



Reply to the Attention of: Mike Richmond
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Our File No.: 297778
Date: April 21, 2023

BY EMAIL AND FILED VIA RESS

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: EB-2022-0178
Applicant's Request for Updated Process Steps**

On behalf of Formet Industries, an Intervenor in the above-noted proceeding, we wish to respond to Entegrus' request of April 20, 2023 to (i) file Supplementary Evidence, and (ii) schedule a Settlement Conference.

1. Supplementary Evidence

Entegrus has not provided enough information for Formet to be able to take a position at this time on its request to file Supplementary Evidence.

While Entegrus described the issues that its proposed Supplementary Evidence would touch on (namely: (i) whether this is an LTLT, (ii) implication of MAAD decision, (iii) excess capacity, (iv) customer reliability impacts, and (v) relative costs of service), it has not provided any indication of what the Supplemental Evidence will consist of or what form it will take.

For example, Entegrus has not advised whether it is planning to produce historical correspondence or agreements? Engagement of an expert witness? References to historical usage data or future usage projections? Other information?

Without an indication as to what Entegrus is seeking to file as Supplementary Evidence, we can not assess whether it is "new" evidence; why it was not filed earlier; whether the Intervenor Evidence to which they are responding is information of

which Entegrus was previously unaware and could not reasonably have known at the time they submitted their original Application, etc.

As such, Formet cannot yet take an informed position on whether it is appropriate for such Supplementary Evidence to be added to the record at this stage and whether it is appropriate to delay the proceeding in order to do so.

Depending on the evidence sought to be admitted, Formet may need to submit Supplementary Evidence of its own. In its original evidentiary submissions, Formet filed only the evidence it felt was necessary in order to respond to or correct erroneous, misleading or incomplete materials in the original Entegrus Application. In order to ensure fairness to the parties and to ensure finality in the Board's decision, it may be necessary for Formet to submit further evidence as well, including to address any mistaken or incomplete elements of Entegrus' Supplementary Evidence.

The typical OEB process, and the one outlined in Procedural Orders 1 and 2 in this proceeding, gives the Applicant the final word in Argument, but gives Intervenors the final opportunity to submit evidence to challenge the Application. Entegrus' request should not up-end that process. If the Board ultimately decides that Entegrus should be given the opportunity to file Supplementary Evidence, then the Intervenors should be given a similar opportunity, if needed.

2. Settlement Conference

In principle, Formet has no reason to object to a one-day Settlement Conference among Entegrus, Hydro One and Formet, prior to Interrogatories. However, the evidentiary record should be complete and closed before participants can properly consider and assess the potential benefits of a Settlement Conference.

We therefore respectfully submit that the Board's decision on Supplementary Evidence should be issued, and if applicable all Supplementary Evidence should be filed, prior to the participants or the Board considering whether a Settlement Conference will be productive.

Yours truly,



Mike Richmond