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September 10, 2009

BY EMAIL & COURIER

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge St, Suite 2701  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Board File No. EB-2009-0180/ EB-2009-0181/  
EB-2009-0182/ EB-2009-0183  
Re: Applications by Toronto Hydro Energy Services Inc.,  
Toronto Hydro-Electric System Limited & 1798594 Ontario Inc.  
Interrogatories of Energy Probe**

Pursuant to Procedural Order No. 1, issued August 26, 2009, attached please find two hard copies of the Interrogatories of Energy Probe Research Foundation (Energy Probe) in the consolidated proceeding noted above. An electronic version of this Intervention will be forwarded in PDF format.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh  
Case Manager

cc: Mark Rodger, Borden Ladner Gervais LLP (By email)  
Pankaj Sardana, Toronto Hydro-Electric System Limited (By email)  
Chris Tyrrell, Toronto Hydro Energy Services (By email)  
Lawrence Wilde, 1798594 Ontario Inc. (By email)  
Peter Faye, Counsel to Energy Probe (By email)  
Intervenors of Record (By email)

**Energy Probe Research Foundation** 225 BRUNSWICK AVE., TORONTO, ONTARIO M5S 2M6

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## Ontario Energy Board

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

**AND IN THE MATTER OF** an application pursuant to section 60 of the *Ontario Energy Board Act, 1998* by 1798594 Ontario Inc. seeking an electricity distribution licence;

**AND IN THE MATTER OF** an application pursuant to section 86(1)(a) of the *Ontario Energy Board Act, 1998* by Toronto Hydro Energy Services Inc. seeking an order granting leave to sell streetlighting assets as an entirety or substantially as an entirety to 1798594 Ontario Inc.;

**AND IN THE MATTER OF** an application pursuant to section 86(1)(b) of the *Ontario Energy Board Act, 1998* by Toronto Hydro Energy Services Inc. seeking an order granting leave to sell streetlighting assets necessary in serving the public to 1798594 Ontario Inc.;

**AND IN THE MATTER OF** an application pursuant to section 86(1)(c) by Toronto Hydro-Electric System Limited and 1798594 Ontario Inc. seeking leave to amalgamate;

**AND IN THE MATTER OF** a request pursuant to section 77(5) of the *Ontario Energy Board Act, 1998* by 1798594 Ontario Inc. and Toronto Hydro-Electric System Limited seeking the cancellation of their distribution licences.

**AND IN THE MATTER OF** an application pursuant to section 60 of the *Ontario Energy Board Act, 1998* by Toronto Hydro-Electric System Limited for an electricity distribution licence.

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**INTERROGATORIES OF  
ENERGY PROBE RESEARCH FOUNDATION  
("ENERGY PROBE")**

September 10, 2009

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**TORONTO HYDRO-ELECTRIC SYSTEM LIMITED ET AL**

**EB-2009-0180/81/82/83**

**ENERGY PROBE RESEARCH FOUNDATION**

**Interrogatory # 1**

**Ref: Section B / Tab 7/ Exhibit M  
Toronto Hydro-Electric System 1989 Annual Report**

**Background:**

**In the evidence of the Applicants, beginning on Page 17, Note 2 *Change in Accounting Policy*, of the excerpt from THESL's 1989 Annual Report, Streetlighting asset value is shown at \$8,002,000. According to the Note, these assets were transferred to the City of Toronto on January 1, 1989 for consideration of \$1.00.**

**Questions:**

**Please provide the following:**

- a) A schedule listing those streetlighting assets that were Expressway Lighting assets at the time of transfer in 1989.**
- b) A schedule of annual capital additions, retirements and depreciation on the streetlighting system from January 1, 1989 until the assets were sold to THESI in 2005 including an analysis supporting the sale price of \$60 M.**
- c) A schedule of annual capital additions, retirements and depreciation on the streetlighting system from the date that THESI assumed ownership until the most recent audited accounting statements of THESI including an analysis supporting the proposed purchase price of \$66,066 K.**

**Interrogatory # 2**

**During the years that the City of Toronto owned the streetlighting system who performed capital and maintenance work on the system?**

**Interrogatory # 3**

**Please provide a copy of the agreement of purchase and sale between the City of Toronto and THESI entered into at the time the assets were sold to THESI in 2005.**

**Interrogatory # 4**

**Ref: Section C / Tab 7**

**Asset Purchase Agreement between THESI and NewCo**

**Please provide copies of the “City Agreements” referenced on Page 2 at (i) of the Asset Purchase Agreement including:**

- a) City Indemnity Agreement**
- b) City Joint Use Agreement**
- c) City Licence Agreement**
- d) City Night Patrol Licence Agreement**
- e) City Services Agreement**

**Interrogatory # 5**

**Ref: Section C / Tab 7**

**Asset Purchase Agreement between THESI and NewCo**

**Background:**

**The evidence of the Applicants, Schedule 1.1(oo) – SEL Employees at Page 16 of the Asset Purchase Agreement between THESI and NewCo, states:**

**Schedule to be delivered separately as a confidential document.**

**Question:**

- a) Has Schedule 1.1(oo) – SEL Employees been delivered as provided for in this June 8, 2009 Asset Purchase Agreement?**
- b) Please file Schedule 1.1(oo) – SEL Employees.**

**Interrogatory # 6**

**Ref: Section C / Tab 7**

**Asset Purchase Agreement between THESI and NewCo  
Article II – Purchase and Sale of Purchased Assets**

**Background:**

**The evidence of the Applicants, at Page 7 of the Asset Purchase Agreement between THESI and NewCo, at 2.2 – SEL Employees states:**

- (a) As at the Closing Date, the Purchaser shall hire all SEL Employees involved in the operation of the SEL Business on the same terms and conditions and with recognition of their existing seniority as applicable while they were employed by the Vendor.**

**Questions:**

- a) How many SEL Employees are to be transferred from the Vendor to the Purchaser?**
- b) Please provide a comparison between the existing wage, benefits and working conditions of SEL Employees and those of the Purchaser’s employees.**
- c) Does the wording of the Agreement at 2.2 – SEL Employees (a) eliminate the responsibility of the Purchaser to fund employee buy out offers?**

**Interrogatory # 7**

**Ref: Section C / Tab 7**

**Asset Purchase Agreement between THESI and NewCo  
Article II – Purchase and Sale of Purchased Assets**

**Background:**

**The evidence of the Applicants, at Page 7 of the Asset Purchase Agreement between THESI and NewCo, at 2.2 – SEL Employees states:**

- (b) All obligations in respect of SEL Employees under any Contract shall be assumed by the Purchaser as and from the Closing Date.**

**Questions:**

- a) What Contracts are referred to in (b) above?
- b) What is the forecast cost to the Purchaser of (b) above?
- c) Please provide copies of the Contracts referred to in (b) above

**Interrogatory # 8**

**Ref: Section C / Tab 7**

**Asset Purchase Agreement between THESI and NewCo  
Article III – Assumption of Liabilities**

The evidence of the Applicants, at Page 7, 3.1 – Assumption of Liabilities by the Purchaser, deals with assumed liabilities in the proposed asset purchase between THESI and NewCo.

Please provide copies of all contracts (other than the City Agreements referenced in IR#4) between THESI and third parties related to the SEL business which could give rise to any liability for THESI.

**Interrogatory # 9**

**Ref: Section C / Tab 7**

**Asset Purchase Agreement between THESI and NewCo**

**Background:**

The evidence of the Applicants, Schedule 5.8 – Legal and Regulatory Proceedings, at Page 20 of the Asset Purchase Agreement between THESI and NewCo, lists outstanding legal and regulatory claims against THESI.

**Questions:**

- a) Has THESI established reserves to settle any of these claims?
- b) What are the limits of THESI's insurance coverage per incident and in the aggregate?

- c) What is THESI's best estimate of claims still to be filed in connection with the SEL including claims related to the contact voltage problem in 2009?
- d) Will THESI's insurer continue to cover the claims if and when THESL assumes ownership?
- e) Will THESI's insurer cover claims relating to SEL Business during THESI's ownership if they are filed after THESL assumes ownership? If not, will THESL's insurer cover future claims for damages that arose during THESI's ownership?

**Interrogatory # 10**

**Ref: Section B / Tab 6**

**Affidavit of Ben LaPianta (Unclear point of Demarcation)**

**Background:**

This affidavit suggests that unclear demarcation points between THESL's distribution system and THESI's SEL system is the root cause of the contact voltage problem encountered in 2009.

**Questions:**

**Please explain:**

- a) According to the affidavit, the contact voltage problem described in paragraph 2 was caused by "*insulation breakdown on energized street light connectors*". Who owns the connectors referred to, THESL or THESI?
- b) According to the affidavit, the contact voltage problem described in paragraph 3 was caused by "*an abandoned street light conductor that had become unintentionally energized due to the degradation of connectors elsewhere in the circuit*". Who owns the abandoned street light conductor? Who owns the "*degraded connectors elsewhere in the circuit*"?

**Interrogatory # 11**

**Ref: Section B / Tab 6**

**Affidavit of Ben LaPianta (Unclear point of Demarcation)**

**Does THESL have an operating agreement with THESI? If so, please provide a copy of it. If not, please explain how coordination between the two companies is managed.**

**Interrogatory # 12**

**Ref: Section B / Tab 6**

**Affidavit of Ben LaPianta (Unclear point of Demarcation)**

**Background:**

**Paragraphs 4 and 5 of the Affidavit describe THESL's response to the contact voltage problem.**

**Questions:**

- a) Was THESI involved in any of the investigative or remedial work undertaken to resolve the problems?**
- b) If so, in what capacity? If not, why not?**

**Interrogatory # 13**

**Ref: Section B / Tab 6**

**Affidavit of Ben LaPianta (Unclear point of Demarcation)**

**Background:**

**Paragraphs 11, 12 and 13 of the Affidavit refer to the successive ownership of the SEL system and to the lack of clear and unambiguous demarcation points of ownership; the first sentence of Paragraph 13 states:**

**In an attempt to rectify the situation, street light handwells were assumed to be the most logical demarcation point....**



**Questions:**

- a) Was the handwell demarcation point established when the City assumed ownership in 1989 or when THESI assumed ownership in 2006?
- b) If the latter, what was the demarcation point of ownership between the SEL system and THESL's distribution system during the City's ownership?
- c) Who did the capital, maintenance and operating work on the SEL system during that time?
- d) Is THESL aware of any contact voltage problems occurring during City ownership of the SEL system?

**Interrogatory # 14**

**Ref: Section B / Tab 6**

**Affidavit of Ben LaPianta (Unclear point of Demarcation)**

**Background:**

Paragraph 4 of the Affidavit describes the use of a "*contact voltage survey*" to identify potential safety problems on the SEL and/or distribution system.

**Questions:**

- a) Does THESL or THESI regularly conduct such surveys as part of its ongoing maintenance programs?
- b) If the answer is Yes, have any previous contact voltage problems been identified using this method?
- c) If the answer is No, how do the companies anticipate contact voltage problems and correct them before they become public safety issues?

## Interrogatory # 15

Ref: Section B / Tab 6

Affidavit of Ben LaPianta (Unclear point of Demarcation)

### Background:

The fifth sentence of Paragraph 4 of the Affidavit describes THESL's remediation effort to include the following:

“...to immediately rectify any existing contact voltage found and to mitigate the potential for future contact voltage by replacing any visible degrading connectors and/or associated plant”.

### Question:

Who owned the “*visible degrading connectors and/or associated plant*” that was replaced, THESL, THESI or other parties?

## Interrogatory # 16

Ref: Section B / Tab 6

Affidavit of Ben LaPianta (Unclear point of Demarcation)

### Background:

The second sentence of Paragraph 18 refers to THESL's practice of isolating “*secondary underground at a demarcation point*” during underground “*replacement and conversion work*”. This suggests that the demarcation issue raised in the Affidavit is related only to underground secondaries.

### Questions:

- a) Please confirm that this interpretation is correct.
- b) If it is correct, what is the demarcation point for the SEL when the secondary service is overhead?
- c) Has THESL ever encountered contact voltage problems when the secondary service to the SEL is overhead?
- d) What percentage (estimated) of THESI's SEL system is served by overhead secondaries as opposed to underground secondaries?

## Interrogatory # 17

Ref: Section B / Tab 6

Affidavit of Ben LaPianta (Unclear point of Demarcation)

### Background:

Paragraphs 18-20 of the Affidavit describe circumstances in which THESL crews conducting underground upgrade work disconnect secondaries at “demarcation points” that leads to “disconnected street light circuits”. The wording suggests that the disconnection in this situation is inadvertent.

### Questions:

- a) If the crew can identify a demarcation point, why doesn't it know that the point is the connection for the street light circuit?
- b) If they do know that it is a street light circuit, why does THESL's customer outage notification system not advise THESI that a street light circuit is temporarily out of service?
- c) When THESI crews discover that the street light outage has been caused by disconnected secondary service, why do they not ask THESL why the service was disconnected before deciding to run an overhead service?
- d) How can THESI connect an overhead service to THESL's system to reenergize streetlighting disconnected from the underground service by THESL, if (as stated in paragraph 15) “*THESI crews are not authorized to work on THESL's distribution system*”?
- e) Paragraph 13 states that “*THESL and THESI have developed procedures to attempt to minimize confusion*”. Please provide copies of these procedures or if they are not formally documented, please describe them.
- f) Please provide copies of any written work plans or procedures from THESL and THESI that govern maintenance work on the SEL system.

**Interrogatory # 18**

**Ref: Section B / Tab 6**

**Affidavit of Ben LaPianta (Unclear point of Demarcation)**

**Exhibit A “Low Voltage Electrical Infrastructure – Integration with LDC Plant”**

**Questions:**

**Please clarify the following in this drawing:**

- a) LDC Chamber – is this another name for a handwell? If not where in the drawing is a handwell shown?**
- b) What do the circular symbols in the electrical circuit at each load represent?**
- c) Who owns the street light low voltage circuit in the drawing?**
- d) Who makes connections to the street light low voltage circuit?**

**Interrogatory # 19**

**Ref: Section B / Tab 6**

**Affidavit of Ben LaPianta (Unclear point of Demarcation)**

**Background:**

**Paragraphs 29 and 30 of the Affidavit describe THESL’s understanding of the limitations placed on information sharing with an affiliate by the ARC.**

**Questions:**

**Please explain:**

- a) How does notification of THESL’s work activities to THESI on secondary services supplying THESI street light circuits violate the information sharing provisions of the ARC?**

- b) **If the information sharing provisions of the ARC were intended to be understood to limit THESL providing THESI with notice of outages to its SEL system and changes to the supply conductors feeding THESI's SEL system, how should this be reconciled with the DSC s.4.4.7 requiring a distributor to “*notify consumers regarding the expected duration and frequency of planned outages and provide as much advance notice as possible*”?**