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### **BY EMAIL and RESS**

June 11, 2013  
Our File EB-2012-0394

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

### **Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

### **Re: EB-2012-0394 – Environmental Defence Submissions**

We are counsel for the School Energy Coalition. Procedural Order #3 in this proceeding does not give SEC any opportunity to respond to the submissions of Environmental Defence in this matter, and because we were parties to the Settlement Agreement, there was no reason for us to make initial submissions. Similarly, SEC had no input with respect to the Reply Submissions, which were the responsibility of Enbridge.

However, subsequent to the time for SEC to make initial submissions, we have seen the ED submissions, the Enbridge Reply submissions, and the letter from ED dated today. In light of those documents, SEC asks the Board's indulgence to allow the following brief submissions on two points.

### **Environmental Defence Submissions**

SEC is concerned that much of the thrust of the submissions of Environmental Defence is that the ratepayers will be better off with a substantial increase in the Enbridge DSM budget. Nine ratepayer groups, represented by experienced advisors, and covering a broad range of ratepayer interests, have already agreed that the budget and terms in that agreement were in the interests of ratepayers.

With all due respect to Environmental Defence, but subject to our comments below on the GTA reinforcement project, their views of the interests of ratepayers do not appear to be consistent



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with the views of the ratepayers themselves, and therefore should be given little weight by the Board. In this proceeding, the ratepayers were in a position to speak for themselves, and they did so.

### **Enbridge Reply Submissions**

SEC supports the agreement of the parties with respect to the DSM budget for 2014. SEC does not, however, support the position of Enbridge that the panel in EB-2012-0451 will be precluded from considering whether the GTA reinforcement project could be reduced, deferred or eliminated using a more aggressive DSM approach in 2014 and beyond.

In our submission, Enbridge can't have it both ways. Enbridge apparently takes the position that using DSM in place of the GTA reinforcement cannot be considered in this proceeding, because Enbridge has filed no evidence on the GTA reinforcement in this proceeding. They then take the position that the same issue cannot be considered in the other proceeding, where the evidence on the project is filed, because the issue of the 2014 budget will have been determined conclusively in this proceeding.

In our submission, this Board panel cannot and should not make any determination on the 2014 DSM budget for Enbridge that binds the EB-2012-0451 Board panel, unless that determination is made on the basis of all relevant evidence, i.e. unless this Board panel considers the GTA reinforcement evidence in full in light of the proposed DSM budget. The issue of DSM as an alternative to GTA reinforcement must be in scope somewhere. SEC believes it is more appropriate to hear it in the EB-2012-0451 proceeding, but at the very least it cannot be excluded from both proceedings.

All of which is respectfully submitted.

Yours very truly,  
**JAY SHEPHERD P. C.**

Jay Shepherd

cc: Wayne McNally, SEC (email)  
Interested Parties