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BY EMAIL and RESS

September 30, 2013
Our File: EB20120064

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2012-0064 – THESL 2014 IRM – Draft Issues List

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order #6, these are SEC’s comments with respect to the Board’s Draft Issues List for Phase 2.

SEC agrees with the Board that the Issues List should capture the relevant issues at a high level while avoiding excessive detail. SEC generally finds the Draft Issues List appropriate, subject to the following comments:

1. Is THESL’s interpretation of the Phase 1 Partial Decision and Order of April 2, 2013 appropriate?

While THESL’s interpretation of the Phase 1 Partial Decision and Order of April 2, 2013 (“Phase 1 Decision”) will be an important part of this phase of the proceeding, SEC believes that it should not be a stand-alone issue as it must be considered in the context of each of the specific issues on the Draft Issues List.

3. Is THESL’s application of the ICM criteria appropriate?

SEC has no concern with the wording of this issue if it understood that the issue encompasses Issue 2.2 of the Phase 1 Final Issues List¹, and the ability of THESL to execute its proposal ICM capital plan.

¹ Has THESL provided sufficient evidence including consultant reports, business cases and consideration of alternatives, for the proposed capital projects to adequately justify them?

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While SEC expects THESL to rely on the evidence from Phase 1 and the Board's Phase 1 Decision, without a full understanding at this stage in the proceeding of the exact nature of all the 2014 capital projects, the sufficiency of evidence to justify them is still at issue. Further, the Board must satisfy itself that THESL has the capacity to conduct the amount of capital work that it is seeking funding for.

4. *Is THESL's interpretation of the ICM Monitoring and Tracking Requirements accurate?*

SEC submits that the Board should amend the draft issue to read, "[i]s THESL's proposed ICM Monitoring and Tracking Requirements appropriate?" As currently worded the issue is too narrow and may foreclose potentially different monitoring and tracking requirements than was ordered in the Phase 1 Decision.

While THESL may properly rely on the Phase 1 Decision in proposing its monitoring and tracking requirements, it may be appropriate for those to be changed in light of a variety of factors specific to this phase of the proceeding. Those may including but are not limited to, the operational issues identified by THESL in its evidence², the level of spending proposed for 2014, and any settlement agreement that may be entered into by the parties and approved by the Board.

All of which is respectfully submitted.

Yours very truly,
Jay Shepherd P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and Intervenor (by email)

² THESL, Tab 9, schedule 1, page 10