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BY EMAIL and RESS

December 8, 2015
Our File No. HV2015-0001

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2015-0094 – Oakville Hydro 2016 Rates

We are counsel for the HVAC Coalition. We enclose our Notice of Intervention in the above matter, and request that the Board allow late intervenor status. Our client accepts the record to date.

The intervention of the HVAC Coalition is focused on a study currently being carried out by Grant Thornton, LLP. The study, ordered by the Board as part of the Settlement Agreement in EB-2013-0159, is intended to look at the allocations of costs between the regulated utility and certain unregulated affiliates. HVAC Coalition has for some time believed that the costs being borne by the unregulated affiliates are materially below reasonable and proper levels. In EB-2013-0159 the Board ordered that this cost allocation study, which is intended to address those issues, be filed in Oakville Hydro's 2016 rate case.

The Board will be aware that initially the Applicant sought to proceed with its 2016 rate application without compliance with the EB-2013-0159 order, but the Board refused to allow that. After some discussions, the study was accelerated, and by letter dated October 26, 2015 Oakville Hydro committed to file the study in this proceeding early in 2016. By letter dated October 27, 2015 HVAC Coalition consented to the Applicant's request that the 2016 rate application proceed, with the study being filed as soon as possible as part of that proceeding. HVAC Coalition proposed that January 1st rates be interim, or alternatively that a variance



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account be set up. At that point, HVAC Coalition was still hopeful that the study would be completed quickly, and that it would address HVAC Coalition's concerns fully. In light of that, we did not intervene in this proceeding.

The Board has decided to proceed with the Application in light of the commitment by the Applicant to file the study, and has set out the steps in the proceeding in Procedural Order #1. That order also declares rates interim as of January 1, 2016.

HVAC Coalition has now received a first draft of the study. While that first draft is not the final version, and we are still hopeful that the final version will address HVAC Coalition's concerns, we now believe there is some possibility that this will not be the case. To ensure that HVAC Coalition is in a position to deal with this in this proceeding, once the final version of the study is filed, we are filing the attached Notice of Intervention.

We are not at this time requesting any change to the procedural steps in this matter going forward. We assume that, once the study is filed, the Board will either seek submissions on the appropriate procedure, or provide for discovery and evidence related to this issue as part of a phase 2 of the proceeding. In the unlikely event that information comes to our attention that suggests that the current procedural order is no longer appropriate, HVAC Coalition will make a further submission to the Board at that time.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.

Jay Shepherd

cc: Martin Luymes, HVAC (email)
Interested Parties

IN THE MATTER of the *Ontario Energy Board Act 1998*, Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Oakville Hydro Electricity Distribution Inc. for an Order or Orders approving just and reasonable rates and other service charges for the distribution of electricity, effective on January 1, 2016.

NOTICE OF INTERVENTION

OF THE

HVAC COALITION

1. The HVAC Coalition hereby applies for intervenor status in this proceeding, and requests that the Board allow recovery of its reasonably incurred costs of its participation.

General Interest of the Intervenor

2. The HVAC Coalition is a coalition established to represent the interests of Ontario heating and air conditioning contractors, suppliers, and manufacturers in matters relating to energy regulation, policy, and management. It counts amongst its members a majority of the heating and air conditioning contractors operating within the Applicant's franchise area.
3. The intervenor's members have a significant interest in the activities of regulated electricity distributors and their affiliates in the province, because any action by an electricity distributor to use its monopoly power to affect the competitive markets can affect not only the economic viability of the members' businesses, but the nature and price of the services available to the members' customers. Past actions of gas and electric utilities and their affiliates have created significant barriers to the competitive flow of goods and services within the HVAC equipment and servicing sectors, in some cases causing bankruptcies or other serious impacts on local small and medium sized enterprises around the province. Where in the past the gas utilities utilized their regulated activities to subsidize competitive activities, to the detriment of the ratepayers, we are now seeing an increasing tendency by electricity distributors to seek higher profits through unregulated activities whose cost advantages, if any, are the result of ratepayer subsidies.

Issues to be Addressed

4. HVAC Coalition has not yet seen the final cost allocation study required by the Board in EB-2013-0159 (the "Cost Allocation Study"), only an early draft. The nature and level of involvement of HVAC Coalition in this proceeding will depend on the quality, contents and results of the final version of that study as filed with the Board.
5. HVAC Coalition's intended participation will focus on the following issues:

- (a) The Cost Allocation Study, and the impacts, if any, of the information and results contained in that study on the costs properly allocated to ratepayers and the distribution rates proposed in the Application; and
- (b) Generally to represent the interests of local heating and air conditioning contractors in this process.

The Intervenor's Intended Participation

- 6. The HVAC Coalition intends to participate in any pre-hearing procedures, including interrogatories or technical conferences, and settlement conferences. HVAC Coalition also intends to participate in any oral hearing of this matter, and in written or oral submissions, as well as any other parts of the process that the Board should order.
- 7. Depending on the final version of the Cost Allocation Study, the HVAC Coalition may seek to file evidence relating to:
 - (a) The possibility that the actions of the Applicant and its affiliates in the franchise area include a ratepayer subsidy or are otherwise anti-competitive; and/or
 - (b) The appropriate level of costs of the regulated utility that should be borne by the unregulated affiliates, and not through regulated rates, which evidence may include a review of the Cost Allocation Study.

Nature of Hearing Requested

- 8. Until the Cost Allocation Study has been filed, and interrogatories have been answered in relation to that study, we believe it is premature to assess whether a written or an oral hearing is more appropriate in this proceeding.

Counsel/Representative

- 9. The HVAC Coalition requests that a copy of all documents filed with the Board by each party to this proceeding be served on the Applicant, and on the Applicant's counsel, as follows:

- (a) HVAC Coalition:

HVAC COALITION
2800 Skymark Avenue,
Building 1, Suite 201
Mississauga, Ontario
L4W 5A6

Attn: Martin Luymes, Co-ordinator
Phone: 905 602-4700 Ext. 235
Fax: 905 602-1197
Email: mluymes@hrai.ca

(b) HVAC Coalition's counsel:

JAY SHEPHERD PROFESSIONAL CORPORATION

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

Attn: Jay Shepherd
Phone: 416-483-3300
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Costs

10. In recent years, the HVAC Coalition has only rarely sought or been awarded costs relating to its participation in proceedings before the Board. Those situations in which costs have been allowed have been ones in which the primary focus has been on the impact on ratepayers, and HVAC Coalition can provide a perspective to the Board that would otherwise not be available. HVAC Coalition generally does not intervene where those conditions are not met.
11. This Applicant, unlike some other electricity distributors, has an expanding business through an affiliate, competing with local Oakville businesses that are members of the HVAC Coalition. The affiliate is separately branded, but some in the local community may still see the utility and the affiliate as one and the same. It currently appears that the resources of the utility may be being used in whole or in part as the foundation of the affiliate's business. The Cost Allocation Study was ordered in EB-2013-0159 in part to address that possibility.
12. In this proceeding, and notwithstanding the wording of the Board's Practice Direction on Cost Awards, HVAC Coalition therefore may ask the Board to exercise its discretion to order that HVAC Coalition be awarded recovery of its reasonably incurred costs of participation, as the Board did in EB-2013-0159. Until HVAC sees the final version of the Cost Allocation Study, however, it is not able to assess whether it will be appropriate to actually make a claim for costs in this matter.

Respectfully submitted on behalf of the HVAC Coalition this 8th day of December, 2015.

Jay Shepherd
Counsel for the HVAC Coalition