



By EMAIL and RESS

Jay Shepherd  
jay@shepherdrubenstein.com  
Dir. 416-804-2767

January 16, 2023  
Our File: EB20220200

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

**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2022-0200 – Enbridge 2024-2028 Rates – SEC Evidence**

We are counsel to the School Energy Coalition (“SEC”). This letter is sent pursuant to Procedural Order #1 to deal with two matters relating to intervenor evidence.

**SEC Evidence**

Although Procedural Order #1 requires notice to the OEB only if an intervenor intends to file expert evidence, SEC considers it appropriate to advise the Board that we are considering filing fact evidence in this proceeding.

As the OEB is aware, a key issue in this proceeding, highlighted by the OEB in Issue #3 of the Draft Issues List, and the subject of expert reports by the Applicant and proposed expert reports by intervenors, is the energy transition and Enbridge’s response to it. Among the areas that will be of concern to the OEB will be the plans of many larger customers to reduce their GHG emissions through reducing their use of fossil fuels, and the impact of those plans on the future plans of the Applicant.

SEC understands of course that the onus is on the Applicant with respect to the energy transition suite of issues, and that things like the load forecast and the capital plan are based on the Applicant’s assumptions about future reductions in gas use. They have the responsibility to justify those assumptions through their evidence. We fully anticipate that, through the prefiled evidence and the discovery process, a body of evidence on these trends will emerge as the Applicant seeks to meet that onus.

We are also aware that BOMA plans to file evidence from Ian Jarvis on the future gas use of commercial and institutional customers. The data contained in that report may also provide the

OEB with a strong evidentiary base relative to this area. The expert reports from others will also assist the OEB in understanding those issues.

That having been said, we are aware that there is a substantial amount of documentary and other material available that may inform the Commissioners with respect to these matters. Therefore, SEC, either alone or in conjunction with other intervenors, may seek to file documentary and witness information on natural gas reduction plans of major customers, whether in the public or the private sectors. The OEB will be aware that we did so jointly with the City of Ottawa and Pollution Probe in EB-2020-0293, and we hope it was of assistance to the Commissioners in that proceeding. A similar, but perhaps broader, package of information may help the OEB in this proceeding.

The extent of any such evidence will, of course, be dependent on what the record looks like after discovery. We believe that some, or perhaps even all, of what the OEB needs will be provided through that process, and through expert reports. The scope of the SEC evidence would then be tailored to ensure that it is not duplicative of what is already on the record.

It is not currently our intention to file expert evidence on the energy transition, although as is always the case further evidence by any party may warrant a change in that view. If any new evidence required an expert response, we would of course seek permission of the Board at that time.

SEC also wishes to flag at this time that we do plan to consider expert evidence on the post-2024 issues that the OEB has assigned to Phase 2, including in particular rate harmonization and its impacts on specific customer groups. However, it is premature to assess whether that will be necessary, and we are operating on the assumption that the OEB will provide a further deadline for that material at the appropriate time.

### **Evidence of Other Parties**

***Energy Futures Group.*** As noted above, SEC does not seek to file expert evidence on the energy transition, in large part because we are aware that GEC and Environmental Defence plan to file evidence from Chris Neme of Energy Futures Group. Mr. Neme is undoubtedly the foremost expert on gas conservation and integrated resource planning as it relates to Ontario, and has a strong international reputation as an expert on the energy transition. We expect to rely heavily on his evidence.

***IGUA Witnesses.*** We also understand that IGUA plans to file expert evidence as it relates to three specific issues: equity thickness, fair return standard, and depreciation/amortization policies. These are key issues in this Application, particularly given the state of change of the fossil fuel sector during this upcoming rebasing period. The Applicant's proposals in these areas are expected to drive material increases in rates.

SEC therefore believes that the IGUA evidence will be an important foundation for all ratepayer interests. In particular, the evidence of Dr. Asa Hopkins will focus on the energy transition and its impact on risk. Although the evidence of Dr. Cleary on fair return and of Mr. Madsen on depreciation will not be centred around the move away from fossil fuels, that fact will be an important context for those reports. While we may not end up agreeing with everything in the IGUA expert reports, those reports will provide a valuable perspective that the OEB and all parties will need to see.

***Enerlife Consulting.*** We do not yet have complete details on the evidence being proposed by BOMA, but we are well aware of the work of Mr. Jarvis, and anticipate that it will provide useful



data and insights on energy transition issues. The evidence of Mr. Jarvis in the DSM case dealing with Pay for Performance conservation (including the Enbridge program focusing on schools) was of considerable value. SEC therefore supports acceptance by the OEB of the proposed BOMA evidence.

**Conclusion**

The OEB will be aware that the intervenors have been working together to ensure that there is an appropriate body of evidence before the Commissioners to cover the main issues in this significant case. With proposed revenue requirements over the rebasing period likely to exceed \$16 billion, and a +\$18 billion rate base overhang at the end of that period still left to be paid, a lot is riding on the OEB's decision in this case. All of that is made more challenging by the rapidly changing energy policy landscape and the evolving expectations of current and potential future customers.

It goes without saying, perhaps, that the tough job faced by the Commissioners will be more manageable if a strong base of expert and other evidence is provided by the parties.

All of which is respectfully submitted.

Yours very truly,  
**Shepherd Rubenstein Professional Corporation**

A handwritten signature in black 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)