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July 20, 2009

BY EMAIL & BY 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-2008-0247

**Welland Hydro-Electric System Corp. – 2009 Rates Rebasing Application
Draft Rate Order Comments of Energy Probe**

Pursuant to the Decision and Order, issued by the Board on July 7, 2009, please find two hard copies of the Comments of Energy Probe Research Foundation (Energy Probe) in respect of the Draft Rate Order filed by the Applicant, dated July 17, 2009, in the EB-2008-0247 proceeding. An electronic version of this communication will be forwarded in PDF format.

Should you have any questions, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc: Wayne Armstrong, Welland Hydro-Electric System Corp. (By email)
James C. Sidlofsky, Borden Ladner Gervais LLP (By email)
Randy Aiken, Aiken & Associates (By email)
Intervenors of Record (By email)

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

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

AND IN THE MATTER OF an application by **Welland
Hydro-Electric System Corp.** for an order approving or
fixing just and reasonable rates and other charges for the
distribution of electricity to be effective May 1, 2009.

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

COMMENTS ON DRAFT RATE ORDER

July 20, 2009

**WELLAND HYDRO-ELECTRIC SYSTEM CORP.
2009 RATES**

EB-2008-0247

COMMENTS ON DRAFT RATE ORDER

Upon review of the draft rate order dated July 16, 2009, Energy Probe has found an oversight in the calculation related to the apprenticeship tax credit used to reduce the total income tax before gross up and the resulting total grossed up PILS. Welland has provided its tax calculations in Exhibit E - Revised of the draft rate order.

In the July 7, 2009 Decision and Order, the Board found that Welland had made the necessary adjustments to its income tax payable related to the apprenticeship tax credit (page 16). The adjustments made by Welland are described in its Reply Submission dated March 30, 2009 at page 24 of 46 at lines 19 through 21. Welland indicated that the apprenticeship tax credit was available for three years of which two years (2007 and 2008) have already passed. Welland submitted that only the average deduction for the next four years (2009 through 2012) should be used. At page 45 of the Reply Submission the apprenticeship tax credit is shown to be \$10,000. However, no calculation was provided to arrive at this figure. In addition, as the Board noted in its Decision and Order, Welland originally forecast to add two more apprenticeship positions, one in 2008 and one in 2009, but in its Revised Application, Welland proposed to defer one of the additional positions to a later date (page 15).

Based on the above, Energy Probe submits that the following table would appear to be accurate in deriving the \$10,000 figure provided by Welland, based on its proposed methodology to use the average deduction over the four year period 2009 through 2012.

Position Added In....	<u>2007 (1)</u>	<u>2007 (2)</u>	<u>2009</u>	<u>2010</u>	<u>Total</u>
2009 Credits	5,000	5,000	5,000	-	15,000
2010 Credits	-	-	5,000	5,000	10,000
2011 Credits	-	-	5,000	5,000	10,000
2012 Credits	-	-	-	5,000	<u>5,000</u>
Total					40,000

This table assumes that the additional linesmen positions originally forecast to be added in 2008 and 2009 have been deferred for one year to 2009 and 2010. The table also assumes the maximum credit is \$5,000 per position and that it is available for three years.

The above table illustrates the credits available for each of 2009 through 2012. The total credits are \$40,000, yielding the average figure of \$10,000 used by Welland in their Reply Submission. The table illustrates, for example, that the 2009 credits available total \$15,000 and are based on \$5,000 for each of the two positions added in 2007 (denoted as 2007 (1) and 2007 (2) in the above table) and a further \$5,000 for the position added in 2009. Similarly, the 2010 credits available total \$10,000 and are based on the fact that no credits are available for the 2007 additions (since 2009 was the third and final year that qualified for the credits), but that the second year associated with the 2009 addition and the first year associated with the 2010 addition, each at \$5,000, are available.

Energy Probe notes that even if the \$10,000 figure provided by Welland in their Reply Submission was not based on the analysis shown in the table above, there is a new figure that should be used, for the reasons given below.

Energy Probe notes that the Board Decision and Order, at page 16, went on to order Welland to use the most recent information available to calculate its income and capital taxes, including any changes announced in the recent federal and provincial budgets.

Energy Probe submits that Welland has not done this with respect to the changes announced in the recent provincial budget related to apprenticeship tax credits.

There were two significant changes announced related to the apprenticeship tax credit in the 2009 Ontario budget that are effective for expenditures incurred after March 26, 2009. The first of the changes is an increase in the \$5,000 annual maximum tax credit per applicable employee to \$10,000. The second change extended the tax credit from 3 years to 4 years in duration. In addition to impacting on the new positions in 2009 and 2010, these changes will have an impact on the credit available for both of the 2007

additions, by increasing the amount from \$5,000 to \$10,000 and extending the credit for and additional year.

Energy Probe has calculated that the apprenticeship tax credit, based on the methodology proposed by Welland and approved by the Board of taking the average tax credit over the 2009 through 2012 period, should be increased to \$27,500, based on the changes in the 2009 Ontario budget. The following table shows that the increase in the maximum annual amount applicable to each of the apprentice positions, as well as the extension to 4 years for these additions increases the total credits available over the 2009 through 2012 period to \$110,000, or an average of \$27,500 for the period.

Position Added In....	<u>2007 (1)</u>	<u>2007 (2)</u>	<u>2009</u>	<u>2010</u>	<u>Total</u>
2009 Credits	10,000	10,000	10,000	-	30,000
2010 Credits	10,000	10,000	10,000	10,000	40,000
2011 Credits	-	-	10,000	10,000	20,000
2012 Credits	-	-	10,000	10,000	<u>20,000</u>
Total					110,000

Energy Probe submits that the increase in the apprenticeship tax credit from \$10,000 to \$27,500 as calculated above is reasonable given that the maximum credit amount has been doubled and is now available for a 4 year period rather than a 3 year period.

The following table re-creates the bottom portion of the table found in Exhibit E – Revised of the Draft Rate Order, beginning with the “Total PILS Before Apprentice Tax Credit” line and replaces the \$10,000 tax deduction used by Welland with the \$27,500 deduction calculated above.

Total PILS Before Apprentice Tax Credit	30.48%	287,132
Apprentice Tax Credit		<u>-27,500</u>
Total Tax Before Gross Up	27.56%	<u>\$259,632</u>
Grossed Up PILS		
Welland Hydro $259,632 / (1 - .2756)$		\$358,410
Ontario Capital Tax – Not Grossed Up		<u>26,846</u>
Total Grossed Up PILS		<u>\$385,256</u>

The Total Grossed Up PILS calculated above is \$34,239 lower than the amount calculated by Welland in Exhibit E – Revised of the Draft Rate Order and reflects the \$17,500 increase in the tax credit as well as the impact of the resulting reduction in the marginal tax rate (from 29.42% to 27.56%) in the calculation of the grossed up figure.

Energy Probe submits that the reduction in the revenue requirement of \$34,239 calculated above is appropriate, as it reflects the four year average methodology proposed by Welland and approved by the Board, along with the use of the most recent information available to calculate income tax as announced in the recent provincial budget, as directed by the Board.

On a separate matter, Energy Probe notes that Welland's Draft Rate Order indicates a Board approved revenue to cost ratio for the residential class in 2009 of 102.43% (line 15, page 5). Energy Probe has assumed this is a typographical error and the figure should be 120.43%, and it is this figure that has been used to determine rates.

All of which is respectfully submitted

July 20, 2009

Randy Aiken

Consultant to Energy Probe