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Please Reply to the TORONTO OFFICE

**BY EMAIL**

October 7, 2009  
Our File No. 2090661

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-2009-0326 – MicroFIT Rate Consultation**

We are counsel for the School Energy Coalition. Pursuant to the Board's Procedural Order #1 in this matter, we are writing to request cost eligibility, and to provide comments on the draft issues list.

**Cost Eligibility**

The School Energy Coalition intends to apply for recovery of its costs reasonably incurred in the course of its intervention in this matter. SEC has participated in many past natural gas and electricity proceedings in Ontario, including consultations, rate cases, and other processes and hearings, and has been found eligible to be paid its reasonably incurred costs in all of those proceedings.

The School Energy Coalition is eligible for a cost award because it "primarily represents the interests of consumers (e.g. ratepayers) in relation to regulated services". School boards are one of the largest groups of non-industrial energy consumers in the province, and their energy costs have a direct impact on the education of millions of Ontario children. The formation of the School Energy Coalition in 2004 ensured that all representatives of the interests of schools participated jointly in OEB proceedings. The School Energy Coalition is not ineligible by reason of any of the criteria contained in section 3.05 of the Practice Direction on Cost Awards.

GREAT LAKES  
LAW



### **Draft Issues List**

We have the following comments on the draft issues list:

1. The issues list assumes that there will be one rate for all small embedded generators. It would appear to us that there are a number of factors which might cause the rate structure to differ, such as type of generation, associated load, dispatchability, etc.
2. The category of “non-microFIT applications” might usefully be expanded to include FIT applications.
3. Distribution system benefits (typically costs avoided), to the extent that they are not captured in the MicroFIT pricing, should be considered in any analysis of costs “caused” by the generator.
4. It is not clear to us how the costs caused by a generator would vary based on energy produced, but we do see circumstances in which they could vary based on maximum capacity to be delivered. These charges seem to us to be ones that increase in a type of step function, and so are not amenable to a gradual volumetric rate. We therefore suggest that issue #5 be modified to take into account that there are other alternatives (multiple rate classes, or direct payment of incremental costs as part of the interconnection process, etc.) available to reflect some of the cost variability.
5. The effective date of implementation will in part be driven by whether the costs to be allocated to this class are incremental or fully allocated. In the former case, the class would in theory be revenue neutral, and so IRM timing may not be critical. In the latter case, there could be an overall revenue impact, which would have to be adjusted. We therefore suggest that an issue be added (perhaps as part of Issue #3) dealing with whether costs applicable to embedded generators should be incremental or fully allocated.

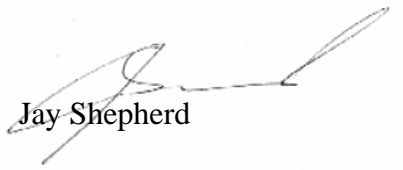
We note that our comments above arise in the absence of any proposals, evidence, or other context in which to see the issues clearly. When proposals, whether by Staff, utilities, or others, are tabled for consideration, or when evidence is provided as to costs that may be applicable, we may identify further issues that appear to be need consideration.

In this regard, we are concerned that this process is proceeding without an initial base of information. We respectfully suggest that the Board consider delaying the next stages of this process, while Staff does a review of embedded small generator rates in other jurisdictions. This would, in our view, provide a basis for discussion, and give the Board the opportunity to build on work already done elsewhere on these very issues. This would still allow the Board to implement cost-based rates for this class of customers in time for the first operational MicroFIT projects.

All of which is respectfully submitted.

Yours very truly,

**SHIBLEY RIGHTON LLP**

A handwritten signature in dark ink, appearing to read "Jay Shepherd", is written over a light gray rectangular background.

cc: Bob Williams, SEC (email)  
Wayne McNally, SEC (email)