



BY EMAIL and RESS

Mark Rubenstein
mark@shepherdubenstein.com
Dir. 647-483-0113

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

March 5, 2019
Our File: EB20180165

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2018-0165 – Toronto Hydro 2020-2024 – Evidence Presentation Request

We are counsel to the School Energy Coalition ("SEC"). We are in receipt of a letter from Toronto Hydro-Electric System Limited ("Toronto Hydro") filed on March 1st, requesting that at the start of the oral hearing scheduled to commence on June 27th, it be able to present an overview of its application, but that the questions be limited to those from the Board panel. SEC submits the Board should reject this request.

Toronto-Hydro already has the ability to present an overview of its application at the beginning of the oral hearing through Examination-In-Chief of its first witness panel. Like all witness panels who appears at an oral hearing, they are subject to cross-examination. In SEC's experience having an 'overview panel' that can speak (and be questioned) on the application framework and overall planning process, is most helpful to the Board panel and intervenors in understanding the application before other panels get into the with specific details (i.e. capital, OM&A, cost allocation/rate design, etc.).

What SEC strongly objects to is any process that would effectively allow certain Toronto Hydro witnesses to give evidence at the oral hearing, and then avoid cross-examination. To allow such a process would be a clear breach of procedural fairness.

While Toronto Hydro is correct, that in some previous proceedings the Board has scheduled time for an overview presentation from the application, those all occurred long before the oral hearing, and usually, but not always, before interrogatories had even been filed. In Toronto Hydro's last Custom IR proceeding (EB-2014-0116), the Board held an 'Evidence Conference' before the technical conference, at the request of Toronto Hydro, made at the time of the application filing.¹

When Toronto Hydro made that request, it did so because it believed an Evidence Conference would "help clarify its requests and proposals, ultimately expediting and simplifying subsequent stages of the proceeding".² Having such an Evidence Conference or Presentation after discovery is completed and at the beginning of the oral hearing provides none of the benefits that Toronto Hydro

¹ EB-2014-0116, Procedural Order No.2, November 14 2014

² EB-2014-0116, Letter to Kristen Walli (Board Secretary), from Rod Barras (Toronto Hydro), dated July 31 2014



cited in its previous request. All it does is allow Toronto Hydro witnesses to provide evidence and then escape direct challenge on it. SEC submits that is procedurally unfair to other parties to the proceeding and should not be permitted.

Yours very truly,

Shepherd Rubenstein P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and interested parties (by email)