EB-2016-0231

Ontario Energy Board

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sch. B, as amended;

AND IN THE MATTER OF IN THE MATTER OF an application made by Five Nations Energy Inc. with the Ontario Energy Board under section 78 of the Act, seeking approval for changes to its transmission revenue requirement to be effective January 1, 2016

ENERGY PROBE RESEARCH FOUNDATION
("ENERGY PROBE")

August 23, 2017

Ontario Energy Board

Five Nations Energy Inc. (FNEI) 2016-2020 rates application.

EB-2016-0231

ARGUMENT OF ENERGY PROBE RESEARCH FOUNDATION

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1. Summary

1. Five Nations Energy Inc. (FNEI) has applied to the Ontario Energy Board (the "Board") for approval of its revenue requirement for a five-year term, beginning on January 1, 2016. FNEI is requesting the Board approve an annual revenue requirement in 2016 of $7,839,200, which will then be adjusted annually to account for inflation, productivity and a stretch factor.[1] FNEI's application is the first incentive rate-setting proposal by a transmitter in Ontario's electricity sector.

2. FNEI's revenue requirement – although an amount so small that it will have no noticeable impact on Ontario's transmission customers – is added to the total revenue requirement for the entire transmission sector. These costs are then used to establish Uniform Transmission Rates (UTRs). As such, the costs embedded in FNEI's revenue requirement – and the precedent of a decision on the first incentive rate-setting application by a transmitter in the province – are a concern for all of ratepayers. Energy Probe is fully cognizant that the amount of revenue at stake in this proceeding is, in the context of the entire transmission sector, miniscule. Nevertheless, if, like an LDC, FNEI's customers were directly on the hook for the costs of its application – and not spread across the province through UTRs – the impact would be significant. As such, Energy Probe believes that FNEI costs and the increases the utility is requesting should be treated no differently than other LDCs and other rate-regulated utilities in the province, even if the costs to transmission customers as a result of FNEI's application will go largely unnoticed.

3. Energy Probe will primarily focus its comments on three issues related to FNEI's rate application:

- operating costs
- the implementation date given the delay in the application, which is nearly two years out of date at this point
- the need for reserve funds and an ROE.

4. As detailed below, Energy Probe is concerned about the dramatic increase in FNEI's annual OM&A costs, which have increased from $3.23 million in 2011 to, as proposed, $4.34 million in 2016 – a 34% increase, or 6.9% annually.[2] While Energy Probe accepts that some increase in operating costs are warranted given the length of time between FNEI's rate applications and other reasons cited by the utility[3], we are concerned about the size of the increase and the

[1] FNEI AIC, page 1
[2] EB-2016-0231, Exhibit 6, Tab 1, Schedule 1, page 1.
[3] FNEI AIC, page 18

justification for it. Energy Probe recommends that the Board set, at the minimum, revenue requirement on 2016 actuals.

5. Energy Probe doesn't accept FNEI's implementation date. At this point, the application is almost two years out of date and, as a result, FNEI is requesting money for costs that were never incurred. While the utility says it simply wasn't possible to file the application on a more reasonable time schedule, its own evidence and remarks in the oral hearing suggest otherwise. The utility also says it should be allowed to earn a fair ROE, which it didn't in 2016 due to the delay in the application. Energy Probe believes that delay could have been avoided or mitigated. Energy Probe recommends that the Board set rates beginning on January 1st, 2017 for a four-year term.

6. Energy Probe does accept FNEI's argument that the reserve fund method, as established in the last proceeding, is unworkable. First, as a practical matter, the reserve funds were never actually funded over the last six years and the OEB never actually required the utility to do so. That leads to Energy Probe's second concern: how would the reserve funds be monitored if the Board required that they be maintained and fully funded? Would the Board be responsible for ensuring that the correct amount of money is flowing into and out of the accounts annually? Would FNEI have to apply to the Board each time it made a credit or debit transaction with the reserve accounts? Would there be a materiality threshold? The whole method seems overly complicated and one not used, as far as Energy Probe knows, at any other utility under OEB regulation.

7. Energy Probe thinks a more appropriate and reasonable approach would be to allow FNEI to earn some amount of money above its costs. FNEI wants to call that an ROE and set it at the Board-approved level. Energy Probe recommends that the utility be allowed to earn some amount of money above its costs, but should be required to maintain some form of reserve beyond its insurance fund and that the ultimate amount of return it's allowed to earn be set below the threshold for other utilities in the province, given – even though it has an approved capital structure under the regulatory framework – that it has no real equity investors.

2. Operations, Maintenance and Administration (OM&A) Costs

8. Energy Probe recommends the Board disallow a portion of FNEI's proposed 2016 operating costs. In a time of growing concern over costs in the electricity sector, FNEI is proposing to increase its operating costs, notably its salaries and benefits, by double digits (triple digits for its

total compensation costs) in the 2016-2020 period compared to its last application. Its overall OM&A costs will be set, as proposed, at $4.34 million in 2016 and increase annually based on a mechanistic adjustment, as is common in IR applications. FNEI cited three reasons for the increase: inflation, additional full-time employees (FTEs) and a compensation adjustment to match market wages and the addition of 80 km of transmission line acquired from Hydro One. Energy Probe will deal with each one of these reasons individually.

9. Energy Probe accepts FNEI's method for calculating inflation over the 5-year IRM period.

10. Energy Probe is concerned about FNEI's proposal to provide a one-time earnings bump to its employees. In 2016, FNEI is proposing to set its total compensation at $1.041 million, marking a more than 100% increase from the $496K incurred in compensation costs in 2011. The number of full-time employees, including management and non-management, will increase to 11 in 2016 from 6 in 2011.[4]

11. FNEI defends the increase in compensation costs as, simply, a response to market forces out of its control. The utility says its "competitors", notably Hydro One and OPG and, to a lesser extent, the mining industry, provide an additional 2-3% each year to employee wages on top of an annual CPI adjustment and, as a result, by 2015 "FNEI was once again falling behind in its compensation levels."[5] After looking at "similar" positions on the sunshine list of Hydro One and OPG, FNEI decided that in order to keep its wages competitive, it needed to offer its employees both a CPI adjustment and a 10% pay "bump."

12. This compensation bump may be unwarranted for a couple of reasons. First, FNEI provided no detailed evidence comparing its positions to those at competitors like Hydro One or OPG. It appears that the utility did a cursory glance at the sunshine list, which doesn't include all of the employees at either one of those utilities, meaning FNEI's approach to setting pay grades likely misses a number of lesser-compensated employees in comparable positions. OPG, for example, has around 7,700 employees on the sunshine list (as of 2016), yet has more than 9,200 total employees (as of 2016).[6] FNEI's comparison, by its very nature of only looking at employees on the sunshine list, would inevitably skew its pay scale higher.

13. More notable to Energy Probe is that the OEB has consistently highlighted that both OPG and Hydro One pay excessive wages. In the case of OPG, the Board has called its wages "excessive", "higher than they should be" and determined that it would be "unreasonable" to pass all of those costs onto ratepayers.[7] Regarding Hydro One, the Board has ruled that it "is

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[4] As we deal with later in the argument, FNEI didn't actually spend its budget in 2016, or hire the employees it forecast. The 11 FTEs that it forecasts in its application in 2016 was actually 9.
[5] EB-2016-0231, IRRs to Board Staff, page 85
[6] OPG 2016 annual report, page 49.
[7] EB-2013-0321, Decision with Reasons

not fair that ratepayers" pay a premium over the market median when it comes to the utility's wage bill.[8] In both cases, the Board disallowed operating costs as a direct result of evidence showing both OPG and Hydro One paid above-market wages. Both Hydro One and OPG also have rate applications before the Board in which many parties, including Board Staff, which recently called OPG's compensation costs "unreasonably high", have expressed concern over excessively high wage bills.[9]

14. Furthermore, in the case of Hydro One and OPG, total compensation costs are, in the coming years, largely flat. Those two companies – while admittedly still offering above-market salaries to their employees – appear to be finding ways to keep the compensation costs they pass on to electricity customers flat in the context of their overall revenue requirement. OPG's total compensation costs for its nuclear business, for example, have barely increased from $1.534 billion in 2013 to $1.554 billion in 2016 and will remain largely flat out until 2021.[10] In Hydro One's recent transmission application, its total wage bill increased from $719.9 million in 2013 to $800.5 million, or just under 12%.[11] FNEI, on the other hand, is proposing to increase its total wage bill from $637.3K in 2013 to $1.041 million in 2016 – or about 63%.

15. FNEI says that any argument to block its proposal to move its salaries closer to those of OPG and Hydro One on the basis that the Board has determined those are unreasonable is "absurd". Energy Probe finds that criticism unwarranted. FNEI provided little-to-no response to clear and repeated warnings from the OEB that compensation levels in the electricity sector are too high and, instead, the utility simply relies on the argument that wages are too high everywhere else and we should be treated no differently. Furthermore, FNEI provided no clear evidence that its employees are underpaid or, as detailed below, repeatedly jumping ship to its competitors. In fact, throughout the hearing FNEI detailed many of the non-monetary perks of working at the utility, including allowing workers to stay onsite during peak periods of work and bank holiday time for other parts of the year. FNEI even admitted that many of its employees prefer to bank time rather than receive a payout.[12]

16. It's not evident that FNEI is struggling to attract or retain its employees – quite the contrary. FNEI admitted during the oral hearing that, since 2010, it hasn't lost one employee to a competing utility.[13] It's also been able to increase the number of non-management, full-time employees from four in 2011 to six last year, with plans to add an additional two employees.

[8] EB-2013-0416, Decision
[9] EB-2016-0152, Board Staff Argument
[10] EB-2016-0152, Board Staff Argument, page 100
[11] EB-2016-0160, Exhibit C1, Tab 4, Schedule 1, Attachment 1, Page 1 – 6
[12] Transcript, Volume 1, page 177
[13] Transcript, Volume 1, page 163

Furthermore, FNEI offered all of its employees the same pay bump, regardless of when they joined the company.[14] Yet, that goes completely against FNEI's argument that it needs the pay bump to attract and maintain employees, as a number of employees joined the utility well after 2010 (some as recent as 2015) and, in the process, chose it over its nearby competitors. FNEI still chose to offer the pay bump to these new employees even though they would have been fully aware of what competing companies in Timmins and the surrounding area were offering in compensation packages.

17. FNEI didn't actually spend the money it had forecast in 2016, yet it wants to use that year for rebasing. The utility proposed to spend $4.336 million in 2016, but actually spent $3.916 million – a difference of $420K.[15] In the oral hearing, FNEI simply didn't have an answer to how it intends to deal with a situation where the Board approves their 2016 costs, even though that money wasn't spent. As detailed below, Energy Probe recommends that the Board approve rates beginning in 2017 on 2016 actuals, or at a minimum approve 2016 rates based on actuals for that year, which is still a 20% increase in OM&A costs from 2011.

18. Ultimately, Energy Probe questions the reasonableness of basing future revenue requirements on 2016 when FNEI didn't, for a variety of reasons, spend that money. For example, FNEI noted that 2016 costs were $164K lower than expected in regards to executive salaries and expenses, which the company says was because CEO compensation was "less than what we had anticipated" and there was less spending for board meetings and associated costs.[16] Energy Probe sees no reason why those costs should be included in revenue requirement going forward, given they weren't incurred or necessary in 2016.

19. Energy Probe is also concerned that FNEI's move to bring more of its operations and duties in-house is significantly more expensive than using outside consultants.[17] FNEI says the increase in costs is justified, as the utility's transmission system today is "not the same system as it was in 2010." FNEI noted the 80 km of line purchased from Hydro One as one example of how the system is different today than in 2010. FNEI witnesses also highlighted that "there are maintenance procedures that the outside contractors never fulfilled...that now with internal staff, staff that have the expertise and the training to do that, these procedures are now being fulfilled."[18] FNEI later noted that if outside contractors were doing the same amount of work

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[14] Transcript, Volume 1, page 40
[15] EB-2016-0231, Exhibit 6, Tab 1, Schedule 1, page 1, Table 6-1-1-A and EB-2016-0231, IRRs to Board Staff, page 77, response a).
[16] Transcript, Volume 1, page 164-165
[17] EB-2016-0231, IRRs to Board Staff, page 88
[18] Transcript, Volume 1, page 51

today as is now being completed by in-house staff, the "cost would be significantly higher."[19] FNEI also argued that moving services in-house improves reliability.[20]

20. FNEI's evidence shows that reliability has gotten worse since 2010, while costs are getting higher. Looking at both SAIFI and SAIDI metrics, FNEI has performed worse in both 2015 and 2016 than in 2010.[21] FNEI's conclusion that bringing work in-house, which it admits is more expensive, doesn't appear, on the surface, to be improving service – quite the contrary.

21. FNEI also admits that its push to bring services in-house resulted in other cost consequences, notably the need for a larger head office.[22]

22. FNEI dismisses the notion of simply looking at the cost of moving services in-house and comparing that to the cost of using outside consultants, yet provides very little evidence of productivity savings obtained through the moving its operations in-house. While FNEI points to things like brush clearing equipment, which produce annual savings,[23] the company doesn't lay out any clear productivity improvements that provide greater value for money for consumers, a clear component to the RRFE. In other incentive rate applications, notably Hydro One's 2015-2019 distribution application, the Board highlighted that Custom IR applications should "provide companies with strong incentives to continuously seek efficiencies in their businesses."[24] While Energy Probe notes that FNEI does provide a number activities that produce savings, it doesn't detail a clear roadmap for greater productivity and efficiencies going forward. In fact, its OM&A costs are, as detailed above, growing dramatically, while demand for power in the region is flat. Energy Probe fully recognizes that FNEI is a small utility and any efficiencies will be much smaller in scale compared to utilities like Hydro One. Nonetheless, the double-digit increase in OM&A costs and a lack of detail on future productivity savings is concerning given the intent of the RRFE. FNEI should be treated no differently than larger utilities and, as such, should be required to detail productivity savings going forward.

23. Energy Probe is also concerned about FNEI's failure to find efficiencies in maintaining and operating the 80 km of transmission line it has acquired from Hydro One. Hydro One's most recent estimate (2011) for the costs associated with maintaining that portion of the transmission line is $57K.[25] FNEI has lowered the annual cost of maintaining the asset to $51K. But, unlike Hydro One, FNEI already operates and maintains a transmission line directly next to the newly

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[19] Transcript, Volume 1, page 172
[20] Transcript, Volume 1, page 50
[21] EB-2016-0231, IRRs to Board Staff, page 65-66
[22] Transcript, Volume 1, page 117
[23] EB-2016-0231, IRRs to Board Staff, page 28
[24] EB-2013-0416, Decision, page 14
[25] Transcript, Volume 1, page 71

acquired 80 km of assets. When asked why it would not be able to operate and maintain the asset at a significantly lower cost than Hydro One, FNEI noted that the twinned line is part of its agreement with DeBeers, which isn't included in its rate base or revenue requirement.[26] Yet, the fact of the matter is that FNEI is already operating and maintaining an asset directly adjacent to the newly acquired 80 km, but it can't find material efficiencies compared to Hydro One, which didn't have operations in the area. We find that argument unconvincing.

24. Finally, Energy Probe questions the usefulness of FNEI's annual energy conservation spending, which totals $30K, given the lack of detailed plans for the money, the increase in funding from the province to lower monthly hydro bills in FNEI's network and the lack of demand growth forecasted by FNEI. Typically conservation spending would undergo a cost-benefit analysis to show that it provides good value for money, yet FNEI admits it hasn't "put any specific plans in place for these funds."[27] Conservation funding can offer lower rates for customers if it allows them to invest in things like efficient lighting and so on, yet FNEI's customers will likely benefit from a range of new programs funded by the province, including an expanded Ontario Electricity Support Program (OESP), a First Nations On-Reserve Delivery Credit and an Affordability Fund, among a wider promise by the province for a cut to HST and other electricity rebates included in the Fair Hydro Plan. The unplanned conservation spending by FNEI – paid for by transmission customers across the province – appears unnecessary given the amount of provincial funding now available to mitigate hydro bills. The IESO also offers conservation programs to LDCs serviced by FNEI. Conservation can also help lower costs in the long-term by avoiding investments in unnecessary transmission upgrades or new generation. FNEI admits that demand in its service area will remain flat over the test period or, given the publicly announced plans of its largest customer, may decline significantly. The conservation spending seems unnecessary given the many rebates on offer and the declining or flat demand forecasts for the region serviced by FNEI.

3. Implementation Date

25. FNEI's rate application proposes an implementation date of January 1, 2016. Given that a decision from the Board is unlikely before the beginning of October, it will be nearly two years past that date by the time the rate order kicks in. Energy Probe recommends that the Board consider a different implementation date, such as January 1, 2017. Energy Probe is recommending a later implementation date for the following reasons: the delay in FNEI's application could have been avoided and the utility is asking for money for 2016 costs that were never incurred.

[26] Transcript, Volume 1, page 45
[27] Transcript, Volume 1, page 56

26. FNEI's reasons for the delay in submitting its application, in Energy Probe's view, are lacking. FNEI notes that the biggest reason for the delay in filing was the purchase of 80 km of transmission line from Hydro One, followed by, to a lesser extent, the appointment of a new CEO and the OEB's new transmission filing requirements.[28] Yet, FNEI's own evidence shows that as early as 2014 FNEI's finance controller urged the utility to forward its rate application to the OEB by end of 2014 and amend the application at a later date to include the final purchase price of the 80 km transmission line.[29]

27. In the oral hearing FNEI acknowledged that as early as September of 2014 the utility had a fairly accurate estimate of the purchase price of the 80 km of transmission line (it forecast a price of just over $5 million with the eventual price tag being just under $5 million). Yet, when asked why it didn't include an estimate of the purchase price in its rate application and amend it at a later date, FNEI's witness replied that "we are a small company" and the purchase took much of his time, as well as that of the regulatory lawyer and other management. FNEI's other witness added that there were "internal" issues facing the utility.[30] Energy Probe is sympathetic to the time constraints facing a small utility like FNEI and the resources needed to file a five-year custom IR application, but the utility had known for years that it was going to purchase the 80 km transmission line and that it would be filing a rate application for 2016 and should have planned accordingly.

28. A number of costs that FNEI is including in its application never actually occurred. When asked how it would deal with the fact that the Board would be approving increased costs related to two hires in 2016 that never occurred, FNEI's witness replied that he simply "didn't have an answer for that."[31] When questioned by counsel for Board Staff whether FNEI was asking the Board to approve costs for 2016 that weren't spent, FNEI noted that "was correct." FNEI's counsel noted that FNEI's ROE for 2016 was "below one percent" with the implication being that the increase in revenue requirement that the utility is seeking from the Board for positions that were never spent and costs that were never incurred would improve that ROE figure. Energy Probe is of the view that granting FNEI revenue for costs that were never incurred goes against good regulatory oversight and, as such, should be be avoided. A more appropriate response would be for an implementation date of January 1, 2017 using 2016 actuals as a baseline. Energy Probe provided recommendations above, such as conservation costs and a more appropriate level of spending needed to operate and maintain the new 80 km of transmission line, as further suggestions to the Board for a lower revenue requirement.

[28] EB-2016-0231, IRRs to Board Staff, page 28
[29] EP compendium, page 54
[30] Transcript, Volume 1, page 61-62
[31] Transcript, Volume 1, page 36

4. ROE and Reserve Fund

29. A key component to FNEI's application is its request to earn an ROE or some level of revenue above its costs. Energy Probe supports FNEI's position on the basis that it should be treated no differently than other utilities and the reserve system established by the Board in the last proceeding is a form of regulatory overreach and is, administratively, unworkable. That said, we recommend that the Board consider, first, ensuring that FNEI has some amount of money in a capital fund to handle large and unforeseen capital expenditures that are likely to occur given the location and terrain of FNEI's assets, as well as, potentially approving a lower level of ROE than the Board-established return applied to LDCs and transmitters across the province.[32]

30. It's a matter of regulatory fairness that the Board grant FNEI some form of ROE (or whatever the Board decides to call it), given that the Board has accepted the utility's deemed capital structure of 60% debt and 40% equity.[33] Energy Probe doesn't believe there has been any significant change to FNEI's business or financial risk, and, as such, the deemed capital structure as approved in the last application still holds. Because the Board has approved – and as we recommend, should continue to do so – a deemed capital structure for FNEI, it would be a matter of regulatory "fairness" for FNEI to be able to earn some form of proxy return on its deemed equity, as the Board does for nearly every other utility in the province.

31. The current reserve approach approved by the Board in the last proceeding is, in Energy Probe's view, unworkable. First, there's the simple matter that the Board never actually enforced the ruling for reasons that were never made clear in the proceeding, but highlight both the administrative burden of this approach and the reality that failing to enforce it had little-to-no bearing on the day-to-day operations of the utility. It's not clear to Energy Probe how such an approach would be monitored. Would FNEI have to file reports with the Board on a quarterly or annual basis detailing any entries into the accounts? Would the Board have to approve every credit or debit from the accounts? Would the Board do so on an annual or quarterly basis and would that be appropriate now that FNEI is moving to incentive regulation? More simply, FNEI didn't – in any way – follow the Board's ruling from the last proceeding to fund the capital and operating reserve accounts over the last five years and the Board, frankly, never did anything about it. In Energy Probe's view that means either the Board didn't fully support its own ruling

[32] In its last application Energy Probe argued for a Times Interest Earned Ratio (TIER), which we still believe would be appropriate for FNEI, but was considered too "formulaic" by the Board in its decision. As such, we have not pursued the TIER approach in this hearing or argument and have instead focused on whether an ROE approach that aligns with how the Board regulates other utilities in the province is reasonable.

[33] FNEI AIC page 23.

(unlikely) or the process was too administratively burdensome and onerous to reasonably complete.

32. Since moving ahead with the reserve fund approach seems unworkable and the Board previously ruled against the TIER method, the only way forward, in our view, is for the Board to approve some form of revenue above costs i.e. some form of profit/ROE. That raises two questions: what level should that profit/ROE be set at and should FNEI be required to set aside some amount of money above the insurance fund to handle an unexpected event to its assets, particularly given the extreme weather conditions and terrain the utility operates within?

33. Energy Probe believes the Board should set an ROE at a level below that of other utilities and proposed by FNEI (9.19%). Our position is the same as that argued in the last FNEI proceeding: FNEI is a not-for-profit utility with no real equity investors and, as such, no need to attract investment to support its operations. The Board's approach to setting ROE, as laid out in its 2009 report "Cost of Capital for Ontario Utilities" clearly lays out that "by establishing a cost of capital, and an ROE in particular, that is comparable to the return available from the application of invested capital to other enterprises of like risk, the regulator removes a significant barrier that impedes the flow of capital into or out of, a rate regulated entity."[34] In the case of FNEI, as a not-for-profit entity, the need to attract capital in the form of equity simply doesn't exist and so the level of ROE doesn't have to be the same as comparable, for-profit utilities. The Board, in Energy Probe's view, can adjust its allowed level of ROE given the unique circumstances of FNEI.

34. If FNEI wants to receive a full ROE, similar to for-profit utilities across the province, it could reorganize itself as a for-profit utility. FNEI's reasoning for not becoming a for-profit utility is that if the company were to turn itself into a for-profit utility, it would immediately be sold to other investors.[35] If that were to occur, the first nation communities that currently own the transmitter would "lose any type of control."[36] Energy Probe is sympathetic to that stance and fully recognizes the social importance of FNEI to the communities it serves. But we also want to point out that FNEI is asking the Board to be treated no differently than other utilities in the province, while at the same time asking the Board to, in essence, treat it differently.

35. The regulator should be, largely, unconcerned with who actually owns the assets – unless it's directed by legislation to take that into consideration. The Board's role is to regulate utilities in the same manner and uphold the same standards, regardless of who owns an asset (public or private). FNEI's stance that it must remain for-profit in order to remain solely owned and operated by first nation communities is, ultimately, asking the Board to regulate it in a different

[34] Report of the Board on the Cost of Capital for Ontario's Regulated Utilities, page 21.
[35] Transcript, Volume 2, page 41
[36] Transcript, Volume 2, page 42

manner. If FNEI wants to earn an ROE and then use a share of its profits to fund social programs, it could become a for-profit utility and do so. FNEI's request to be treated like a for-profit utility, while simultaneously warning that becoming a for-profit utility would signal the end of the company, puts the Board in a tough spot. Energy Probe doesn't have a strong view on whether FNEI should be a for-profit or non-profit utility, but does want it made clear that the current proposal by FNEI is, in our view, asking the Board to carve out an exception.

36. Finally, granting FNEI a profit/ROE doesn't completely eliminate the risk of a force majeure event and the impact it would have on the utility's assets. Given the remote location and extreme weather conditions facing FNEI's assets, Energy Probe suggests that the Board establish some form of a limited capital reserve fund beyond the insurance reserve to handle such an event. If no fund is established and FNEI uses net income from its approved ROE to fund social and other community-oriented projects, it will not have the financial capability to maintain the safety and reliability of its assets. Energy Probe suggests that the Board require FNEI to maintain a capital reserve fund of at least one year's capital spending, which in 2016 was forecast to be $2.120 million.[37] Once the capital fund is fully funded, FNEI would be able to use it's "ROE" for the social and community-oriented purposes as it laid out in the hearing. Unlike the reserve fund system established by the Board in the last hearing, Energy Probe doesn't believe FNEI's revenue requirement should be reduced once its capital fund is fully financed.

COSTS

Energy Probe requests that it be awarded 100% of its reasonably incurred costs. Energy Probe did its best to limit the number of hours dedicated to this hearing. We also diligently reviewed Board Staff's materials in order to limit time spent on cross examination and argument.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

August 23, 2017

Brady Yauch
Consultant to Energy Probe Research Foundation

[37] EB-2016-0231, IRRs to Board Staff, page 49