

PUBLIC UTILITIES BOARD
POLICY AND BILLING RATES FOR
ADVISORY SERVICES

FEBRUARY 24, 2021

This document supersedes all previous Board Advisor policy and billing policy documents and is intended for use with PUB approved advisors.

PREAMBLE:

The Public Utilities Board (Board) requires various professional support and/or advisory services (“advisory services”) in order to fulfill its responsibilities.

Pursuant to the Public Utilities Board Act, the Public Utilities Board has the authority to appoint external advisors (“Advisors”) to provide those services.

The Board obtains advisory services from professionals trained in the following disciplines: law, accounting and engineering. In addition, advisory services may be required from professionals of other disciplines (e.g. actuarial science, economics, public policy, information technology, communications etc.) or from individuals with the necessary expertise in other areas to support the Board in its consideration of issues or applications.

The Board is mindful of value to ratepayers.

APPOINTMENT OF ADVISORS:

All appointments of Advisors are made by the Board.

When deciding on Advisor appointments, Board members are subject to the Board’s Conflict of Interest Policy.

In obtaining advisory services, the Board may directly appoint an individual or firm or seek competitive proposals. If a firm is selected, the firm will be considered the Advisor; however, the Board will approve the individual or individuals of that firm to provide the advisory services. The decision to directly appoint or seek competitive proposals, or terminate an appointment, is entirely within the Board’s discretion.

The Board may appoint an Advisor to serve on a continuing basis, as needed, or may appoint an Advisor for a defined period or for a specific project.

The Board may decide to approve more than one individual or firm with the necessary expertise or professional accreditation to provide similar advisory services.

Amended December 31, 2019

Amended: February 24, 2021

The scope of services to be provided by an Advisor will be set out in writing and approved by the Board and may be revised from time to time upon request of the Board.

An agreement with an Advisor does not obligate the Board to use the services of an Advisor or guarantee the Advisor a certain amount of work. The use of an Advisor's services on a continuing basis will be based on the Board's need for services and the continuing satisfactory performance of the Advisor.

The number and use of Advisors will be determined based on the required expertise and associated workload.

Each Advisor will be responsible for succession planning to ensure that he or she has a backup to meet PUB demands. The Advisor will bear the costs of training the backup, unless otherwise approved by the PUB in advance.

The Chair, or a designated subcommittee of the Board, and the Executive Director, or a designated staff member, will conduct an annual review of the performance of each Advisor and provide a report to the Board with recommendations on continued use of the Advisor and the possible scope of advisory services. At the annual review, the current advisor billing rate(s) may be reviewed and adjusted based on advisor seniority and services provided to the Board.

Either the Board or the Advisor may terminate the relationship upon a minimum of three (3) months written notice to the other party but the Board may terminate the services of an Advisor on immediate notice if the Advisor has acted in a manner that the Board determines would constitute 'just cause'.

Advisors will report to the Executive Director or his/her designate who will also direct their work, including assigning specific tasks. The Executive Director may appoint a Lead Coordinator for specific Applications and projects.

The Board will appoint a legal counsel from among the Board's legal advisors to serve as Board Counsel.

TERMS OF ADVISORY SERVICES:

- Advisors are independent contractors, and not employees of the Board, who provide independent advice to the Board.
- All work deliverables provided by Advisors are the property of the Board. Each Advisor shall provide the Board with an indefinite, worldwide, sub-licensable royalty-free license to use the intellectual property received by the Board as part of the Advisor's services.
- Professionally accredited Advisors must maintain their professional accreditation in good standing.
- Advisors must purchase and maintain professional liability insurance adequate to protect the interests of the Board when so required by the Board. The Board may require copies of the liability insurance.

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- Advisors must support the Board's goal of creating and maintaining a workplace and environment dedicated to the principles of mutual respect, fairness and support for all persons.
- Advisors are expected to collaborate with other Board Members, Board staff, with other Board Advisors and with representatives or advisors of utilities, regulated parties and interveners.
- Advisors must recognize and refrain from actions that offend, embarrass or humiliate others, whether deliberate or unintentional.
- Advisors are expected to behave, professionally or personally, so as not to negatively affect public confidence in the Board or its decisions.
- Advisors will provide a scope of work and budget to Board staff and obtain approval in writing before pursuing work on behalf of the Board.
- An Advisor may not subcontract the services provided to the Board without the Board's prior authorization.
- Advisors will provide timely, pertinent and quality services.
- Advisors will ensure consistency, accuracy, integrity, reliability, and authenticity of data sources and/or outputs.
- Individuals or firms providing ongoing advisory services to the PUB are not eligible to bid on PUB external consulting services contracts.
- An appointed Advisor must seek Board approval before offering or providing services to another client when a relationship with that client could be perceived as affecting the advisor's independence in performing Board work.
- Advisors will obtain approval in writing from the Executive Director before engaging with representatives of regulated utilities or government authorities.
- Advisors must adhere to the Board's conflict of interest guidelines and must disclose activities, investments, or business or personal relationships that could be perceived as affecting the advisor's independence in providing services to the Board.
- Advisors may be required to complete confidentiality agreements to access commercially sensitive information and they must maintain the confidentiality of Board information or the information provided by those individuals or entities dealing with the PUB.

BILLING AND OTHER MATTERS:

- The Board will approve invoices for services requested and directed by Board staff or Board members. Invoices are to include a breakdown of services by person.
- The rate for Advisor services will follow the rate schedule approved by the Board, and amended from time to time, unless otherwise authorized by the Board.
- Operating costs of Advisors, including general and administrative expenses will not be reimbursed by the Board unless those costs have been pre-approved by the Board.
- Disbursements or expenses must be Board approved and will be reimbursed at cost with no markup. The Board shall, at its discretion, determine what types of expenses shall be reimbursable.
- The form and content of invoices for fees and expenses will be in accordance with Board requirements and subject to review and approval by Board staff.

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- When required by the Board, an advisor must provide supplemental information in support of their bills.
- The Advisor must maintain all receipts for expenses on file, following the rules of Canada Revenue Agency for the storage and maintenance of such records. The Advisors must produce such records to the Board or Canada Revenue Agency upon request. Travel expenses must be pre-approved by the Board. Expenses incurred will be in accordance with the Manitoba Government Travel Policy guidelines unless otherwise approved by the Board.
- The Advisors will prepare an Annual Advisor Report (as prescribed in the Scope of Advisory Services and Annual Advisor Report). The Advisors will summarize Advisor Fees by hour, by dollar, by advisor and by utility as requested from time to time.

REMUNERATION:

In appointing an individual or firm as an advisor, the Board will decide which remuneration formula will apply:

- Fixed rate in accordance with the Board's advisory services Maximum Rate Schedule (see Schedule), as amended from time to time; or
- Established via a competitive process; or
- Negotiated with the firm or individual providing the service prior to appointment.

In selecting the rate formula for advisory services, the Board will consider various factors such as the specialty or profession, the nature of the appointment (limited in time and scope or continuing service), market rates for the service and the unique expertise of the individual or firm. The rate formula applicable to an advisor may be varied by the Board at its sole discretion. Board staff will decide at what step the fee will be within the maximum for that step.

The Base Rate is assumed to be for a starting professional with little or no experience.

Any variation to the rates described in the attached Schedule must be approved by the Board.

The Board will perform a comprehensive analysis of Advisor rates and market trends every five years. Any changes resulting from that review will require Board approval and will be reflected in the accompanying Maximum Rate Schedule. All adjustments to the Maximum Rate Schedule will become effective and apply to each of the Advisors upon written notice of the change to the Advisor(s).

MAXIMUM RATE SCHEDULE
(Effective as of February 24, 2021)

LEGAL COUNSEL:

20 or more years of relevant experience	Up to \$306/hr
15-19 years	Up to \$260/hr
10-14 years	Up to \$204/hr
5-9 years	Up to \$153/hr
Base rate (new lawyer)	Up to \$107/hr

ACCOUNTANTS

20 or more years of relevant experience	Up to \$260/hr
15-19 years	Up to \$219/hr
10-14 years	Up to \$184/hr
5-9 years	Up to \$148/hr
Base rate (new accountant)	Up to \$107/hr

ENGINEERING SERVICES:

20 or more years of relevant experience	Up to \$214/hr
15-19 years	Up to \$189/hr
10-14 years	Up to \$162/hr
5-9 years	Up to \$138/hr
Base rate (new engineer)	Up to \$107/hr

OTHER SERVICES:

Appropriate rate determined on a case-by-case basis
