTARIO ENERGY BOARD ORDERS THAT:

Presentation Day

1. As set out in Procedural Order No. 1, those interested in attending the Presentation Day are requested to register in advance by e-mail to the Registrar by **August 29, 2024**, indicating whether the attendance will be in person or virtual.
2. Presentation materials must be sent to the Registrar by **September 3, 2024**.
3. As set out in Procedural Order No. 1, responses to undertakings from the Presentation Day (if any) shall be filed with the OEB and sent to OEB staff and all other parties by **September 13, 2024**.

Interim Cost Awards

4. Cost-eligible intervenors may file interim cost claims for costs incurred up to and including September 6, 2024 by **September 9, 2024**. A copy of each claim must be filed with the OEB. Utilities may check the [record](#) of this proceeding for these interim cost claims.

SBUA Withdrawal

5. The OEB approves the Small Business Utility Alliance's withdrawal from this proceeding.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2024-0063** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Fiona O'Connell, at fiona.oconnell@oeb.ca and OEB Counsel, Ian Richler, at ian.richler@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **August 7, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar