



Jay Shepherd

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BY EMAIL and RESS

January 5, 2014
Our File No. 20120064

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2012-0064 – Toronto IRM/ICM Phase 2 – SEC Cost Claim

We are counsel for the School Energy Coalition. We enclose the cost claim of the School Energy Coalition, on the Board's form and enclosing docket details.

This case was unusual in that a lot of the higher level issues had been addressed in Phase 1, but there were still substantial technical and "year over year" details, and a lot of proposed capital spending, at issue for 2014. Further, the focus in this case was a very challenging ADR process which, while ultimately a complete success, was more difficult than either the Board or the parties expected. This can be seen by the delays in filing the Settlement Agreement, despite an in-person negotiation of only two days.

SEC's approach to this proceeding was to give initial case control to Mark Rubenstein, who was also the lead in Phase 1. As can be seen from the dockets, almost all of the work on this matter up until the ADR was done by Mr. Rubenstein. The role of senior counsel Jay Shepherd was limited to a supervisory one, and client reporting.

As it became clear that the ADR would have more complexities than had originally been expected, and that SEC would be asked by the parties to take a leadership role in that process, Mr. Shepherd's role increased, and his hours related to the ADR reflect that necessity. Again as disclosed in the dockets, the main bulk of the time was still spent by Mr. Rubenstein, but Mr.

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Shepherd started participating in intervenor caucuses and direct negotiations with the utility, and took an active role in the drafting process. With the exception of 2.4 hours up to and including the Technical Conference, essentially all of Mr. Shepherd's time was to do with the ADR (and related communications with the client).

It is submitted that the resulting time balance between senior counsel and junior counsel was effective, and helped the parties produce a good result while keeping the overall cost of the SEC intervention low. Mr. Shepherd did not have to invest fifty hours or more working through the details of the evidence, asking interrogatories, and the like, but when his experience was of assistance to the process towards the end, he had the support of a knowledgeable junior counsel fully conversant with all of the facts.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.

Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested Parties

Ontario Energy Board
COST CLAIM FOR HEARINGS



Affidavit and Summary of Fees and Disbursements

This form should be used by a party to a hearing before the Board to identify the fees and disbursements that form the party's cost claim. Paper and electronic copies of this form and itemized receipts must be filed with the Board and served on one or more other parties as directed by the Board in the applicable Board order. Please ensure all required fields are filled in and the Affidavit portion is signed and sworn or affirmed.

Instructions

- Required data input is indicated by yellow-shaded fields. Formulas are present in the document to assist with the calculation of the cost claim.
- All claims must be in Canadian dollars. If applicable, state exchange rate and country of initial currency.
Rate: _____ Country: _____
- A separate "Detail of Fees and Disbursements Being Claimed" (comprising a "Statement of Fees Being Claimed" and a "Statement of Disbursements Being Claimed") is required for each consultant or lawyer/articling student/paralegal. However, only one "Summary of Fees and Disbursements" covering the whole of the party's cost claim should be provided.
- The cost claim must be supported by a completed Affidavit signed by a representative of the party.
- A CV for each consultant must be attached unless, for a given consultant, a CV has been provided to the Board in another process within the last 24 months.
- **Except as provided in section 7.03 of the Practice Direction on Cost Awards, itemized receipts must be provided.**

File # EB-	2012-0064	Process:	Toronto IRM/ICM
Party:	School Energy Coalition	Affiant's Name:	Jay Shepherd
HST Number:	_____	HST Rate Ontario:	_____
	Full Registrant <input checked="" type="checkbox"/>	Qualifying Non-Profit	<input type="checkbox"/>
	Unregistered <input type="checkbox"/>	Tax Exempt	<input type="checkbox"/>
	Other <input type="checkbox"/>		

Affidavit

I, Jay Shepherd, of the City/Town of Toronto
in the Province/State of Ontario, swear or affirm that:

1. I am a representative of the above-noted party (the "Party") and as such have knowledge of the matters attested to herein.
2. I have examined all of the documentation in support of this cost claim, including the attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed".
3. The attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed" include only costs incurred and time spent directly for the purposes of the Party's participation in the Ontario Energy Board process referred to above.
4. This cost claim does not include any costs for work done, or time spent, by a person that is an employee or officer of the Party as described in sections 6.05 and 6.09 of the Board's Practice Direction on Cost Awards.

Signature of Affiant

Sworn or affirmed before me at the City/Town of Toronto,
in the Province/State of Ontario, on January-07-14.
(date)

**Ontario Energy Board
COST CLAIM FOR HEARINGS**



Affidavit and Summary of Fees and Disbursements

Commissioner for taking Affidavits

File # EB- 2012-0064 **Process:** Toronto IRM/ICM

Party: School Energy Coalition

Summary of Fees and Disbursements Being Claimed

Legal/consultant fees	\$31,356.00
Disbursements	\$0.00
HST	\$0.00
Total Cost Claim	\$31,356.00

**Ontario Energy Board
COST CLAIM FOR HEARINGS**



Detail of Fees and Disbursements Being Claimed

File # EB-	2012-0064	Process:	Toronto IRM/ICM
Party:	School Energy Coalition	Name:	Jay Shepherd
		Completed Years Practising/ Years of relevant experience	33
Counsel/Articling Student/Paralegal:	<input checked="" type="checkbox"/>		
Consultant:	<input type="checkbox"/>		
CV attached:	<input type="checkbox"/>	CV not required:	<input checked="" type="checkbox"/>

Statement of Fees Being Claimed

	Hours	Hourly rate	Subtotal	HST	Total
Preparation	7.90	\$330.00	\$2,607.00	\$0.00	\$2,607.00
Attendance - Technical Conference	0.00	\$330.00	\$0.00	\$0.00	\$0.00
Attendance - Settlement Conference	29.40	\$330.00	\$9,702.00	\$0.00	\$9,702.00
Attendance - Oral Hearing	1.00	\$330.00	\$330.00	\$0.00	\$330.00
Argument	0.00	\$330.00	\$0.00	\$0.00	\$0.00
Case Management		\$170.00	\$0.00	\$0.00	\$0.00
TOTAL LEGAL/CONSULTANT FEES			\$12,639.00	\$0.00	\$12,639.00

Statement of Disbursements Being Claimed

	Net Cost	HST	Total
Photocopies		\$0.00	\$0.00
Printing		\$0.00	\$0.00
Fax		\$0.00	\$0.00
Courier		\$0.00	\$0.00
Telephone		\$0.00	\$0.00
Postage		\$0.00	\$0.00
Transcripts		\$0.00	\$0.00
Travel: Air		\$0.00	\$0.00
Travel: Car		\$0.00	\$0.00
Travel: Rail		\$0.00	\$0.00
Travel (Other):		\$0.00	\$0.00
Parking		included	\$0.00
Taxi or Airport Limo		\$0.00	\$0.00
Accommodation		\$0.00	\$0.00
Meals		\$0.00	\$0.00
Other:		\$0.00	\$0.00
TOTAL DISBURSEMENTS:		\$0.00	\$0.00

Ontario Energy Board COST CLAIM FOR HEARINGS



Detail of Fees and Disbursements Being Claimed

File #	EB- 2012-0064	Process:	Toronto IRM/ICM
Party:	School Energy Coalition	Name:	Mark Rubenstein
		Completed Years Practising/ Years of relevant experience	2
Counsel/Articling Student/Paralegal:	<input checked="" type="checkbox"/>		
Consultant:	<input type="checkbox"/>		
CV attached:	<input type="checkbox"/>	CV not required:	<input checked="" type="checkbox"/>

Statement of Fees Being Claimed

	Hours	Hourly rate	Subtotal	HST	Total
Preparation	47.90	\$170.00	\$8,143.00	\$0.00	\$8,143.00
Attendance - Technical Conference	5.20	\$170.00	\$884.00	\$0.00	\$884.00
Attendance - Settlement Conference	55.30	\$170.00	\$9,401.00	\$0.00	\$9,401.00
Attendance - Oral Hearing	1.70	\$170.00	\$289.00	\$0.00	\$289.00
Argument	0.00	\$170.00	\$0.00	\$0.00	\$0.00
Case Management		\$170.00	\$0.00	\$0.00	\$0.00
TOTAL LEGAL/CONSULTANT FEES			\$18,717.00	\$0.00	\$18,717.00

Statement of Disbursements Being Claimed

	Net Cost	HST	Total
Photocopies		\$0.00	\$0.00
Printing		\$0.00	\$0.00
Fax		\$0.00	\$0.00
Courier		\$0.00	\$0.00
Telephone		\$0.00	\$0.00
Postage		\$0.00	\$0.00
Transcripts		\$0.00	\$0.00
Travel: Air		\$0.00	\$0.00
Travel: Car		\$0.00	\$0.00
Travel: Rail		\$0.00	\$0.00
Travel (Other):		\$0.00	\$0.00
Parking		included	\$0.00
Taxi or Airport Limo		\$0.00	\$0.00
Accommodation		\$0.00	\$0.00
Meals		\$0.00	\$0.00
Other:		\$0.00	\$0.00
TOTAL DISBURSEMENTS:		\$0.00	\$0.00

Date	Explanation	Lwyr	Rubenstein					Shepherd			
			Prep	Tech	ADR	Hearing	Total	Prep	ADR	Hearing	Total
20130819	Review update filing, meeting with Mark Rubenstein	JCS						1.0			1.0
20130820	emails/prelim review of manager's summary	MR	1.6								
20130821	emails	MR	0.1								
20130823	review application	MR	2.2								
20130908	emails	MR	0.1								
20130920	review PO and draft issues list/emails	MR	0.3								
20130920	Review PO#6, scheduling, meeting with Mark Rubenstein, many emails	JCS						0.6			0.6
20130923	review draft issues list/draft comments/emails	MR	1.8								
20130927	edit comments on draft issues list/email	MR	0.3								
20130928	Review issues list comments, various emails	JCS						0.3			0.3
20130930	edit, finalize and file issues list comments/emails/review other parties submissions on issues list	MR	1.5								
20131001	review VECC sub/emails	MR	0.2								
20131004	edit and complete issues list reply/emails	MR	0.7								
20131007	edit, finalize and file issues list reply/emails/review THESL reply sub	MR	1.5								
20131015	review evidence	MR	2.5								
20131017	emails/review PO	MR	0.2								
20131018	emails/review correction	MR	0.3								
20131021	review evidence/draft IRs	MR	1.7								
20131022	review evidence/draft IRs	MR	1.5								
20131023	review evidence/research/draft IRs	MR	1.2								
20131024	review Staff IRs/edit and revise IRs	MR	1.3								
20131029	review EP IRs	MR	0.3								
20131030	review/EP IRs/p. call w J. Girvan	MR	0.4								
20131031	finish drafting IRs/finalize and edit/review other intervenor IRs	MR	1.7								
20131101	review PO	MR	0.1								
20131121	preliminary review of IRRs	MR	1.8								
20131122	review IRRs	MR	2.3								
20131125	review IRRs/emails/draft issues ltr to Board/review other parties ltr/prepare for TC/review CVs	MR	2.4								
20131126	emails/prepare for TC	MR	2.5								
20131127	attend technical confernece/meeting w Intervenors	MR		5.2							
20131127	Review TC transcript	JCS						0.5			0.5
20131129	discussion w JCS/review TC transcript/review phase 1 hearing transcript	MR	2.3								
20131129	Meeting with Mark Rubenstein re ADR strategy	JCS						0.3			0.3

20131202	review TC undertaking responses/emails/review material	MR	1.5				1.5			
20131202	Review TC undertakings	JCS						0.2		0.2
20131203	Prepare for settlement conference/discussion w JCS/emails/revise numbers charts and circulate to other intervenors	MR	5.2				5.2			
20131204	prepare for settlement conference/discussion w JCS/emails/revise numbers charts and circulate/o. call w S. Grice/p. call w J. Girvan/pr	MR	8.1				8.1			
20131204	Meeting with Mark, Many emails, Review true-up, Review phase 1 decision, Check numbers and various spreadsheets	JCS						3.3		3.3
20131205	attend settlement conference/discussion w JCS/prepare for day 2	MR			10.5		10.5			
20131205	Meeting with Mark, Telephone call with Mark (several), Many emails	JCS						2.1		2.1
20131206	attend settlement conference	MR			9.5		9.5			
20131206	Many emails, Telephone call with Mark (several), Conference call, Issues analysis, Offer details	JCS						3.6		3.6
20131209	emails	MR			0.2		0.2			
20131210	emails/preliminary review of draft settlement agreement	MR			0.5		0.5			
20131210	Initial review of agreement, Various emails	JCS						0.2		0.2
20131212	emails/preliminary review of JCS comments and edits on revised agreement	MR			1.5		1.5			
20131212	Meeting with Mark, Detailed review and rewrite of agreement, Many emails	JCS						3.6		3.6
20131213	multiple p. calls w J. Girvan/meeting w JCS to finalize and disc edits on redraft/make edits to agreement and send THESL/emails/review	MR			3.6		3.6			
20131213	Meeting with Mark, Review agreement and edit, Recalculate Threshold, Many emails, Review PO #9	JCS						3.3		3.3
20131215	emails	MR			0.3		0.3			
20131215	Many emails, Review outstanding issues and related evidence	JCS						1.4		1.4
20131216	disc w JCS/review THESL re-draft and detailed covering email comments/many p. calls w various intervenors/p. call w Staff/conference ca	MR	0.3		10.4		10.7			
20131216	Many emails, Meeting with Mark (many), Meeting with intervenors, Edit further draft	JCS						3.8		3.8
20131217	emails/multiple interevenor conference calls/conference call w THESL and all parties/many p. calls with individual intervenors/multipl	MR			12.1		12.1			

20131217	Intervenor conference call, Many emails, Redrafts and edits, Meeting with Mark (several)	JCS							4.8		4.8
20131218	emails/review THESL ltr to the Board/conference call w intervenors/review revised draft/p.calls with various intervenors/multiple discu	MR			6.7		6.7				
20131218	Intervenor meeting, Many emails, Meeting with Mark (many), Meeting with Applicant, Review and edit, Review filing, Review letter, Telephone call with Amanda Klein and Rob Barass, Review appendices	JCS							6.6		6.6
20131219	prepare for settlement presentation/emails/attend oral hearing	MR				1.7	1.7				
20131219	Many emails, Attend at hearing (via internet), Meeting with Mark, Client reporting	JCS						1.7		1.0	2.7
			47.9	5.2	55.3	1.7	110.1	7.9	29.4	1.0	38.3