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BY EMAIL and RESS

August 20, 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-2012-0033 – Enersource Hydro Mississauga – Hearing Plan

We are counsel for the School Energy Coalition. In response to Procedural Order #4 in this proceeding, the intervenors met by conference call today to discuss the issues on which they plan to conduct cross-examination during the oral hearing, including dividing up primary responsibility, and developing overall time estimates for the witness panels. SEC has been delegated to send this letter on behalf of all intervenors outlining the result of that discussion.

As the Board is aware, the intervenors regularly discuss in each proceeding how best to work together and avoid duplication. In doing so in this case, we were assisted by the timely provision by the Applicant of a list of witness panels and the issue responsibilities for each. It was most helpful.

Time Estimates

While it is still early to have fully-formulated cross-examinations prepared, and therefore to have detailed time estimates, the intervenors have jointly assessed what is in issue for each witness panel, and provide the following estimates of total cross-examination for each panel:

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Panel 1 - Rate Base, General Issues, IFRS, ICM - 10 hours

Panel 2 - OM&A, Working Capital, Cost Allocation, Rate Design, PILs, Cost of Capital
- 9 hours

Panel 3 - Revenue Forecast - 1 hour

Panel 4 - Smart Meters - 1 hour

These estimates include all five intervenor groups, but do not include Board Staff. Also, as we have indicated to Staff, we note that the length of cross-examination is not primarily within the control of the cross-examiner. Some witnesses provide succinct, clear answers, while others take a long time to respond to each question. Nevertheless, having asked questions of some of these witnesses in the Technical Conference, we believe our estimates are within the likely range.

The intervenors are continuing to work together to avoid duplication, so there is some possibility these estimates will be reduced by the time the hearing starts.

The intervenors are therefore unanimous that, assuming there is minimal direct evidence, and no opening statements of any length by any of the parties, we would expect the hearing to be completed well within the four days set aside. This includes time for Board Staff cross, plus questions by the Board panel.

“Hearing Only” Issues

The Board has asked parties to identify those issues that can be dealt with only in argument, and do not require any cross-examination. This is consistent with Board practice, but a departure from the rule in most courts that facts that are not challenged in cross-examination cannot be challenged in argument. Intervenors would expect to be able to challenge in argument both the facts asserted by the Applicant, and the conclusions the Applicant proposes to draw from the facts, in either case whether or not they had spent time cross-examining on those issues.

On that basis, the intervenors have identified the following issues on which no-one currently has any cross-examination planned:

- 1.3 - Past Board directions
- 1.5 - Rate and fiscal year alignment
- 5.1 - Capital structure/ROE
- 7.2 - Rate design amendments
- 7.3 - Loss factors
- 7.4 - RTSRs
- 8.1 - D/V Balances

The intervenors note that some of these could come up in the context of other issues, and that during the course of preparing detailed cross-examination over the next two weeks, parties could identify specific questions in those areas. Neither of those results is expected. However, while we provide this list to assist the Board, it is of course on the understanding that the



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Applicant will retain their onus and burden of proof, and thus will ensure that their witnesses are prepared in the oral hearing to answer questions on all issues for which they are responsible.


Conclusion

We trust the above information is of assistance to the Board, and is responsive to the Board's directions as set out in Procedural Order #4. If further information is required for the preparation of a hearing plan, those intervenors who are available will of course attend on August 24th for a pre-hearing conference.

All of which is respectfully submitted.

Yours very truly,

JAY SHEPHERD P. C.



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cc: Wayne McNally, SEC (email)
Richard Battista, OEB (email)
Maureen Helt, OEB (email)
All Intervenors
Other Interested Parties