

**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.

**Intervenor Submissions of the Canadian Union of Public Employees, Local One**  
**(the “Union”)**

1. Having reviewed the application, the evidence adduced in support thereof, and the Applicant's responses to Board Staff and Intervenor interrogatories, the Union is taking a position in support of the THESL application for recovery of contact voltage remediation costs.
2. The Union's submissions in support of the THESL Application are set out below.
3. The Union accepts that the costs for which the Application seeks rate recovery fall within the established eligibility requirements established for Z-factor costs. These costs meet the criteria established for by the Board's 3<sup>rd</sup> Generation IRM Report. The costs in question were genuinely unforeseen events that were outside THESL management's control.
4. The Union is satisfied that the instant Application provides a clear demonstration that THESL management could not have foreseen the expenditures arising from necessary remediation of contact voltage issues.
5. Furthermore, the Union takes the position that THESL has demonstrated that the events in question were harmful and extraordinary in nature and were, without question, incremental to THESL management experience and any reasonable expectations for operational expenditures for the period in question.
6. The Union accepts THESL's position that the costs for which it seeks recovery accord with all of the requisite elements within the Board's criteria for Z-factor recovery. Specifically:
  - **Causation:** The Applicant has demonstrated that the costs claimed under the Z-factor rate adjustment amount are directly related to the Z-factor

event in question. The quantum claimed is clearly external to the previously established 2009 rate base.

- **Materiality:** The Applicant has successfully demonstrated that the amount it seeks to recover exceeds the Board-defined materiality threshold and therefore cannot be expensed in the normal course via internal improvements to organizational productivity.
  - **Prudence:** The Union is satisfied that the remediation costs necessitated by the Level III conditions were prudently incurred. The Union has certain concerns related to the transparency of the process undertaken to establish the two successive contracts for services between THESL and the private scanning contractor. However, on review of the evidence proffered by THESL representatives in the hearing, the Union is satisfied that given the exigent circumstances in context and in light of the Applicant's particular expertise and knowledge within the sector, these expenditures were likely prudently undertaken.
7. Finally, the Union takes no position in respect of the Applicant's proposed plan for allocation of the incremental revenue requirement among its various customer rate classes.