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BY EMAIL

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Our File No. 2090190

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2009-0096 – Hydro One Distribution Rates

I am, along with Mr. De Vellis, counsel for the School Energy Coalition in this proceeding, and I am taking the lead on the cost of capital issue. I apologize for not attending in person at the hearing this morning. I am out of town and was unable to get back in time this morning.

I have, however, heard the submissions of Mr. Warren, Mr. Miller, and Mr. Rogers. In general, School Energy Coalition supports Mr. Warren's view that the components of cost of capital for Hydro One in the Test Years must be determined based on evidence in this proceeding. Under the previous cost of capital policy of the Board, it appears that both Hydro One and the intervenors accepted that the result of the formula would be reasonable, and so the issue was not contested in this proceeding, at least not in all key components, particularly ROE. The resetting of the ROE, however, makes the ROE that is, effectively, now being proposed by Hydro One in the Test Years significantly higher, and ratepayer groups, including SEC, no longer believe this result is a reasonable ROE for the Applicant.

We would anticipate that SEC and other parties will lead evidence that includes expert opinion and analysis on the appropriate, utility-specific cost of capital for the Applicant, consistent with the fair return standard. Prior to that, in our submission Hydro One should be given the opportunity to file their own utility-specific cost of capital evidence supporting the results of the new formula as meeting the fair return standard in their case. They may elect not to file that evidence, but they should certainly be given the opportunity to do so.

Whether or not Hydro One elects to file additional cost of capital evidence, SEC will seek an opportunity to ask additional interrogatories in order to gather the raw data an expert may need to do his or her analysis. Our original interrogatories did not need to go into this in great depth, because the projected ROE was in a reasonable range. The new ROE is significantly higher, leading us to need to explore this issue further. In this respect, the situation is not much different from a utility filing an update to their evidence proposing significantly higher OM&A expenditures. It would be normal practice to allow parties a further opportunity to ask interrogatories if there is a significant change in the revenue requirement being proposed.

Once we have interrogatory responses on this issue, we would anticipate intervenor experts needing some period of time to finalize and file their expert evidence. Hydro One and others, such as PWU, may then need an opportunity to ask interrogatories on that evidence, followed by a hearing process so that the evidence on both sides of this issue can be properly tested.

We note that the impact of the cost of capital report appears to be at least \$45 million in additional revenue requirement for Hydro One. Indeed, our preliminary calculation is that it is closer to \$49.7 million, but in either case the impact on rates is high. Given the context – proposed increases in underlying costs, cost pressures from the Green Energy Act, and the imposition of the HST – this additional increase, which is likely a further 4%, needs a careful and thorough airing before a determination is made.

Mr. Rogers is concerned about delay. In our view, any delay is a result of the timing of the Board's report and the timing of the Hydro One application, not actions of the intervenors. By way of example, Veridian, which has filed for May 1, 2010 rates, has interrogatories due this week. SEC anticipates including a fuller set of cost of capital interrogatories, so this issue will be dealt with in the normal course in that rate case. It is the earlier filing and effective dates of the Hydro One application, relative to the timing of the Board's report, that require a revision to the schedule at this stage of the proceeding.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.



Jay Shepherd

cc: Bob Williams, SEC (email)
Wayne McNally, SEC (email)
Interested Parties (email)