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BY EMAIL and RESS

June 8, 2012
Our File No. 20110354

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

Dear Ms. Walli:

Re: EB-2011-0354 – Enbridge 2013 Rates – Issues List

We are counsel for the School Energy Coalition. Pursuant to Procedural Order #2, this letter constitutes SEC's reply submissions on the Draft Issues List circulated on June 5, 2012.

The only issue that requires a reply is F2. In its submissions, the Applicant argues that the Board is not allowed to consider affordability (i.e. impacts on consumers) when looking at the proposed budget of the Applicant.

With respect, this is not the law. The current legal restriction on the Board is that the Board cannot arbitrarily reduce what is otherwise a reasonable revenue requirement because of consumer impacts. The basis of the rule is that by implication arbitrary reductions will reduce the utility's ability to earn a fair return. While it may be time for a policy debate on whether that legal restriction continues to be appropriate in all cases, that issue does not have to be resolved in this proceeding. No-one is proposing arbitrary reductions in spending, and Issue F2, whether as proposed here or as already included in the EB-2011-0210 proceeding for Union Gas, is not intended to imply that possibility.

Issue F2 deals with something quite different. When a utility plans its spending, it cannot do so in a vacuum. It must consider budget proposals in light of how much money is reasonably available, including how much they can reasonably ask their ratepayers to pay. This, in fact, is almost certainly what the Applicant does internally, with management insisting that departments keep ratepayer impacts in mind when they formulate their budgets.

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Utility budgets are not built by a series of black or white decisions. Judgment is employed, and whether any given initiative or project is included (or when it is included), is often in a grey area. Good budgeting includes consideration of the circumstances, including customer impacts. In simple terms, you don't go on a spending spree during a recession, even if every project can be justified individually. In a recession, some of those in the grey area are not approved, or are deferred. Conversely, in a period of economic expansion, or at a time when other energy costs are softening, incremental and longer term investments – projects in the grey area - might be added to the budget. Management of spending cycles, including timing of discretionary spending, is an important part of operations management.

Issue F2 is proposed on the basis that ratepayer affordability is and should be a factor in setting utility budgets. It is likely not disputed that this is the case. Questions related to whether a given spending proposal is appropriate in light of economic conditions, or in light of other pressures related to energy costs, should be allowed, and this is a factor that should be considered by the Board in approving budgets. This does not mean that necessary spending should be curtailed, or that the utility should be forced to accept a return that is less than a fair return.

As an alternative, the Applicant proposes that Issue F2 be reworded to be more "balanced", looking at impacts on both consumers and the Company. With respect, that misses the point entirely. The entire Application, and almost every other issue, are directed at the interests and needs of the Company. This one issue is intended to ensure that the affordability context is raised explicitly, and considered. It is the only place where that is the case. There is no reason to water it down under the guise of being balanced.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.

Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested Parties