



## Jay Shepherd

Professional Corporation  
2300 Yonge Street  
Suite 806, Box 2305  
Toronto, ON M4P 1E4

### **BY EMAIL and RESS**

February 28, 2011

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

### **Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

### **Re: EB-2011-0011 --- THESL CDM Program --- Comments on Draft Issues List**

Pursuant to Procedural Order #1 issued on February 18, 2011, SEC submits the following comments on the Draft Issue List.

#### **1) Overall Issue**

SEC agrees with the submission of GEC that there should be an overarching issue about the appropriateness of the entire CDM budget and programs. While it is important for the Board to examine and be satisfied with the each individual program and budget, it is also important for the suite of Board-Approved CDM Programs to be examined in their totality. This is especially true since the Applicant's proposed programs are so interrelated.

#### **2) Staffing**

*2.1 Has THESL appropriately addressed staffing for its nine proposed Board-Approved CDM programs?*

SEC recommends that this question be altered to ask if THESL has an appropriate *human resources plan* for its nine proposed Board-Approved CDM programs for 2011-2014? This

T. (416) 483-3300 F. (416) 483-3305

[mark.rubenstein@canadianenergylawyers.com](mailto:mark.rubenstein@canadianenergylawyers.com)

[www.canadianenergylawyers.com](http://www.canadianenergylawyers.com)

expanded scope of the question would allow for the Board to address key human resources issues, including:

- allocation of staff between the various CDM programs (Board-approved, OPA, other internal costs), and economies of scope and scale through shared costs between those programs;
- allocation of staff costs between the CDM program budgets and general OM&A budgets;
- the type of incremental positions proposed to be added (union, non-union, contract, etc)
- how the CDM staffing plan fits into the overall THESL HR plan

It is important for the Board to be satisfied not only with the issue of staffing of these nine programs, but also how these programs fit within the broader human resources planning of the Applicant.

### **3) Program Development**

*3.2 Has THESL selected the appropriate mix of programs in order to supplement its projected energy and peak demand savings expected to be achieved through the delivery of the OPA-Contract Province-Wide CDM Programs.*

SEC recommends that this question be expanded and split into two discrete issues.

*a) Has THESL calculated the correct amount of energy and peak demand savings targeted and expected from its proposed Board-Approved Programs?*

It is important that the Board be satisfied that the amount of energy and peak demand that THESL is targeting and expecting to save with each specific program be as accurate as possible. The Board must be satisfied that they are using the correct methodology and that the calculations produce reasonable results. Through the interrogatory process and oral hearing, the intervenors will be able to test the assumptions, methodology and conclusions that have been presented in the Application.

*b) Has THESL selected an appropriate mix of OPA-Contracted Province-Wide CDM Programs and proposed Board-Approved Programs in order to meet its CDM energy and peak demand savings targets?*

This CDM Program Application process is not just about ensuring that the CDM Code has been complied with, and that the budgets are appropriate. It also is about making sure the programs themselves are appropriate to be undertaken by the LDC. Further, the Board must be satisfied that not only are the Board-Approved programs sound, reasonable and cost-effective, but that compared to additional OPA-Contracted Programs, or other alternatives, they are the most efficient way for the Applicant to meet or exceed its CDM targets.

For example, the Board may, after reviewing the evidence, conclude that the Applicant should expand the resources and scope of one or more of the Board-Approved programs as a way to meet a greater portion of their CDM targets. This would not just be in the alternative to other proposed Board-Approved programs. The Board could also conclude that it would be more efficient to deliver a greater percentage through Board-approved rather than OPA programs (or vice versa). While the Board must accept the OPA-Contracted Programs as presented by the OPA, it also in our submission must be satisfied that the proposed mix of both proposed Board-Approved and OPA-Contracted Programs is appropriate.

#### **4) Programs**

4.1-12.1 *Is the proposed budget of \$XM allocated to the Name of the Program reasonable and appropriate?*

SEC submits that these questions on the specific proposed Board-Approved Programs should be divided into two discrete issues. First, is the program itself reasonable and appropriate? Second, is the proposed budget for the program reasonable and appropriate?

In our submission, the Board needs to satisfy itself on a broader level that each proposed Board-Approved Program is appropriate and reasonable, but then also that the spending is at an appropriate level. This is especially important for educational and outreach programs which do not require cost-benefit analyses. While a proposed budget might be reasonable and appropriate to the program proposed, if the aim and outcomes of that program is reasonable, then the size and details of the budget become irrelevant. Conversely, a perfectly sensible and appropriate program may be assigned an inappropriate budget level, rendering it either ineffective or wasteful. While in some cases the appropriateness of the program will be interrelated to the budget, as OPA cost effectiveness tests are required in most instances, in some situations they are not.

#### **5) Additional Costs**

In light of the additional evidence filed by the Applicant, we believe that an additional issue should be introduced. This issue would ask two questions. First, *Is it appropriate for THESL recover through this application its CDM Program Development, Planning Costs, and Application costs?* Second, *Are THESL's Program Development, Planning Costs, and Application costs reasonable and appropriate?* This issue would allow for the Board to examine and approve both the appropriateness of recovery of these costs through its CDM application and the specific amounts.

All of which is respectfully submitted.

Yours Truly,  
**JAY SHEPHERD P.C.**

Mark Rubenstein

cc: Wayne McNally, SEC (email)  
Applicant and intervenors (email)