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### BY EMAIL AND RESS – REDACTED VERSION

July 9, 2014  
Our File No. 20130321

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-2013-0321 – OPG 2014-2016 Rates – D2-2-2 Confidentiality Claim

We are counsel for the School Energy Coalition. Pursuant to Procedural Order #12, this letter constitutes SEC's submissions with respect to the claims by OPG that certain portions of Ex. D2-2-2, Attachment 1 should be treated as confidential.

This letter may contain information that OPG believes is confidential. SEC is therefore filing it in confidence, and asks that OPG, if it has any claim with respect to confidentiality for the contents of this letter, so communicate to us and to the Board. The Board would then be in a position to determine whether all or any part of this letter should be on the public record.

#### The Redactions

The hundreds of redactions in the Attachment appear to fall into three categories:

1. Descriptions and analysis of [REDACTED] the Darlington Refurbishment Project. This includes [REDACTED], and possible responses by OPG, some of which [REDACTED]. Most of the information with respect to [REDACTED] is not redacted. Virtually all of the information that has [REDACTED] is redacted.



2. Details associated with cost overruns, schedule delays and estimating/forecasting problems for various components of the Darlington Refurbishment Project. This includes details of various responses to these overruns and delays. Most of this information is public, but some of the dollar figures and reasons are redacted.
3. Criticisms of the actions by OPG in dealing with the problems on the Darlington Refurbishment Project.

Below we deal with each category in turn.

It is important to emphasize that SEC has long been a strong supporter of the Board's policy of transparency with very limited exceptions. That continues to be our view, and our comments below come from that perspective.

[REDACTED]

With respect to the first category, SEC understands OPG's concerns with respect to the impact that public disclosure of this information could have on their contractors. Although we assume that all or most of [REDACTED], and the responses of the OPG witnesses in the Technical Conference are consistent with that assumption, [REDACTED]

In addition, [REDACTED].

[REDACTED]. To the extent that [REDACTED].

[REDACTED]. Neither is a good result.

On the other side, [REDACTED], particularly in light of the [REDACTED]. The Board clearly has to be concerned [REDACTED].

On balance, SEC believes that redactions in this category should be kept confidential, but only the absolute minimum necessary [REDACTED].

In our view, this will still leave too much of the document redacted, but we see no alternative in the circumstances.



**Details of Cost and Schedule Problems**

These redactions are primarily dollar figures and similar information. For example, the amount of OM&A that OPG is considering re-characterizing as unrelated to the Darlington Refurbishment Project (thus reducing the project total cost without reducing the amounts spent), is a proposed redaction. This and other redactions of this nature appear to be primarily designed to avoid embarrassment of OPG. SEC believes they should not be confidential.

**Criticisms of OPG**

The third category is commentary and analysis by the independent advisors assessing how OPG is dealing with the problems with the Darlington Refurbishment Project. [REDACTED]

With respect to the remainder, SEC submits that the Board should not accept the claims of confidentiality. OPG is spending public funds, and the ultimate risk of problems with the Darlington Refurbishment Project lies with the ratepayers, the taxpayers, or both. The Board's consideration of how OPG is dealing with this project should be as transparent as possible.

This is particularly true with respect to a) OPG's handling of the projects that are proposed to close to rate base during the test period, and b) problems that arise directly out of OPG's contracting strategies for the refurbishment, which this Board is being asked to review.

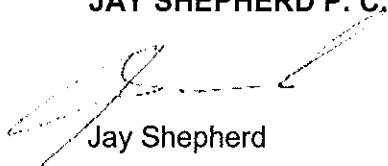
However, transparency is also important for the parts of these reports that are less directly connected with the specific approvals in this Application. These reports were filed by OPG, and all parts of them will eventually be directly relevant in Board proceedings dealing with this project. In our submission, they should be entirely public, with the limited exceptions outlined above. The fact that some of the material is critical of OPG should not be a consideration.

**Conclusion**

For the reasons set forth above, SEC submits that only redactions [REDACTED]. All other parts of the Attachment for which confidentiality is proposed should be made public by the Board.

All of which is respectfully submitted.

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



Jay Shepherd

cc: Wayne McNally, SEC (email)  
Interested Parties