March 29, 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 Plus Inc. – 2019 Rates – Final Argument of the Consumers Council of Canada

Please find, attached, the Final Argument of the Consumers Council of Canada in the above-referenced proceeding.

Yours truly,

Julie E. Girvan

Julie E. Girvan

CC: All parties

FINAL ARGUMENT OF THE CONSUMERS COUNCIL OF CANADA

EB-2018-0028

ENERGY + INC. 2019 RATES

INTRODUCTION:

On April 30, 2018, Energy+ Inc. ("Energy+) applied to the Ontario Energy Board ("OEB") for approval of distribution rates effective January 1, 2019. Among the key specific approvals being sought by the Applicant are:

- Approval to change the rate year to January 1 to December 31 from May 1 to April 30;
- Approval of a Service Revenue Requirement of approximately $36 million;
- Approval to harmonize rates and Specific Service Charges for the Cambridge and North Dumfries ("CND") and Brant County ("Brant") service areas;
- Approval to implement a Standby Charge for the Large Use and certain General Service rate classes with load displacement generation;
- Approval of an Advanced Capital Model ("ACM") to fund a portion for the Land and Facilities Plan;
- Approval to adjust the Retail Transmission Rates;
- Approval to dispose of amounts in the Group 1 and Group 2 and Other Deferral and Variance Accounts;
- Approval to charge the OEB's updated Pole Attachment Charge; and
- Approval to use gross load billing for Retail Transmission Rates for customers with load displacement generation[1];

On September 27, 2018, Toyota Motor Manufacturing Canada Inc. ("TMMC") filed evidence of Mr. Jeffery Pollock and Ms. Melody Collis dealing with a number of discrete cost allocation and rate design issues. On February 15, 2019, TMMC filed updated evidence from Mr. Pollock in which he proposed a separate TMMC large Use Class.

[1] Ex. 1/p. 12

On November 7, 2018, a Settlement Conference was commenced and lasted three days. The outcome of that process was a Partial Settlement. The Settlement Proposal was filed with the OEB on December 12, 2018. The following is a list of the outstanding issues:

- The Southworks Advanced Capital Module Request (Issue 1.1)
- Cost Allocation (Issue 3.2)
- Rate Design (Issues 3.3 & 3.4)
- RTSR and LV Rates including Gross Load Billing of RTSR (Issues 3.5 and 3.6)
- Standby (Issue 3.7)
- Group 2 Deferral and Variance Accounts (Issue 4.2)
- Load Forecast (Issue 3.1)

These are the submissions of the Consumers Council of Canada ("Council") regarding the remaining issues. With respect to the cost allocation and rate design issues, the Council has reviewed the draft argument of the Vulnerable Energy Consumers Coalition ("VECC"). The Council supports the detailed submissions made by VECC regarding each of those issues.

The Southworks Advanced Capital Module Request (Issue 1.1)

Through the Settlement Proposal all parties were able to reach agreement on all capital related issues with the exception of Energy+'s request for an Advanced Capital Module ("ACM") related to its proposed administrative building located in the Gaslight District in Cambridge known as the "Southworks" facility. This project is part of an overall Facilities Plan presented by the Applicant. The original cost of the plan related to the Southworks Facility was $4.1 million with an additional $.5 million for furniture. The estimate was updated on December 13, 2018. Energy+ is now seeking approval of an ACM of $8.1 million. This includes $7.6 million in renovation costs related to a building "gifted" to Energy+ with an additional $.5 million for office furniture and equipment.[2] This represents an increase of $3.5 million. The expected occupancy of the facility is in 2022.[3]

On September 14, 2018, at the time the interrogatory answers were filed, the estimate was still $4.6 million. In the updated evidence filed two months later Energy+ indicated that the variance was related to the fact that the original estimate was based on a Class D analysis whereas the work produced by their architectural firm in September 2018 was based on a Class C estimate. Energy+ explained that a Class D estimate is "generally based off high level concepts and overall square footage estimated derived from similar projects." The Design Brief produced in September 2018, based on the Class C estimate is a project planning document that specifies "what the project aims to achieve, by what means and within what time

[2] Updated Evidence filed on December 13, 2018, pp. 6-7
[3] Transcript Vol. 1, p. 7

frame." This includes things such as; site planning and development, environmental remediation, architectural design concepts, mechanical design, electrical design, floor plans and cost estimates.[4] The $8.1 million has been characterized by Energy+ as their "best estimate" of the project costs at this time.[5]

Energy+'s ACM request is based on *Section 2.2.2.3 of the Chapter 2 Filing Requirements for Electricity Distribution Rate Applications* issued on July 12, 2018, which allows distributors, as part of a cost of service filing, to apply for an ACM for projects that are expected to come into service during the Price Cap IR term. As set out in its Argument-in-Chief any ICM proposal must also comply with all of the reports issued by the OEB regarding the capital funding of capital investments.[6] The review and approval of business cases for ACM requests are subject to the following criteria. The project must be:

- Discrete
- Material
- Needed; and
- Prudent

The Council agrees that any ACM request must meet the criteria set out above. The Council, however, has a number of significant concerns with the OEB approving the Southworks Facility at this time based on the above criteria. From the Council's perspective, this may well turn out to be a prudent choice for Energy+ with respect to its overall facilities plan. However, for number of reasons the Council submits that it is simply premature for this OEB panel to approve the project at this time.

The Council's concerns are as follows:

- The overall project costs have significantly increased from what was presented in evidence, and originally in September 2018. That increase is approximately 63%[7];

- The final construction costs are not known at this time as the work has not be put out to tender.[8] The $8.1 million is a "best estimate". Even without this level of certainty Energy+ is seeking a finding from this panel of need and prudence;

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[4] Ibid, p. 6
[5] Transcript Vol. 1, p. 62
[6] Energy+ Argument-in-Chief filed on March 15, 2019.
[7] Transcript Vol. 1, p. 72
[8] Transcript, Vol. 1, p. 62

- The genesis of the proposal was when, in 2016, Energy+ was approached by the developer of the Gaslight District Project and offered the space subject to Energy+ undertaking the full renovation of that space[9];

- The estimates were provided by the architectural and construction firms that were working on the overall development project. That work was not subject to tender.[10]

- The projected occupancy of the space is in 2022 although subject to a number of factors could go beyond 2022 in to 2023.[11] For a 2022 occupancy construction would not begin until 2021.[12]

- When assessing the costs of the Southworks Facility and the Garden Avenue Facility to comparable facilities for other LDCs, the square footage is significantly higher ta $370 per square foot.[13]

- Energy+ has not supported its request by presenting an analysis of the comparable options in the Cambridge market.[14]

The Council is not making an argument that at the end of the day the Southworks Project should not necessarily proceed. The Council is not making an argument that this project could not under certain circumstances qualify for ACM treatment, which is a regulatory instrument approved by the OEB. It is simply premature for the OEB to approve the ACM request at this time. Energy+ has presented no evidence that this option is the least-cost option for its ratepayers. In addition, the fact that the project costs for a project that may not be completed until 2023 have increased significantly over the last six months is concerning. It is simply unclear, at this point, what the final costs of that project might be. They have provided what they characterize as a "best estimate" provided by the contractor and architect whose work was not tendered, but chosen because they were developing the rest of the overall project.[15]

Energy+ has is not currently contractually committed to the project.[16] In addition, Energy+ has the ability to remain in its current facilities if the project is delayed.[17] Energy+ does not need the money to advance this project in 2019 or 2020, but

[9] Transcript Vol. 1, p. 58
[10] Transcript Vol. 1, p. 57
[11] Transcript Vol. 1, p. 61
[12] Transcript Vol. 1, p. 55
[13] Ex. K1.5 –SEC Compendium, p. 30/ Transcript Vol. 1, p. 76
[14] Transcript Vol. 1, p. 78
[15] Transcript Vol. 1, p. 57
[16] Transcript Vol. 1, p. 59
[17] Transcript Vol. 1, p. 60

rather wants approval now to eliminate any risk of uncertainty with respect to recovery in the future[18].

The Council submits that the OEB should not approve Energy+'s request for ACM treatment at this time. Energy+ will have an opportunity to apply for ICM relief in the future for the project. If Energy+ is confident that this project represents the best alternative for ratepayers going forward it should proceed with the project. OEB approval must be based on an assessment as to whether Energy+ has undertaken the appropriate analysis to justify the project relative to all of the available alternatives, including an assessment of rental alternatives in the Cambridge area. In addition, the final project costs must be assessed on the basis of whether Energy+ proceeded prudently and how those final costs compare to other utility benchmarks. In the absence of such evidence the project should not be approved.

Other Issues:

As set out earlier in this submission the Council supports the detailed submissions set out by VECC with respect to each of the following issues:

- Cost Allocation (Issue 3.2)
- Rate Design (Issues 3.3 & 3.4)
- RTSR and LV Rates including Gross Load Billing of RTSR (Issues 3.5 and 3.6)
- Standby (Issue 3.7)
- Group 2 Deferral and Variance Accounts (Issue 4.2)
- Load Forecast (Issue 3.1)

Costs:

The Council requests that it be awarded its reasonably incurred costs associated with its participation in this proceeding.

All of which is respectfully submitted.

[18] Transcript Vol. 1, p. 56