



## Jay Shepherd

Professional Corporation  
2300 Yonge Street,  
Suite 806  
Toronto, Ontario M4P 1E4

### **BY EMAIL**

October 13, 2010  
Our File No. 20100132

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-2010-0132 – Hydro One Brampton 2011 COS**

We are counsel for the School Energy Coalition. We are writing to ask the Board to provide parties an opportunity to propose an exclusion from the issues list in this proceeding, or alternatively deferral of consideration of that issue, i.e. the request for clearance of Account #1562.

Included in the approvals requested in this proceeding is the clearance of Account 1562, Deferred PILs from 2001-2005, which is the subject matter of Board proceeding EB-2008-0381. That proceeding is a joint/generic proceeding in which three applicants – Enwin, Barrie, and Halton Hills – have their applications to clear #1562 being considered, and in the process the general questions associated with Deferred PILs are being addressed.

As the Board will be aware, the issue of the clearance of Account #1562 is very complex, and the EB-2008-0381 has been going on for almost two years to deal with those complexities. It is now close to its conclusion. Much has been accomplished to date, but the process has more to do before its completion in three to six months.

We are concerned that this Application by Hydro One Brampton to clear the account is premature, as the complex issues being addressed in EB-2008-0381 would have to be dealt with afresh in this proceeding. While we are aware that the EB-2008-0381 decision will not be binding on the Board panel in this Brampton proceeding, it is apparent that most of the complexities will at the very least be made clearer in EB-2008-0381. As a result, when utilities

like Brampton come to clear their #1562 accounts, the amount of incremental time necessary to deal with the issues will not be the hundreds of hours outside the hearing, and days in the hearing room, that would be required from a standing start, but at most a few hours of additional time to consider how the Applicant fits into the overall context. The fresh consideration of these issues in this proceeding, rather than waiting, would in our view be duplicative and wasteful of the Board's scarce resources.

What brought this to light in this proceeding was the extensive interrogatories dealing with this issue, most coming from Board Staff. At the Technical Conference today, it became clear that there could be several hours of followup questions to deal with the many complexities in this evidence. That would undoubtedly result in undertakings that would require considerable time to answer. Further, because the EB-2008-0381 proceeding has not yet set the context for the issues, the ADR, either on schedule next week or delayed while undertakings are answered, would not, in our view, be able to deal with this issue. Thus, a hearing on the issue would be likely, even though many aspects are being settled or narrowed in the EB-2008-0381 proceeding.

We therefore ask the Board to decide, as a preliminary matter in this proceeding, whether the clearance of Account #1562 should be on the issues list. In our view, it would be preferable for the Board either to remove it from the issues list entirely (so that the Applicant can seek clearance in the future when the issues have been dealt with in EB-2008-0381), or to defer it to a subsequent phase of this proceeding (with the same practical effect).

We understand that all parties would have to have an opportunity to make submissions on the exclusion or deferral of an issue proposed by the Applicant. We therefore ask in this letter that the Board panel offer parties an opportunity to do so, as a preliminary issue in this proceeding, and that the Board panel, after hearing those submissions, make a determination whether or when the clearance of Account #1562 should be considered in this proceeding.

All of which is respectfully submitted.

Yours very truly,

**JAY SHEPHERD P. C.**

Jay Shepherd

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