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**BY EMAIL**

June 18, 2008  
Our File No. 2060604/2070582

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

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: Gas IRM – EB-2007-0606/615 and 3<sup>rd</sup> Generation Incentive Regulation – EB-2007-0673**

We are in receipt of the Board's letter of June 16, 2008 with respect to the letter from Mark Carney, Governor of the Bank of Canada, and Mr. Penny's letter of June 11, 2008 on the same subject.

The School Energy Coalition will not file a motion seeking to re-open the evidentiary portion of the Gas IRM case. As the Board has correctly pointed out, that case is complete, and final argument is done. Further, while we disagree with Mr. Penny on Mr. Carney's credentials (he is, after all, the Governor of the Bank of Canada, not a random person on the street), we agree that his letter is not yet in the realm of "evidence" in the normal sense. To be treated as evidence in the Gas IRM case, in our view it is likely Mr. Carney would have to be asked to appear, and prior to that he would have to have an opportunity to review relevant evidence in the case so that he could comment on the specific fact situation. This does not appear to us to be practical at this point in time, either from the point of view of seeking the time commitment from the Governor of the Bank, or the time delay it would entail in the Gas IRM process.

That is, in fact, exactly the reason why our initial letter did not make a proposal for how to deal with this. There did not appear to us to be a formal route through which the Board could have the benefit of the views of the top inflation expert in the country, without unacceptable practical implications. While the Board from time to time takes "judicial notice" of expert opinion that is not evidence in the normal sense (e.g. the Bernanke paper and others already filed in the Gas IRM proceeding), we accept that is the exception, not the rule, and may not be appropriate here. The Board's decision not

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to consider this unless we move to re-open the proceeding – something we do not think would be productive – responds directly to our request for guidance from the Board.

We are also cognizant of the fact that, as it played out, the Gas IRM tax phase ended up being primarily about the specific numbers in play relative to Union Gas, as opposed to a debate on a long term policy issue. We have therefore taken the view, in other Board proceedings including 3<sup>rd</sup> Generation IRM, that the Gas IRM decision, when it is made, should not be considered a generic decision on whether tax changes should be Z factored. We believe that Z factor policy in other cases should be dealt with at a broader level, on the general principles at work.

Therefore, although the letter from the Bank of Canada is not part of the record for the purposes of EB-2007-0606/615, we would ask that it, along with our letter to which it responded, and this current letter, be treated as supplementary submissions by the School Energy Coalition in the EB-2007-0673 policy process on 3<sup>rd</sup> Generation IRM for Electricity Distributors. Further, we would ask that this material be posted on the OEB web site along with the other submissions, so that all parties involved will have knowledge of it. The Board should then, we believe, give it the weight it believes is appropriate in deciding its policies with respect to Z factors in 3<sup>rd</sup> Generation IRM.

All of which is respectfully submitted.

Yours very truly,

**SHIBLEY RIGHTON LLP**

A handwritten signature in black ink, appearing to read 'Jay Shepherd', written in a cursive style.

Jay Shepherd

cc: Michael Penny, Torys (email)  
Michael Millar, OEB (email)  
Lisa Brickenden, OEB (email)  
Interested Parties (email)