



**BY EMAIL and RESS**

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January 24, 2019  
Our File No. 20180287

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-2018-0287 – Report of the Advisory Committee on Innovation (ACI)**

We are counsel for the School Energy Coalition (“SEC”). We are writing to advise the Board that SEC will not be making submissions with respect to the ACI Report, or the next steps in the process. SEC has – reluctantly – come to the conclusion that the Board is not interested in input on these matters from the very customers it is mandated to protect.

We have reached that conclusion as a result of a series of decisions by the Board relating to customer input in this area, including three key ones:

1. **ACI Composition.** When the ACI was established early in 2018, without any public announcement, the Board determined that it would be composed primarily of utility executives and utility consultants. No customers or their representatives were invited to participate, despite the fact that a number of customers have experience with driving innovation agendas and managing change in traditional companies. The decision to exclude involvement by customers with a strong vested interest in the issues, and expertise otherwise lacking on the committee, was troubling.
2. **Innovation Sandbox.** At the stakeholder forum on January 16, 2019, senior members of OEB Staff, in the presence of a number of Board members and many utility and customer representatives, spent the better part of two hours emphasizing that none of the recommendations or analysis in the ACI Report would be implemented without

thorough consultation with customers. Then, at the end of the meeting, they made the surprise announcement that the Board had already decided (weeks earlier) to implement the Innovation Sandbox – recommendation 4A in the ACI Report – with no customer input whatsoever. The Innovation Sandbox would allow utilities to have private negotiations with OEB Staff about their most high risk initiatives. In these discussions, which would not be public, OEB Staff would be empowered under delegated authority to offer regulatory concessions to assist the utilities in moving their projects forward. The Innovation Sandbox is doubly unfortunate because it is not at its root a terrible idea. It could have benefitted from customer involvement in its development, however. Aside from the lack of expertise of OEB Staff in assessing high risk initiatives, the secrecy of the process will undoubtedly result in those who are adversely affected – customers bearing the costs of failed projects, competitors surprised to see that a utility has been given an unfair advantage in a private deal with the regulator, etc. – objecting when the impacts are known. These flaws in the structure could have been fixed if the Board had been willing to listen to someone other than the regulated utilities.

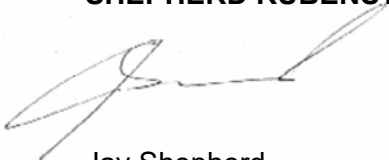
3. **Cost Eligibility.** We learned yesterday that the Board has decided that customer groups participating in this consultation will not be eligible to recover their reasonably incurred costs of doing so. This unusual step is in contrast to the utilities who participate, whose costs of doing so are included in rates and paid for by the customers (as are the Board's costs of this process). Providing utilities with ample resources to provide detailed input, while at the same time denying similar treatment for customers, appears to demonstrate bias. This is especially true when the goals of the utilities (ensuring that all costs associated with the changes in the sector are ultimately recoverable from customers) and the goals of the customers (minimizing the adverse impacts and costs associated with changes in the sector, and maximizing the benefits arising out of those changes) are quite different.

The inescapable conclusion to be drawn from these Board decisions is that the input of the customers on these important issues will not be considered in formulating Board policy. As evidenced by the process to date, only the input of the utilities is thought by the Board to be of value.

While this is unfortunate, SEC believes that it would be wasting scarce resources by participating further. The Board will not be listening anyway.

Yours very truly,

**SHEPHERD RUBENSTEIN PROFESSIONAL CORPORATION**



Jay Shepherd

cc: Wayne McNally, SEC (email)  
Board Members  
Interested Parties