



By EMAIL and RESS

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December 12, 2024  
Our File: EB-2024-0193

Ontario Energy Board  
2300 Yonge Street  
27th Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2024-0193 – EGI 2022 DSM DVA Clearances**

We are counsel for the School Energy Coalition (SEC). Pursuant to Procedural Order #1 in this proceeding, this letter constitutes SEC's submissions on the Application.

**Overview**

SEC has reviewed the Application in detail, and supports both the amounts being cleared, and the proposed method of disposition. This includes support for the interim clearance of \$60 million for the anticipated Greener Homes overspend, subject to our comments below.

**Union Residential Clearance Amount**

In OEB Staff's submission, at page 5, there is a statement that the proposed one-time billing adjustment for the Union South rate M1 is a refund of \$0.51 for a typical residential customer.

This does not appear to us to be correct. As seen in Ex. C/3/1 and Appendix 1 of that Exhibit, the amount is a charge to customers of \$0.51.

While this amount is not material, of course, SEC flags it to ensure that the Decision does not contain an inadvertent error on this point.

### **Evaluation Contractor Status**

SEC notes that the clearance of the DSMIDA and the LRAMVA (but not the DSMVA) is based on the independent opinion of the Evaluation Contractor, DNV. The DNV report on the results is not included in the Application, but is referred to on page 5 of Ex. A/3/1, and is posted on the OEB website.

SEC has confidence in the Evaluation Contractor, and believes that their opinion is fair and independent. The EC, supported by the EAC, is an audit approach introduced by the OEB several years ago, and has worked well, largely because of the excellent work by DNV.

That having been said, SEC is concerned that an apparent conflict of interest by DNV was not disclosed to the Commissioners in the Application, nor in any of the supporting material or other documentation, as best we can determine. In a different context, DNV has disclosed that another part of their organization is doing work, and accepting compensation, from Enbridge related to their hydrogen projects. As we understand it, there is no overlap in personnel between the independent audit work and the hydrogen work, and it does not change our confidence in DNV as the Evaluation Contractor.

However, SEC believes that this should have been disclosed to the Commissioners in this proceeding, as a large part of their decision is or is likely to be reliance on the independence and thoroughness of the independent audit opinion. For example, in order to ensure confidence by the general public in their decision, the Commissioners may have asked questions and sought details relating to any potential conflict (a sort of *voir dire* of the expert), and satisfied themselves publicly that the independence of the Evaluation Contractor had not been compromised.

We therefore request that the Commissioners, in their decision, provide direction to Enbridge (indeed, to all Applicants, and OEB Staff) that information as to real or potential conflicts of interest of experts relied on in the proceeding must be placed on the record when the expert evidence is filed or relied upon.

### **Interim Disposition Relating to Greener Homes**

The proposal to collect in advance \$60 million of the expected overspend on the Greener Homes program is a reasonable one, subject to an important caveat.

As the Applicant agrees, the full overspend remains subject to prudence review when the final amount is known, presumably in the 2023 or 2024 DSM DVA application. SEC notes in this regard that, in our view, the prudence review may include consideration of the absolute amount of the overspend, both as it relates to the original annual budgets, and the original multi-year budget.

Enbridge appears to be of the view that the OEB's removal of the DSMVA cap in this context was unlimited. SEC does not believe that the OEB intended Enbridge to be able to spend, without any limit at all, on this program.



So, for example, in the prudence review it may be relevant that the total spend was within the forecast limit for the multi-year plan, or not. If it exceeds the ultimate forecast, parties may wish to argue that the excess over the cumulative forecast should be treated differently from the spend which was merely an acceleration of planned spending. In this regard, parties may wish to explore the cost-effectiveness of the program, as delivered, to see whether it achieved its goals at the significantly higher spending levels.

The OEB and parties may also wish to consider the spend on replacement programs during the period where the overspend was initially planned to be spent, since this reflects an additional cost to ratepayers to pursue this category of savings within the same time period. While it may well be found that high spending on multiple programs to produce exceptional results is a success story, in our view asking that question should be allowed.

SEC expects that it will likely support the total Greener Homes spend in the end. We are concerned, however, that the interim disposition does not preclude any of the issues that we think may be fairly raised by parties at that time.

### **Conclusion**

Subject to the limited comments above, SEC supports the clearance of these DVA accounts as proposed, as well as the disposition method and calculations of adjustments.

All of which is respectfully submitted.

Yours very truly,

**Shepherd Rubenstein Professional Corporation**

A handwritten signature in dark ink, appearing to read "Jay Shepherd", written over a light blue horizontal line.

Jay Shepherd

cc: Brian McKay, SEC (by email)  
Interested Parties (by email)