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November 11, 2021

VIA E-MAIL

Ms. Christine Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: EB-2021-0018 Energy+ Inc. 2022 ACM Southworks Facility
Submissions of Vulnerable Energy Consumers Coalition (VECC)**

Attached please find the submissions of VECC in the above proceeding.

Yours truly,

John Lawford

Counsel for VECC

Copy to: Dan Molon, Energy+ Inc.

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EB-2021-0018

Energy+ Inc.

**Application for electricity distribution rates effective
January 1, 2022**

VECC's Submission November 11, 2021

Energy+ Inc. (Energy+) filed an incentive rate-setting mechanism application with the Ontario Energy Board (OEB) on August 16, 2021 under section 78 of the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, (Schedule B) seeking approval for changes to its electricity distribution rates to be effective January 1, 2022.

Energy+ requests approval to recover the incremental revenue associated with the rate base investment for the Southworks Facility. Specifically, Energy+ seeks approval of a rate rider for recovery of the Advanced Capital Module ("ACM") related to the Southworks Facility, representing a recovery from customers in the amount of \$739,190 per year until Energy+'s next rebasing application. VECC's submissions relate to the above approvals.

ACM – Southworks Facility

In its 2019 Cost of Service application, Energy+ submitted an ACM request of \$8,099,792 for the Southworks facility to renovate and convert an existing heritage building in downtown Cambridge (Southworks) into an administrative office building. The OEB's Decision and Order determined the materiality and need criteria of the project were met. With respect to the prudence of the project, the OEB acknowledged the need for the facility and approved a funding envelope of \$6,500,000 for the ACM.¹

The OEB found there was insufficient evidence to approve a capital budget of \$8.1 million for the Southworks facility as prudent. The OEB cited concerns over the reasonableness of the cost estimates and benchmarking comparisons.² The funding envelope of \$6.5 million was calculated based on cost per square foot benchmarks from administrative facilities of other distributors adjusted by the OEB's IRM inflationary factor and the average of these costs (\$300 per square foot) was applied to the area to be developed at the Southworks facility (21,892 square feet). The OEB stated Energy+ will have the opportunity to address any deviation from this amount in its subsequent Price Cap IR application for the year in which the project comes into service which is consistent with the ACM policy.

Energy+ requested a Motion to Review the ACM Decision on the following grounds:

¹ EB-2018-0028 -Decision and Order Page 14 dated June 18, 2019

² EB-2018-0028 -Decision and Order Page 13 dated June 18, 2019

- The OEB relied on “benchmark” comparisons that were not filed in evidence by the parties and were not tested as part of the evidentiary record.
- The OEB used an extrapolation to arrive at \$300 per sq. ft., when there was no evidence on the record to support this average cost.
- The inflation index applied by the OEB in arriving at the benchmark was based on the IRM factor as opposed to inflation factors from the construction industry.

The OEB found that the motion did not meet the threshold test and the motion was dismissed without proceeding with a review on the merits.³

The final cost forecast for the Southworks facility is \$8,152,916, which is above the original ACM request of \$8,099,792. Energy+ anticipates the building hand-over to the owner in December 2021 and occupancy in January 2022, which aligns with the expectations in the 2019 Cost of Service Application.⁴

The final cost forecast is \$1,652,916, or 25.4%, higher than the approved funding envelope of \$6,500,000. This difference falls within the 30% threshold that is outlined in the ACM report and as a result the details and need for the project that were previously approved in the 2019 Cost of Service do not require re-examination.

Compared to the approved funding envelope of \$6,500,000, Energy+ realized reductions of \$570,000⁵ from the Class 3 estimate as well as cost increases of \$2,223,000⁶. The cost reductions were primarily due to revised design and specifications and alternate tender strategies, which resulted from Colliers Value Engineering process that included an in-depth review of Energy+’s requirements.⁷ The cost reductions reduced the following costs: sitework, building costs and allowances.⁸ With respect to the cost increases, the table below summarizes the items contributing to the cost increases.

³ EB-2019-0180 Decision and Order Page 11

⁴ Manager’s Summary Page 28-29

⁵ Manager’s Summary Page 24 Table 13

⁶ Manager’s Summary Page 26 Table 16

⁷ Manager’s Summary Page 23

⁸ VECC-4 (a)

Southworks Facility

Project Cost Increases	\$	%
Inflationary Impacts	\$1,118,000	50%
COVID-19 Impacts	\$413,000	19%
Firewall Construction	\$269,000	12%
Legal & Real Estate Fees	\$123,000	6%
Conduit Replacement	\$85,000	4%
Waterproofing	\$40,000	2%
Design Consistency	\$34,000	2%
Various Other	\$141,000	6%
Total	\$2,223,000	100%

Milton Hydro indicates 50% of the cost increase (\$1.118 million) is due to inflationary impacts, i.e. higher costs due to pricing and demand in the local construction industry.⁹ Energy+ indicates the approved funding envelope was based on the OEB IRM inflationary factor, which in Energy+'s experience did not reflect the market conditions and demand of the local construction industry.¹⁰

VECC submits Energy+ is attempting to reargue the ACM Decision with new evidence. At Appendix F, Benchmarking Challenges, Energy+ concludes that in its Decision and Order, the OEB used a benchmark of \$300/sq. ft. that was inflated using the IRM Inflation Factor and if the non-residential construction inflation were used, the average cost per square foot would be \$351, resulting in a \$1,118,392 difference in project costs. The OEB pointed out in its Motion Decision that a motion to review is not an opportunity for the party to reargue its case. Energy+'s opportunity to address any deviation from the approved ACM amount of \$6.5 million in this application is not another chance for Energy+ to re-argue its case with respect to the benchmarking, extrapolation and inflation index applied. The OEB should deny recovery of inflationary cost increases.

The second highest cost increase (19%) is due to the unforeseen impacts of COVID-19 (\$0.413 million). The costs relate to an increase in material costs due to lumber and structural steel shortages and additional costs for sanitary measures on site and increased personnel on site for COVID-19 screening.¹¹ As part of its consultation on a deferral account established in relation to the impacts arising from the COVID-19 emergency (Account 1509), the OEB established a new sub-account titled "Capital-related Revenue Requirement Impacts" to record the capital-related revenue requirement impacts (costs and savings) associated with the pandemic.¹² A 50%

⁹ Manager's Summary Page 26 Table 16

¹⁰ Manager's Summary Page 25

¹¹ Manager's Summary Page 26 Table 16

¹² Regulatory Treatment of Impacts Arising from the COVID-19 Emergency EB-2020-0133
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recovery rate applies to the amounts recorded in the Account. The OEB determined the 50% recovery rate is appropriate and reflective of its role to serve as a proxy for competition.¹³ VECC submits Energy+'s COVID-19 costs are to be recorded in Account 1509 and not included for recovery as part of the ACM. The difference is customers would be paying 100% of the costs as part of the ACM. The OEB stated it is unreasonable to suggest that even those who pass the OEB's means test would have been protected from bearing some portion of these impacts in the competitive landscape. The OEB should deny recovery of COVID-19 impacts as part of the ACM.

VECC takes no issue with recovery of the other costs.

Conclusion

For the reasons discussed above, VECC submits the OEB should deny the recovery of inflationary and COVID-19 costs (\$1.531 million) in the Southworks facility 2022 ACM rate rider. The COVID-19 costs (\$0.413 million) should be included in Account 1509 for recovery at a later date.

¹³ Regulatory Treatment of Impacts Arising from the COVID-19 Emergency EB-2020-0133
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