



BY EMAIL and RESS

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2300 Yonge Street
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December 9, 2024
Our File: EB20240021

Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2024-0021 – ERTH Power ICM – SEC Correspondence

We are counsel to the School Energy Coalition ("SEC"). SEC is in receipt of ERTH Power's correspondence dated December 9, 2024.

In its letter, ERTH Power states that "[w]ithout receiving responses to their interrogatories, VECC and SEC have requested that the OEB hold either a technical conference or an oral hearing on the basis".

ERTH Power has misstated SEC's requested relief. As clearly set out in our letter dated December 4, 2024, SEC is simply requesting, at this time, that by way of amendment to Procedural Order No. 1, the OEB "provide for the opportunity for parties after reviewing the interrogatory responses to request that the OEB make provision for additional steps in the process before the filing of submissions, specifically either a Technical Conference or an Oral Hearing." SEC is not asking the OEB to necessarily order either at this stage.

ERTH Power references several proceedings where an applicant seeking approval for new administrative and operational buildings did not involve a Technical Conference or an Oral Hearing. This was presumably in response to SEC's comment that, in our experience, the review of new administrative/operations buildings often requires further discovery or additional processes to adequately assess prudence.

SEC did not claim that every application making such a request involves further processes in addition to interrogatories, but that, in our experience, it often does. For example, in addition to the proceedings cited in our letter, both a Technical Conference and Oral Hearing were held in each of EB-2012-0033

(Enersource)¹ and EB-2018-0028 (Energy+).² We also note that two of the three proceedings³ referenced by ERT Power involved a settlement process, which often allows for further opportunities through discussions and exchanges of information. Additionally, in one of those proceedings the OEB ordered a supplementary round of interrogatories.⁴

Finally, ERT Power points to the OEB's objectives of promoting cost-effectiveness and economic efficiency in the distributor sector as a reason for why additional steps should not be considered. However, the OEB's objectives also include "[t]o inform customers and protect their interests with respect to prices".⁵ The cost of the projects and the magnitude of the bill impacts, which in this case are substantial, are clearly factors relevant to determining the appropriate procedural steps that should be afforded to impacted customers.

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

cc: Jane Scott, SEC Consultant (by email)
Brian McKay, SEC (by email)
ERT Power and intervenors (by email)

¹ The proceeding involved both a Technical Conference and Oral Hearing on all issues. A significant focus of the Oral Hearing was on the proposed new facility. (See [Decision and Order \(EB-2012-0033\), December 13, 2022](#), p.11-18)

² The proposed ACM for a new administrative building was one of the few unsettled issues in this proceeding, which involved both a Technical Conference and an Oral Hearing (See [Decision and Order \(EB-2019-0028\), June 13, 2019](#), p.5, 6-14)

³ The EB-2019-0022 (Brantford Power) and be-2019-0031 (Energy+) were [combined into one proceeding](#) as they involved a shared facility. The other proceedings EB-2012-0162 (PUC) and EB-2008-0244 (PowerStream) involved a Settlement Conference.

⁴ In EB-2012-0162 (PUC), the OEB ordered that "[a]fter reviewing the responses to the interrogatories, the Board has determined that provision should be made for supplemental interrogatories for the purpose of clarifying the existing interrogatory responses filed by PUC." (See [Procedural Order No.4 and Order for Interim Rates \(EB-2012-0162\), April 19, 2013](#), p.2)

⁵ *Ontario Energy Board Act*, section 1(1)