

National Energy
Board



Office national
de l'énergie

File 175 A000-72-2; RDMI-RG-CR-ECR
4 May 2006

Electricity Companies under National Energy Board Jurisdiction, and Other Interested Parties

Dear Madam or Sir:

Amendments to the National Energy Board Cost Recovery Regulations

The Board recently completed an extensive consultation process on the proposed amendments to the *National Energy Board Cost Recovery Regulations* in relation to electricity matters. Companies were invited to submit written comments on the proposed Electricity Cost Recovery Concept by 24 February 2006. All of the comments received were considered by the Board, and as a result the Board has made some modifications to the concept.

Please find attached a summary report of the proposed amendments to the *National Energy Board Cost Recovery Regulations*, reflecting industry comments and the Board's modifications to the concept.

The Board is satisfied with the modified Electricity Cost Recovery Concept as the consultation process was transparent and the Concept is equitable. Thank you for your continued interest and positive contribution to the NEB's review of cost recovery regulations related to electricity matters.

If you have any questions regarding this matter, please contact Jodi Lea Jenkins, Project Manager, at (403) 299-3677.

Yours truly,

A handwritten signature in black ink, appearing to read 'Mantha'.

Michel L. Mantha
Secretary of the Board

Attachment

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Proposed Amendments
National Energy Board Cost Recovery Regulations

Electricity Matters

Canada

Electricity Cost Recovery Concept

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Electricity Cost Recovery Concept

Project Background

On 31 March 2004, five major electricity companies regulated by the National Energy Board (the NEB or the Board) requested the review of the NEB cost recovery methodology for the electricity industry. Those companies were Brascan Power, Hydro-Québec Production, Manitoba Hydro, Ontario Power Generation Inc. and Powerex Corp.

The companies stated that due to changes that have occurred and continue to occur in the Canadian electricity industry, the current cost recovery methodology ought to be revised in order to more equitably allocate the costs of the NEB's electricity programs. On 14 July 2004, the Board committed to undertake a review of the *National Energy Board Cost Recovery Regulations* (Cost Recovery Regulations) related to the electricity industry.

The NEB began an extensive consultation process with a workshop in December 2004 in Calgary. The purpose of this first workshop was to understand the issues raised by the electricity industry and explore possible solutions. Possible cost recovery options to amend the Cost Recovery Regulations were developed and presented for discussion at a second workshop with the industry that took place in June 2005. The proposed Electricity Cost Recovery Concept (Concept) was approved by the Board in December 2005 and presented to stakeholders at an information session held in Toronto 19 January 2006.

The Concept is based on the existing commodity charging approach using actual energy transmissions in MWh. This approach is consistent with the manner of cost recovery used for the oil and gas sector for which Board costs are also allocated on the basis of throughput. The Concept is also simple to develop and administer while being equitable. The following table summarizes the Concept.

Following the January information session, the electricity industry was given 30 days to comment on the proposed Concept. All the comments received were considered during the Board's decision-making process.

This report reflects the Board's consideration of those comments and its approval of the modified Concept.

Summary of the Modified Electricity Cost Recovery Concept

Category	Description
1. Annual levy on regulated power line companies¹	Actual energy transmitted in MWh (exports and imports): <ul style="list-style-type: none"> ▪ Wheel-throughs are included in the calculation. ▪ Inadvertent flows and loop flows will not be considered in the calculation.
2. Power line company classification	<p>Small Power Line Company: means a person that is authorized under the National Energy Board Act to operate one or more international or inter-provincial power lines over which facilities is transmitted, in a year, an aggregate quantity of energy less than 50 000 MWh.</p> <p>Large Power Line Company: means a person that is authorized under the National Energy Board Act to operate one or more international or inter-provincial power lines over which facilities is transmitted, in a year, an aggregate quantity of energy not less than 50 000 MWh.</p> <p>No levy for companies transmitting 2 500 MWh or less.</p>
3. Levy on newly regulated power line companies	Levy equal to 0.2% of the capital cost to construct the applied-for facility.
4. Year-end change	NEB cost recovery year will align with the NEB fiscal year.

¹ Note: power line companies refer to NEB regulated international and authorized inter-provincial lines.

Comments from Industry and Board Response

1. Annual Levy on International Power Line Companies

There was a general consensus amongst companies about the proposed measurement units in MWh; however some concerns were raised about using actual energy transmitted as opposed to other measurement parameters such as scheduled imports and exports, or capacity reserve. Some stakeholders also indicated that it would be unfair to include in the calculation inadvertent flows, loop flows, wheel-throughs, and imports.

The Board is of the view that actual energy transmitted (exports and imports) in MWh as the allocation factor is the most valid measurement from the standpoint of actual power line utilization and that it can be readily measured and reported. As a result of the comments received, the Board concluded that inadvertent flows and loop flows should not be included in the calculation of actual energy transmission as such flows are not planned transmissions and are an outcome of system configuration and electricity properties. However, the Board is of the view that wheel-throughs should be considered in the calculation as these flows are planned energy transmissions.

2. Power Line Company Classification

The Board did not receive any comments concerning the proposed company classifications. The modified Concept contains two company classifications - small and large. The distinction between the two would be that a small power line² company would operate one or more power lines over which, collectively, less than 50 000 MWh is transmitted per year and large power line company would operate one or more power lines over which, collectively, not less than 50 000 MWh is transmitted. The proposed Concept also contained a provision for the approval of border accommodation facilities that would have a one time fee of \$500. The Board conducted further analysis regarding border accommodations and is of the view that the proposed change is not required. The Board decided that international power line companies transmitting 2 500 MWh or less per year would be exempt from a Board levy.

² Note: power line companies refer to NEB regulated international and authorized inter-provincial lines.

3. Levy of 0.2 % on Newly Regulated International Power Line Companies

Companies indicated that additional information was needed with regard to the percentage of the levy established by the Board. The stakeholders suggested that 0.2% of the capital cost of a project might not reflect actual NEB costs for a new application. They also noted that the issue of unsuccessful applicants paying no costs is not addressed by the proposed Concept and encouraged the Board to pursue this possibility.

The Board is of the view that the 0.2% capital cost of a project represents an appropriate levy for newly regulated international power line companies and that it would not create a barrier for new entrants to the industry. It has not been the Board's intention to recover all of its actual costs when setting the levy and the Board is of the view that it would be inappropriate in relation to the Board's hearing processes and public interest mandate.

In addition, the Board does not track actual NEB costs pursuant to a decision previously made by the Board and that was supported by the Cost Recovery Liaison Committee; implementing a system to track actual costs would impose additional costs associated with the administration of the cost recovery program.

With regard to unsuccessful applications, appropriate amendments to the *National Energy Board Act* (NEB Act) would be required to permit costs to be recovered from unsuccessful applicants and cannot be effectively done in the current amendments to the Cost Recovery Regulations. The Board acknowledges the concern raised by some companies and is open to consider the issue as a possible future amendment to the NEB Act.

4. Year-End Change

No comments were received from the electricity industry on this matter. However, the Board received comments from the oil and gas sector noting the possible impact on annual toll setting processes. The Board is reviewing the comments and will address the matter shortly. This is not expected to delay the amendments in relation to electricity matters.

Other Issues

In addition to receiving comments relating to the Electricity Cost Recovery Concept, stakeholders also provided feedback on other matters. One concern is the Board's inability to account for the costs of specific activities, and that there is no formal mechanism for industry to review the Board's costs. There is also a concern about an increase in NEB costs resulting from the implementation of a new cost recovery process.

In 1989, the Board created the Cost Recovery Liaison Committee (CRLC) as part of the new cost recovery program. The CRLC is comprised of representatives from the oil, gas and electricity industries and currently meets three to four times a year. NEB costs and budgets, as well as Board performance results, are presented and discussed. The CRLC is an available forum for stakeholders to be informed and provide input about Board financial matters; the next CLRC meeting is scheduled to take place in Calgary on 9 May 2006. While there is a defined committee, the meetings are open to all industry representatives and participants may also attend by conference call. If you wish to receive more information about the upcoming meeting, please contact Susan Criddle at (403) 299-3607.

NEB financial statements are also audited annually by the Auditor General and are posted on the NEB website under Publications – Auditor’s Reports.

Some stakeholders questioned the need for Energy Market Assessments (EMAs), suggesting that there are no direct benefits to them from this program. In addition, stakeholders would like to be consulted prior to the Board conducting such assessments.

The Board’s light-handed approach in relation to the regulation of electricity is premised on maintaining a current understanding of market issues. As part of that, the Board conducts its market monitoring program, including EMAs. The subjects of EMAs are identified based upon comments received from stakeholders and upcoming EMAs are posted on the Board’s website. Typically, EMAs are developed through extensive consultations with stakeholders.

Finally, the industry indicated that the Board’s costs not related to applications should only be paid by the beneficiaries (user-pay approach).

The Board does not identify direct beneficiaries given the nature of the activities performed by the Board within the mandate set by Parliament. It would be difficult to have a user-pay approach that would equitably match clients and benefits directly since the Board regulates in the Canadian public interest.

Conclusion

The Board is satisfied with the modified Electricity Cost Recovery Concept as the approach taken to establish the proposal was fair and transparent. The Board is of the view that the Concept is equitable and is now better adapted to the electricity industry as it has evolved.

Thank you for your continued interest and positive contribution to the Board's review of cost recovery regulations related to electricity matters.

Michel Mantha
Secretary of the Board