



**BY EMAIL and RESS**

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July 29, 2020  
Our File: EB20200020

Ontario Energy Board  
2300 Yonge Street  
27th Floor  
Toronto, Ontario  
M4P 1E4

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

Dear Ms. Long:

**Re: EB-2020-0020 – Espanola Hydro – Proposed Procedural Changes**

We are counsel to the School Energy Coalition (“SEC”). SEC expects to seek intervenor status in the above-mentioned proceeding. We are in receipt of the Applicant’s letter dated July 24<sup>th</sup> to the Board, and the Board’s July 27<sup>th</sup> response. We also had discussions with the Applicant prior to their submission of that letter.

This letter seeks to provide input to the Board on the Applicant’s requests.

In general, SEC agrees with the Applicant that streamlining the regulatory process for this particular application has the potential to benefit both the shareholder and the customers. The Board’s filing requirements are thorough, and for good reason. The Board should abridge those requirements only with caution. However, for several reasons, some of them driven by external factors and some by decisions made internally by the Applicant, the regulatory cost could be substantial. In that situation, there may be ways that the Board and the public can get the full information necessary for the regulatory process, while keeping the cost and time needed for the process at a minimum.

As background, SEC would like to bring the following to the Board’s attention:

1. We have compared Espanola’s rates to those of other LDCs. Espanola’s 2015 rates, which were declared interim in 2016, are at roughly the Ontario average for 2019. We don’t have sufficient data for 2020.
2. When Espanola’s rates were declared interim, it was because Espanola’s ROE was considerably higher than Board-approved, and was increasing. The Board’s stated purpose in its decision was to ensure that, when Espanola eventually filed, the Board would be in a legal position to provide a refund to customers relating to over-earning. It is not clear from the Applicant’s letter whether they will be seeking any retroactive changes to their rates, or whether they will seek to refund or collect any retroactive amount from customers.

3. Espanola has gone many years without incurring any material regulatory costs, all to the benefit of the shareholder. Reduction in costs for this application should be considered against that level of annual savings. In effect, there should be lots of unused regulatory budget available for this application. In EB-2011-0319 Espanola had \$35,000 per year of regulatory costs built into rates. That is \$315,000 to and including 2020, plus whatever is in the 2021 budget, times five. Budgets for recent small utility applications have typically been in the \$125/150,000 range.
4. The Board approved Phase 1 of the North Bay/Espanola acquisition and merger on the basis that Espanola will file a full five year DSP with this 2021 Application. The Board described it as follows in EB-2019-0015, at p. 19:

*“The Applicant stated that the New Espanola Hydro cost of service application will maintain the ongoing financial viability of the utility as well as address regulatory matters, which include:...*

*Filing a comprehensive five-year consolidated distribution system plan in accordance with the OEB’s requirements.”*

5. The Applicant’s letter gives no indication whether the Application will seek an increase or a decrease in rates, and in either case whether it will be large or small. The Board’s willingness to approve short cuts in this Application may well be affected by the potential impact on customers of the rate proposal, and that may be especially true if the new proposed rates are well above Ontario averages.
6. The most recent (2018) Benchmarking data shows that Espanola had a \$683 cost per customer, as compared to a \$688 average across the province, and \$695 for North Bay Hydro. On the other hand, that same benchmarking report showed Espanola at -22.7% compared to expected costs, a very good result.

Against that background, SEC submits that the following adjustments to the Filing Requirements may be worth considering for this Applicant, in these particular circumstances:

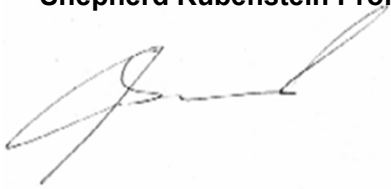
- A. **Limited Scope of Variance Analysis.** SEC agrees that this makes sense with respect to the prefiled evidence, including with respect to the rate base buildup. However, when the Board and parties see the actual numbers, questions on material variances that have not been explained should remain within scope in the discovery process.
- B. **Executive Summary and Business Plan.** Clearly the Applicant is trying to have its cake and eat it too, i.e. filing an application for new rates as if there would be no merger, but reducing the scope of its business plan on the assumption that a future Board panel will approve a merger. That having been said, it is likely that time spent on a five year business plan will be wasted. Therefore, SEC believes that a one year plan should be sufficient for the Board’s purposes, as long as a) questions about operations beyond year one are in scope for discovery, and b) North Bay personnel will be available to answer questions about how Espanola will operate after the PUC Distribution deal expires early in 2022.
- C. **Customer Engagement and Community Meetings.** SEC agrees that hiring an external consultant in this situation is not money well spent. The Applicant should retain its responsibility to show that it is engaging with its customers on key issues.

- D. ***Distribution System Plan.*** While the Applicant promised the Board that it would file a five year DSP, we agree that a five year standalone DSP is not very helpful. The problem with no DSP, though, is that the capital plan then has no context. If the capital plan is limited to just those things that absolutely have to get done in 2021 prior to the merger (i.e. not a “continuation of the status quo capital program”), the problem is reduced. As noted below, the lack of context can be buttressed by a further evidentiary requirement.
- E. ***Appendix 2K.*** We agree that dividing wages and benefits should not be required for this Application. It would be useful if the Applicant provided an estimate of the percentage remuneration represented by benefits, but further detail is probably not necessary.
- F. ***Appendix 2AB.*** Assuming the Applicant is filing a full rate base continuity from the last Board-approved year to the Test Year, SEC believes that this Appendix can be waived.
- G. ***Due Diligence Package.*** Because this Applicant has recently been acquired by North Bay Hydro, there is a significant package of information available to the Board that requires no cost to produce. That is the package of due diligence information provided by Espanola to North Bay as part of their acquisition transaction. While some of that may well have to be treated by the Board and parties as confidential, for obvious reasons, the due diligence package should provide a fairly full and up to date snapshot of the financial and operational status of Espanola and its distribution system. This would have the benefit of reducing regulatory costs for the Applicant, while at the same time ensuring that the Board has relatively full information on which to base its rate decision. Although we anticipate that the Applicant will not want to disclose this information, in our view it is a reasonable tradeoff to achieve both the Applicant’s goals of a reduced filing, and the Board’s requirements to fulfill its statutory mandate.

SEC therefore submits that the Board should provide the relief requested by the Applicant, but subject to the conditions set forth above to ensure that the customers are protected.

All of which is respectfully submitted.

Yours very truly,  
**Shepherd Rubenstein Professional Corporation**



Jay Shepherd

cc: Wayne McNally, SEC (by email)  
Interested Parties (by email)