Minutes of the Operating Engineers Advisory Council meeting of the Technical Standards and Safety Authority (TSSA) held in the Ontario Boardroom, 345 Carlingview Drive, Toronto, Ontario at 9:00 a.m. on the 23rd day of May 2019.

Present: Rod Philip (Chair), Stelco; Dave Belanger, St. Clair College; Greg Black, International Union of Operating Engineers; Jamie Dreveny, Ontario Power Generation (on Skype); Ralf Klopf, Institute of Power Engineers; Peter Michieli, Arlanxeo Canada; Randy Purves, J.D. Sweid Foods; Ronald Morrison, TSSA’s Consumers Advisory Council.

Bonnie Rose, President & CEO; Mike Adams, Director, BPV and OE; Tom Ayrtes, Vice President General Counsel and Legal; Robert Wiersma, Manager, Public Safety Risk Management; Humphrey Kisembe, Policy Advisor; Ian Shaw, Stakeholder Relations Advisor; Kristian Kennedy, Manager Government Relations; Danielle Fernandes, Council Coordinator (interim).

Guests: Erick Morales, Senior Policy and Program Analyst, MGCS; Diane Allen, Senior Policy Advisor, MGCS; Allison Nichols, Policy Intern, MGCS; Ian van Maanen, Operating Engineers Inspector.

Regrets: Kevin Hillman, TransCanada

1. Constitution of Meeting

   The Chair called the meeting to order at 9:35 a.m. He welcomed new member Ronald Morrison from TSSA’s Consumers Advisory Council and guest OE inspector Ian van Maanen.

   a. Safety Moment

      For the Safety Moment, K. Kennedy provided some context and Council was shown a short video from the U.S. Department of Transportation on the dangers of refilling non-refillable DOT39 propane cylinders, such as the 1lb cylinders used for camping.

   b. TSSA’s Safety Awards

      K. Kennedy confirmed that TSSA is now accepting Safety Award nominees.

2. Adoption of agenda for May 23, 2019

   Council approved the meeting agenda of May 23, 2019 as presented.

3. Adoption of November 15, 2018 minutes

   Council approved the minutes from the November 15, 2018 meeting with a correction to be made to update the attendance list to show D. Belanger as present at the November 15, 2018 meeting.

   **Action:** D. Fernandes to update the membership and attendance list to reflect the attendance of D. Belanger at the November 15, 2018 meeting.

4. Review action items from last meeting

   M. Adams spoke to the pending action items and confirmed that all action items would be address at today’s meeting under items 9, 12 and 13 on the agenda.
5. Chair’s update

R. Philip spoke to this item and confirm the membership renewal of K. Hillman and R. Purves. He introduced R. Morrison as the Consumers Advisory Council representative on the OEAC, adding that the Operating Engineers Advisory Council has met 100% of the representation prescribed by the matrix. In addition, he noted, as it relates to “alternate rules under the operating engineers regulation”, that there should be great impetus to get it right the first time.

6. TSSA’s president and CEO’s report

B. Rose treated the President and CEO’s Report to Advisory Councils, distributed prior to the meeting, as read. She provided a brief update on the Auditor General (AG) report and advised that as soon as TSSA’s AG action plan is finalized and approved by government, it will be shared with the Advisory Councils. She further added that all councils meeting now have an in-camera session with her in order to provide feedback in confidence.

7. Action Plan in response to the Auditor General’s (AG) report

T. Ayres spoke to this item and provided a brief overview of the AG recommendations, confirming that the major themes identified in the recommendations are consistent with TSSA’s Strategic Plan. He advised that the OE program was not the direct subject of any of the Auditor General’s recommendation, however, he noted that there are general recommendations that could have applicability to the OE sector. He provided examples such as the AG recommendations for furthering risk-based inspections, increasing focus on areas that pose the greatest safety risks, and a more details Annual State of Public Safety Report (ASPR) as indicative of general recommendation that impact TSSA overall. Additionally, he noted that TSSA is looking for ways improve safety while keeping costs and burdens for the regulated community at a minimum.

In response to a question from council regarding the agricultural exemption, specifically if there was a plan to address incidents in green houses, T. Ayres noted that the specific example was currently under investigation by TSSA. He further noted as it relates to the agricultural exemption, that TSSA and the Ministry were asked to review this exemption by the AG, and this review is currently underway.

8. TSSA’s Transformation to an Outcome-based regulator

T. Ayres spoke to this item, referring to the PowerPoint presentation shared with Council prior to the meeting. He elaborated on TSSA’s move towards becoming an outcomes-based regulator with a focus on harm reduction and improved safety. Specifically, it was noted that this change represents a cultural shift on TSSA’s part that looks to work with regulated communities to increase compliance through education and compliance support. As it relates to the OE program, he emphasized the importance and role of compliance support programs for businesses that have challenges to comply with regulatory requirements, while maintaining a strong enforcement presence for those that pose the greatest safety risks through repeat non-compliances. He advised that TSSA would be introducing checklists as a mechanism for increasing inspector consistency and transparency, accurate data driven rating systems for ‘good players’ to facilitate compliance, and enhanced licensing as a tool for compliance. He noted that an external advisory group has been created to review the outcomes-based regulator initiative and provide feedback. He also noted that the OE Safety program was already “ahead of the game” in these initiatives in that checklists, standard orders, and a risk-based inspection system were already in place for OE, however, improvements are always of interest.

9. Safety and Compliance report

R. Wiersma and M. Adams spoke to this item and referenced the report circulated prior to the meeting. R. Wiersma provided an overview of priorities and monitored issues (‘hot spots’) for the ED and Fuels sectors. He advised that the DALY weighted values have been updated and certain incidents have been scored differently due to the presence of more information regarding severity (i.e. concussions), adding that this
could have contributed to the increase in occurrences in FY19. For the OE sector, R. Wiersma noted that the compliance rate from FY18 Q4 to FY19 Q3 is lower than the 5-year compliance rate. He advised that there were 2680 orders issued during periodic inspections for the first 3 quarters of FY19 and provided an overview of the top orders issued.

a. Incidents/issues report

M. Adams spoke to this item, providing an overview of four closed occurrences for the first three quarters in FY19 which were distributed to Council prior to the meeting. He noted that TSSA has decreased the threshold for reporting of refrigerant leaks for the Spills Action Centre (SAC), which now means that we have visibility to all occurrences. He added further that we would be performing analytics on this data to confirm if changes are required.

There was a question from Council regarding whether the total charge is reported by SAC, as there were concerns about people breathing in freon during incidents, specifically related to the latent effects on the human body. M. Adams confirmed that this information is part of the SAC report provided to TSSA. In response to a question from Council regarding the second occurrence, a refrigerant leak in an office building, M. Adams confirmed that there was no immediate risk from the leak, however had the conditions been different there would have been a stronger TSSA response to the incident. Responding to a comment from Council that we need to move toward an internal reporting mechanism to develop our own risk data and move away from reliance on third-party reporting, M. Adams agreed, and noted that TSSA is working on increasing our data collection abilities. He confirmed that SAC is a great source of this data but added that TSSA is working to identify other sources for data collection.

b. Update on working group on incident reporting

R. Wiersma spoke to this, noting that the working group has met two times and a draft guideline will soon be shared with the working group for review. He noted that the working group has looked to other jurisdictions and Alberta aligns closely with what has been developed. In response to a question from Council as to whether there has been an increase or decrease in incidents, R. Wiersma noted that there may have been an increase in reporting, but that this is not necessarily indicative of an increase in actual incidents.

10. MGCS update

E. Morales spoke to this and provided an overview of the report distributed prior to the meeting. He advised that Honourable Bill Walker was appointed Minister of Government and Consumer Services. He thanked TSSA for putting forward the AG action plan and provided updates on the Reconciliation Agreement for the Canadian Registration Number (CRN), the changes to the OE regulation, the revocation of the Upholstered and Stuffed Articles program, and work being done to address elevator availability.

In response to a question from Council regarding the permanence of alternate rules for OE, E. Morales confirmed that the alternate rules will eventually supersede the current regulation. Responding to a question from Council regarding the status of the agricultural exemption, E. Morales advised over the next year MGCS will be conducting a review of this and other agricultural exemptions under the Technical Standards and Safety Act, in consultation with both industry and agricultural stakeholders, and will report back to the Minister and to the AG.

11. Certificate of inspection (COI) requirements

M. Adams provided an overview of the regulatory amendment that came into effect July 1, 2018, which required TSSA to issue COIs for all mandated boilers and pressure vessels in Ontario. He further noted that there have been significant issues with the portal and the process is currently being handled manually. He
added that the problem is that both the insurer model and the customer billing model are complex, and as a result, it is difficult to find a one-size-fits-all solution to deal with these complexities. He noted that it will take at least a year for the COI portal to be fully functional, however TSSA has achieved a steady state and are now working to clear the backlog using the manual processes. He added that the portal is functioning for insurer uploads, and once it is fully functioning, it will greatly help owners with the validation process.

As it relates to the OE program, M. Adam advised that OE inspectors have been directed to recognize the ROI as equivalent to the COI, noting that this direction will be in place until we get the COI program to a steady state.

In response to a question from Council regarding the sustainability of ROIs being accepted for COIs, M. Adams advised that there has been a lot of effort being put into making this right. He noted that BPV will be the first program addressed by the 20/20 project. Responding to a question from Council regarding how insurance companies are handling the regulatory changes, M. Adams confirmed that insurance companies have committed to make it work, and that TSSA is working with insurers toward compliance. He added that TSSA has begun auditing insurers, noting recent examples of audits with good and bad outcomes. In response to a question from Council as to why a missing COI/ROI is considered a safety risk, M. Adams advised that it all comes down to the reason the COI/ROI is missing (i.e. is it missing because the owner misplaced it; or is it missing because the equipment has not been inspected). He added further that TSSA is currently in the process of evaluating standard orders so that a missing COI order can be accompanied by additional orders if the issue is more than just administrative.

12. Council issues

a. OE Regulation review update

H. Kisembe spoke to this item and provided an updated on the Path 1 and Path 2 consultation. He confirmed that the window for feedback was open for one month and confirmed that the survey reached approximately 9,000 people, about 2,000-plus downloads of the material and approximately 300 respondents completed the survey. He noted the engagement results were good and that next steps would be to compile the report and reconstitute the task group to review the results.

In response to a question from Council as to whether the expert panel would be reconvened, H. Kisembe advised that this is not part of the plan, but an opportunity to engage exists through the Operating Engineers advisory group level, since some Council members are also members of the advisory group. There were recommendations from the Council to share the report with the expert panel or advisory council since members of the OEAC were part of the expert panel.

Action: H. Kisembe to share report at the next council meeting

b. National standard for power engineers

K. Kennedy spoke to this and provided a brief overview of the National Public Safety Advisory Committee (NPSAC). He advised that since the plant rating standard task group was formed to review the issue of a national standard for power engineers, the main activities undertaken have been soliciting funding to support development of the standard. He noted that the initial timeframe for completion of a request for proposals was September, however some jurisdictions have requested the development of a governance framework to underpin the standard development process, adding that the June NPSAC meeting will be used to develop this framework and readjust the time frame.

In response to a question from Council regarding the purpose of this task group, K. Kennedy responded that the objective is to try to develop as much harmonization as possible to ensure consistency across jurisdictions. In response to a question from Council as to whether there has been any impetus toward harmonization, M. Adams advised that there has been a shift toward
harmonization. He added that the proposed Standardization of Power Engineering Exams Committee (SOPEEC) document commissioned by NPSAC (also referred to as the ACI model) has been source material for the standard along with Ontario's Path 1 and Path 2 approaches. He noted further that since Path 1 only addresses first class and unattended plants, the rest are left to the various jurisdictions, adding that TSSA plans to use the ACI model to address this gap.

In response to a question from Council regarding how a national standard will impact the alternate rule provision (Path 1 and Path 2), E. Morales advised that as it stands Ontario is pushing forward with Path 1 and Path 2, adjustments may be required to the alternate rule should a national standard be adopted. He added further in relation to timeframes, that the submission would have to be reviewed by the Ministry, however the timeframe for implementation would be much shorter because the alternate rules would not follow the same path as a regulatory amendment.

c. Future of Power Engineers

R. Klopf spoke to this item and provided an overview of the material provided to Council at the meeting. He advised that the gathering of colleges would be on May 30th, 2019 and would be a two-day event. He invited government attendees and advised that he would contact the coordinator to make sure that the Ministry of Training, Colleges and Universities (MTCU) representatives were invited and to ensure a dial-in option due to government employee travel restrictions. He added further that the Ontario Education Forum and Power Engineer’s Roundtable would be held from October 23rd – 25th, 2019, noting that one of the things that is currently reviewed is a session for additional education on confined space training. Additionally, R. Klopf provided Council with a copy of the TSSA/IPE/Local 772 letter to be sent to Chief Engineers. There was confirmation that there is a more recent version of the letter with all signatures which would be sent out shortly.

Action: M. Adams to send out TSSA/IPE/Local 772 letter.

Anti-reprisal reporting mechanisms for safety concerns

A motion was passed to reserve this for Council’s in-camera session with CEO B. Rose.

13. Council Administration

As it relates to Council Administration, R. Philip confirmed that the revised matrix is in order and that the Council is fully representative of the matrix.

14. Questions and Other Business

a. Closure on steam traction concerns

R. Philip spoke to this item and advised that the complainant has not heard back on the matter, adding that he would like to close out the issue, noting that a formal letter from the Council may be pertinent. R. Klopf added that IPE has reviewed the concern noting that other organizations are involved as well, which adds to the complications. M. Adams also noted that this issue has been addressed and that SOPEEC has adopted the curriculum requirement through ACI. He stressed that the issue appears not to be about whether the concern has been addressed but rather about whether the response suits the interests of the complainant, noting further that the complainant wants a reversion to the old examinations.

Action: R. Philip to address the issue with the complainant through a formal letter.
15. Adjournment

The meeting adjourned at approximately 12:50 p.m. Council held an in-camera session with B. Rose followed by a Council-only in-camera session without TSSA staff or guests.