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**BY EMAIL and COURIER**

February 21, 2008  
Our File No. SEC-Gen

Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: Board Schedule**

We are writing this letter on behalf of the School Energy Coalition to express our concerns with respect to the upcoming Board schedules for various proceedings. We have had a chance to review the letter sent today by Mr. Warren on behalf of the Consumers Council of Canada, and generally agree with his comments. We want to add our client's perspective on this.

As we understand it, the Board is currently contemplating or has scheduled major proceedings as follows:

1. Hydro One Distribution Rates, with an oral hearing starting in late April.
2. Bruce to Milton Transmission, with an oral hearing starting early in May.
3. OPG Prescribed Assets Rates, with an oral hearing starting later in May.
4. Integrated Power System Plan, with an oral hearing starting in mid-June.

There are numerous other proceedings going on in the same time frame, including several consultations, the Gas IR Z factor hearing, Horizon and other LDC rate applications, etc. All of this comes on the heels of an already busy October through February period that included rate cases for Toronto, Ottawa, Enersource, Enbridge and Union, as well as many other proceedings. The late filing of so many of the electricity rate applications for 2008 has exacerbated the problem, because they are being dealt with in 2008 instead of in the fall of 2007 as the Board had originally expected.

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This represents the most congested Board schedule most of us have seen over the many years we have been involved in Board processes. It raises a serious concern that the quality of interventions, and perhaps then the quality of Board decisions, may deteriorate as people simply have insufficient time and resources to do a proper job on these matters. Interrogatories may not be as carefully considered, utility/intervenor dialogue may be foregone or truncated, co-operative actions between intervenors may be short-circuited, oral hearings may suffer from more limited preparation and participation, and arguments/submissions may not be as well thought out as they should be.

This may have already happened, in fact. We know that some who were involved in the Toronto Hydro rate case were concerned that intervenors may not have been sufficiently thorough, precisely because there were too many other Board proceedings demanding their attention and resources. Of course, it is not possible to determine whether this will have an effect on the outcome of the case. But, even before that there has to be a concern if the intervenors were in fact unable to be of enough assistance to the Board, ie. at the level the Board has become accustomed to and expects, because the intervenors had too many other priorities to meet at the same time.

Some intervenors have already taken steps to increase their available resources, knowing that the number of proceedings was going to increase this year. Schools, for example, added a second counsel in 2005, replaced one consultant with two in 2006, and has recently brought on a new junior counsel in 2007. Energy Probe has added three new people, and lost one, over the same period, AMPCO has added another consultant, and both VECC and CCC have been actively looking for additional resources.

But adding even more bodies is not a sustainable solution to the current situation, for two reasons. First, like the Board, the utilities, and others in the energy field, intervenors are facing the problem of limited qualified candidates. We can train some people, but ultimately all industry participants are currently facing a shortage of qualified and/or experienced energy specialists. Second, building a bigger and bigger intervenor "industry" is not in and of itself an appropriate goal, so intervenors are attempting to ensure that the people they hire are only those that will be needed over the longer haul. We see that 2008 and perhaps 2009 will be very busy, but beyond that the Board's published regulatory strategy should produce more streamlined and manageable annual requirements, thus requiring less resources from all of us.

We believe that an interim solution, to deal with the upcoming crush of workload, may be for the Board to move back the OPG hearing to June, the IPSP to August, and Bruce to Milton to September or October. This would expand the time periods to get the job done in each case, rather than having them crammed together in a flurry of intense activity. Because the 2009 rate applications for the LDCs, and the 2009 transmission applications, are not going to really get off the ground until the fall, we feel that these adjustments will not have a domino effect on other Board priorities.

What this proposal would do, we think, is allow intervenors to handle the heavy workload this year, without compromising the quality of the assistance they provide to the Board in its processes.

We want to add that we realize the Board is not just juggling the schedules of intervenors. You also have to be concerned with the scheduling of your own Board members and staff, the external imperatives of rate timing and dependant activities (such as other regulatory proceedings), and many other factors. Indeed, to respond to this problem and in particular the scheduling concerns of the

intervenor groups within that broader context, we know that senior Board Staff have been trying to set up a meeting to talk about exactly that. Ironically, it has been impossible to arrange that meeting because everyone is too busy.

We would be pleased to speak to the Board at any time about our concerns, and about this or other approaches to address those concerns.

Yours very truly,

**SHIBLEY RIGHTON LLP**

A handwritten signature in black ink, appearing to read 'Jay Shepherd', with a stylized, elongated flourish extending to the right.

Jay Shepherd

cc: Aleck Dadson, OEB  
Marika Hare, OEB  
Mark Garner, OEB  
Allan Fogwill, OEB  
Mary-Anne Aldred, OEB  
Bob Williams, SEC  
Gail Anderson, SEC  
Interested Parties