



By EMAIL and RESS

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

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Our File: 20250124

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

**Attn: Ritchie Murray, Acting Registrar**

Dear Mr. Murray:

**Re: EB-2025-0124 – Motion for Review IRP Pilots Decision – Procedural Submission**

We are counsel for the School Energy Coalition (SEC). Pursuant to Procedural Order #1 in this matter, this letter constitutes SEC's submission on the preliminary question.

SEC concludes that proceeding with the Review is **NOT** "likely to result in the most just, expeditious, and efficient determination of matters before the OEB".

Our conclusion is reached by looking at the Review through the prism of what goals could be served by its completion. In SEC's view, there are two potential goals:

- ***Clarification of OEB Policy*** (i.e. the substantive goal).
- ***Policing of the Adjudicative Function of the OEB*** (i.e. the procedural goal).

The substantive issue is whether issues related to use of electrification IRPAs, spending on replacement gas-fired technologies, and integration of costs between gas and electricity infrastructure, were resolved in an appropriate manner by the Commissioners hearing this case.

There are two reasons why the Review would not help with the substantive policy questions.

First, EB-2025-0125 is a comprehensive review of those and related policy questions. An OEB Staff Paper was filed on October 6, 2025 which contains extensive analysis of those issues, and seeks input from a broad range of stakeholders. Part of that is whether the review process should include a further adjudicative component. On these questions, the Review would be almost completely duplicative of the IRP Framework Review.

Second, the project in question in this proceeding is a pilot project. That pilot is already offside with the existing IRP Framework, because no facilities investments are being deferred or displaced by IRPAs, and thus it is not cost-effective in any traditional sense. Despite that, it was reviewed in



detail by the IRP Working Group, which recommended that it proceed because of what can be learned from the activity. A key aspect of that is testing the impact of electrification in a controlled situation.

Thus, in our submission the Decision does not set a policy precedent, whether on electrification, gas-fired technologies, or integration with electricity planning. By its nature a pilot is a test to see what works and what doesn't work. It is all about learning.

On the procedural issue, the question could be raised whether – regardless of the subject matter – the Commissioners in this case applied the right adjudicative lens to the evidence before them. That is not about whether they reached the right decision. It is about whether they reached their decision in the proper manner.

The “how” question in adjudicative processes is a longstanding issue, and there is much judicial and regulatory analysis on how regulators should make their decisions. Recent cases have added to this analysis in important ways.

The question here is whether analysis of the evidence and decision-making in this particular case will advance the OEB's understanding of the broader administrative law question.

In our view, the answer is obvious. The Decision does not contain a “smoking gun” section in which the Commissioners go off the rails in some way, nor does it contain an issue that is unique in how it should be resolved, creating a procedural question of first impression. In fact, the Commissioners heard extensive submissions from parties, including those represented on the IRP Working Group and others, and reached a reasonable conclusion on the spending of ratepayer money on a pilot to learn more about IRP.

Further, we note that this is not the only decision in which Commissioners in other cases have looked at the IRP Framework and how it should be interpreted. The Staff Report in EB-2025-0125, at p. 36, contains a partial list, and we note that it has only been four years since the IRP Framework was established.

Therefore, we conclude that proceeding with the Review will not help the OEB or parties to better understand the procedural aspects of OEB decision-making.

For those reasons, SEC concludes that proceeding with the Review is not “likely to result in the most just, expeditious, and efficient determination of matters before the OEB”.

All of which is respectfully submitted.

Yours very truly,  
**Shepherd Rubenstein Professional Corporation**

A handwritten signature in black ink, appearing to read "Jay Shepherd", written over a light blue horizontal line.

Jay Shepherd

cc: Brian McKay, SEC (by email)  
Interested Parties (by email)