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BY EMAIL

January 8, 2009
Our File No. 2090426

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

Dear Ms. Walli:

Re: EB-2009-0172 – Enbridge 2010 Rates

We are counsel for the School Energy Coalition in this proceeding. Pursuant to Procedural Order #3, the following are our submissions with respect to the Draft Issues List. The numbering follows the numbering of the issues in the draft.

1. No submissions.
2. We believe that the Board should add, before the word “appropriate”, the words “prepared in accordance with the EB-2007-0615 incentive settlement agreement, and is it”.
3. We believe that the Board should add, before the word “appropriate”, the words “prepared in accordance with the EB-2007-0615 incentive settlement agreement, and is it”.
4. In our view, this issue should be reworded to reflect the operative components of the IRM structure. We propose the following revised wording: “Is the forecast of the number of customers as of the end of 2010, including the number of customer additions and the numbers of customers and additions in each rate class, prepared in accordance with the EB-2007-0615 incentive settlement agreement, and is it appropriate?”

5. In our view the appropriate wording of this issue is: “Is the 2010 volume forecast, including the forecasted volumes for each class, the forecasts of the impacts of Enbridge DSM programs, the forecasts of other conservation impacts on volumes, the forecasts of future price changes and their impact on volumes, and the forecasts of volume changes arising out of assumptions with respect to the economy, prepared in accordance with the EB-2007-0615 incentive settlement agreement, and is it appropriate?”
6. We believe it is more appropriate to word this as follows: “Is the calculation and result of the Y Factor for Power Generation Projects prepared in accordance with the EB-2007-0615 incentive settlement agreement, and is it appropriate?” We are unable to determine what approvals, if any, the Applicant is seeking with respect to York Energy Centre and Greenfield South, both of which are expected to be in-service in 2011. If any approvals or other consideration by the Board is being sought, then an issue dealing with that should be added.
7. It was our understanding that the Application was proposing two changes to the Y Factor for DSM. First, there appeared to be a change relating to low income and whether it is included in the DSM budget calculation for Y Factor purposes. Second, the Applicant was initially asking for a budget increase outside of the Y Factor to allow for solar water heaters. In light of the Applicant’s letter dated January 7th, it is not clear to us whether that proposal will be withdrawn from the Application or not. Therefore, we believe that this issue should be split into three:
 - a. “What is the appropriate amount, if any, to include in the 2010 revenue requirement for DSM programs consistent with the EB-2007-0615 incentive settlement agreement?”
 - b. If there continues to be a proposal to change the treatment of low income, an issue asking if that proposal is appropriate.
 - c. If there continues to be a proposal to increase the DSM budget for solar hot water heaters, an issue asking if that proposal is both consistent with the Board’s December 22nd decision, and consistent with the EB-2007-0615 incentive settlement agreement, and appropriate in the circumstances.
8. We have no submissions on the issue as written, although it perhaps should be drafted similar to our #6 above. We assume that, however drafted, it will subsume within it the question of whether the tax rate used to gross up the return has been calculated correctly given changes in tax rates since then, and the 50/50 sharing of tax rate impacts.
9. No submissions.

10. We would amend this to read as follows: “Is it appropriate to have a Z factor for pension funding costs? If so, how should such a Z factor be calculated, and what is the appropriate amount to include in rates in 2010? Is it appropriate to establish a pension funding costs variance account related to the proposed Z factor? If so, what are the terms under which that variance account would be established, and what entries to that account would be required?”
11. We propose that this issue be amended along similar lines to our comments on #10 above.
12. It is our understanding that the Applicant is proposing for 2010 the same set of deferral and variance accounts as are approved for 2009. If so, in our submission the issue should be: “Should the Board establish for 2010 deferral and variance accounts that are the same as each deferral or variance account approved for 2009?”
13. No submissions.
14. This should read: “Are the Applicant’s proposals to establish the International Financial Reporting Standards Transition Costs Deferral Account, the Purchased Gas Variance Disposition Change Cost Variance Account, and the Mean Daily Volume Mechanism Deferral Account, appropriate?”
15. No submissions.
16. No submissions.
17. We believe that, in light of the delays in this process caused by additional issues being included in what is normally supposed to be a simple process, this issue should be expanded to read as follows: “When and how should the new rates be implemented? What effective date should be used for the new rates? If the effective date is later than January 1, 2010, how should the Board deal, if at all, with the revenue difference during the period prior to the effective date? If there is a difference between the effective date and the implementation date of the new rates, how should the resulting revenue difference be recovered from ratepayers?”

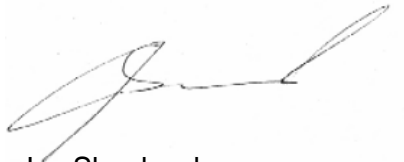
We also should comment that, until we are able to review the revised evidence to be filed on January 22, 2010, to see how the Applicant implements removal of its green energy initiatives from the Application, we do not know if additional amendments to the issues might still be required.

The Applicant filed a letter January 7, 2010, stating that “Enbridge will withdraw its proposals regarding the Green Energy Initiatives from consideration in the particular context of the 2010 rate case”. We are not able to determine from this letter which changes are intended (the DSM solar panels referred to above, for example?), or whether there will be changes in average uses and other assumptions associated with this withdrawal. Further, it is uncertain whether the withdrawal is in order to have those items considered in a separate application, or to be reworked before being approached in a different way (for example in an affiliate), or whether Enbridge is simply cancelling those plans.

We presume that the new filing in two weeks will provide further clarity, at which point any impact on the issues in this proceeding may be more apparent.

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)