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BY RESS and EMAIL

January 12, 2011
Our File No. 20100104

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

Dear Ms. Walli:

Re: EB-2010-0104 – Oakville 2011 Rates

We are counsel for the School Energy Coalition. These are SEC's final submissions in this matter, restricted in scope to the Incremental Capital Module claimed.

In preparing these submissions, we have been assisted by discussions with VECC, and a review of their submissions prior to preparing ours. Since we are in general agreeing with VECC, we have not repeated below most of the points they have made and positions taken in their submissions.

We have also had an opportunity to review the submissions of Board staff, filed earlier today.

Against that background, SEC submits as follows:

1. ***Appropriateness of the Incremental Capital Module.*** This is precisely the type of situation for which the ICM was created by the Board in the first place. This utility has a substantial one-time capital expenditure that, based on the evidence, must be incurred in the IRM period, and is obviously well beyond the capital spending expectations and pattern on which rates were established. We agree with the analysis by VECC of the Board's ICM tests and conditions, and how they have been met in this case.

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2. ***Evidentiary Basis.*** The Applicant has filed evidence justifying the new TS and its cost. Although the Applicant's interrogatory responses were less thorough than we might have liked, in the end the Applicant's interrogatory responses have in our view completed the record in an appropriate and reasonable manner.

3. The evidence with respect to the timing of the new TS is less compelling. We are particularly concerned with the implication, set out in Appendix 6 to the responses to Staff interrogatories, that maximizing the revenue requirement recovery from the TS spending may have been a factor in the timing of the in-service date. However, given that in the end the Applicant did not proceed exactly as advised by their consultant, and given that the timing would likely not have moved by more than a year just based on operational considerations, we are satisfied that the choice of a 2011 in-service date was reasonable.

4. ***Amount Claimed.*** We agree with VECC that the amount to be claimed as incremental capital has been calculated incorrectly. The threshold amount, $13,633,026, is determined based on depreciation, and is intended to represent the amount of capital spending already provided for in rates under IRM. Only the amount that exceeds that level is incremental to the IRM regime, and therefore only that excess should be included in the ICM calculation. This is the essence of the Board's ICM policy.

5. That incremental amount is $18,594,974. In our submission, this is the maximum amount of incremental CAPEX that can be the starting point for the ICM calculation. By our calculations, the resulting ICM claim would be, not the $1,887,890 included in the Application, but approximately $1,750,000, subject to the further reduction noted below.

6. We note that the cost of service revenue requirement for 2010 includes $14,721,227 of capital spending, well in excess of the threshold amount. The planned capital spending for 2011 is actually only $17,506,773 higher than the capital spending in the cost of service year. Therefore, even limiting the claim to the excess over the threshold, as is appropriate and consistent with Board policy, still allows for an incremental recovery in excess of the "business-as-usual" capital budget plus actual incremental spending.

7. ***Offsetting Revenues.*** The Applicant admits that it will receive $1,012,814 of incremental revenue in 2011-13 as a result of this TS [SEC IRs p. 17], an average of $337,605 per year [VECC IRs p. 12]. In our submission, this incremental revenue should be deducted from the revenue requirement calculated in the ICM claim, reducing that claim to approximately $1,420,000.

8. We note that the Applicant has argued [VECC IRs p. 12] that this deduction should not be made, because these amounts "will be used to reduce the capital contributions needed from developers". In our view, since the capital budget in the Application does not include any capital contributions from developers, there is no amount to "reduce" relative to the ratepayers. The Applicant will in fact receive these revenues, and thus will have a net cost of the TS in the IRM period that is less by that amount. If the Applicant is expecting to have contributions from developers as well, those would be an additional deduction from the ICM calculations, but none appear to be included.

9. Therefore, in our submission the ICM annual amount recoverable from ratepayers should be reduced by the amount of the average annual revenues expected, $337,605, to get to the true net annual cost of the TS.

10. ***Conclusion.*** Subject to our comments above, it is submitted that this is an appropriate case for approval of an Incremental Capital Module and, subject to the two changes proposed by VECC and ourselves, and discussed above, it should be approved as filed.

11. ***Costs.*** SEC submits that it has participated in this proceeding in a responsible and focused manner with a view to assisting the Board, and requests that the Board order payment of its reasonably incurred costs of that participation.

All of which is respectfully submitted.

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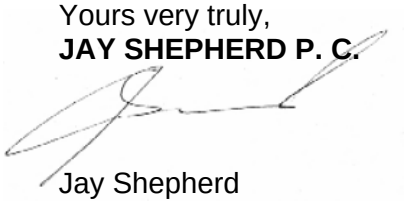
Yours very truly,
JAY SHEPHERD P. C.



Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested parties (email)