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BY EMAIL and RESS

November 11, 2016
Our File No. 20160087

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2016-0087 – Kingston 2017 Rates

We are counsel for the School Energy Coalition. We are writing to object to the Board's determination under section 21(4) of the Act not to hold a hearing in this matter.

Under section 21(4) of the Act, the Board can only dispense with a hearing in two circumstances.

First, it can dispense with a hearing if, after due notice, no person asks for a hearing. SEC has filed a Notice of Intervention, thus clearly requesting a hearing. SEC's members include customers of Kingston Hydro that are directly affected by the Board's determination in this matter.

Second, the Board can dispense with a hearing if it determines that no person other than Kingston Hydro is materially affected by the outcome of the proceeding. The application proposes that the distribution component of the bill for some customers go up 25-75%. This can clearly be material for some customers. Thus, if the Board has determined that no person is materially affected, SEC would appreciate being advised of the rationale and evidence forming the basis of that determination.

On the facts currently available, SEC believes that section 21(4) of the Act cannot apply to this application. The fact that the application is "largely mechanistic" is not a ground for dispensing with a hearing under the Act.

That having been said, SEC is aware that the Board can exercise its discretion to limit cost recovery for intervenors in this matter if it believes that intervenors are not in a position to add value to the process, for example because of the nature of the issues arising in the application. While there are obviously legal and practical limits on the Board's discretion with respect to costs, this may be a situation in which limiting costs would be reasonable.

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SEC is also cognizant of the fact that applications such as this are in fact largely mechanistic, and SEC's role in the process may be very limited. It was our intention, in filing our Notice of Intervention, to keep that fact in mind as we reviewed it. We have limited resources, and if we cannot add value to a process, we generally spend very little time on it (and often don't claim cost recovery either).

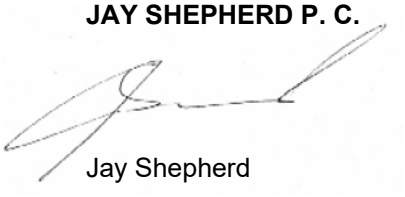
We do believe, however, in the principle of transparency, and that is the reason for this letter. The unfortunate result of the Board's letter in this matter is that the delegated authority appears to be rejecting the principle of transparency without a strong basis under the Board's enabling legislation. We are concerned that the Board can control the cost and timing of this process through other means, without setting a dangerous precedent of this sort.

We are aware that the Board, through delegated authority, has a number of times in the past determined that IRM applications could proceed without a hearing, but in every one of those cases that we have seen it appeared that section 21(4)(b) of the Act could apply. This is the first we have seen where it apparently does not apply.

SEC therefore requests that the Board rescind its determination under section 21(4) of the Act and provide for a hearing in this matter.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.



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cc: Wayne McNally, SEC (email)
Interested Parties