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BY EMAIL

November 25, 2009

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

Attn: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2009-0180

Toronto Hydro Electric System Limited (“THESL”) Application

We are writing to ask for a direction from the Board regarding the report prepared by Deloitte. During the hearing, the Board Chairman, Mr. Kaiser, asked [at Tr1:156] that the report be produced in this proceeding. Intervenor submissions are due in two days and we have not yet received word as to when the document will be produced.

The Deloitte report is the basis for the determination of the net book value of the assets proposed to be transferred into the regulated utility. As such, it is clearly relevant to the issues before the Board in this proceeding. In addition, the Applicant's witnesses stated during their testimony that the Applicant is already in possession of the report.

We understand that THESL has not yet produced the report because it is waiting for authorisation from Deloitte. With respect, this Board is not bound by the contract between the Applicant and Deloitte. The Board has asked that it be produced, and the Applicant has it. That should end the matter.

In addition, Deloitte has been given a chance to state its position and has failed to provide a response even though over a week has passed since the initial request was made. If Deloitte had provided a response, then the Board could review its reasons and make a determination. By not providing any response at all, however, the Board is in a position where it could potentially allow a third party, by mere omission, to effectively dictate what evidence the Board will have before it in a proceeding. In our view that is unacceptable and the Board should now proceed to order THESL to produce the document.

Yours very truly,

GREAT LAKES
LAW



SHIBLEY RIGHTON LLP

Original signed

John De Vellis

Encl.

c.c. Mr. Mark Rodger, Counsel, Toronto Hydro Electric Services Ltd.
Mr. Colin McClorg, Manager, Regulatory Affairs, Toronto Hydro
Intervenors of record.