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BY EMAIL and RESS

June 8, 2012
Our File No. 20120033

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

Dear Ms. Walli:

Re: EB-2012-0003 – Enersource 2013-4 Rates

We are counsel for the School Energy Coalition. We have reviewed the Applicant's letter of June 7, 2012, making proposals with respect to cost eligibility, and have the following comments in response:

1. The Applicant has proposed the recovery of more than $260 million from ratepayers for 2013 and 2014, with the expectation that the Board's approval would also be the basis for recovery of a further $270 million in 2015 and 2016. The amount sought to be recovered over those four years exceeds current rates by more than $70 million [Revenue Requirement Work Forms for 2013 and 2014].

   To support that proposed rate recovery of more than a half a billion dollars, the Applicant believes it is reasonable [Ex. 4/1/10] to spend $255,000 on it own external legal and consulting fees for its Application, over and above its internal costs for regulatory (about $500,000 per year).

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The likely total cost for the five intervenors who have sought status in this proceeding is probably at or below that $255,000 total, and will represent less than one-twentieth of one percent of the total amount in issue in this proceeding. It does not even reach the materiality threshold for this Application, $645,000 [Ex. 1/4/1].

Given the insignificant amount of money involved, relative to both the recovery sought and the utility's proposed spending on the Application process, it would appear to us that the reason for the proposal to limit intervenors cannot be financial savings. The more likely reason for the proposal, it is submitted, is an attempt to limit the scrutiny of the Applicant's spending proposals. This is not something the Board should entertain.

2. The proposal to group together the "large ratepayers" and the "small ratepayers" would necessarily require that SEC represent the interests of AMPCO members, or AMPCO represent the interests of SEC members. Neither is realistic. The Board will be aware that the positions of AMPCO and SEC in Board proceedings are often not consistent, and that is not surprising. AMPCO members are in different rate classes from SEC members, and their bills are driven by different factors in rate applications. For one to represent the other would be impractical and contrary to the interests of either ratepayer group. Choosing only one effectively disenfranchises the other.

   We note that the Applicant has proposed that the groups not selected would still be allowed to intervene, but would not be eligible for costs. This is a reversion to a position that has been debated at length in the past (and we thought had been resolved). This is the curious notion that the ratepayers should pay for the Applicant to prepare its Application, the Applicant's lawyers and consultants to defend it, and the Board's costs to adjudicate, but that the only ones whose costs to participate are not reimbursed in the process are those very same ratepayers who are footing the bill for everyone else. This is untenable.

3. We note that the Applicant is proposing to solve a "problem" that doesn't actually exist. The various ratepayer groups work together on a regular basis in rate applications, allocating their collective resources and relying on each other's specific expertise. There is little duplication, as the intervenors simply don't have the time or resources to waste on activities that are unproductive. The consultants and lawyers who work for the ratepayer groups have particular skills and knowledge, which we well know. We therefore determine with longstanding efficiency who should take the lead on which item, and we rely on each other where our interests are congruent.

   Further, and perhaps key, the intervenors are at risk if they do engage in duplicative activities. The Board allows costs only where they are reasonably incurred and

productive. The Applicant does not need to worry about paying for wasted effort. The Board has extensive experience in policing intervenor costs.

4. The Applicant cites the March 30, 2012 Costs Eligibility Decision in EB-2011-0140 in support of its proposal to limit ratepayer involvement in consideration of its Application. The Board panel in the EWT Decision made very clear that they were proposing to limit the number of intervenors because of the unique circumstances of that case, saying (at page 8 of the decision):

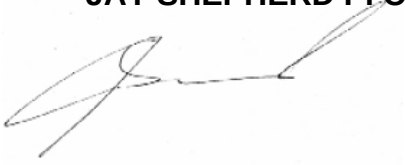
   "This proceeding has, therefore, a relatively narrow component in regard to cost implications for ratepayers. The focus of this proceeding is on selecting the applicant which offers best value for ratepayers taking into account a number of criteria. In addition, at this stage in the regulatory process for the transmission line, the interests of ratepayers are largely the same regardless of the particular constituency."

   None of that is true in this case. This proceeding is entirely about rates, and the interests of different ratepayer groups will not be the same. Therefore, even if the EB-2011-0140 case is appropriate as a precedent for other cases (which, given the final resolution of the cost eligibility issue in PO#2 in that case, may be open to question), the rate case of an LDC would clearly not come within that category.

Based on the above reasons, it is submitted that the Applicant's proposal to change the Board's practice relating to intervenor costs is inappropriate, and should be rejected by the Board.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.



Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested Parties