

IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to determine whether the costs and damages incurred by electricity distributors as a result of the April 21, 2010 Minutes of Settlement in the late payment penalty class action, as further described in the Notice of Proceeding, are recoverable from electricity distribution ratepayers, and if so, the form and timing of such recovery.

**OBJECTIONS OF THE ELECTRICITY DISTRIBUTORS ASSOCIATION (“EDA”)
TO THE COST CLAIM OF THE SCHOOL ENERGY COALITION (“SEC”)**

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1. The claim for counsel hours is excessive having regard to the issues in the proceeding and the significantly more modest cost claims of other parties
2. A reasonable allowance may be made for the preparation of interrogatories, but no costs should be awarded with respect to the motion. The interrogatories were appropriately answered. The motion was unreasonable and was, in any event, unsuccessful.
3. Some of the other individual docket entries are unreasonable. For example, every Ontario counsel should know that motions in court are not transcribed. Moreover, the EDA responded to SEC's interrogatory clearly indicating that there was no transcript. We should not have to pay for a 2½ hour expedition by Mr. Shepherd's student to search the court file for the non-existent transcript. The docket entry of January 11, 2011 in that regard should be disallowed entirely. So too should the docket entries of January 18, 2011 dealing with the same matter.
4. 4.1 hours of Mr. Shepherd's time was with respect to the motion, leaving 5.0 recoverable hours having a value of \$1,650.00.
5. It appears that the majority of Mr. Rubenstein's 41 hours of docketed time was devoted to the motion and efforts regarding the non-existent transcript (approximately 21 hours).
6. The EDA endorses Mr. Shepherd's observation that half of Mr. Rubenstein's time should be written off to learning and not eligible for recovery in this proceeding, and thus Mr. Rubenstein's allowable hours should be set at 10 (one-half of 20 hours). Thus, the total amount allowable for Mr. Rubenstein's time is \$1,000.00 (10 hours x \$100.00 per hour).
7. Accordingly, the EDA submits that the SEC's cost claim should be allowed at \$2,650.00.