

14 December 2005

Mr. John Zych
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, ON

Dear Sir:

Re: EB-2005-0523 - information requested of GEC by Board Staff Counsel

Following our filing of the affidavit of Chris Neme in this case Board staff counsel contacted us asking for documentation related to three items referred to in Mr. Neme's evidence. He invited us to file information on the 'primary directives' (referred to by Mr. Neme at page 6), documentation of Docket 5720 where the Vermont PSB reduced RoE for DSM plan inadequacy (also on page 6) and to provide documentation related to the Vermont PSB's request for different efficiency investment scenarios and VEIC's response thereto (referred to by Mr. Neme at page 8).

We ask that this letter and attachments be provided to the panel.

In responding to these requests we note that 'primary directives' on energy conservation take various forms in numerous US states and accordingly we have provided a sampling:

- Many states as part of electricity restructuring included Public Benefit or System Benefit charges or funds, some of which are earmarked for energy efficiency programs thus effectively mandating a minimum spending level. Attached please find a 2004 summary of such funds assembled by the American Council for an Energy Efficient Economy (ACEEE).
- Some states mandate "least cost" approaches that require energy efficiency that is cheaper than supply to be captured. Attached are policy statements enshrined in Wisconsin and Hawaii's laws that are two such examples.
- Regulators have also directed least cost approaches. We attach a directive of the Northwest Power Planning Council that directs customers (including distributors) of Bonneville Power Administration's power who are proposing to take responsibility for DSM to develop energy efficiency plans that capture all cost effective opportunities and to address several related regulatory objectives. This is an example of a directive to distributors and as such is in a context similar to that in Ontario.

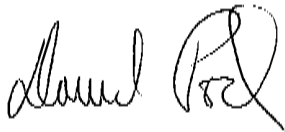
- Recently some states or regulators have asked utilities to exceed previous caps or targets for energy efficiency where cost effective. The Vermont PSB request of VEIC (which runs the energy efficiency utility) to provide information on more aggressive scenarios is a response of that board to Vermont's Act 61 which lifted the previous cap. Attached is VEIC's response as requested. Mr. Neme's office advises that the request from the PSB was oral. Accordingly, we provide a memo from the PSB which refers to the Board's requirement to provide a "determination of an appropriate budget level for Vermont's Energy Efficiency Utility now that the statutory cap on that funding has been removed." We also attach a copy of excerpts of Vermont law (before and after Act 61 amends it) referring to least cost planning and a requirement that regulation provide incentives for a least cost approach. The full Act 61 is available in PDF upon request.
- Another notable example of a regulator calling for efficiency investment wherever cost effective is from California. We attach the "Energy Action Plan" and the introduction and background and procedural history sections of the draft order from the CPUC to that effect. The full order can be seen at:
http://www.cpuc.ca.gov/PUBLISHED/COMMENT_DECISION/48667.htm
- We also attach excerpts of 3 Vermont PSB decisions. Mr. Neme had referred to 5720 as the decision docking CVPS 75 basis points. In fact 5720 is a decision where the board warns a local utility that it could face penalties:

...in keeping with our general policy, the Board will consider a failure to move forward with cost-effective efficiency programs to be sufficient cause for the Board to initiate an investigation into the rates charged by Enosburg Falls. Such an investigation could lead to orders requiring the escrow (and potential refund to customers) of revenues associated with power costs that could have been avoided by cost-effective energy efficiency investments.

The decision where an actual reduction occurs is 5701. Also attached is an excerpt from 5270 which is the decision that sets out the primary requirement that utilities pursue cost effective DSM. The decisions are quite lengthy and we will forward electronic copies of the entire decisions to the Board. They are available to all others upon request.

I trust this information will be of assistance.

Sincerely,



David Poch
Counsel for the GEC

cc: All parties by e-mail
George Vegh