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BY EMAIL and RESS

September 9, 2013
Our File No. 20120459

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

Dear Ms. Walli:

Re: EB-2012-0459 – Enbridge 2014-2018 Rates

We are counsel for the School Energy Coalition. Pursuant to Procedural Order #1, parties are required to file notice of their intention to rely on expert evidence in this proceeding. Subject to the Board's decision with respect to SEC's request for a preliminary issue, SEC – likely in conjunction with other intervenors - plans to select and retain a firm of incentive regulation experts to provide evidence in this proceeding.

As the Board is aware, SEC has requested that the issue of the form and structure of Enbridge's ratemaking plan be reviewed by the Board as a preliminary matter to determine if it is an acceptable basis for setting Enbridge's 2014-2018 rates. Part of our rationale for that request is that it may remove (or at least limit) any need for SEC and others to retain experts on IRM. If we are able to convince the Board on the preliminary issue that Enbridge's proposed multi-year cost of service approach to rate-setting is inappropriate, then Enbridge will have the responsibility to file on a basis more in line with the Board's IRM principles. In those circumstances, it is unlikely that SEC would need to retain IRM experts.



Conversely, if the Board declines to hear the preliminary issue, or hears it and finds that it is not prepared to decide against multi-year cost of service without hearing the whole case, then SEC would likely have to retain experts. The scope of the expert's work would then be determined by the scope of the workplan Board Staff determines is appropriate for Pacific Economics Group.

Our central concern here is that we do not want to get to the end of a full hearing, and find that, while we have been successful in challenging the case put forward by Enbridge, the Board is still left with evidence on only one possible framework to set 2014-2018 rates, i.e. multi-year cost of service. The Board would then be put in the unpalatable position of having to a) reject the Application entirely, so that Enbridge has to refile on a different basis in order to have their rates set for 2014 and beyond; b) construct its own IRM structure for Enbridge, in the absence of evidence as to the options available and their suitability, or c) establish rates on the basis of multi-year cost of service, because that's what Enbridge selected.

It would not normally be the responsibility of intervenors to file evidence as to alternative rate-making structures for a regulated utility, and we would prefer not to do so. However, in order to avoid the three choices set forth above, SEC would find appropriate IRM specialists to provide that evidence. The work of the SEC experts would be scoped to complement the work of PEG on behalf of Board Staff. That is, if PEG has a limited workplan (for example, reviewing the results of the historical IRM, but nothing else), then our experts would have to do a more extensive review. Conversely, if PEG has a broader scope (for example, comparing the Enbridge structural proposal with the recently agreed structure of Union's 2014-2018 rate-setting, and with 4th Generation IRM for electricity distributors), then our experts would be able to focus more on a critical review of the Enbridge plan components only.

SEC has not yet selected or retained experts. There are a very limited number of IRM experts available who are without conflicts. Rather than going further afield to find those who could do the job, we are seeking to avoid unnecessary expense in case intervenor experts turn out not to be necessary. In addition, depending on the scope of the work our experts would have to do, different experts might be appropriate.

In the event that SEC retains IRM experts in this proceeding, the answers to the Board's three questions in PO #1 would be as follows:

1. SEC's experts would at the broadest scope be limited to a review of the multi-year COS structure proposed, with comparisons to more normal IRM structures, particularly those that have been accepted by the Board in other contexts. The analysis would be Enbridge-specific, i.e. considering the appropriateness of various approaches in the context of this Application.



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2. It is SEC's normal practice to retain experts jointly with other intervenors, and we would expect to do so in this case. We have had preliminary discussions with other intervenors, but have not made any formal arrangements.
3. It is not possible to estimate the cost of intervenor experts at this point. While it is unlikely that the intervenor experts will cost as much as the combined cost of Concentric and London Economics for Enbridge, any cost estimate would depend on a) who is retained to do the work, and b) the scope of the work, as discussed earlier. It is also likely that any estimate we receive from the expert firm would be contingent on the Board's determination of its procedures for taking in and testing the testimony of all of the experts.

We have tried in this submission to be as specific as possible, given the uncertainty surrounding the process. SEC proposes that, as the proceeding advances, SEC will provide further details on the experts, if they eventually become necessary. We hope that is acceptable 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