

**BY EMAIL and RESS** 

Jay Shepherd jay@shepherdrubenstein.com Dir. 416-804-2767

June 3, 2020 Our File: EB20180270

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

Attn: Christine Long, Registrar & Board Secretary

Dear Ms. Long:

#### Re: EB-2018-0270 - Hydro One Orillia MAADs - SEC Cost Claim

We are counsel to the School Energy Coalition ("SEC"). Enclosed, please find SEC's cost claim in this matter on the Board's form with accompanying detailed dockets.

This proceeding was the culmination of a series in which Hydro One sought approval to acquire Orillia Hydro. After a motion to dismiss from SEC, the proceeding included extensive interrogatories, a technical conference, and a two day oral hearing, followed by written argument. From the technical conference until the end, this proceeding was combined with EB-2018-0242, the acquisition by Hydro One of Peterborough Distribution, which had similar facts and a similar rate proposal.

Senior Counsel Jay Shepherd took the lead, and co-counsel Mark Rubenstein's primary role was the motion to dismiss at the outset. Almost all of Mr. Rubenstein's time was on that motion, on which Mr. Shepherd also assisted. While the time spent by Mr. Shepherd on the motion was substantial, the normal time spent in the interrogatory and technical conference phases was reduced as as consequence. Most of the time in those phases is reviewing and analysing the evidence, which Mr. Shepherd had to do to assist on the motion in any case. It is reasonable to estimate that more than 30 hours of Mr. Shepherd's time on the motion would have been spent in the discovery phase.

Because the technical conference, oral hearing and argument were essentially combined, SEC has for the most part simply divided the time spent equally between the two cases. We estimate that this is a fair division between the two cases. In the few cases where that was not the case, we have allocated time spent based on the specific issues that related to Orillia or Peterborough. The single disbursement was the printing of the motion record, which was solely for the Orillia case.

Many of the issues that arose in this proceeding, and the companion Peterborough proceeding, were unique, and could have far-reaching consequences in distributor consolidation decisions. SEC, as it has done in the past, took the lead on most of those key issues. A considerable amount of time, for

### Shepherd Rubenstein

example, was required to look in detail at the Hydro One Cost Allocation Model, and make comparisons between the proposals in these proceedings, and past research by Hydro One on cost allocation between its different geographic areas.

Pending guidance from the Board Secretary's office, in the current remote work environment as a result of COVID-19, we have not been able to easily arrange to have the Board's form of affidavit commissioned. Rather, I have provided the recitation below, which includes the same statements that are on the Board's cost claim affidavit, for the purposes of attesting the accuracy of the enclosed cost claim. We hope in the current circumstances that this is acceptable to the Board.

In lieu of a commissioned affidavit, and as a member of the Law Society of Ontario and an Officer of the Ontario Court and, as such, mindful of my duties to the Ontario Energy Board, I, Jay Shepherd, provide this statement confirming that;

- 1. I am a legal representative of the School Energy Coalition and as such have knowledge of the matters attested to herein.
- 2. I have examined all of the documentation in support of the attached 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.

All of which is respectfully submitted.

Yours very truly.

**Shepherd Rubenstein Professional Corporation** 

Jay Shepherd

CC: Wayne McNally, SEC (by email)

Interested Parties (by email)



#### **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.

				l	nstructions				
- All claims m - A separate b Disbursemen However, on - The cost cla - A CV for each	"Detail "Detail Its Bein Iy one ' aim mus ch cons	in Canadian of Fees and g Claimed") 'Summary o t be suppor ultant/analy	dollars. If app Disbursements is required for of f Fees and Disb ted by a comple est must be atta	licable, state ex Rate: Being Claimed each lawyer, ar ursements" cov eted Affidavit s ached unless pro	xchange rate " (comprising nalyst/consul- vering the whisigned by a re	and country of a "Statement tant and article of the pare presentative of Board as presented as presented of the pare sented of the pare sented of the pare sented of the presented of the present	ing student/para ty's cost claim sh	laimed" and alegal. hould be pro	Ta "Statement of ovided.
File # EB-	2018-	0270			Process:	Hydro One C	Orillia MAADs		
Party:	Schoo	ol Energy C	oalition		Affia	ant's Name:	Jay Shepherd		
HST Numbe	er:	83673-546	4-RT0001			HST	Rate Ontario:	13.00%	
			ull Registrant Unregistered Other			Qualifyi	ing Non-Profit Tax Exempt		
					Affidavit				
<b>I,</b> in the Prov	/ince/S	State of		Ontario	, of the Cit	-	, swear or aff	Toronto	)
1. I am a repropersion of the contract of the	resenta mined a ed", "Sta ned "Sui nts Bein gy Boai laim do	tive of the a all of the do atement(s) o mmary of Fe g Claimed" i rd process ro es not inclu	cumentation in of Fees Being Cla ees and Disburso nclude only cos eferred to abov	support of this aimed" and "Sta ements Being C sts incurred and e. r work done, or	s cost claim, in catement(s) o Claimed", "Sta d time spent o r time spent,	have knowled ncluding the af f Disbursemen Itement(s) of I directly for the by a person th	dge of the matte ttached "Summa its Being Claimed Fees Being Claim	ers attested ary of Fees a d". ned" and "St e Party's par	and Disbursements atement(s) of rticipation in the
Signature (	of Affi	ant							
Sworn or a	affirmo	ed before	<b>me</b> at the Ci	ty/Town of		Tor	onto		,
in the Prov	/ince/s	State of		Ontario		, on	(date)	)	



#### **Affidavit and Summary of Fees and Disbursements**

**Commissioner for taking Affidavits** 

File # EB- 2018-0270 Process: Hydro One Orillia MAADs

Party: School Energy Coalition

Su	Summary of Fees and Disbursements Being Claimed								
Legal/consultant/other fees	\$	65,870.00							
Disbursements	\$	284.90							
HST	\$	8,600.14							
Total Cost Claim	\$	74,755.04							

#### **Payment Information**

Make cheque payable to: Shepherd Rubenstein Professional Corporation, in trust

Send payment to this address: 2200 Yonge Street

Suite 1302

Toronto, Ontario

M4S2C6



File # EB-	2018-0270		Proc	Process: Hydro One Orillia MAADs							
Party:	School Energy Coalition			Serv	vice Pro	ovider Name:	Jay Shepherd	Jay Shepherd			
				Year Calle	ed to		Complete Practising/Year				
	<b>SERVICE PROVIDER TYPE</b>	(che	ck on	e) Bar	Bar		Experi	ence			
	Legal Counsel		<b>✓</b>	1980	)		40	)			
	<b>Articling Student/Paralegal</b>										
	Consultant						Hourly Rate:	\$330			
	Analyst						_				
	For Consultant/Analyst:			attached provided within	previous		narged (enter % ):	13.0%			

S	tatement o	of Fe	es Being	Cla	imed		
	Hours	Но	urly Rate		Subtotal	HST	Total
Pre-hearing Conference							
Preparation	50.3	\$	330.00	\$	16,599.00	\$ 2,157.87	\$ 18,756.87
Attendance		\$	330.00	\$	-	\$ -	\$ -
Technical Conference							
Preparation	8.5	\$	330.00	\$	2,805.00	\$ 364.65	\$ 3,169.65
Attendance	7.0	\$	330.00	\$	2,310.00	\$ 300.30	\$ 2,610.30
Interrogatories							
Preparation	12.4	\$	330.00	\$	4,092.00	\$ 531.96	\$ 4,623.96
Responses	11.3	\$	330.00	\$	3,729.00	\$ 484.77	\$ 4,213.77
Issues Conference							
Preparation		\$	330.00	\$	-	\$ -	\$ -
Attendance		\$	330.00	\$	-	\$ -	\$ -
ADR - Settlement Conference							
Preparation		\$	330.00	\$	-	\$ -	\$ -
Attendance		\$	330.00	\$	-	\$ -	\$ -
Proposal Preparation		\$	330.00	\$	-	\$ -	\$ -
Argument							
Preparation	26.7	\$	330.00	\$	8,811.00	\$ 1,145.43	\$ 9,956.43
Oral Hearing							
Preparation	36.6	\$	330.00	\$	12,078.00	\$ 1,570.14	\$ 13,648.14
Attendance	6.8	\$	330.00	\$	2,244.00	\$ 291.72	\$ 2,535.72
Other Conferences							
Preparation		\$	330.00	\$	-	\$ -	\$ -
Attendance		\$	330.00	\$	-	\$ -	\$ -
Case Management		\$	170.00	\$	-	\$ -	\$ -
TOTAL SERVICE PROVIDER FEES				\$	52,668.00	\$ 6,846.84	\$ 59,514.84



File # EB-	2018-0270	<b>Process:</b>	Hydro One O	rillia MAADs	
Party:	School Energy Coalition	Service Provi	ider Name:	Jay Shepherd	

	Net Cost	HST	Total	
Scanning/Photocopy			\$	-
Printing		\$ -	\$	-
Courier			\$	-
Telephone/Fax			\$	-
Transcripts			\$	-
Travel: Air			\$	-
Travel: Car			\$	-
Travel: Rail			\$	-
Travel (Other):			\$	-
Parking			\$	-
Тахі			\$	-
Accommodation			\$	-
Meals			\$	-
Other:			\$	-
Other:			\$	-
Other:			\$	-
TOTAL DISBURSEMENTS:	\$ -	\$ -	\$	-





File # EB-	2018-0270			Process:	Process: Hydro One Orillia MAADs						
Party:	School Energy Coalition			Service P	rovider Name:	Mark Rubenstein					
				Year Called to		Completed Years Practising/Years of Relevant					
	SERVICE PROVIDER TYPE	(che	ck on	e) Bar		Experience					
	Legal Counsel			2011		8					
	Articling Student/Paralegal										
	Consultant					Hourly Rate: \$230					
	Analyst										
	For Consultant/Analyst:			attached provided within previo		narged ( <i>enter</i> % ): 13.0%					

c	tatament e	of Ea	os Poins	Cla	imad				
3	tatement o		urly Rate	_	Subtotal		HST		Total
Dro hooring Conference	nours	по	uriy Kate		Subtotai		пэт		TOTAL
Pre-hearing Conference		<u> </u>	220.00	<u>,</u>	12.765.00	<u>,</u>	1 650 45	<u>,</u>	14 424 45
Preparation	55.5	\$	230.00		12,765.00	\$	1,659.45	\$	14,424.45
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	1.9	\$	230.00	\$	437.00	\$	56.81	\$	493.81
Oral Hearing		-							
Preparation		\$	230.00	\$	-	\$	-	\$	-
Attendance		\$	230.00	\$	-	\$	-	\$	-
Other Conferences		•				Ė			
Preparation		\$	230.00	\$	_	\$	-	\$	-
Attendance		\$	230.00	\$	_	\$	_	\$	_
Case Management		\$	170.00	\$	-	\$	-	\$	-
TOTAL SERVICE PROVIDER FEES		•			13,202.00	\$	1,716.26	\$	14,918.26
IO IAL JERVICE FROVIDER I LEJ				٦	13,202.00	Ç	1,/10.20	7	17,510.20



File # EB-	2018-0270	Process:		llia MAADs
Party:	School Energy Coalition	Service Provid	ler Name:	Mark Rubenstein

		Statement of Dis	bursements	Being Claimed			
			Net	Cost	HST	Total	
Scanning/Photocop	у					\$	-
Printing			\$	284.90	\$ 37.04	\$	321.94
Courier						\$	-
Telephone/Fax						\$	-
Transcripts						\$	-
Travel: Air						\$	-
Travel: Car						\$	-
Travel: Rail						\$	-
Travel (Other):						\$	-
Parking						\$	-
Taxi						\$	-
Accommodation						\$	-
Meals						\$	-
Other:						\$	-
Other:					_	\$	-
Other:						\$	-
<b>TOTAL DISBURSEM</b>	ENTS:		\$	284.90	\$ 37.04	\$	321.94



Date	Explanation	Lwyr	Hours	Lwyr	Hours
	Review application, Legal research, Many emails, Draft and				
20180926	file Notice of Intervention	JCS	1.3		
20181003	emails/disc w JCS			MR	0.6
	Meet with Mark re Motion, Draft Notice of Motion,				
20181003	Research	JCS	2.1		
20181006	review/research issues/revise and draft notice of motion			MR	3.5
20181008	emails			MR	0.1
20181009	emails			MR	0.2
20181009	Review and edit motion materials	JCS	2.2		
20181011	emails			MR	0.1
20181011	Meeting with Mark re motion	JCS	0.5		
20181015	Review evidence re motion	JCS	0.8		
20181016	emails/review, finalize, motion			MR	1.5
20181016	Review evidence for motion issues, Many emails	JCS	2.2		
20181017	emails			MR	0.1
20181031	review Bd corr			MR	0.1
20181115	Meet with Mark re legal questions	JCS	0.4		
20181123	emails/review notice			MR	0.3
	Meet with Mark re motion, Many emails re legal issues,				
	Communications with local school boards, Draft report and				
20181123	get approved, Deliver	JCS	3.6		
20181126	legal research/emails			MR	1.2
20181126	Review case law, Various emails	JCS	0.6		
20181127	Review formal notice	JCS	0.1		
20181128	email/p. call w M. Miller			MR	0.2
20181212	Telephone conversation with Frank Kehoe	JCS	0.3		
20181220	review PO/disc w JCS			MR	0.2
20181220	Review PO #1 and scheduling, Various emails	JCS	0.4		
20181224	draft sub			MR	3.5
20181224	Many emails	JCS	0.5		
20181226	Issues analysis	JCS	2		
20181227	draft sub/emails			MR	3
20181228	draft submissions			MR	1.5
	Many emails, Research, Review motion issues, Initial draft of				
20181228	submissions	JCS	6.2		
20181230	Many emails	JCS	0.5		
20181231	draft submissions			MR	3.1
20190102	draft submissions			MR	4.4
	Detailed review and modifications of first draft, Draft				
	alternate sections, Memo of analysis, Many emails, Review				
20190103	evidence, Discussions	JCS	5.1		
20190103	draft submissions			MR	4
	Review motion submissions and detailed edit and analysis,				
20190104	Many emails, Meeet with Mark	JCS	2.3		

20190104	review corr			MR	0.1
	edit and finalize sub			MR	0.5
20190106	footnote and create MRBA			MR	2.2
20190107	Review final motion materials, Meet with Mark	JCS	0.6		
	finalize and file motion material			MR	0.5
	Review filing, Many emails, Meet with other parties re				
	supporting positions, Review intervenor requests and letters				
20190108	of comment	JCS	0.6		
	Many emails, Review drafts, Meet with Mark	JCS	0.4		
20190110	emails			MR	0.1
20190111	Review supporting submissions	JCS	1.1		
	review other parties sub			MR	0.5
	Review CCC and Staff submissions, Various emails	JCS	0.6		
20190114	emails/review Board Staff and CCC arg			MR	0.3
20190116	Review motion materials from H1 and Orillia and PWU	JCS	3		
20190116	prelim review of Staff sub			MR	0.8
	review parties sub and authorities/emails/p. call w. A.				
20190117	Bishop of Staff			MR	2.9
	Many e-mails	JCS	0.1		
20190118				MR	0.1
20190220	review PO			MR	0.1
20190220	Review PO #2 and scheduling, Many emails	JCS	0.2		
	Many emails	JCS	0.1		
20190223	consider issues and draft reply submissions		9		9
20190224	emails/consider issues and draft reply submissions			MR	6.5
20190225	emails/draft reply sub			MR	1.5
20190225	Review and edit reply submissions, Various emails	JCS	2.2		
20190227	edit sub/prepare SBA			MR	0.8
20190228	edit submissions/finalzie			MR	1.8
20190301	Review final reply submissions	JCS	0.6		
20190312	Review decision and PO #3, Scheduling, Various emails	JCS	0.7		
20190312	review motion decision and PO			MR	0.2
20190319	Review letter from counsel, Meet with Mark re strategy	JCS	0.3		
	Review PO #4 and scheduling, Many emails, Review				
20190321	evidence	JCS	0.5		
20190415	Various emails with Charles Keizer and scheduling	JCS	0.1		
20190416	email/review corr from Hydro One			MR	0.1
20190416	Review Myers letter	JCS	0.1		
20190426	review updated evidence			MR	1.1
20190426	Initial review of new evidence	JCS	0.2		
20190430	Review new evidence	JCS	2		
	Review PO #5 and scheduling	JCS	0.3		
20190527	Drafting interrogatories, Review evidence, Spreadsheets	JCS	2.8		
	Drafting, revising and filing interrogatories, Many emails	JCS	6.1		
	Review interrogatories of others, Many emails	JCS	1.1		

20190614	Initial review of interrogatory responses, Many emails	JCS	1	
	Review PO#6 and scheduling	JCS	0.3	
	Review H1 letter	JCS	0.1	
	Various emails	JCS	0.1	
	Various emails	JCS	0.1	
	Many emails, Scheduling	JCS	0.2	
	Review PO#7 and Scheduling	JCS	0.2	
	Review IR responses	JCS	1	
	Review IR responses	JCS	3.5	
	Review IR responses, TC questions	JCS	3.7	
	Many emails	JCS	0.1	
	Many emails	JCS	0.1	
	Many emails	JCS	0.2	
	Many emails	JCS	0.2	
	Many emails, Review strategy	JCS	0.5	
20130327	Prep for Technical Conference, Prepare and send	365	0.5	
20190930	comparative scorecard, Many emails	JCS	1.8	
20130330	Prep for Technical Conference, Many emails, Prepare and	363	1.0	
	circulate comparison chart, Get additional evidence from			
20191001	·	JCS	2.6	
	Prep for Technical Conference	JCS	2.2	
20131002	Attend at Technical Conference, Prep, Discussions with	363		
20191003	other parties	JCS	4.3	
20131003	Attend at Technical Conference (in person and internet),	363	7.5	
20191004	Prep, Discussions with other parties	JCS	3.5	
	Review undertakings	JCS	0.3	
	Review Board letter, Analysis	JCS	0.2	
20131020	Review transcripts, undertakings, interrogatories and pre-	363	0.2	
20191029	filed evidence, Prepare oral hearing plan, Various emails	JCS	2.4	
20131023	Review transcripts, undertakings, interrogatories and pre-	363	۷.٦	
20191030	filed evidence, Prepare oral hearing plan	JCS	3.1	
20131030	inca evidence, rrepaire oral flearing plan	303		
20191031	Draft submissions re oral hearing and circulate for comment	ICS	2.6	
	Many emails	JCS	0.2	
20131103	Revise and file detailed submissions on oral hearing, Review	363	0.2	
20191104	submissions of others, Many emails	JCS	1	
	Review reply from Hydro One	JCS	0.2	
	Many emails, Scheduling	JCS	0.2	
	Review new filing	JCS	0.1	
	Review and report areas of examination, Many emails	JCS	0.4	
	Many emails	JCS	0.3	
	Many emails, Review submissions of others	JCS	0.2	
20131171	Review H1 letter, Many emails, Draft, revise and file	163	0.3	
20101125	•	JCS	2.2	
	response, Hearing prep	JCS		
20131170	Many emails, Prep for hearing, Review witness infor	ıcə	1.4	

	Prep for Hearing, Many emails, Review of CAM, Send		Ι		
	materials in advance, Scheduling	JCS	3.1		
	Prep for Hearing, Many emails, Review of CAM, Send	700	5.2		
20191128	materials in advance, Review PO #9	JCS	3.6		
	Prep for Hearing, Many emails, Review updated evidence,	700	5.0		
20191129	Complete review of CAM and provide comparisons	JCS	3.8		
	Prep for Hearing, Many emails	JCS	5.1		
	Prep cross-examination, Prepare Compendium, Further		512		
20191201	review of CAM, Many emails	JCS	5.8		
	File Compendium, Attend at hearing (in person), Many	1			
20191202	emails, Review transcripts, Prep/Analysis for Day 2	JCS	4.3		
	Attend at hearing (internet), Many emails	JCS	2.8		
	Outline of Argument issues	JCS	1		
	Review evidence	JCS	0.6		
	Review Undertaking Responses	JCS	0.5		
	Final Argument notes, Review transcripts	JCS	0.8		
	Evidence review and outline, Many emails	JCS	1.2		
	Review Arguments in Chief	JCS	1		
	Meet with Mark, Research on unit costs, Change order of				
20191217	Argument	JCS	0.9		
	disc w. JCS			MR	0.2
	Many emails, Circulate summary, Drafting and research,				
20191218	Review Kehoe material	JCS	1.2		
20191219	Drafting Argument, Research	JCS	1.1		
	Drafting Argument, Research	JCS	2.5		
20191221	Drafting Argument, Research	JCS	3.7		
20191222	Drafting Argument, Research	JCS	3.2		
20191223	Citations, Finalize and file Argument	JCS	3		
	Review all arguments	JCS	1.1		
20191228	Review McMillan submission	JCS	0.1		
20200104	Review CCC submissions	JCS	0.3		
20200107	Reporting	JCS	0.1		
20200113	Various emails	JCS	0.1		
20200117	Review letters and scheduling	JCS	0.1		
20200124	Review reply arguments	JCS	1.6		
20200430	Review decision and reporting	JCS	1.1		
	review decision/emails			MR	0.5
20200514	Initial review of DRO	JCS	0.4		
	Detailed Review of DRO, Draft and file comments, Review				
20200528	staff comments	JCS	1.1		
			159.6		57.4

Sub

284.9

HST

Total

37.04 321.94

52668.00 13202.00 284.90 66154.90 8600.14 74755.04



### Invoice 081064389

Account:

622786

Date:

January 9, 2019

Ordered By:

Saba Parkar

Phone:

(416) 483-3300

E-mail:

saba.parkar@canadianenergylawy

Bill To: Attn:

**Shepherd Rubenstein Professional Corporation** Saba Parkar

2200 Yonge St Suite 1302 Toronto ON M4S 2C6

Ship To:

**SAME** 

Job Name: SWC Hydro OneOrillia

Item	1-Sided	2-Sided	Quantity	Description	HST	Job Price
Α	11_		1	File processing - pre-flight, virus scan, temp storage	x	\$3.90
/ File Handling:						
В	1	302	4	B/w Copies - Double Sided (Watch for Tab Starts-	x	\$281.00
Collate Index + 1-37 Lawyer Tabs) - Cerlox Binding with Buff Covers						
Digita	Digital B&W Prints: / Black Ink: / 8.5x11: / Bond: / Card: 65lb buff/ Bind: Cerlox/ Insert: tabs					



**Net Sales** \$284.90 Shipping \$0.00 **Sub Total** \$284.90

**HST** CAD Total Price

\$321.94

Address:

Branch Contact: Christina Stark

2200 Yonge Street

2nd Flr. - Concourse Level Toronto, ON, M4S 2C6

Phone:

416-482-2260

TPH Account Hub: View, reprint and pay invoices online. www.tph.ca/tphaccounthub for more info.