



## Jay Shepherd

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**BY EMAIL and RESS**

January 31, 2014  
Our File: EB20130321

Ontario Energy Board  
2300 Yonge Street  
27th Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2013-0321– OPG 2014-15 – Draft Issues List Reply**

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 1, these are SEC’s reply submissions with respect to the Draft Issues List.

**OPG – General Issues**

SEC disagrees with OPG’s position that the approval of certain methodologies or regulatory treatments that were decided in previous payment amounts proceeding should not be reheard absent material changes or significant new information. Previous decisions while persuasive are not binding upon the Board in this proceeding which is tasked with determining “just and reasonable” payment amounts for 2014 and 2015. OPG is incorrect to state that if parties want to review these issues it must avail itself to “an established procedure to request review and variance”<sup>1</sup> The Board in previous OPG proceeding approved certain methodologies or regulatory treatments for the purposes of the test years in those proceedings.

When setting payment amounts (or rates), it is always open for the Board to reach different conclusions regarding any part of a previous decision. While in most cases the Board will simply rely on the findings in previous decisions, if parties present an argument to the Board that a different methodology or regulatory treatment should be applied prospectively, then the Board must considering it. If it does not, then it will have fettered its own discretion.

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<sup>1</sup> Written Submissions of the Applicant, Ontario Power Generation Inc. at p.2

Parties have the right to explore all relevant issues regardless of the existence of any significant new information or material change.

**OPG – Specific Issues**

SEC disagrees with OPG's proposed revised wording to issues 9.1-9.4. While OPG may only be seeking disposition of four accounts, parties should be free to explore the balances (and potentially seek deposition) of all of the existing deferral and variance accounts. This is especially important considering there are many linkages between other issues on the Draft Issues List and various deferral or variance accounts.

**AMPCO**

For the reasons set out in their submissions, SEC supports AMPCO's proposed issue, "[i]s the overall increase in 2014 and 2015 revenue requirement reasonable given the overall bill impact on customer".

All of which is respectfully submitted.

Yours very truly,  
**Jay Shepherd P.C.**

*Original signed by*

Mark Rubenstein

cc: Wayne McNally, SEC (by email)  
Applicant and Intervenors (by email)