



**BY EMAIL and RESS**

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August 14, 2023  
Our File: EB20220157

**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2022-0157 – Enbridge Inc – Panhandle LTC – SEC Late Intervention Reply**

We are counsel to the School Energy Coalition ("SEC"). SEC is writing in response to Enbridge's letter dated August 10, 2023. While Enbridge did not actually object to SEC's request to intervene in this proceeding, nor did they identify any prejudice they would face, their letter provided commentary for the OEB to consider when determining whether or not to grant SEC intervenor status.

Enbridge has either misrepresented or misunderstood the reasons for SEC's request for late intervenor status. While we do not intend to address each of their comments, we do wish to emphasize the following.

First, the issue is not simply the applicability of EBO 134 and 188, but rather their unique interaction in this specific proceeding. As the OEB is aware, certain parties have emphasized the need for CIAC payments (usually only required for a project that does not meet the feasibility requirements of EBO 188) for a transmission project under EBO 134. This was an important aspect that was not immediately evident when the application was originally filed. It's unclear whether Enbridge even considered this issue when filing its application. As evidence of this, the OEB had to suggest to the company, in Procedural Order No. 4, that it should consider filing additional evidence on this topic and communicate with potentially affected customers from whom a CIAC payment might be required.<sup>1</sup>

Second, while the review of the reasonableness of a forecasted project is typically an issue for the leave to construct proceeding, it's usually evaluated in the context of project need, not its inclusion in customer rates. However, this has shifted given the company's proposed unique deferral account treatment for the project, introduced in its recent Capital Update filed with its 2024 rebasing proceeding.<sup>2</sup> If approved, either in whole or in part, it will be this proceeding that ultimately determines

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<sup>1</sup> Procedural Order No. 4, p.3

<sup>2</sup> See EB-2022-0200, Exhibit 2-5-4, p.30 (2023-07-16)



the amount to be included in customer rates, not the rebasing proceeding where SEC had originally expected the issue to be dealt with it. This becomes particularly significant considering that the project's forecasted costs have materially increased since the initial application was filed.

Lastly, Enbridge has noted that SEC did not explicitly state its intention to focus its discovery solely on the updated evidence, as directed by the OEB in its Procedural Order No. 6. SEC confirms that it fully intends to adhere to the OEB's procedural directives, accepts the current record as is, and will concentrate its discovery efforts on the updated evidence.

SEC submits the OEB should grant SEC intervenor status. SEC has a substantial interest in the application, and Enbridge has not identified any prejudice from our late intervention.

Yours very truly,  
**Shepherd Rubenstein P.C.**

Mark Rubenstein

cc: Brian McKay, SEC (by email)  
Applicant and intervenors (by email)