



SHIBLEY RIGHTON ^{LLP}
Barristers and Solicitors

Jay Shepherd
Direct Line (416) 214-5224
Direct Fax (416) 214-5424
jay.shepherd@shibleyrighton.com

TORONTO OFFICE:
250 University Avenue, Suite 700, Toronto, Ontario, M5H 3E5
Main 416 214-5200 Toll free 1-877-214-5200
Facsimile 416 214-5400

WINDSOR OFFICE:
2510 Ouellette Avenue, Windsor, Ontario, N8X 1L4
Main 519 969-9844 Toll free 1-866-522-7988
Facsimile 519 969-8045

www.shibleyrighton.com

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BY EMAIL

September 19, 2007
Our File No. 2060604

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Gas IRM Applications – EB-2007-0606/615 – Motion of CCC

These are the submissions of the School Energy Coalition pursuant to PO #7 with respect to the Motion of CCC filed August 23, 2007 for interim costs and an adjusted rate for senior counsel. In making these submissions, we have had the benefit of seeing the submissions of CCC, IGUA, GEC, BOMA et al and Kitchener, and will endeavour not to repeat them.

1. In our view the Board's refusal in the Procedural Order to hear the question of adjusting the hourly rate for senior counsel, as set forth in the motion, is not appropriate, and should be reversed. It is submitted that the Board should only refuse to hear a validly made motion by a party in a rate proceeding on the grounds of relevance, materiality, or jurisdiction, and even then only in the most obvious of cases. The effect of the Board refusing to consider the motion to increase the hourly rate is, in our respectful submission, in substance a decision to deny the motion, without complying with the requirements of *audi alteram partem*. At the very least, the parties should have had the opportunity to demonstrate to the Board that this is the appropriate forum to consider this issue for the instant proceeding.
2. On the merits of the increase in rate, we would ask that the Board consider the submissions of the parties, including all parties to this proceeding, in its current consultation with respect to the Draft Practice Direction on Cost Awards (EB-2007-0683), and in particular the submissions of the School Energy Coalition at paragraphs 10 – 27 inclusive of its written Submissions in that consultation. While those submissions go to a generic rule, it is our submission that they apply fully to the specific proceeding within which this motion is being heard, and should be implemented for this proceeding. It is true that the Board is engaged in a consultation to see if a general change in guidelines is appropriate. That does not make it appropriate to continue to use rates in this major gas rates proceeding that are inappropriate and unfair to the intervenors.

GREAT LAKES
LAW



3. The CCC motion has sought an order for interim costs payments. We agree with Mr. Aiken that this order should be made, and that it should apply to all parties who are eligible for costs. The submissions of CCC and other intervenors with respect to the cost and hardship generated by delays in cost awards are apt, and we do not believe it is necessary to repeat them. This problem is in fact well known to the Board.

The School Energy Coalition has stated publicly on numerous occasions that the current practice of the Board with respect to cost awards is prejudicial to the intervenors, and provides an unfair advantage to the applicants. In this, the biggest gas rate case in the history of the province, it is our view that such an unfair advantage should not be allowed to stand, and the Board should act to correct the situation for this proceeding. Whether or not such changes, in both hourly rates and interim payments, are implemented by the Board on a general basis for other proceedings, they are appropriate in this proceeding, and in our respectful submission the Board should so order.

All of which is respectfully submitted.

Yours very truly,
SHIBLEY RIGHTON LLP

Jay Shepherd

cc: Interested Parties (email)