



## Jay Shepherd

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### **BY RESS and EMAIL**

January 14, 2011  
Our File No. 20100400

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-2010-0400 – Algoma Motion for Review**

We are counsel for the School Energy Coalition. Pursuant to Procedural Order #1 in this matter, these are SEC's submissions on the motion.

The Application in EB-2009-0278, and all subsequent information provided by the Applicant, appears to have contained a material error. We have reviewed the letter and supporting material from the Applicant, and relevant portions of the record in that proceeding, and we confirm that in our view an error has occurred, and it is correctly described in the Applicant's December 17, 2010 letter.

The unfortunate result of this is that, during the proceeding and the settlement discussions, the information on which the parties relied was that the total distribution increase for a typical R-2 customer would be 5.97%. It turns out that, based on correction of the error, this should be 44.3%. For the 48 customers in the R-2 class, the impact over two years is about \$12,500 each. None of this amount is mitigated by the RRRP rules.

Notwithstanding the unpalatable result, we do not see any appropriate resolution of this situation other than the adjustment proposed by the Applicant. While it is true that parties may have approached the process differently, or negotiated differently, with correct information, in our

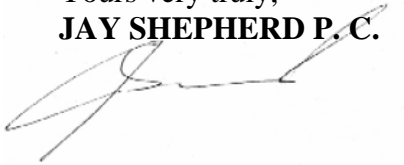
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view it would not be efficient or practical to unwind the current Board decision or the settlement agreement on which it was based, and start from scratch. The potential changes to the result, if any, are sufficiently small that they are not likely to warrant the cost and time involved. There is in fact no guarantee that, with the correct information, the parties would not reach exactly the same result as they did based on erroneous information.

It is therefore submitted that the Motion for Review should be accepted and approved as filed.

All of which is respectfully submitted.

Yours very truly,  
**JAY SHEPHERD P. C.**



Jay Shepherd

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