



## **Jay Shepherd**

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### **BY EMAIL and RESS**

February 5, 2016  
Our File No. 20150029/49

Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

### **Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

### **Re: EB-2015-0029/49 – Enbridge/Union DSM Plans 2015-2020**

We are counsel for the School Energy Coalition. Pursuant to the Decision and Order of the Board dated January 20, 2016 in this matter, Enbridge and Union were authorized to provide comments on the calculations of the target metrics and incentive allocations in Schedules A, B, and C of the Decision. The Decision did not provide for responding submissions from other parties, presumably because the utility comments were intended to be mechanistic in nature. However, the two Applicants have, in their letters dated February 3, 2016, asked for substantial and substantive changes to the Decision.

SEC submits that the request from Enbridge asks for at least the following changes to the Decision:

1. Increase the program incentive budgets for several programs a total of about \$20 million.
2. Increase the overhead and administrative budget.
3. Reduce the MTEM overall targets by reducing the productivity factor the Board has already decided.



4. Reduce the overall targets for the Savings by Design program due to changes in the Ontario Building Code that were in the evidence considered by the Board.
5. Expand the change in the use of input assumptions and net to gross ratios, as ordered by the Board on page 74 of the Decision, to include parts of the custom programs, directly contrary to the Board's findings, and to the evidence of the expert on which the Board relied.
6. Expand the use of the DSMVA, and provide for the ability to access the DSMVA:
  - a. In excess of the 15% cap,
  - b. In circumstances in which 100% of target had not been met, and
  - c. As a proxy/replacement for three variance accounts which were not approved by the Board in the Decision.

These are in addition to mechanistic and other comments relating to the targets, incentives and deferral accounts.

In its letter, Union Gas sought to:

1. Reduce the targets for 2017-2020 for the Optimum Home program, not just mechanistically, but through a substantive change in how the targets are developed (i.e. because of the change in the Ontario Building Code), and
2. Expand the change in the use of input assumptions and net to gross ratios, as ordered by the Board on page 74 of the Decision, to include at least parts, and perhaps all, of the custom programs, directly contrary to the Board's findings, and the evidence of the expert on which the Board relied.

SEC believes that these letters are outside of the ambit of the comments invited by the Board in the Decision. Instead, they are in essence Motions for Review of the Decision with respect to these points.

SEC submits that the Board should be vigilant in not allowing utilities to seek changes to a Decision once the Decision has been made, except in accordance with the Rules of Practice. In our view, if the Board allows the Applicants in this case to seek changes outside of the Board's procedures, that will be a green light for all regulated utilities to treat a Board Decision, not as a final decision by the Board on the issues, but as a temporary setback pending further opportunities to change the Board's mind.



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SEC would like the Board to give parties an opportunity to respond to these additional proposals by the Applicants. To that end, SEC submits that the Board should treat the two letters as Motions for Review, and follow the normal procedure for dealing with those motions.

In the event that the Board does not treat these as Motions for Review, SEC requests that the Board allow all parties to the proceeding to have the opportunity to make submissions on the issues raised in the February 3<sup>rd</sup> letters.

All of which is respectfully submitted.

Yours very truly,  
**JAY SHEPHERD P. C.**

Jay Shepherd

cc: Wayne McNally, SEC (email)  
Interested Parties