



BY EMAIL and RESS

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April 13, 2022
Our File: EB20220007

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2022-0007 – Enbridge 2020 DSM Clearances

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order #1, this letter constitutes the submissions of SEC in this matter.

SEC notes that counsel Jay Shepherd was a member of the Evaluation Advisory Committee at all relevant times, and thus had direct input into the Annual Verification process and report. In general, SEC believes that EAC input, including that from Mr. Shepherd, has been taken into account in the evaluation and audit process. Thus the results are reasonable, subject to our two comments below.

DSMVA in Union Rate Zone

In preparing these submissions, SEC has noted that the budget underspend set out in Table 1-3 on page 6 of the Annual Verification Report is \$11,360,959. The amount of underspend set out in Table 9-9 of the Enbridge Annual Report is \$9,860,959, and that is the amount proposed in this Application to be refunded to customers.

The difference of \$1,500,000 appears to be that the Verification Report treats the budget for Residential Adaptive Thermostats in the Union Rate Zone, approved by the OEB in the Mid-Term Review, as if it was included in the original budget. However, it was never added to rates. The OEB authorized recovery of that particular part of the budget through the DSMVA.

Enbridge has included their actual spend on this program in Table 9.9, but not the budget, with the result that SEC believes their calculation is correct.

SEC requests that Enbridge confirm in their Reply that this explanation is accurate.

SEC notes that, while the Verification Report appears to be incorrect in this respect, the Evaluation Contractor does not audit or verify the DSMVA, and no opinion is expressed in that report on the DSMVA debit or credit.

While the DSM Guidelines expressly require that the EC provide an independent opinion on the DSMVA, the EC, with the approval of the EAC, has not in recent years given that opinion. Auditing or verifying the DSMVA, which is a series of accounting entries, is fundamentally different from verifying claims of savings or other impacts, which are mostly calculated using engineering assumptions. To provide an audit opinion on the DSMVA would require a different set of skills, and thus likely a different evaluation contractor. Given that the books of the utility are subject to financial audit by recognized accounting firms, SEC agrees with the EAC that an opinion from the EC on the DSMVA balance is not required.

Issues with the eTools Model

On December 29, 2021, the Evaluation Contractor completed a final report on a review of the e-Tools calculator. That is a complex, spreadsheet-based model that has been used for many years by Enbridge, and relied on in audits, to calculate a significant percentage of savings claims. The e-Tools Report concludes that the e-Tools model estimates savings that are 43% - 61% higher than the actual savings observed through a rigorous billing analysis. However, it also is unable to identify the reasons for this over-estimation, and therefore a Phase Two study has commenced to drill down into that issue. Phase Two will, among other things, seek to determine how much, if any, of the apparent disparity is a result of built-in biases in the e-Tools model.

The e-Tools Report has not yet been made public, but it is no longer confidential, and it is expected to be filed with the OEB on April 19th in response to Undertaking J3.7 in EB-2021-0002.

At the time the Annual Verification Report for 2020 was completed, December 2, 2021, the results of the e-Tools study were known but had not been finalized. This Application does not include any impact from that study, and on page 3 of that Report the EC specifically notes the status of the e-Tools study as independent of the results reported. The audit opinion is qualified as “*based on the information available at the time that this report was published*”.

The evidence does not indicate what the shareholder incentive or LRAMVA would be if the results of the e-Tools study are confirmed in Phase Two. SEC estimates that the recovery from customers could be reduced by \$2 million or more, but there is insufficient data on the record to consider any such estimate as reliable. Further, in the Enbridge context a \$2 million variance, while a lot of money, is not material.



SEC therefore cannot propose that the clearance of these accounts be reduced, given the lack of evidence. Further, the OEB is, and should be, reliant on the independent audit process, which includes an opinion on the shareholder incentive and the LRAMVA. While it is true that the results are likely overstated by some fairly significant amount, the evidence before the OEB does not allow it to take action on that, and the audit opinion suggests that approval of the clearance is the appropriate decision.

This is a difficult situation, since it is clearly not fair to customers for them to pay the Enbridge shareholders a performance incentive, and lost revenue recovery, for savings that did not actually occur. On the other hand, it is not fair for Enbridge to be penalized on the basis of a study that is not yet on the record, and is in fact still ongoing in a second phase.

SEC therefore proposes that the OEB approve the clearance of the balances as proposed, but on an interim rather than final basis. That way, if the results of Phase Two of the e-Tools study confirm that there is a significant bias in e-Tools, the OEB can at that time determine whether, or to what extent, the 2020 savings claims, and the recoveries from customers for incentives and lost revenue, should be recalculated to be more accurate.

Conclusion

Subject to our comments above, SEC submits that the evaluation and verification process worked as intended, and the amounts reported and claimed by Enbridge are reasonable. The Application should therefore be approved.

All of which is respectfully submitted.

Yours very truly,
Shepherd Rubenstein Professional Corporation

A handwritten signature in black ink, appearing to read "Jay Shepherd", written over a light grey rectangular background.

Jay Shepherd

cc: Ted Doherty, SEC (by email)
Interested Parties (by email)