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April 14, 2016

PIAC FILE # 6568

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700
2300 Yonge Street
Toronto, ON
M4P 1E4

VIA E-Mail

Dear Ms. Walli:

**Re: 2016 Cost of Service Rate Application – Dispute of Intervenor Cost Claims
Halton Hills Hydro Inc., OEB Proceeding: EB-2015-0074**

We are in receipt of the correspondence of April 11, 2016 from the Chief Financial Officer of Halton Hills Hydro Inc. (HHHI) disputing the cost claims of Energy Probe and VECC in the above noted matter. The essence of the dispute is apparently not that these cost claims were excessive, but that they included time spent for submitting additional questions concerning the evidence to the Applicant.

It might be helpful to state some pertinent observations about the context of the dispute of HHHI:

1. All work in issue was associated with the review of an application and interrogatories preparatory to attendance at a settlement conference with the aim of coming to an agreement on the nature of the relief requested by the applicant.
2. As is usually the case, the result of such preparation prior to a settlement conference was that additional questions arose that required further clarification prior to the commencement of any negotiations.
3. Such questions could, of course, simply be asked by an intervening party at the commencement of the conference. As a courtesy to the utility applicant, and to save the time of the multiple attendees at a settlement conference, the practice has been to provide the applicant with the questions in advance of the conference. This is also practical because the questions may require information of a technical nature. The advance notice dispenses with any need for consultation by the representatives of the applicant in attendance at the settlement conference with the staff of the utility back at the applicants' place of business. This enables the negotiation process at the settlement conference to begin with fewer delays.

4. The Board rules of confidentiality associated with settlement conferences put VECC at a decided disadvantage in terms of discussing the questions in this case and their relevance in the settlement process.
5. In this case, the presentation of clarifying questions in advance of the settlement conference generated no time expenditure by VECC additional to the time that would have been spent presenting questions at the settlement conference itself for the first time, (except for that arising from HHHI's initial response to receipt of the questions including, in VECC's case, a brief attendance by its consultant on the first day of the conference). HHHI mistakenly attributes the preparatory review time prior to submissions of the questions as being solely for the purpose of generation of the questions. It was not.
6. HHHI notes correctly that a process for asking additional questions was not in a Procedural Order. However, neither is most of the protocol associated with the conduct of a settlement conference. This includes: the form of the information exchanged at a settlement conference, the presentation of offers, the form of any offers, the numbers of offers, the times for response, lunch breaks etc. These issues are worked out because the participants are assumed to be professionals, and co-operation with the determination of what will transpire is generally in the interest of all stakeholders, saving time and expense. In this case, there is no assertion by HHHI that the information requested was not needed for settlement purposes, only that it was not provided for in a Procedural Order.

VECC cannot conceive of what possible benefit would exist for all utility applicants to adopt HHHI's seemingly preferred approach, and attempt to compel intervenors to ask questions about application evidence relevant to a possible settlement only at a settlement conference, rather than in advance of the same. As well, HHHI's premise imports a combative litigation approach to the settlement process that is not in keeping with its intent. Accordingly, VECC requests that its cost claim be approved as submitted.

Yours truly,



Michael Janigan
Counsel for VECC

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