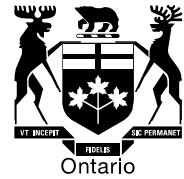


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**BY EMAIL**

August 6, 2010

Barbara S. Reuber  
Director, Ontario Regulatory Affairs  
Ontario Power Generation Inc.  
700 University Avenue, H18G2  
Toronto ON M5G 1X6

Jay Shepherd  
Jay Shepherd Professional Corporation  
120 Eglinton Avenue East  
Suite 500  
Toronto ON M4P 1E2

**Re: Ontario Power Generation Inc.  
2011-2012 Payment Amounts for Prescribed Generation Facilities  
Board File Number EB-2010-0008**

On July 30, 2010, School Energy Coalition ("SEC") filed its interrogatories in the above noted proceeding with the Board, and sent electronic copies of these interrogatories to Ontario Power Generation ("OPG") and the other intervenors. One of the interrogatories disclosed information that the Board had declared to be confidential. OPG alerted the Board to this issue shortly after the interrogatories were filed, and the materials were immediately removed from the public record. The Board also sent an email to the parties that had been copied with the interrogatories, instructing them to delete the file and destroy any copies that had been made.

Later on July 30, counsel for OPG wrote to the Board to signal its concern with what had happened, and to ask the Board to "take the necessary steps to ensure accountability and to ensure the protections provided by its Decisions and Orders are upheld and maintained." OPG suggested that the Board should be guided by the remedy it imposed in a recent Hydro One case (EB-2009-0096), where a similar disclosure of confidential materials had occurred. In that case, counsel for an intervenor inadvertently revealed certain confidential information on a conference call with his client and certain other industry stakeholders (including Hydro One). In that case, the Board determined that the appropriate remedy was to rescind that individual's right to possess or make reference to confidential materials in that proceeding. In other words,

the Declaration and Undertaking pertaining to confidential materials (the "Undertaking") that had been signed by that individual was revoked.

Counsel for SEC (Mr. Shepherd) wrote to the Board on August 3 to apologize for the inadvertent disclosure of the confidential information, and to explain the reasons for the error. He asked that the Board not impose the same sanction it imposed in the Hydro One case for several reasons. First, the error was a mechanical error in the use of software (he had inadvertently copied and pasted a portion of the interrogatories instead of cutting and pasting), and therefore not an error in judgment or act of carelessness.

Second, unlike the intervenor in the Hydro One case, SEC has only one counsel, and revoking Mr. Shepherd's permission to access confidential materials would deprive SEC of its ability to be represented with respect to issues related to those materials. Mr. Shepherd observes that this proceeding has many intervenors, and most counsel that could be retained to do this type of work are already working for another party. As such, the consequences of this sanction would be more severe in this case than they were in the Hydro One case.

The Board is considering what sanction, if any, is appropriate for this breach of the Undertaking. The Board would like to receive written submissions from OPG, SEC, and Board staff regarding how it should address this matter. Submissions from OPG and Board staff shall be filed by Wednesday, August 11, 2010. SEC's submission shall be filed by Friday, August 13, 2010.

Yours truly,

*Original signed by*

Kirsten Walli  
Board Secretary

CC: All parties to EB-2010-0008