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Please Reply to the TORONTO OFFICE

**BY EMAIL and RESS**

December 16, 2008  
Our File No. 2070712

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

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: 3<sup>rd</sup> Generation Incentive Regulation for Electricity Distributors – EB-2007-0673**

On November 21, 2008 the Board communicated with all participants in this process seeking further input on the stretch rankings of LDCs. These are the submissions of the School Energy Coalition in response to that request.

**Canadian Shield Variable**

1. It is clear from the ranking changes that arose just because Renfrew was re-assigned for the Canadian Shield variable that the variable has a significant impact, as PEG recognizes. It appears to us clear that, if Renfrew is more correctly assigned to the Canadian Shield = Yes category, then the rankings should be finalized on that basis. If there are other utilities that were incorrectly assigned with respect to this variable, they should be corrected before the rankings are finalized.
2. This begs the broader question of whether this variable is correctly identified as binary, as opposed to one that varies directly with the percentage of Canadian Shield in the franchise area. We suggest that, between now and the next round of stretch factor rankings, Board Staff consider having PEG carry out an analysis of whether treating the Canadian Shield as a non-binary variable would produce more robust results.

### **Low Voltage Charges**

3. Staff has offered, and PEG has modelled, two different approaches to a low voltage adjustment to O&M costs. In one, the percentage (26%) of Hydro One LV Charges allocable to O&M is, as we understand it, deemed to be an O&M cost of the utility. The theory is that, if Hydro One was not providing that service, the local distributor would have to own and operate its own assets for that purpose. Without more, this seems reasonable.
4. However, Staff has also proposed a further adjustment, since the Hydro One LV Charges do not have a 1:1 revenue to cost ratio. If the deeming of some part of the Hydro One LV Charges to be O&M is intended to be a proxy for costs avoided, then it should be the costs underlying the LV Charges that should be treated as O&M, not the charged themselves.
5. We agree with this second formulation of the calculation.
6. If the Board accepts that the second formulation is the most rigorous, it is instructive to look at the impact on the results. If you look at each of the comparative tables proffered by PEG, it seems to us that the impact of LV costs is quite low. While we accept that it is not zero, we believe that the question is fairly raised: Why would the Board include this variable in the calculation, with its small impact, ahead of many other variables that would also have a small impact, but in some cases likely higher than LV costs?
7. We therefore suggest the Board consider, instead of including a LV cost variable at this time, scheduling in the next round of benchmarking analysis to look at a range of other variables that could have an impact. If there are, as is likely, several that have small but measureable impacts, the Board could then include them all at once in the next generation of IRM benchmarking, thus ensuring that maximum fairness between utilities is achieved.

### **General**

8. Reviewing these tables at this time, when we have finished the 2008 cost of service applications and we have seen most of the 2009 cost of service applications, is a reminder that the benchmarking being used by the Board is historical, and therefore the signals it gives are less immediate than might be optimal.
9. For example, there are several utilities that look relatively good in the 2005-2007 based rankings, but have sought and obtained substantial rate increases for 2008, often on the basis of considerable OM&A cost increases. These utilities will have their 2009 rates set on the basis of their old OM&A, but that “stretch factor” will be applied to a base that is considerably increased. Their real efficiency at the time the stretch factor is being applied is in those cases much lower.
10. We do not want to be seen as being critical of the Board’s move to benchmarking between LDCs. This is a valuable policy initiative, and we understand why it needs to be incremental rather than radical. However, we do believe that the Board, in its ongoing review of this benchmarking activity, should consider how to make the feedback more immediate.

11. We note that, of course, intervenors will be raising rankings in rate applications for 2009 and beyond, and presumably Board panels will be influenced by efficiency rankings in assessing the reasonableness of proposed cost increases. This happens naturally.
12. It is also true that, if consolidation activity continues in the electricity distribution sector, these rankings will be more and more important, not just as they are but as they are projected after a contemplated merger. This is a potential beneficial impact of benchmarking, but it is wholly or partially offset by the transactions in which utilities with relatively poor rankings merge with utilities with relatively good rankings. When those rates are harmonized, ratepayers of then inefficient utility finally get rate relief, but at the expense of the ratepayers of the efficient utility. This is clearly an inappropriate result, but as the Board will see from any review of recent MAADs applications, this happens regularly. There is no current mechanism by which ratepayers can protect themselves against this problem.
13. Notwithstanding these complexities in the current situation, we believe it would be worthwhile for the Board to consider, in the next round of analysis of benchmarking, whether some form of more immediate impact of changes that reduce efficiency could be introduced.

### **Conclusion**

14. We appreciate having had the opportunity to participate in this consultation, and hope that our input has added value to what is a very successful Board consultation.
15. We believe that the School Energy Coalition has participated responsibly in this process, and therefore request that the Board order payment of our reasonably incurred costs.

All of which is respectfully submitted.

Yours very truly,  
**SHIBLEY RIGHTON LLP**



Jay Shepherd