



Jay Shepherd

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

BY EMAIL and RESS

January 28, 2011
Our File No. 20100331/2

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2010-0331/2 – Hydro One DX and Brampton CDM Plans

We are counsel for the School Energy Coalition. We are writing to request consideration by the Board of a proposed alteration to the Board's schedule for this proceeding.

This letter is the result of discussions between a number of intervenors today, after a first look at the interrogatory responses. At least six of the ratepayer and environmental groups that were part of the discussions today have authorized us to confirm that they agree with the comments below. We are waiting to hear from others, but felt it would be better to get this to the Board as soon as possible.

Our concern is that these two Applications are important precedents that involve substantial spending. As well, as we have seen from the filing of the application in EB-2011-0011 (Toronto Hydro), these proceedings represent the start of what will likely be many such plans, with considerable additional spending. In that context, we also note that the interrogatory responses in these two cases run to more than 1600 pages, and some of that includes items that need to be explored in depth before the Board can render a decision.

The current schedule has an oral hearing on February 3rd and 4th. We have two concerns. First, that leaves a very short period of time to review the IR responses and formulate questioning that is helpful to the Board. Second, given the number of intervenors, and the breadth of the issues, a two day hearing may be significantly less than is needed.

Tel: (416) 483-3300 Cell: (416) 804-2767 Fax: (416) 483-3305
jay.shepherd@canadianenergylawyers.com
www.canadianenergylawyers.com

We therefore ask that the Board consider an alteration to the schedule as follows:

1. Keep the two days next week, but designate those two days as a transcribed Technical Conference to follow up on the interrogatory responses. Encourage the parties, during those two days, to discuss and focus the issues to be raised at the oral hearing.
2. Reschedule the oral hearing for a subsequent date, essentially the first two or three days available thereafter that are convenient to the Applicant and their witnesses, and also provide enough time for the Applicant to respond to Technical Conference undertakings.

The purpose of this alteration is to improve the efficiency of the process. Much of what would go on the record at an oral hearing is in fact foundational material – clarifications, explanations, supporting documents, etc. There is no reason that the Board panel has to be there for that, as long as it is on the record. It is, in our view, more efficient to have the factual and supporting record substantially completed before the oral hearing, so that in the hearing what the Board panel is hearing is in fact the areas in which there is a real factual and policy debate.

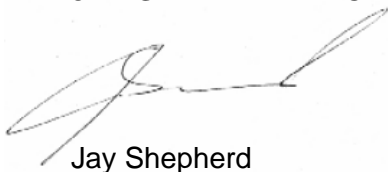
The other value in a Technical Conference lies in the fact that this, the first proceeding that is considering a CDM Plan, of course does not have a formal issues list. By putting the parties together, the Board will be encouraging them to sort out what issues are really in dispute, and form a common view (if possible) of the scope of the oral hearing. This is not an ADR, but perhaps nonetheless a useful discussion. By the time the parties get to the oral hearing, not only would there be a more complete record, but the parties should have been able to focus on those issues the Board really needs to decide. This could make the oral hearing more productive, and improve the quality of the input the parties are providing to the Board panel as decision-makers.

We therefore ask that the Board consider this change in the process, in order to make it more effective and more efficient.

All of which is respectfully submitted.

Yours very truly,

JAY SHEPHERD P. C.



Jay Shepherd

cc: Michael Engelberg, H1 (email)
Scott Miller, H1 Brampton (email)
Jennifer Lea, OEB (email)
Interested Parties (email)
Wayne McNally, SEC (email)