



By EMAIL and RESS

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June 10, 2024
Our File: HV 2024-0011

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

Dear Ms. Marconi:

Re: EB-2024-0111 – Enbridge Rebasing Phase 2 – HRAI Evidence

We are counsel for the Heating, Refrigeration and Air Conditioning Institute of Canada (HRAI), which through an internal reorganization is the successor to the HVAC Coalition, a long-time OEB intervenor. This letter is sent pursuant to Procedural Order #2 and Rule 13 to propose evidence to be filed on behalf of HRAI.

Enbridge Evidence

At present HRAI does not know exactly what the evidence of Enbridge on the subject of Enbridge Sustain will contain. We are aware that Enbridge plans to file evidence on June 12, 2024, it will be brief, and will be focused solely on the cross-subsidy issue. We do not know whether it will provide background information on Enbridge Sustain, or on the plan to spin it off to an affiliate at some point in the future, nor whether it will provide full financial forecasts for the period covered by this phase of the rate application (2025-2028). Given the contents of the Applicant's letter of June 7th, we anticipate that the bulk of the evidence from Enbridge relating to Enbridge Sustain will come out of the interrogatory process.

As a result, our proposal below must necessarily be at a high level, since at this point we have limited knowledge of the evidentiary basis on which we are providing the HRAI evidence.

HRAI Evidence

HRAI proposes to provide written and oral evidence from a panel of HVAC contractors and advisors with direct knowledge of the industry, and of costing of projects of the types being proposed by Enbridge Sustain. While some of the witnesses will be experts in job costing, it is not our current intention to qualify them as independent expert witnesses. Their expertise could be demonstrated, but we expect that their independence could not.

Because we have not seen the Enbridge evidence, including responses to interrogatories, we are not yet in a position to provide names and CVs of witnesses. If the Commissioners would like that information in advance of the evidence filing, we are happy to provide it as soon as we have the full set of Enbridge materials and thus know what individuals would be most helpful.

What we expect the witnesses to be able to produce is written evidence showing, from their extensive knowledge of the market, what it should cost Enbridge to deliver the projects of Enbridge Sustain, broken down by cost component, and including variables that will allow the Commissioners to reach their own conclusions on Enbridge Sustain budgets and forecasts. From the point of view of the HRAI witnesses, they will be looking at what the Enbridge Sustain budgets and forecasts should look like, if in fact there was a level playing field in the competitive markets.

Depending on the evidence being provided by Enbridge, we anticipate the HRAI evidence providing the Commissioners with an analysis of where the Commissioners should focus in looking for cross-subsidies of Enbridge Sustain by ratepayers. That is, what cost categories appear to be underestimated, if any, and by how much?

For example, the witnesses will have experience and information on market rates for financing of this category of projects, and the barriers that exist to that financing. They will have information on marketing costs, third party supply costs, personnel costs for various roles, tax treatment of spending, etc. These are just a few examples of what they can provide.

The HRAI evidence will also be able to provide a market description, showing what actually happens in the competitive markets when new projects are being proposed by developers and builders. What are the steps taken by HVAC suppliers? How do they find out about, qualify for, and then bid on projects, and how do they develop the costing for those projects? The witnesses should be able to provide foundational information to assist the Commissioners in understanding the market Enbridge Sustain is entering.

HRAI notes that it was evidence of these types that was of considerable assistance to the OEB in the EnergyLink (EB-2006-0034) and ancillary businesses (EBRO 492 et seq) cases in the past.

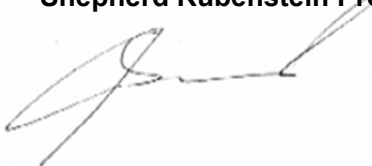
HRAI does not anticipate that the witnesses on the HRAI panel will seek cost recovery, as they will be employees of HVAC contractors or HRAI. If an external expert ends up being required, we would advise the OEB accordingly before proceeding. The only cost implication is expected to be the time of counsel related to the HRAI evidence.

Conclusion

HRAI therefore requests approval to file the evidence above-described.

All of which is respectfully submitted.

Yours very truly,
Shepherd Rubenstein Professional Corporation



Jay Shepherd

cc: Martin Luymes and Sandy MacLeod, HRAI (by email)
Interested Parties (by email)