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## THE BOARD OF DIRECTORS

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Professor of Economics, University of Guelph	Columnist, Globe and Mail

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April 30, 2018

Ms. Kirsten Walli  
Board Secretary, Ontario Energy Board  
P.O. Box 2319, 27th Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Please find Energy Probe's response to initial positions requested by the Board in Procedural Order #5 for the EB-2017-0306/07 proceeding. These positions are preliminary and subject to change based on responses to questions – from Energy Probe and other parties to the proceeding – asked during the oral hearing. While Energy Probe has certain long-standing principles – including, but not limited to economic efficiency in the energy sector – that the organization and its supporters have advocated for in hundreds of proceedings before the Board, it doesn't typically solidify its position on key issues prior to the evidence being tested through interrogatories and an oral hearing (if there is one).

As such, we expect a number of positions to change through the course of the oral hearing and final argument.

**1. Do you plan on supporting approval of the merger?** Not as it is currently presented. We believe that a number of common regulatory stipulations of approval as laid out in Energy Probe's evidence (see APPENDIX) may be relevant to this proceeding. In general, Energy Probe is not convinced that the current application fully meets the "no harm" standard.

**2. If you plan to support the merger what, if any, conditions of approval will you propose?** We believe there are 14 common conditions of approval, as presented in Energy Probe's evidence, that should be considered in this case.

**3. Do you support the 10-year deferred rebasing period?** Not in its current form. As the Energy Probe evidence shows, a ten-year deferral is not a common regulatory practice. The Applicants' overriding rationale for the ten-year deferral is that it is allowed under the MADDs policy, which we feel is applicable to unique circumstances in the province's local electricity distribution sector – hundreds of local LDCs with ample redundancy in costs – and should not be applied verbatim in this proceeding.

**4. Are there elements of the proposed rate setting framework that you oppose?** Energy Probe is concerned that the utilities are proposing a zero percent X factor in their rate formula, which suggests that they don't expect to find material productivity savings over the next decade.

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Secondly, we are concerned that the combined utility plans to maintain two separate Incremental Capital Modules (ICM), as opposed to having a combined ICM. Thirdly, we are concerned that the utility does not intend to update its cost allocation models. Without doing so do, it's not clear to Energy Probe that gas customers will be paying just and reasonable rates.

**5. Are there elements missing from the proposed rate setting framework?** One area of particular concern for Energy Probe is the Earnings Sharing Mechanism (ESM) being proposed by the merged utility. Energy Probe questions whether having no ESM during the first five years and, subsequently in years six through ten, only sharing earnings with ratepayers when they exceed three hundred basis points is a reasonable proposal.

Yours truly,  
Brady Yauch

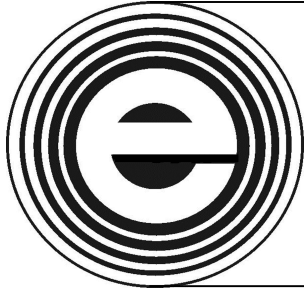


Consultant for Energy Probe Research Foundation

**APPENDIX:**

14 common stipulations found in regulatory approvals of mergers and acquisitions, as detailed in Energy Probe's evidence.

1. Job Protection
2. Local Headquarters or Office
3. Rate or Bill credits
4. Rate Moratorium or Freeze
5. Rate Application Delay
6. Rate Base Offset
7. Protection from Premium Paid
8. Debt Rating Protection or Stipulations
9. Community Support Funds
10. Evidence of Cost Savings
11. Increased Capital Investment or Capital Fund
12. Protection from Transition Costs
13. Protection from Transaction Costs
14. Ring Fencing



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