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November 25, 2008

BY EMAIL ONLY

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

Board File No. EB-2007-0697
Horizon Utilities Corporation –2008 Rates Rebasing Application
Horizon Submissions re Intervenor Costs Claims

Energy Probe Research Foundation (Energy Probe) has received a copy of the Applicant's letter to the Board, dated November 24, 2008, which provides the Board with comments on the costs submissions of intervenors in the EB-2007-0697 proceeding. In particular, the Applicant has requested a very substantial reduction in the cost claim of the School Energy Coalition (SEC).

Other than noting one 1.2 hour item that may not be related to this proceeding, the Applicant has based its conclusions in respect of the reasonableness of SEC's cost claim through comparison with the cost claims of the other intervenors.

As the Board is aware, it is not the normal practice of intervenors to comment on each other's cost submissions. They are not of interest to us; we are not in competition. There are no Costs available to intervenors to discuss each other's costs under the Board's *Practice Direction on Cost Awards*. However, the letter from the Applicant requires submissions from Energy Probe.

This proceeding has been difficult. The phrase "dragged kicking and screaming" would not be out of place in describing the Applicant's resistance to the alternative dispute resolution and oral hearing phases of the proceeding. The correspondence is on the record.

Energy Probe has not reviewed the Costs Submission of SEC. As lead intervenor, it is not surprising that the total hours devoted to this proceeding are much higher than those of the other intervening parties.

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SEC also took the lead in the Oral Hearing, resulting in much longer cross examination time than any other intervenor. Preparation for cross examination on financial issues is lengthy.

In its lead intervenor position, SEC was instrumental in the reduction of ratepayer costs in a number of areas, including a \$500,000 reduction in personnel costs related to merger activities, a \$150,000 cost reduction in respect of the Applicant's last merger and a \$437,000 reduction in Regulatory Costs.

In its prefiled evidence and in its oral evidence, the Applicant mischaracterized its Cost of Capital, especially in respect of its long-term embedded debt in the form of a Promissory Note in favour of Horizon Utilities Corporation, its parent company. This resulted in lengthening the oral hearing and the cross examination on that issue. The result of SEC's focussed cross examination of that issue assisted the Board in reducing ratepayer costs by some \$ 1 million per year.

The Board has been consistent in its direction to intervenors to conduct themselves in a manner which reduces duplication of effort. Such was the case in this proceeding. Energy Probe submits that it would not be appropriate for the Board Panel to penalize SEC for taking the lead intervenor position in the review of the EB-2007-0697 Application.

Should you require additional information, please do not hesitate to contact me.

All of which is respectfully submitted.

Yours truly,



David S. MacIntosh
Case Manager

cc: Cameron McKenzie, Horizon Utilities Corporation (By email)
James Sidlofsky, Borden Ladner Gervais LLP (By email)
Maureen Helt, OEB Counsel (By email)
Jay Shepherd, SEC Counsel (By email)
Interested Parties (By email)