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BY EMAIL AND COURIER

November 19, 2009
File No.: 100519.1011

Ms. Kirsten Walli
Ontario Energy Board
Yonge-Eglinton Centre
P.O. Box 2319, Suite 2700
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Notice of Intention to Make and Order for Compliance under Section
112.3 of the OEB Act, 1998
Board File No: EB 2009-0308**

We have received a copy of the letter from THESL's counsel to the Board dated November 18, 2009 and believe that a response clarifying the record of this proceeding is required.

Since the outset, Compliance Counsel has sought to move this matter forward as expeditiously as possible while respecting the need to address preliminary matters such as the participation rights of third parties, the proper procedural protections for THESL, and the required level of pre-hearing disclosure. Compliance Counsel provided THESL with an initial set of documentary productions on September 1, 2009 and advised THESL by letters on September 4 and 10, 2009 that it would be pre-mature to address procedure and scheduling until the preliminary issues raised by THESL were resolved. THESL did not object to our position on procedure and scheduling at that time and did not pursue the portions of its motion dealing with those matters during our appearances before the Panel on September 18 and 25, 2009.

After the preliminary issues were resolved by the Panel, all counsel participated in discussions about the appropriate procedure for this matter. During those discussions, Compliance Counsel advised THESL of our position on procedure (which was substantially the same as the proposal contained in our letter to the Board of November 18, 2009) and stated that we would address the issue before the Panel if the Panel sought submissions. As such, THESL was aware of our position prior to making submissions on this issue to the Panel.

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Compliance Counsel reiterates that it is prepared to proceed with this matter expeditiously and in accordance with the direction of the Panel.

Yours truly,

A handwritten signature in black ink, appearing to read 'GZ / rah', is written over the typed name.

Glenn Zacher

GZ/rah

cc: George Vegh, *Counsel to THESL*
Maureen Helt, *OEB*
Patrick Duffy, *Stikeman Elliott*
Dennis O'Leary, *Counsel to SSMWG*
Andrew Taylor, *Counsel to EDA*