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**BY EMAIL**

March 5, 2009
Our File No. 2070245

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2007-0031 – Consultation on Rate Design – Rate Classification Paper**

On January 29, 2009, the Board published a Staff Paper entitled "Rate Classification for Electricity Distribution Customers" (the "Staff Paper"). This letter constitutes the comments of the School Energy Coalition with respect to the Staff Paper.

We note that, on May 30, 2008, SEC filed extensive submissions (the "May Submissions") with respect to the issues included in the Staff Paper. We have attached to these submissions an excerpt from the May Submissions, for the reasons set forth in more detail below.

These submissions will focus on one issue of significant concern to schools (and also small businesses and other adversely affected customer groups) relating to rate classification: classes based on density.

The Staff Paper, at page 5, correctly sets out the goal of classification as follows:

> "*The objective of classification is to achieve fairness by grouping customers with similar cost causation and similar cost levels.*"

On page 6, Board Staff go on to list five different causal factors that they (and stakeholders, they say) have identified as things that "give rise to cost differences that may be significant enough to justify the creation of separate classes". Although SEC and Hydro One both pointed out that density is a key reason why costs are different between groups of customers, Board Staff failed to include density in the list. The reason, it would appear to us, is that Board Staff did not realize that

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both SEC and Hydro One were proposing that density be considered a causal factor sufficiently significant to justify the creation of separate rate classes.

Later, on page 19, Board Staff deals with the issue of density under the heading "Density Classes'. In a brief discussion, Staff notes that SEC and Hydro One raised this issue, but then rejects it for the following primary reason:

> *"Board Staff does not agree with this argument insofar as regulators frequently socialize costs across a rate class."*

With respect, this simply begs the question in an obvious way, since you don't get to the question of socializing costs across a class until you have the class. You don't start the process with the notion that you will group customers together whose costs and causality are dissimilar, because for some reason you want intra-class cross-subsidization.

The purpose of rate classification, as Board Staff already pointed out in the Staff Paper, is to group like customers together. To do that, the regulator identifies the material cost drivers, and groups customers based on the similar ways in which they are affected by those cost drivers. Once like customers have been grouped together, then rate classes are set. Urban and rural customers are, from a cost point of view, usually not "like" customers.

It would appear to us that Board Staff focused on the question of whether urban vs. rural is a social policy issue, and did not put their minds to the question of whether it is a cost causality issue. Had they done so, we think it is unlikely that they would propose to reject cost causality entirely in favour of "the principles of acceptability, lack of controversy, and ease of understanding".

We would understand if the position were that density is not a sufficiently material cost driver for rate classification purposes. That would be a position based on principle. Board Staff has not taken that position, and it is likely they couldn't. If they did, then presumably the PEG Benchmarking Study would also have to be redone, removing all of the cost differentials that are density driven. That, of course, is not realistic, since it would assume that a utility like Hydro One, with a high rural component, would have operating costs, and rates, similar to a utility that primarily serves urban areas. No-one would consider that fair.

So, if it is not fair to lump LDCs with different density-driven costs together, why is it fair for ratepayers whose costs to serve are lower – for precisely the same reason, density - to be lumped together with ratepayers with substantially higher costs to serve?

The difference, it is submitted, between the PEG Benchmarking Study and the Staff Paper is that, in the PEG work, empirical evidence was used to derive cost drivers that are known and proven to be material. In the Staff Paper, no attempt has been made to actually assess the extent to which density is sufficiently material that it should be a basis for rate classification.

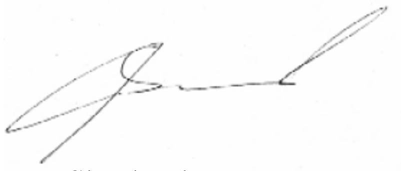
It is submitted that it is not appropriate for Board Staff to reject classes based on a cost driver known (in a related context) to be material, and a cost driver which has been approved by the Board for rate classification purposes in the past (for Hydro One), without at the very least engaging the issue and

presenting, for consideration of the Board, the pros and cons of the issue and the relevant evidence on that issue.

We have provided a more detailed analysis to the Board. Rather than repeat that analysis here, we have attached a copy of the section of our May Submissions dealing with rate classifications on the basis of density. We would ask the Board to review and consider those submissions in determining its policies relating to rate classifications for electricity distributors going forward.

All of which is respectfully submitted.

Yours very truly,
**SHIBLEY RIGHTON LLP**



Jay Shepherd

cc: Bob Williams, SEC (email)
Wayne McNally, SEC (email)
Interested Parties (email)