

February 25, 2019

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

Re: EB-2018-0028- Energy+ Inc. – 2019 Cost of Service Application

We represent the Consumers Council of Canada (Council) in the above-referenced proceeding. On Friday February 22, 2019, the Ontario Energy Board (OEB) Staff wrote to the OEB requesting direction regarding an issue in the proceeding. In its letter OEB Staff specifically stated:

As the issue of cost allocation to embedded distributors has been reviewed and decided in Energy+'s previous applications, and an alternative methodology was not indicated in Energy+'s application or the Notice of Application, OEB Staff is concerned that embedded distributors that could be affected by an alternative cost allocation have not received sufficient notice. OEB Staff therefore requests direction from the panel whether the alternative embedded distributor cost allocation raised by VECC, is within the scope of the upcoming oral hearing¹.

The Council is of the view that it would be inappropriate at this stage in the proceeding for the OEB to decide that the issue of cost allocation for the embedded distributors is out of scope. OEB Staff is making the request for two main reasons. One is that there has not been sufficient notice given to those distributors that may be impacted by an alternative cost allocation approach (rather than the approach in Energy+'s application). The other reason set out by OEB Staff is that Energy+'s approach is consistent with an OEB policy established in 2011 and with previous decisions regarding Cambridge and North Dumfries' rates.

The Council submits that cost allocation issues are often considered in cost of service applications. At times the OEB makes a decision to adopt alternative approaches to those set out in the application. The Council is not aware of any cases where the OEB has rejected an alternative approach solely on the basis that it is inconsistent with a previous OEB Decision regarding that particular utility. This would imply that changes are never appropriate. It would also mean previous decisions would effectively bind future panels in their decision-making on these issues. Parties should be free to propose alternative approaches with respect to any issue.

OEB Staff is concerned that one embedded distributor in the Energy+ service territory is not an intervenor in this proceeding and may not be aware of potential changes regarding cost allocation that may impact its rates. This is not something new. Intervenors are free to propose alternatives in any rate proceeding that may impact the various customer classes in a way that was not included in the application or the Notice. From the Council's perspective to deem an issue out of scope because: a) it is

¹ OEB Staff letter to Kirsten Wall, dated February 22, 2019, p. 2

not consistent with OEB policy and previous decisions regarding the subject utility; and b) because those potentially affected were not given sufficient notice would be a dangerous precedent from a procedural perspective. This would both limit the ability of intervenors to propose alternatives with respect to all elements of an application and restrict the ability of OEB panels to consider alternatives that may be inconsistent with a previous panel's decision.

The Council urges the OEB to keep the cost allocation issues in this proceeding all within scope.

Yours truly,

Julie E. Girvan

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CC: All parties