



## Jay Shepherd

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**BY EMAIL and RESS**

April 17, 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 – Interrogatory Response Confidentiality Request**

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 6, these are SEC’s submissions with respect to Ontario Power Generation Inc.’s (“OPG”) request for confidentiality treatment over certain interrogatory responses. SEC objects to the request for confidentiality over the responses to Board Staff Interrogatory No. 76 and SEC Interrogatory No. 51.

To be treated as confidential pursuant to the *Practice Direction on Confidential Filings*, “the onus is on the person requesting confidentiality to demonstrate to the satisfaction of the Board that confidential treatment is warranted in any given case.”<sup>1</sup> Any harm alleged by the Applicant cannot be speculative, and must outweigh the public interest in providing the documents on the public record.

**Board Staff Interrogatory No. 76**

OPG is requesting confidentiality treatment over certain information relating to the costs of i) domestic suppliers of uranium conversion services, and ii) domestic CANDU fuel bundle manufactured, both for the period of 2013 to 2015. OPG’s view is that the “information is confidential and commercially sensitive”, and that “public disclosure would cause prejudice to its competitive position and significantly interfere with its negotiations of future like contracts.” SEC submits the Board should reject OPG’s request.

The onus is on OPG to support its request for confidentiality treatment. The cost information is for the test years, and part of a 10 year supply contract already executed that runs until 2021. It

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<sup>1</sup> *Practice Direction on Confidential Filings* at p. 2

cannot be simply asserted that that public disclosure will cause prejudice in future negotiations for like contracts. OPG has not provided any basis to differentiate this category of test years costs with any others. OPG's rationale applied to all cost information would lead to an absurd result where any recurring cost item that is procured through contract would need to be confidential. SEC submits this information should be placed on the public record.

**SEC Interrogatory No. 51**

OPG has requested confidentiality treatment over the attachments to SEC Interrogatory No. 51 on the basis that public disclosure of these internal audit reports, "would likely discourage OPG employees from candidly disclosing problems or proposing areas of improvement in future audits".

SEC submits that this rationale may be persuasive if these were "whistleblower" type audits where individual OPG employees outside of its Internal Audit section raised specific issues and were named (or could be otherwise identified) within the reports. This is not the case with respect to these audits. The audit reports at issue appear to be regular internal audits conducted by OPG's Internal Audit division. It is the core job of the Internal Audit division to disclose problems and propose areas of improvement. If employees in the Internal Audit division feel they would be less able to do their job if their reports were publically disclosed, than OPG should replace those employees. The information provides important information to the public about project management processes and procedures for important and material capital projects.

Further, OPG has provided similar internal audit reports in response to SEC Interrogatory No. 41, which it is not seeking confidentiality treatment over.<sup>2</sup> SEC submits that there is no basis for this information to be held in confidence.

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)

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<sup>2</sup> See Exhibit L, Tab 4.5, Schedule 17 SEC-041, Attachments 1, 2, 4, 5, 7, 8, 9,