



BY EMAIL and RESS

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2300 Yonge Street
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April 5, 2019
Our File: EB20180028

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2018-0028 – Energy+ Inc. – SEC Reply Argument

We are counsel to the School Energy Coalition (“SEC”). Enclosed, please find SEC’s Reply Argument on the unsettled issues.

Yours very truly,
Shepherd Rubenstein P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and interested parties (by email)

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15 (Schedule B);

AND IN THE MATTER OF an application to the Ontario Energy Board by Energy+ Inc. pursuant to Section 78 of the *Ontario Energy Board Act* for approval of its proposed distribution rates and other charges, effective January 1, 2019.

**REPLY ARGUMENT OF THE
SCHOOL ENERGY COALITION**

Advanced Capital Module (Southworks)

1. Both VECC and CCC agree with SEC that approval of the Southworks ACM¹ appears to be premature as Energy+ has not met their burden to show that the specific project and its costs are prudent.² In contrast, Board Staff appears to accept the prudence of the project, yet they do so while providing additional benchmarking information that shows Energy+ costs for Southworks are *significantly higher* than similar projects.

2. Board Staff's submissions compare the Southworks forecasted costs with projects for administrative offices for both the former Powerstream and Enersource distributors (now part of Alectra). On a cost per square foot, they are both substantially lower costs than the forecast Southworks project.³ While Board Staff is correct to note the various limitations of the comparison, SEC does not understand how a difference in cost of 23% and 62% leads to the conclusion that the "proposed capital cost per square foot for the Southworks facility is comparable to similar investments that have been approved by the OEB".⁴ The information contained in Board Staff's own submissions would appear to indicate the Board has done otherwise.

¹ Unless specified herein, all defined terms are the same as in Final Argument of the School Energy Coalition, dated March 29, 2019

² *Ontario Energy Board Act*, 1998, s.78(8):

Burden of proof

(8) Subject to subsection (9), in an application made under this section, the burden of proof is on the applicant.

³ OEB Staff Submission, p.9

⁴ OEB Staff Submission, p.10

3. The more concerning issue is Energy+'s own testimony, that once deciding that the best option was to have an administrative only building, it did not undertake any due diligence to determine that the Southworks option was the most cost effective.⁵ Even if the forecast costs for Southworks are reasonable (or even favorable) as compared to other distributors' administrative office building projects, that itself does not mean the option is prudent. There very well may be a less costly option for needed administrative office space. The evidence is Energy+ undertook no investigation once they were approached by the developers of the broader area where the Southworks facility is located.

4. SEC submits until that due diligence has been completed, Energy+ has not met their burden to demonstrate the Southworks facility is prudent.

OEB Cost Assessment Account

5. Board Staff has taken no issue with recovery of the balance in the OEB Cost Assessment DVA. This is inconsistent with the position Board Staff took in a recent proceeding, where it took the view that the language in the letter establishing this variance account is clear that the account is only intended to record "any material differences."⁶ Board Staff argued that only amounts above the distributor's materiality threshold were eligible for recovery. A position that the Board accepted.⁷

6. For each of 2016 and 2017, the amounts attributable to those years are below both Energy+'s (\$250,000)⁸, and even the previous CND materiality threshold (\$125,000).⁹ Since the costs in each of the two years are not material to Energy+, they should not be recoverable. This is consistent with the Board's materiality requirement when approving a request for a distributor specific deferral and variance account.¹⁰

⁵ Transcript, Vol., p.49-50

⁶ EB-2018-0105, OEB Staff Submissions, October 3 2018, p.5 citing OEB Letter, Revisions to the Ontario Energy Board Cost Assessment Model, February 9, 2016
<https://www.oeb.ca/oeb/Documents/Corporate/Letter_Notice_of_Change_to_CAM_20160209.pdf>

⁷ See *Decision and Order* (EB-2018-0105 – Union Gas Ltd), November 26 2018, p.11-13

⁸ Transcript Vol.1, p.89; Ex.1, p.164

⁹ EB-2013-0116, Ex.1-701, p.1

¹⁰ Ontario Energy Board Filing Requirements For Electricity Distribution Rate Applications - 2018 Edition for 2019 Rate Applications - Chapter 2 Cost of Service (July 12 2018), p.67

Cost Allocation

7. TMMC argues that the Board should reject Energy+'s CA Model because it does not reflect cost causation principles.¹¹ While some changes are warranted, it is the changes proposed by Mr. Pollock that would lead to a cost allocation model that is contrary to cost causation principles. Mr. Pollock's approach would result in a cross-subsidy of other customer classes to TMMC. SEC agrees that the two feeders should be directly allocated to either the Large Use or TMMC specific class, but allocating zero costs for all underground and bulk assets as proposed by Mr. Pollock is entirely inappropriate and appears to be based on a misunderstanding of how the Board's CA Model works.

8. As noted in SEC's Final Argument, as well as that of VECC, Board Staff and Energy+, since the allocators of pooled assets include all customers' loads, regardless of whether they use the asset or not, one can only allocate zero for a given asset if there is a direct allocation of asset providing the same or similar service.¹² One must look at the entire methodology behind the CA Model to ensure fairness. Looking at one specific allocated cost in isolation is in many cases, misleading. For example, TMMC notes that even pooled approach for the allocation of poles, it is paying more than if all the poles it uses were directly allocated to it.¹³ SEC does not dispute that based on the 4NCP allocator used for poles, this appears to be correct. But what it does not reveal is that for other cost categories allocated using the pooled approach, TMMC is likely underpaying compared to its actual use of the asset/service which are similarly based on a 4NCP allocator.

9. SEC also notes that even under its proposed approach to cost allocation, TMMC will be receiving a significant distribution rate decrease. Based on the Updated Bill Impact Scenarios (K1.6) using the sample loads of 16,000KW, under the SEC approach, the distribution impact would be that set out in the scenario TCQ VECC 72 (c) or 75(c).

¹¹ TMMC Final Argument, para. 10

¹² Board Staff, p.15, 20; Energy+ Argument-in-Chief, para.

¹³ TMMC Final Argument, para. 15

CND % Increase over 2018

CND Service Territory	kWh	kW	Settlement	Scenario	Scenario	Scenario
			Updated per TCQ VECC 76	TCQ VECC 72 c	TCQ VECC 75 c	TMMC JP 11 Mar 1
			Residential	750	-	11.2%
Residential	313	-	21.1%	21.7%	21.8%	22.2%
GS < 50 kW	2,000	-	8.1%	8.1%	8.1%	8.1%
GS >50 to 999 kW	20,000	60	-13.6%	-11.4%	-11.3%	-10.4%
GS >1,000 to 4,999	800,000	2,000	1.3%	1.3%	1.3%	1.4%
Large Use 1	6,600,000	16,000	-4.4%	-29.2%	-21.5%	-17.3%
Large Use 2	6,600,000	16,000	-4.4%	-29.2%	-34.1%	-51.2%
Unmetered Scattered Load	100	-	1.2%	1.3%	1.4%	1.2%
Street Lighting	400,000	700	-21.1%	-20.9%	-20.9%	-21.3%
EMB - WNH	-	8,280	-28.9%	-28.9%	-28.9%	-28.9%
EMB - HONI	1,382,000	2,574	-14.7%	-14.7%	-14.7%	-14.6%

10. TMMC distribution bill impact would change from a 4.4% decrease under the Energy+ proposal, to either 29.2% or 34.1% decrease, depending on whether there is one Large Use class or two. While less than the 51.2% reduction it is seeking based on the proposal by Mr. Pollock, it is still very significant, and reflects fairness to all Energy+ customers. The further adjustments proposed by Mr. Pollock will lead to a cross-subsidy from other customers to TMMC and would result in unjust and unreasonable rates.

Standby Charge and Gross Load Billing

11. Board Staff opposes Energy+'s proposal for gross load billing of RTSRs, on the basis that the Board has previously commented that it may review the matter on a generic basis.¹⁴ This is even though no such consultation has been announced since the Board first made similar comments in March of 2016.¹⁵ Yet, at the same time Board Staff supports Energy+'s proposal for a standby charge, even though a consultation is well underway to determine a generic methodology.¹⁶ A consultation in which the methodology proposed by Board Staff in its own report, is fundamentally different then what has been proposed by Energy+. ¹⁷

12. TMMC in turn opposed the gross load billing proposal on the basis that it would be inconsistent with Board decisions in other applications.¹⁸ Such a view is ironic in light of TMMC's

¹⁴ OEB Staff Submissions, p.26-27; VECC Submissions, p.21-25

¹⁵ See Letter from OEB, Re: Billing for Customers with Load Displacement Generators, March 29 2016 <https://www.oeb.ca/oeb/Documents/Documents/OEBltr_Gross_Load_Billing_Tx_20160329.pdf>

¹⁶ OEB Staff Submissions, p.30-31

¹⁷ Staff Report to the Board Rate Design for Commercial and Industrial Electricity Customers Rates to Support an Evolving Energy Sector (EB-2015-0043), February 21, 2019, p.41-43: K1.5, p.43-45

¹⁸ TMMC Final Argument, para.58-62

proposals for cost allocation and standby charges that are fundamentally different than anything the Board has previously approved.

13. SEC submits the Board should not approve a standby charge in light of the problems with the significant unfairness of Energy+'s proposed approach and the current on-going consultation on the matter.¹⁹ In turn, it makes sense to approve the gross load billing proposal since there is no consultation that is forthcoming to address the issue.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

April 5, 2019

Original signed by

Mark Rubenstein
Counsel to the School Energy
Coalition

¹⁹ SEC Final Argument, para 31-35