



Jay Shepherd

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

BY EMAIL and RESS

December 15, 2016
Our File No. 20160025

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2016-0025 – Horizon et al MAADs – 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 Jay Shepherd took the lead on this matter, which was a complex transaction raising significant legal and policy issues relating to rates and mergers. After detailed discovery, which included questions of the scope of the proceeding, and confidentiality of documents, there was a five day hearing. Extensive argument was also filed. SEC took an active, sometimes leading, role in all aspects of the proceeding.

The Board may be aware that, during the final argument phase, Mr. Shepherd while traveling lost a day's work due to computer issues. We have deducted the time spent that day, 8.8 hours, from the cost claim to reflect that fact that those hours were not productive.

Co-counsel Mark Rubenstein assisted in this proceeding, including attending the presentation day, and working on the confidentiality claims and the many legal issues that arose.

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.

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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. His first year as an employee of our firm was as a student-at-law, from September 2010 to September 2011. 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.

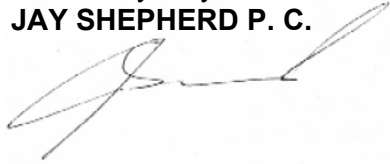
Mr. Rubenstein was called to the bar in September, 2011, and has now for more than five years worked as a lawyer for our firm, again full-time on OEB matters. Thus, the question is whether the six year threshold in the Practice Direction should be the period during which he has worked on OEB matters (as would be the case if he were a consultant), or only the subset of that period since he was called to the bar. It appears to us that the Practice Direction does not expressly contemplate a situation in which a lawyer has experience in energy regulation prior to becoming a lawyer.

We have segregated those post six year 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.

File # EB- **2016-0025**

Process: **Horizon et al MAADs**

Party: **School Energy Coalition**

Affiant's Name: **Jay Shepherd**

HST Number: **83673-5464-RT0001**

HST Rate Ontario: **13.00%**

Full Registrant ☒

Qualifying Non-Profit ☐

Unregistered ☐

Tax Exempt ☐

Other ☐

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 16, 2016**.
(date)

Commissioner for taking Affidavits

Ontario Energy Board
COST CLAIM FOR HEARINGS



Affidavit and Summary of Fees and Disbursements

File # EB- 2016-0025 **Process:** Horizon et al MAADs

Party: School Energy Coalition

Summary of Fees and Disbursements Being Claimed

Legal/consultant/other fees	\$	73,326.00
Disbursements	\$	-
HST	\$	9,532.38
Total Cost Claim	\$	82,858.38

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



Detail of Fees and Disbursements Being Claimed

File # EB- <u>2016-0025</u>	Process: <u>Horizon et al MAADs</u>
Party: <u>School Energy Coalition</u>	Service Provider Name: <u>Jay Shepherd</u>

SERVICE PROVIDER TYPE (check one)	Year Called to Bar	Completed Years Practising/Years of Relevant Experience
Legal Counsel <input checked="" type="checkbox"/>	1980	36
Articling Student/Paralegal <input type="checkbox"/>		
Consultant <input type="checkbox"/>		
Analyst <input type="checkbox"/>		

Hourly Rate:	\$330
For Consultant/Analyst: <input type="checkbox"/> CV attached <input type="checkbox"/> CV provided within previous 24 months	HST Rate Charged (enter %): 13.0%

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
Pre-hearing Conference					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Technical Conference					
Preparation	9.0	\$ 330.00	\$ 2,970.00	\$ 386.10	\$ 3,356.10
Attendance	4.0	\$ 330.00	\$ 1,320.00	\$ 171.60	\$ 1,491.60
Interrogatories					
Preparation	17.0	\$ 330.00	\$ 5,610.00	\$ 729.30	\$ 6,339.30
Responses	28.9	\$ 330.00	\$ 9,537.00	\$ 1,239.81	\$ 10,776.81
Issues Conference					
Preparation	7.1	\$ 330.00	\$ 2,343.00	\$ 304.59	\$ 2,647.59
Attendance		\$ 330.00	\$ -	\$ -	\$ -
ADR - Settlement Conference					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Proposal Preparation		\$ 330.00	\$ -	\$ -	\$ -
Argument					
Preparation	41.2	\$ 330.00	\$ 13,596.00	\$ 1,767.48	\$ 15,363.48
Oral Hearing					
Preparation	79.2	\$ 330.00	\$ 26,136.00	\$ 3,397.68	\$ 29,533.68
Attendance	24.7	\$ 330.00	\$ 8,151.00	\$ 1,059.63	\$ 9,210.63
Other Conferences					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Case Management		\$ 170.00	\$ -	\$ -	\$ -
TOTAL SERVICE PROVIDER FEES			\$ 69,663.00	\$ 9,056.19	\$ 78,719.19

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



File # EB- 2016-0025

Process: Horizon et al MAADs

Party: School Energy Coalition

Service Provider Name: Jay Shepherd

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:				\$ -
TOTAL DISBURSEMENTS:		\$ -	\$ -	\$ -

Ontario Energy Board

COST CLAIM FOR HEARINGS



Detail of Fees and Disbursements Being Claimed

File # EB- <u>2016-0025</u>	Process: <u>Horizon et al MAADs</u>
Party: <u>School Energy Coalition</u>	Service Provider Name: <u>Mark Rubenstein</u>

SERVICE PROVIDER TYPE (check one)	Year Called to Bar	Completed Years Practising/Years of Relevant Experience
Legal Counsel <input checked="" type="checkbox"/>	2011	5
Articling Student/Paralegal <input type="checkbox"/>		
Consultant <input type="checkbox"/>		
Analyst <input type="checkbox"/>		

For Consultant/Analyst: <input type="checkbox"/> CV attached	HST Rate Charged (enter %): <u>13.0%</u>
<input type="checkbox"/> CV provided within previous 24 months	

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
Pre-hearing Conference					
Preparation	0.9	\$ 170.00	\$ 153.00	\$ 19.89	\$ 172.89
Attendance	1.5	\$ 170.00	\$ 255.00	\$ 33.15	\$ 288.15
Technical Conference					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
Interrogatories					
Preparation	6.1	\$ 170.00	\$ 1,037.00	\$ 134.81	\$ 1,171.81
Responses		\$ 170.00	\$ -	\$ -	\$ -
Issues Conference					
Preparation	0.9	\$ 170.00	\$ 153.00	\$ 19.89	\$ 172.89
Attendance		\$ 170.00	\$ -	\$ -	\$ -
ADR - Settlement Conference					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
Proposal Preparation		\$ 170.00	\$ -	\$ -	\$ -
Argument					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Oral Hearing					
Preparation	6.6	\$ 170.00	\$ 1,122.00	\$ 145.86	\$ 1,267.86
Attendance		\$ 170.00	\$ -	\$ -	\$ -
Other Conferences					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
Case Management		\$ 170.00	\$ -	\$ -	\$ -
TOTAL SERVICE PROVIDER FEES			\$ 2,720.00	\$ 353.60	\$ 3,073.60

Ontario Energy Board

COST CLAIM FOR HEARINGS



Detail of Fees and Disbursements Being Claimed

File # EB- 2016-0025

Process: Horizon et al MAADs

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:				\$ -
TOTAL DISBURSEMENTS:		\$ -	\$ -	\$ -

Ontario Energy Board

COST CLAIM FOR HEARINGS



Detail of Fees and Disbursements Being Claimed

File # EB- <u>2016-0025</u>	Process: <u>Horizon et al MAADs</u>
Party: <u>School Energy Coalition</u>	Service Provider Name: <u>Mark Rubenstein</u>

SERVICE PROVIDER TYPE (check one)	Year Called to Bar	Completed Years Practising/Years of Relevant Experience
Legal Counsel <input type="checkbox"/>	2011	6
Articling Student/Paralegal <input type="checkbox"/>		
Consultant <input type="checkbox"/>		
Analyst <input type="checkbox"/>		

For Consultant/Analyst: <input type="checkbox"/> CV attached	HST Rate Charged (enter %): <u>13.0%</u>
<input type="checkbox"/> CV provided within previous 24 months	

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
Pre-hearing Conference					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
Technical Conference					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
Interrogatories					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Responses		\$ 230.00	\$ -	\$ -	\$ -
Issues Conference					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
ADR - Settlement Conference					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
Proposal Preparation		\$ 230.00	\$ -	\$ -	\$ -
Argument					
Preparation	4.1	\$ 230.00	\$ 943.00	\$ 122.59	\$ 1,065.59
Oral Hearing					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
Other Conferences					
Preparation		\$ 230.00	\$ -	\$ -	\$ -
Attendance		\$ 230.00	\$ -	\$ -	\$ -
Case Management		\$ 170.00	\$ -	\$ -	\$ -
TOTAL SERVICE PROVIDER FEES			\$ 943.00	\$ 122.59	\$ 1,065.59

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



File # EB- 2016-0025

Process: Horizon et al MAADs

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:				\$ -
TOTAL DISBURSEMENTS:		\$ -	\$ -	\$ -

Date	Explanation	Lwyr	JCS	MR
20160415	emails/prelim review of MAAD application	MR		1.0
20160418	emails/preliminary review of MAAD application	MR		1.5
20160419	emails/disc w JCS/review LDCs apps DSPs	MR		2.5
20160420	Review initial filing, Meeting with Mark Rubenstein	JCS	1.5	
20160519	Many emails	JCS	0.1	
20160519	emails/review Notice	MR		0.3
20160530	Prepare and file NOI, Many emails	JCS	0.4	
20160530	emails	MR		0.1
20160531	Various emails	JCS	0.1	
20160606	Meeting with Mark Rubenstein	JCS	0.3	
20160615	Review PO #1 and scheduling, Many emails	JCS	0.3	
20160615	review PO/emails	MR		0.2
20160622	emails/provide comments and additions to JCS draft of issues list/prepare for presentation day	MR		1.4
20160622	Reviewing evidence, Submissions on issues and confidentiality, Many emails	JCS	3.8	
20160623	Review submissions of others, Many emails, Attend presentation (internet)	JCS	2.3	
20160623	attend presentation day	MR		1.5
20160624	Review evidence	JCS	1.4	
20160626	Review evidence	JCS	1.0	
20160628	Review evidence, Draft interrogatories	JCS	0.5	
20160628	emails/review reply argument on issues list	MR		0.4
20160630	Review issues list decision, Many emails, Review evidence, Review additional material	JCS	1.9	
20160630	review issues list decision/emails	MR		0.2
20160701	Many emails, Review scope	JCS	1.0	
20160704	Reviewing evidence, Review presentation day material, Many emails	JCS	3.6	
20160705	Reviewing evidence, Preparing comparative spreadsheets, Drafting and revising	JCS	13.2	
20160705	emails/review draft IRs and provide comments and suggestions/review final IRs	MR		1.1
20160706	Review interrogatories of others, Various emails	JCS	0.4	
20160706	emails	MR		0.1
20160707	Review interrogatories of others, Many emails	JCS	0.8	
20160714	Review ECAO letter	JCS	0.1	
20160714	emails/review ECAO Corr	MR		0.1
20160719	Many emails, Review Board letter	JCS	0.4	
20160725	review Bd corr to ECAO	MR		0.1
20160726	Many emails, Meeting with Mark	JCS	1.0	
20160727	Review interrogatory responses, Many emails	JCS	2.7	
20160727	preliminary review of IRR	MR		1.0
20160728	Review interrogatory responses, Review new filings	JCS	1.1	
20160728	review IRR	MR		1.2
20160729	Review PO#2 and scheduling	JCS	0.3	
20160731	Review interrogatory responses	JCS	2.0	
20160802	Reviewing evidence	JCS	3.0	
20160803	Client reporting, Many emails	JCS	1.2	
20160803	emails	MR		0.2
20160808	Many emails, Review evidence	JCS	3.4	
20160808	emails/review corr	MR		0.2
20160809	Review Applicants letter, Many emails	JCS	0.2	
20160809	emails	MR		0.1
20160811	Intervenor conference call, Many emails, Review AMPCO questions	JCS	2.5	
20160812	review conf decision and PO 3/prepare, sign and file D&U/emails	MR		0.5
20160812	Review decision and PO, Many emails, Meeting with Mark, Scheduling	JCS	0.8	
20160815	emails	MR		0.2

20160816	Review PO #4, Review 0003 for impacts, Review ECAO, BOMA letters, Meeting with Mark, Many emails, Declaration and Undertaking	JCS	1.2	
20160817	Review material for TC topics, Many emails, Review staff letter	JCS	3.6	
20160818	Review requested additional agreement, Many emails	JCS	1.0	
20160818	review conf doc instructions/emails	MR		0.5
20160819	Many emails	JCS	0.4	
20160819	emails/p. call w M. Helt	MR		0.3
20160820	Review additional material, Review evidence, Many emails,	JCS	4.0	
20160820	emails	MR		0.2
20160821	Prep for technical conference	JCS	3.6	
20160822	Many emails, Initial review of business case model	JCS	2.5	
20160822	emails/review conf business model	MR		0.4
20160823	Prep for technical conference, Many emails	JCS	4.9	
20160824	Attend at technical conference, Prep, Many emails	JCS	4.0	
20160824	emails	MR		0.2
20160825	Review TC transcript, Review new filing, Many emails	JCS	1.9	
20160825	emails	MR		0.2
20160826	Many emails	JCS	0.3	
20160827	Review evidence	JCS	1.0	
20160829	Review model, Many emails	JCS	4.0	
20160830	Conference call with Applicants, Many emails, Review new materials	JCS	1.8	
20160831	Many emails, Outline of hearing points, Review pdf	JCS	1.7	
20160831	emails	MR		0.1
20160901	Cross prep	JCS	1.3	
20160902	emails/review conf decision	MR		0.2
20160902	Reviewing evidence and transcript, Review decision, Review hearing plan and scheduling, Many emails, Cross prep	JCS	7.3	
20160903	Cross prep, Benchmarking analysis, Dx Revenue forecasts and spreadsheets, Various emails	JCS	6.0	
20160904	Spreadsheets for hearing, Rate analysis, Cross prep, Various emails	JCS	4.6	
20160905	Reviewing evidence and transcript, Cross outline, Cross prep	JCS	6.6	
20160906	Review materials, Cross prep, Prepare compendium for Panel 1, Many emails, review new evidence	JCS	8.3	
20160907	Attend at hearing for cross, Cross prep, Many emails, Review additional material	JCS	7.9	
20160908	disc w JCS re: legal issues	MR		0.5
20160908	Cross prep, Many emails, Review additional material (esp. Shareholders agreement and BP appendices), Exchanges re confidentiality	JCS	9.0	
20160909	disc w JCS	MR		0.2
20160909	Attend at hearing for cross (in person and internet), Cross prep, Many emails, Review additional material	JCS	8.8	
20160911	Prep for hearing	JCS	1.8	
20160912	Prepare for Panel 2 cross, Many emails, Review Strategic Plan issue	JCS	3.6	
20160913	emails/review Bd corr	MR		0.2
20160913	Prepare for Panel 2 cross, Many emails, Send notice re properties, Review Strategic Plan, Review Board letter	JCS	4.3	
20160914	Prepare for Panel 2 cross, Prepare compendium, Many emails, Review facilities information, Review AMPCO compendium, Review revised sche	JCS	6.9	
20160915	Attend at hearing, Many emails, Review transcript, Review undertaking	JCS	4.8	
20160916	Attend at hearing (internet), Many emails, Review license application, Review transcript	JCS	3.4	
20160917	Review licenses, Email to applicants	JCS	2.1	
20160918	Status analysis and scheduling	JCS	0.3	

20160919	Review revised filing, Various emails	JCS	0.3	
20160920	Many emails	JCS	0.3	
20160921	Review PO #5, Many emails, Review draft license	JCS	1.1	
20160926	Prep for hearing, Attend at hearing (internet), Many emails	JCS	3.5	
20160928	Review license presentation	JCS	0.7	
20161004	Review BOMA argument	JCS	1.1	
20161007	Draft final argument, Review arguments of others	JCS	5.0	
20161008	Draft final argument, Review arguments of others	JCS	8.8	
20161009	Draft final argument	JCS	6.3	
20161010	Draft final Argument, Many emails	JCS	7.9	
20161011	Draft, Revise and file final argument, Many emails	JCS	6.6	
20161011	emails/review SEC draft sub, provide comments and edits re: jurisdictional issues/review final version	MR		2.5
20161018	Review reply argument	JCS	1.1	
20161019	review reply sub	MR		0.7
20161208	Review decision, Client reporting, Many emails	JCS	3.0	
20161208	review decision/emails	MR		0.5
20161209	emails/disc w JCS re: decision	MR		0.4
			219.9	20.1

October 8th removed due to computer issues

	8.8	
	211.1	20.1
		4.1
	69663	3663
	3663	
Fees	73326	
Disb		
Sub	73326	
HST	9532.38	
Total	82858.38	