RP-2004-0188

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.O.15, Sch. B;

AND IN THE MATTER OF the 2006 Distribution Rate Handbook for electricity distributors, to apply to applications for orders approving or fixing just and reasonable rates for 2006.

REPLY SUBMISSIONS

of the

SCHOOL ENERGY COALITION

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Jay Shepherd
SHIBLEY RIGHTON LLP
Barristers & Solicitors
250 University Avenue, Suite 700
Toronto, Ontario M5H 3E5

Tel.: 416-214-5224
Fax: 416-214-5424
E-mail: jay.shepherd@shibleyrighton.com

Counsel for the School Energy Coalition

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INTRODUCTION

1. These are the Reply Submissions of the School Energy Coalition with respect to the issues raised by the January 10, 2005 draft of the proposed Ontario Energy Board 2006 Electricity Distribution Rate Handbook (the "Draft Handbook").

General Comments on the Submissions

2. In these Reply Submissions, except where we expressly modify our Submissions in Chief, we are continuing to rely on those submissions, so we have not repeated arguments and analysis already provided there. We have, however, gained a better understanding of some issues through reading the positions of others, and where that is the case we have noted that expressly, and modified our positions accordingly.

3. We note that where we have no Reply Submissions under a heading or sub-heading, we have removed that section completely for ease of reading.

4. In many places other parties have taken positions contrary to ours, and we have not responded. In some cases, that is simply because our Submissions in Chief already deal with their points.

5. In other cases, it is because we have concluded that their submissions do not have a valid analytical base. Those submissions, in our view, are based on an adversarial view of this process, rather than a collaborative view. Unduly adversarial submissions in our view add nothing to the process, and to a large extent miss the point. It is unfortunate that some parties have taken the view that their submissions should support their own short-term interests alone, rather than assist the Board in getting to the right answer.

6. On the other hand, what is perhaps most positive about this is that this distinction between adversarial and constructive is not distributors vs. ratepayers. In fact, the best example of the contrast between adversarial and constructive submissions is to compare the submissions of the EDA with those of either ECMI or Hydro One. In the former case, the EDA clearly tested every issue by the "What's best for the shareholders?" test. Often they didn't even offer any analysis. They just registered their "vote", and that vote is relentlessly predictable. In the latter case, both ECMI and Hydro One sought to answer the question "What is the best policy for the Board to adopt?". While we disagree strongly with some of the conclusions that ECMI and Hydro One reached, it is crystal clear that they went about this the right way, with a view to assisting the Board to get to the right answers.

7. ***Summary of How We Got Here – Energy Probe.*** We note that Energy Probe has provided a useful summary, in para. 1 to 11 of their submissions, of how we got to the point we are now.

Their conclusion – that this history has created a lengthy period of high risk for LDCs and their shareholders – is inescapable and we concur with it. We agree that, to the extent that the rate-setting process for 2006 can reduce risks without unduly burdening ratepayers, that goal should be pursued.

1. INTRODUCTION TO THE 2006 HANDBOOK

1.1 Application Components

8. ***Filing Deadline - Toronto***. Toronto Hydro, at para. 12 of their submissions, proposes a delay in the filing deadline for 2006 applications. The rationale is that the Draft Handbook is not as good as it could be, and that is because of the short time frame available for the 2006 EDR process. In our view, this proposed delay is entirely inappropriate. The Draft Handbook will not be perfect, just as the previous handbook was not. It is, however, much better than what we had before. Toronto Hydro is proposing to compound the problem by having too little time to deal with the applications themselves, just as we had too little time to deal with the Draft Handbook. A shorter time period to deal with the applications means that the Board and ratepayers have less time to do a thorough review of those applications. Some LDCs may, we suppose, prefer that, but it is not an optimal process.

9. In the last couple of years, external factors have meant that many aspects of electricity planning and regulation have had to be done with insufficient time to be thorough. The Board has recognized this with a schedule for 2006 that allows a return to a proper, careful ratemaking process. Toronto Hydro should not be allowed to circumvent that plan and force yet another rushed look at the distributors' applications to the Board.

3. TEST YEAR AND ADJUSTMENTS

3.0 Test Year and Adjustments

10. ***Disclosure of Material Events Expected in 2006 – ECMI.*** ECMI, at page 3 of their submissions, agree with the disclosure of 2006 material events, but want to make clear that should the event not occur as expected the utility should not be penalized for it. We agree that this is a reasonable expectation on the part of the applicant.

3.1 Historical Test Year vs. Future Test Year

11. ***The Unadjusted 2004 Test Year Option - CCC***. The Board requested submissions on whether an additional option – 2004 data without adjustments – should be permitted. We concur with both the conclusion and the rationale set forth on this point by the Consumers Council of Canada at page 3 of their submissions.

12. ***Rejection of Historical Test Year Concept – Enbridge.*** We concur with Enbridge's comments on page 1 of their submissions that a historical test year is not an appropriate way to test rates on an ongoing basis. It is in the interests of both utilities and ratepayers to have rates for a future year set on the basis of the costs and return for the future year. 2006 should be treated as a special case.

13. ***Inherent Bias in the Historical Year Approach – Sudbury and Ottawa.*** The Sudbury and Ottawa submissions raise a point that should be of considerable concern to the Board. Many low cost distributors (not just these two) feel there has been a systematic unfairness against them over the last few years as compared to higher priced distributors. Not only do the high priced distributors get to set rates each year starting from a higher base, but they can then give their shareholders higher returns because they have more room to cut expenses and drive up profits. The historical year approach in 2006 has perpetuated that problem. If, as some lower priced distributors fear, the 2008 "re-basing" uses shortcuts rather than a full cost of service, there is a concern that this inequity may continue into a multi-year second PBR regime.

14. As we note elsewhere in these submissions, this inherent bias, if it truly exists, cannot be fixed by upping the rates of the lower price distributors. That is not fair to the ratepayers. Repair of this problem requires that rates of both lower and higher priced distributors be adjusted in a fair, equitable and balanced manner. It is difficult to do that other than by using a forward test year.

15. We are not able to assess on the information before us whether Sudbury and Ottawa are in fact low priced distributors or not. The only rigorous comparison we have is school distribution bills, where Sudbury will be fairly substantially above the median for 2005, and Ottawa will be well below the median. Further data comparisons are required to see whether those limited comparisons are indicative of all classes and sub-groups. We urge the Board to complete the bill comparisons for all rate classes and sample customer bills, and publish them as soon as possible, as proposed in our Submissions in Chief. That way the concerns of distributors like Greater Sudbury Hydro and Hydro Ottawa can be addressed more directly by the Board in setting 2006 rates.

3.2 Test Year Adjustments

16. ***Tier 1 Adjustments – Sudbury and London.*** Greater Sudbury Hydro proposes that a Tier 1

adjustment be allowed for any 2004 labour disruption, and for any labour cost increases that are built into contracts already signed. London Hydro makes similar comments with respect to future wage increases.

17. We believe that a four month labour disruption in 2004 would meet the proposed test for a non-routine/unusual adjustment to 2004 amounts, in this case through an increase in the labour costs for 2004 to reflect what they would have been without the disruption. Without this adjustment, labour costs will be understated for a "normal" year, and so will not represent a reasonable proxy for 2006.

18. The labour cost increases for 2005 and 2006 are a different matter. It is inherently unfair to ratepayers if inflationary cost increases are adjusted without taking into account productivity factors, load growth, and other normal year to year changes that materially influence rates. It is inevitable that using a historical test year will be more fair to some utilities than others, and it is an unfortunate shortcoming of the technique. The solution, however, should not be to increase rates where the technique hurts the distributor, but make no adjustments where the technique hurts the ratepayer. Any solution to that would require a balanced approach in which those who are collecting too little in rates get an increase, and those who are collecting too much in rates get a decrease (ie. some form of forward test year approach). That is not likely to be feasible for 2006 rates.

19. ***Tier 1 Adjustments – Ottawa.*** Hydro Ottawa raises concerns at pages 3 and 4 of their submissions about the treatment of two major IT projects – a new CIS system, in-service in 2004, and a new GIS system, planned for in-service in 2005.

20. With respect to the CIS, Ottawa is concerned with the impact of the half-year rule on amortization. Only half of normal amortization would be applied in 2004, and copying this into 2006 instead of allowing a full year amortization means that insufficient amortization is being recovered in 2006 rates.

21. We believe that the 2004 CIS is a non-routine/unusual adjustment as the Draft Handbook is currently worded. Therefore, we believe that an adjustment to amortization should be allowed for such a project, assuming it meets the materiality test. However, that is not the only adjustment that should be made. A CIS, if it is a prudent investment, should also reduce operating costs at least as much as it increases capital costs as expressed by annual return on rate base and amortization. Just as 2004 is not a "normal" year because the CIS costs were not fully included, so it is not a "normal" year because it still includes operating costs based on the old CIS rather than the new one. Ottawa should be required to file their internal cost-benefit analysis on the project, showing the cost savings projected for a full year of new CIS operation, and enter a non-routine/unusual adjustment in distribution expenses of that amount. The result should be that, between the rate base, amortization, and the distribution expenses adjustments, rates should either be static or go down somewhat.

22. We note that the Draft Handbook does not expressly state that, once a non-routine/unusual adjustment is identified that meets the threshold, all impacts of that adjustment must be made. We believe that this principle should be made explicit. In the example above, if the rate base impact of the CIS meets the threshold, we believe that any distribution expense, amortization, or even revenue impacts of the CIS must also be adjusted, even if individually they do not meet their respective thresholds. Any adjustment should adjust all impacts of the event.

23. The GIS is a more difficult problem. The capital cost of this system would not, it appears to us, qualify as a non-routine/unusual adjustment – either to rate base or to amortization - because it comes in-service in 2005. To the extent that there are material additional operating costs in 2004 because of the work being done on this system, they would probably have to be adjusted, but that hurts rather than helps the distributor (and is a bit unfair). On the other hand, if this kind of adjustment is allowed, the advantage of using an historical test year may be eroded. In addition, this is likely to bias rates upwards still further, since events that are known for 2005 are more likely to be additional expenditures than anything else.

24. Hydro Ottawa fairly recognizes this problem, but is legitimately concerned that a very material impact on their cost structure is being ignored. Of course, it is not immediately clear whether the impact will be an increase or decrease in costs, since the GIS, like the CIS, must be justified on a cost-benefit basis. However, particularly in early years, a major investment like a GIS is likely to have net negative cost consequences. In our view, the only solution for a distributor such as this – if the consequences are severe enough that rates will be insufficient to cover costs in the test year - is a forward test year application. The historical test year technique is a "rough justice" method of getting to rates, and it simply cannot produce results as good as a forward test year in all cases. It cannot be "fixed" to achieve that end, and if we try we are likely to make it worse rather than better. As one of the witnesses said in another context, "the perfect is the enemy of the good".

25. ***Tier 1 Adjustments – LPMA.*** London Property Management Association, at page 5 of their submissions, notes that adjustments should include only the net impact for the test year. We agree, and reiterate our earlier comments that this should not just include provision for intervening amortization, as LPMA points out, but also all other impacts of the adjustment, whatever they may be.

26. ***Tier 2 Adjustments – Brantford/Aurora/Scugog.*** These three utilities complain that, because they had negative returns in 1999, they are being unfairly penalized in their rates today. They say that the negative returns at that time reduced their actual ROE, so having Tier 2 adjustments based on cost requirements is incorrect. They say that their negative returns "were not the result of mismanagement or inefficiency", so they should be entitled as of right to bring their rates up to full ROE. They are in particular upset with the proposal that there be a "hardship" standard.

27. We have two responses to their submission. First, they appear to be under the impression that the Tier 2 adjustments "would allow for adjustments for the recovery of foregone incremental MARR-related revenue for 2004", and Alternative 2 would go further and allow recovery of the MARR they couldn't achieve in prior years because of the negative return rule. We believe that, on both counts, they are misinterpreting the Draft Handbook. Alternative 1 has nothing to do with returns. It has to do with the cost component of rates. It says that, if hardship exists, and rates otherwise determined would not include enough allowance for operating costs or capital expenditures to run the system properly, the distributor upon demonstrating that fact can bring rates up to that required level. Alternative 2 then goes on to say that if a special upgrading program is required because the system has deteriorated over the last few years, a rate rider can be requested to pay for that upgrade program. In neither case is this about shareholder returns. It is about having enough money to run the system properly, and to get it up to standard if it is below standard.

28. Second, while they say that their negative returns "were not the result of mismanagement or inefficiency", how is the Board to know that? If utilities feel that their rates are unfairly low, they have the right to file on a forward test year basis. It is submitted that these three utilities will decline that opportunity, not because of the expense, but *because they already have relatively high rates*. A review of Appendix C of our Submissions in Chief shows that the distribution bill for a small public school in Aurora is 42.56% above the provincial median, for Brantford is 40.94% above that median, and Scugog is 14.63% above that median. While Scugog and, to a lesser extent, Brantford, fare better when the comparison is for larger schools, their overall bills for a mix of schools will still be significantly higher than the norm. For Aurora, they fare badly on every school comparison.

29. There may be good reasons why these three utilities are, to a greater or lesser extent, outliers at the rate level in the schools example. If so, they have the opportunity to demonstrate that to the Board, and have their rates set at a more appropriate level. What is not reasonable is for the Board to approve exceptional rate increases for high priced utilities without any evidence that their prudently incurred costs justify those high prices.

30. ***Catchup Payments - AMPCO***. AMPCO argues against hardship catchup payments on the seventh page of their submissions, noting by analogy that the unfair charges to large users in the past few years will not be retroactively adjusted. That is true (and an unfortunate necessity), but it misses the central point. It is not proposed that hardship payments catch up lost revenues. It is proposed that they allow the distributor to bring their system up to a proper standard. Hardship catchup payments should only be available when the system is broken, and needs fixing. It is in the interests of every customer – and particularly large users, for whom electricity service is often mission critical – that proper standards of reliability, safety and power quality be achieved and maintained.

31. The fact that the system should not have been below standard in the first place can be dealt with by requiring the shareholder to contribute their ROE to the catchup program first, as we

have proposed in our Submissions in Chief. After that, who else is going to pay for the work that needs to be done? The choice is between a substandard system, or biting the bullet and paying for what has to be done.

4. RATE BASE

4.3 Capital Investments

32. ***Reporting Threshold for Capital Expenditures – Hydro One***. Hydro One submits, at page 7 of their submissions, that individual projects should not be reported unless they are at least 0.2% of rate base, without a monetary limit. They say that the proposed $500,000 limit would be only 0.016% of their rate base, and therefore too low.

33. Of course, the other side of this calculation is that, to reach the 0.2% threshold for Hydro One, a project would have to be $6.3 million or higher. Hydro One could in effect carry out as many $6.3 million projects as it wishes, without any Board oversight. It is submitted that this is patently unreasonable. At least until the Board has some experience seeing the reporting of Hydro One and other large distributors, it is submitted that the reporting limit used by the large gas distributors - $500,000 per project – is a sensible interim solution.

4.4 Interest on Deferral Accounts and Construction Work In Progress (CWIP)

34. ***Interest on Deferral Accounts - ECMI***. We agree with ECMI (at page 19 of their submissions) and others that deferral accounts should accrue interest at the short term cost of debt – Alternative 2 – only if there is reasonably timely clearance of those accounts. It is not reasonable to string utilities out for many years before recovery, and then allow interest as if recovery had been prompt. It is also not in the ratepayers' interest to have recovery delayed unduly, as this introduces retroactivity into rates. Where deferral or variance accounts are established that are not likely to be cleared within a reasonable time (ie. within a year after the year in which the expenditures are incurred), it is submitted that the Board should establish a specific interest rate for that deferral or variance account that takes the likely recovery period into account.

5. COST OF CAPITAL

5.1 Maximum Return on Equity

35. ***Use of the Term "Maximum" – Enbridge and Union***. Enbridge and Union Gas, at page 2 of their respective submissions, object to the term "maximum return on equity". It is submitted that their concern is misplaced. Because many electricity distributors are in the public sector, their shareholders sometimes determine that a lesser rate of return – and therefore lower electricity rates - would be in the interests of the local community. This would not normally be a consideration for a privately-owned distributor like Enbridge or Union, but it should be allowed in any situation where the shareholder chooses to take a longer-term view or seeks to achieve non-profit-driven goals.

5.2 Debt Rate

36. ***Lower of Actual or Deemed Debt Rate at the Time of Issuance – Hydro One, Ottawa, LPMA and Others***. Hydro One, Ottawa and LPMA submit that once an actual or deemed interest rate is established for a debt issuance, it should be locked in as long as that debt is outstanding. We agree that, for true arms-length third party debt, that is appropriate. However, as we have noted in our Submissions in Chief, applying that same rule to parent company or other non-arms-length debt encourages gaming to lock in at the highest possible rate, and ratchet up whenever the deemed rate goes higher (but not down when the deemed rate goes lower). Neither Hydro One nor any of the others who support Alternative 2 on this issue have addressed the issue of how to prevent this type of gaming.

37. ***Lower of Actual or Deemed Debt Rate at the Time of Issuance – NEPPA.*** The Niagara Erie Public Power Alliance, at page 3 of their submissions, point out that their shareholders will still require their higher interest rate on notes, if the deemed rate becomes lower. What this fails to take into account is that if the shareholder insists on the higher rate, who pays that additional interest? The answer is that the shareholder pays it, because there is exactly that much less money left to pay dividends on the common shares. Where the shareholder is also the creditor, the total return on rate base should be the deemed rates for debt and equity in the mandated debt-equity ratio. Any increase in interest or dividends is simply a shift from one of the shareholder's pockets to another. Aside from the tax consequences, which we have discussed elsewhere, there is no net impact to the shareholder.

5.4 Working Capital Allowance

38. ***Customer Security Deposits - Ottawa***. Hydro Ottawa points out that, as of February 1, 2005, there are new rules in place with respect to customer security deposit refunds. Their point is

a legitimate one, and we agree with their revised wording of Additional Adjustment Alternative 1 on page 10 of their submissions.

39. ***Customer Security Deposits – LPMA.*** LPMA points out, at page 14 of their submissions, that Alternative 1 on this point may be worded incorrectly. It may cause the deduction of only 15% of the customer security deposits from the allowance, rather than all of them. This point appears to have slipped through the cracks in the Working Group discussions, and we agree with LPMA that it should be corrected.

6. DISTRIBUTION EXPENSES

6.2 Detailed Reporting for Specific Distribution Expenses

40. ***Bad Debt Expense – Energy Probe.*** On pages 8 and 9 of their submissions, Energy Probe discuss the treatment of routine vs. unusual bad debt, and in general their submissions are consistent with our positions in Submissions in Chief. We agree with their comments and rationale. However, we caution the Board that this is one area in which considerable additional study is required before proper benchmarking is possible.

41. ***Incentive Plans – Ottawa.*** Hydro Ottawa, at page 11 of their submissions, note the impracticality and potential breaches of confidentiality if they have to report all of the individual scorecard targets for their employees. We agree that reporting as they have described it should not be required. If the Draft Handbook implies this, it should be amended. The requirement should be that all incentive tests that apply to senior management, or that apply to a significant number of employees, should be described, but without naming those employees affected. So, if the CEO had a $100,000 bonus in 2004 because he or she met the ROE target, the amount paid and the reason should be reported, but the person to whom it was paid should not be reported. Similarly, if 30 of the 100 non-union employees had an "excess earnings" goal, and together received $200,000 in bonuses in 2004, both the amount and the reason should be reported, along with a comment that the bonus was paid to 30 people. No-one should be named. Goals that are completely individual (for example, achieving a given rating on a performance evaluation or on a technical certification test) need not be reported. That sort of detail only bogs the Board down.

42. ***Employee Compensation Reporting Over $100,000 – ECMI.*** ECMI (at page 35 of their submissions) and others suggest that reporting compensation over $100,000 may be contrary to federal privacy legislation. The Act in question, the Personal Information Protection and Electronic Documents Act, s.c.2000, c.5, contains no such prohibition. In addition, there is no other statute, federal or provincial, that prohibits the publication by an LDC of the compensation of employees earning more than $100,000 in response to an order to do so from their legally constituted regulator, the Ontario Energy Board.

43. ***Charitable Donations – NEPPA.*** NEPPA notes in their submissions at page 5 that School Energy Coalition has hired a consultant to resist their ability to make charitable donations. This is incorrect. As stated in our Submissions in Chief, we support the ability to recover charitable donations – Alternative 3 – as long as appropriate limitations are placed on it.

44. ***Payments to Affiliates – PWU.*** The Power Workers Union, on pages 8 and 9 of their submissions, opposes any wording that would test payments to affiliates. We wish to point out to the Board the logical result of this position: internal expenses of the distributor are tested for prudence, but payments to affiliates are not.

45. ***Payments to Affiliates – Veridian.*** Veridian Connections argues, at page 4 of their submissions, that requiring disclosure of cost information of affiliates would potentially result in the release of commercially sensitive information. The Affiliate Relationships Code is already established. If Veridian seeks to have cost-based fees, they have a positive burden to prove that those fees are properly calculated. Cost information is essential to that inquiry. Confidentiality cannot be used to prevent a prudence review. In any case, the Board already has procedures in place to ensure that confidential information can be disclosed to parties and the Board, without being given to competitors or the public.

7. TAXES/PILS

7.0 Rules and Principles

46. ***Definition of PILs - CITD***. The Coalition of Issue Three Distributors (CITD), at page 3 of their submissions, go into considerable detail on what should actually be included under the definition of PILs. Their description is correct with one exception. The 2006 OEB Tax Model is not applicable only to those who pay PILs under section 93. It applies to all distributors, but with such adjustments as may be technically necessary if the distributor does not pay PILs under section 93. The point is that the approach to the tax allowance is the same for all distributors. Technical differences have to be adjusted so that the spirit of the rules is maintained. The principles debated before the Board by the experts, and in submissions by the parties, are intended to be applicable to all distributors.

47. With that caveat, the details provided by CITD are correct, but it is submitted that they are irrelevant. The fact that unregulated municipally owned entities have to pay PILs is true, for example, but it doesn't change the fact that the ratepayers of regulated distribution companies will pay hundreds of millions of dollars to the distributors in 2006 with the expectation that their money will be used to pay down the stranded debt. Tax issues are complex enough, without being buried under irrelevant details that appear to make them even more complicated.

48. CITD also notes that Toronto Hydro "only" pays $45.5 million of PILs in 2003 on a consolidated basis. We note that the regulated electricity distributor has claimed a PILs allowance for 2005 of $60.6 million, representing 11.2% of their rates for 2005.

7.1.1 General Principles Underlying the 2006 Tax Calculation

49. ***Accounting vs. Actual Taxes - CITD***. CITD is concerned, on pages 5 and 6, that the wording on page 67 of the Draft Handbook may imply that taxes in rates and taxes expected to be paid are different. We agree. We believe that the words "*taxes actually payable as a result of operating the distribution-only business*", which appeared clear to the participants in the Working Group, may be interpreted in another way. Therefore, it is appropriate to change those words to "*taxes actually expected to be paid as opposed to taxes projected for accounting purposes*". This tracks the purpose of this paragraph, which is to distinguish between accounting and actual taxes expected to be paid.

7.1.2 Principles Applicable to Specific Components of the Calculation

50. ***Who Should Decide Disallowed Expenses Issue – ECMI.*** At page 42 of their submissions, ECMI says "the treatment of [tax benefits on disallowed expenses] should be determined by the tax authorities and not the regulator." We agree. But equally, the decision as to whether actual vs. notional taxes should be included in rates should be decided by the regulator, not the tax authorities.

51. ***Benefits Follow Costs - CITD***. CITD argues at para. 23 of their submissions that "If the ratepayer is not required to bear the expense and yet receives the benefit of the tax saving, the distributor bears the entire pre-tax cost of the expense (ie. the actual out-of-pocket cost), and, as a result, so do the distributor's shareholder(s)." We agree, but this is exactly the point we made at para. 167-171 and particularly para. 173 of our Submissions in Chief. By allocating the tax reduction to the ratepayers, the shareholder is in the same position as if they paid the non-recoverable expense directly. They get no tax savings either way.

52. ***Level Playing Field - CITD***. CITD admits that the essence of their "level playing field" argument is having the same rules apply to distributors that pay PILs and those that pay normal taxes. Alternative 2 on page 72 of the Draft Handbook would apply to all distributors, regardless of how they pay taxes or PILs. It is therefore submitted that the 'level playing field" argument is the result of a misunderstanding by CITD of the words in the Draft Handbook, and is irrelevant to the Board's consideration of this issue.

53. ***Equity Return Impact – CITD.*** As we have noted at some length in our Submissions in Chief, the ROE argument of CITD, repeated in a different way in para. 32 of their submissions, is fundamentally circular. Either way you look at it, though, the shareholder ends up with too much of the ratepayers' money if the CITD position is adopted. Here is an

example of the line by line calculation of regulated and unregulated expenses in a regulated distribution entity, comparing the two ways of looking at the CITD approach:

Component	Subsidy Benefit	ROE Benefit	Notes
Deemed Equity	$350.00	$350.00	**McShane assumptions**
Revenue	$226.25	$226.25	" "
Regulated Expenses + Interest	($177.25)	($177.25)	" "
Net Income Before Tax	$49.00	$49.00	" "
Tax Payable	($15.75)	($5.28)	**First column savings allocated to non-regulated activities, second allocated to regulated activities**
After Tax Income	$33.25	$43.72	
ROE	9.50%	12.49%	**ROE Benefit to shareholder**
Available for Shareholder	$33.25	$43.72	**From "After tax income"**
Non-Recoverable Expense	($30.00)	($30.00)	**McShane assumptions**
Tax Saving Generated from Regulated Revenue	$10.50	$0.00	**First column savings allocated to non-regulated activities, second allocated to regulated activities**
Net Cost of Expense	($19.50)	($30.00)	**Subsidy Benefit to Shareholder**
Net Profit to Shareholder	$13.75	$13.72	**Rounding difference only**

54. The result of this calculation, it is submitted, is that if the position of CITD is accepted, the distributor collects more in tax than is actually payable, and gets a benefit from that at the expense of the ratepayers. As one can see, if rates include the tax that is not actually payable, as in this example, only one of two possible results can occur, depending on where you allocate the tax savings. **Either the ratepayers contribute part of the cost of the non-recoverable expense (the "Subsidy Benefit" column, above), or the ROE is more than the allowed rate of return (the "ROE Benefit" column above**). It is not possible to massage the numbers so that the shareholder actually pays the (unsubsidized) cost it would otherwise pay for the non-recoverable expense, without increasing its actual ROE.

55. Thus, CITD is caught in a logical box from which there is no escape. They must either claim that one of those two benefits – subsidy or excess ROE – should be appropriated to the shareholder, or admit that the ratepayers should only pay the tax that will actually be incurred.

56. ***Motivation to Tax Plan – Hydro One and Powerstream.*** On page 14 of their submissions, Hydro One notes that "one would generally expect that non-recoverable expenses would not be incurred by the utility". We agree, but we note that Hydro One does not go on to discuss why the expense might actually be in the utility. The answer is that the expense is usually in

the utility because **incurring the expense in the utility is necessary in order to use the regulated income to generate a tax benefit.** In most cases, this is the only reason the expense is being incurred in the utility. We note that Powerstream, at para. 25 of its submissions, inadvertently makes that point clear, when they say that if the School Energy Coalition's position is accepted, "there wouldn't be any incentive" to wash non-recoverable expenses through the regulated utility. Of course that is the case. The only reason to put those expenses through the utility is to use the regulated income as a tax shelter for expenses that otherwise would generate no tax benefits.

57. ***Whose Money is It? – Hydro One.*** Hydro One concludes that "once the OEB has approved the allowed return on equity, the utility should then be free to spend the return in any manner that it deems prudent". We agree, but with respect, that is not the point. No-one is questioning whether the utility should be able to spend the return any way it likes. What Hydro One and CITD seek authority to do is spend the PILs allowance any way they like, ie. on shareholder priorities rather than on PILs. That is what the ratepayers object to.

58. ***Whose Money Is It? – CITD.*** CITD goes even further than Hydro One. Para. 46 of the CITD submissions fairly raises the concerns of ratepayers as expressed in many areas of the SEC Submissions in Chief. CITD says that once rates are set, the distributor can do anything that management or its shareholders want with the revenues received, as long as they deliver the regulated service properly. That sounds like a reasonable principle, but it has two necessary results:

(a) First, shareholders of distributors would have complete freedom to reduce PILs to zero and keep all of the money collected for PILs. The Board would have nothing to say about that, because, as CITD puts it, "A distributor's revenue from its utility operations…is the distributor's money". If that means the ratepayers have to pay the Debt Retirement Charge a few years longer, that is none of the Board's business.

(b) Second, distributors that file on a forward test year basis should consider the operating expenses and capital budget approved for ratemaking purposes to be irrelevant once rates have been established. The distributor can take a completely different approach to running the utility, and neither the Board nor the ratepayers should squawk. The budgets are only for rate purposes. A distributor can have a separate and completely different budget for operating purposes, because "A distributor has the right to spend its money" – meaning all of its revenues – "as its management or its shareholder(s), or both, may determine".

It is submitted that neither of these results should be acceptable to the Board. As with many black and white statements of principle, this submission by CITD is only true with the appropriate limitations, and in the appropriate situations. This is not one of them.

59. ***Political Donations Example – CITD.*** In formal analysis (the type of analysis done by scientists and mathematicians, for example), there is a standard fallacy called "attacking the example". Basically, the analytical rule is that a successful attack on an example does not make the underlying principle wrong, just the example. In para. 50 of their submissions, CITD attack the example of political donations, but fail to deal with the principle. If the example were, instead, disallowed public relations expenses, or charitable donations, or executive compensation, or affiliate payments, Dr. Mintz' example would be 100% correct. The fact that the dollar figures would be different in the case of a political donation is irrelevant to the principle demonstrated. CITD's argument on this point is a shipwreck on the rocks of this fallacy.

60. ***FMV Bump – CITD.*** CITD at para. 40 says that on a sale of purchased assets the distributor will be liable for recapture on the CCA and ECE taken in the meantime. That is absolutely true. However, they explain only part of the story. There will be recapture of amounts that were in book value, and have been recovered from ratepayers, and there will be recapture of additional CCA and ECE deductions on the excess of fair market value over book value. The Board has to deal with both such amounts at the time of the sale. There is little doubt that the first amount – recapture on book value amounts – will have to be paid by the ratepayers. It is submitted that the second amount may also be assigned to ratepayers if the ratepayers have paid taxes at actual levels along the way. This allocation can be dealt with by the Board at the time, as it always is. CITD is here raising a red herring. They say "Assuming the shareholder has to bear the cost of the recapture…" There is no basis for that assumption, so the argument fails.

61. ***Controls on Imprudent Debt Ratios – CITD.*** CITD says at para. 53 of their submissions, that the Board could change the debt ratio of a distributor if the Board overleveraged. That is true. The Board could fix the problem after the distributor has taken advantage of its freedom to reduce PILs and divert the funds to the shareholder. Indeed, the Board could take that action in advance, requiring distributors – as is the case with the gas utilities – to actually maintain the debt ratios that are assumed in ratemaking. The Board could also establish rules preventing the distributors from incurring non-recoverable expenses in the utility, and could implement other restrictions to prevent abuses of the distributors' freedom to reduce and divert taxes.

62. It is submitted, however, that an extensive set of complex restrictions on distributors' behaviour is neither necessary nor sensible in this situation. Don't give them the freedom to divert ratepayers' tax money to the shareholder's pockets. As a result, they will keep non-recoverable spending within the utility to a minimum, and where they do it will be for legitimate reasons, rather than for the purpose of "scooping" the tax money.

63. CITD goes on to say, at para. 54 and 55, that, with respect to interest specifically, distributors are prohibited from doing the sort of tax planning of which the ratepayers are concerned. With respect, these submissions are inadvertently misleading. Our example at para. 199 of

our Submissions in Chief continues to be true, regardless of the restrictions in the Electricity Act and Regulations cited by CITD. A distributor with $1,000,000 of rate base has $500,000 of debt and $500,000 of equity, both held by the municipality. Institutional investors are willing provide $500,000 of secured debt directly to the distributor at favourable rates, so the distributor agrees to borrow $500,000. It then has to decide what to do with that money. It can repay its existing debt, held by the municipality, or it can repurchase the common shares held by the municipality. Either way, the municipality gets the cash. If the full $500,000 of debt is repaid, there is no tax benefit generated. But, if $400,000 of common shares are repurchased, and $100,000 of debt is repaid, a tax benefit can be achieved, without running afoul of the Electricity Act. Of course, the institutional investors will not allow $400,000 of real debt to be left on the books under normal circumstances. However, the standard practice in the market is to subordinate that debt, and increase the interest rate to something approaching an equity return. It remains legally debt, but most of its attributes are like equity. The institutional investors will approve this, because it generates a tax saving that improves the after-tax profits of the distributor (all at the expense of the ratepayers). The final numbers actually work out to be identical to those in our previous example.

64. It is therefore submitted that the restrictions on municipal lending to distributors do not place any meaningful limits on the shareholders' ability to overleverage and divert tax money collected from the ratepayers to their own purposes.

65. ***Capital Cost Allowance Calculations – Hydro One.*** Hydro One, at page 14 of their submissions, is concerned that the continuity approach to CCA calculations artificially increases CCA and therefore reduces the PILs allowance unduly. We believe that they misunderstand the intent of the provision and the working of the model.

66. Undepreciated capital cost (UCC) is a continuous calculation. It starts with the cost of assets, from which is deducted CCA for the year to get a UCC for the year end. In every subsequent year, you add new capital expenditures, and deduct CCA for that year, and get a new balance at year end. (While the actual calculation includes a lot of additional complications, this is a fair if simplified description of the concept, and none of those complications would undermine the points made here.):

(a) For a distributor with relatively slow load growth, it is likely that capital expenditures and CCA for the year would be roughly the same. Capital expenditures would be slightly higher than accounting depreciation (signifying growth), but since CCA tends to exceed accounting depreciation in growth scenarios the CCA amount should be close to the capital expenditure total. This is reasonably predictable.

(b) Similarly, if growth is high, capital expenditures are likely to exceed CCA, meaning that UCC and therefore CCA increases from year to year.

(c) Finally, if there is negative growth or none, CCA will usually exceed capital expenditures, and UCC and therefore CCA will decline from year to year.

67. The continuity method in the Draft Handbook means that, for a utility with low growth, CCA in 2006 will be roughly the same as CCA in 2004, subject to the Tier 1 and Tier 2 adjustments. This is because the assumed capital expenditures will be the same as 2004, and in this "steady state" CCA will continue to be the same as 2004 as well. This is slightly detrimental to the ratepayers (since load must be increasing somewhat in this scenario, but natural revenue growth is not adjusted), but it is part of the overall balancing that includes, for example, no inflation increases for operating expenses.

68. For a utility with higher load growth, where capital expenditures exceed CCA in 2004, this continuity method will result in higher CCA in 2006 than in 2004. This is driven by the increasing rate base, which is in turn driven by increasing load. But CCA will probably be higher in fact in 2006 than in 2004, so the right answer is approximated through this historical approach. Similarly, where there is negative or zero growth, CCA will exceed capital expenditures in 2004, and that will result in lower CCA in 2006 than 2004. This is driven by declining rate base, which is in turn driven by the lack of load growth.

69. It is true that there may be circumstances in which 2004 capital expenditures will have been very high or very low for a utility, and not indicative of their year to year trend. That would result in a CCA assumption for 2006 that is not as close to actual. However, this impact should be small, because if the unusual circumstances in 2004 are material, there will be a Tier 1 adjustment, and the CCA will be fixed accordingly.

70. It is therefore submitted that the concerns of Hydro One on this point are not well-founded, and the 2006 OEB Tax Model will produce reasonable CCA calculations for 2006.

10. RATES AND CHARGES

10.5 Update of Loss Adjustment Factor

71. ***Loss Adjustment Factor - AMPCO***. Having read the submissions of AMPCO and others on this and the related issue of C&DM incentives for loss reductions, we believe that the choice of Alternative 2 – a pass-through of commodity price variations only – is the appropriate result. We adopt the reasoning of AMPCO in this regard.

10.6 Distributed Generation

72. ***Overall Submissions – GEC.*** The Green Energy Coalition makes submissions in support of Alternative 2 at pages 1 through 6 of their submissions. There they make comments about, for example, backup transmission availability (p. 3), skewed siting decisions (p. 4), financial pressure on the Windshare project (p. 5), limited high voltage connections inside LDCs (p.5), positive impact on other customers (p.5), and many other specific points. All of these statements are bald statements of fact, unsupported by any evidence.

73. The School Energy Coalition strongly supports distributed generation, and any inequity in the current rate structure that is a barrier to DG should be eliminated as soon as possible. But, it should be eliminated based on factual evidence, not supposition or unsupported statements. The Board is not in a position in this proceeding to make disciplined decisions on this issue, and it is submitted the Board should not change the rules until it has evidence on which to base its analysis and conclusions.

10.7 Standby Charges

74. ***Standby Charge Threshold – GEC***. GEC, at page 7 of their submissions, has proposed that the 2 MW threshold for gross vs. net billing that came out of RP-1999-0044 be applied on an interim basis to exempt smaller load displacement generation from standby charges. We agree that this is a sensible approach that may allow considerable numbers of small self-generation projects to proceed.

13. MITIGATION

13.1 Impact Analyses

75. ***Rate Levels - Ottawa***. Hydro Ottawa argues, at page 16 of their submissions, that one of the factors to be considered in mitigating increases is whether the rates themselves are low relative to other LDCs. We agree with this comment, and submit that rate comparisons across the province are an important component in the impact analysis. We also believe the converse is true. If a distributor is a relatively high priced provider of distribution services, the Board should be even more concerned with mitigation of large rate increases than would be the case with distributors that have lower rate levels.

13.2 Mitigation Methodologies

76. ***Interaction Between Tier 2 Adjustments and Mitigation – Brantford/Aurora/Scugog***. These three utilities argue that, once the Board has determined that Tier 2 adjustments are required, mitigation should not apply at all. This entirely misses the point. The Board must weight competing imperatives – necessary system operating costs vs. acceptable rate impacts. One does not always trump the other. It is of the essence of the Board's role that it has to make these tough judgment calls, assessing how much should be spent on bringing the system back up to standard, but doing so in light of the ability of the ratepayers to bear the cost of that activity. It is disingenuous to suggest that, once an expenditure is deemed "necessary", one simply has to be able to afford it. It may be "necessary" that one get one's teeth fixed, and urgently, but if the money is not there it may also be "necessary" to wait until next year, or to do it a bit at a time as you can squeeze out enough money to pay for it. Ratepayer funds are not in unlimited supply. The Board recognizes that, and balances spending goals against rate impacts on a regular basis.

14. COMPARATORS AND COHORTS

14.2 Filing Requirements

77. ***Disclosure of Comparators and Cohorts Data – Toronto.*** Toronto Hydro, at page 20 of their submissions, propose that distributors and Board staff be allowed to see comparators and cohorts data, but no-one else. We assume that this will mean that Board members, who will be adjudicating rate applications, will also directly or indirectly have access to this information.

78. It is submitted that the principle of *audi alteram partem* prevents the Board members from having access to any comparators and cohorts information, directly or indirectly, unless that information is also available to the parties. (See, e.g. *Kane v. University of British Columbia* [1980] 1 S.C.R. 1105; *Pfizer Company Limited v. Deputy Minister of National Revenue for Customs and Excise* [1977] 1 S.C.R. 456; *Board of Education v. Rice*, [1911] A.C. 179; and many other cases.) Even a report from Board staff to the Board, if it directly or indirectly discloses evidence that is not available publicly, will be prohibited. (See, e.g. *Toshiba Corporation v. Anti-Dumping Tribunal* [1984] F.C.J. No. 247 (FCA) and others.)

79. It is further submitted that the same principle would be breached if Board staff shared the evidence with the distributors but not the ratepayers (same cites). All parties to a proceeding have an absolute right to know the case they have to meet. It is not proper for Board staff to provide information to one side and not to the other.

80. Having said this, we do not in any case believe that the concerns of Toronto or other distributors about public dissemination are well-founded. LDCs will inevitably be compared publicly, one way or another. It is in their interests that the comparisons be rigorous, fair, and properly explained. The Board is well-placed to ensure that is the case, and that information is provided to the public that is objective, balanced, and fair.

16. CONSERVATION AND DEMAND MANAGEMENT

16.0 Introduction

81. ***Impact of Bill 100 – Mr. Sommerville.*** At Tr. 855, Mr. Sommerville on behalf of the Board asked parties to comment on the impact of certain Bill 100 changes on the Board's approach to C&DM. The School Energy Coalition inadvertently neglected to provide comments on this point in our Submissions in Chief, and offers them now.

82. We do not agree that the change in objects means that the Board has to put increased weight or emphasis on "protecting consumers". The Board has always seen that as a critical element of its mandate, and that should not change. The replacing of seven objects with two was intended, in our view, to make the balancing of interests between the distribution companies and their ratepayers clearer, and to make it more obvious that the entire balancing exercise takes place within the overriding imperative of the public interest. To look for more meaning in the change than this is, it is submitted, to ignore the last thirty years of OEB regulation of utilities.

83. The creation of the OPA will, it is submitted, have a significant impact on the Board, since some aspects of the OPA's mandate will be either overlapping with or complementary to the mandate of the Board. C&DM is a case in point. All parties, we think, assume that the Conservation Secretariat at OPA will eventually take responsibility for ensuring that distributors delivering C&DM work together, with common programs, assumptions, monitoring and evaluation. These activities appear to be central to the role of the Conservation Secretariat.

84. However, these activities are also necessary today, before the Conservation Secretariat is fully functional. It is our view that the Board should assume responsibility for these components of the C&DM process for the 2005 calendar year (which means the rules for the 2005 and 2006 rate years), with the expectation that the Conservation Secretariat will take over some of these functions from the Board over the next year. The Board and the Secretariat should, we believe, collaborate in a transition period to ensure that the changeover does not cause any slowdown in the drive to achieve aggressive C&DM goals.

85. ***Don't Change the Rules Now - CEEA***. The Canadian Energy Efficiency Alliance, on page 4 of their submissions, says that the Board should not change its C&DM rules now because the distributors are risk averse and rule changes create uncertainty and therefore risk. It is submitted that this is inappropriate for two reasons. First, it doesn't give the distributors enough credit. Once the Board tells them unequivocally that C&DM is part of their core mandate, and makes sure they have the resources to seek this goal, the distributors will pursue C&DM. If the Board in addition encourages top performance through incentives, the distributors will try to achieve excellence in this area, in part because of the available incentive (and in part because they want to do a good job anyway). Second, the rules need to be changed. The current rules were developed in 2004 with what everyone agrees was insufficient evidence and debate, simply in order to get the process going. Now the Board has an opportunity to improve on them. Certainty and stability are worthy goals, but they are not an excuse to reject fixing known shortcomings in the current C&DM system.

16.1 C&DM Plans for 2006

86. ***Definition of C&DM - CEEA***. The CEEA proposes on page 2 of their submissions that the Board adopt a definition of C&DM that tracks the Minister's letter of May 31, 2004. We respectfully disagree. The Board has carriage of regulating C&DM rules and budgets right now. There is no indication the Minister intended the Board to abdicate its jurisdiction to determine what activities should be encouraged, or how, except with respect to the third tranche funds. The Board has heard extensive evidence on this, and in our submission should reach its own conclusion on what constitutes C&DM for particular purposes.

87. Whatever the term C&DM means, the Board has a responsibility to ensure that the rules the Board approves suit the particular activities to which they are to apply. Therefore, while one may call utility side of the meter programs C&DM, the same rules should not apply to those programs as to the customer side programs that will, we all hope, generate the conservation culture.

88. ***Stakeholder Consultation – CEEA.*** The CEEA proposes on page 5 that stakeholder consultation target local participants, and we agree that this is an important aspect of consultation. However, it is short-sighted to target local consultation at the expense of broader consultation. Local consultation achieves buy-in and taps local knowledge, but falls short in the areas of C&DM experience and expertise. Consultation that includes, for example, the major environmental and ratepayer groups, is essential so that their extensive knowledge of the C&DM field is available in program design and implementation. By analogy, if you want to build a bridge over the local river, you certainly want to talk to local residents about how to do that. But you still have to talk to engineers who know how to build bridges. The Green Energy Coalition's Chris Neme from Vermont may not even know where Goderich is, but he knows a lot more about small town C&DM programs generally than most of the residents of Goderich. Input from both is essential to good program

development.

89. We note that, on page 15 of their submissions, CEEA propose that a conservation manual be developed by OEB staff and LDC representatives. We assume this is simply an oversight, and CEEA did not intend to exclude from that process the ratepayers, whose money will pay for both the process and the C&DM plans that come out of it.

90. ***Stakeholder Consultation – Enbridge.*** Enbridge, which has the most experience in Ontario with direct stakeholder involvement in C&DM, agrees at page 4 of their submissions that stakeholder involvement can be positive, but stipulates some rules. We support the rules they propose, but note that the expectations in (c) of their para. 2 should be applicable to the sponsoring distributor(s) as well as the ratepayer and environmental representatives.

16.2 Principles Applicable to Establishing C&DM Budget

91. ***No Incremental Spending - CCC***. The Consumers Council of Canada, at page 20 of their submissions, proposes that no additional expenditures – beyond those in the third tranche budgets – be allowed for 2006. We strongly disagree with this proposal. In our view, what CCC fails to consider is that it is precisely the distributors who are the C&DM leaders who would be reined in with this rule. Milton Hydro, for example, will have to shut down programs because there will be no money in the budget for 2006. This would be a significant setback to the move toward a conservation culture. Establishing an onus to demonstrate that the applicant can spend incremental money wisely accomplishes the main goal that CCC seeks, but without stifling the creativity and leadership of the utilities that are most enthusiastically embracing the C&DM objective.

16.3 Accounting Principles Applicable to C&DM Expenditures

92. ***Fixed Capitalization Rate - CCC***. CCC has, at page 16 of their submissions, suggested a fixed five year amortization period for C&DM expenses incurred in 2006. We believe this is a sensible interim solution, for the reasons they propose.

16.4 Revenue Loss and Lost Revenue Adjustment Mechanism (LRAM)

93. ***The 100% Fixed Charge Approach - Woodstock***. Woodstock Hydro has reiterated, at page 3 et seq. of its submissions, its view that rates should be shifted to a 100% fixed charge. This would take the place of an LRAM, and would have many other benefits to the distributors, they claim.

94. The idea of shifting to a 100% fixed charge should not be rejected out of hand, but nor should it be adopted – whether entirely or on a pilot basis as Woodstock proposes - on the

basis of conceptual arguments. If Woodstock wishes to propose 100% fixed charges, let them provide the Board with a full rate proposal that accomplishes that result. Let them show the Board the bill impacts for customers at various levels and in various groups and sub-groups. In this, as in most rate design issues, the devil is most definitely in the details. Inevitably some customers will pay more, and some less. Until the Board has that information before it, it is submitted that the Board should not consider this proposal.

16.5 Shareholder Incentive

95. ***Incenting Utility Loss Reductions - AMPCO***. We strongly support the analysis of AMPCO on the fifth and sixth pages of their submissions, explaining from a business point of view why it is not necessary to incent utility side of the meter activities but it is necessary to incent customer side of the meter activities. Two normal parts of running a business are increasing revenues and minimizing costs of production. Utility side of the meter programs are about minimizing the costs of production, so are a normal part of doing business. Customer side of the meter programs are about decreasing revenues, and so run counter to normal business practice. That's why incentives make sense if designed thoughtfully.

96. ***Fiduciary Responsibility to Maximize Profits – CCC and Others.*** A number of parties have commented that LDCs have fiduciary responsibilities to maximize profits for the benefit of their shareholders (see, e.g. CCC submissions at page 18). This arises out of the off the cuff comments of Mr. Goulding in his oral evidence. This is not the law. The corporation in fact has no fiduciary duty to its shareholders at all. The directors of the LDC, who do have a fiduciary duty, owe that duty to the LDC itself and not to the shareholders (see, eg. *Canadian Western Natural Gas Co. v. Centra Gas Utilities [1966] S.C.R. 630* for a full discussion of these issues; also *Scottish Co-op Wholesale Society v. Meyer [1959] A.C. 324 (HL),* from which much of the law on duties to shareholders stems). The duty is not a duty to maximize profits. It is a duty to act in the best interests of the corporation (which is also the statutory duty of the directors in s. 134 of the Ontario Business Corporations Act). In many cases, in fact, the best interests of the corporation do not result in profits being maximized. For example, spending money on safety reduces profits, but it is in the best interests of a regulated utility to operate as safely as possible, and therefore that is what the directors must do.

97. It is submitted that this whole sidebar on fiduciary duty is an unnecessary and pointless diversion. If achieving government or OEB C&DM goals becomes a requirement for the utilities, for example because the Board orders it, then the fiduciary duty of the directors of the LDC is to achieve that goal, because that is what is in the interests of the corporation. It is not more complicated than that.

98. ***The 5% "Insipid Efforts" SSM – GEC and Others.*** GEC, at pages 13 and 16 of their submissions, do not hide that they would prefer a better SSM, but they support the Pollution

Probe 5% proposal, largely for simplicity. In that context, they note that it is "widely supported". This is not really correct. The Insipid Efforts SSM is supported by the distributors (since they don't have to try very hard in order to increase their ROE), and by the environmentalists (for fear that if it gets any more complicated the Board will not order an SSM at all without further review). Indeed, the distributors are so thrilled with this easy way to make a buck that the two gas utilities are both asking for one just like it ("Can I have one too, sir?"), in the case of Union Gas reversing years of saying an SSM is unnecessary because this one is just too much of a gift to pass up.

99. What we don't see are any ratepayers supporting the 5% SSM. Even the ratepayer groups that are traditionally strong SSM supporters do not support it, and the environmental groups do not support it for Enbridge or Union Gas.

CONCLUSION

The 2006 EDR Process

100. ***Short Timelines and Other Restrictions – Ottawa, Toronto and others***. Hydro Ottawa, Toronto Hydro and others have commented that the shortened timeframe for the 2006 EDR Process, particularly since January, has been a negative, particularly in limiting collaboration between like minded parties. We agree with that statement. We look at the submissions of other ratepayer groups, for example, and it would appear to us that, with more time to collaborate between us, we would have been able to co-ordinate our submissions better. Having said that, we believe that you can only do the best you can in the time available. In this case, given the short time available, and many other practical limitations, the process has to date been considerably more successful than we believe could reasonably have been expected.

All of which is respectfully submitted.

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Jay Shepherd
Counsel for the School Energy Coalition