



## **Jay Shepherd**

Professional Corporation  
2300 Yonge Street,  
Suite 806  
Toronto, Ontario M4P 1E4

### **BY EMAIL and RESS**

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Our File No. 20120147

Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

### **Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

### **Re: EB-2012-0147 – Midland Rates – Revenue to Cost Ratios**

We are counsel for the School Energy Coalition. This letter is SEC's response to the Board's letter of January 4, 2013 with respect to the revenue to cost ratios proposed in the Midland Settlement Agreement.

The Board's letter appears to seek a combined response from all parties. In the context of an overall settlement, it may well be that different parties had different reasons for reaching agreement on the revenue to cost ratios. SEC is responding separately because, in fairness to the Applicant, the settlement by SEC on this issue reflects our views of a longstanding Board policy direction, and is not specific to this particular distributor.

We note that we would not normally make public comments relating to our specific ADR positions, but because our views on this point have been openly communicated many times in the past, we felt it was appropriate to make an exception in this case.

The intervenors that regularly participate in the rate cases of electricity distributors have, since about 2008, followed a consistent pattern in settlement agreement provisions with respect to \*revenue to cost ratios. We have applied that pattern to dozens of settlement negotiations, in the belief that it reflects current Board policy.

The settlement agreement pattern is the following:

Tel: (416) 483-3300 Cell: (416) 804-2767 Fax: (416) 483-3305  
[jay.shepherd@canadianenergylawyers.com](mailto:jay.shepherd@canadianenergylawyers.com)  
[www.canadianenergylawyers.com](http://www.canadianenergylawyers.com)



- If on running the cost allocation model for current rates, the revenue to cost ratio for a class is outside of the Board's band for that class, it should be brought to the edge of the range. For example, If residential shows an 82% RTC, it is brought up to 85%; if GS>50 shows 125%, it is brought down to 120%; and so on.
- Excess revenue resulting from a change in RTC is applied to reduce the RTC of the class with the highest RTC, until it is equal to the next highest, and then used to reduce those two classes until they are equal to the third highest, and so on. A shortfall of revenue from a change in RTC is applied, similarly, to increase the RTC of the lowest until it reaches the second lowest, and so on.
- Classes that are within the Board's allowed RTC range should not have their RTC adjusted unless the distributor is able to demonstrate that its cost allocation information is more reliable today than was the case in its previous rebasing. Since the methodology has not changed, this means that for most LDCs cost allocation reliability has not improved in any material way. There have been few exceptions.

At one time, SEC argued against the above approach, since a majority of schools are in GS>50, the class with the highest average RTC levels. We were unsuccessful in those early submissions, and as a result the above approach has been followed by SEC, for example, in all of the 50-60 settlement discussions in which we have been involved since 2008. Almost all have settled on the basis outlined above. In policy consultations such as EB-2010-0219, SEC has continued to press publicly for faster movement towards unity, but in the meantime we have sought to implement the Board's policy as we understand it.

The Board has consistently been concerned that the data inputs for the current cost allocation model are insufficiently precise to justify movement closer to unity. It has been our understanding that the Board plans to initiate a consultation in 2013 or 2014 to address these concerns, and allow the RTCs to move closer to unity.

We are cognizant that the recent decision of the Board in EB-2012-0033, the Enersource rate case, may signal a more immediate change in direction by the Board, since it dealt with a similar issue, and the result was to allow an increased movement towards unity. There the Board, in allowing an incremental narrowing of RTC ranges, said [page 46 of the Decision]:

*"The Board's Report does not state as one of its principles that any movement to within a range must be to the top of the target range..."*

This statement took SEC a bit by surprise, as on the face of it the words are not consistent with our understanding of the Board policy we have been attempting to implement in agreements for several years. We do read other wording in the decision as allowing the above quote to be read consistently with the policy we understood to be in place, but we admit to some uncertainty in this given the result.

SEC would therefore welcome guidance from the Board as to the Board's policy on revenue to cost ratios, and any changes in, or new interpretations of, that policy that have not been



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reflected in recent settlement agreements. In the event that any such changes or reinterpretations of policy are not, in the Board's view, appropriately reflected in the proposed Settlement Agreement with Midland Power, SEC would be happy to work with the other parties, and with Board Staff, to review the proposed agreement in that context, so that the parties can develop a collective response to the Board's concerns.

We hope these comments are of assistance to the Board.

All of which is respectfully submitted.

Yours very truly,

**JAY SHEPHERD P. C.**

Jay Shepherd

cc: Wayne McNally, SEC (email)  
Interested Parties