



BY EMAIL and RESS

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Our File No. 20180243

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2018-0243 – OPG DVA Accounts – Issues List

We are counsel for the School Energy Coalition (“SEC”). Pursuant to Procedural Order #3 in this matter, this letter constitutes SEC’s submissions on the Issues List.

OPG has proposed that it will not seek further DVA recovery until 2022. The clearest example of this position is at the Technical Conference¹:

“MS. GIRVAN: Yes. I am just looking at this chart and it sets out the riders going forward to 2021. What you told me earlier was that you are not intending on applying in that period for recovery of anything. I guess any further recovery of amounts would start in 2022, is that correct?”

MS. MacDONALD: Yes, at this point in time, it is not OPG's intention to file for DVA recovery prior to its next rate application.”

OPG’s view appears to be that the timing of DVA applications is entirely within their discretion. SEC does not agree. A fair reading of the OEB Act suggests, in fact, that the Legislature has placed the responsibility for determining when and how DVA accounts will be cleared squarely in the hands of the Board, subject only to specific restrictions enunciated by the LGIC. Nowhere

¹ Page 23.



in the OEB Act or Regulations does it suggest that DVA clearance is under the control of the regulated utility, whether OPG or anyone else.

It is not clear to SEC that the solution is annual clearance of all deferral and variance accounts by OPG. That is one possibility. Another possibility is that DVAs are cleared at the time of each rebasing, as OPG appears to suggest. Every possibility would have to be weighed in light of the OEB Act, O.Reg.53/05, s.5.5 and s.6(2)12, and the Board's regulatory policies, and the answer does not appear to be straightforward.

What is clear, however, is that it is the Board that should decide the timing of crediting or debiting these billions of dollars to rates. Since at least the amendments to the OEB Act in 2003, it is patently no longer appropriate that utilities clear accounts at their leisure.

All of which is respectfully submitted.

Yours very truly,

SHEPHERD RUBENSTEIN PROFESSIONAL CORPORATION

A handwritten signature in black ink, appearing to read "Jay Shepherd", written over a light blue horizontal line.

Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested Parties