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BY EMAIL

July 12, 2010
Our File No. 2010008

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2010-0008 – OPG Payment Amounts

We are counsel for the School Energy Coalition. Pursuant to Procedural Order #2, this letter constitutes SEC's submissions with respect to the confidentiality claims of the Applicant in this matter.

SEC submits as follows:

1. ***Tax Information.*** We do not object to the application of confidentiality rules to this material. Although the vast majority of the contents of this binder is public information already, most of the key numbers are legitimately confidential in this context, and it is efficient to treat all of these documents as confidential.

2. ***Business Case Summaries – Nuclear.*** Pursuant to the Applicant's letter dated July 9th, the confidentiality claim for these documents is being amended. We have therefore not reviewed them at this time, and will make our comments on confidentiality when the extent of the claim is known.

3. ***Business Case Summaries – Hydroelectric.*** In general, we are not opposed to the confidentiality claims with respect to these documents, with the exception of the Niagara Tunnel Project. That case, which involves a 60%+ cost overrun so far, and constitutes a very large and important project to deliver additional renewable energy to the grid, is a

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matter of considerable public interest. Part of the Board's role, in our respectful submission, is to expose matters such as this to public scrutiny, so that the public at large has confidence that, when large dollar amounts are being requested in increased rates, those requests are justified. Nothing in the business case summary appears to us to have the potential to prejudice the Applicant. Negotiations with Strabag were done on an "open book" basis, meaning that both sides shared full information as part of that process. Therefore, there should be nothing in the summary that will affect the relationship with Strabag. We therefore believe that this document should be on the public record because of the strong public interest in transparent disclosure of the costs and progress of this project.

4. ***Business Plans – Nuclear.*** We do not object to the application of confidentiality rules to this material in the manner proposed. However, we are concerned about the Applicant's continued redactions, contrary to the Board's rules. In addition to our comments in #5 below, we note that there is no issue here of whether this information is relevant, and the Applicant in their July 2nd letter have not claimed that the information is irrelevant. Further, we note that the information comes from the CEA, which is a trade association of which the Applicant is a major member. The suggestion that the CEA would exclude OPG from nuclear benchmarking because this Board released aggregate benchmarking data to counsel on a confidential basis is simply not credible. This Board has on many occasions in the past released exactly this type of information, from both Canadian and U.S. sources, with no negative consequences.

5. ***Business Plan – Hydroelectric.*** We do not object to the application of confidentiality rules to this material in the manner proposed. However, we are concerned about the Applicant's continued redactions in the "unredacted" version, contrary to the Board's rules. The Board's rules do not leave disclosure of information to the discretion of an Applicant, or indeed any other party. Under the Practice Direction, the Board receives fully unredacted copies of any documents that include putatively confidential information. Counsel also view those copies and make submissions, at which point it is the Board that determines what is made public, what is confidential, and what is excluded from the evidentiary record. The Applicant in this case is free to argue that portions of this document are not relevant to this proceeding, and should be excluded from the evidence. The additional step they propose – unilateral determination of relevance by the Applicant – is in our submission a dangerous change to the existing rules. We therefore believe that the Applicant should be ordered to file a fully unredacted copy of this document, and then make their submissions on what should be included in the evidence.

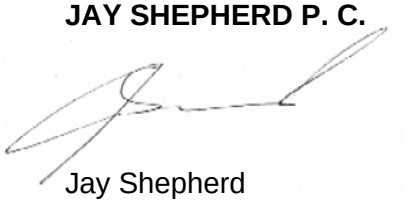
SEC has become increasingly concerned with the prevalence of confidentiality claims in rate proceedings, an increase that appears to have gained momentum starting last year. While the Applicant in this case has for the most part been careful to claim confidentiality only where it is essential, we note that every such claim increases the cost of the regulatory process, which all ratepayers bear in the end. In addition to wrangling over what is confidential and what is not, the entire subsequent process is burdened by a bifurcation between public and non-public components, and the parties by the need for internal controls and management of confidential documents. Our experience over the last year is that these things add material cost elements to the process. The two-stream interrogatories in this proceeding, while perhaps unavoidable, are a case in point.

We therefore continue to urge the Board to assess claims of confidentiality within very tight parameters, primarily to ensure maximum transparency of the process, but also to keep regulatory costs down.

We hope these comments are of assistance to the Board.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.



Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested parties (email)