



**BY EMAIL and RESS**

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Our File No. 20190255

Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Christine Long, Registrar and Board Secretary**

Dear Ms. Long:

**Re: EB-2019-0255 – Natural Gas Expansion Projects**

We are counsel for the School Energy Coalition. Pursuant to the Board's letter dated December 19, 2019, these are SEC's submissions with respect to the Draft Guidelines.

In summary, SEC believes that the Draft Guidelines should be enhanced in several ways, under three broad categories:

1. Comparative household energy costs.
2. DSM capability and plans of the proponent.
3. Criteria for identification of viable projects.

Our submissions in these areas, plus general submissions and a few detailed comments on the specific Guideline sections and the questions posed by the Board, are set out below.

**General**

The Board is being asked to take on a responsibility in this proceeding that is new to it. The Minister's Directive basically asks the Board to implement the "intake" role for gas expansion projects that may seek a share of \$130 million of government funding. Specifically, the core of the Minister's mandate is:

*“I expect the Board to apply its expertise in developing a process to solicit information from proponents about proposed natural gas distribution expansion projects, and to analyze the proposed projects with a focus on assessing whether they can be implemented substantially as proposed.”<sup>1</sup>[emphasis added]*

This would be fine if the Board had a period of time to do this, but in this context a report is required to the Minister by August 31, 2020. This limits the Board’s options, and the ability of both proponents and stakeholders to participate in this process.

In SEC’s view, the Board’s response to this clearly should not be simply to cut procedural and transparency corners to meet the deadline. Rather, the appropriate response should be for the Board to determine what it can do to provide the best report possible to the Minister, consistent with both the Directive and the short timeline. By way of example, the Board’s decision to abridge the process for costs eligibility is a way of shortening the process with minimal impact on the substantive rights of any stakeholder.

There are two specific components of the Draft Guidelines that appear to speak to this problem.

First, the ninety-day timeline shortens the process, but at what cost? The likely cost is a bias in favour of incumbents, and against grassroots projects and even most competitive projects from new entrants into the Ontario market.

For Enbridge, for example, this is no problem. They have lots of projects that might qualify, and one would expect that their large regulatory group will be able to provide the Board with dozens of projects to compete for the government funding.

For EPCOR, the most recent new entrant into the Ontario market, this may also be possible because of its size and resources. However, it will be disadvantaged relative to Enbridge.

It is much more difficult for greenfield projects. This could be a local electricity distributor looking to find economies of scope (e.g. common billing, customer care, and field crew scheduling systems), or it could be a local municipality seeking to maximize its economic potential with a new gas distribution availability.

All of these projects will have a problem with these short timeframes. Enbridge will generally not have a problem with gas supply, for example. The Town of Sioux Lookout, or its LDC or even its local business leaders, have a lot of work to do to ensure that they can actually get gas to the town, one way or another. It can be done, but it will be hard to deliver a credible plan in three months.

There are two ways the Board could deal with this:

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<sup>1</sup> Minister’s Letter, p. 2. SEC understands that “I expect...” is not the same as “I direct...”, but for the purposes of the current consultation SEC assumes that the two are equivalent. It doesn’t matter if what the Minister requests from the Board is optimal or even practical. It is still appropriate for the Board to use its best efforts, within the Board’s powers and statutory mandate, to do what the Minister asks.

1. **Delay Report Deadline.** It could extend the timeframe, for example to at least 180 days (since less than that would still have the same problems, and probably even longer is much better). This would put the Board up against the Minister's deadline. It is not realistic to have a six month timeline and still deliver a report to the Minister by August 31, 2020. This could be dealt with by seeking an extension from the Minister, which may be the best approach. However, in these submissions SEC is assuming that the Minister's deadline is writ in stone. If that is not the case, this problem can be alleviated.
2. **Limit Proposal Scope.** Alternatively, the Board could deliberately limit the project proposals to "soft information", basically a letter with some attachments and a set of assumptions with no supporting evidence. The proposals would then be "what if's", rather than serious proposals that could actually be implemented on the basis of the material provided. On the other hand, the Board would have a universe of possible proposals that would allow it to provide input to the Minister.

Either option appears to SEC to be less than optimal. On the other hand, it does not appear to SEC possible for the Board to avoid having the timeframe create bias without a solution of this kind.

Second, the Board has proposed that there will be no public comment/input on the actual proposals that the Board considers for its report to the Minister.

The Board has never, in our experience, expressed any opinion – for or against – on any utility project or proposal without a robust process to ensure that public input is thorough and complete. The Board has always taken the position that its structure as a quasi-judicial body means that any time it says A is OK and B is not, or A is better than B, it does so with a proper process that relies on properly tested evidence, including discovery, and takes full account of stakeholder input in a transparent and open manner.

This is particularly problematic for projects that will require Board approvals, because any "approving" comments to the Minister related to a project may appear to create bias in any subsequent formal approval process.

SEC believes that, in addition to the obvious need for disclaimers in the Board's report, there are two steps the Board could take to ameliorate this concern:

1. **No Ranking or Rating.** The Board's report should refrain from ranking or rating the proposals in any way. Instead, it should identify the projects, and provide comments on potential strengths and weakness of each. This provides useful information to the Minister, without any opinions from the Board that are based on an insufficient public process and without full evidence. SEC notes that the Minister does not request ranking or rating of projects, just analysis.
2. **Stakeholder Comment.** When proposals are filed, they should be posted on the Board's website, and stakeholders should be invited to flag potential issues with each project. This is not intended to replace the normal process of discovery and testing of evidence. These are preliminary proposals, so there will be inadequate information for that. On the other hand, as we have seen in other proceedings (Marathon, for example), sometimes the issues that will be of most concern are not obvious from the preliminary

information. Stakeholder input may help the Board to see potential problems with apparently sound proposals.

### **Comparative Household Energy Costs**

The Minister has specifically asked the Board to consider the reduction in household energy costs that may result from any particular gas expansion proposal. There are two main issues that arise in this context, each of which has multiple components and lots of potential for confusion or controversy.

***Compared to What?*** The “reduction” can be assessed through comparison to status quo, or to alternatives. These are fundamentally different approaches, and the Board should be very clear on which it is selecting.

If comparison is to status quo, the Board simply looks at the existing costs of each (typical) customer for their propane, electric, or other energy systems currently in place, and compares them to the costs of a natural gas alternative under the proposal. This is relatively simple, but clearly will overstate the actual savings. Natural gas is not the only available alternative in many cases.

Conversely, if the comparison is between energy alternatives available or potentially available to the customer, the savings will be lower (assuming the alternatives themselves can deliver savings relative to status quo). This is a much more complicated assessment, but also much more helpful to the Minister. It may reduce the number of proposals that are viable, but at the same time identify alternatives that are better for the customers.

SEC believes that the latter approach is the better one. This is consistent with the concept of integrated resource planning, and also with the goal of reaching optimum solutions for customers. If the paradigm in play here is replacement of status quo with something better, this is an opportunity to ensure the replacement is the best choice available. To replace the status quo with gas, simply because there is grant money available today for gas, but not for other things, would be short-sighted. The Board should, in our view, assume that if there are better alternatives available for individual communities, the government will ensure that its spending focuses on the best options.

***Cost Perspective.*** It is inherent in the Minister’s letter that the Board must look at household energy cost from the perspective of the customer, which in our submission means that all current and future costs associated with any alternative must be included. This will include costs incurred directly by the customer, and costs paid by the customer indirectly through payment of rates to the utility. It will not include costs paid by the government through this program, or any other external funding not recoverable from customers.

The costs that should be included for any proposal, and any alternative, should include at least the following:

1. ***Efficiency upgrades*** and other such improvements (see below). Although these should be the same for all options except status quo, they will affect the overall savings and also the viability of individual proposals.

2. **Customer side capital and operating costs**, such as new equipment, on-site connections or other work (geothermal loops, for example, or solar panels), and future costs to keep those components up to date.
3. **Utility capital and operating costs**, including local distribution system and ongoing operating and capital spending.
4. **Upstream reinforcements or other methods of getting fuel** to the local distribution system, including both capital and operating costs associated with those reinforcements. If a project relies on a single source, like LNG, it should include supply risk.
5. **Commodity costs including upstream transportation**. This should specifically include a forecast of future cost changes and risks associated with that forecast, no matter what the fuel.
6. **Taxes, including in particular carbon taxes** where applicable. The carbon cost/tax to be used should assume that Canada and Ontario meet their 2030 goals for carbon reduction.

**Practical Realities.** SEC does not believe it is realistic or efficient, in the short time available for this process, to ask each proponent to look at all alternatives for their project, plus their own costs, and provide a head to head comparison of household energy costs. A lot of time would be wasted doing this, and the results in each proposal would not be readily comparable to other proposals in any case.

As an alternative, SEC proposes that the Board, during the period in which proponents are developing their proposals, develop models for various energy alternatives in a potential gas expansion scenario.

It is not necessary to reinvent the wheel to do this. The costs of energy alternatives have been much studied, and the Board has a lot of information on this from public sources and from evidence in its own proceedings. IESO may also have information and models that can provide input.

It should be possible, over a period of a few months, for the Board to identify the key variables that will affect costs in a particular location, or for a particular type of customer, and establish models that will include standardized costs (present and future) and allow for scenario and risk analysis. This is particularly true since the supporters of each energy technology already have sophisticated cost models that can be provided to the Board.

SEC believes that, if the Board establishes standardized household energy cost comparison models, they can then be populated using the information from proponents (and from public information on the local areas in question) to produce useful information for the Minister. The fact that all projects are compared using, for example, the same carbon cost assumptions, and the same assumptions with respect to landed costs of natural gas, propane, electricity, or other fuels, will allow a more structured look at the costs and benefits of individual proposals relative to each other and to other alternatives.

SEC notes that the alternative to this standardized approach is to allow individual proponents to do their own household energy cost comparisons. Aside from the amount of extra work involved for proponents, this also means that the Board's task in comparing proposals to each other is greatly increased.

### **Efficiency and DSM Programs**

SEC has in the past expressed a concern that, as we move to a lower carbon future, construction of new gas distribution and transmission infrastructure could simply be the creation of future stranded assets. This concern is heightened in the case of any proposal to extend natural gas service to new areas that have not had it before. The likely truth is that the efficiency levels of the customers in that area are not at the highest.

The very best time to implement efficiency measures is at the time a customer is already converting to a new energy source. On the equipment side, new equipment has to be purchased anyway, and the incremental cost to ensure it is as efficient as possible is at its lowest. In addition, though, this is the optimum time to implement other efficiency measures, because they can affect the sizing of the new equipment.

SEC has three recommendations with respect to efficiency and DSM.

First, proponents should be required to describe their plans to help customers improve their energy efficiency at the time of the conversion to natural gas. This should include description of their capacity and willingness to implement DSM programs targeted at the time of conversion.

The Board should factor the extent of efficiency benefits into the calculation of the reduction in household energy costs resulting from a given proposal, as discussed earlier.

We note that, for this reason, a standard assumption of 2,200 cubic meters annual consumption by a residential customer is not appropriate. Proponents should provide their own assumptions, consistent with geography and local weather patterns, and with the efficiency measures implemented by new customers.

Second, project economics, including the PI, should be calculated for all proponents assuming the implementation of all cost-effective DSM at the time of conversion. Even if not all customers will be willing to implement a full range of DSM measures (insulation, efficient equipment, weather sealing, etc.), proponents should assume that they will. This reduces the risk that projects will have insufficient load to meet their revenue needs, now in the future. It also ensures that proponents are more motivated to help customers with efficiency.

Third, each proposal should include information on the capacity and plans of the proponent to provide ongoing DSM programs for its customers. In SEC's view, under the current gas distribution policies of the OEB, one of the core functions of a regulated gas distributor is to provide DSM programs to its customers. As long as that continues to be the case, each new gas distributor should be able to fulfill that function for its customers, and each incumbent should ensure that its DSM programs extend to new customers in an appropriate manner.

Most important, these three recommendations will help maximize the benefits of this natural gas expansion program. Incorporating DSM/efficiency into the projects will allow the government to get more bang for their buck.

### **Criteria for Identification of Viable Projects**

Neither the Minister's letter nor the Board's December 19<sup>th</sup> letter stipulates the criteria that the Minister or the Board will use to determine which projects should get funded. While SEC has proposed earlier that the Board should not be ranking or rating projects relative to funding, it is still true that the criteria for funding success must necessarily drive the information to be required in the proposals. It is important to work backwards. What basis will be used to determine who is funded? What information is required to make decisions on that basis?

Further, if there is some uncertainty about the basis for funding decisions, then information that can form the foundation for multiple possible funding criteria must be required.

There are a number of potential approaches, of which the most obvious, perhaps, are:

1. **Maximize Customers Benefitted.** Using this approach, the funding will go to the projects that need the least amount of assistance to be viable. The target is to stretch the \$130 million is far as possible.
2. **Maximize Total Amount of Customer Benefit.** This is essentially the opposite tack. It would tend to fund projects where the most energy poverty currently occurs, which means fewer projects, and fewer affected customers, but those customers would be significantly affected.
3. **Maximize Efficient Use of Energy.** While this might well end up being similar to either of the first two approaches, it changes the focus to overall Ontario energy use. This means that proposals with more robust energy efficiency plans would have an advantage.
4. **Maximize Economic and Social Benefits.** This approach would include the impacts of projects on economic development, community health and well-being, and other factors that are not simply reductions in household energy costs.

It is likely that the first three approaches could rely on a foundation of comparative energy cost information. The fourth, on the other hand, would require proponents to provide information on the impacts on the affected communities other than simply reduction in energy costs.

SEC recommends that the Board include in the Draft Guidelines information that would allow the Board and the Minister to consider the non-energy impacts of proposals on affected communities. We note that this may tend to reduce the bias in favour of incumbents, because local proponents will have more information on how they can benefit their community, and may have more motivation to do so.

### **Detailed Comments on Individual Guideline Sections**

Our comments are as follows:

Page 1. We do not believe the costing information should exclude DSM, gas commodity, or upstream transportation costs. See our comments above.

Page 2. Costs of alternatives should be standardized to the extent possible, as described earlier.

Page 3. Costs of the project should also include some standardized components, such as assumptions with respect to carbon tax/cost.

The proponent should be required to explain, at least at a high level, its gas supply plan including sources of the commodity, upstream transportation, and any other aspects unique to the project, including risks.

The proponent should provide details on what costs will be incurred that will be shared with other businesses, or with other gas distribution customers, and how that allocation will take place. Enbridge, for example, should explain how it will allocate shared costs to the new franchise area, and how it will ensure that only incremental costs are recovered in addition to costs recovered in existing rates. A local electricity distributor proposing to add natural gas should explain its proposal for shared costs, with the same requirement to ensure that costs are not double-recovered during IRM.

Page 4. The cost of capital should include a requirement that the proponent explain the rationale for any deviation from the Board's standard capital structure.

Funding amounts per customer and per cubic meter should be provided every five years, whatever the rate stability period. This will make them easier to compare.

Rates should be provided on the assumption that the rates for the project will be ring fenced relative to other customers served by the proponent not just for the rate stability period, but indefinitely into the future. That is, the assumption should be that the only subsidy by existing customers will be the \$1 per month required by the government. That will not extend to an additional subsidy after the rate stability period.

Page 5. The PI should be calculated using the EBO 188 principles. In addition, as noted earlier, the PI should be calculated assuming the implementation at the time of conversion of all cost-effective efficiency measures by the customers.

SEC disagrees with the idea that standard customer demand levels should be used. Different customers, in different communities, will have different levels of gas use. The proponent should be allowed to select the usage that is right for the community and its customers, consistent with the maximization of efficiency.

**Stakeholder Input.** As noted earlier, SEC submits that the Board should allow stakeholders to provide input on the proposed projects, so that those with experience and in some cases local



knowledge can flag potential costs, benefits, risks or other issues with proposals to assist the Board.

In this regard, SEC believes that participants eligible for costs should be allowed to make cost claims consistent with the Board's policies, and limited to reasonable levels.

**Existing CPCN Holder.** The Board has also asked, in its letter, a specific question about how to deal with proposals covering areas in which there is an existing CPCN.

As between the two choices proposed by the Board, the second is the more practical approach, in our submission. However, it would appear to us that, despite the wording of the Minister's letter, it would be better for the Board to consider projects proposed by non-CPCN holders, and post them on the Board's website, even if the holder of the Certificate proposes a qualifying project. Certificate holders have not, to date, proposed a project for the particular area, and some of those areas have waited for years. If a local group takes the initiative to propose something better than Enbridge, for example, the Board should at the very least include that project in an appendix or addendum to the report to the Minister.

**Confidentiality.** SEC agrees with the Board's proposal to apply the *Practice Direction on Confidential Filings*, but believes the Board should clarify that, if stakeholders or their representatives – particularly those representing customers - sign the Declaration and Undertaking they should have access to unredacted proposals for review and comment.

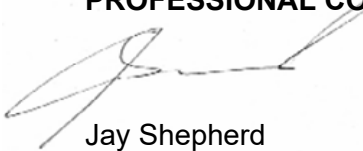
### **Conclusion**

SEC appreciates the opportunity to provide input on the Board's approach to the Minister's request, and hopes this input is of assistance.

All of which is respectfully submitted.

Yours very truly,

**SHEPHERD RUBENSTEIN  
PROFESSIONAL CORPORATION**



Jay Shepherd

cc: Wayne McNally, SEC (email)  
Interested Parties