

FINAL ARGUMENT OF THE CONSUMERS COUNCIL OF CANADA

TORONTO HYDRO-ELECTRIC SYSTEM LIMITED

2015-2019 RATE APPLICATION

EB-2014-0116

April 2, 2015

I. INTRODUCTION:

On July 31, 2014, Toronto Hydro-Electric System Limited (“THESL”) applied to the Ontario Energy Board (“Board”) for approval of changes to the rates it charges for electricity distribution, for the period May 1, 2015, to December 31, 2019.

The application was made pursuant to the Board’s Renewed Regulatory Framework (“RRFE”). THESL’s proposal is for a five-year Custom Incentive Regulation (“CIR”) method for setting rates. The specific relief being requested can be summarized as follows:

1. Approval of a 2015 base revenue requirement;
2. Approval of 2015 rates and charges including base distribution rates, rate riders related to deferral and variance account clearances and specific service charges for distribution related services;
3. Approvals related to deferral and variance accounts, including the clearance of a number of account balances to customers, and the continuation of existing deferral and variance accounts;
4. Approval of four new deferral and variance accounts;
5. Approval of the proposed rate-setting formula for the establishment of rates for the period 2016-2019;
6. Approval to implement rate year synchronization effective January 1, 2016;
7. Approval of a proposed set of annual reporting activities;
8. Approval to defer the Incremental Capital Module true-up from EB-2012-0064 and approval to bring forward a separate application for the true-up in 2015; and
9. Approval to recover amounts related to the application of the half-year rule for rate base for 2011 (Ex. 1B/T1/pp. 2-4).

This is the final argument of the Consumers Council of Canada (“Council”) regarding THESL’s application. The Council has worked collaboratively with many of the other

intervenors in this case, exchanging drafts of arguments and having discussions about shared perspectives on the issues. In some cases we will adopt the submissions of others. Given our collaboration the Council does not intend to comment on all of the issues. Like others we want to be clear that silence does not necessarily mean we accept the applicant's position on a given issue. Silence means we are relying on others to advance a position we share, or that we simply have no position.

The Council acknowledges that the Board must assess the merits of THESL's overall plan and the extent to which it is consistent or compliant with the Board's RRFE policy. What is equally, or perhaps more important, from the Council's perspective, is that the Board consider whether THESL's plan is consistent with the following Board objective as set out in the Ontario Energy Board Act:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.

Strict compliance with the RRFE does not necessarily mean that a rate plan is in the best interests of a distributor's ratepayers. Ultimately, the rates arising out of the plan must be just and reasonable, and the plan must be structured in a way that ensures that the risks to ratepayers are minimized throughout the plan term.

The Council will first set out what it believes to be the important context for the Board's assessment of THESL's application and its various elements, and then describe the major concerns it has with the application. The Council will then address the specific elements of THESL's application.

II. CONTEXT:

This is one of the first applications to be considered by the Board under the Board's RRFE Custom approach to rate-making. The Board's Decision in this case will be important in terms of setting a precedent regarding what constitutes compliance with the RRFE and, as noted above, what represents a custom framework that ensures the interests of consumers with respect to prices are sufficiently protected.

The Board, on March 12, 2015, released its Decision regarding an application for distribution rates from Hydro One Networks Inc. ("HON"). That application was filed by HON for rates for the period 2015-2019. HON's "Custom Cost of Service" application was deemed by the Board to be not sufficiently aligned with the objectives of the RRFE policy. The Board approved a cost of service approach for the years 2015-2017, but directed HON to come back to the Board for rates effective in 2018 based on the principles established in the RRFE including: the promotion of value for customers; externally imposed improvement incentives; cost and productivity benchmarking support; and prospects for continuous improvement (EB-2013-0416/2014-0247, Decision, pp. 13-14).

THESL's evidence is that its rate plan proposals are aligned with the expectations of the Board with respect to the RRFE. It is THESL's position that specifically, there is alignment with the Board's expectations in the following areas:

1. The Custom rate-setting framework;
2. The scope and nature of the productivity evidence, including benchmarking;
3. Capital planning and implementation performance measures;
4. Evidence of customer engagement on proposed capital investments;
5. A Distribution System Plan ("DSP") that conforms to Chapter 5 of the Filing Requirements;
6. A program based presentation of OM&A expenditures;
7. General adherence to Chapter 2 of the Filing Requirements. (Ex. 1B/T2/S2/pp. 1-2)

The Council does not accept that THESL's proposals are sufficiently aligned with the RRFE.

The rate levels and increases proposed over the term of the plan are unprecedented. Over the term of the plan rate levels are increasing for residential consumers by almost 50% (Ex. 8/T7/S1/Appendix 2-W). This is at a time when other elements of the bill are increasing significantly as well. THESL is also seeking approval for a capital program that will exceed \$2.5 billion over the next five years. Rates for THESL are amongst the highest in the Province.

The Council submits that THESL's custom rate plan, as proposed, should be rejected by the Board for two fundamental reasons. First, the rates flowing from the application are simply too high. This point is in large measure substantiated by the benchmarking evidence filed in this proceeding. THESL's current rates are too high when assessed against comparators, and its forecasts of costs for the rate plan period continue to be above the costs of those comparators. In addition, the structure of the plan does not result in an appropriate balance between the interests of THESL's ratepayers and its shareholders. THESL claims the rate plan provides a sharing of the benefits associated with efficiency and productivity with its customers (Ex. 1B/T2/S2/p. 5). Yet, from the Council's perspective it is difficult to see where THESL's customers actually benefit in any substantive way from any efficiencies or productivity improvements in base rates, or efficiencies that may be generated during the term plan.

The Council will make submissions regarding THESL's application and the specific elements of the custom rate plan throughout this argument. At a high level the following is a list of the major concerns and observations the Council has with respect to THESL's application:

1. THESL's Custom Index is a mechanism that allows for the escalation of the OM&A portion of the revenue requirement (on a base that is too high) coupled with a mechanism to allow for the pass-through of capital

determined on a cost of service basis (the “C-factor”). It is not a true price cap index. It is also not a multi-year incentive rate-setting mechanism that emphasizes results and incents efficient behavior;

2. THESL’s capital forecasts do not embed productivity. They are simply bottom up cost of service forecasts projected out for five years. Rather than embedding efficiency incentives or productivity within the forecasts, THESL has created performance indicators that among other things reward employees for spending what was approved. THESL has not fully developed other metrics that will allow for meaningful assessments of its results, particularly with respect to capital;
3. The plan does not include any ratepayer protection mechanisms. To the extent THESL has overstated its forecasts, it will recover more from its customers than required with no opportunity for any type of true-up. Without any ratepayer protection mechanisms in place, the five year rate-setting plans are not in the best interests of the utility customers;
4. The benchmarking analysis demonstrates that the THESL’s costs are significantly higher relative to other Ontario utilities and relative to its U.S. peers. Effectively, the rates proposed in the application are too high;
5. Although the OM&A levels beyond 2015 are based on a formula approach the ramp up in 2015 has not been justified given the ability of THESL to manage its costs historically at levels far below what is being proposed for 2015;
6. THESL’s capital spending levels are too high and have been developed using a flawed approach to capital planning, that may well lead to the premature replacement of assets. The evidence is clear that THESL is focused more heavily on asset age, ignoring asset condition with respect to asset replacement. Both the age of the asset and the condition of the asset need to be considered when it comes to assessing the need for replacement;
7. THESL has claimed that rates will go up in the future if the level of capital spending is not undertaken as proposed, but has provided no empirical evidence to support this claim (Tr. Vol. 9, pp. 78-81).
8. THESL’s budgets were finalized in June 2014, but the budgeting process began well before that. With the exception of some adjustments made to reflect the actual costs associated with the Copeland TS project, the budgets developed well over a year ago have not changed. The Council does not accept that budgets set through a process which began well over a year ago remain robust until the end of 2019. We question the extent to which the detailed capital budgets are reflective of the capital program that THESL intends to undertake, or are simply a request for an envelope to fund spending that may well differ from the plan;

9. THESL's plans for annual reporting have not been adequately developed and with respect to capital are not compliant with the expectations of the Board as set out in in the RRFE. The reporting does not allow for an ongoing assessment of efficiencies, measurement of performance and continued productivity improvement;
10. THESL has failed to demonstrate how "value for customers" will be delivered in context of its plan;
11. THESL's has concluded, from what the Council views as an inadequate customer engagement plan, that the majority of its customers accept the need for timely renewal of its distribution system, while acknowledging that this will mean an increase in their monthly bills. It has also concluded that its customers' preferences align with the "central pillars" of the utility's capital plan. Based on the nature of the customer engagement undertaken the Board should not conclude that the majority of THESL's customer are supportive the proposed capital spending or the rates that flow from the implementation of that plan.

These points will be expanded upon below, but based on these conclusions the Council will be urging the Board to reject THESL's proposed CIR rate plan on the basis that it is not in the best interests of THESL's ratepayers, and that the resulting rates are not just and reasonable.

As a result of these conclusions the Council submits the following:

1. The Board has, in the context of the RRFE, highlighted the importance of benchmarking under a CIR approach to rate-making. The benchmarking results in this case warrant a significant downward adjustment to the rate proposals put forward by THESL. The School Energy Coalition has presented a compelling argument, based on these benchmarking results, to limit THESL's revenue requirement increases over the period to approximately 3.1% per year. The Council supports this approach;
2. If the Board determines that THESL's framework is an acceptable construct for setting rates, it should make reductions to the 2015 revenue requirement both with respect to capital and OM&A. The Board should also limit the plan to three years, imposing a requirement on THESL to retain an independent consultant to undertake a detailed assessment of its approach to capital planning. That assessment would be used to inform THESL's capital budgeting beyond the three-year period. To approve five years at this time, would subject THESL's customers to unnecessary risks (that THESL's rates and forecasts are too high) with little or no reward in terms of benefits from the plan.

III. THESL'S PROPOSED RATE PLAN:

The Council will make specific submissions on each of the elements of THESL's proposed rate plan below:

Formula:

THESL has taken the Board's 4th Generation IR formula and customized it to deal with its "large multi-year investment commitments". It has adopted the Board's I factor which is based on a weighting of labour and non-labour sub-indices and is updated annually. THESL has also adopted the Board's productivity factor of 0.

There are two custom elements to THESL's formula. The first is a custom stretch factor of .3 % based on an analysis undertaken by PSE. The second is what has been referred to as the C-factor. The C-factor is a mechanism to flow through the forecast capital-related revenue requirement on an annual basis (Ex. 1B/T1/S3/pp. 5-10). The C-factor was developed by THESL and has not been used in any other incentive regulation models either in Ontario or other jurisdictions.

Although THESL has created what it terms a "Custom Price Cap Index" the Council submits that it is analogous to what has been referred to in past cases as a targeted performance based regulation approach. OM&A is subject to an I-X treatment whereas the revenue requirement associated with capital is passed through for the years 2016-2019. Capital is really being determined on a cost of service approach and it not based on a formula, as is the case with a traditional price cap.

The Council has several issues with THESL's formula. The first is that based on the evidence of Dr. Kauffman (which others are expanding on), THESL has not justified why THESL's stretch factor, as determined by the Board methodology, is not appropriate. To the extent the Board adopts THESL's formula approach a stretch factor of between .6% and 1% would be more appropriate.

The second significant issue with THESL's formula is that it does not embed productivity in the capital amounts. As noted above, the formula allows for the forecast revenue requirement associated with capital to be passed through. From the Council's perspective the Board must adopt a method that incents productivity with respect to THESL's capital plan. This could be accomplished through an adjustment to the formula or an explicit reduction in the revenue requirement impacts each year associated with the capital spend.

Productivity:

It is THESL's position that it has developed a rate-making framework for this application, which by its nature provides incentives for the utility to seek out further productivity and efficiency improvements over its 2015-2019 timeframe and beyond.

THESL argues that this framework also requires the utility to share the benefits of these improvements with its customers. THESL adds that it has also proposed a framework of capital performance metrics to facilitate the “continuous improvement in the efficiency of capital planning and execution.” (Ex. 1B/T2/S5/p. 15)

With respect to productivity the Council does not believe THESL’s plan provides sufficient incentives to generate meaningful productivity that will ultimately share benefits with its customers. In addition the stretch factor of .3% provides little up front benefit for customers, given the assumed productivity factor is zero. By not including expected costs savings in the revenue requirement for the Enterprise Resource Planning Project, for example, means customers will not benefit from those savings prior to rebasing. We question how this plan promotes efficiency gains and translates these gains into benefits for customers. All customers really see are rising rates and current reliability being maintained.

On the capital side, THESL is driven (and its management incented) to spend what has been approved by the Board, but not necessarily in an efficient way. As set out in the Annual Reporting section below we suggest that THESL be required to work with Board Staff and intervenors to develop meaningful metrics and targets to ensure the appropriate incentives are in place to ensure continuous improvement.

Off-Ramps:

THESL is proposing an off-ramp consistent with the Board’s stated policy. When a distributor performs outside of an earnings deadband +/- 300 basis points (relative to the approved return on equity a review will be triggered by the Board. This may require a regulatory review (Ex. 1B/T1/S3). The Council supports the inclusion of an Off-ramp.

Z-Factors:

To the extent the Board approves a multi-year rate plan for THESL the Council supports potential Z-factor relief. In a multi-year plan (except one based on cost of service) utilities should have an opportunity to apply for Z-factors that meet the Board’s approved criteria. This was most recently articulated by the Board in its Decision approving Enbridge Gas Distribution’s 2014-2018 rate application. Z-factor relief must be supported by detailed evidence and considered on a case-by-case basis.

Earnings Sharing:

THESL has not included any form of earnings sharing as part of its Custom IR plan. If the Board approves a five-year term, the Council submits that the Board should also approve an earnings sharing mechanism (“ESM”). ESMs have been adopted in each of the major IRM plans approved by the Board in the last few years. Union Gas

Limited, Enbridge Gas Distribution Inc. and Horizon Utilities Corporation are all operating under five year plans that include earnings sharing. The primary purpose of an ESM is to provide ratepayer protection during the term of the plan in large measure to address forecasting risk. ESMs also allow for productivity gains to be shared with customers during the plan term, rather than waiting to share those gains upon rebasing.

IV. CAPITAL PLAN:

THESL's is proposing to spend approximately \$500 million a year, or \$2.5 billion over the next five years on capital. This is in the context of rates that are increasing by approximately 50% over the term plan. This follows the period in which THESL spent approximately \$1.3 billion on capital during 2012, 2013 and 2014.

The proposed capital spending over the term of the plan is as follows:

2015	\$539.6
2016	\$504.2
2017	\$467.4
2018	\$470.0
2019	\$502.2

In each of those years there is approximately \$5.5 million related to renewable generation assets and other non-rate regulated that are funded Provincially through the Independent Electricity System Operator ("IESO"). In addition, THESL is forecasting that with respect to externally driven work THESL could be spending an additional \$25 million a year (Ex. 9/T1/S1/p. 27).

With respect to the capital spending, during the hearing THESL has indicated that it does not have the requisite information at this time to true-up at a detailed level what it spent each year by project relative to what it was approved to spend during the ICM period. From the Council's perspective it is difficult to assess the reasonableness of the 2015 capital forecast in the absence of this information. It is even more difficult to assess the reasonableness of the spending beyond 2015.

Historically, the Board has considered the reasonableness of a capital plan in the context of it review of an overall rate application. The revenue requirement is set and the utility must manage it operations with a spending envelope.

With the RRFE the Board has made it clear that it is changing the way it approves and scrutinizes a capital plan. These changes are apparent in light of the following excerpts from the Board's RRFE Report:

- The Board remains committed to continuous improvement within the electricity sector. The Board's policies for setting distributor rates as outlined below are supported by fundamental principles of good asset

management including: coordinated long term planning and a common set of performance, including productivity expectations. (RRFE, p. 4)

- Distributors will be required to file 5-year capital plans to support their rate applications. Planning will be integrated in order to pace and prioritize capital expenditures including smart grid investments; (RRFE, p. 4)
- Under IR, planned capital spending is expected to be an important element of the rates distributors will be seeking, and will be subject to thorough reviews by parties to the proceeding. Once rates have been approved, the Board will monitor capital spending against an approved plan by requiring distributors to report annually on actual amounts spent. If actual spending is significantly different from the level reflected in a distributor's plan, the Board will investigate the matter and could, if necessary, terminate the distributor's rate-setting method. (RRFE, p. 20)

In light of these comments the Council assumes that the Board intends to more actively scrutinize the development of capital plans and assess during a term plan whether efficiencies are being generated and whether or not ratepayer funds are being used cost-effectively. We recognize that once rates are approved utility spending may differ from the budgets approved, but significant variances will need to reported and "continuous improvements" demonstrated.

The Council questions the extent to which a five-year rate plan is appropriate in the context of such a large capital budget. Given THESL has not provided detailed plans of what it will actually do beyond 2015, there will be no way to "monitor capital spending against an approved plan" as required by the RRFE.

From the Council's perspective it appears that THESL is saying, "We want this envelope of money to spend on our system". In its AIC THESL has made it clear that the nature, quantity and variety of assets replaced over the 2015-2019 period may differ from forecast (AIC T6/p. 2). Beyond 2015, THESL appears to be saying that, "As long as we are doing the nature of activities that we have done before in the ICM, trust us. We will spend the money efficiently." Frankly, in the absence of detailed reporting, and explicit incentives the Board and ratepayers will have no idea whether that money will be spent efficiently.

One of the particular aspects of THESL's views on capital that is troubling is what constitutes "success" with respect to its capital plan. In the hearing there was reference to the fact that success was whether or not THESL "met the spend". In addition, one of the Key Performance Indicators included in THESL's Corporate Scorecard is whether or not actual spending both with respect to capital and OM&A was aligned with what was approved by the Board (in this case meaning the OEB) (Ex. TC J.22). "Meeting the spend" or coming in within 20% of the Board- approved

levels are not meaningful in the context of developing a framework that will incent a utility to strive for continuous improvement. “Meeting the spend” or coming within 20% of an approved budget does not ensure that ratepayer funds will be used cost-effectively.

Spending Board approved amounts can mean a lot of things. It may well mean that the money was spent, but that less work was done than predicted (500 poles vs. a forecast of 750). It may also mean that the work was done more cost effectively than predicted. The Council’s view of the RRFE is that this needs to be monitored and assessed during the rate plan period. Beyond the reporting requirements dictate by the Board’s scorecard approach the Council supports more detailed capital reporting (set out in the Annual Reporting section below).

The Council has reviewed the submissions prepared by the Association of Major Power Consumers in Ontario regarding THESL’s overall capital plan and is in large measure in agreement with those submissions. With respect to AMPCO’s submissions the Council believes the following should be highlighted as important points and considerations relative to the Board’s assessment of THESL capital planning process and capital plans:

Historical Spending

- THESL has made significant capital investments of \$1,059.81 and in-service additions of \$759.27 million over the period 2012 to 2014 on Incremental Capital Module (ICM) projects that were approved in THESL’s 2012-2014 ICM application EB-2012-0064. (Ex. OH/T1/S3 Att.2) The Board accepted THESL’s evidence on the need for these projects at that time which does not mean that THESL should automatically expect that the same level of spending will continue indefinitely.
- For the years 2010 to 2014 the Board approved an average amount of \$363 million per year which is significantly below what THESL is asking the Board to approve in this application. Actual spending over the same timeframe was on average \$433 million per year and 20 per cent over the Board Approved amounts. (K1.1 pg. 9)
- THESL has not appropriately justified the proposed level of capital spending which is substantially more than what was spent in the past 5 years (\$2,165 million compared to \$2,489), primarily on the basis that THESL’s latest asset condition assessment results do not in any way align with and support THESL’s age based independent view of its asset base that is 26% are at end of life and in need of replacement.
- Asset age is the primary driver of THESL’s current investment strategy. Historically, both asset age and condition have been the primary drivers.

THESL's current approach departs from THESL's historical approach and current industry practice which has the effect of significantly increasing the quantity of assets targeted for replacement in this application in a way that greatly exceeds the number of assets recommended for replacement in THESL's latest asset condition assessment.

- It is clear THESL's approach to use the percentage of assets at the end of remaining life is greatly accelerating the timing of when the assets should be targeted for replacement at a rate far beyond what is reasonable or appropriate. The outcome is that THESL will replace many assets under its proposed plan way too soon and at a significant cost to ratepayers which in no way reflects good value for ratepayers. THESL is not getting the full life out of its assets. THESL's proposed investment strategy related to System Renewal on the basis that is unnecessarily driving up costs and rates.
- The Board should approve a significant reduction in THESL's capital budget primarily related to System Renewal. For the years, 2016 to 2019, detailed project information is not available for System Renewal investments. There is no basis for the Board to approve spending on System Renewal beyond 2015.

THESL's Reliability Trends Improving

- Between 2009 and 2013, the contribution to SAIFI and SAIDI from Defective Equipment has decreased by 30% and 33%, respectively. (Ex.2A/T10/S2 Pg. 15). In particular, the contribution from Overhead Equipment and Underground Equipment to SAIFI and SAIDI has decreased from 2009 to 2013, with a considerable reduction in outages from overhead equipment primarily from poles and pole hardware, overhead transformers and overhead switches.
- Similarly, the number of outages caused by failed equipment (which speaks to the general condition of the assets) has steadily improved over the past 5 years from 728 events in 2009 to 636 in 2013, an improvement of over 11%. (Ex.2B/Section C p. 28)
- Therefore THESL's reliability and outage trends do not support the unprecedented capital investment levels proposed by THESL in this application and this should be taken into consideration by the Board in determining the capital amount approved. (Final Argument - AMPCO)

AMPCO's analysis points to a significant reduction in THESL's capital program for 2015. Like AMPCO the Council questions the extent to which they Board can make findings on THESL's capital program beyond 2015 given THESL's admission that design and execution plans beyond 2015 have not been developed.

V. OPERATING MAINTENANCE AND ADMINISTRATION EXPENSES:

Under THESL's proposed rate-making plan it is proposing a level of Operating, Maintenance and Administration ("OM&A") for 2015. For the subsequent rate years OM&A is incorporated into its "custom index". The custom index escalates the OM&A levels based on the I-X formula.

THESL's 2015 forecasted ("OM&A") costs for 2015 are \$269.5 million. Although THESL's 2014 projected budget was \$246.6 million, the actual OM&A amount was \$241.2 (Ex OH/T1/S5). For years beyond 2015 THESL has not provided detailed OM&A forecasts and indicated that it had not developed detailed forecasts for those years.

From the Council's perspective THESL's forecast of OM&A for 2015 is completely out of line with historical levels. In 2011 THESL's actual OM&A was \$238.6. In 2012 it was \$243.5 and in 2013 it was \$246.4. With the updated 2014 number of \$241.2 it is difficult to understand how a \$28.3 million increase can be justified, especially in light of the amount of capital spending that has occurred over the past several years. There should be a direct correlation between capital spend and operating and maintenance costs, but that correlation is not reflected in the 2015 budget.

The Council has set out below some areas where reductions in costs should be made depending upon the rate-setting approach the Board adopts. It is our understanding that other parties will be doing the same. Overall, the Council submits that an appropriate starting point for 2015 OM&A would be 2014 actual amounts with an inflationary adjustment of 2%.

Regulatory Costs:

THESL is seeking to recover over the term of its plan the regulatory costs associated with this custom application of \$5.9 million. In addition, THESL is seeking to recover the costs associated with its application seeking forbearance from regulation with respect to the rates it charges for wireless attachments to its poles. The costs of the EB-2013-0234 proceeding are \$1.87 million (Ex. 4A-CCC-38). In an evidence update provided on February 13, 2015, THESL indicated its intent to amortize the CIR costs incurred during the 2013-2015 period as well as the wireless proceeding costs over the 2015-2019 rate period. The proposal is to record these costs in Account 1525 Miscellaneous Deferred Debits and drawn down over the 2015-2019 period (Ex. 4A/T2/S17/p. 9). Recording these amounts in Account 1525 was not mentioned in the evidence prior to the February update.

Regarding the costs related to this proceeding the Council submits that the Board should make a reduction to reflect the fact that THESL did not issue an RFP for any of the consultants it retained to support its application (Ex. 1A-CCC-3). In the absence of an RFP process ratepayers have no way to determine whether these costs were prudently incurred. In fact, many of these studies have not been useful and were undertaken in large measure to support THESL's advancement of its

application, which we have argued is not in the best interests of its ratepayers. The total consulting costs related to this application are \$3.13 million. The Council proposes that these costs be reduced in half. With respect to the overall costs incurred to support this application the Council notes that they are significantly above the costs incurred by Hydro One Networks Inc. or Enbridge Gas Distribution Inc. with respect to their multi-year rate applications. Further reductions may be warranted if THESL cannot justify this significant variance.

CIR Application	Historical Year(s)	2014 Actuals	2015 Test Year
Legal costs	\$51,226	\$677,944.61	\$1,075,032
Consulting costs	\$373,030	\$1,778,564.45	\$980,782
Intervenor costs	n/a	n/a	\$1,000,000
Total Costs	\$424,256	\$2,456,509	\$3,055,814

(Ex. J8.11)

With respect to the costs associated with the wireless proceeding it would be inappropriate to recover these costs over the plan term. These are historical costs that were incurred over the last several years. They have nothing to do with this custom application. THESL did not request a deferral account to record these costs, so there is no provision to facilitate prospective recovery. When asked if THESL had established a deferral account to record these costs THESL said it had not (Ex. 4A-CCC-39). In addition, given the scope and nature of the wireless proceeding the Council views these costs as excessive.

THESL's argument is that it brought the Wireless Forbearance Application in the interests of, and for the benefit of ratepayers. Therefore, it is appropriate to recover those costs associated with the application through rates going forward (Ex. 4A-SEC-44). The Council submits that the Board should not allow for recovery of these costs. They are historical costs and prospective recovery would constitute retroactive rate-making. No account was established to record these costs. Allowing for recovery now would also constitute a dangerous precedent by encouraging utilities to seek recovery of historical costs prospectively on the basis that they were incurred "for the benefit of ratepayers". Even if the Board rejected these arguments and considered it appropriate to allow for recovery, THESL's reluctance to disclose a detailed breakdown of these costs (as set out in Ex. 4A-CCC-44) does not allow for an examination as to whether these costs were incurred for the benefit of ratepayers. The Board should accordingly reject THESL's request for recovery of the following costs:

Wireless Forbearance Proceeding	Historical Year(s)	2014 Bridge Year
Legal costs	\$549,101	\$ 331,016
Consulting costs	\$353,120	\$316,985
Intervenor costs	n/a	\$322,360
Total Costs	\$902,221	\$970,361

(Ex. 4A-CCC-38)

Enterprise Resource Planning:

The Enterprise Resource Planning (“ERP”) project is one of the largest single capital projects ever undertaken by THESL. The cost of the project is \$54 million with approximately \$51.3 million to be spent during the plan term. (Ex. 2B/Section E8.6). The project is expected to go into service in late 2016, so the costs of the project are embedded in the 2016 capital amounts and the 2016 revenue requirement numbers

THESL’s current ERP system is being replaced as it was introduced in 2002 and is no longer going to be supported by its vendor. The new ERP will incorporate new functional requirements that will deliver incremental benefits such as cost savings and process improvements (Ex. 2B/Section E8.6/p. 1)

The expected savings from the ERP project are significant both with respect to capital and OM&A (Ex. J6.5). Specifically, with respect to OM&A costs, there are significant projected savings in terms of cost reductions and increased productivity for the years 2017-2019.

Year 1 (2017)

Cost Savings \$2.15 million

Productivity \$1.47 million

Year 2 (2018)

Cost Savings \$2.3 million

Productivity \$1.9 million

Year 3 (2019)

Cost Savings \$2.3 million

Productivity \$2.3 million

(Ex. J6.5)

Although the capital costs are embedded in THESL’s forecasts, the savings are not. In effect, if the project is put in place as planned, the known savings will not flow to ratepayers until rebasing. (Tr. Vol. 6, pp. 135-137).

The annual savings projected from the implementation of the ERP (including both Capital and OM&A) are in the range of \$5.3 million to \$6.9 million. However, it is our understanding that none of those savings are embedded in the rate plan. Given the magnitude of these expected savings, assuming the Board adopts THESL’s approach, the Council submits that special treatment of the ERP project is justified. In the absence of an explicit adjustment, all of those savings will be flowing to THESL’s shareholders until 2020.

The Council submits, if the Board adopts THESL's, ratemaking approach it has two alternatives to ensure that the benefits from the ERP implementation flow to ratepayers. The Board could make an adjustment to the 2017 revenue requirement when approving rates for 2017 to reflect the savings. In the alternative the Board could establish an account to capture the costs and benefits of the ERP project once the project is in service. This would be analogous to the accounts that have been put in place for the Ontario natural gas utilities for major capital projects. With either approach the intent is to allow the utility to recover its costs and allow the ratepayers from the savings generated by the project. The Council notes that THESL has characterized the ERP as one of the key projects it intends to undertake with "big savings potential" (Ex. 1B/T2/S5/p. 18).

VI. ANNUAL REPORTING:

The RRFE Report highlights the need for meaningful annual reporting. It states that the Board will continue to require consistent, meaningful and timely reporting to enable the Board to monitor utility performance and determine if the expected outcomes are being achieved (RRFE Report, p. 11). From the Council's perspective this must go beyond the scorecard reporting dictated by the Board.

THESL has proposed a set of annual reporting activities related to its Custom IR plan. This includes:

1. Meeting the Board's Scorecard Approach for Performance metrics;
2. Reporting on a set of "proposed performance metrics" as detailed in the Distribution System Plan; and
3. Filing a rate schedule for the following year once the Board updates its inflation factor.

The difficulty the Council has with this proposal, which has been reiterated in earlier sections, is that during the term of the plan, THESL is not proposing to file anything that will provide the Board and the ratepayers with any indication as to whether or not THESL is carrying out its capital plan efficiently and effectively. There will be no meaningful progress reports to demonstrate whether ratepayers are getting value for money. THESL is seeking to spend \$2.5 billion on capital over the term of the plan and progress and/or success will be determined through one number in any give year - what was actually spent relative to the forecast.

The Council is also concerned that with many of THESL's proposed metrics are not fully developed and targets have not been established. The Council submits that THESL should be directed to work with Board Staff and intervenors to develop appropriate annual reporting requirements, meaningful metrics and associated targets. In the absence of meaningful reporting there will be no way to track THESL's performance during the rate term.

In terms of assessing the reasonableness of THESL's capital plan on an ongoing basis the Council suggests THESL be required to provide on an annual basis actual and forecast capital spending in the same format as Exhibit 2A/T6/S2/Appendix 2-AA. This will allow the Board and parties to assess the extent to which THESL's spending is tracking its approved plan.

VII. DEFERRAL AND VARIANCE ACCOUNTS:

THESL is proposing to clear the balances in ten deferral and variance accounts. The total amount to be recovered from customers is \$53.7 million. THESL is proposing that all deferral and variance accounts balances be cleared on a 12-month basis with two exceptions. THESL is proposing to clear the amount in the IFRS-CGAAP Transitional PP&E Account, of \$30.5 million over a 48-month period. The \$15.8 million related to stranded meters will be cleared over 60 months given it is only being cleared to three rate classes (Ex. 9/T1/S1/p. 23).

The Council is not opposed to the THESL's proposals for recovery. We note, however, that if the Board determines rates that differ from those proposed by THESL, a reconsideration of the recovery periods related to the deferral and variance accounts may be required. For example, if the rate levels are significantly lower than those proposed in the application, accelerated recovery of the balances in these account may be warranted.

THESL is seeking approval for four new Deferral and Variance Accounts:

1. Variance Account for Externally Driven Capital – to track the difference between the capital embedded in base distribution rates related to third party initiated relocation and expansion capital spending and the capital related to actual relocation spending that occurs over the CIR period.

With respect to this account THESL is forecasting costs in each year, 2015-2019, of approximately \$43 to \$53 million. Net of customer contributions the capital costs are forecast to be between \$13.6 million and \$28.2 million during the term of the plan (Ex. 9//T1/S1/p. 27). THESL has embedded \$4 million in base rates to reflect these expenditures.

THESL's rationale for establishing the account is that relocation spending is non-discretionary, externally driven and subject to material variation beyond the THESL's control. The timing of the expenditures can change as can the nature of the work, increasing or decreasing the net cost of the work (Ex. 9/T1/S1/p. 27).

The Council is not opposed to the establishment of the account. This is similar to the Transit City account established in 2011. It is important for the Board to recognize however, that if the projected relocation work materializes as forecast this could potentially add an additional \$50 million per year to THESL's capital spending and result in additional rate increases for customers. This is relevant to the Board's

consideration of what are appropriate levels of capital spending over the term of THESL's plan.

2. Variance Account for Derecognition Amounts – to capture the difference between derecognition amounts (arising from the move to modified IFRS) approved in rates and the actual amounts experienced.

THESL's rationale for the account is that year over year losses on derecognition are likely to be subject to a significant degree of volatility over the 2015-2019 rate period. THESL has embedded a forecast of \$33.9 million in the 2015 revenue requirement as part of the depreciation expense (Ex. 9/T1/S1/p. 28). The Council has no objection to the establishment of the account given the potential for volatility associated with derecognition losses. The Council acknowledges that these amounts are not within the control of THESL's management and arise from an accounting requirement.

3. Variance Account for Renewable Enabling Investments – to capture the differences between the revenue requirement costs incurred by THESL for approved "eligible investments" that are eligible for provincial rate protection and the actual amounts collected from the IESO.

The Council has no objection to the establishment of this account as it is in accordance with the Board's Filing Requirements.

4. Monthly Billing Deferral Account – to capture the costs of moving to monthly billing as required by the Board in its Notice of Proposal issued February 5, 2015.

THESL has argued for the establishment of the account because it expects the costs to be material and exceed any resulting cost savings (AIC/T6/p. 1). THESL has also characterized the costs as non-discretionary with the timing uncertain. The Council submits that it is premature at this time to establish a deferral account to capture costs associated with monthly billing. There has not been evidence presented supporting THESL's position that the costs will outweigh the benefits. It is also unclear whether the incremental costs would meet THESL's materiality threshold. If THESL's plan is approved and there are provisions for Z-factor relief THESL will have an opportunity to apply for relief assuming recovery of the costs of moving to monthly billing meets the relevant criteria.

THESL has indicated that it would be supportive of establishing a variance account to capture any differences between the ICM-related amounts included in 2015 rate base and the amount of ICM in-service additions ultimately found to be prudent in the ICM true-up proceeding (AIC/T 6/p. 2). The Council submits that it would be appropriate to establish such an account for the following reasons.

In the ICM Decision the Board stated, "With respect to the "true-up" of ICM capital

spending and rate riders, the Board notes that the policy does not specifically speak of a true-up. Rather the policy requires reporting of the actual spend on the approved ICM projects versus what was approved by the Board. ...The Board defines a “project” for the purposes of this application as being determined by the “Schedule Number” listing in THESL’s “In-Service Summary of Capital Program.” This would mean that “B1 Underground Infrastructure” would be the first project, “B2 Paper Insulated Lead Covered Cable – Piece Outs and Leakers” would be the second project and so on down the list to the final item “Allowance for Funds Used During Construction” which, although not given a Schedule Number in the table, would be considered as the final project for this purpose.

The Board does share the concerns of certain intervenors that the monies allocated for ICM projects must be tracked separately and reported separately. Unlike the “envelope” approach often adopted in cost-of-service proceedings, the monies must be reported per project segment as outlined above. Should one project not proceed, for example, the money cannot be used for a different project or to cover overspending on another project. The Board will permit spending to be moved between the various jobs contained within a project. For instance, Project B1 Underground Infrastructure is shown as containing numerous jobs, among them being “Underground Rehabilitation of Feeder NY80M29” and “Underground Rehabilitation of Feeder SCNAR26M34.” The Board will allow spending to be moved between two jobs of this kind that fall under the same project, but not between two projects, such as B1 and B4 for instance.” (Partial Decision and Order – EB-2012-0064 April 2, 2013, p. 75)

The Council recognizes that the ICM amounts will be dealt with in a future proceeding but the Council believes that the decision was clear that it was not to be considered an envelope, and that overspending by segment should be disallowed in in term of establishing 2015 opening rate base. From the Council’s perspective this is an important reason to establish the variance account.

2011 Rate Base Adjustment:

In the EB-2012-0064 proceeding THESL requested an adjustment to its rates to account for the fact that only half of the capital additions in 2011 were included in the rate base which underpinned its 2011 rates. THESL was, in effect, seeking cost of service treatment of rate base in an IRM application. The Board rejected THESL’s arguments on the basis that it was inconsistent with Board policy and that the concept of adjusting rate base upon rebasing is not applicable to applications made under IRM (Decision, EB-2012-0064, p. 9).

In this application THESL is proposing to recover from ratepayers approximately \$33 million which it has calculated as the revenue requirement impact of the application of the half-year rule in determining 2011 rate base for the years 2012-2014. THESL’s interpretation of the Board’s previous decision is that the loss of return on unrecognized rate base was outside of the boundaries of the adjustments

during IRM, but that relief may be appropriately sought in the context of a rebasing application, and in particular a CIR application THESL's proposal is to recover this amount over 4 years in order to smooth the impact (Ex. 8/T1/S1/pp. 14-18).

When asked whether this approach constituted retroactive rate-making it was THESL's position that it did not, as there was no ruling in the previous application as to whether the amounts could be brought forward in a future cost of service proceeding (TC Tr. Vol. 2 p. 140).

The Council urges the Board to reject THESL's proposal to recover the \$33 million. The Board had policies in place to deal with rate base calculations during THESL's IRM term 2012-2014. Adjustments to rate base were based on the half-year rule and rates set on that basis. Those rates were final rates. It is appropriate to incorporate the full year impact of prudent 2011 rate base additions in setting 2015 rates. However, it would clearly constitute retroactive rate-making to recover amounts prospectively from customers related to a request that was previously denied by the Board in its earlier decision related to historical rate periods. The Council finds it puzzling why THESL would effectively say to its customers, "You paid rates in the period 2012-2014, but we now want to recover an additional \$33 million from you based on our decision to revisit a Board approved accounting requirement." In the context of THESL's application for significant increases, this is clearly inappropriate and unfair.

Opening Rate Base for 2015

The Council proposes the following adjustment to 2015 opening rate base. The amount of \$17.3M associated with the 715 Milner Ave. property should not be included in the Opening Rate Base for 2015.

Phase 2 of the Operating Centres Consolidation Program ("OCCP") involves moving staff from 601 Milner Ave. and 5800 Yonge St. to a currently vacant building at 715 Milner Ave. (Ex. 2B/Section E8.3). The building at 715 Milner was purchased in 2011, after the 2011 rebasing application was approved by the Board. THESL is requesting that the purchase price of \$17.3 M be approved as part of the 2015 opening rate base (Ex. 2A-VECC-8). The Council finds this to be an imprudent purchase for the following reasons:

1. There were two property assessments undertaken (Ex. J2.1). The market values determined in those assessments were both lower than the purchase price (\$15.97M and \$14.8M);
2. Toronto Hydro has not yet vacated 601 Milner Ave. It is planning on vacating the property in Q1 2016, in advance of the lease expiry date of July 2017. It is stated in the evidence that...."By vacating 601 Milner as of the end of Q1, 2016 Toronto Hydro expects lease savings to cover the cost of early

termination of the lease”(Ex. 2B/Section E8.3 pg. 18). There are no net savings. Whether they vacate or not, the costs are the same;

3. The property was purchased to develop it into an operations centre in 2011 but stills remains vacant. Toronto Hydro plans to keep it vacant until Q1, 2016; that is over 4 years of having a vacant building that they own; pay taxes; utility bills etc;
4. It is also stated on pg. 18 that: “ The initial capital expenditures necessary to ready 715 Milner are not entirely offset by costs avoided over the CIR period to 2019.” These proposed expenditures total \$26.8M, \$17.8M being budgeted for the 2015 to 2019 Period. (Ex. J2.1);
5. On pg. 18 – 19 it discusses determining what work has to be completed such as checking for water tightness, contaminants and energy efficiency. In a prudent purchase these items would have been conditions of sale;
6. Finally, Toronto Hydro has not terminated the lease at 601 Milner. The equipment etc. in that building was to be moved and used in 715 Milner. Toronto Hydro could keep 610 Milner and complete any necessary renovations for far less than the proposed \$26.8M planned to be spent on 715 Milner.

For the reasons listed above the purchase price of \$17.3M for 715 Milner should not be included in the 2015 opening rate base. It was not a prudent purchase that is not yet being used or useful as the utility still has an active lease and staff working at the 601 Milner Ave property.

VIII. EFFECTIVE DATE:

The requested effective date for THESL’s rates is May 1, 2015. Given the Board’s decision and a rate order cannot be approved prior to May 1, 2015, the Council does not support May 1, as an effective date. The Council is concerned about a retroactive adjustment for customers during the summer peak period. The Council submits that rates should become effective the date of the final rate order.

IX. CONCLUSIONS:

1. The Board has, in the context of the RRFE, highlighted the importance of benchmarking under a CIR approach to rate-making. The benchmarking results in this case warrant a significant downward adjustment to the rate proposals put forward by THESL. The School Energy Coalition has presented a compelling argument, based on these benchmarking results, to limit THESL’s revenue requirement increases over the period to approximately 3.1% per year. The Council supports this approach;

2. If the Board determines that THESL's framework is an acceptable construct for setting rates, it should make reductions to the 2015 revenue requirement both with respect to capital and OM&A. The Board should also limit the plan to three years, imposing a requirement on THESL to retain an independent consultant to undertake a detailed assessment of its approach to capital planning. That assessment would be used to inform THESL's capital budgeting beyond the three-year period. To approve five years at this time, would subject THESL's customers to unnecessary risks (that THESL's rates and forecasts are too high) with little or no reward in terms of benefits from the plan.
3. There was considerable debate during this proceeding as to whether THESL's plan was compliant with the RRFE. In the interests of streamlining future applications the Council recommends that the Board provide greater clarity with respect to the RRFE requirements. In addition, we urge the Board to reconsider whether five year terms for Custom IR plans remain appropriate for utilities that are operating in a jurisdiction where the political, regulatory and market dynamics are continually changing.

X. COSTS:

The Council requests that it be awarded 100% of the costs it incurred with respect to its participation in this proceeding. The Council has worked efficiently throughout this proceeding, actively collaborating at all stages in the process with other intervenors.

All of which is respectfully submitted.