

# SCHOOL ENERGY COALITION (“SEC”)

## SUMMARY STATUS REPORT

January 6, 2012

*The big news in the last four months of 2011 is the Energy Board’s decision (yesterday) to impose fiscal discipline on Toronto Hydro. With that, and other recent results, SEC’s efforts have produced a further \$2.5 million in savings for schools, for a total of \$21.0 million in 2011. From 2004 to 2011, the running total has now passed the \$90 million mark.*

*In addition to 2012 rate applications from a number of electricity distributors, the upcoming year will see several significant utility proposals seeking more money. Enbridge and Union will have six years of rates set, and in that process will ask for at least \$12 million more from schools relative to the previous rate structure. Ontario Power Generation and Hydro One Transmission will also be at the table, with similar requests. As a framework for all of it, the Energy Board is engaged in a rethinking of its basic rate-setting structure. SEC will be actively involved in each of these.*

### ONGOING MATTERS – NATURAL GAS

**Enbridge 2012-2014 DSM Plan.** After the Energy Board set strict limits on conservation budgets for the two major gas distributors (previously reported), Enbridge developed a three year plan including its allowed \$125 million of spending and incentives. Predictably, the plan included easy to achieve targets, so that incentive payments would be more certain.

Fresh from their success in negotiating five years of customer care costs, Enbridge initiated a negotiation with all stakeholders on their DSM Plan. In six weeks of discussions, the stakeholders, with SEC acting as negotiator, forged an agreement with Enbridge for the first year that increases the targets, hones the programs, and encourages innovative new approaches. Formal approval from the Energy Board is expected this month, but there are no significant items in dispute.

**Union Gas 2012-2014 DSM Plan.** Union Gas has also filed their three-year DSM Plan, but they chose not to work out a consensus first. The Union Plan is now before the Energy Board, and in December Union Gas decided that an attempt to reach a consensus may be a good idea after all. In January, a series of meetings will test whether that is still possible.

**2012 Rate Applications.** Enbridge and Union have both applied for 2012 rates based on their previous formula rate-setting rules. In general the rates continue the pattern since 2008 of small (or zero) rate increases.

**Union Gas 2013 Rate Application.** Union Gas has now filed their 2013 rate application, which is intended to form the basis for formula-based rates for 2014-2018. The overall rate increase proposed is about 7.4%.

The extensive application materials include a proposal to increase Union’s allowed profit levels by a substantial amount. This represents more than half of the rate increase. Union Gas has earned well in excess of their approved levels in the past five years, so the new proposal seeks to make those higher profit levels permanent. SEC is working with other intervenors to oppose this.

**Enbridge 2013 Rate Application.** The Enbridge 2013 rate application, also to be the basis for the following five years, is expected to be filed before the end of January. Early indications are that an overall increase of 6-9% will be requested.

### ONGOING MATTERS - ELECTRICITY

**Toronto Hydro 2012 Rates.** Electricity distributors have their rates set on the basis of a budget proposal for one year, then a formula for the next three years. The formula allows an increase for inflation, but assumes achievement of industry-standard productivity improvements as well. On average, increases for the formula years are about 1% per year. Many Ontario distributors have flourished under this system.

Toronto Hydro has since 2006 been treated largely as exempt from this rate-setting process. With increases in excess of inflation already allowed for each of 2006 through 2011, the utility filed a further application for 2012-2014 rates, with increases (for schools) of 9.53% in 2012, 12.05% in 2013, and 11.50% in 2014. In total, Toronto schools would have paid an extra \$4 million over those three years if Toronto Hydro's proposals had been accepted.

The Energy Board decided to consider the general issue of whether Toronto Hydro should continue to be an exception to the normal rate-setting rules. SEC and the Consumers' Council, supported in part by other ratepayer groups, led the opposition to continuation of this special treatment.

The panel of three adjudicators, who collectively have 70 years of utility experience, agreed with SEC that it is time to impose fiscal discipline on Toronto Hydro. In their decision, released January 5<sup>th</sup>, the Energy Board panel noted SEC's evidence that Toronto Hydro is by far the highest cost urban utility in Ontario, and said that the utility's evidence did not show that they were doing enough to be productive and efficient.

The result is that rates for 2012-2014 will be set on a formula basis, probably with a capital adder. The total added cost to Toronto schools in those three years will be about \$750,000, not \$4 million. About \$1,450,000 of that is a "re-ask" of increases already denied once in the 2011 Toronto rate case, so the incremental savings from this decision are **\$1,800,000**.

Toronto Hydro has today responded angrily in public statements criticizing the result, and they may appeal this decision. However, it is instructive to note that one of the major banks, in their credit alert on the decision this morning, concluded by saying "*In our view, the decision was both neutral in tone, and appears to strike a fair balance between the needs of both the utility and ratepayer*".

**Hydro Ottawa 2012 Rates.** With much less drama than Toronto Hydro, Hydro Ottawa received in December a 2012 rate increase that will apply until 2015. Having asked for special treatment last year (much like Toronto Hydro) and been denied, this year Hydro Ottawa asked for an increase (for schools) of just under 12%. Many aspects of the application were

agreed in a negotiated settlement in the fall, but the main items, including the increase in operating expenses, were the subject of a contested hearing.

In the decision, the Energy Board cut spending back in a number of areas, but still allowed a 7% rate increase. The result is savings for Ottawa schools of **\$320,000** over four years.

**Other 2012 Distribution Rates.** A few other 2012 rate applications have also been resolved. For example, Oshawa Hydro, which sought to increase its rates to schools by 21.2%, instead reached agreement on rates that will decrease the bills to schools by 2.4%, saving Oshawa schools **\$320,000** over four years (about \$1175 per school per year). Guelph Hydro, already proposing a 10.4% reduction for schools, agreed to improve that to 15.7%, saving schools **\$60,000**.

**Major Transmission Projects.** 2012 is expected to be a year of major transmission projects in Ontario. The first of these, called the "East-West Tie", will kick off in the spring, and is expected to feature the first time multiple companies compete for the opportunity to construct a multi-billion dollar transmission line.

**Renewed Regulatory Framework.** The Energy Board has commenced a process in which it will consider whether – and, if so, how – to change its rate-setting and other policies to reflect a broad range of capital spending initiatives being proposed by government and utilities. The pervasive nature of the subject means that the impact on schools could be tens of millions of dollars. SEC's involvement will stress that needed capital spending must be funded, but a combination of rigorous review and productivity benchmarking should be used to minimize the impact on ratepayers.

## **OTHER MATTERS**

**SEC Counsel's Office.** Mark Rubenstein, who recently has worked on SEC matters as a student, has agreed to continue that work in his new capacity as a lawyer. In recent cases he has drawn compliments from industry players for his excellent work.

Jay Shepherd  
Counsel for SEC

Questions? Contact Wayne McNally ([wmcnally@opsba.org](mailto:wmcnally@opsba.org)) or Jay Shepherd ([jay.shepherd@canadianenergylawyers.com](mailto:jay.shepherd@canadianenergylawyers.com))