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BY EMAIL and RESS

February 25, 2014
Our File: EB20130174

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2013-0174– Veridian 2014 – SEC Rule 29.03 Motion

We are counsel to the School Energy Coalition (“SEC”). These are SEC’s reply submissions pursuant to Procedural Order No. 3.

Veridian has *now* taken the position that Volume II is not relevant to the proceeding. It did not take this position when it originally refused to provide the information sought in the Interrogatory 2.1-SEC-2, or at the Technical Conference as required by the Board *Rules of Practice and Procedure*.¹ In fact, it did not even mention the existence of Volume II in its Letter to the Board of February 20th when it stated that that it would be providing the information sought in SEC’s Notice of Motion.

As explained in SEC’s letter of February 22nd the information is clearly relevant. The background and supporting data to any benchmarking study is relevant to the study itself. This is especially important in this case [REDACTED]. The [REDACTED] does not provide a list of participants or a breakdown of the information by size which puts the benchmarking survey in its correct context.

Veridian states that it doubts SEC wants to re-run the benchmarking exercise but that it could use the information about other distributors from Volume II against them in future. [REDACTED]

¹ Ontario Energy Board, *Rules of Practice and Procedures*, Rule 29.02(a)

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[REDACTED]

While the Board will likely seek submissions from parties on the issue of Confidentiality if an order is made requiring production, SEC makes two comments at this time. First, most of the statistics analyzed appear to be publically available so there may not be a need for confidentiality treatment of the Volume II Report. Many of the ratios could be derived from information that is contained in Board's Yearbook of Distributors. Second, the Board's Declaration and Undertaking states specifically that the "use of the Confidential Information will be exclusively for duties performed in respect of this proceeding".²If confidentiality treatment is ultimately granted, SEC would not be allowed to use the information against other utilities in other proceedings.

SEC submits the Board should order Veridian to provide all the information sought in 2.1-SEC-2, specifically Volume II of [REDACTED].

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)

²Ontario Energy Board, *Practice Direction on Confidential Filings, Appendix C - Form of Declaration and Undertaking*