

**ONTARIO ENERGY BOARD**

**IN THE MATTER** of the *Ontario Energy Board Act 1998*, 1998,  
S.O. 1998, c.15 (Schedule B);

**AND IN THE MATTER** of an Application by Hydro Ottawa  
Limited for an Order or Orders approving just and reasonable rates  
and other service charges for the distribution of electricity to be  
effective January 1, 2012.

---

**MOTION RECORD OF THE  
SCHOOL ENERGY COALITION**

---

**Jay Shepherd Professional Corporation**  
2300 Yonge Street, Suite 806  
Toronto, Ontario M1P 3E5

**Jay Shepherd**  
jay.shepherd@canadianenergylawyers.com

**Mark Rubenstein**  
mark.rubenstein@canadianenergylawyers.com

Tel: 416-483-3300  
Fax: 416-483-3305

Counsel for the School Energy Coalition

**October 6, 2011**

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

**Jay Shepherd**  
**Mark Rubenstein**  
Tel: 416-483-3300  
Fax: 416-483-3305

Counsel for the Moving Party,  
School Energy Coalition

**TO: Ontario Energy Board**  
Attention: Kirsten Walli  
Board Secretary  
Suite 2701  
2300 Yonge Street  
Toronto, ON M4P 1E4  
Tel: 416-481-1967  
Fax: 416-440-7656

**AND TO: Aird & Berlis LLP**  
Brookfield Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, ON M5J 2T9

**Fred Cass**  
Tel: 416-865-7742  
Fax: 416-863-1515

Counsel for Hydro Ottawa Limited

**AND TO: Hydro Ottawa Limited**  
3025 Albion Road North  
P.O. Box 8700  
Ottawa, ON K1G 3S4

**Patrick Hoey**  
Tel: 613-738-5499  
Fax: 613-738-5485

Director, Regulatory Affairs

**AND TO: Parties of Record**

## INDEX

Tab	Document
A	Notice of Motion, dated October 6 <sup>th</sup> 2011
B	Supplementary Technical Conference Questions From the School Energy Coalition, dated September 21, 2011 (EB-2011-0054)
C	Excerpt from Technical Conference Transcript, dated September 27, 2011 (EB-2011-0054)

# TAB A

**IN THE MATTER** of the *Ontario Energy Board Act 1998*, 1998, S.O. 1998, c.15 (Schedule B);

**AND IN THE MATTER** of an Application by Hydro Ottawa Limited for an Order or Orders approving just and reasonable rates and other service charges for the distribution of electricity to be effective January 1, 2012.

## **NOTICE OF MOTION**

The School Energy Coalition (“SEC”) will make a motion to the Ontario Energy Board (“the Board”) at its offices at 2300 Yonge Street, Toronto, on a date and at a time to be fixed by the Board.

### **PROPOSED METHOD OF HEARING**

SEC proposes that motion be dealt with either orally or by written submissions.

### **THE MOTION IS FOR:**

1. An order requiring Hydro Ottawa Limited to provide a full response to SEC Technical Conference Question 18(c) and (d), including the calculations requested therein.
2. Such further and other relief as the SEC may request and the Board may grant.

### **THE GROUNDS FOR THE MOTION ARE:**

1. The Board issued a Notice of Proceeding on an application by Hydro Ottawa Limited (“Hydro Ottawa”) pursuant to section 78 of the *Ontario Energy Board Act, 1998* for an order or orders approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2012.
2. SEC is an intervenor in this proceeding.

3. As outlined by the Board in Procedural Order #1, parties were requested to file in advance a list of issues, questions or matters which they seek to address, or seek clarification on, at the Technical Conference. SEC filed its Technical Conference Questions with the Board on September 19<sup>th</sup>, and as advised by Hydro Ottawa because of delays in providing interrogatory responses and the filing of updated evidence, filed Supplementary Technical Conference Questions on September 20<sup>th</sup>.
4. The Technical Conference was convened on September 26<sup>th</sup> and 27<sup>th</sup>, 2011. On September 27<sup>th</sup> during SEC questioning, Hydro Ottawa refused to provide a response to SEC Technical Conference Questions 18 (c) and (d) respecting the Applicant's Estimate of Useful Lives report:<sup>1</sup>

[K11, 11.1, Staff #79, Attachment 1]  
With respect to the Applicant's Estimate of Useful Lives report:

  - c) [J2-1-1, J2-1-2, and K11, 11.1, Energy Probe #64] Please recalculate Tables 1 through 3 of J2-1-1, and the continuity schedules in J2-1-2, and Tables 1 through 6 of the Energy Probe IR response, using the Typical Lives set out in the Kinectrics Report.
  - d) Based on the Typical Lives calculation set forth in (c) above, please advise the impact on Test Year revenue requirement and deficiency of using those lives.
5. SEC was trying to elicit evidence to show the impact of using the asset lives determined by Hydro Ottawa, as opposed to those set out in the Kinectrics report. This information is important in providing the Board with all the factual information necessary to assess the appropriate useful lives to be used to calculate revenue requirement.
6. At the Technical Conference, witness panel member Mr. Geoff Simpson stated that he had not done the recalculations asked for by SEC in part (c) because it would be a difficult undertaking and that it is not relevant.<sup>2</sup>
7. SEC requests an order from the Board requiring Hydro Ottawa to provide the information

---

<sup>1</sup> Supplementary Technical Conference Questions of the School Energy Coalition, dated September 21<sup>st</sup>, Motion Record Tab B.

<sup>2</sup> Tr: TC: September 27, pp. 24-28, Motion Record Tab C.

requested in SEC Technical Conference Question #18 (c) and (d).

8. SEC submits that it is common practice for the Board, Staff and intervenors to ask utilities to run scenarios based on reasonable alternatives. This is fair since the utility has control of the information. Staff and intervenors do not have access to the data in the possession of the Applicant, and because of that that cannot present the necessary evidence to the Board on alternative scenarios.
9. Hydro Ottawa's position appears to be that it would be a difficult undertaking to recalculate the tables as requested by SEC. SEC submits that it simply cannot be the case that responding to the question is too onerous. All that is required from Hydro Ottawa would be inputting into its spreadsheet models used to make the original calculation, the useful lives set out in Kinectrics report. If Hydro Ottawa disputes this assessment, SEC asks for the opportunity to cross-examine the Hydro Ottawa witness to test whether the statement of Mr. Simpson, referred to above, is correct.
10. This information is important to answering issue 11.1, "[i]s the proposed revenue requirement determined using modified IFRS appropriate?" SEC submits that the time required is reasonable considering the revenue requirement impact, which is likely material. Additionally, since Hydro Ottawa has not undertaken a depreciation study, the Kinectrics report is the best independent information available. The Board is entitled to understand the impact of using the best available independent evidence, vs. the alternative approach developed internally by the Applicant.

**THE FOLLOWING DOCUMENTARY MATERIAL AND EVIDENCE WILL BE RELIED UPON AT THE HEARING OF THE MOTION:**

1. The Record in EB-2011-0054, including transcripts from the technical conference.
2. Such further and other material as counsel may advise and the Board may permit.

**October 6, 2011**

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

**Jay Shepherd**  
**Mark Rubenstein**  
Tel: 416-483-3300  
Fax: 416-483-3305

Counsel for the Moving Party,  
School Energy Coalition

**TO: Ontario Energy Board**  
Attention: Kirsten Walli  
Board Secretary  
Suite 2701  
2300 Yonge Street  
Toronto, ON M4P 1E4  
Tel: 416-481-1967  
Fax: 416-440-7656

**AND TO: Aird & Berlis LLP**  
Brookfield Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, ON M5J 2T9

**Fred Cass**  
Tel: 416-865-7742  
Fax: 416-863-1515

Counsel for Hydro Ottawa Limited

**AND TO: Hydro Ottawa Limited**  
3025 Albion Road North  
P.O. Box 8700  
Ottawa, ON K1G 3S4

**Patrick Hoey**  
Tel: 613-738-5499  
Fax: 613-738-5485

Director, Regulatory Affairs

**AND TO: Parties of Record**



# TAB B

**IN THE MATTER** of the *Ontario Energy Board Act 1998*, 1998,  
S.O. 1998, c.15 (Schedule B);

**AND IN THE MATTER** of an Application by Hydro Ottawa  
Limited for an Order or Orders approving just and reasonable rates  
and other service charges for the distribution of electricity to be  
effective January 1, 2012.

**SUPPLEMENTARY**  
**TECHNICAL CONFERENCE QUESTIONS**  
**FROM THE**  
**SCHOOL ENERGY COALITION**

17. [K11, 11.1, Staff #79]

Please confirm that the reference to “capitalization” policy is intended to be a reference to “depreciation/amortization” policy.

18. [K11, 11.1, Staff #79, Attachment 1]

With respect to the Applicant’s Estimate of Useful Lives report:

- a) [J1-1-1, p. 4 and J2-1-1] Please confirm that, throughout the Application and interrogatory responses, the old useful lives are used for the purpose of calculating rate base, depreciation, cost of capital, revenue requirement, and rates, except for Exhibit J.
- b) Please confirm that the amounts for which the Applicant is seeking approval from this Board for those items are the figures based on the new useful lives, referred to throughout as the “IFRS Lives”.
- c) [J2-1-1, J2-1-2, and K11, 11.1, Energy Probe #64] Please recalculate Tables 1 through 3 of J2-1-1, and the continuity schedules in J2-1-2, and Tables 1 through 6 of the Energy Probe IR response, using the Typical Lives set out in the Kinectrics Report.
- d) Based on the Typical Lives calculation set forth in (c) above, please advise the impact on Test Year revenue requirement and deficiency of using those lives.

19. [K11, 11.1, Staff #80]

With respect to Table 1:

- a) Please confirm that the OM&A, capital, and revenue requirement figures, and the rates based on those figures, contained throughout the Application, excluding Exhibit J, use the CGAAP figures from Table 1 and not the MIFRS figures.
- b) Please confirm that, for the purposes of determining rates for the Test Year, the Applicant is seeking the Board's approval of the revenue requirement and rates based on the MIFRS figures in Table 1.
- c) Please provide more details on the reason why each of the costs set out in Table 1 is considered to be or not to be directly attributable.

20. [K11, 11.1, Staff #90]

Please provide a detailed explanation of all changes to the Applicant's calculation of required contributions as a result of IFRS? Without limiting the generality of the question, please explain why a shift in the cost of a project from capital to OM&A results in a reduction in capital contributions required.

21. [K11, 11.1, Energy Probe #63, A2-1-2, Updated, Table 1, and Attachment H Updated]

With respect to the calculation of the deficiency and the Revenue Requirement Work Form:

- a) Please confirm that these exhibits are in CGAAP.
- b) Please provide Table 1 and Attachment H using MIFRS, and provide an explanation of all differences between the CGAAP and MIFRS versions.

Submitted by the School Energy Coalition on this 21<sup>th</sup> day of September, 2011.

---

Mark Rubenstein

# TAB C



# ONTARIO ENERGY BOARD

FILE NO.: EB-2011-0054

---

VOLUME: Technical Conference

DATE: September 27, 2011

THE ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*,  
1998, S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an application by Hydro  
Ottawa Limited for an order approving just and  
reasonable rates and other charges for  
electricity distribution to be effective January  
1, 2012.

Hearing held at 2300 Yonge Street,  
25<sup>th</sup> Floor, Toronto, Ontario,  
on Tuesday, September 27<sup>th</sup>, 2011,  
commencing at 9:30 a.m.

-----  
TECHNICAL CONFERENCE  
-----

1 the application and the interrogatory responses, it's the  
2 old useful lives that are being used for the purpose of  
3 calculating rate base, depreciation, cost of capital,  
4 revenue requirements and rates, with the exception of  
5 Exhibit J?

6 MR. SIMPSON: That's confirmed.

7 MR. SHEPHERD: Okay. And then can you also confirm  
8 that the amounts for which you are seeking approval from  
9 the Board for those items -- that is the revenue  
10 requirement you build up and the rates you have built up --  
11 are the figures based on the new useful lives, which are  
12 referred to throughout as the IFRS lives?

13 MR. SIMPSON: That's correct, and that is our  
14 understanding of the process. The application is put  
15 together under CGAAP, and then the J exhibits essentially  
16 translate the CGAAP requirements into modified IFRS.

17 MR. SHEPHERD: I am not in any way being critical. I  
18 am just trying to be clear --

19 MR. SIMPSON: I know. I want to be clear about it  
20 too, because we are all there.

21 MR. SHEPHERD: All right. We've asked you to  
22 recalculate tables 1 through 3 of J2.1.1, and the  
23 continuity schedules in J2.1.2, and tables 1 through 6 of  
24 the Energy Probe IR Response No. 64, using the typical  
25 lives set out in the Kinectrics report instead of the IFRS  
26 lives. Have you been able to do that?

27 MR. SIMPSON: I have not been able to do that at this  
28 point. I have issues with doing that. The Kinectrics

1 report, both very clearly from the OEB in their cover  
2 letter related to it and within the documentation of the  
3 Kinectrics report that was received, and as noted in  
4 K11.1.1 on page 2 in that response, it has been very  
5 clearly set out that these are guidelines for the  
6 individual LDCs that may prove helpful.

7 As we covered yesterday, where our study is -- has  
8 varied from the typical useful lives or even outside of the  
9 range within the Kinectrics, there are two or three  
10 examples of that, and we spoke to those yesterday, which is  
11 again the OEB sort of rules of how they lay it out. There  
12 may be questions at that time when it happens.

13 But in fact, to rerun the numbers using specifically  
14 the Kinectrics useful lives and only the Kinectrics  
15 typically useful lives, it's a very difficult exercise to  
16 do, for one, but I don't even really see that as the point.  
17 I see it as an issue that, it's really not compliant even  
18 with IFRS.

19 I mean, IAS16-57 indicates that:

20 "The useful life of an asset is defined in terms  
21 of the asset's expected utility to the entity."

22 And further in IAS16-51:

23 "The useful life of an asset shall be reviewed at  
24 least each financial year end."

25 So these are moving numbers that each utility, each  
26 entity, is responsible for reviewing with their engineers,  
27 with their accountants, each year. The concept of  
28 rerunning the numbers on the typically useful lives of the



1 Kinectrics report would essentially be going back to  
2 prescribed rates, and I know that's not the intention of  
3 the OEB.

4 I don't see the relevance of us running those numbers  
5 when they will not be what we will use. They are not  
6 compliant with IFRS.

7 MR. SHEPHERD: Well, the Board will decide what you  
8 will use, right? And there may be a debate about it. And  
9 I understand that you have points about what the  
10 appropriate rule is, but people may disagree with you,  
11 right?

12 MR. SIMPSON: People may disagree, and we have had  
13 those discussions here already yesterday, or disagree or  
14 want clarification. I don't believe if the Board's intent  
15 is to be compliant with IFRS they will decide that the  
16 typical useful lives of Kinectrics is what will be used  
17 across the industry.

18 MR. SHEPHERD: That may well be true, but I'm not -- I  
19 don't want to argue that with you today. This is not the  
20 forum for that. What I -- all I want to do is get evidence  
21 for the Board to understand what the impact is of choosing  
22 one or the other. That's why we have asked for this  
23 information, so that the Board will know the impact of  
24 choosing IFRS lives versus typical lives. It's a normal  
25 question to ask.

26 MR. CASS: Jay, particularly because it's a difficult  
27 thing for them to do, I don't think Hydro Ottawa is  
28 prepared to go to that amount of effort for the purpose

1 that you have described.

2 MR. SHEPHERD: You know we are going to have to move -  
3 - make a motion on this, and you know we are going to win.  
4 It's pretty straightforward. The Board always orders the  
5 impact of judgment calls to be calculated, always. All  
6 right. So that's a refusal.

7 MR. SIMPSON: That is a refusal.

8 MR. SHEPHERD: Okay.

9 MS. HELT: Jay, do you want to just specifically set  
10 out your question so it is clear on the record.

11 MR. SHEPHERD: It is as written in 18(c) in our  
12 written materials.

13 So then, (d), I assume you are going to refuse (d) as  
14 well, which is, please advise the impact on test-year  
15 revenue requirement and deficiency of using the typical  
16 lives, as opposed to the IFRS lives.

17 MR. SIMPSON: It's not applicable, based on the  
18 response to (c).

19 If I could just speak before this goes further related  
20 to the difficulty of running the numbers. We --

21 MR. SHEPHERD: I think you have already refused. I  
22 think we are done.

23 MR. SIMPSON: Okay.

24 MR. SHEPHERD: Your counsel will have an opportunity  
25 to make arguments on the motion.

26 I am moving now to table 1 of Staff No. 80. And this  
27 is a comparison of the useful lives. Is that right? Maybe  
28 I am wrong. No, sorry. Wrong one.

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER of an Application by Hydro Ottawa Limited for an Order or Orders approving just and reasonable rates and other service charges for the distribution of electricity to be effective January 1, 2012.

---

*Ontario Energy Board*

---

**MOTION RECORD**

---

**Jay Shepherd Professional Corporation**  
2300 Yonge St.  
Suite 806  
Toronto, ON M4P 1E4

**Jay Shepherd**  
**Mark Rubenstein**

Tel: (416) 483-3300  
Fax: (416) 483-3305

Counsel for the Moving Party,  
School Energy Coalition