



## Jay Shepherd

Professional Corporation  
2200 Yonge Street  
Suite 1302  
Toronto, ON M4S 2C6

**BY EMAIL and RESS**

October 14, 2016  
Our File: EB20150275

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

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2016-0275 – IESO 2016 Fees – SEC Submission**

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 4, these are the submissions on behalf of SEC, regarding the only non-settled issues: the proposed usage fee of the Independent Electricity System Operation (“IESO”) for 2016.<sup>1</sup> SEC submits the Board should approve the proposed single usage fee, as proposed.

While SEC does not know the arguments that may be made regarding the proposed fee structure and effective date, we do offer these brief comments on the appropriateness of the IESO’s proposal.

### ***Single Usage Fee is Appropriate***

SEC submits that in the circumstance, a single usage fee for all market participants, regardless of their status as either a domestic or export customer is appropriate.<sup>2</sup> The merger of the IESO and the OPA, with the former already having approved the fee charged to all market participants, required a cost allocation exercise to determine how best to create a new usage fee or fees for the new combined IESO. The Elenchus Report<sup>3</sup> cost allocation model was developed and then run for both 2015 actuals and 2016 forecast IESO budgets, and the

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<sup>1</sup> Approved Issues List, Issues 2.1-2.5;

<sup>2</sup> SEC uses the term customer in the same way Elenchus has used the term. See *Cost Allocation and Rate Design for the 2016 IESO Usage Fee (Updated with 2016 Financial Details)*, Evidence of John Todd (Elenchus Research Associates Inc.), May 10, 2016 (B-1-1, Attach 3) [*Elenchus Report*] at footnote 1 on p.5

<sup>3</sup> *Elenchus Report*

T. (416) 483-3300 F. (416) 483-3305

[mark.rubenstein@canadianenergylawyers.com](mailto:mark.rubenstein@canadianenergylawyers.com)

[www.canadianenergylawyers.com](http://www.canadianenergylawyers.com)

allocation between domestic and export customers<sup>4</sup> both fall within the cost allocation range that the Board has determined is appropriate for most rate classes in the setting of electricity distribution rates (revenue to cost ratio of between 80% to 120%).<sup>5</sup> SEC recognizes, as the Elenchus Report has, that one cannot do a traditional cost allocation exercise as is done with other utilities since the overwhelming amount of costs cannot be directly attributed to either domestic or export classes of customers of the Ontario electricity grid.<sup>6</sup>

Elenchus did the best job that it could do, utilizing the traditional cost allocation principle, consistent with its own evidence, on behalf of Hydro Quebec Energy Marketing (“HQEM”), in the OPA’s 2011 fees case regarding the then OPA proposal for a fee for export customers.<sup>7</sup> In that case, HQEM filed the expert evidence of Elenchus, regarding the need for the OPA to have undertaken a proper cost allocation exercise. The IESO has now done just that, and has even retained Elenchus to do it. The Elenchus Report is consistent with the principles that it articulated in its expert evidence during the 2011 OPA’s fees proceeding.<sup>8</sup>

While not perfect due to the type of organization the IESO is, it is a reasonable basis for the Board to allocate costs among the two market participant classes, domestic and export customers. The allocation would have led to usage fees that are within the range that for the sake of simplicity makes little sense to have two different fees, especially as the nature of the cost allocation exercise would not have to only be revisited every year.

#### ***Effective Date of January 1, 2016 is Appropriate***

SEC submits that the effective date should be January 1, 2016, and that market participants should be refunded (or charged) the difference between the interim fees and the proposed fee. Any over or under-collection overall, either as whole or by market participant categories (load customers, embedded and non-embedded generators, exporter marketers, etc.), should be collected or refunded.

Since a decision is likely not to be rendered for at least another month, SEC does recognize that this will require export customers to pay an additional amount for the usage, from January 1, 2016 till the effective date, in addition to any change in fees. SEC submits in these circumstances, it is reasonable and appropriate to allow this.

First, it is clearly permissible, as the IESO’s fees are interim, so doing so would not run afoul to the prohibition against retroactive ratemaking.<sup>9</sup>

Second, it is the legislative scheme under the *Electricity Act* which has created this process where in the very best of circumstances, if the Minister has not signed off on the business plan soon after submission (a statutory requirement<sup>10</sup>), it will be halfway through the year before the IESO can have its fees approved for that year.<sup>11</sup> The IESO could not file its application till January since the Minister did not approve the Business Plan until December.<sup>12</sup> Domestic

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<sup>4</sup> SEC uses the term customer in the same way Elenchus has used the term. See footnote 1 to the *Elenchus Report* at p.5

<sup>5</sup> *Report of the Board, Review of Electricity Distribution Cost Allocation Policy* (EB-2010-0219), p.36

<sup>6</sup> *Elenchus Report*, p.10

<sup>7</sup> Response to SEC Interrogatory No. 9 (I-2.0-8.09 SEC 9)

<sup>8</sup> *Ibid*

<sup>9</sup> *Decision and Interim Order* (EB-2015-0275), December 22 2015

<sup>10</sup> *Electricity Act, 1998*, s. 24(1)

<sup>11</sup> *Electricity Act, 1998*, s. 25(3)

<sup>12</sup> See letter from the IESO to the board Secretary, December 16 2015

customers should not be penalized by not receiving the full benefits of the merger, through a credit owed due to the lower single usage fee as compared to the interim fees, by having to subsidize export customers if the effective date is not January 1, 2016.

Third, domestic customers have previously seen increases in their usage fee for a given year, even if the approval came mid-way through that year.<sup>13</sup> There is no reason that export customers should be treated any differently. Lastly, unlike domestic customers, exporters are all very sophisticated energy market participants. They very well would be aware of the proposed changes in their usage fee that may require them to pay additional amounts for 2016, and could factor that into their business operations.

SEC submits the Board should approve the proposed single usage fee and effective date, as proposed.

Yours very truly,  
**Jay Shepherd P.C.**

*Original signed by*

Mark Rubenstein

cc: Wayne McNally, SEC (by email)  
Applicant and intervenors (by email)

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<sup>13</sup> For example, the decision in OPA's last approved fees case for 2014 fees was issued on November of that year and saw an increase of fees to what the interim approved fee was (See *Decision and Order* (EB-2013-0326), November 6 2014), p.1