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Please reply to the TORONTO OFFICE

January 14, 2009

File No. 2080629

**BY COURIER**

*1/15/09*  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli :

**Re: Niagara-on-the-Lake Hydro Inc. EB-2008-0237**

Please find enclosed a copy of the Submissions of the School Energy Coalition in respect to the above-captioned matter. An electronic copy has already been sent to the parties.

Yours very truly,

**SHIBLEY RIGHTON LLP**

John De Vellis  
JDV/tw  
Enclosures 2

**EB-2008-0237**

OEB BOARD SECRETARY	
File No:	Sub File: <b>8</b>
Panel:	<b>FN, CS</b>
Licensing:	<b>DB, KS</b>
Other:	
00/04	

**AB**

**IN THE MATTER** of the *Ontario Energy Board Act 1998*,  
Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

**AND IN THE MATTER OF** an Application by Niagara-on-the-Lake  
Hydro Inc. for an Order or Orders approving just and reasonable rates  
and other service charges for the distribution of electricity, effective May  
1, 2009.

**SUBMISSIONS**  
**OF THE**  
**SCHOOL ENERGY COALITION**

Overview

1. These are the submissions of the School Energy Coalition in the above-captioned proceeding.
2. SEC has reviewed the detailed submissions the intervenors Energy Probe and the Vulnerable Energy Consumers' Coalition. As a result of those extensive submissions, and in an effort to minimize cost, SEC's submissions will only make detailed submissions on issues not raised by other intervenors.

Rate Base and Capital Expenditures

3. SEC concurs with the submissions made by Energy Probe regarding the depreciation rate for computer software.

Cost of Capital

4. SEC asked NOTL for a copy of the promissory note it issued to the Town of Niagara-on-the-Lake. The pre-filed evidence states that the Note was issued on November 1, 2000. [Ex. 6-1-3, pg. 1]

5. In response, NOTL provided a Promissory Note dated July 15, 2008. The Note states that it "replaces the Promissory Note executed by [NOTL] in favour of the Town dated as of the 1<sup>st</sup> day of November , 2000..." [SEC IR responses, Appendix II]

6. As indicated by VECC, there is no information in this proceeding to indicate whether the original Note was calleable on demand. In any case, the Note that is currently in effect between NOTL and the Town is a new note and, therefore, the previously-approved interest rate no longer applies and the Board's deemed long-term interest rate should apply instead.

7. SEC submits that in making these submissions the intervenors are not merely trying to take advantage of a technical irregularity. The reason, in SEC's view, for the 'grandfathering' of existing, and firm, interest obligations was to not second-guess interest obligations after the fact when conditions at the time may have justified the particular interest rate chosen. The Board now has a deemed interest rate for affiliate debt, which is updated from time to time according to market conditions and which represents a reasonable proxy for the cost of debt that would be available in the competitive market. If NOTL renegotiated its Promissory Note with the Town in July 2008 at a rate of interest that is almost a full percentage point above the Board's deemed rate, then this rate should not be considered reasonable for NOTL ratepayers.

### **OM&A**

8. SEC supports the submissions of Energy Probe and VECC with respect to NOTL's OM&A costs, in particular the reductions thereto proposed by VECC and Energy Probe.

9. With respect to the management fee of \$20,000 paid by NOTL to its holding company, Niagara-on-the-Lake Energy Inc. ("NEI"), SEC notes that all of the Board members of the holding company are Board members of NOTL or its retail affiliate, Energy Services Niagara Inc. All of NOTL's Board members are also Board members of NEI. The cost of the NEI Board, therefore, appears to be more related to the cost of managing the overall corporate structure. SEC does not see why the costs of the NEI board should be paid by NOTL ratepayers when the cost of NOTL's board, whose members comprise 3/5 of the NEI board, are already incorporated in rates.

10. SEC also agrees that the rate-rebasing costs should be reduced in view of the fact that the total re-basing period is four years, not three, and the assumptions made by NOTL regarding the cost of the 2009 proceeding appear to have caused it to over-estimate the expected cost of rebasing.

### **Cost Allocation**

11. In response to an interrogatory from SEC, NOTL confirmed that the proposed cost allocation will mean that the GS>50kW rate class will be over-contributing to NOTL's revenue requirement in 2009 in the amount of \$322,541 [SEC IRR#11] Given that no changes are planned during the incentive regulation period, this level of over-contribution will continue during the ensuing three years as well, meaning that GS>50kW will be over-paying during that time by over \$1.2 million.

12. SEC submits that this level of cross-subsidization is unacceptable, and that NOTL should be required to reduce the revenue to cost ratio for the GS>50kW rate class to 100% over the next two rate years.

### **Rate Design**

#### **i.) Fixed Monthly Charge for GS>50kW rate class**

13. SEC is concerned that the fixed monthly charge for the GS>50kW rate class is still much too high.

14. The proposed fixed charge for the GS>50kW rate class for 2009 is \$370.25 [Exhibit 9-1-7, p. 1]. This is much higher than other distributors and far above the upper bound set out in the Board's guidelines.

15. In response to an interrogatory from VECC [VECC IRR#6], for example, NOTL provided the lower and upper bounds for the GS>50kW rate class as follows:

	GS>50kW rate class
Customer Unit Cost per Month-Avoided Cost	\$44.40
Customer Unit Cost per month-Directly Related	\$63.98
Customer Unit Cost per month-Minimum system with PLCC Adjustment	72.73

16. The Board Report on Cost Allocation for Electricity Distributors states that the upper bound for the monthly service charge should be the avoided costs plus the allocated customer costs, and that the ceiling for the monthly service charge should be 120% of that level. [Report of the Board in EB-2007-0667, p. 12] NOTL's proposed fixed charge for the GS>50kW rate class is obviously far above that level.

17. Although the Report of the Board did state that distributors would not be required to make changes to their current MSC to bring it to or below this level, it would seem that a

correction should be made by NOTL at this time. The existing fixed charge for the GS>50kW rate class covers far more than the fixed costs of serving these customers and as a result places an unfair burden on small users within that class.

18. SEC submits that the fixed charge for GS>50kW be reduced to \$87.23, which is the 120% ceiling set out in the Report of the Board.

ii.) Bill Impacts for GS<50kW Rate Class

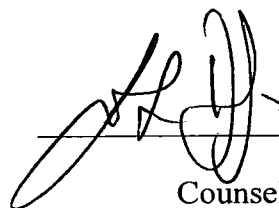
19. In interrogatory #12, SEC sought clarification on the bill impacts for the GS<50kW rate class. Specifically, SEC could not understand why the distribution rate impacts for GS<50kW were so much higher than the residential rate class, when both classes faced the same or similar increases resulting from increases to the revenue requirement and from changes to cost allocation proposed by NOTL.

20. In response, NOTL provided a table showing the proportion of revenue derived from each rate class based on existing rates and proposed rates. [SEC IRR#12]

21. SEC does not understand how the table answers the question that was asked. In particular, the dollar amount of revenue derived from the Residential rate class appears to be decreasing as between existing and proposed rates, even though the total revenue requirement, and the Residential proportion of the total revenue requirement, are increasing. SEC notes that mathematically this means the total revenue derived from Residential rate class must increase. SEC believes, therefore, that there is an error in the interrogatory response.

22. SEC invites NOTL to provide corrected information. SEC is most concerned that any error reflected in the table may have translated into an error in determining the amount of revenue from and/or distribution rates for the GS<50kW rate class.

All of which is respectfully submitted this 14<sup>th</sup> day of January, 2009.



John De Vellis  
Counsel to the School Energy Coalition