



## Jay Shepherd

Professional Corporation  
2300 Yonge Street,  
Suite 806  
Toronto, Ontario M4P 1E4

### **BY RESS and EMAIL**

November 30, 2010  
Our File No. 20100131

Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

### **Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

### **Re: EB-2010-0131 – Horizon 2011 Rates**

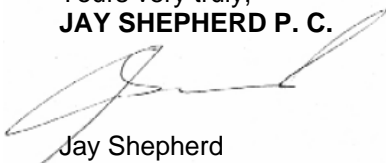
We are counsel for the School Energy Coalition. In Submissions on the Preliminary Issue filed November 23<sup>rd</sup>, we gave a highly critical characterization of the argument of the Applicant in this matter. In doing so, we missed a key piece of evidence, and as a result our tone and statements were unjustified. For that, I personally apologize to the Applicant and the Board on behalf of myself and my client.

While we continue to believe that access to the new and higher ROE is an important driver for this Application, we considered the Application in light of statements by the Applicant in February, and concluded that the primary driver for the Application was cost of capital. We failed to identify the clear statements by the Applicant in September 2009 that a 2011 COS application would be filed. Those statements make clear that at least some of the rationale for this Application predated the new ROE.

We apologize for missing this relevant evidence, and reaching a conclusion that was unfair to the Applicant and its executives. In all other respects, our Submissions remain as filed, including our overall recommendations to the Board in this proceeding.

All of which is respectfully submitted.

Yours very truly,  
**JAY SHEPHERD P. C.**



Jay Shepherd

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

Tel: (416) 483-3300 Cell: (416) 804-2767 Fax: (416) 483-3305  
[jay.shepherd@canadianenergylawyers.com](mailto:jay.shepherd@canadianenergylawyers.com)  
[www.canadianenergylawyers.com](http://www.canadianenergylawyers.com)