



## Jay Shepherd

Professional Corporation  
2200 Yonge Street,  
Suite 1302  
Toronto, Ontario M4S 2C6

### **BY EMAIL and RESS**

December 1, 2016  
Our File No. 20160058

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-2016-0058 – Brantford 2017 Rates – SEC Cost Claim**

We are counsel for the School Energy Coalition. We enclose the cost claim of the School Energy Coalition, on the Board's form and enclosing docket details.

We note that counsel Mark Rubenstein took the lead on this matter, which was settled in full.

This is the first cost claim in which we have included time for Mr. Rubenstein at the 6-10 year rate of \$230 per hour, and in that regard an interpretation issue has arisen with respect to the Practice Direction on Cost Awards. We wrote to the Board about this on July 25, 2016, and have subsequently followed up, but we understand that the Board is still considering the appropriate interpretation of the Practice Direction in Mr. Rubenstein's circumstances.

The interpretation issue arises because Mr. Rubenstein has six years' experience working full-time on OEB matters, but not all of it has been as a lawyer. The first year was as a student-at-law, from September 2010 to September 2011, as an employee of our firm. During that time, he had substantial carriage of many matters, and worked in the manner of a junior lawyer on a number of other matters. All of it was OEB work.

Mr. Rubenstein was called to the bar in September, 2011, and has now for more than five years worked as a lawyer for our firm, again full-time on OEB matters. Thus, the question is whether the six year threshold in the Practice Direction should be the period during which he has worked

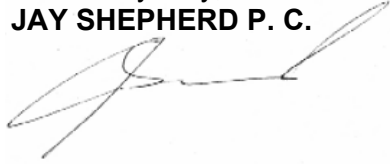
on OEB matters, or only the subset of that period since he was called to the bar. It appears to us that the Practice Direction does not contemplate this situation.

Given that this is the first time we have had a cost claim that includes any material hours for Mr. Rubenstein after September, 2016, we have segregated those hours in the claim and calculated them at the \$230 rate. We believe that is the appropriate interpretation of the Practice Direction, but await the Board's review and determination in that respect.

All of which is respectfully submitted.

Yours very truly,

**JAY SHEPHERD P. C.**



Jay Shepherd

cc: Wayne McNally, SEC (email)  
Interested Parties

**Ontario Energy Board**  
**COST CLAIM FOR HEARINGS**



**Affidavit and Summary of Fees and Disbursements**

This form should be used by a party to a hearing before the Board to identify the fees and disbursements that form the party's cost claim. Paper and electronic copies of this form and itemized receipts must be filed with the Board and served on one or more other parties as directed by the Board in the applicable Board order. Please ensure all required (yellow-shaded) fields are filled in and the Affidavit portion is signed and sworn or affirmed.

**Instructions**

- Required data input is indicated by yellow-shaded fields. Formulas are embedded in the form to assist with calculations.
- All claims must be in Canadian dollars. If applicable, state exchange rate and country of initial currency.

Rate: \_\_\_\_\_ Country: \_\_\_\_\_

- A separate "Detail of Fees and Disbursements Being Claimed" (comprising a "Statement of Fees Being Claimed" and a "Statement of Disbursements Being Claimed") is required for each lawyer, analyst/consultant and articling student/paralegal. However, only one "Summary of Fees and Disbursements" covering the whole of the party's cost claim should be provided.
- The cost claim must be supported by a completed Affidavit signed by a representative of the party.
- A CV for each consultant/analyst must be attached unless provided to the Board as prescribed on the Cost Award Tariff.

**Except as provided in section 7.03 of the Practice Direction on Cost Awards, itemized receipts must be provided.**

<b>File # EB-</b>	<b>2016-0058</b>	<b>Process:</b>	<b>Brantford 2017 Rates</b>
<b>Party:</b>	<b>School Energy Coalition</b>	<b>Affiant's Name:</b>	<b>Jay Shepherd</b>
<b>HST Number:</b>	<b>83673-5464-RT0001</b>	<b>HST Rate Ontario:</b>	<b>13.00%</b>
	Full Registrant <input checked="" type="checkbox"/>	Qualifying Non-Profit	<input type="checkbox"/>
	Unregistered <input type="checkbox"/>	Tax Exempt	<input type="checkbox"/>
	Other <input type="checkbox"/>		

**Affidavit**

I, **Jay Shepherd**, of the City/Town of **Toronto**  
in the Province/State of **Ontario**, swear or affirm that:

1. I am a representative of the above-noted party (the "Party") and as such have knowledge of the matters attested to herein.
2. I have examined all of the documentation in support of this cost claim, including the attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed".
3. The attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed" include only costs incurred and time spent directly for the purposes of the Party's participation in the Ontario Energy Board process referred to above.
4. This cost claim does not include any costs for work done, or time spent, by a person that is an employee or officer of the Party as described in sections 6.05 and 6.09 of the Board's Practice Direction on Cost Awards.

**Signature of Affiant**

**Sworn or affirmed before me** at the City/Town of **Toronto**,  
in the Province/State of **Ontario**, on **December 1, 2016**.  
(date)

**Ontario Energy Board  
COST CLAIM FOR HEARINGS**



**Affidavit and Summary of Fees and Disbursements**

**Commissioner for taking Affidavits**

**File # EB- 2016-0058** Process: **Brantford 2017 Rates**

**Party: School Energy Coalition**

**Summary of Fees and Disbursements Being Claimed**

Legal/consultant/other fees	\$	10,344.00
Disbursements	\$	-
HST	\$	1,344.72
<b>Total Cost Claim</b>	<b>\$</b>	<b>11,688.72</b>

**Payment Information**

Make cheque payable to: **Jay Shepherd Professional Corporation, in trust**

Send payment to this address: **2200 Yonge Street**  
**Suite 1302**  
**Toronto, Ontario**  
**M4S2C6**

**Ontario Energy Board**  
**COST CLAIM FOR HEARINGS**  
**Affidavit and Summary of Fees and Disbursements**



# Ontario Energy Board COST CLAIM FOR HEARINGS



## Detail of Fees and Disbursements Being Claimed

File # EB- <u>2016-0058</u>	Process: <u>Brantford 2017 Rates</u>
Party: <u>School Energy Coalition</u>	Service Provider Name: <u>Mark Rubenstein</u>
<p><b>SERVICE PROVIDER TYPE</b> (check one)</p> <p>Legal Counsel <input checked="" type="checkbox"/></p> <p>Articling Student/Paralegal <input type="checkbox"/></p> <p>Consultant <input type="checkbox"/></p> <p>Analyst <input type="checkbox"/></p>	
Year Called to Bar	Completed Years Practising/Years of Relevant Experience
<u>2011</u>	<u>5</u>
For Consultant/Analyst: <input type="checkbox"/> CV attached	Hourly Rate: <u>\$170</u>
<input type="checkbox"/> CV provided within previous 24 months	HST Rate Charged (enter %): <u>13.0%</u>

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
<b>Pre-hearing Conference</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>Technical Conference</b>					
Preparation	3.4	\$ 170.00	\$ 578.00	\$ 75.14	\$ 653.14
Attendance	2.5	\$ 170.00	\$ 425.00	\$ 55.25	\$ 480.25
<b>Interrogatories</b>					
Preparation	17.0	\$ 170.00	\$ 2,890.00	\$ 375.70	\$ 3,265.70
Responses	7.9	\$ 170.00	\$ 1,343.00	\$ 174.59	\$ 1,517.59
<b>Issues Conference</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>ADR - Settlement Conference</b>					
Preparation	9.1	\$ 170.00	\$ 1,547.00	\$ 201.11	\$ 1,748.11
Attendance	13.0	\$ 170.00	\$ 2,210.00	\$ 287.30	\$ 2,497.30
Proposal Preparation	0.1	\$ 170.00	\$ 17.00	\$ 2.21	\$ 19.21
<b>Argument</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
<b>Oral Hearing</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>Other Conferences</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>Case Management</b>					
		\$ 170.00	\$ -	\$ -	\$ -
<b>TOTAL SERVICE PROVIDER FEES</b>			<b>\$ 9,010.00</b>	<b>\$ 1,171.30</b>	<b>\$ 10,181.30</b>

**Ontario Energy Board  
COST CLAIM FOR HEARINGS**



**Detail of Fees and Disbursements Being Claimed**

File # EB- 2016-0058

Process: Brantford 2017 Rates

Party: School Energy Coalition

Service Provider Name: Mark Rubenstein

Statement of Disbursements Being Claimed			
	Net Cost	HST	Total
Scanning/Photocopy			\$ -
Printing			\$ -
Courier			\$ -
Telephone/Fax			\$ -
Transcripts			\$ -
Travel: Air			\$ -
Travel: Car			\$ -
Travel: Rail			\$ -
Travel (Other):			\$ -
Parking			\$ -
Taxi			\$ -
Accommodation			\$ -
Meals			\$ -
Other:			\$ -
Other:			\$ -
Other:			\$ -
<b>TOTAL DISBURSEMENTS:</b>			
	\$ -	\$ -	\$ -

**Ontario Energy Board**  
**COST CLAIM FOR HEARINGS**  
**Detail of Fees and Disbursements Being Claimed**





# Ontario Energy Board COST CLAIM FOR HEARINGS



## Detail of Fees and Disbursements Being Claimed

File # EB- <u>2016-0058</u>	Process: <u>Brantford 2017 Rates</u>
Party: <u>School Energy Coalition</u>	Service Provider Name: <u>Mark Rubenstein</u>
<p><b>SERVICE PROVIDER TYPE</b> (check one)</p> <p>Legal Counsel <input checked="" type="checkbox"/></p> <p>Articling Student/Paralegal <input type="checkbox"/></p> <p>Consultant <input type="checkbox"/></p> <p>Analyst <input type="checkbox"/></p>	
Year Called to Bar	Completed Years Practising/Years of Relevant Experience
<u>2011</u>	<u>6</u>
For Consultant/Analyst: <input type="checkbox"/> CV attached	Hourly Rate: <u>\$230</u>
<input type="checkbox"/> CV provided within previous 24 months	HST Rate Charged (enter %): <u>13.0%</u>

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
<b>Pre-hearing Conference</b>					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
<b>Technical Conference</b>					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
<b>Interrogatories</b>					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Responses		\$ 230.00	\$ -	\$ -	\$ -
<b>Issues Conference</b>					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
<b>ADR - Settlement Conference</b>					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
Proposal Preparation	5.8	\$ 230.00	\$ 1,334.00	\$ 173.42	\$ 1,507.42
<b>Argument</b>					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
<b>Oral Hearing</b>					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
<b>Other Conferences</b>					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
<b>Case Management</b>		\$ 170.00	\$ -	\$ -	\$ -
<b>TOTAL SERVICE PROVIDER FEES</b>			\$ 1,334.00	\$ 173.42	\$ 1,507.42

**Ontario Energy Board  
COST CLAIM FOR HEARINGS**



**Detail of Fees and Disbursements Being Claimed**

File # EB- 2016-0058

Process: Brantford 2017 Rates

Party: School Energy Coalition

Service Provider Name: Mark Rubenstein

Statement of Disbursements Being Claimed				
		Net Cost	HST	Total
Scanning/Photocopy				\$ -
Printing				\$ -
Courier				\$ -
Telephone/Fax				\$ -
Transcripts				\$ -
Travel: Air			\$ -	\$ -
Travel: Car				\$ -
Travel: Rail				\$ -
Travel (Other):				\$ -
Parking				\$ -
Taxi			\$ -	\$ -
Accommodation				\$ -
Meals				\$ -
Other:				\$ -
Other:				\$ -
Other:				\$ -
<b>TOTAL DISBURSEMENTS:</b>		\$ -	\$ -	\$ -

**Ontario Energy Board**  
**COST CLAIM FOR HEARINGS**  
**Detail of Fees and Disbursements Being Claimed**



Date	Explanation	Lwyr	170	230
20160709	email	MR	0.1	
20160712	emails/edit and review Nol for filing	MR	0.3	
20160713	emails	MR	0.1	
20160802	emails	MR	0.1	
20160803	emails/review PO	MR	0.2	
20160816	review/application/draft IRs	MR	6.8	
20160817	review/application/draft IRs/research new building issues	MR	7.1	
20160819	draft cover letter/edit, finalize and file IRS	MR	2.3	
20160909	prelim review of IRR	MR	1.0	
20160916	emails	MR	0.2	
20160916	review IRRs	MR	2.5	
20160918	review IRRs	MR	4.2	
20160919	emails/review Bd letter	MR	0.3	
20160920	prepare for TC/review response to TCQ provided	MR	3.1	
20160921	attend tech conference/discussion with intervenors afterwards	MR	3.9	
20160926	prepare for settlement conference	MR	2.5	
20160927	conference/review undertaking responses	MR	5.2	
20160928	attend settlement conference	MR	6.5	
20160929	attend settlement conference	MR	6.5	
20160929	post-settlement emails	MR	0.1	
20161014	emails/preliminary review of settlement proposal	MR		0.4
20161016	review settlement proposal/provide comments and edits/emails	MR		3.1
20161017	review other parties comments and edits/emails/review BPI corr re: extension	MR		0.6
20161018	review draft accounting order/emails	MR		0.3
20161019	emails/review further updated settlement docs	MR		0.4
20161020	emails/review further issues settlement proposals	MR		0.4
20161021	emails/review further revisions to settlement proposal.review Bd Ltr	MR		0.5
20161024	emails	MR		0.1
			53.0	5.8

53.0  
9010 1334  
10344  
1344.72  
11688.72