



SHIBLEY RIGHTON <sup>LLP</sup>  
*Barristers and Solicitors*

John De Vellis  
Direct Line (416) 214-5232  
Direct Fax (416) 214-5474  
john.devellis@shibleyrighton.com

TORONTO OFFICE:  
250 University Avenue, Suite 700, Toronto, Ontario, M5H 3E5  
Main 416 214-5200 Toll free 1-877-214-5200  
Facsimile 416 214-5400

WINDSOR OFFICE:  
2510 Ouellette Avenue, Windsor, Ontario, N8X 1L4  
Main 519 969-9844 Toll free 1-866-522-7988  
Facsimile 519 969-8045

www.shibleyrighton.com

Please Reply to the TORONTO OFFICE

**BY EMAIL and COURIER**

May 8, 2008  
Our File No. 2070553

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

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: Halton Hill Hydro Inc. EB-2007-0696**  
**SEC Reply to Objection to Cost Claim**

We are writing in response to the letter dated May 6, 2008 from Halton Hills Hydro Inc. disputing the cost claim of our client, the School Energy Coalition ("SEC"), in the above-captioned proceeding.

Halton Hills objects both to the hourly rate charged by counsel as well as the number of hours submitted by SEC.

With respect to the number of hours submitted, we note that there is an error in Halton Hills' letter. Halton Hills stated in its letter that SEC's claim was for 98.2 hours. This is not correct. The total number of hours submitted by SEC was 62.7 hours, broken down as follows:

|                           |             |
|---------------------------|-------------|
| Jay Shepherd (counsel):   | 0.9         |
| John De Vellis (counsel): | 32.2        |
| Rachel Chen (consultant): | 29.6        |
| <b>Total:</b>             | <b>62.7</b> |

While this is more than the total number of hours submitted by VECC, we believe consideration should be made for the fact that VECC's consultants, who we understand were responsible for the bulk of the time submitted by VECC, are senior practitioners in the energy industry whose hourly

GREAT LAKES  
LAW



rates are significantly higher than either the solicitor or the consultant who did the bulk of the work on behalf of SEC in this proceeding.

Halton Hills also claims that VECC and SEC did not do enough to avoid duplication of effort, as mandated by the Board Practice Direction. Halton Hills' rationale is that there were a number of interrogatories that were duplicative of each other.

In SEC's submission, while every effort is made to avoid duplication of effort, it is not possible to completely avoid duplication when it comes to written interrogatories. Interrogatories are typically due on the same date for all parties, which means that the bulk of the work in preparing interrogatories is done before we are able to review the interrogatories of other parties.

In any event, we do not believe there was a significant degree of duplication in this proceeding. Of the thirteen sections of SEC's interrogatories (each section dealing involving multiple questions dealing with a section of the pre-filed evidence), the only parts where Halton Hills referred us to the response to other parties' interrogatories was in the area of load forecast, calculation of utility income, and Halton Hills' LRAM/SSM adjustments [SEC IR #'s 4, 10, 12 and 13]. Of these, only the questions pertaining to load forecast contained any significant degree of detail. In SEC's respectful submission, that does not demonstrate a significant degree of duplication, as implied by Halton Hills.

Furthermore, the fact that Halton Hills took two questions to be so similar that only one answer was required does not, in our view, mean that the questions were necessarily duplicative of each other. Take, for example, SEC interrogatory #4, which is a multi-part question dealing with various aspects of Halton Hills' load forecast methodology. In response, Halton Hills simply directed us to Board Staff interrogatory #29. In SEC's submission, while there may be some overlap in the subject matter of the questions, the questions themselves are not identical. The fact that Halton Hills took them to be identical, such that it felt it did not need to answer *any* of SEC's load forecasting questions, does not mean that they are identical. In a proceeding where is no oral hearing and written interrogatories are the only means by which to obtain additional information from the applicant, we submit that parties should be given some leeway to ask questions that are apparently similar to each other, on the expectation that they may yield some information that would not be provided based on the wording of the other question.

With respect to hourly rates, it was our understanding (affirmed by previous Board cost awards to SEC) that the Board Tariff allowed the intermediate rate to be charged after completion of five years' practice (since the lowest tier applies for 0-5 years we had assumed that after the fifth completed year the second tier applied). If that understanding is incorrect we accept the need to make an adjustment to SEC's claim.

Yours very truly,  
**SHIBLEY RIGHTON LLP**

John De Vellis

cc: Tracy Rawlingson, Halton Hills Hydro Inc. (email only)