Shepherd Rubenstein

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BY EMAIL and RESS

Ontario Energy Board
2300 Yonge Street
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October 1, 2021
Our File: EB20210212

Attn: Christine Long, Registrar

Dear Ms. Long:

Re: EB-2021-0212 – 2022 Inflation Factor – SEC Submissions

We are counsel to the School Energy Coalition ("SEC"). The OEB has initiated a generic proceeding to review the uncharacteristically high increase in the forecast 2022 Inflation Factors driven by the annual change in the Average Weekly Earnings (Ontario) ("AWE") index. This significant increase was a result of the unique nature of the COVID-19's impact on workforce composition.

SEC submits that OEB should replace the labour component of the Inflation Factors for 2022, from the annual change in AWE, with the change in the Average Hourly Earnings (Ontario) Fixed Weight ("AHE (Ontario) Fixed Weight") index. The annual change in AWE (2020 over 2019) used for the 2022 Inflation Factors does not reflect actual changes in labour costs. Its inclusion in the calculation of the Inflation Factors used in various annual rate and revenue requirement adjustments will lead to materially higher increases for most customers than would be just and reasonable.

As the workforce returns to a more normal post-pandemic balance, the same problems causing the annual change in the AWE to be uncharacteristically high in 2022, will likely result in an annual change in AWE that is too low in 2023 and 2024. Therefore, any decision the OEB makes for 2022, must be maintained for 2023 and likely 2024. If not, there will be unfairness to either ratepayers or utilities.

Background

The OEB annually determines Inflation Factors (also known as Input Price Index) as inputs into various incentive mechanisms (i.e., Price Cap, Revenue Cap, Annual IR, or Custom IR) used to adjust utility rates and revenue requirements.[1] For electricity transmitters, distributors, and the natural gas distributor EPCOR, the Board uses a two-factor approach, a non-labour and labour component, based

[1] Preliminary Calculations of 2022 Inflation Factors for 2022 Non-Cost of Service Rate Adjustment Applications, Fact Sheet of Statistics Canada and Bank of Canada Data and Description of Possible Alternative Inflation Indices for 2022 Rates Compiled by Ontario Energy Board Staff ["Fact Sheet"], p.3

on the annual change in externally derived indices. The weighting between the two components differs slightly depending on the utility type (i.e. electricity distribution vs. transmission).

For the labour component, the OEB uses the annual change in the AWE published by Statistics Canada.[2] Since the OEB must set the Inflation Factors on a prospective basis, and the AWE is only published annually, the change reflected for a given year is based on the last two historical years. For 2022, the annual change in AWE under ordinary circumstances would be the change between the 2019 and 2020 values.

The OEB has raised a concern with the 7% annual change in AWE between 2019 and 2020. This uncharacteristic increase is caused by the impact of certain economy-wide labour force composition changes reflected in the 2020 data.[3] As a result of pandemic-related shutdowns that initially began in March/April 2020, a sudden and significant number of low-wage earners were affected by job losses which resulted in a sharp increase in AWE, as those remaining in the workforce were disproportionately higher-waged individuals.[4]

Average wages for individuals employed did not increase by anything close to 7%. The index was impacted by a once-in-a-generation pandemic that resulted in the temporary closing of retail, and hospitality businesses, which employ relatively low-wage earners.[5] The opposite occurred for utilities. Layoffs did not impact them since they were an essential service. Over the same period, the general Ontario utility sub-index of the AWE decreased by 0.6%, and the Ontario electric power generation, transmission, and distribution sub-index decreased by 1.3%.[6]

Labour Component Should Be Changed

SEC submits that it is not reasonable to continue using the annual change in the AWE as the labour component for the 2022 Inflation Factors. The 7% increase does not represent a fair assessment of the average change in labour costs through the economy, especially the utility sector. According to Statistics Canada, the growth appears to be entirely driven by the composition of the labour force, not changes in labour rates. As a result, it does not serve its intended purpose. Since the OEB's Inflation Factors impact most utilities in any given year, it will result in a higher than reasonable increase for most ratepayers in 2022. Continuing to use in 2022, the annual change in the AWE would not result in just and reasonable rates.

Average Hourly Earnings (Ontario) Fixed Weight Is The Best Alternative

SEC submits the most appropriate approach is to replace AWE with a different labour index that reflects market trends without the distortion caused by COVID-19. After a review of the various alternative options presented in the Notice, Procedural Order No.1, and the OEB Staff Fact Sheet, the best option appears to be the AHE (Ontario) Fixed Weight index for several reasons.

First, an annual change in a fixed weight index addresses the main problem with using AWE for the 2022 Inflation Factors. It removes most of the impact of the sudden and temporary change in labour force composition caused by the COVID-19 shutdowns that began in 2020. As Statistics Canada

[2] Fact Sheet, p.5
[3] Procedural Order No,.1, p.2
[4] Fact Sheet, p.4
[5] Fact Sheet , p.7
[6] Fact Sheet, p.26

explained, "[t]he fixed-weighted average hourly and weekly earnings indices have been constructed to better reflect the underlying changes in earnings by holding hours paid and employment composition among industries, provinces and territories and type of employee (hourly paid and fixed salary employees) constant through time."[7] Since the fixed weights were set on a pre-pandemic year (2005), the impacts of changes in labour market composition caused by COVID-19 are muted, if not eliminated.

Second, compared to the other proposed alternatives, between 2001 and 2019, the annual change in the AHE (Ontario) Fixed Weight had the lowest average annual deviation from annual change in the AWE.[8] Over the more recent and shorter 2010-2019 period, the difference in average annual deviation between the various indices even more pronounced.[9] If the purpose of considering an alternative index for the labour component of the OEB's Inflation Factor for 2022 is to address the concern with the 2020 AWE data, an alternative index that most closely tracks AWE in other years is a valuable indicator of its appropriateness.

Average Annual Deviation From AWE (Ontario)					
	AWE (Ontario) - Salaried paid a fixed amount	AWE (Ontario) - paid by the hour	AHE (Ontario) - salaried employees	AHE (Ontario)- paid by the hour	AHE (Ontario) - Fixed Weighted
2001-2019	0.42%	1.02%	0.61%	0.73%	0.40%
2010-2019	0.49%	0.74%	0.46%	0.80%	0.28%

Third, the salaried or hourly employees sub-index of AWE, or Average Hourly Earnings, is problematic as utility workers span both categories. Many unionized utility employees' remuneration as set by their collective agreements are expressed in an hourly instead of a weekly or annual rate, which is how the underlying data is gathered for these sub-indices.[10]

Alternative Option

If the Board does not want to adopt a new labour index, an alternative option is to use the OEB's non-labour inflation index, Implicit Price Index for National Gross Domestic Product, Final Domestic Demand, ("GDP-IPI"), to calculate the entire Inflation Factor. Depending on the utility type, the GDP-IPI already makes up the bulk of the Inflation Factors with a weighting of either 70% (electricity distribution and EPCOR) or 86% (electricity transmission). Moreover, GDP-IPI already includes the impact of changes in wages, as they indirectly affect GDP.

There is precedent for this approach. The OEB approved the continued use of GDP-IPI as the sole input to the Inflation Factor for Enbridge Gas Inc. as recently as 2018. In its decision, the OEB noted that a single input Inflation Factor "adopted by the gas utilities in the past, and the applicants' provided details that the GDP-IPI FDD and the two-factor inflation factor applied to electricity distributors have

[7] Fact sheet, p.16; Statistics Canada, *Guide to the Survey of Employment, Payroll and Hours*, (revised March 30, 2021)

[8] See Appendix A for underlying data and accompanying excel spreadsheet.

[9] *Ibid*.

[10] See definition of 'Employees paid by the hour' in the Statistics Canada, *Guide to the Survey of Employment, Payrolls and Hours* (March 30, 2021)

not been materially different since 1993."[11] SEC has included the underlying Undertaking Response that details the comparison since 1993 as Appendix B to these submissions.

OEB Must Take Consistent Approach in 2023 and Likely 2024

The Notice and Procedural Order No. 1 state that the scope of the proceeding is limited to 2022. To be fair to both utilities and ratepayers, the OEB must ensure that any decision regarding 2022 will be the same for 2023 and potentially 2024. For the same reasons that caused the current labour component of the Inflation Factors to be unusually high, as the economy re-opens in 2021 and 2022, and low-wage earners return to the workforce, the opposite effect will happen. This will lead to an annual change in the AWE that will decline relative to actual changes in employee wages and may result in an absolute decline year-over-year.

If the OEB is going to change the calculation of the Inflation Factors to account for the very high annual change in AWE that arises in the 2022 calculation, then it must do the same for 2023 and 2024. This is even though the alternative will result in a higher amount in those years than would be the case if no change had been made. Similarly, if the OEB decides to maintain the existing approach for 2022, it must do so for 2023 and 2024, even when the calculation in those years will result in an annual change that is unusually low and potentially deflationary.

Summary

SEC submits that the OEB should adopt as the labour component of its 2022 Inflation Factors the annual change in AHE (Ontario) Fixed Weight to correct the distortionary impact caused by COVID-19. With that said, whatever the OEB decides, it must ensure, as a matter of fairness, it makes a consistent decision for 2023 and likely 2024 because the distortionary impact will remain, but with the opposite effect.

All of which is respectfully submitted.

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein 2021.09.30 14:55:46-04'00'

Mark Rubenstein

cc: Ted Doherty, SEC (by email)
Intervenors (by email)

[11] *Decision and Order* (EB-2017-0306/307), Amended on September 17, 2018, p.25

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Data (1)

Reference period	AWE (Ontario)	AWE (Ontario) - Salaried paid a fixed amount	AWE (Ontario) - paid by the hour	AHE (Ontario) - salaried employees	AHE (Ontario)- paid by the hour	AHE (Ontario) - Fixed Weighted
2001	696.09	919.76	539.66	24.35	17.03	98.2
2002	711.29	937.46	542.58	24.8	17.32	100.1
2003	728.71	958.25	562.26	25.21	17.88	102.8
2004	748.99	988.19	581.91	25.86	18.4	105.4
2005	776.33	1025.3	591.77	26.75	18.84	108.8
2006	788.8	1041	600.03	27.37	19.2	111.3
2007	819.19	1082.99	611.5	28.45	19.83	115.7
2008	838.34	1118.3	625.11	29.43	20.3	119.3
2009	848.77	1139.76	611.52	30.71	20.22	122.8
2010	881.36	1188.92	633.46	31.95	20.86	127.5
2011	893.4	1199.35	659.54	32.35	21.64	129.6
2012	906.1	1221.36	671.07	33.07	21.95	131.3
2013	920.09	1241.68	677.7	33.55	22.41	133.2
2014	938.5	1274.77	686.62	34.09	22.74	135.3
2015	963.37	1292.29	705.94	34.71	23.11	139
2016	974.41	1321.02	717.1	35.47	23.69	142.2
2017	993.23	1348.26	720.14	36.31	23.96	144.9
2018	1022	1385.48	745.8	37.22	24.73	148.3
2019	1049.73	1420.18	764.74	38.1	25.54	152.5
2020	1126.3	1470.2	834.04	39.67	26.64	157.6

Annual Change

Reference period	AWE (Ontario)	AWE (Ontario) - Salaried paid a fixed amount	AWE (Ontario) - paid by the hour	AHE (Ontario) - salaried employees	AHE (Ontario)- paid by the hour	AHE (Ontario) - Fixed Weighted
2001						
2002	2.16%	1.91%	0.54%	1.83%	1.69%	1.92%
2003	2.42%	2.19%	3.56%	1.64%	3.18%	2.66%
2004	2.74%	3.08%	3.44%	2.55%	2.87%	2.50%
2005	3.59%	3.69%	1.68%	3.38%	2.36%	3.17%
2006	1.59%	1.52%	1.39%	2.29%	1.89%	2.27%
2007	3.78%	3.95%	1.89%	3.87%	3.23%	3.88%
2008	2.31%	3.21%	2.20%	3.39%	2.34%	3.06%
2009	1.24%	1.90%	-2.20%	4.26%	-0.39%	2.89%
2010	3.77%	4.22%	3.52%	3.96%	3.12%	3.76%
2011	1.36%	0.87%	4.03%	1.24%	3.67%	1.63%
2012	1.41%	1.82%	1.73%	2.20%	1.42%	1.30%
2013	1.53%	1.65%	0.98%	1.44%	2.07%	1.44%
2014	1.98%	2.63%	1.31%	1.60%	1.46%	1.56%
2015	2.62%	1.37%	2.77%	1.80%	1.61%	2.70%
2016	1.14%	2.20%	1.57%	2.17%	2.48%	2.28%
2017	1.91%	2.04%	0.42%	2.34%	1.13%	1.88%
2018	2.86%	2.72%	3.50%	2.48%	3.16%	2.32%
2019	2.68%	2.47%	2.51%	2.34%	3.22%	2.79%
2020	7.04%	3.46%	8.67%	4.04%	4.22%	3.29%

Variance From AWE (Ontario)

Reference period	AWE (Ontario) - Salaried paid a fixed amount	AWE (Ontario) - paid by the hour	AHE (Ontario) -salaried employees	AHE (Ontario)- paid by the hour	AHE (Ontario) - Fixed Weighted
2001					
2002	0.25%	-1.62%	-0.33%	-0.47%	-0.24%
2003	-0.23%	1.14%	-0.78%	0.76%	0.24%
2004	0.33%	0.69%	-0.20%	0.12%	-0.25%
2005	0.10%	-1.90%	-0.20%	-1.22%	-0.41%
2006	-0.07%	-0.21%	0.70%	0.30%	0.68%
2007	0.17%	-1.89%	0.09%	-0.55%	0.10%
2008	0.90%	-0.11%	1.08%	0.03%	0.75%
2009	0.66%	-3.43%	3.02%	-1.63%	1.66%
2010	0.45%	-0.24%	0.19%	-0.65%	-0.01%
2011	-0.48%	2.68%	-0.11%	2.31%	0.28%
2012	0.41%	0.32%	0.79%	0.01%	-0.11%
2013	0.12%	-0.55%	-0.09%	0.54%	-0.10%
2014	0.65%	-0.67%	-0.38%	-0.52%	-0.42%
2015	-1.25%	0.16%	-0.81%	-1.00%	0.08%
2016	1.06%	0.43%	1.03%	1.34%	1.14%
2017	0.13%	-1.49%	0.43%	-0.78%	-0.03%
2018	-0.13%	0.65%	-0.38%	0.31%	-0.54%
2019	-0.20%	-0.17%	-0.34%	0.55%	0.12%
2020	-3.58%	1.63%	-3.00%	-2.82%	-3.75%

Average Annual Deviation From AWE (Ontario)

	AWE (Ontario) - Salaried paid a fixed amount	AWE (Ontario) - paid by the hour	AHE (Ontario) -salaried employees	AHE (Ontario)- paid by the hour	AHE (Ontario) - Fixed Weighted
2001-2019	0.42%	1.02%	0.61%	0.73%	0.40%
2010-2019	0.49%	0.74%	0.46%	0.80%	0.28%

(1) Data Source: Preliminary Calculations of 2022 Inflation Factors for 2022 Non-Cost of Service Rate Adjustment Applications – Fact Sheet of Statistics Canada and Bank of Canada Data and Description of Possible Alternative Inflation Indices for 2022 Rates Compiled by Ontario Energy Board Staff (August 27, 2021), Appendix D, E and F

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ENBRIDGE GAS DISTRIBUTION INC. AND UNION GAS LIMITED

Undertaking of Mr. Culbert
To Ms. Anderson

For 2012 to 2016 provide a comparison of an inflation factor using just GDP IPI FDD with an inflation factor using both GDP IPI FDD and AWE (70/30 Weighted) (for the Electric Utilities).

	GDP IPI FDD	70% GDP IPI FDD and 30% AWE
1991		
1992	1.9%	2.5%
1993	1.8%	2.0%
1994	1.7%	2.0%
1995	1.2%	1.1%
1996	1.2%	1.5%
1997	1.5%	1.7%
1998	1.5%	1.4%
1999	1.4%	1.5%
2000	2.6%	2.5%
2001	2.0%	1.2%
2002	2.4%	2.3%
2003	1.6%	1.9%
2004	1.8%	2.1%
2005	2.1%	2.6%
2006	2.3%	2.1%
2007	2.5%	2.9%
2008	2.6%	2.5%
2009	1.1%	1.2%
2010	1.1%	1.9%
2011	2.4%	2.1%
2012	1.7%	1.6%
2013	1.7%	1.7%
2014	2.3%	2.2%
2015	1.6%	1.9%
2016	1.2%	1.2%
2017	1.4%	NA
Averages		
2012-2016	1.7%	1.7%
2007-2016	1.8%	1.9%