



## Jay Shepherd

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### **BY EMAIL and RESS**

March 7, 2017  
Our File No. EB2016-0085

Borden Ladner Gervais  
Suite 4100  
40 King St. W.  
Toronto, Ontario  
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### **Attn: John Vellone**

Dear Mr. Vellone:

### **Re: EB-2016-0085 – InnPower 2017 COS Application**

We are counsel for the School Energy Coalition. We are writing in this matter because it appears to us that the above-mentioned Application is not compliant with the Board-approved Settlement Agreement in EB-2014-0086. We hereby request that InnPower amend their Application to comply with that Agreement.

The EB-2014-0086 proceeding was the request by InnPower for ICM treatment of their new head office and administration building at 7251 Yonge Street. A number of issues arose in that proceeding, including the prudent capital cost of the new building, and the rent of excess space in that building to generate offsetting revenues.

With respect to the capital cost of the building, the parties to the Settlement Agreement agreed as follows (at page 9):

***“For the purposes of settlement, the Parties agree to an incremental capital reduction of \$2,350,000 from the submitted capital amount of \$13,246,704. The Parties agree that the revised capital amount of \$10,896,704 is prudent considering:***

- *The current square footage and operational requirements of IHDSL;*
- *A reasonable allowance for future staffing growth expected over the next 20 years due to IHDSL's growth predictions; and*
- *Reasonable comparisons with industry Distributors who have recently constructed new administration and /or operations facilities (Enersource, Powerstream and Waterloo North Hydro) considering current market construction rates." [emphasis added]*

The Parties also agreed to remove from rate base the existing land and buildings, in aggregate \$599,000.

InnPower appears to have done the latter. However, although they agreed in the Settlement Agreement [page 10] to add only \$9,881,208 to rate base for buildings and fixtures, they have in EB-2016-0085 purported to add at least \$12,475,713 [Ex. 2, p. 21, see also p. 11]. No explanation has been given as to this non-compliance with the Agreement and thus the Board's order.

In these circumstances, we are requesting that InnPower amend their Application to be compliant with the Settlement Agreement and the Board's order implementing it.

InnPower also agreed in the Settlement Agreement as follows (page 12):

*"In response to OEB Staff IR – 12, IHDSL requested a Deferral and Variance Account ("DVA") to record any leasing revenues it will receive for the new Corporate Headquarters and Operations Centre. The Parties agree that IHDSL will be able to rent/lease any excess square footage at the new Corporate Headquarters and Operations Centre. As of the date of filing, IHDSL is negotiating with two parties for leasing square feet at market rates. It is anticipated that the sites will be leased by July 2015.*

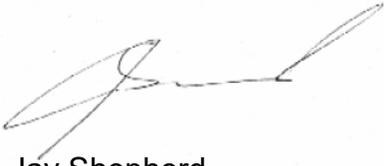
*IHDSL has indicated that it expects additional OM&A costs for the Corporate Headquarters and Operations Centre, above those incurred at the 2073 Commerce Park Drive facilities (IRR EP 4a – 4b).*

*For the purposes of the settlement, the Parties agree that since an ICM is intended to recover the revenue requirement associated with capital additions only, there will be no DVA to record leasing revenues during IHDSL's IRM term. **IHDSL does agree to include revenue off-sets from leasing revenues in its next Cost of Service or Custom IR application.**" [emphasis added]*

We have not been able to identify any leasing revenues in the Application. Unlike the first issue, it is not 100% clear that the Application is non-compliant with the Agreement. Those revenues may be included, but just not labelled as such, so that we have been unable to identify them. If they have been included, please provide details so that

InnPower's compliance with the Agreement can be confirmed. If they have not been included, we request that InnPower amend their Application to do so.

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



Jay Shepherd

cc: Wayne McNally, SEC (email)  
Walter Malcolm, CEO, InnPower (email)  
Laurie Ann Cooleedge, CFO, InnPower (email)  
Brenda Pinke, Manager Regulatory, InnPower (email)  
Kirsten Walli, Board Secretary, OEB (RESS)  
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Interested Parties