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BY EMAIL and RESS

November 8, 2009
Our File No. 2090711

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2009-0331 – OPG 2011 Payment Amounts Filing Guidelines

We are counsel for the School Energy Coalition. In accordance with the Board's letter of September 24, 2009, this letter constitutes the SEC's reply submissions with respect to the Staff Scoping Paper and the proposed amended Filing Guidelines.

We have not repeated the submissions made in our comments last week, which continue to be applicable. Our comments below each refer specifically to the initial submissions of OPG. We are in general in agreement with the submissions of VECC, CCC, CME, AMPCO and Energy Probe.

Staff Scoping Paper

1) OPG p.3. We agree that providing questions in advance of the Technical Conference is the preferred approach, although we note that the main value of the Technical Conference is the questions and clarifications that arise out of the exchanges and the other questions.

2) OPG p.3. The Board establishes a capital structure because it thinks it is appropriate. If OPG opts for a different capital structure, that is fine, but it should explain why it has. That explanation may, depending on the circumstances, influence the Board's decision on the appropriate capital structure going forward, and also on the reasonable cost of each component of capital recoverable from ratepayers.

3) OPG. p.4. The Applicant's position appears to be that the 2010 revenue requirement is never considered by the Board in any context. The suggestion is that OPG can, by electing not to apply for 2010 rates, unilaterally decide that the Board cannot look at its profits for a given year. There may well be a disagreement later as to the appropriate response of the Board to

information about 2010 results, but to ask that it be considered, a priori, to be irrelevant in all respects is not appropriate.

4) OPG p.5. OPG is concerned with the extent of business cases required. In our view, if they have a business case for a given project, it should be filed. If they do not have a business case, it will be a matter for argument whether they should have done that analysis, and what the lack of analysis means in the context of reviewing prudence or reasonableness.

5) OPG p.6. The suggestion that CMSC be excluded is inexplicable. Either those credits are revenue, meaning they are relevant to revenue requirement, or they offset costs/revenue losses, which means that the Board needs the details in order to assess whether the correct costs or revenue losses have been properly offset.

Filing Guidelines

6) OPG p.7. We do not understand the need to remove the Deferral and Variance Accounts exhibit. There are a number of deferral and variance accounts, and their calculation, clearance and continuation/establishment are live issues. This appears to us to be a wheel that does not need to be reinvented.

7) OPG. p.8. If the intention of the Applicant is to combine the Revenues exhibit with the Production Forecast exhibit, that does not seem to us to be a problem, as long as all of the same information will be provided in a thorough and understandable way.

8) OPG p.8. While we understand that OPG is technically correct with regard to 2010 budget vs. actual, in fact there are assumed costs built into the payment amounts, and if OPG doesn't do a comparison of those costs to 2010 actuals, the intervenors will have to do it. To avoid confusion, it would in our view be better if OPG does it.

Conclusion

We thank the Board for this opportunity to comment on the issues and the filing guidelines.

All of which is respectfully submitted.

Yours very truly,
SHIBLEY RIGHTON LLP

Jay Shepherd

cc: Wayne McNally, SEC (email)
Bob Williams, SEC (email)
Interested parties (email)