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### **BY EMAIL and RESS**

April 18, 2011  
Our File No. 20110091

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-2011-0090/91 – OPG Payment Amounts – Motions for Review**

We are counsel for the School Energy Coalition. We are writing in response to Procedural Order #1 in this matter, to request that the Board consider a slightly different procedure for written submissions. We have since then had an opportunity to discuss this with counsel for OPG, who may also wish to provide comments directly to the Board in this regard.

When SEC filed its Notice of Motion, it used the traditional approach, i.e. a Notice of Motion that contains sufficient detail on the grounds for review to be understood, but does not contain the full argument in chief on the motion. SEC anticipated that it would file its factum and any supporting materials on a schedule to be determined by the Board.

In this case, while SEC could still do this on the schedule established for written submissions in PO #1, in our view Board Staff, OPG, and others making submissions on our motion would then be at a disadvantage, because our full factum would not be filed until after, or at the same time, as theirs. For the OPG motion, SEC, Board Staff and others could be at a similar disadvantage. There is essentially no opportunity for parties to respond to the submissions of others except at the very end, in the oral hearing. Given the sometimes complex and technical nature of some aspects of these motions, in our view this may not be the optimum result.

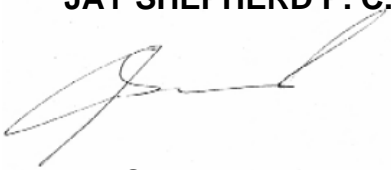
We would therefore request that the Board consider an alternate schedule, in which SEC (on our motion), and OPG (on their motion) file full facta with supporting materials, after which Board Staff and then all parties can respond. If the Board felt it would be useful, a written reply would in our view also add value.

It may be that the current oral hearing dates would be too soon for such a process, but at the latest a hearing the following week would, in our view, be possible. If the Board wished to keep to the existing oral hearing dates, SEC believes that it could be ready to file its full factum and supporting materials by as early as May 6<sup>th</sup>, leaving 10-14 days for responding submissions, a further week or more for reply, and still sufficient time after that for the Board to review all submissions before the oral hearing.

SEC is, of course, fully prepared to proceed on the schedule in PO #1. On the other hand, in our view the Board may get better assistance from the parties if a sequential approach to written submissions is used instead.

All of which is respectfully submitted.

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



Jay Shepherd

cc: Wayne McNally, SEC (email)  
Crawford Smith, Torys (email)