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October 7, 2011

DELIVERED and RESS

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Toronto Hydro-Electric System Limited
2011 Cost of Service Application, PHASE II
Board File No. EB-2010-0142**

We enclose two paper copies of the Notice of Motion of the Smart Sub-metering Working Group ("SSMWG") in the above-noted proceeding.

An electronic version of same will be filed today through the Board's Regulatory Electronic Submission System.

Yours truly,

AIRD & BERLIS LLP



Dennis M. O'Leary

/ct
Enclosures

cc The Applicant
cc Kristi Sebalj, Ontario Energy Board
cc J. Mark Rodger, Borden Ladner Gervais LP
cc Intervenors

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ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
Schedule B;

AND IN THE MATTER OF an application by Toronto Hydro-
Electric System Limited for an order approving just and
reasonable rates and other charges for electricity distribution

NOTICE OF MOTION

THE MOVING PARTY, the Smart Sub-metering Working Group (“SSMWG”) will make a motion to the Ontario Energy Board (“OEB” or “Board”) on a date, time and place, and in a manner to be determined by the Board.

THE MOTION IS FOR:

1. A Declaration that the supplemental evidence filed by Toronto Hydro-Electric System Limited (“THESL”) on September 30, 2011, being its Suite Metering Supplemental Evidence (Exhibit L1, Tab 5, Schedule 1) and Cost Allocation Model (Exhibit L1, Tab 5, Schedule 2) (“Current CA Model”) is inadequate, contrary to and/or inconsistent with the Board’s Partial Decision & Order dated July 7, 2011 (the “Partial Decision”) and subsequent Procedural Orders, for the reasons set out herein, and for such further reasons as are given at the hearing of the motion.
2. A Declaration that the Rate Design of Residential Rates is not an issue in this proceeding, and an Order dismissing THESL’s application for approval to change the Residential Rate Design in respect of its Suite Metered Residential Customers, including rental buildings and the proposed Meter-Only Rate for converting buildings.

3. An Order requiring THESL to comply with the Partial Decision, Procedural Orders 10 and 11 and applicable sections of the Filing Requirements for Transmission and Distribution Applications (without limiting the generality thereof) by:
 - (a) Filing its Current CA Model in a fully populated live Excel spreadsheet format supported by appropriate explanations;
 - (b) Identifying all inputs, weightings, assumptions, figures and data used for the purposes of the Current CA Model and those which in any way differ from those inputs, weightings, assumptions, figures and data used by BDR in its updated Study, Exhibit L1, Tab 4, Schedule 1 (the “Updated BDR Study”); and
 - (c) Proposing a tariff for the new Suite Metered Customer Class and providing a detailed listing of all assumptions which THESL made in undertaking its analysis, as well as any other information necessary to provide the Board and Parties with a complete understanding of the approach proposed by THESL.

4. An Order revising the timetable set out in Procedural No. 11 to reflect the further filing of evidence by THESL as requested above and to provide for a Technical Conference on a date subsequent to receipt of THESL’s interrogatory responses, at which time intervenors and Board Staff would have the right to fully question appropriately qualified and knowledgeable THESL witnesses in respect of the Current CA Model, THESL’s evidence, the differences and reasons for the differences between the Current CA Model and the Updated BDR Study, and any other matters relevant to this phase of the proceeding.

5. The SSMWG requests that this motion be heard orally and seeks its costs of this motion.
6. Such further and other relief as counsel may advise and the Board deems just.

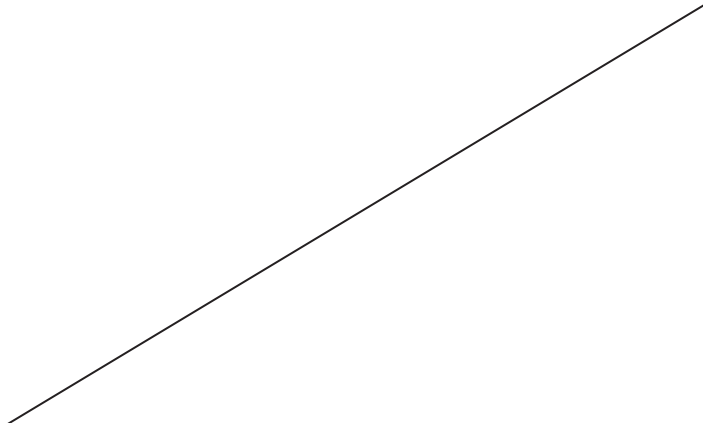
THE GROUNDS FOR THE MOTION ARE AS FOLLOWS:

1. THESL's September 30, 2011 filing is inadequate, inconsistent and/or contrary to the Partial Decision, Procedural Orders No. 10 and 11, and the Board's Filing Requirements for Transmission and Distribution Applications.
2. The Board has not granted THESL the right to undertake a change to its Residential Rate Class Rate Design. Rate Design is not an issue in this phase of the proceeding.
3. THESL's proposed revised Residential Rate Design would reduce transparency and further distort the competitive suite metering market.
4. THESL has failed to propose an appropriate tariff and has failed to provide a detailed listing of all assumptions which it has made in undertaking its cost allocation analysis, as well as any other information necessary to provide the Board with a complete understanding of the approach proposed by THESL in the development of the tariff.
5. THESL has failed to file a fully populated live Excel spreadsheet of its Current CA Model. The SSMWG's cost allocation experts are unable to reasonably identify the reasons for the differences between the Updated BDR Study and the Current CA Model. As a result, the SSMWG is not in a position to ask meaningful interrogatories, and its ability to fully participate and understand THESL's evidence is prejudiced. The SSMWG requires production of a fully populated live Excel spreadsheet of the Current CA Model and a complete explanation of all inputs, weightings, assumptions, figures and data used for the purposes of the

Current CA Model and a description of any which differ from those used by BDR in its Updated BDR Study. Once this information is received, the SSMWG believes it will be able to prepare meaningful interrogatories.

6. The SSMWG's cost allocation experts have also advised that it would be extremely helpful to proceed with a Technical Conference whereby they could question THESL witnesses about the specifics of the Current CA Model and all differences between the Current CA Model and the Updated BDR Study and the justifications for these differences. It is believed that this would greatly facilitate everyone's understanding of what THESL has done and will expedite the proceeding.
7. The Board's Rules of Practice and Procedure.
8. Such further and other grounds as counsel may submit.

THE EVIDENCE that will be used on this motion includes:

- (a) Relevant portions of evidence filed in THESL's 2011 Rate Application, Phases I and II, EB-2010-0142;
 - (b) Such further and other material as counsel may advise and the Board may permit.
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DATE: October 7, 2011

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Lawyers for the Smart Sub-Metering Working Group

TO: The Applicant and Intervenors, EB-2010-0142