



BORDEN
LADNER
GERVAIS

Borden Ladner Gervais LLP
Lawyers • Patent & Trade-mark Agents
Scotia Plaza, 40 King Street West
Toronto, Ontario, Canada M5H 3Y4
tel.: (416) 367-6000 fax: (416) 367-6749
www.blgcanada.com

J.MARK RODGER
direct tel.: (416) 367-6190
direct fax: 416-361-7088
e-mail: mrodger@blgcanada.com

October 30, 2009

DELIVERED BY RESS & EMAIL

Ms. Kristen Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Toronto Hydro-Electric System Limited - 2010 EDR proceeding
OEB File No. EB-2009-0139**

Further to Procedural Order No. 1 and our letter dated October 26, 2009, Toronto Hydro makes the following submissions in response to correspondence received from various intervenors on the Board's draft issues list.

Distributed Generation & Combined Heat and Power

Toronto Hydro agrees that the Board's issue no. 1 is appropriate and covers Pollution Probe's theme of being permitted to ask questions about THESL's pre-filed study on distributed generation. In this regard Pollution Probe and others are entitled to ask THESL about proposed 2010 budget expenditures in connection with distributed generation.

THESL objects to Pollution Probe's proposed issue stated as: "Should Toronto Hydro's policies with respect to recovering its costs of adding CHP generation to its distribution grid be amended to encourage the development of CHP." This proposed issue presupposes a policy change of the Province of Ontario, which does not exist to our knowledge, and otherwise constitutes a generic issue for the broader Ontario electricity sector. For these reasons it is not an appropriate issue for inclusion in THESL's rate case. As the Board is aware, CHP is not included within the definition of "renewable energy source" in the Green Energy Act. Toronto Hydro submits the appropriate venue for Pollution Probe to advocate for policy changes around this issue is Queens Park and not

the Ontario Energy Board in a Cost-of-Service rate application. Accordingly, THESL submits the Board should reject Pollution Probe's proposed issue.

Conservation Demand Management

Pollution Probe also proposed a new issue on CDM which states: "Are Toronto Hydro's proposed CDM programmes and budgets appropriate?" THESL opposes the addition of this issue since THESL's EDR application contains no budgeted expenditures for CDM for 2010. Toronto Hydro, like other LDCs, is awaiting the Minister's announcement on mandatory CDM targets for Ontario distributors. Once Toronto Hydro receives its CDM target the utility will then formulate an approach to achieving it. Thereafter THESL intends to file an application with the Board on its plan to achieve the Minister's conservation requirements. At that proceeding intervenors will have an opportunity to review and test THESL's plan and associated costs. Accordingly, the proposed issue that Pollution Probe raises is premature and should not be accepted for this EDR proceeding.

Suite Metering

Toronto Hydro agrees that its suite metering costs contained in the Application are included within the issues articulated in the Board's draft issues list.

Streetlighting

VECC and Schools raise the issue of exploring the impact of the Streetlighting Applications currently before the Board (OEB File Nos. EB-2009-0180 to EB-2009-0183) in the 2010 EDR proceeding. The Streetlighting hearing is scheduled to commence on November 17 and at this time it is not possible to determine whether the Board will render its decision in these applications prior to the commencement of THESL's rate hearing.

If the Board renders its decision in the Streetlighting case in a timeframe which allows THESL to factor in any material impacts into the EDR application, THESL undertakes to do so and will provide an update to the Board and parties. If this is not possible for EDR 2010, then THESL undertakes to include any material Streetlighting impacts in THESL's 2011 Cost-of-Service rate application.

By agreeing to provide an update, if possible, THESL is concerned that the Board not permit any attempt to re-hear the Streetlighting proceeding, in whole or in part, in the rates case. For example, Schools submission on this topic would appear to seek an extremely broad canvassing of the issues pertaining to Streetlighting (and also regarding the contact voltage/Z Factor proceeding). Mr. Shepherd writes: "We are particularly concerned that the impact of the Streetlighting and Z Factor applications be fully reviewed in this proceeding, and that the Issues List not be construed in any manner that would narrow the scope of that review." In our submission the Board should restrict the examination of these matters to the revenue requirement implications of Streetlighting as opposed to any unbounded exploration and re-hearing of the Streetlighting proceeding.



Contact Voltage/Z Factor

As with the Streetlighting applications, the contact voltage/Z Factor proceedings is also currently before the Board and the same uncertainty exists concerning the timing of a decision in that proceeding. To the extent that THESL is proposing budget expenditures for contact voltage related costs (such as 2010 scanning costs), these matters are within the Board's draft issues list. However, recovery of costs through rates arising from the contact voltage/Z Factor hearing should not form part of the EDR proceeding since the determination of rate making relief will have already been dealt with by the panel which heard the Contact Voltage/Z Factor application.

Yours truly,

BORDEN LADNER GERSVAIS LLP

A handwritten signature in black ink, which appears to read 'J. Mark Rodger', is written over the printed name. The signature is fluid and cursive, with a large loop at the end.

J. Mark Rodger
JMR/ld

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Intervenors of Record

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