

Savings for Ontario School Boards

The five year Enbridge case was resolved in Q4, but the practical and political impacts have been lingering throughout Q1 and beyond. The only significant savings to report, therefore, are from electricity distribution cases settled in the quarter, \$360,000 of savings for schools.

The Toronto Hydro case (now seeking \$16.1 million more from schools over five years), plus phases 2 and 3 of the Enbridge rate case, are the near term priorities. The biggest impact, though, may be the Cost of Capital Review in the summer and fall. In addition, Enbridge is scheduled to file a new conservation plan in Q4, with massive budget increases.

ONGOING MATTERS - NATURAL GAS

Enbridge 2024-2028 Rates. SEC has previously estimated total school board savings of about \$11.8M from this case, and it was expected that, after the Decision of the Commissioners in December, final calculations would be possible in Q1.

This was the Enbridge five-year rate case, set against the backdrop of the transition away from fossil fuels, and thus a highly controversial proceeding. Many of the standard issues were resolved in a settlement, led by SEC counsel Mark Rubenstein, in June, but the most difficult issues were left to a lengthy oral hearing. The Decision, in December, took bold steps to require the utility to increase customer protection against overbuilding and the risk of stranded assets.

Normally, after a Decision there is a short period during which the utility and then the parties do the math on its impacts, and rates are established. In this case, however, some of the calculations by Enbridge have been questioned by SEC and others, and the rates have not yet been finalized. It is expected that will happen now in Q2.

Once rates are set, the proceeding continues with a Phase 2 and Phase 3, including many important issues such as the formula for setting rates in 2025

through 2028, and the harmonization of rates between the former Union Gas and Enbridge distribution areas.

Meanwhile, Enbridge has filed a Motion at the Energy Board asking for another panel of Commissioners to review key aspects of the Decision, including the \$250 million per year reduction in their approved capital budget. In parallel, Enbridge has filed an appeal to Divisional Court on terms that are very similar to the Motion but has proposed to suspend that appeal while the Motion is heard.

All of this is happening within a more politically charged environment, as the Energy Minister has vowed to overturn some aspects of the Decision. Bill 165 has been filed to do so. If enacted it could make some of the independent regulator's work newly subject to government intervention.

As a result of these various delays and further actions, it will likely be much later this year before all of the issues in this case have been dealt with.

Enbridge Conservation Plan. In 2022 the Energy Board concluded that the longstanding conservation (called DSM) programs from Enbridge had to become more innovative and ambitious. To that end, the Commissioners appointed a group of experts to assist Enbridge in

the development of a better plan for 2025. That group included SEC's Jay Shepherd.

The advisory group has not been successful in helping Enbridge create a better plan. Instead, Enbridge has concluded that a plan that reduces gas use by just 1% per year would have to cost customers about a billion dollars a year over five years (six times the current budget), without any changes in programs (just more of them). For schools, many of which are already early adopters of energy efficiency options, this would likely amount to a rate increase of 10% or more. SEC (and other ratepayer groups) have made clear to Enbridge that this level of budget is not realistic. SEC counsel has concluded that the expert group is not adding value, and so has resigned from the body to focus on preparation for the regulatory review of the new plan, expected to start in Q4.

Enbridge Conservation – 2021. Enbridge filed an application to charge customers based on the success of its 2021 DSM programs. SEC challenged the calculations (about \$7.1 million sought) due to an issue with a computer model Enbridge uses to calculate savings. SEC first identified this issue four years ago. After some debate, the independent evaluator of the programs has determined that the claim should be reduced by around 10%.

While the impact on rates for schools is negligible, it is important that SEC and other intervenors continue to apply rigorous review to utility proposals. This issue might only save schools \$10,000 or less per year, but the next issue could easily be a multiple of that.

Panhandle Reinforcement. Enbridge continues to press their application to spend \$358 million to supply gas generators and greenhouses in SW Ontario and spread the cost among all customers.

An additional complication has now been introduced. Bill 165, which adds powers for the Minister to review and overrule some Energy Board decisions, would if enacted apply to the Panhandle Reinforcement case.

ONGOING MATTERS – ELECTRICITY

Toronto Hydro 2025-2029. Toronto Hydro, the second largest electricity distributor in the province, filed its five-year rate application in Q4. It included rate increases of about \$15.8 million for schools over the five-year period, i.e. 8% per year compounded.

The proceeding has unfolded in the normal way, with SEC counsel Mark Rubenstein (assisted by Jane Scott) taking a leading role among the intervenors. Written questions have been asked and answered, and an update has been filed, moving the school boards' increase up to \$16.1 million over five years.

An oral technical conference, intervenor evidence, and then a settlement process are all scheduled for Q2. An oral hearing will then be held in July, followed by comprehensive written arguments in August. A decision is anticipated in Q4.

Connections Policy Review. Currently, electricity distributors require developers to pay the cost of new electrical connections in subdivisions, subject to credit for expected new revenues. Similar rules apply to new commercial, industrial and institutional customers.

The Minister has asked the Energy Board to review these policies with a view to making it simpler and less costly to build new housing. Any costs not paid by the developers are paid by existing customers.

The Energy Board is consulting with key stakeholders, including SEC. A report is expected in June.

Other 2024 Distributors' Rate Applications. In Q1 rate applications for Orangeville, Wasaga, and Westario (Walkerton) were settled, **saving schools an aggregate of \$360,000.**

OTHER MATTERS

Cost of Capital. The generic hearing on the Cost of Capital for Ontario utilities has started. Twelve intervenor groups, and at least nineteen utilities

and their associations, have registered to participate. At stake for schools is about \$60 million per year of their utility rates. SEC counsel Jay Shepherd and Mark Rubenstein will both be involved.

Expert reports will be filed in Q2 and over the summer. A hearing on the issues is scheduled for September.

Intervenor Review. The Minister of Energy is requiring the Energy Board to report on the cost and value of intervenors. This, likely the result of utility lobbying, comes at a time when the Energy Board had an existing action plan in place to update its intervenor policies, already considered by many to be among the best in the world. SEC is coordinating with other intervenors to provide input to the Energy Board on this, and SEC counsel Mark Rubenstein is a member of the Adjudication Committee that is also expected to be asked for input.

Jay Shepherd
Mark Rubenstein
Jane Scott
On behalf of SEC

Questions? Contact Brian McKay (sec@oesc-cseo.org) or Mark Rubenstein (mark@shepherdrubenstein.com)

The SEC is registered as the official intervenor at the Ontario Energy Board on behalf of all 72 District School Boards in Ontario. The intervention role aims to protect the financial interests of school boards when natural gas and electricity utilities apply for increases in distribution rates for their energy sources.

The SEC is represented by Jay Shepherd, SEC Legal Counsel, who consults regularly with the OESC Executive Director.

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