

ONTARIO ENERGY BOARD

IN THE MATTER of sections 25.20 and 25.21 of the *Electricity Act, 1998*;

AND IN THE MATTER OF a Submission by the Ontario Power Authority to the Ontario Energy Board for the review of its proposed expenditure and revenue requirements and the fees which it proposes to charge for the year 2011.

**FINAL ARGUMENT
ON BEHALF OF THE
SCHOOL ENERGY COALITION**

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TABLE OF CONTENTS

1	GENERAL COMMENTS.....	2
1.1	<u>INTRODUCTION</u>	2
1.2	<u>ROLE OF THE BOARD</u>	3
2	DELIVERABLES AND METRICS.....	7
2.1	<u>GENERAL COMMENTS</u>	7
2.2	<u>METRICS</u>	7
2.3	<u>MILESTONES</u>	9
2.4	<u>VALUE-FOR-MONEY AUDITS</u>	10
2.5	<u>INITIATIVE/PROGRAM DATA</u>	11
2.6	<u>MINISTERIAL DIRECTIVES</u>	12
2.7	<u>VERIFICATION OF CDM SAVINGS</u>	12
3	STAKEHOLDER INVOLEMENT.....	14
3.1	<u>OVERVIEW</u>	14
3.2	<u>CROSS PURPOSE INCENTIVES</u>	15
3.3	<u>OPA PROGRAMS DO NOT MEET THE TARGETS</u>	16
3.4	<u>EM&V</u>	18
4	EXPORT FEES.....	20
4.1	<u>SUPPORT FOR OPA’S POSITION</u>	20
5	OTHER MATTERS	22
5.1	<u>COSTS</u>	22

1 GENERAL COMMENTS

1.1 Introduction

- 1.1.1** On November 2, 2010, the Ontario Power Authority (“OPA”) filed with the Ontario Energy Board, its 2011 Submission for Review in respect of its proposed revenue requirement, expenditure, and fees. Pursuant to section 25.22(3) of the *Electricity Act*, 1998, the OPA has had their Business Plan approved by the Minister of Energy and Infrastructure, with its operating budget set at \$64.1 million. The OPA is seeking approval of its revenue requirement of \$79.861 million. The OPA proposes a usage fee of 0.523/MWH to be charged to all consumers of electricity, including export customers.
- 1.1.2** The following are the School Energy Coalition’s (“SEC”) comments with respect to the OPA’s Submission for Review.
- 1.1.3** SEC cannot come to a determination as to whether the OPA’s operating budget and overall revenue requirement are reasonable and appropriate. This is because of the inability on the record before the Board to measure properly past spending on individual programs and initiatives due to the accounting and cost allocation approach used by OPA. Our lack of comment on the overall revenue requirement should not be taken as agreement with that proposal or any specific part of it.
- 1.1.4** Instead, SEC has generally limited itself in this submission to comments on a discrete set of issues in the areas of oversight and accountability. Additionally, SEC has provided comments with respect to the proposal to recover fees from export customers.
- 1.1.5** SEC has been aided in developing these submissions by the filing of Staff Submissions on May 26th. As noted below, we share some of the concerns that Staff have expressed in their submissions.

1.2 Role of the Board

- 1.2.1 This year, as in previous OPA proceedings, an important subtext throughout the proceeding has been the unusual nature of the Board's role in its oversight of OPA. This has perhaps been made more apparent by the inclusion in this year's proceeding of a more extensive review of the substance of OPA's work.
- 1.2.2 **Jurisdiction.** SEC understands the position that the Board finds itself in during this proceeding. Unlike a cost-of-service application by a utility for rates, the Board here has a more limited jurisdiction. Subsection 25.21(2) of the *Electricity Act* empowers the Board to either accept the proposed revenue requirement and proposed fees, or to reject it, and refer it back to the OPA with recommendations. The Board cannot, as it normally does in rate proceedings, modify the revenue requirement and fees. It must simply accept or reject what the OPA proposes.
- 1.2.3 The practical result, in our submission, is that while the Board may reject the proposals with recommendations, the threshold for rejection will be high. In the past, the Board has shown deference towards the OPA and has directed certain changes to be made, but only in future Submissions for Review of its Fees. It has been reluctant to reject any OPA application outright.
- 1.2.4 **Regulatory Effectiveness.** This leads to a situation where – at least potentially - the Board's comments, conditions or pronouncements may lack teeth.
- 1.2.5 The Board has been in this position before, and it was not necessarily a good situation. From the 70s through part of the 90s, the Board had oversight over the spending of Ontario Hydro. A lot of resources and energy were invested in annual reviews of Ontario Hydro operations and plans, but the Board's report after each of those hearings was nothing more than advice to Ontario Hydro management and Board of Directors. Ontario Hydro regularly declined to follow many of the recommendations of the Board. Certainly the work of the Board in those cases was not wasted, but

neither was it the optimal situation for an economic regulator if it wants to be effective in that role.

1.2.6 In our submission, it is important that the Board, in its decision, ensure that it not allow itself to again be in a similar position. Below we comment on some practical considerations in that regard.

1.2.7 Transparency. SEC is concerned with the lack of transparency by the OPA. The most obvious example has been that the OPA has refused to disclose details about its upcoming Integrated Power System Plan (“IPSP”). Considering that the work on this project is a large portion of their spending last year, and planned spending this year, it is hard to determine how efficiently and appropriately the OPA has managed its budget if the nature of that work has not been described in any detail. While we understand the reluctance of the Board to get too deep into that subject when a full hearing on that is coming up shortly, this did put the Board at a disadvantage in this proceeding. It would have been helpful if the OPA had anticipated that problem, and provided a more complete analysis of the work being done on the IPSP.

1.2.8 This is not the only example where the information available to the Board was less than is normally seen in rate applications. There were a number of times in the oral hearing, for example, where witnesses answered “I don’t know” or “we haven’t gotten to that issue yet”, without any further discussion. This is much more rare in a normal rate case.

Tr.1:15,31,110,133

Tr.2:42

Tr.3:119,127,172

Tr.4:2,12,47

1.2.9 In this respect, we are not intending to be directly critical of the OPA and their presentation of their Application. However, it did appear to us that the OPA did not feel, as rate-regulated entities normally do, as much of a pressing need to ensure the Board has the fullest possible information. One possible explanation of this is the pass/fail nature of the Board’s decision, and therefore the low risk that OPA will end

up with anything other than exactly what they have asked for.

1.2.10 SEC Recommendation. With the accelerating maturation of OPA as an organization, and as its activities are less and less in a ‘start-up’ mode, the Board has taken the first step in changing its approach to OPA oversight by expanding the review to include the substance of OPA’s workplan. The question is, how should this translate into a decision or set of recommendations that will actually produce results? What approach would allow the Board to add the most value in these circumstances?

1.2.11 The Board has an oversight role to play under the *Electricity Act* and must send a strong message to the OPA that it must be accountable to ratepayers and the public generally. OPA is requesting a significant amount of money from ratepayers, and that amount is only the tip of the iceberg, as it is a driver for its program and procurement spending. The Board is, in our view, charged with the responsibility to review the OPA’s operations as any economic regulator would.

1.2.12 In our view, there are two basic approaches the Board could consider in drafting its decision in this matter.

1.2.13 The first approach is to remind the OPA of the Board’s ability to deny approval of its budget and recovery, and make clear that OPA needs to make some changes or it will risk such a denial in its next application.

1.2.14 We do not believe (subject to our comments on the Export Charge below) that it is appropriate for the Board to refuse to approve the Application.

- 1.2.15* The second approach is for the Board to recognize that while its decision can't really require the OPA to do anything, the decision and its analysis of what OPA is doing can be an influential document. The Board of Directors and management of OPA, the government, other stakeholders, and even members of the public will read the Board's decision with interest, and their actions with respect to OPA will be informed by the Board's analysis and opinions.
- 1.2.16* If the Board elects the latter approach, effectively treating its decision like a review and analysis for public consumption (rather than, as it normally does, a decision on a narrow application that has limited circulation), then we believe that the Board may consider writing the decision differently. On one hand, it is possible in such a document to be both more pointed in its criticisms. On the other hand, it might also important in such a document to be more complete in describing the steps in the Board's analysis, since the audience is not limited to those that have already reviewed all or most of the record in the case.

2 DELIVERABLES AND METRICS

2.1 General Comments

2.1.1 In the OPA's 2010 Revenue Requirement proceeding, the Board directed the OPA to:

"..include more precise and informative documentation of its performance metrics for review through the fees case process. Such an enhancement, comparable to the evidence provided with respect to the OPA's compensation payments, would enable parties to assess the extent to which the OPA has achieved its stated goals. In future applications the Board directs the OPA to report on its achievement of its metrics, sorted by Strategic Objective."

EB-2009-0347 Decision, p.6

2.1.2 SEC has a number of concerns with respect to the measurement of OPA's deliverables, specifically the proposed milestones and efficiency metrics.

2.2 Metrics

2.2.1 SEC submits that the efficiency metrics OPA has developed are inadequate for the proper review and analysis of the organization, for a number of reasons.

2.2.2 First, the efficiency metrics divide each 'Performance Area' measure (usually MW procured or saved) by the entire OPA budget and FTE. Such a measure is largely meaningless in determining over a period of time how efficient the OPA is in each of these areas, since only a small segment of its entire budget or staff is responsible for each 'Performance Area'. While there may be value in having an overall metric for OPA as an organization, that does not remove the need to be able to assess OPA's success in each of its Performance Areas.

**Exhibit C, Tab 1, Schedule 1, page 3
Tr.170: 2-3**

2.2.3 Second, the efficiency metrics only examine each 'Performance Area' by the amount of MW procured or conserved. While MW are undoubtedly important, they do not in many areas of the OPA's work provide the strongest basis to measure efficiency.

- 2.2.4 As an example, for the area of FIT and microFIT generation, it might make more sense to also measure number of contracts per FTE, or some other non-volume-related metric. While contracts of different amounts of generation differ in administrative complexity and duration, a FIT contract that procures twice as much MW than another does not require twice the amount of internal resources.
- 2.2.5 Indeed, the *Green Energy Act and Green Economy Act*, has an emphasis on smaller scale, distributed generation. To have a metric that gives greater credit to OPA for being efficient if it procures more MW in each contract, as the current metric effectively does, seems to us to be inconsistent with their mandate.
- 2.2.6 To take this concept to its logical conclusion, if it requires 50 person-years to complete the procurement of 3,000 MW from a new nuclear station, but those same 50 person-years can only deliver 1,000 MW of renewables procurement, the OPA approach to metrics would assume that focusing on big ticket items like nuclear should be preferred. In a similar vein, procuring a 100 MW windfarm is to be preferred over procuring ten 10 MW Windfarms, since the former can be done with less resources. In neither case is the natural preference established by the metric the right answer in the context of government policy and good system planning.
- 2.2.7 SEC submits that the Board should direct OPA to complete a review their efficiency metrics. The principle underlying their establishment was a way for the Board to examine year over year, the resources it takes the OPA to do specific tasks, i.e. a way to answer the question, “is the OPA becoming more efficient?” The metrics provided by the OPA in this Submission for Review do not allow the Board to make that kind of informed decision. Therefore, the Board might consider recommending for a future Fees Submissions that the OPA undertake an independent third-party analysis of effective performance and efficiency metrics that would be appropriate for an organization such as the OPA.

2.3 Milestones

2.3.1 With respect to its milestones, SEC submits that the current milestones may have less value than they should, for two reasons.

2.3.2 The essence of milestones is accountability. That implies a situation in which the OPA is expected to report in each of its fees cases on how well it achieved each of its milestones in the year. The following comments by OPA's counsel show what OPA is actually doing:

MR. CASS: ...Of course the OPA does set milestones as it goes into each particular year, and it does report to the Board on the milestones.

In my submission, that doesn't mean for a minute that when a particular milestone has been established, that the OPA has to come to the Board at the end of the year in each and every instance and say: Yes, we did absolutely what the milestone said.

Circumstances change. Circumstances did change in respect of this milestone. The OPA proceeded in the manner that I described, to provide advice to the Ministry that formed the basis for a Supply Mix Directive. The Ministry treats that as very confidential.

And in these circumstances, the OPA can only report on the milestone in the manner that it has. It did the planning outlook. No, it did not provide it to stakeholders.

The OPA is not specifically requesting from the Board any approval that each and every milestone has always been met. The OPA is simply reporting on what has happened with its milestones. And in this connection, circumstances changed, such that the OPA proceeded in the way that I described.

Tr.1:42

In our view it is not sufficient simply to report to the Board on what has been done. The OPA should be including in its report an express assessment of the extent to which it has achieved each milestone ("we did what we said we were going to do", or "we didn't"), including an explanation for each failure to do so, and its proposals, if any, to amend the milestone or change OPA's approach in order to achieve it.

2.3.3 While it is important for an organization to have milestones, the measurement of them must be more than a broad test of whether they have been accomplished – a check of a

box. The Board must determine if the tasks that the OPA has completed have been done with the proper quality and degree that is required. OPA does not seem to have created a framework in which the Board and the public can determine how well a milestone has been achieved.

- 2.3.4** This kind of accountability is particularly important for an entity like OPA. When an electricity distributor spends \$80 million a year in operating costs to distribute electricity, there are obvious ways that their success in doing their job can be assessed. When the OPA spends \$80 million a year in operating costs, it is less easy to see what they have accomplished for that money. Clear-cut milestones and good reporting and monitoring are, in our view, the best way to fill that gap.

2.4 Value-For-Money Audits

- 2.4.1** SEC is also concerned with the process the OPA undertakes for its value-for-money audits. There does not appear to be an overall plan on how the OPA will undertake these audits. Their existence was apparently only revealed in response to an Interrogatory inquiring about the OPA use of efficiency metrics to determine value-for-money. Under questioning at the oral hearing, the OPA revealed that it will be retaining external contractors to audit programs that it specifically chooses, and that there were no immediate plans to make those audits public.
- 2.4.2** SEC is troubled by the issues of selection of the auditors and the projects to be audited, and the lack of transparency of the results. The OPA should have the latitude to have external auditors review specific programs that it deems necessary, of course. However, that should be over and above some level of value-for-money audits that must be done regularly so that the regulator and the public can see the OPA is delivering value for money.
- 2.4.3** In our view, the OPA should be required to develop an audit policy which sets out the specific criteria for selection of auditors, and criteria for which programs are subject to these external value-for-money audits. As an example, it could include all

projects/initiatives over a certain expenditures level. This policy and schedule of audits should be publically disclosed on the OPA's website. The OPA should actively engage stakeholders in the process of selecting auditors. And, most important, all final audit reports should be posted online immediately after being presented to senior management.

Exhibit 1, Tab 1, Schedule 27
Tr.1.47-49

2.5 Initiative/Program Data

2.5.1 Currently, the OPA does not track the internal financial or staffing resources that are allocated to each project or initiative. SEC submits that this is especially important for an organization whose work is irregular compared to a utility, is much more project-oriented, and is driven primarily by Ministerial Directives. These factors suggest that tracking the OPA's internal resources by project or initiative would improve oversight and transparency. By doing so the Board, ratepayers and the public will have a better understanding of how the OPA allocates its internal resources.

2.5.2 While the OPA has provided resource allocation by Strategic Objective, SEC submits this is inadequate. This is because each Strategic Objective contains different programs and initiatives of varying sizes, durations and complexities. Unless specific numbers can be provided for each initiative or program, it is hard to determine if the proper resources are being allocated.

2.5.3 We note that this is not solely a regulatory question. We wonder how OPA management decides on the approach to specific projects or initiatives if they have no method of determining how much each is costing, or what resources are required [See e.g. Tr. 1:16, where it is clear that OPA does not appear to see this as necessary]. Every other organization, deciding on a new project, does some form of formal or informal business case to compare the costs and resource requirements against the benefits to be achieved. Even if this is not always financial benefits, it is still an important management requirement to know what it is expected to cost to achieve a

particular result. We do not understand how OPA sets up and manages projects without this kind of analysis.

2.6 Ministerial Directives

2.6.1 The *Electricity Act* outlines situations in which the Minister through a Ministerial Directive may provide direction to the OPA. These Minister Directives are in many cases important starting points for the initiatives and programs that the OPA undertakes. Since these Ministerial Directives are legally binding, provide direction and procurement authority to the OPA, and are a large driver of the revenue requirement, it is important that there is accountability and oversight in their implementation.

2.6.2 SEC submits that the Board should require the OPA to report back in their next Application with a proposal for how to track the financial and staffing resources that are allocated to implement each Ministerial Directive.

2.6.3 In addition, the Board should require the OPA not only to update the Board on the progress in implementing each Ministerial Directive, but to make this information easily accessible to the public through the OPA's website.

2.6.4 Mr. Neme in his third recommendation has outlined a proposal in which the OPA would be expected to include in future submissions an analysis of how it plans to meet each Ministerial Directive. He also includes specific requirements for what should be included with respect to Ministerial Directives that include savings targets. SEC supports this proposal.

Exhibit K, Tab 2, Schedule 1, page 11

2.7 Verification of CDM Savings

2.7.1 One of the largest tasks that has been assigned to the OPA is that of coordinating and

facilitating the implementation of CDM opportunities through the *Green Energy and Green Economy Act* and through the targets set in Minister's Directive dated April 23, 2010. The OPA has recognized this and dedicated significant resources under its Strategic Objective #2 to this undertaking. The Board, ratepayers and the public must have the tools to be confident that the province-wide savings required will be met.

- 2.7.2** SEC supports Mr. Neme's fourth and sixth recommendations, which would see the Board require the OPA to hire an third-party auditor to audit its annual savings claims, and that following the completion of this process, the OPA should file an annual report detailing their progress towards this particular Ministerial Directive. (We comment later in these submissions on the possible involvement of stakeholders in this process.)
- Exhibit K, Tab 2, Schedule 1, page 10-11**

3 STAKEHOLDER INVOLEMENT

3.1 Overview

3.1.1 Explicit in Strategic Objective #5, and implicit in all others, is stakeholder engagement and outreach. SEC submits that the OPA has provided inadequate and incomplete stakeholder engagement.

3.1.2 Initiative 1 outlines the OPA's plan to 'undertake activities that promote two-way communication with key stakeholder groups and the public'. It appears that the only two-way communication that takes place with stakeholders is between the OPA and with government or LDCs (individually or through the EDA). Communication with those who are ultimately paying the bills – the ratepayers – does not appear to occur much at all, nor communication with environmental groups and similar stakeholders. SEC submits there is a serious deficiency in the OPA's ability to meet this Strategic Objective.

Exhibit B, Tab 5, Schedule 1, Page 2

3.1.3 Stakeholder groups include ratepayers who ultimately are responsible for all the costs of activities of the OPA undertake, yet their involvement in providing input and accountability to the work of the OPA is minimal and one-sided. It is not sufficient for the OPA to provide for a Consumer Advisory Council to occasionally provide its views to the CEO. Two-way communication means more than explaining to the public and stakeholders how the OPA works and what its programs do through advertising, webcasts or posting documents on its website. It requires avenues for meaningful engagement in how the OPA preforms its duties and designs its programs.

3.1.4 The OPA obviously knows full well how to engage stakeholders effectively, because with the LDCs (who they appear to consider their primary constituency) they have been engaged in active and bilateral working groups that have real input and make real decisions.

3.1.5 The OPA must engage in a similar way with the ratepayers and other stakeholders, and seek stakeholder input so that that proper accountability measures and processes are in place, and so that the Board and the public have confidence that the OPA is providing value-for-money.

3.1.6 In addition, meaningful engagement of stakeholders is a way to improve program design, and provides another source of problem detection so that the problems that have become apparent in OPAs programs and metrics through his proceeding will not be repeated in the future.

3.1.7 In the following sections we provide some examples of these concerns.

3.2 Cross Purpose Incentives

3.2.1 During the oral hearing, Pollution Probe and the Green Energy Coalition (“GEC”) questioned OPA witnesses on what they seemed to believe was a conflicting incentive structure affecting the OPA-Contracted Programs, i.e. the Board’s CDM Performance Incentive and the OPA’s Cost-Efficiency Incentive appear to be working at cross-purposes.

3.2.2 Counsel for GEC walked the OPA panel through an example using Toronto Hydro-Electric System Limited (“THESL”) publically available information on its CDM program and budgets. What the example showed is that there are conflicting motivations between the two incentive programs. In some circumstances it becomes more economically beneficial for an LDC who has reached its CDM targets while using less than its allocated Program Administration Budget (“PAB”), to decide against spending more - even when it can do so cost-effectively - so that it may collect the OEB Performance Incentive instead. The LDC will retain more of its unused PAB through the OPA’s Cost Efficiency Incentive than it would gain from the OEB Performance Incentive. The OPA seemed not to have turned their mind to the possibility that different incentives could be working at cross-purposes.

Exhibit K.3.2

Tr.2:51-53

3.2.3 Of course, the first question is how could the OPA have established an incentive without working through scenarios as to what results it would in fact incent? This seems like an obvious mistake.

3.2.4 But the bigger problem is that the incentive was established in secret, in backroom meetings between the OPA and LDCs. If ratepayers and other stakeholders had been at the table in the working groups, providing input into the development of the Master Agreement, which sets out the terms of the OPA's Cost Efficiency Incentive, this issue would almost certainly have been spotted and rectified. A proper incentive structure would have been created that would incent LDCs to achieve the dual purposes of cost-efficiency and target overachieving. Only the OPA and the LDCs were aware of the specific terms of the Master Agreement and that has led to the 'dueling incentives' problem that has been revealed, through analysis by stakeholders, during this proceeding.

3.3 OPA Programs Do Not Meet the Targets

3.3.1 In the Minister's Directive to the OPA dated April 23, 2010, the Minister references a Directive issued to the Ontario Energy Board about how LDCs will be permitted to meet their CDM Targets. LDCs can meet their CDM Targets through a) province-wide CDM programs developed by the OPA, in consultation with distributors ("OPA-Contracted Programs"), b) collective LDC programs designed by a number of LDCs and 3) individual LDC programs. The latter two require the approval of the Board ("Board-Approved Programs"). The Directive directs the OPA to act as a coordinator and facilitator of CDM programs to LDCs. [Ministerial Directive April 23, 2010]

3.3.2 One of the principles in the Directive states that "LDCs will deliver OPA-Contracted Province-Wide CDM Programs to distribution system-connected consumers to achieve all or a portion of their CDM Targets". The OPA has decided, in consultation with the LDCs that as an aggregate, LDCs will be required to meet a portion of its target

through Board-Approved Programs. That is because the OPA-Contracted programs are only set to meet 78% of the peak demand and 91 percent of energy province-wide targets. As a whole, LDCs will have to undertake their own Board-Approved Programs to meet their CDM Targets.

MS. McNALLY: So the actual numbers are -- the province-wide programs are forecasted to hit 78 percent of the capacity target and 91 percent of the energy target.

MR. MILLAR: Let's talk about that a little bit more. If I understood your discussion with Mr. Buonaguro, this was something that appears to have been negotiated between the OPA and the LDCs; is that correct?

MS. McNALLY: That's correct.

Tr.4:67

.....

MS. McNALLY: Yes. And, sorry, I just wanted to make a point of clarification in response to an earlier question. When I said the OPA and the LDCs worked together to determine the province-wide programs, would achieve something less than 100 percent. So the decision wasn't to go after 78 and 91 percent. The decision was to design a program that wouldn't fill the whole target, in order to leave room for Board-approved programs.

So it wasn't that we negotiated those numbers. It was agreed to leave space. We designed the programs. That's where they landed, and everybody agreed that was an appropriate level, but it wasn't set out to land on those two figures.

Tr.4:69

3.3.3 SEC submits that the method in which the OPA determined the total amount of energy and peak demand savings that its province-wide programs achieve, as compared to the amount LDC will be required to archive through Board-Approved Programs was non-transparent. The Board, ratepayers and the public at-large, do not have any of the detail about how this specific number was reached. Nor have we been told why the OPA will not undertake to provide programs to meet entire CDM target? What evidence was provided to the OPA by LDCs to show why there should be significant room left for them to undertake Board-Approved Programs?

3.3.4 Who approved this strategy? Is it within the OPA's mandate to unilaterally accede to the LDCs request that the OPA not design sufficient programs to meet the Minister's

Directive?

3.3.5 This is another example where stakeholders other than the LDCs should have been at the table. The result of such a discussion, with a broader range of perspectives and understanding of the issues, may still have been that some room was in some manner, directly or indirectly, left to the LDCs (or possibly just a subset of them) to design their own programs. However, it would not have been the result of a secret backroom deal that excluded those that are footing the bill.

3.3.6 In fact, it can be surmised that the most-cost effective method for achieving the province's CDM Targets will not be undertaken under the current scenario. With so many LDCs having to meet their targets through development and delivery of their own programs, the cost of design, development and delivery, even if they collaborate, may well lead to a less cost-effective result than if the OPA had developed more province-wide programs. If stakeholders had been allowed to provide meaningful input, it may have been likely that the amount of space needed for Board-Approved Programs would have been smaller and at the very least, the reasoning provided by the LDCs would have undergone some independent scrutiny.

3.4 EM&V

3.4.1 Since the OPA is tasked with designing and developing province-wide CDM programs, it is important that evaluation, measurement and verification ("EM&V") is done correctly. While a third-party will be contracted to undertake the task, this does not guarantee independence. The OPA created the EM&V protocols, they determine the scope of the process and instruct and supervise the auditors in secret. Only the final report is made public, while the OPA will have presumably seen and commented on draft reports in the interim.

3.4.2 Proper stakeholder engagement would see a mechanism such as has been suggested by Mr. Neme, i.e. a process much like the one that has been set up for the gas utilities'

Demand-Side Management (“DSM”) programs. The Evaluation and Audit Committee (“EAC”) process that is currently being used at Enbridge and Union Gas has been a very effective way for stakeholders, ratepayers and the public at-large to have confidence in the DSM program by involving them in the EM&V process at every step. We support Mr. Neme’s comments on this recommendation.

Exhibit K, Tab 2, Schedule 1, page 11

4 EXPORT FEES

4.1 Support for OPA's Position

- 4.1.1 SEC supports the position taken by the OPA with respect to their proposal that the usage fee be charged to all customers of Ontario electricity, including export customers. Creating a fee structure that is equal to all consumers of electricity in Ontario, recognizes that the export-customers, like domestic consumers, benefit from the activities of the OPA.
- 4.1.2 The OPA is a unique organization with no direct analogues to compare rate-structures . In Ontario, the closest organization which has a broad mandate to serve all customers is that of the Independent Electricity System Operator ("IESO"). The IESO has the identical rate structure to that of the OPA's proposed structure, that of a pure volumetric fee.
- 4.1.3 The expert evidence and testimony of HQEM Energy Marketing Inc. (HQEM), who do not support this proposed fee, proposes that the principle of cost causality is paramount in rate-making. In their evidence, Elenchus Research Associates Inc. ("Elenchus") admits that an alternative to cost-causality is that of recovering costs on the basis of benefits received.
- 4.1.4 SEC is on record in numerous proceedings as being a strong supporter of the principle of cost causality, and we have not changed that view. However, where cost causality does not produce fair results or creates what are effectively "free riders", another principle such as benefits received may have a role. The OPA may be the ideal organization for this method to be used. The OPA, unlike LDCs, does not provide a traditional good to its customers. It could more properly be described as providing a broad range of goods and services to other entities to better and more efficiently serve their end users. Export customers benefit from not only transmission planning but generation planning, procurement and conservation. The cost and availability of

electricity to Ontario-based consumers have a direct effect on the availability and cost of electricity to export-customers. As the OPA's expert, Concentric Energy Advisors, Inc. ("Concentric"), stated in their evidence:

The services provided by the OPA are far more broad and more complex, involving planning functions as well as public policy initiatives and there for do not lend themselves to a cost causality/beneficiary pays approach. The services that the OPA provides benefits all market participants, including exporter.

Exhibit L1, Tab 2, page 10]

Exhibit 1, Tab 1, Schedule 3, page 6

5 OTHER MATTERS

5.1 Costs

5.1.1 The School Energy Coalition hereby requests that the Board order payment of our reasonably incurred costs in connection with our participation in this proceeding. It is submitted that the School Energy Coalition has participated responsibly in all aspects of the process, in a manner designed to assist the Board as efficiently as possible.

All of which is respectfully submitted this 27th of May, 2011.

Mark Rubenstein

Jay Shepherd

Counsel to the School Energy Coalition