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Our File No. 09-1445

September 4, 2009

VIA EMAIL & COURIER

Ms. Kristen Walli *8/9/09*
Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

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SEP 04 2009

ONTARIO ENERGY BOARD

6-11

Dear Ms. Walli:

**Re: Intervention of the Canadian Union of Public Employees, Local One, Board File
EB-2009-0243 Application by Toronto Hydro-Electric System Limited for an
energy distribution rate change**

Enclosed are two hard copies of the interrogatories of the Canadian Union of Public Employees, Local One, in the above noted application. An electronic version will be forwarded in PDF format.

Sincerely,

per: [Signature]

L. A. Richmond
LAR:smf/cope 343
Encls.

c.c. Mr. J. Camilleri
Mr. Victor Demelo
Mr. Colin McLorg
Mr David S. MacIntosh
Mr. Jay Shepherd
Mr. Michael Buonaguro
Mr. Roger Higgin
Mr. Peter Faye
Mr. Martin Davies

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JUST RESULTS

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SEP 04 2009

EB-2009-0243

ONTARIO ENERGY BD

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 Toronto Hydro-Electric System Limited for an order or orders approving just and reasonable rates and other charges for electricity distribution to be effective May 1, 2010.

**Interrogatories of the Canadian Union of Public Employees,
Local One**

INTERROGATORY 1:

Ref #1, p. 2:

Considered together, the events outlined above indicated the possibility of systemic faults in underground equipment, which, if present, would pose an unacceptable risk to the public and to employees of THESL and THESI. The possible hazard to the public was heightened by the presence of road salt that when mixed with water, combined to form a highly conductive solution on sidewalks and thoroughfares throughout the city. Executive management of THESL therefore concluded that an emergency condition existed which demanded immediate and intensive efforts to correct. THESL declared a Level III emergency, the second highest level of system emergency, on January 30, 2009.

Questions:

1. Given the above-noted "unacceptable risk" posed to employees and the public, please outline the nature and cost of any additional Occupational Health and Safety training or other additional safety measures that have been implemented in the context of the Level III emergency.
2. In addition, we require the same information in respect of any such programming, including anticipated costs, that will be implemented on a go-forward basis in response to the Level III emergency.
3. In respect of this interrogatory, please provide a detailed breakdown of these costs according to the following categories of workers:
 - Bargaining unit employees (for both inside and outside workers);
 - Non-bargaining unit employees;

- Managerial employees; and,
 - Sub-contractors.
4. In addition, given the high-risk circumstances described, we wish to know whether THESL or THESI employees or contracted workers participated in any work refusals under the Occupational Health and Safety Act during the material time, and please provide the estimated cost implications of any such instances.

INTERROGATORY 2:

Ref #2 p. 2-3:

The Applicant has reproduced the following communication from Anthony Haines, President of THESL, to the Toronto Hydro Board of Directors. The following paragraphs are excerpted from Mr. Haines' letter:

... Toronto Hydro has therefore suspended all other non-emergency planned work on its system and has deployed its own utility and streetlighting crews, as well as available contractor resources, on a 7 day per week, 24 hour per day basis to locate, diagnose, secure, and repair to a safe condition all the suspect equipment on its distribution and streetlighting systems. In order to accomplish this substantial work program as quickly and effectively as possible, all the involved resources will be directed by senior management of the distribution utility. While Toronto Hydro will make every effort to capture and record all relevant information on the equipment itself and the directly associated expenditures, it will not be possible under the conditions to segregate the crews and assets of the streetlighting affiliate from those of the distribution utility. For any location determined to require repair, the first available crew will be dispatched regardless of the precise nature of the electrical fault or of crew personnel composition.

Questions:

1. Describe the extent to which THESL relied on the above-noted "available contractor resources" in undertaking the Level III program.
2. In addition, explain in detail the extent to which such reliance on contracted labour deviated from usual utility management practices. More narrowly, describe the nature of all analyses undertaken by THESL management in identifying and assigning any to such contracted resources in context of the Level III emergency.

In the same letter, Haines also stated:

It is clear that this work program will be disruptive, to varying degrees, of Toronto Hydro's normal business and planned activities. We expect that there may be

additional operating and cost consequences and we intend to manage these diligently to minimize any adverse impacts. Please also be assured that Toronto Hydro will do our utmost to maintain our standard of response to outages and any other safety matters which present in the normal course of business.

3. Identify any "additional operating or cost consequences" arising from the Level III situation which have not been identified within the instant Application. More specifically, provide detailed information, including, but not limited to cost implications, pertaining to any such operating consequences in relation to the following non-exhaustive list:
 - Previous and anticipated sale or divestment of assets;
 - Hiring of employees, and maintenance of employee complement, both inside and outside of the bargaining unit;
 - Any new plans, or variation to existing plans, with respect to the hiring or sub-contractual staffing of additional trades persons;
 - Procurement of equipment, including, but not limited to safety equipment;
 - Tendering and/or Contracting for delivery of services by third-parties, including, but not limited to sub-contracting entities
 - Reorganization of internal management and decision-making structures
 - Development of new internal policies and/or procedures, including any revision to existing policies and/or procedures; including, but not limited to human resources, staffing, procurement, risk assessments, safety, and environmental policies.

Haines also stated:

Our concern for worker and public safety is paramount and guides our decisions around this challenge. I commit to maintaining heightened communication with the Board on this matter until its resolution and invite you to contact me directly should you have questions or concerns.

4. Provide specific details of the manner in which workers' safety has been accounted for by THESL management, including any cost-related analyses, in light of the stated importance of expeditious and efficient emergency response.

INTERROGATORY 3:

Ref #3, p. 4:

The Applicant stated:

Remediation was carried out by THESL crews, THESI crews, and crews from available electrical contractors, all working under the direction of THESL management. Remediation work was itself undertaken in two categories; response to identified contact voltage incidents, and systematic inspection and repair, as necessary, of all handwells.

Questions:

1. Provide a detailed breakdown of remedial work distribution referenced in this paragraph, including the nature and timing of work, and associated cost implications as among "the THESL crews, THESI crews, and crews from available electrical contractors". Additionally please list the particular contractors referenced and enumerate the relative expenditures with respect to each.
2. Provide a relative costing of remediation work that was performed by contracted labour in comparison with reference to the cost of the same work, had it been performed by the Applicant's employees. Include, along with any cost rationale, an explanation of other factors considered by management, to the extent that such factors rationalized or influenced the distribution of such work from the declaration of Level III status to the present date.

INTERROGATORY 4:

Ref # 4: p. 5:

With respect to total costs incurred, the Applicant states:

In total, the expensed cost incurred by THESL for the Level III emergency was \$11.94 million. A breakdown of these expenditures is given in Table 1. A further amount of \$2.41 million will be expended through the balance of 2009 for the maintenance of the scanning program on a nonemergency basis in order to ensure that further instances of contact voltage are minimized.

Further, also on p. 5, "Table 1" refers to broad categories for costs incurred during the Level III emergency, including:

- "Labour" (overtime and non-overtime);

- “Non-Labour” (electrical contractor cost; scanning contractor cost; inventory and materials; other);
- “Continued Scanning Expenditures.”

Questions:

1. Provide a definitive explanation of what the Applicant includes within each of the broad incurred costs categories presented in “Table 1”.

INTERROGATORY 5:

Ref #5: p. 6:

THESL states the following:

With respect to regular labour and other miscellaneous internal costs charged to the Level III emergency project, THESL submits that these are properly considered incremental to the approved revenue requirement because THESL is committed to achieving its planned and approved levels of operations and maintenance and capital work in 2009 and will therefore at least exhaust its approved revenue requirement in this category. In fact, it is highly likely that THESL will have to incur unbudgeted overtime and contractor costs in order to meet this commitment; in any case though, given THESL's commitment to meet planned O&M and capital work, the diversion of the resources that would otherwise have been devoted to that work should be treated as incremental. In the case of overtime labour, this would not have been incurred at the level experienced in February 2009 but for this event.

Questions:

1. To the extent that unbudgeted overtime and contractor costs were unforeseen and are novel for THESL's system, advise as to any potential implications with respect to O&M and capital work.

INTERROGATORY 6:

Ref #6: p. 8:

With respect to its position that its response in respect of the relevant costs was prudent, the Applicant states:

... it was necessary to suspend non-emergency planned work for the duration of the Level III project and consequently connections and other

normal jobs were not being completed during this period. From the perspective of regular customer service it was vital to minimize the period of disruption to normal operations.

For these reasons THESL submits that it was prudent in the circumstances for it to hire the services of a contact voltage scanning contractor. The firm engaged by THESL to do this work was selected because of its competence to undertake the work and its immediate availability.

It followed from the urgency of the situation that overtime up to safe limits, and the engagement of available contractors outside of THESL, be undertaken to correct any detected instance of contact voltage as soon as possible.

...

... the urgency of the situation demanded the use of available contractors and overtime up to safe levels in order to complete the necessary remediation as soon as possible and resume normal operations.

Questions:

1. Describe the process by which THESL management arrived at its decision in contracting with service providers for both the ongoing scanning project, and in respect of any other contract that may be referenced, but not specified, within the above-excerpted paragraphs, or elsewhere within the Application.
2. Indicate the Applicant's intentions and/or plans, if any, for future hiring and/or staffing strategies to address and remedy its apparent labour shortage.