

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance against Toronto Hydro-Electric System
Limited.

COMPLIANCE COUNSEL PRE-FILED EVIDENCE

November 23, 2009

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TO: **ONTARIO ENERGY BOARD**
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AND TO: **MCCARTHY TETRAULT LLP**
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Counsel for Toronto Hydro-Electric System Limited

EXHIBIT A

TAB 1



EB-2009-0308

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

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance against Toronto Hydro-Electric System
Limited.

**NOTICE OF INTENTION TO MAKE AN ORDER FOR
COMPLIANCE UNDER SECTION 112.3 OF THE ONTARIO
ENERGY BOARD ACT, 1998**

The Ontario Energy Board (the "Board"), on its own motion under section 112.2 of the *Ontario Energy Board Act, 1998* (the "Act"), intends to make an Order under section 112.3 of the Act requiring Toronto Hydro-Electric System Limited ("THESL") to comply with a number of enforceable provisions as defined in section 112.1 of the Act. The Board also intends to make an Order under section 112.3 of the Act requiring THESL to take such action as the Board may specify to remedy the contravention that has occurred or prevent a contravention or further contravention of the enforceable provisions. This Notice and Order concerns THESL's conduct relating to smart metering and smart sub-metering in new condominiums. For the purposes of the Order, the enforceable provisions are: section 28 of the *Electricity Act, 1998* (the "Electricity Act"); section 53.17 of the Electricity Act; section 2.4.6 of the Distribution System Code (the "DSC"); section 3.1.1 of the DSC; and section 5.1.9 of the DSC.

The particulars of non-compliance are set out below.

1. THESL's Conditions of Service, specifically section 2.3.7.1.1, states that THESL "will provide electronic or conventional smart suite metering for each unit of a new Multi-unit site, or a condominium." By way of letters dated April 22, 2009, THESL informed Metrogate Inc. ("Metrogate") and Avonshire Inc. ("Avonshire")

that despite Metrogate and Avonshire's request that THESL prepare a revised Offer to Connect for condominiums based on a bulk meter / sub-metering configuration, THESL would not offer that connection for new condominiums and would not prepare a revised Offer to Connect on that basis.

2. THESL's refusal to connect on that basis is contrary to the requirement of a distributor to connect a building to its distribution system as per section 28 of the Electricity Act and is contrary to section 3.1.1 of the DSC. The Board is also satisfied that THESL is likely to contravene section 28 of the Electricity Act and section 3.1.1 of the DSC in the future by continuing to refuse to connect buildings with a smart sub-metering system to its distribution system.
3. THESL's practice is also contrary to section 5.1.9 of the DSC which states that distributors must install smart meters *when requested to do so* by the board of directors of a condominium corporation or by the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the *Condominium Act, 1998*. [emphasis added]
4. THESL's practice is also contrary to section 53.17 of the Electricity Act (and Ontario Regulation 442/07—*Installation of Smart Meters and Smart Sub-Metering Systems in Condominiums* (made under the Electricity Act)) which contemplates a choice between smart metering and smart sub-metering.
5. THESL's Conditions of Service are therefore contrary to section 2.4.6 of the DSC which states that Conditions of Service must be consistent with the provisions of the DSC and all other applicable codes and legislation.

THEREFORE TAKE NOTICE that THESL may request, within fifteen days after receiving this Notice, that the Board hold a hearing on these matters. If no request for a hearing is made within this time period, the Board may proceed to make an Order that THESL comply with any of the enforceable provisions listed in this Notice. The Board may also make an Order requiring THESL to take such action as the Board may specify, including but not limited to an Order to THESL to amend its Conditions of Service, to remedy the contravention that has occurred or prevent a contravention or further contravention of any of the enforceable provisions.

FURTHER TAKE NOTICE that if a hearing is requested, the Board is not bound by the proposed above noted action and has discretion, upon finding a contravention(s) of the enforceable provision(s), to make any order it deems appropriate under sections 112.3, 112.4 or 112.5 of the Act. THESL is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should THESL fail to attend, the hearing may be conducted in its absence and THESL will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, THESL must file 6 copies of their request with the Board Secretary at the following address:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4
Attention: Board Secretary

Email: Boardsec@oeb.gov.on.ca

Tel: 1-888-632-6273

Fax: 416-440-7656

If a hearing is requested, it will proceed before a Panel of the Board, at the offices of the Board (address listed above), on a date to be set by the Board.

DATED at Toronto, August 4, 2009.

Original signed by

Kirsten Walli
Board Secretary

TAB 2

EXHIBIT LIST

Exhibit	Tab	Description
A – ADMINISTRATION		
A	1	Notice of Intention to Make an Order for Compliance against Toronto Hydro-Electric System Limited ("THESL")
	2	Exhibit List
B – WITNESS STATEMENTS		
B	1	Witness Statement of Paul Gasparatto
	2	Witness Statement of Brian Hewson
	3	Witness Statement of Giuseppe Bello
	4	Witness Statement of Lou Tersigni
C – CORRESPONDENCE BETWEEN THESL AND THE BOARD		
C	1	Letter from Carma Industries Inc. to the Ontario Energy Board dated July 16, 2008
	2	Letter from Paul Gasparatto, Ontario Energy Board, to Colin McLorg, THESL, dated July 24, 2008
	3	Email from Colin McLorg, THESL, to Paul Gasparatto, Ontario Energy Board, dated July 25, 2008 (8:17 am)
	4	Email from Colin McLorg, THESL, to Paul Gasparatto, Ontario Energy Board, dated July 25, 2008 (8:31 am)
	5	Email from Paul Gasparatto, Ontario Energy Board to Colin McLorg, THESL, dated July 25, 2008
	6	Letter from Colin McLorg, THESL, to Paul Gasparatto, Ontario Energy Board, dated July 29, 2008
	7	Email from Paul Gasparatto, Ontario Energy Board to Colin McLorg, THESL, dated July 29, 2008
	8	Email from Paul Gasparatto, Ontario Energy Board to Colin McLorg, THESL, dated July 30, 2008
	9	Email from Colin McLorg, THESL, to Paul Gasparatto, Ontario Energy Board, dated August 5, 2008

Exhibit	Tab	Description
	10	Letter from Brian Hewson, Ontario Energy Board to Colin McLorg, THESL, dated October 22, 2008
	11	Letter from Colin McLorg, THESL, to Brian Hewson, Ontario Energy Board, dated November 12, 2008
	12	Letter from Brian Hewson, Ontario Energy Board to Colin McLorg, THESL, dated January 29, 2009
	13	Letter from Colin McLorg, THESL, to Brian Hewson, Ontario Energy Board, dated February 9, 2009
	14	Letter from Dennis O'Leary, Aird & Berlis, to Maureen Helt and Jill Bada, Ontario Energy Board, dated April 29, 2009
	15	Letter from Paul Gasparatto, Ontario Energy Board, to Colin McLorg, THESL, dated May 9, 2009
	16	Letter from Colin McLorg, THESL, to Paul Gasparatto, Ontario Energy Board, dated May 20, 2009
	17	Letter from Anthony Haines, THESL, to Howard Wetston, Ontario Energy Board, dated May 20, 2009
	18	Email from Paul Gasparatto, Ontario Energy Board, to Colin McLorg, THESL, dated May 21, 2009
D – CORRESPONDENCE BETWEEN THESL AND AVONSHIRE		
D	1	Offer to Connect dated January 29, 2009
	2	Letter from Giuseppe Bello, Residences of Avonshire, to Jim Trgachef, THESL, dated March 6, 2009
	3	Letter from Colin McLorg, THESL to Giuseppe Bello, Residences of Avonshire, dated April 22, 2009
E – CORRESPONDENCE BETWEEN THESL AND METROGATE		
E	1	Offer to Connect dated February 2, 2009
	2	Letter from Lou Tersigni, Metrogate, to Jim Trgachef, THESL, dated March 10, 2009
	3	Letter from Colin McLorg, THESL to Lou Tersigni, Metrogate, dated April 22, 2009
F – OTHER DOCUMENTS		
F	1	Electricity Distribution Licence, ED-2002-0497, THESL
	2	THESL Conditions of Service, section 2.3.7.1.1

EXHIBIT B

TAB 1

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*, 1998,
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WITNESS STATEMENT OF PAUL GASPARATTO

Mr. Gasparatto may be called as witness at the hearing of this matter to give, inter alia, the following evidence:

1. Mr. Gasparatto has held the position of Project Advisor, Regulatory Policy and Compliance with the Ontario Energy Board (the "Board") since 2004.
2. Mr. Gasparatto was involved in a compliance investigation of complaints about the smart metering connection practices of Toronto Hydro-Electric System Limited ("THESL"), including complaints from the Residences of Avonshire ("Avonshire") and Metrogate Inc. ("Metrogate").
3. The complaints from Avonshire and Metrogate referenced in the Notice of Intention to Make an Order for Compliance were received by Board compliance staff on or about April 30, 2009 (see Exhibit C-14).
4. Following receipt of the Avonshire and Metrogate complaints, Mr. Gasparatto wrote a letter dated May 9, 2009 to Colin McLorg, Manager, Regulatory Policy & Relations with THESL, and advised him that the Board had received specific allegations of incidents where THESL had "informed developers that individual units in new condominiums must be metered by

THESL" (see Exhibit C-15). Mr. Gasparatto's letter detailed the refusal of THESL to provide revised offers to connect to Metrogate and Avonshire, as excerpted below:

- Mr. Lou Tersigni, the project manager of the Metrogate Inc. development states that he requested THESL provide an Offer to Connect that contemplated the project being smart sub-metered by a smart sub-meter provider. in response, you sent a letter to Mr. Tersigni on April 22, 2009, informing Mr. Tersigni that THESL does not offer connections based on a bulk meter/sub-metering configuration.
 - Please confirm the intention of your letter was to inform Mr. Tersigini of THESL's policy that THESL will not install, in new condominiums, a bulk meter for the purpose of allowing the installation of a smart sub-metering system by a licensed sub-meter provider, and that each unit in a new condominium must be individually smart metered by the distributor.
- Mr. Guiseppi Bello, project manager of the Residences of Avonshire inc. development states that he also requested THESL provide an Offer to Connect that contemplated the project being smart sub-metered by a smart sub-meter provider. In response, you also sent a letter to Mr. Bello on April 22, 2009, informing Mr. Bello that THESL does not offer connections based on a bulk meter/sub-metering configuration.
 - Please confirm the intention of your letter was to inform Mr. Bello of THESL's policy that THESL will not install, in new condominiums, a bulk meter for the purpose of allowing the installation of a smart sub-metering system by a licensed sub-meter provider, and that each unit in a new condominium must be individually smart metered by the distributor.

[...]

In addition to the above, the Compliance Office requests that THESL respond to one of the concerns outlined in the letters that the Compliance Office issued to THESL in October 2008 and January 2009. In those letters the Chief Compliance Officer stated the view that if THESL were to refuse to connect a property by reason of the customer's decision to install smart sub-metering, THESL would be non-compliant with its obligation to connect under section 28 of the *Electricity Act, 1998*. Based on the evidence, it appears that THESL has refused to connect customers in the manner that they have requested. THESL's responses to CCO's letters did not address concerns related to the obligation to connect. We once again request that THESL provide its view on how its policies and actions are compliant with section 28 of the *Electricity Act, 1998*.

5. On May 20, 2009, Mr. Gasparatto received a letter from Mr. McLorg responding to the allegations contained in his May 9, 2009 letter (see Exhibit C-16). In his letter, Mr. McLorg stated that:

In this letter, THESL does not engage in arguments over the merits of compliance staff's policy positions. THESL's positions on these matters have been canvassed in previous correspondence. In addition, THESL believes the position taken by compliance staff in this matter assumes articles of policy respecting the smart metering obligations of utilities that have not been determined by the Board and should be addressed by the Board on a policy basis. I will forward copy of a letter from THESL to the Chair of the OEB to that effect for your reference.

[...]

... As you are aware from our previous correspondence, THESL's Conditions of Service expressly provided for installation of suite metering infrastructure under the Alternative Bid option. Our previous correspondence has also made reference to the Board's own statements that licensed distributors are entitled to conduct smart metering in condominiums, and that they are the only parties authorized to do so.

Later in the day on May 20, 2009, Mr. McLorg sent to Mr. Gasparatto a copy of a letter dated May 20, 2009 to Howard Wetston, Chair of the Board, from Anthony Haines, President of THESL (see Exhibit C-17).

6. THESL's "previous correspondence" with Board staff included a series of letters and emails between Mr. McLorg and Brian Hewson (then-Chief Compliance Officer) and Mr. McLorg and Mr. Gasparatto concerning THESL's smart metering practices (see Exhibits C-2 to C-13).

7. These communications arose following a complaint from Carma Industries dated July 16, 2008 (see Exhibit C-1) that THESL was charging customers that wished to install smart sub-metering using an "alternative bid" contractor. Mr. Gasparatto investigated the complaint from Carma Industries and, after a series of email and letter exchanges with THESL (see Exhibits C-2 to C-9), he found no evidence that THESL was unfairly charging customers using an alternative bid contractor. However, as part of his review of the complaint from Carma Industries, it came to his attention that section 2.3.7.1.1 of THESL's Conditions of Service (see Exhibit F-2) inappropriately required new condominium buildings to be "suite metered" by THESL.

8. Mr. Gasparatto brought section 2.3.7.1.1 of THESL's Conditions of Service to the attention of Brian Hewson, who at that time was the Board's Chief Compliance Officer. Mr. Hewson and Mr. McLorg exchanged correspondence in relation on the issue of THESL's Conditions of Service between October 2008 and February 2009 (Exhibits C-10 to C-13).

9. In the "previous correspondence" between Mr. McLorg and Messrs. Hewson and Gasparatto, Mr. McLorg advised staff that:

- THESL's Conditions of Service (s. 2.3.7.1.1) require that new facilities be individually suite metered so that each unit/customer is billed as an individual customer of the distributor.
- All individual unit holders (residential or commercial, as the case may be) as well as the common facilities in new condominiums are individual residential or general service customers of THESL. There is no scope for sub-metering since all customers including the common facilities are directly metered individual customers.
- Section 2.3.7.1.1 clearly distinguishes between new and existing buildings, and makes provision for sub-metering only in the context of an existing building.
- THESL does not accept compliance staff's position regarding smart sub-metering.

TAB 2

ONTARIO ENERGY BOARD

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WITNESS STATEMENT OF BRIAN HEWSON

Mr. Hewson may be called as witness at the hearing of this matter to give, inter alia, the following evidence:

1. Mr. Hewson holds the position of Senior Manager, Networks & Smart Grid with the Ontario Energy Board (the "Board"). Between September 13, 2004 and July 1, 2009, Mr. Hewson was the Board's Chief Compliance Officer.
2. Mr. Hewson was involved in a compliance investigation of complaints about the smart metering connection practices of Toronto Hydro-Electric System Limited ("THESL").
3. In the course of Board compliance staff's investigation into the Avonshire and Metrogate complaints in May 2009, THESL stated that it was not prepared to engage in arguments over the merits of compliance staff's policy position and that its position had been canvassed in "previous correspondence" with Board staff (see Exhibit C-16). THESL's previous correspondence with Mr. Hewson included the following:
 - a) On October 22, 2008, Mr. Hewson wrote a letter to Colin McLorg, Manager, Regulatory Affairs with Toronto Hydro-Electric System Limited ("THESL"), and advised that, in his view, "THESL is applying inappropriate policies in

regards to the installation of smart metering and smart sub-metering systems in new condominiums and other multi-unit sites." Mr. Hewson noted that THESL was acting inappropriately by requiring "the smart metering of new condominiums and other multi-unit sites to the exclusion of smart sub-metering" and demanded that THESL immediately cease this practice and confirm its intention to revise its conditions of service by November 18, 2008 (see Exhibit C-10).

- b) Mr. McLorg responded on behalf on THESL in a letter dated November 12, 2008 (see Exhibit C-11). Mr. McLorg confirmed that THESL's practice was to require that each unit of condominium become a direct customer of THESL, but stated that THESL did not accept compliance staff's view that its practices and conditions of service were inappropriate. THESL stated that it was not acting out of compliance with any code, regulation or legislation and advised that it did not intend to change its practice or conditions of service.
- c) Mr. Hewson wrote to Mr. McLorg again in a letter dated January 29, 2009 and advised that Mr. Hewson had reviewed THESL's arguments, but remained of the view that THESL was acting inappropriately (see Exhibit C-12). Mr. Hewson noted that there was no provision of any law, regulation, or Board regulatory instrument that provided licensed distributors with the authority to implement a requirement that each unit of a new condominium must become a direct customer of the distributor and concluded:

I therefore expect that THESL will immediately cease requiring new condominiums be smart metered, and will revise its Conditions of Service in a manner that makes it clear that persons responsible for new condominiums retain the right to freely choose the manner on which individual units will be metered (whether smart metering or smart sub-metering).

- d) Mr. McLorg responded in a letter dated February 9, 2009 and asserted that THESL's position in the matter had not changed from that expressed in its November 2008 letter (see Exhibit C-13).

TAB 3

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*, 1998,
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WITNESS STATEMENT OF GIUSEPPE BELLO

Mr. Bello may be called as witness at the hearing of this matter to give, inter alia, the following evidence:

1. Mr. Bello is the project manger of Residences of Avonshire Inc. ("Avonshire"), a new condominium development located at 100 and 155 Harrison Garden Boulevard and 5, 7 and 9 Oakburn Crescent, Toronto (off Yonge Street between Highway 401 and Sheppard Avenue in North York).
2. Toronto Hydro-Electric System Limited ("THESL") made an offer to connect dated January 29, 2009 to Avonshire that was premised on THESL's Conditions of Service and contemplated the installation of 792 smart meters by THESL (which would include a smart meter for each condominium unit) (see Exhibit D-1).
3. In a letter dated March 6, 2009, Mr. Bello requested that THESL provide a revised offer to connect that contemplated the installation of a bulk meter by THESL and the project being smart sub-metered by a licensed sub-metering company (see Exhibit D-2).
4. In a letter to Mr. Bello dated April 22, 2009, Colin McLorg of THESL refused Mr. Bello's request for a revised offer to connect and stated that the Ontario Energy

Board "has not established any obligation on distributors to provide for sub-metering configurations in new condominiums" (see Exhibit D-3).

TAB 4

ONTARIO ENERGY BOARD

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

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Order for Compliance against Toronto Hydro-Electric System
Limited.

WITNESS STATEMENT OF LOU TERSIGNI

Mr. Tersigni may be called as witness at the hearing of this matter to give, inter alia, the following evidence:

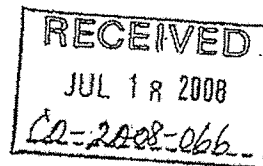
1. Mr. Tersigni is the project manger for Metrogate Inc.'s ("Metrogate") the "Solaris at Metrogate" project in Scarborough.
2. Toronto Hydro-Electric System Limited ("THESL") made an offer to connect dated February 2, 2009 to Metrogate that was premised on THESL's Conditions of Service and contemplated the installation of 1597 smart meters by THESL for each condominium unit (which would include a smart meter for each condominium unit) (see Exhibit E-1).
3. In a letter dated March 10, 2009, Mr. Tersigni requested that THESL provide a revised offer to connect for its project that contemplated the installation of a bulk meter by THESL and the project being smart sub-metered by a licensed sub-metering company (see Exhibit E-2).
4. In a letter to Mr. Tersigni dated April 22, 2009, Colin McLorg of THESL refused the request for a revised offer to connect and stated that the Board "has not established any obligation on distributors to provide for sub-metering configurations in new condominiums" (see Exhibit E-3).

EXHIBIT C

TAB 1

July 16, 2008

Ontario Energy Board
Marketing Operations
P.O. Box 2319, 2300 Yonge Street
27th Floor, Suite 2701
Toronto ON M4P 1E4



Attention: Mr. Brian Hewson, Chief Compliance Officer

Dear Mr. Hewson

Carma Industries Inc. is a supplier of submetering equipment to the Canadian market and more specifically in Ontario to multi-residential buildings. We would like to draw your attention to the position taken by Toronto Hydro Corporation with regard to the supply of submetering within multi-residential buildings. As outlined by Toronto Hydro's affiliate – Toronto Hydro–Electric System Limited, the updated Conditions of Service (effective February 29, 2008) document outlines in Section 2.3.7.1.1 that:

2.3.7.1.1 Metering Requirements for Multi-Unit Sites and Condominium Corporations

In an effort to promote conservation Toronto Hydro will provide electronic or conventional smart suite metering for each unit of a new Multi-unit site, or a condominium at no direct charge to the Customer. If the Customer chooses to pursue an Alternative Bid for the installation of suite metering and uses services of a qualified contractor, the Customer is required to:

- (i) select and hire a qualified contractor;
- (ii) ensure all contestable work is done in accordance with Toronto Hydro's technical standards and specifications; and
- (iii) assume full responsibility for the installation and warranty all aspects for a period of 2 years from date of commissioning.

Further to this requirement, the fees for connection are now identified in red as \$1,260 per suite if the owner of the building opts not to use submetering equipment in Table 2 within the Conditions of Services as supplied by Toronto Hydro-Electric System Limited.

CARMA INDUSTRIES INC.

494 THE PARKWAY, PETERBOROUGH, ONTARIO K9J 7L9
TEL: (705) 743-2401 • FAX: (705) 743-3575 • E-MAIL: info@carmaindustries.com

1 DUNDAS STREET WEST, SUITE 2500, P.O. BOX 84, TORONTO, ON M5G 1Z3
TEL: (416) 260-4264 • FAX: (416) 260-4265 • WEB SITE: www.carmaindustries.com

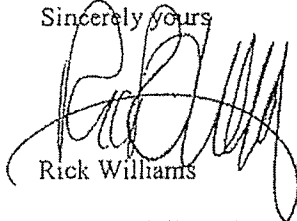
We would view this as a clear attempt by Toronto Hydro's affiliate to dissuade Condominium and Apartment Developers from purchasing submetering equipment which has been available to them in an open competitive market by placing a new connection charge on this option. We note that this suite connection charge is a recent addition as outlined within the new Conditions of Service and was not in place in the past.

We would also contend that this practice is a clear violation of the Affiliate Relationships Code as Toronto Hydro-Electric System Limited is clearly using their position as an affiliate of Toronto Hydro Corporation to gain an unfair competitive advantage in the market place to provide customer submetering within these buildings.

We believe that both the Province and the Ontario Energy Board have been clear in their desire to create a fair and competitive market for the purchase of legal submetering equipment.

We look forward to receiving your comments and recommendations regarding this matter.

Sincerely yours

A handwritten signature in dark ink, appearing to be 'Rick Williams', written over a horizontal line.

Rick Williams

Cc: Ross Pilkey, Carma Industries Inc.

TAB 2

Paul Gasparatto

From: Paul Gasparatto
Sent: July 24, 2008 3:44 PM
To: 'regulatoryaffairs@torontohydro.com'
Subject: OEB Compliance Concern
Attachments: CO20080066_Metering_Initial Request Letter_20080724_pvg.pdf

Hi,

Attached is a letter requesting some information relating to a concern the OEB's compliance office has received.

Thank you for your attention to this matter.

Regards,

Paul Gasparatto
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at market.operations@oeb.gov.on.ca

24/08/2009

Ontario Energy
Board
P.O. Box 2319
2300 Yonge Street
27th. Floor
Toronto ON M4P 1E4
Telephone: (416) 481-1967
Facsimile: (416) 440-7656
Compliance Office

Commission de l'Énergie
de l'Ontario
C.P. 2319
2300, rue Yonge
27e étage
Toronto ON M4P 1E4
Téléphone: (416) 481-1967
Télécopieur: (416) 440-7656



July 24, 2008

File No.: CO20080066

VIA E-MAIL (regulatoryaffairs@torontohydro.com)

Mr. Colin McLorg
Manager Regulatory Affairs
Toronto Hydro Electric System Limited
14 Carlton Street
Toronto, ON
M5B 1K5

Re: Installation of Metering for Multi-Unit Sites and Condominium Corporations

Dear Mr. McLorg:

I am writing you in regards to a concern that has been raised with the OEB's Compliance Office regarding the business activities of Toronto Hydro Electric System Ltd. ("THESL"). Specifically, it has been alleged that THESL is unfairly charging customers who choose to install smart sub metering using an alternative bid contractor.

In order to gain more insight into this allegation I request that you provide answers to the following questions.

THESL's Conditions of Service, section 2.3.7.1.1 – Metering Requirements for Multi-Unit Sites and Condominium Corporations states in part:

"Toronto Hydro will provide electronic or conventional smart suite metering for each unit of a new Multi-Unit site, or a condominium at no direct charge to the Customer."

- Please confirm whether section 2.3.7.1.1 refers to the provision of smart sub metering by THESL, or refers to installing distribution metering so that the resident of each unit becomes a distribution customer of THESL.

- In the event that a customer of new facility chooses to install smart sub metering through alternative bid, please outline what, if any, charges that THESL imposes on the customer.
- In the event that a customer of an existing bulk metered facility chooses to retrofit smart sub metering through alternative bid, please outline what, if any, charges that THESL imposes on the customer.
- If THESL does charge customers (old or new) who install smart sub metering through alternative bid, please describe how those charges are determined and on what authority THESL is basing its right to impose such charges. (ie: are they Board approved rates?)
- Table 2 of THESL's Conditions of Service, references a "Standard Basic Connection recovered through hydro rates (\$1,260.00)". Please confirm whether or not THESL charges the fee of \$1,260.00 to customers who choose to install smart sub metering through alternative bid.
- Please describe when, if at all, THESL would impose the charge of \$1,260.00 on a customer.
- If THESL does charge this fee to any customer, please describe the reason for charging the fee and provide the authority upon which THESL is basing its right to impose such charges. (ie: are they Board approved rates?)

I appreciate you providing this information so that I can asses the allegation further. I request that you respond by August 1, 2008. If you have any questions or concerns with this request, please contact me directly at (416) 440-7724. Thank you for your cooperation in this matter.

Yours truly,



Paul Gasparatto
Project Advisor
Compliance Office

TAB 3

Paul Gasparatto

From: Colin McLorg [cmclorg@torontohydro.com]
Sent: July 25, 2008 8:17 AM
To: Paul Gasparatto; regulatoryaffairs regulatoryaffairs
Subject: Re: OEB Compliance Concern <unfair TH charges for sub-metering>

Hello Paul - I have reviewed your letter and have begun preparing a response.

Please provide the specifics of the allegation: who is making it, and what exactly is being alleged.

Regards,

Colin McLorg
Manager, Regulatory Affairs
Toronto Hydro-Electric System Limited
416-542-2513 office
416-903-7837 cell
cmclorg@torontohydro.com

>>> "Paul Gasparatto" <Paul.Gasparatto@oeb.gov.on.ca> Thursday, July 24, 2008 3:44 PM >>>
Hi,

Attached is a letter requesting some information relating to a concern the OEB's compliance office has received.

Thank you for your attention to this matter.

Regards,

Paul Gasparatto
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at
market.operations@oeb.gov.on.ca

TAB 4

Paul Gasparatto

From: Colin McLorg [cmclorg@torontohydro.com]
Sent: July 25, 2008 8:31 AM
To: Paul Gasparatto
Subject: Re: OEB Compliance Concern

Hello Paul - could you please provide an unlocked pdf or word version of your letter so we don't have to manually type in your questions? Thanks.

Regards,

Colin McLorg
Manager, Regulatory Affairs
Toronto Hydro-Electric System Limited
416-542-2513 office
416-903-7837 cell
cmclorg@torontohydro.com

>>> "Paul Gasparatto" <Paul.Gasparatto@oeb.gov.on.ca> Thursday, July 24, 2008 3:44 PM >>>
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Attached is a letter requesting some information relating to a concern the OEB's compliance office has received.

Thank you for your attention to this matter.

Regards,

Paul Gasparatto
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at market.operations@oeb.gov.on.ca

TAB 5

Paul Gasparatto

From: Paul Gasparatto
Sent: July 25, 2008 8:43 AM
To: 'Colin McLorg'
Subject: RE: OEB Compliance Concern
Attachments: CO20080066_Metering_Initial Request Letter_20080724_pvg.doc

Morning Colin,

Attached is a word version for you to use.

I can not disclose who has raised the allegation. I can say that the concern does not relate to any specific incident with a customer, instead it relates to alleged policies of THESL. As I mentioned in the letter, the allegation is that THESL is charging unfair fees on customers who install sub-metering systems through alternative bid rather than have THESL install their own metering. For example, it has been suggested that THESL charges the basic connection fee of \$1,260.00 to those customers who don't use THESL for metering.

Hope that helps.

Paul Gasparatto
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at market.operations@oeb.gov.on.ca

From: Colin McLorg [mailto:cmclorg@torontohydro.com]
Sent: July 25, 2008 8:31 AM
To: Paul Gasparatto
Subject: Re: OEB Compliance Concern

Hello Paul - could you please provide an unlocked pdf or word version of your letter so we don't have to manually type in your questions? Thanks.

Regards,

Colin McLorg

24/08/2009

Manager, Regulatory Affairs
Toronto Hydro-Electric System Limited
416-542-2513 office
416-903-7837 cell
cmclorg@torontohydro.com

>>> "Paul Gasparatto" <Paul.Gasparatto@oeb.gov.on.ca> Thursday, July 24, 2008 3:44 PM >>>
Hi,

Attached is a letter requesting some information relating to a concern the OEB's compliance office has received.

Thank you for your attention to this matter.

Regards,

Paul Gasparatto
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at
market.operations@oeb.gov.on.ca

TAB 6

Paul Gasparatto

From: regulatoryaffairs regulatoryaffairs [regulatoryaffairs@torontohydro.com]
Sent: July 29, 2008 11:32 AM
To: Paul Gasparatto
Cc: Anna-Christina Crespo; Colin McLorg
Subject: TRIM: THESL reply: CO20080066 <unfair business practices resub-metering>
Attachments: THReply.doc
TRIM Record Number: CD08-335

Hello Paul - Please see attached THESL's reply to your letter of July 24. Please do contact me if you have any further concerns.

Regards,

Colin McLorg
Manager, Regulatory Affairs
Toronto Hydro-Electric System Limited
416-542-2513 office
416-903-7837 cell
regulatoryaffairs@torontohydro.com

24/08/2009

Colin J. McLorg
14 Carlton St.
Toronto, Ontario
M5B 1K5

Telephone: 416-542-2513
Facsimile: 416-542-2776
cmclorg@torontohydro.com



July 29, 2008

Paul Gasparatto
Project Advisor
Compliance Office
Ontario Energy Board
P.O. Box 2319
2300 Yonge St
Toronto, ON M4P 1E4

via electronic mail

Dear Mr. Gasparatto:

RE: Compliance Office Letter 2008 July 24 re: sub-metering charges (CO20080066)

In your letter of July 24, you stated that allegations had been raised with the Compliance Office that "THESL is unfairly charging customers who choose to install smart sub metering using an alternative bid contractor", and asked that THESL provide answers to the questions you went on to pose. Please see below THESL's responses to your questions, reproduced here.

1. QUESTION: Please confirm whether section 2.3.7.1.1 [of THESL's Conditions of Service] refers to the provision of smart sub metering by THESL, or refers to installing distribution metering so that the resident of each unit becomes a distribution customer of THESL.

ANSWER: For clarity please note that 'sub-metering' refers to the practice of sub-dividing a master or bulk meter bill based on meter readings from individual units, which may or may not be suites, existing behind the bulk meter. This is distinct from suite metering, which refers to the practice of establishing each suite in a condominium (as well as separate common area consumption) as a separately metered and billed customer of the distribution utility. In the latter case no bulk meter is involved except in the circumstances of a retrofit where it may be required to determine common area consumption as a residual amount.

The cited section refers to suite metering. THESL does not provide sub-metering.

2. QUESTION: In the event that a customer of new facility chooses to install smart sub metering through alternative bid, please outline what, if any, charges that THESL imposes on the customer.

ANSWER: The question refers to a 'new facility'. THESL's Conditions of Service require that new facilities be suite metered. However, the suite meters may be installed, at the customer's option, either by a third party through alternative bid or by THESL.

3. QUESTION: In the event that a customer of an existing bulk metered facility chooses to retrofit smart sub metering through alternative bid, please outline what, if any, charges that THESL imposes on the customer.

ANSWER: Under the described circumstances, there is no change in THESL's charges to the customer. The condominium remains as a bulk metered customer of THESL, and remains responsible for the bulk meter bill. THESL applies no charges other than those that arise through the customer's bulk-metered consumption.

4. QUESTION: If THESL does charge customers (old or new) who install smart sub metering through alternative bid, please describe how those charges are determined and on what authority THESL is basing its right to impose such charges. (ie: are they Board approved rates?).

ANSWER: It is unclear what 'charge' is being referred to in the question. See also the responses to Questions 1 through 3. Any charges apart from distribution rate charges would arise in the context of the Economic Evaluation of the connection, which process is mandated by the Board and is described at Section 2.1 of THESL's Conditions of Service.

5. QUESTION: Table 2 of THESL's Conditions of Service, references a "Standard Basic Connection recovered through hydro rates (\$1,260.00)". Please confirm whether or not THESL charges the fee of \$1,260.00 to customers who choose to install smart sub metering through alternative bid.

ANSWER: The Standard Basic Connection amount of \$1,260 is not a fee but rather an allowance representing the basic connection cost recovered through distribution rates. It is never charged to any customers, but is deducted from actual connection costs where those exceed \$1,260 in calculating any required capital contribution.

6. QUESTION: Please describe when, if at all, THESL would impose the charge of \$1,260.00 on a customer.

ANSWER: See the answer to Question 5.

7. QUESTION: If THESL does charge this fee to any customer, please describe the reason for charging the fee and provide the authority upon which THESL is basing its right to impose such charges. (ie: are they Board approved rates?).

ANSWER: See the answer to Question 5.

I trust that the responses above will completely address the questions stated in your letter. If you have further concerns or questions, please contact me. THESL is itself concerned however that the Board's compliance process appears to permit anonymous parties to make unsubstantiated allegations of impropriety on the part of a distributor without requiring that the detailed facts of the matter and/or allegation be disclosed to the distributor.

Yours truly,

(Original signed by)

Colin McLorg
Manager, Regulatory Affairs
416-542-2513
regulatoryaffairs@torontohydro.com

TAB 7

Paul Gasparatto

From: Paul Gasparatto
Sent: July 29, 2008 12:04 PM
To: 'regulatoryaffairs regulatoryaffairs'
Cc: Anna-Christina Crespo; Colin McLorg
Subject: RE: THESL reply: CO20080066 <unfair business practices resub-metering>

Colin,

Thank you for your quick response. I will review and get back to you with any follow up questions.

Paul Gasparatto

Project Advisor

Compliance

Ontario Energy Board

P.O. Box 2319

Suite 2700

Toronto, ON M4P 1E4

Tel: 416-440-7724

1-888-632-6273 ext. 724

Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at
market.operations@oeb.gov.on.ca

From: regulatoryaffairs regulatoryaffairs [mailto:regulatoryaffairs@torontohydro.com]

21/08/2008

Sent: July 29, 2008 11:32 AM
To: Paul Gasparatto
Cc: Anna-Christina Crespo; Colin McLorg
Subject: THESL reply: CO20080066 <unfair business practices resub-metering>

Hello Paul - Please see attached THESL's reply to your letter of July 24. Please do contact me if you have any further concerns.

Regards,

Colin McLorg
Manager, Regulatory Affairs
Toronto Hydro-Electric System Limited
416-542-2513 office
416-903-7837 cell
regulatoryaffairs@torontohydro.com

TAB 8

Paul Gasparatto

From: Paul Gasparatto
Sent: July 30, 2008 10:32 AM
To: 'regulatoryaffairs regulatoryaffairs'
Cc: Anna-Christina Crespo; Colin McLorg
Subject: RE: THESL reply: CO20080066 <unfair business practices resub-metering>

Colin,

I have a couple of follow up questions to help me clarify my understanding.

In your letter you defined Sub-Metering (a practice of sub-dividing a bulk meter) and Suite Metering (separate unit meters, where the customer is billed as a customer of the distributor).

In your response to question 2 you stated that THESL requires all new facilities be Suite Metered.

1) Did you mean that THESL requires all new facilities to install meters so that each unit/customer is billed as a customer of the distributor? In other words, new facilities may not install sub-metering behind a bulk meter?

2) If the answer to question 1 is yes, can you please point out the section in your COS that says that all new units have to be Suite Metered. (I read section 2.3.7.1 to say that THESL will provide Suite Metering, but I don't see where it says the customer must install Suite Metering.)

3) If the answer to question 1 is yes, please provide the regulatory authority THESL is relying on to impose this requirement.

Thank you for the additional clarification.

Paul Gasparatto
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at
market.operations@oeb.gov.on.ca

From: regulatoryaffairs regulatoryaffairs [mailto:regulatoryaffairs@torontohydro.com]
Sent: July 29, 2008 11:32 AM
To: Paul Gasparatto
Cc: Anna-Christina Crespo; Colin McLorg

Subject: THESL reply: CO20080066 <unfair business practices resub-metering>

Hello Paul - Please see attached THESL's reply to your letter of July 24. Please do contact me if you have any further concerns.

Regards,

Colin McLorg
Manager, Regulatory Affairs
Toronto Hydro-Electric System Limited
416-542-2513 office
416-903-7837 cell
regulatoryaffairs@torontohydro.com

TAB 9

Paul Gasparatto

From: Colin McLorg [cmclorg@torontohydro.com]
Sent: August 5, 2008 12:16 PM
To: Paul Gasparatto
Cc: regulatoryaffairs regulatoryaffairs
Subject: RE: THESL reply: CO20080066 <unfair business practices resub-metering>

Hello Paul - THESL's responses to your supplementary questions are as follows:

QUESTION

1) Did you mean that THESL requires all new facilities to install meters so that each unit/customer is billed as a customer of the distributor? In other words, new facilities may not install sub-metering behind a bulk meter?

ANSWER

To the first part of this question, yes. THESL takes the position that unit holders (residential or commercial, as the case may be) as well as the common facilities in new condominiums are individual residential or general service customers of THESL. THESL provides the meters, so the 'facilities' do not have to. THESL routinely installs bulk meters at the time of construction to establish metering for the period prior to the assumption of the building by the condominium, so in most cases a bulk meter would exist, but this is not the impediment to sub-metering in new facilities. Rather, it is that there is no scope for sub-metering since all the customers including the common facilities are directly metered individual customers.

QUESTION

2) If the answer to question 1 is yes, can you please point out the section in your COS that says that all new units have to be Suite Metered. (I read section 2.3.7.1 to say that THESL will provide Suite Metering, but I don't see where it says the customer must install Suite Metering.)

ANSWER

If the Conditions of Service are unclear, THESL is quite prepared to revise and clarify them. In this case, Section 2.3.7.1.1 states "...Toronto Hydro will provide electronic or conventional smart suite metering for each unit of a new Multi-unit site, or a condominium at no direct charge to the Customer". Taken as a whole, Section 2.3.7.1.1 clearly distinguishes between new and existing buildings, and makes provision for sub-metering only in the context of an existing building. Generally, if an option exists, it is mentioned: in the case of new buildings, THESL feels that the absence of mention of a sub-metering option is clear in itself.

QUESTION

3) If the answer to question 1 is yes, please provide the regulatory authority THESL is relying on to impose this requirement.

ANSWER

THESL takes the view that providing individual suite smart metering to new condominium customers is no different in any relevant respect than providing the same service to new customers in single detached homes. As such, THESL requires no special "regulatory authority" that it "is relying on to impose this requirement", beyond the authorities presently conferred to it by way of its rate orders and distribution license.

Evidently, the Board itself takes the same view, as expressed in its June 10, 2008 NOTICE OF REVISED PROPOSAL TO AMEND A CODE AND NOTICE OF REVISED PROPOSAL TO ISSUE A NEW CODE, which stated:

"As set out in the January Notice, the Board remains of the view that smart metering is a distribution activity, and that the Electricity Act and Regulation 442 taken together allow all licensed distributors to undertake smart metering in condominiums. The distributor would do so as a distribution activity within its licensed service area."

I trust that the responses above will completely address the supplementary questions you have posed. As before, please contact me in case you have any further questions or concerns.

Regards,

Colin McLorg
Manager, Regulatory Affairs
Toronto Hydro-Electric System Limited
416-542-2513 office
416-903-7837 cell
cmclorg@torontohydro.com

>>> "Paul Gasparatto" <Paul.Gasparatto@oeb.gov.on.ca> Wednesday, July 30, 2008 10:31 AM >>>
Colin,

I have a couple of follow up questions to help me clarify my understanding.

In your letter you defined Sub-Metering (a practice of sub-dividing a bulk meter) and Suite Metering (separate unit meters, where the customer is billed as a customer of the distributor).

In your response to question 2 you stated that THESL requires all new facilities be Suite Metered.

- 1) Did you mean that THESL requires all new facilities to install meters so that each unit/customer is billed as a customer of the distributor? In other words, new facilities may not install sub-metering behind a bulk meter?
- 2) If the answer to question 1 is yes, can you please point out the section in your COS that says that all new units have to be Suite Metered. (I read section 2.3.7.1 to say that THESL will provide Suite Metering, but I don't see where it says the customer must install Suite Metering.)
- 3) If the answer to question 1 is yes, please provide the regulatory authority THESL is relying on to impose this requirement.

Thank you for the additional clarification.

Paul Gasparatto
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at market.operations@oeb.gov.on.ca

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13/08/2009

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From: regulatoryaffairs regulatoryaffairs [<mailto:regulatoryaffairs@torontohydro.com>]
Sent: July 29, 2008 11:32 AM
To: Paul Gasparatto
Cc: Anna-Christina Crespo; Colin McLorg
Subject: THESL reply: CO20080066 <unfair business practices resub-metering>

Hello Paul - Please see attached THESL's reply to your letter of July 24. Please do contact me if you have any further concerns.

Regards,

Colin McLorg
Manager, Regulatory Affairs
Toronto Hydro-Electric System Limited
416-542-2513 office
416-903-7837 cell
regulatoryaffairs@torontohydro.com

TAB 10

Paul Gasparatto

From: Doreen Robinson
Sent: October 23, 2008 9:45 AM
To: 'regulatoryaffairs@torontohydro.com'
Cc: Brian Hewson; Paul Gasparatto
Subject: Installation of Metering for Multi-Unit Sites and Condominium Corporations
Attachments: CO20080066_Sub Metering_CCO Determination_20081007_Final.pdf

Dear Colin,

Attached is signed copy of letter dated October 22, 2008 from Brian Hewson, Chief Compliance Officer, Ontario Energy Board, regarding the above. The original letter will also be mailed to you.

Thank you,

Doreen Robinson
Administrative Assistant
Compliance
Market Operations
Ontario Energy Board
27th Floor, 2300 Yonge Street
P.O. Box 2319
Toronto, Ontario M4P 1E4
Tel Direct: 416-440-7709
Fax: 416-440-7656

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Toronto ON M4P 1E4
Téléphone: 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



October 22, 2008

Board File: CO20080066

Via Mail & E-Mail (regulatoryaffairs@torontohydro.com)

Mr. Colin McLorg
Manager Regulatory Affairs
Toronto Hydro-Electric System Limited
14 Carlton Street
Toronto, ON
M5B 1K5

Dear Mr. McLorg:

Re: Installation of Metering for Multi-Unit Sites and Condominium Corporations

I am writing you in regards to a concern that has come to the attention of the OEB's Compliance Office regarding the business activities of Toronto Hydro Electric System Ltd. ("THESL") relating to smart metering and smart sub-metering. To clarify, for purposes of this letter the term "smart metering" refers to a situation in which a licensed distributor individually meters every unit in a multi-unit property with a smart meter. In such a case, the account holder of each unit becomes a customer of the distributor. The term "smart sub-metering" refers to a situation in which a licensed distributor provides a bulk meter for a multi-unit property and a separate person (for example, a smart sub-metering provider on behalf of a condominium corporation) installs individual unit metering. In that case, only the account holder responsible for the bulk meter is the customer of the distributor.

As you are aware from earlier correspondence, the Compliance Office received a complaint regarding the charging of customers that wish to install smart sub-metering using an "alternative bid" contractor.

Based on information that you have provided, and specifically that the \$1,260.00 charge in question is not a fee but an allowance that is deducted from any capital contribution required in circumstances where the actual connection costs exceed \$1,260.00, I am satisfied that THESL is not unfairly charging customers who choose to install smart sub-metering using an "alternative bid" contractor. I therefore consider the matter of this particular complaint to be closed.

However, as part of Compliance staff's review of this matter, it has come to our attention that THESL is applying inappropriate policies in regards to the installation of smart metering and smart sub-metering systems in new condominiums and other multi-unit sites.

Specifically, in its responses to questions posed by Compliance staff, THESL stated that "THESL's Conditions of Service require that new facilities be suite metered" (letter from Colin McLorg dated July 29, 2008), and subsequently that "THESL takes the position that unit holders (residential or commercial, as the case may be) as well as the common facilities in new condominiums are individual residential or general service customers of THESL" (e-mail from Colin McLorg dated August 5, 2008). THESL interprets and applies section 2.3.7.1.1 of its Conditions of Service accordingly.

It is my view that, to the extent that THESL's Conditions of Service or other policies require the smart metering of new condominiums and other multi-unit sites to the exclusion of smart sub-metering, those Conditions of Service and other policies are inappropriate.

With respect to new condominiums, the policies are inappropriate in light of the legal and regulatory framework applicable to the metering of new condominiums. In this regard, I note that section 53.17 (1) of the Electricity Act, 1998 states as follows:

Despite the *Condominium Act, 1998* and any other Act, a distributor and any other person licensed by the Board to do so shall, in the circumstances prescribed by regulation, install a smart meter, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies of a type prescribed by regulation. (emphasis added)

When it issued its Smart Sub-Metering Code, the Board confirmed that new condominiums have two options when installing metering for individual units. They can choose to have the distributor install smart meters or they can choose to have a smart sub-metering provider install smart sub-meters. The availability of the smart sub-metering option is clear from the materials issued by the Board when it amended the Distribution System Code (the "DSC") and created the Smart Sub-Metering Code. Section 5.1.9 of the DSC itself also clarifies that a distributor must install smart metering when requested to do so by the board of directors of a condominium corporation or the developer of a building that is intended to be registered as a condominium corporation.

It is therefore my view that a distributor may not impose a requirement that a new condominium property be smart metered. Unless the customer requests otherwise, the

distributor's obligation is to install a bulk interval meter to supply a new condominium property.

It is also my view that any Conditions of Service or other policies of a distributor that require that other multi-unit sites be smart metered are similarly inappropriate. There are no legal or regulatory requirements that support the authority of a distributor to require that such other multi-unit sites be smart metered.

Under section 28 of the *Electricity Act, 1998*, a distributor must connect a building to its distribution system on request. This is a fundamental obligation imposed on each distributor, and is one that is subject to few exceptions. The DSC does set out a list of the reasons that may justify a refusal to connect. However, the desire of a customer to install smart sub-metering is not one of those reasons. If THESL were to refuse to connect a property by reason of the customer's decision to install smart sub-metering, THESL would in my view be acting in a manner contrary to section 28 of the *Electricity Act, 1998* and its licence.

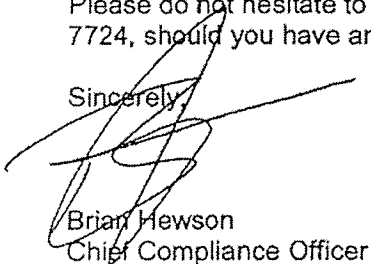
In light of the above, I expect that THESL will immediately cease requiring that new condominiums and other multi-unit sites be smart metered, and will revise its Conditions of Service in a manner that makes it clear that these properties retain the right to choose the type of individual unit metering that is to be installed. Please provide confirmation of THESL's intentions in this regard by November 14, 2008.

I also take this opportunity to respond to the concern that THESL expressed to the effect that the Board's compliance process allows "anonymous parties to make unsubstantiated allegations ... without requiring that the detailed facts of the matter and/or allegation be disclosed to the distributor". Having reviewed the correspondence relating to this file, I am satisfied that THESL was provided with a description of the nature of the complaint adequate to enable THESL to respond to it.

The views expressed in this letter are mine and are not binding on the Board. Although no statutory power of decision has been delegated to me, I may seek enforcement action by the Board under Part VII.1 of the *Ontario Energy Board Act, 1998* in relation to non-compliance.

Please do not hesitate to contact me at 416-440-7682, or Paul Gasparatto at 416-440-7724, should you have any questions or wish to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Hewson', is written over the word 'Sincerely,' and extends across the name and title below.

Brian Hewson
Chief Compliance Officer

TAB 11

Paul Gasparatto

From: Brian Hewson
Sent: August 28, 2009 12:10 PM
To: Paul Gasparatto
Subject: FW: THESL reply re C020080066: THESL COS re smart metering inCondominiums
Attachments: CondoSmartMeteringReply_C020080066.doc

Brian Hewson

Senior Manager, Networks & Smart Grid

Direct: 416-440-7628

From: regulatoryaffairs@torontohydro.com [mailto:regulatoryaffairs@torontohydro.com]
Sent: November 12, 2008 3:08 PM
To: BoardSec; Brian Hewson
Cc: Colin McLorg; Pankaj Sardana
Subject: THESL reply re C020080066: THESL COS re smart metering inCondominiums

Dear Mr. Hewson and Ms. Walli:

Please see the attached correspondence in reply to Mr. Hewson's letter to THESL of October 22 2008.

Toronto Hydro-Electric System Limited
Regulatory Affairs
14 Carlton Street
Toronto, ON M5B 1K5
tel 416.542.3100
fax 416.542.2776
regulatoryaffairs@torontohydro.com

Reduce Your Carbon Footprint, Please Think Before You Print.

28/08/2009

Colin J. McLorg
14 Carlton St.
Toronto, Ontario
M5B 1K5

Telephone: 416-542-2513
Facsimile: 416-542-2776
cmclorg@torontohydro.com



November 12, 2008

Mr. Brian Hewson
Chief Compliance Officer
Ontario Energy Board
P.O. Box 2319
2300 Yonge St
Toronto, ON M4P 1E4

via email and hand delivery

Dear Mr. Hewson:

RE: Board File C020080066 – Suite Metering of New Condominium Units

Thank you for your correspondence of October 22, 2008, in which you set out your views regarding certain provisions of the Conditions of Service of Toronto Hydro-Electric System Limited (THESL), which provisions pertain to the metering of end-use customers in new condominium units.

THESL does not accept your view that in these circumstances its metering practice and the corresponding Conditions of Service pertaining to new condominiums are 'inappropriate', and is not prepared to alter either on the basis of your letter. However, THESL is quite prepared to defend its position in a hearing before the Board, and for the sake of policy certainty in this important area, THESL requests that either you formally withdraw your October 22 letter, or that the Board convene a hearing to determine the issues in dispute.

Without prejudice to any defense that it may bring in such a hearing, THESL offers the following in response to the specific assertions raised in your October 22 letter. (The term 'smart metering' is used below as the Board defined it in the Notice of Proposal etc. issued January 8, 2008; i.e., "The Board uses the term "smart metering" to describe the situation in which a licensed distributor individually meters every condominium unit (and the condominium's common areas) with a smart meter. In this scenario, each unit will become a residential customer of the licensed distributor and each unit and the common areas must have a separate account with the licensed distributor.")

1. THESL's Conditions of Service (COS) do not preclude the installation in new condominiums of smart metering infrastructure, meeting THESL's standards and

specifications, by a person under contract to the condominium developer in an alternative bid framework. In such a case the COS provide for a 'transfer price' payment by THESL to the developer upon the turnover of the inspected and approved smart metering infrastructure.

2. THESL's COS state that THESL will provide, at no cost to the developer, smart metering for each distinct unit of the condominium, either directly or under an alternative bid framework. It is incorrect to conclude that the COS preclude the installation of a sub-metering system; should the developer or subsequently the condominium board of directors wish to install an additional sub-metering system for any reason, they are at liberty to do so provided there is no interference with THESL's smart metering system. In any case, each distinct residential or commercial unit (including common areas) would remain as a direct customer of THESL.
3. At page 2 of your letter, you cite Section 53.17 of the *Electricity Act* as follows:

"Despite the Condominium Act, 1998 and any other Act, a distributor and any other person licensed by the Board to do so shall, in the circumstances prescribed by regulation, install a smart meter, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies of a type prescribed by regulation.
(emphasis added)"

Section 53.17 of the *Electricity Act* is irrelevant to this issue, since it does not require a non-distributor to provide sub-metering, nor prohibit a distributor from installing smart metering, but rather goes to the requirement that whatever equipment is installed be of a type required by regulation. Furthermore, it clearly does not establish a right on the part of any person to install sub-metering equipment. Addition of emphasis to a portion of the Section does not alter its meaning or make it relevant to this issue.

4. In both its January and July Notices, the Board clearly stated that distributors can smart meter condominiums, and in fact are the only parties legally able to do so.

"The Board has previously determined in rates proceedings related to smart metering activities of certain distributors that smart metering is a part of the distribution activity that is already covered by distributors' distribution licences. As there is no distinction between smart metering condominiums and other residences, the Board has determined that only licensed distributors can smart meter condominiums. In the Board's view, this is in keeping with the current regulatory framework in the electricity sector.

The Board is also of the view that Regulation 442 allows all licensed distributors to smart meter in condominiums."

[EB-2007-0772 Notice of Proposal etc, January 8, 2008, pages 2-3]

"As set out in the January Notice, the Board remains of the view that smart metering is a distribution activity, and that the *Electricity Act* and Regulation 442 taken together allow all licensed distributors to

undertake smart metering in condominiums. The distributor would do so as a distribution activity within its licensed service area."

[EB-2007-0772 Notice of Proposal etc, June 10, 2008, pages 4]

5. The citation in your letter of Section 5.1.9 of the DSC is incomplete and misleading. Your letter states at page two:

"Section 5.1.9 of the DSC itself also clarifies that a distributor must install smart metering when requested to do so by the board of directors of a condominium corporation or the developer of a building that is intended to be registered as a condominium corporation."

In fact, Section 5.1.9 of the DSC is as follows:

"When requested by either:

(a) the board of directors of a condominium corporation; or

(b) the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the Condominium Act, 1998,

a distributor shall install smart metering that meets the functional specification of Ontario Regulation 425/06—Criteria and Requirements for Meters and Metering Equipment, Systems and Technology (made under the Electricity Act)."

Your citation of Section 5.1.9 incorrectly implies that the installation of smart meters in a condominium by a distributor is exceptional, and a departure from a default configuration that must be requested by one of the two named parties; you go on immediately afterward to state that

"It is therefore my view that a distributor may not impose a requirement that a new condominium property be smart metered. Unless the customer requests otherwise, the distributor's obligation is to install a bulk interval meter to supply a new condominium property."

Contrary to your construal, the thrust of Section 5.1.9 is clearly to require that the metering installed meet the functional specification of Ontario Regulation 425/06, which fact becomes apparent when the Section is properly quoted in its entirety.

Furthermore, Section 5.1.9 clearly does not establish any default configuration with respect to smart metering versus bulk interval metering, nor does it to any degree preclude the practice of smart metering new condominiums by distributors.

6. You state at page 2 of your letter that

"The availability of the smart sub-metering option is clear from the materials issued by the Board when it amended the Distribution System Code (the "DSC") and created the Smart Sub-metering Code."

Despite this assertion, your letter does not provide any citation of, or quotations from, such 'materials', and does not show how they contradict

the Board's express statement set out in Section 4 above that distributors are allowed to smart meter new condominiums.

As stated initially, for the reasons set out above THESL does not accept the opinions set out in your letter. Nothing with respect to new condominiums in THESL's metering or connection practice or in its Conditions of Service is out of compliance with Code, regulation, or legislation. The Board has expressly concluded that smart metering of condominiums is a distribution activity authorized by the existing licenses of distributors.

Therefore, THESL does not intend to change its practice or COS in this area on the basis of your letter.

Yours truly,

(Original signed by)

Colin McLorg

Manager, Regulatory Affairs

416-542-2513

regulatoryaffairs@torontohydro.com

c. Ms. Kirsten Walli, Board Secretary

TAB 12

Paul Gasparatto

From: Doreen Robinson
Sent: January 29, 2009 10:00 AM
To: 'regulatoryaffairs@torontohydro.com'
Cc: Brian Hewson; Paul Gasparatto
Subject: Metering of New Condominium Units
Importance: High
Attachments: Letter to CMcLorg - CO20080066 re Metering of New Condominium Units - Jan2909.pdf

Attached please find a signed copy of letter dated January 29, 2009 from Brian Hewson, Chief Compliance Officer, Ontario Energy Board, regarding the above.
The original letter will also be mailed to you.

Thank-you,

Doreen Robinson
Administrative Assistant
Compliance
Regulatory Policy and Compliance
Ontario Energy Board
27th Floor, 2300 Yonge Street
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Fax: 416-440-7656

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Commission de l'énergie
de l'Ontario
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Suite 2700
Toronto ON M4P 1E4
Téléphone: 416- 481-1967
Télécopieur: 416- 440-7656
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January 29, 2009

Board File: CO20080066

Via Mail & E-Mail (regulatoryaffairs@torontohydro.com)

Mr. Colin McLorg
Manager Regulatory Affairs
Toronto Hydro-Electric System Limited
14 Carlton Street
Toronto, ON
M5B 1K5

Dear Mr. McLorg:

Re: Metering of New Condominium Units

I am writing in response to your letter of November 12, 2008, in which you take issue with the views expressed in my letter to you dated October 22, 2008, regarding Toronto Hydro Electric System Ltd.'s ("THESL") Conditions of Service and other policies pertaining to the metering of end-use customers in new condominium units.

Your letter has confirmed that THESL considers that each distinct residential or commercial unit in a new condominium is and would in all cases remain a direct customer of THESL, whether THESL installs the relevant meter or the relevant meter is installed by a third party under an alternative bid framework, and presumably interprets and applies its Conditions of Service accordingly (points 1 and 2 in your letter).

Having carefully considered THESL's arguments and the relevant legislation and regulatory requirements, I remain of the view that THESL's policies in this regard are inappropriate for the reasons set out in my earlier letter and below.

It is, in my view, central to the Board's approach to the issue of metering for new condominiums that the legislative framework (established by section 53.17 of the *Electricity Act, 1998*, Ontario Regulation 442/07 – *Installation of Smart Meters and Smart Sub-Metering Systems in Condominiums*, section 57(i) of the *Ontario Energy Board Act, 1998* and Ontario Regulation 443/07 – *Licensing Sub-Metering Activities*) contemplates the co-existence of two distinct types of activity. This approach is reflected in the Board's "Notice of Proposal to Amend a Code and Notice of Proposal to issue a New Code" dated January 8, 2008, in which the Board identified and described those two activities as follows:

The Board uses the term "smart metering" to describe the situation in which a licensed distributor individually meters every condominium unit (and the condominium's common areas) with a smart meter. In this scenario, each unit will become a residential customer of the licensed distributor and each unit and the common areas must have a separate account with the licensed distributor.

The Board uses the term "smart sub-metering" to describe the situation in which a licensed distributor provides service to the condominium's bulk (master) meter and then a separate person (the smart sub-meter provider on behalf of the condominium corporation) allocates that bill to the individual units and the common areas through the smart sub-metering system. In this scenario, the condominium continues to be the customer of the licensed distributor and will receive a single bill based on the measurement of the bulk (master) meter.

On that basis, I cannot agree with your characterization of section 53.17 of the *Electricity Act, 1998* as being either irrelevant to this issue, or as speaking only to the nature of the equipment to be installed. Rather, the legislation states that new condominiums shall be metered with smart meters (if installed by a licensed distributor) or smart sub-meters (if installed by a licensed smart sub-metering provider). Similarly, I cannot agree with your characterization of section 5.1.9 of the Distribution System Code as having, as its thrust, to require that the metering installed meet the specifications referred to in Ontario Regulation 425/06 – *Criteria and Requirements for Meters and Metering Equipment, Systems and Technology*. While section 5.1.9 of the Distribution System Code does require compliance with Ontario Regulation 425/06, it also makes it clear that the person responsible for a new condominium has the ability to choose between having a licensed distributor install smart meters or having a licensed smart sub-metering provider install smart sub-meters. A licensed distributor that seeks to engage in smart sub-metering activities (as opposed to smart metering activities) may do so provided that the distributor is licensed by the Board as a smart sub-metering provider under section 57(i) of the *Ontario Energy Board Act, 1998* and Ontario Regulation 443/07.

In point 4 of your letter, you state that "the Board clearly stated that distributors can smart meter condominiums and in fact are the only parties legally able to do so." As noted above, smart metering of condominiums is by definition a distribution activity that can be conducted only by a distributor and, on that basis, I agree with your comment. My earlier letter in no way presented a differing opinion.

Rather, the concern that I expressed was that, to the extent that THESL's Conditions of Service or other policies require the smart metering of new condominiums to the exclusion of smart sub-metering (defined as noted above), those Conditions of Service and other policies are inappropriate. THESL's position that each individual unit and common area in a condominium must be smart metered and become a direct customer of THESL is in my view incompatible with the Board's approach to smart sub-metering. As described by the Board, smart sub-metering clearly involves (a) a licensed distributor that bills its customer – the condominium corporation – based on the measurement of a bulk meter; and (b) a separate person – the licensed smart sub-metering provider – that bills the individual units and common areas based on the measurement of a smart sub-metering system. The provisions of the Board's Smart Sub-Metering Code make it clear that smart sub-metering as a competitive licensed activity goes beyond merely the installation of the meters, and extends to billing, the collection of security deposits, disconnection and the like on behalf of the condominium corporation or developer.

Finally, I reiterate my view that there are no provisions in any law, regulation, or Board regulatory instrument that provide licensed distributors with the authority to implement a requirement that each unit and common area in a new condominium must become a direct customer of the distributor. As such, if THESL were to refuse to connect a property by reason of the customer's decision to install smart sub-metering, THESL would in my view be acting in a manner contrary to section 28 of the *Electricity Act, 1998* and its licence. To the extent that THESL's Conditions of Service purport to eliminate choice for new condominiums, it is also my view that those Conditions of Service are inconsistent with section 5.1.9 of the Distribution System Code as they fail to reflect the element of the customer's request that is embodied in that section.

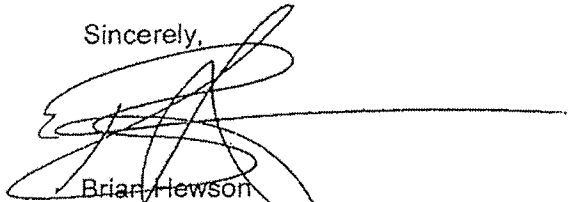
I therefore continue to expect that THESL will immediately cease requiring that new condominiums be smart metered, and will revise its Conditions of Service in a manner that makes it clear that persons responsible for new condominiums retain the right to freely choose the manner on which individual units will be metered (whether smart metering or smart sub-metering).

Please confirm THESL's intentions in this regard by February 9, 2009. In light of the adverse implications of THESL's position in the marketplace, I intend to recommend that the Board take enforcement action in the event that THESL chooses to maintain its current approach to the metering of new condominiums.

No statutory power of decision has been delegated to me, and the views expressed in this letter are not binding on the Board. I may seek enforcement action by the Board under Part VII.1 of the *Ontario Energy Board Act, 1998* in relation to non-compliance.

Please do not hesitate to contact me at 416-440-7682, or Paul Gasparatto at 416-440-7724, should you have any questions or wish to discuss this matter further.

Sincerely,



Brian Hewson
Chief Compliance Officer

TAB 13

Paul Gasparatto

From: Brian Hewson
Sent: August 28, 2009 12:18 PM
To: Paul Gasparatto
Subject: FW: Metering of New Condominium Units - THESL's reply
Attachments: CondoSmartMeteringReply#2_C020080066.pdf

Brian Hewson
Senior Manager, Networks & Smart Grid

Direct: 416-440-7628

From: regulatoryaffairs@torontohydro.com [mailto:regulatoryaffairs@torontohydro.com]
Sent: February 9, 2009 4:24 PM
To: BoardSec; Brian Hewson
Cc: Colin McLorg; Doreen Robinson; Paul Gasparatto; regulatoryaffairs regulatoryaffairs
Subject: Re: Metering of New Condominium Units - THESL's reply

Please see attached reply. Original signed copy will follow by mail.

Yours truly,
Anna-Christina Crespo
Regulatory Assistant
416-542-2755
acrespo@torontohydro.com

Toronto Hydro-Electric System Limited
Regulatory Affairs
14 Carlton Street
Toronto, ON M5B 1K5
tel 416.542.3100
fax 416.542.2776
regulatoryaffairs@torontohydro.com

>>> "Doreen Robinson" <Doreen.Robinson@oeb.gov.on.ca> 29-Jan-2009 10:00:01 >>>
Attached please find a signed copy of letter dated January 29, 2009 from Brian Hewson, Chief Compliance Officer, Ontario Energy Board, regarding the above.
The original letter will also be mailed to you.

Thank-you.

Doreen Robinson
Administrative Assistant
Compliance
Regulatory Policy and Compliance
Ontario Energy Board
27th Floor, 2300 Yonge Street

28/08/2009

P O. Box 2319
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February 9, 2009

via email

Mr. Brian Hewson
Chief Compliance Officer
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Mr. Hewson:

RE: Board File C020080066 – Suite Metering of New Condominium Units

Thank you for your correspondence of January 29, 2009, in which you provided your reply to our response of November 12, 2009 to your October 22, 2008 letter regarding certain provisions of the Conditions of Service of Toronto Hydro-Electric System Limited (THESL). Those provisions pertain to the metering of end-use customers in new condominium units.

THESL has answered in its November response the contentions stated in your October 22 letter concerning Section 53.17 of the *Electricity Act*. THESL does not perceive anything further in your January 29 letter that supports the relevance of Section 53.17 to this issue.

Similarly, THESL has answered in its November response the assertions contained in your October 22 letter concerning Section 5.1.9 of the DSC, which at the time you claimed required installation of smart meters in a new condominium only as an exception. You now assert at page 2 of your January 29 letter that Section 5.1.9 "makes it clear that the person responsible for a new condominium has the ability to choose between having a licensed distributor install smart meters or having a licensed smart sub-metering provider install smart sub-meters."

THESL observes that Section 5.1.9 has not changed in the interim. In its November response, THESL noted:

"In fact, Section 5.1.9 of the DSC is as follows:

"When requested by either:

- (a) the board of directors of a condominium corporation; or
- (b) the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the Condominium Act, 1998,

a distributor shall install smart metering that meets the functional specification of Ontario Regulation 425/06—Criteria and Requirements for Meters and Metering Equipment, Systems and Technology (made under the Electricity Act)."

THESL believes that a plain reading of this Section within its context in the DSC does not support your conclusion. Section 5.1.9 does not mention smart sub-metering, nor contain any statement that expressly 'makes it clear' that a distributor may only install smart metering upon the request of a person in charge of a condominium. The unstated premise of your argument appears to be that the Section begins with the word 'Only', which it does not.

The second paragraph on page 3 of your January 29 letter implies that THESL's policy requires smart metering to the exclusion of smart sub-metering. As noted in our November response, THESL's policy does not exclude the installation of an additional sub-metering system. Furthermore, there are no grounds for your hypothetical under which THESL would refuse to connect a customer.

Finally, you state at page 3 that "there are no provisions in any law, regulation, or Board regulatory instrument that provide licensed distributors with the authority to implement a requirement that each unit and common area in a new condominium must become a direct customer of the distributor". In THESL's view however, neither is there any prohibition of that policy nor any specific limitation on a licensed distributor's to implement it. To the contrary, the Board's expressed views on the authorization of distributor smart metering were set out in Item 4 of THESL's November response, which is reproduced below (emphasis added):

4. In both its January and July Notices, the Board clearly stated that distributors can smart meter condominiums, and in fact are the only parties legally able to do so.

"The Board has previously determined in rates proceedings related to smart metering activities of certain distributors that smart metering is a part of the distribution activity that is already covered by distributors' distribution licences. As there is no distinction between smart metering condominiums and other residences, the Board has determined that only licensed distributors can smart meter condominiums. In the Board's view, this is in keeping with the current regulatory framework in the electricity sector.

The Board is also of the view that Regulation 442 allows all licensed distributors to smart meter in condominiums."

[EB-2007-0772 Notice of Proposal etc, January 8, 2008, pages 2-3]

"As set out in the January Notice, the Board remains of the view that smart metering is a distribution activity, and that the Electricity Act and Regulation 442 taken together allow all licensed distributors to undertake smart metering in condominiums. The distributor would do so as a distribution activity within its licensed service area."

[EB-2007-0772 Notice of Proposal etc, June 10, 2008, pages 4]

Furthermore, the DSC states at Section 5.1.6:

"A distributor shall identify in its Conditions of Service the type of meters that are available to a customer, the process by which a customer may obtain such meters and the types of charges that would be levied on a customer for each meter type."

This statement is not conditioned by any further obligation on the part of distributors concerning smart sub-metering in new condominiums.

THESL's position in this matter has not changed from that expressed in its November reply. From the above, it is clear to THESL that it acts within its authority and in accordance with the terms of its license. Nevertheless, you make reference at page 3 of your letter to 'adverse implications of THESL's position in the marketplace'. THESL is not aware of any 'adverse implications' of its current position but is undertaking research on adverse implications of changing its position. THESL will advise you of the outcome of that research.

Yours truly,

[Original signed by]

Colin McLorg
Manager, Regulatory Policy & Relations
416-542-2513
regulatoryaffairs@torontohydro.com

cc: Ms. Kirsten Walli, Board Secretary

TAB 14

AIRD & BERLIS LLP

Barristers and Solicitors

Dennis M. O'Leary
Direct: 416.865.4711
E-mail: doleary@airdberlis.com

April 29, 2009

Via email and Courier

Ms. Maureen Helt
Legal Counsel
Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4

Jill Bada
Manager of Compliance
Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4

Dear Ms. Helt and Ms. Bada:

Re: Complaint by the Smart Sub-metering Working Group ("SSMWG")

We are counsel to the SSMWG. Further to the Complaint filed by the SSMWG late last year, and in response to your request for contact numbers, I provide a list of the contact numbers received to date.

In addition we attach both electronically and three hard copies of the documentation related to the recent letters from Toronto Hydro to Metrogate and Avonshire refusing to permit the planned projects to be metered by a licensed smart sub-metering company. The attached booklet contains the original offers to connect from Toronto Hydro, the response of Metrogate and Avonshire specifically noting their desire to utilize a licensed smart sub-metering provider and requesting a compatible offer to connect. Toronto Hydro's response is set out in their letters dated April 22, 2009.

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

Yours very truly,

AIRD & BERLIS LLP

Original Signed by,

Dennis M. O'Leary
DMO/ct
Enclosures
5198446.1

**CONTACT NAMES AND NUMBERS FOR
SSMWG MEMBERS
REMOVED/REDACTED**

ONTARIO ENERGY BOARD

IN THE MATTER OF a Complaint and Request to undertake an Investigation made by the members of the Smart Sub-metering Working Group to the Market Surveillance Panel, under Subsection 4.3.1 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15 (Schedule B)

I N D E X

TAB	ITEM
1	Toronto Hydro Offer to Connect re Residences of Avonshire Inc., January 29, 2009
2	Letter from Avonshire to Toronto Hydro, dated March 6, 2009
3	Response from Toronto Hydro, dated April 22, 2009
4	Toronto Hydro Offer to Connect re Metrogate Inc., dated February 2, 2009
5	Letter from Metrogate to Toronto Hydro, dated March 10, 2009
6	Response from Toronto Hydro, dated April 22, 2009

January 29, 2009

Residences of Avonshire Inc. and
K & G Oakburn Apartments I Ltd.
299 Rochampton Avenue
Toronto, Ontario M4P 1S2



Attention: Mark Gallow

Dear Sir:

Re: Residences of Avonshire Inc. development of 100, & 115 Harrison Garden Boulevard
and 5, 7 & 9 Oakburn Crescent
as legally described in PIN Nos. 10104-1613 (LT), 10104-1614 (LT), 10104-1622 (LT) and
10104-1624 (LT) ("Property")
K & G Oakburn Apartments I Ltd. development of 105 Harrison Garden Boulevard
as legally described in PIN Nos. 10104-1623 (LT) and 10104-1625 (LT) ("Property")
748 high-rise residential units (748 Toronto Hydro suite meters)
41 townhouses
792 connections
Toronto Hydro Customer Class 4
Toronto Hydro Project No. P0016652 Work Order No. 158422 ("Project")

Toronto Hydro-Electric System Limited ("Toronto Hydro") acknowledges receipt of Residences of Avonshire Inc.'s and K & G Oakburn Apartments I Ltd. ("Customer") written request for connection of the Project to the Toronto Hydro main distribution system.

The Customer has represented to Toronto Hydro that 789 residential units will be constructed and connected to the Toronto Hydro main distribution system and the estimated increased demand load attributable to the Project will be 1,900 kW ("Estimated Incremental Demand").

In order to connect the Project, an expansion to the Toronto Hydro main distribution system will be needed.

Based on the plans dated January 22, 2008 ("Plans") this document, including all Schedules attached, is Toronto Hydro's firm Offer to Connect ("Offer to Connect") as required by the Distribution System Code ("Distribution System Code") established by the Ontario Energy Board ("OEB").

In addition to the obligations set forth in this Offer to Connect, the Customer shall be bound by and required to comply with all provisions of the Conditions of Service filed by Toronto Hydro with the OEB. A copy of the Conditions of Service can be obtained at www.torontohydro.com.

Terms used in this Offer to Connect shall have the meaning ascribed thereto in the Distribution System Code and the Conditions of Service unless otherwise defined herein.

The following Schedules attached hereto form a part of this Offer to Connect:

Schedule A – Connection Work and Fees;
Schedule B – Expansion Work and Fees;
Schedule C – Capital Contribution Requirements and Economic Evaluation;
Schedule D – Expansion Deposit;
Schedule E – Alternative Bid Process and Contestable Work;
Schedule F – General Terms and Conditions.

A Capital Contribution, as described in Schedule C, will be required from the Customer.

toronto hydro-electric system limited

An Expansion Deposit, as described in Schedule D, will be required from the Customer.

This Offer to Connect includes Contestable Work for which the Customer may obtain an alternative bid as described in Schedule E.

Based on the Plans and information provided to Toronto Hydro, as of the date of this Offer to Connect, an easement will be required to connect the Project. General easement requirements are set out under the heading "Easements" in Schedule F, General Terms and Conditions.

If the terms and conditions of this Offer to Connect are acceptable to the Customer, a duly authorized officer of the Customer shall sign the duplicate copy and return it to Toronto Hydro within 60 days of the date set forth above. If a signed copy is not returned to Toronto Hydro within that time period, Toronto Hydro reserves the right to revoke this Offer to Connect without further notice to the Customer. The Customer is advised that Toronto Hydro requires a minimum of 24 weeks, if not more ("lead time") to complete the Project, after receiving the signed Offer to Connect from the Customer, and, if necessary the Customer should make arrangements to return the signed Offer to Connect earlier, to accommodate the required lead time.

If the expansion work for this Project has not commenced within one (1) year from the date set forth above, Toronto Hydro has the right to terminate this Offer to Connect in accordance with its rights of termination as set out herein.

Any notice, communication, inquiry and payment regarding this Offer to Connect shall be directed as follows:

To: Toronto Hydro-Electric System Limited
Asset Management - 3rd Floor, 500 Commissioners Street
Toronto, Ontario M4M 3N7
Attention: Jim Trgachef, Supervisor
Standards and Policy Planning
Telephone (416) 542-2514, Facsimile: (416) 542-2731

To: The Customer at the address set forth below:
Residences of Avonshire Inc. and
K & G Oakburn Apartments I Ltd.
299 Roehampton Avenue
Toronto, Ontario M4P 1S2
Attention: Mark Gallow
Telephone: (416) 487-2844, Facsimile: (416) 487-7550

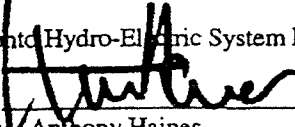
All payments and security as may be required hereunder shall be due and payable, or deliverable, upon acceptance of this Offer to Connect by the Customer.

Each of Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd. shall be jointly and severally liable for all the obligations in this Offer to Connect.

Please sign in the appropriate place below and return one signed copy, and all payments and security as may be required, to the address indicated above.

Yours truly,

Toronto Hydro-Electric System Limited

Per: 
Name: Anthony Haines,
Title: President
I have authority to bind the Corporation.

Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd. each acknowledges its understanding of, accepts, agrees jointly and severally to comply with, and be bound by, all of the terms and conditions of this Offer to Connect, which include the provisions set forth above and all of the Schedules attached. Each acknowledges that by accepting this Offer to Connect a binding agreement is created and, upon signing, this Offer to Connect constitutes a legally valid and binding obligation, enforceable in accordance with its terms.

Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd. each confirms that it will not be obtaining alternative bids for the Contestable Work described in Schedule E.

Residences of Avonshire Inc.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

K & G Oakburn Apartments I Ltd.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

OR

Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd. each confirms it is not accepting Toronto Hydro's Offer to Connect and it will be proceeding by way of an alternative bid process for the Contestable Work, as described in Schedule E.

Residences of Avonshire Inc.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

K & G Oakburn Apartments I Ltd.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

Offer to Connect Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd., 100, 105, & 115 Harrison Garden Boulevard and 5, 7 & 9 Oakburn Crescent, January 29, 2009

**SCHEDULE A
CONNECTION WORK and FEES**

1. Connection Assets are the assets between the point of connection to the Toronto Hydro main distribution system and the ownership demarcation point as defined in Table 1.3 of Toronto Hydro's Conditions of Service.
2. The Connection Work and Connection Fees to supply and install the Connection Assets for the Project are described below.
3. Toronto Hydro shall recover costs associated with the installation of Connection Assets through:
 - (a) Basic Connection Fees which are part of the Economic Evaluation; and
 - (b) Variable Connection Fees collected directly from the Customer. The variable Connection Fees arise from the Variable Connection Work and are in addition to the Basic Connection Fees.
4. The Variable Connection Fees are payable by the Customer to Toronto Hydro pursuant to this Offer to Connect upon acceptance of this Offer to Connect by the Customer, or, if the Customer pursues an alternative bid process described in Schedule E, to the Customer's qualified contractor.

Connection Work shall mean the following:

- All necessary engineering design and inspections;
- Supply & Install:
 - U/G road crossing and primary cable.
- Supply:
 - The necessary switching and isolations required to connect the Customer to the Toronto Hydro distribution system;
 - Primary connections and terminations in transformer vault and to the Toronto Hydro distribution system;
 - All transformation, switchgear and termination as required.

NOTE:

- Customer is responsible for:
 - Trenching, supplying and installing a 2Wx2H concrete encased duct structure on private property from street line to transformer building vaults.

Connection Fees:

- a) Basic Connection Fees of \$1,310.00 per meter connection and \$850.00 per meter connection have been included in Toronto Hydro's Economic Evaluation.

b) Variable Connection Fees	\$193,930.60
GST 5%	<u>\$ 9,696.53</u>
TOTAL CONNECTION FEES, GST	\$203,627.13
Less Deposit and GST received	- \$ 0
BALANCE OUTSTANDING	\$203,627.13

The Connection Fees are based on the Connection Work being done during non-winter conditions. If the Customer requires the Connection Work to be done during winter conditions that would result in additional costs, Toronto Hydro will advise the Customer of the estimated additional costs and if the Customer provides a written request to Toronto Hydro to proceed, a Project Invoice will be issued and payment must be received by Toronto Hydro prior to the commencement of any of the applicable work.

SCHEDULE B EXPANSION WORK AND FEES

1. The Uncontestable Expansion Work and Contestable Expansion Work that must be performed to connect the Project to the Toronto Hydro main distribution system, and corresponding Fees and Total Expansion Fees ("Total Expansion Fees") are described below.
2. The Customer will also be responsible for the payment of the operating, maintenance and administration costs ("OM&A Costs") of the Project, including applicable taxes. The OM&A Costs are included in the Economic Evaluation.
3. The Expansion Fees and OM&A Costs are recovered by Toronto Hydro by way of Capital Contribution if applicable, as described in Schedule C and the increased distribution revenues attributable to the Project, which are received by Toronto Hydro ("Incremental Revenues").

Uncontestable Expansion Work shall mean the following:

- All necessary engineering design and inspections;
- Supply & install:
 - Primary terminations and connections to the existing Toronto Hydro distribution system;
 - The necessary switching and outage arrangements to allow connections to existing distribution system.

Uncontestable Expansion Fees:

Enhancement Costs (1,900 x \$260 per kW)	\$ 494,000.00
Materials	\$ 24,500.00
Labour (engineering design, inspections)	\$ 32,500.00
Equipment	\$ 1,500.00
Basic Connection Charge (3 x \$1,310.00 and 41 x \$850.00, per meter connection)	\$ 38,780.00
Overhead (including administration)	<u>\$ 63,326.08</u>
TOTAL UNCONTESTABLE EXPANSION FEES	\$ 654,606.08

Contestable Expansion Work shall mean the following:

- Supply & install:
 - All necessary duct structures, cable chambers, tap boxes, splice vaults, submersible transformer vaults, switchgear foundations on Harrison Garden extension and Oakburn Crescent to Avondale Avenue cable riser poles.

Contestable Expansion Fees:

Materials	\$ 358,759.09
Labour (construction)	\$ 198,380.43
Equipment	\$ 26,793.96
Overhead (including administration)	<u>\$ 62,539.28</u>
TOTAL CONTESTABLE EXPANSION FEES	\$ 646,472.76
TOTAL UNCONTESTABLE EXPANSION FEES	\$ 654,606.08
TOTAL EXPANSION FEES (CONTESTABLE AND UNCONTESTABLE)	\$1,301,078.84
GST (5%)	<u>\$ 65,053.94</u>
TOTAL EXPANSION FEES, GST	\$1,366,132.78

The Expansion Fees are based on the Expansion Work being done during non-winter conditions. If the Customer requires the Expansion Work to be done during winter conditions that would result in additional costs, Toronto Hydro will advise the Customer of the estimated additional costs and if the Customer provides a written request to Toronto Hydro to proceed, a Project Invoice will be issued and payment must be received by Toronto Hydro prior to the commencement of any applicable work.

SCHEDULE C
CAPITAL CONTRIBUTION REQUIREMENTS and ECONOMIC EVALUATION

1. The Customer acknowledges that it has represented to Toronto Hydro that the estimated increased demand load attributable to the Project will be 1,900 kW ("Estimated Incremental Demand") and that 789 residential units will be connected to the Toronto Hydro main distribution system.
2. To determine the amount of Capital Contribution that is required from the Customer for this Project, Toronto Hydro has performed, as described in Appendix B of the Distribution System Code, an economic evaluation ("Initial Economic Evaluation"). A copy of the Initial Economic Evaluation, including the calculation used to determine the amount of the Capital Contribution to be paid by the Customer, including all of the assumptions and inputs used to produce the Initial Economic Evaluation, is included with this Offer to Connect.
3. As a result of Toronto Hydro's Initial Economic Evaluation of the Project, the Customer shall pay to Toronto Hydro, upon acceptance of this Offer to Connect, a Capital Contribution in the amount set forth below:

Capital Contribution	\$92,981.00
GST (5%)	<u>\$ 4,649.05</u>
Capital Contribution and GST	\$97,630.05

**SCHEDULE D
EXPANSION DEPOSIT**

1. An Expansion Deposit is intended to ensure that Toronto Hydro is held harmless in respect of the Expansion Fees and OM&A Costs by securing payment of the Total Expansion Fees in the event the Estimated Incremental Demand does not materialize. The Expansion Deposit shall be in the form of cash, or an irrevocable commercial letter of credit issued by a Schedule 1 bank as defined in the Bank Act, or a surety bond. The form of security must expressly provide for its use to cover the events for which it is held as a deposit. Any portion of the Expansion Deposit held as cash, which is returned to the Customer, shall include interest on the returned amount from the date of receipt of the full amount of the Expansion Deposit, at the Prime Business Rate set by the Bank of Canada less two (2) percent.
2. The Customer is required to post an Expansion Deposit, upon acceptance of this Offer to Connect, for the difference between the actual Expansion Fees and GST and the amount of the Capital Contribution and GST paid by the Customer, in accordance with Toronto Hydro's Initial Economic Evaluation of the Project.
3. This Expansion Deposit is in addition to any other charges that may be payable to Toronto Hydro under this Offer to Connect, or the Conditions of Service, or otherwise.
4. The amount of the Expansion Deposit is set out below.
5. After the facilities are energized, the Expansion Deposit shall be reduced, at the end of each 365-day period, by an amount calculated by multiplying the original Expansion Deposit by a percentage derived by dividing the actual connections completed or materialized in that 365-day period, by the total number of connections contemplated in this Offer to Connect. For information about reduction in the amount of the Expansion Deposit after each 365 day period, please contact Carrie Matthew at (416) 542-3100 ext. 32076.
6. If after five (5) years from the energization date of the facilities, the total number of connections contemplated by the original Offer to Connect have not materialized, Toronto Hydro shall retain any cash held as an Expansion Deposit, or to be entitled to realize on any letter of credit or bond held as an Expansion Deposit and retain any cash resulting therefrom, with no obligation to return any portion of such monies to the Customer at any time.

EXPANSION DEPOSIT:

TOTAL EXPANSION FEES AND GST	\$1,366,132.78
LESS CAPITAL CONTRIBUTION AND GST	<u>-\$ 97,630.05</u>
EXPANSION DEPOSIT	\$1,268,502.73

SCHEDULE E
ALTERNATIVE BID PROCESS AND CONTESTABLE WORK

1. Toronto Hydro advises the Customer that part of the work that will be required for the expansion and connection to the existing distribution facilities includes work for which the Customer may obtain an alternative bid i.e. work that would not involve work with existing Toronto Hydro assets. The work for which the Customer may obtain alternative bid, "Contestable Work" is described below.
2. The Customer must use a contractor for the Contestable Work qualified by Toronto Hydro in accordance with its Conditions of Service. To qualify, contractors shall submit a "Contractor Qualification Application" and meet the requirements posted at:
http://www.torontohydro.com/electricsystem/customer_care/cond_of_services/index.cfm
at least 30 business days prior to their selection by the Customer to undertake Contestable Work. The Customer shall not be entitled to start performance of the Contestable Work until the contractor has completed its qualification by Toronto Hydro and has been qualified for no less than 30 business days.
3. Toronto Hydro does not make any representation or warranty regarding any contractor selected by the Customer to do any work regardless of whether the contractor has been qualified by Toronto Hydro or not and shall have no liability to the Customer in respect of such work.
4. If the Customer decides to hire a qualified contractor to perform the Contestable Work, the Customer will be required to select, hire and pay the contractor's costs for such work and to assume full responsibility for the construction of all of the Contestable Work.
5. The Customer shall ensure that the Contestable Work is done in accordance with Toronto Hydro's design and technical standards and specifications.
6. The Customer and his qualified contractor shall only use materials that meet the same specifications as Toronto Hydro approved materials (i.e. same manufacturers and same part numbers). Once the Customer has hired a qualified contractor, the Customer may request and obtain from Toronto Hydro the listing of approved materials that may be required for the Contestable Work.
7. The Customer will be required to pay for administering the contract with the qualified contractor, or if agreed by Toronto Hydro, pay Toronto Hydro a fee for performing this activity on its behalf. Upon request if Toronto Hydro is agreeable to performing such activity, Toronto Hydro will advise the Customer of the amount of the fee. Administering the contract includes, among other things, acquiring all permissions, permits and easements.
8. Toronto Hydro shall have the right to inspect and approve all aspects of the facilities constructed by the qualified contractor as part of its system commissioning activities, prior to connecting the expanded facilities to the Toronto Hydro main distribution system. If all of Toronto Hydro's requirements for the Contestable Work, including but not limited to, those set out in Sections 5, 6, and 7 above, have not been completed satisfactorily to Toronto Hydro, acting reasonably, the Project will not be energized, until the Contestable Work is in compliance with all of Toronto Hydro's requirements.
9. If the Customer decides to pursue an alternative bid for the Contestable Work, Toronto Hydro may charge the Customer costs, including, but not limited to, the following, for:
 - (a) additional design, engineering or installation of facilities required to complete the Project that are required in addition to the original Offer to Connect; and,
 - (b) inspection or approval of the work performed by the contractor hired by the Customer; and
 - (c) making the final connection of the new facilities to the Toronto Hydro distribution system.("Additional Costs for Alternative Bid Work").

10. If the Customer decides to hire a qualified contractor to perform the Contestable Work, the Customer must:
 1. Sign an Alternative Bid Agreement;
 2. Hire a qualified contractor;
 3. Pay to Toronto Hydro, the firm amount of Toronto Hydro's Additional Costs for Alternative Bid Work, as set out below;
 4. Provide the Alternative Bid Expansion Deposit as set out below.
11. After the Customer has performed the Contestable Work and Toronto Hydro has inspected and approved the constructed facilities, the Customer shall transfer the expansion facilities that were constructed under the alternative bid option to Toronto Hydro and Toronto Hydro shall pay to the Customer, a transfer price, ("Transfer Price") to be determined, as hereinafter set out.
12. The Transfer Price for the Contestable Work shall be the lower of the Customer's Costs or the amount set out in this Offer to Connect of the Contestable Work. The Customer's Costs shall mean:
 - (a) the costs the Customer paid to have the Contestable Work performed, excluding the Variable Connection Work, as provided by evidence satisfactory to Toronto Hydro;
 - (b) the Additional Costs for Alternative Bid Work charged by Toronto Hydro.Toronto Hydro shall be satisfied that all Customer's Costs shall have been properly incurred.
13. If the Customer does not provide the calculation setting out the Customer's Costs to Toronto Hydro within 30 days of all new facilities being energized, then the amount of the Transfer Price shall be the amount set out in this Offer to Connect for the Contestable Work.
14. Toronto Hydro shall carry out a final economic evaluation after the facilities are energized ("Final Economic Evaluation"). The Final Economic Evaluation shall be based on the amounts used in this Offer to Connect for costs and forecasted revenues, and the amount of the Transfer Price to be paid by Toronto Hydro to the Customer for the Contestable Work, where applicable. A copy of the Final Economic Evaluation shall be provided to the Customer.
15. Any amount payable by the Customer to Toronto Hydro, may be deducted from the Transfer Price owing to the Customer by Toronto Hydro.
16. If the Customer pursues an Alternative Bid, the Customer shall post an Alternative Bid Expansion Deposit in the amount of 10% of the Expansion Deposit as set out in Schedule D.
17. Toronto Hydro will retain the Alternative Bid Expansion Deposit for a warranty period of up to two years. The warranty begins at the end of the Realization Period, defined below.
18. The Realization Period for a Project ends, upon the first to occur of:
 - (i) the materialization of the last forecasted connection in the expansion project, or
 - (ii) Five (5) years after energization of the new facilities.
19. Toronto Hydro shall be entitled to retain and use the Alternative Bid Expansion Deposit to complete, repairing or bring up to standard the facilities constructed by the Customer, including Toronto Hydro's costs to ensure that the expansion is completed to the proper design, technical standards and specifications, using approved materials and that the facilities operate properly when energized.
20. Toronto Hydro shall return to the Customer the unapplied portion of the Alternative Bid Expansion Deposit, if any, at the end of the two-year warranty period.
21. Upon receipt of notice from the Customer that it intends to hire an alternative bid contractor, Toronto Hydro will provide an Alternative Bid Agreement.

Contestable Work shall mean the following:

Note:

- All Customer-supplied materials must be submitted to Toronto Hydro for approval prior to installation and meet Toronto Hydro Distribution Construction Standards;
- All equipment and underground plant installed must be inspected and approved prior to connection to the Toronto Hydro distribution system;
- Customer is responsible for applying for and obtaining any necessary City road cut permits.

Description of Work to Be Completed by the Customer:

- Supply & install:
 - All necessary duct structures, cable chambers, tap boxes, splice vaults, submersible transformer vaults, switchgear foundations on Harrison Garden extension and Oakburn Crescent to Avondale Avenue cable riser poles;
 - All primary cables complete with terminations thereof, except final connection to the Toronto Hydro distribution system;
 - All secondary cables complete with terminations thereof, except final connection to the Toronto Hydro distribution system;
 - All switchgears, submersible transformers;
 - All cable risers completed to the installation of the first section of U-Guard on the termination poles.

Description of Work to Be Completed by Toronto Hydro:

- All necessary engineering design and inspections and material approvals;
- Primary cable termination connections to the existing Toronto Hydro distribution system on Harrison Garden Blvd;
- The necessary switching and outage arrangements to allow connection to existing distribution system.

Toronto Hydro's Additional Costs for Alternative Bid Work	\$ 9,800.00
GST (5%)	\$ <u>490.00</u>
TOTAL ADDITIONAL COSTS FOR ALTERNATIVE BID WORK, GST	\$ 10,290.00
ALTERNATIVE BID EXPANSION DEPOSIT	\$126,850.27

**SCHEDULE F
GENERAL TERMS AND CONDITIONS
OF OFFER TO CONNECT**

1. ASSIGNMENT

- 1.1 Neither party may assign this Offer to Connect without the prior written consent of the other party, such consent not to be unreasonably withheld.

2. DEMARCATION POINTS

- 2.1 The ownership and operational demarcation points of the Project shall be identified as such by Toronto Hydro on the as-constructed drawings.
- 2.2 In accordance with Toronto Hydro's Conditions of Service, the Customer is responsible for maintaining, repairing and replacing, in a safe condition satisfactory to Toronto Hydro, all the Customer's civil infrastructure on private property that is deemed required by Toronto Hydro to house Toronto Hydro's Connection Assets, including but not limited to poles, underground conduits, cable chambers, cable pull rooms, transformer rooms, transformer vaults and transformer pads.

3. DISPUTE RESOLUTION

- 3.1 Any controversy between the parties arising under this Offer to Connect not resolved by discussions between the parties shall be determined by an arbitration tribunal convened pursuant to a notice of submission given either by Toronto Hydro or the Customer.
- 3.2 The notice shall name one arbitrator.
- 3.3 The party receiving the notice shall, within 10 days of notice to the other, name the second arbitrator or, if it fails to do so, the party giving the notice of submission shall name the second arbitrator.
- 3.4 The two arbitrators appointed shall name the third arbitrator within 10 days, or if they fail to do so within that time period, either party may make application to the applicable court for appointment of the third arbitrator.
- 3.5 Any arbitrator selected to act under this Offer to Connect shall be qualified by education, training and experience to pass on the particular question in dispute and shall have no connection to either of the parties other than acting in previous arbitrations.
- 3.6 The arbitration shall be conducted in accordance with the provisions of *The Arbitration Act, 1991* S.O. c-17, as amended.
- 3.7 The decisions of the arbitration tribunal shall be made in writing and shall be final and binding on the parties as to the questions submitted and the parties shall have no right of appeal therefrom.

4. EASEMENTS

- 4.1 Upon request by Toronto Hydro, the Customer shall, at its own expense, execute, register and provide a solicitor's opinion on title in a form acceptable to Toronto Hydro, within the time period specified by Toronto Hydro, and subject only to those encumbrances permitted in writing by Toronto Hydro, such easement agreements as Toronto Hydro may require for the installation and continued existence of any electrical or telecommunication plants or access to same for the life of such plant or as otherwise required to perform its responsibility as a distribution company.
- 4.2 The customer acknowledges that in order for an easement to be registered, it shall be required, at its expense, to arrange for and register any necessary documentation required by the appropriate Land Registry

Office, including a Reference Plan, prepared by an Ontario Land Surveyor, describing the extent of the lands required for the easement.

5. FORCE MAJEURE

- 5.1 Force Majeure means any act, event, cause or condition that is beyond Toronto Hydro's reasonable control, including wind, ice, lightning or other storms, earthquakes, landslides, floods, washouts, fires, explosions, contamination, breakage of equipment or machinery, delays in transportation, strikes, lockouts or other labour disturbances, civil disobedience or disturbances, war, acts of sabotage, blockades, insurrections, vandals, riots, epidemics, loss of any relevant license or a declaration of force majeure by Hydro One Networks Inc., or any successor, under any agreement which Hydro One Networks Inc., or any successor, has with Toronto Hydro in connection with any work to be performed by Toronto Hydro under this Offer to Connect.
- 5.2 If by reason of Force Majeure, Toronto Hydro is unable, wholly or partially, to perform or comply with any or all of its obligations under, this Offer to Connect, it shall be relieved of such obligations, and any liability (including liability for any injury, damage or loss to the Customer caused by such event of Force Majeure) for failing to perform or comply with such obligations, during the continuance of Force Majeure.

6. LIMITATION OF LIABILITY

- 6.1 Toronto Hydro shall not be responsible for the acts or omissions of the Customer or its employees, contractors, subcontractors or agent.
- 6.2 Neither Toronto Hydro nor any of its employees, agents, officers, directors or other representatives ("Representatives") shall be liable for any loss, injury or damage to persons or property caused in whole or in part by negligence or fault of the Customer, or any of the Customer's Representatives, contractors or subcontractors.
- 6.3 Notwithstanding any other provision in this Offer to Connect, or any applicable statutory provision Toronto Hydro and its Representatives shall only be liable for any damages which arise directly out of the wilful misconduct or negligence of Toronto Hydro or its Representatives.
- 6.4 Neither Toronto Hydro nor any of its Representatives shall be liable under any circumstances whatsoever for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect, consequential, incidental or special damages, including but not limited to punitive or exemplary damages, arising from any breach of this Offer to Connect, fundamental or otherwise, or from any tortious acts, including the negligence or willful misconduct of it or its Representatives, however arising.
- 6.5 No action arising out of this Offer to Connect, regardless of the form thereof, may be brought by either party more than two (2) years following the date the cause of action arose, provided however that, subject to any applicable law, Toronto Hydro may bring an action for non-payment of amounts, or non-delivery of Expansion Deposits, required to be paid or delivered by the Customer under this Offer to Connect at any time.

- 6.6 The Customer shall indemnify and save harmless Toronto Hydro and its Representatives from any action, claim, penalty, damages, losses, judgements, settlements, costs and expenses or other remedy brought by any party or governmental authority, arising out of or resulting from any negligent act or failure to act or any willful misconduct by the Customer or any of its Representatives.
- 6.7 All of the provisions of Sections 6.1, 6.2, 6.3, 6.4, 6.5 and 6.6 shall survive the termination of this Offer to Connect.
- 7. NOTICE**
- 7.1 Any notice to be given under this Offer to Connect shall be in writing and delivered by prepaid registered mail, hand, courier or facsimile to the contact for the parties as set forth in the Offer to Connect.
- 7.2 Delivery by facsimile shall be deemed received on the day following transmittal provided the facsimile is received as confirmed by the issuance of a confirmation receipt at the point of transmission.
- 7.3 Delivery by hand or courier shall be deemed received on the date delivered.
- 7.4 Delivery by prepaid registered mail shall be deemed received on the 5th business day after mailing.
- 7.5 Either party may change its address for notice by providing written notice of that change to the other party.
- 8. REVISED PLANS**
- 8.1 If the Customer submits revised plans or requires additional design work, Toronto Hydro may provide, at cost, a new offer based on the revised plans or the additional design work.
- 8.2 If the Plans are revised at any time, after acceptance of this Offer to Connect shall be withdrawn or terminated immediately, despite any acceptance by the Customer. A new Offer to Connect will only be provided to the Customer upon payment in the amount of \$3,500.00 that must be paid prior to the new Offer to Connect being provided to the Customer.
- 9. SECURITY INTEREST**
- 9.1 As security for its obligation under this Offer to Connect, the Customer grants to Toronto Hydro a present and continuing security interest in, and lien on (and right of set-off against), and assignment of all money, cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, delivered as an Expansion Deposit or otherwise pursuant to the terms of this Offer to Connect, or for the benefit of Toronto Hydro.
- 9.2 The Customer agrees to take such action as Toronto Hydro reasonably requires in order to perfect Toronto Hydro's first-priority security interest in, and lien on (and right of set-off against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.
- 9.3 Toronto Hydro shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Customer's obligations under this Offer to Connect (Customer remaining liable for any amounts owing to Toronto Hydro after such application), subject

to Toronto Hydro's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

10. TAXES

- 10.1 Unless specified, none of the amounts payable or deliverable under the Offer to Connect include goods and services taxes or any other taxes that may be payable.
- 10.2 The Customer shall pay all such taxes in accordance with applicable laws.

11. TERMINATION

- 11.1 Each of the following shall constitute an event of default ("Event of Default"):

- (i) the Customer fails to make any payment at the time specified for payment in this Offer to Connect and such failure has not been remedied within 4 days notice of such failure;
- (ii) the Customer fails to deliver any Expansion Deposit, including a renewal, or additional Expansion Deposit within the time period specified for delivery in this Offer to Connect;
- (iii) the Customer fails to execute and deliver any agreement, or deliver any other document, within the time period specified for execution and/or delivery;
- (iv) the Customer fails to commence the Expansion Work within 1 year from the date of this Offer to Connect;
- (v) the Customer cancels the Project for any reason;
- (vi) the Customer fails to comply with any other covenant or obligation in this Offer to Connect and such failure has not been remedied (where it is possible to remedy such failure) within 15 days of the initial failure to perform;
- (vii) a resolution has passed, or documents filed at an office of public record, for the merger, amalgamation, dissolution, termination of existence, liquidation or winding-up of the Customer, unless the prior consent of Toronto Hydro has been obtained;
- (viii) a receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy of the Customer or any of its property is appointed by any government authority, and such receiver, manager, receiver-manager, liquidator, monitor or trustee is not discharged within 30 days of appointment; or, if by decree of any government authority, the Customer is adjudicated bankrupt or insolvent, or any substantial part of its property is taken, and such decree is not discharged within 30 days after the entry thereof; or, if a petition to declare bankruptcy or to reorganize such party pursuant to any applicable law is filed against the Customer and is not dismissed within 30 days of such filing;
- (ix) the Customer files, or consents to the filing of, a petition in bankruptcy or seeks, or consents to, an order or other protection under any provision of any legislation relating to insolvency or bankruptcy ("Insolvency Legislation"); or files, or consents to the filing of, a petition, application,


- answer or consent seeking relief or assistance in respect of itself under provision of any Insolvency Legislation; or files, consents to the filing of, an answer admitting the material allegations of a petition filed against it in any proceeding described herein; or makes an assignment for the benefit of its creditors; or admits in writing its inability to pay its debts generally as they become due; or consents to the appointment of a receiver, trustee, or liquidator over any, or all, of its property.
- 11.2 Upon the occurrence of an Event of Default, Toronto Hydro may, at its sole option, do any one or more of the following:
- (i) exercise any of the rights and remedies of a secured party including any such rights and remedies under law then in effect;
 - (ii) exercise its rights of set-off against any and all property of the Customer in the possession of Toronto Hydro;
 - (iii) declare the full amounts of the Expansion Fees and OM&A Costs that are unpaid and unrecovered as due and owing ("Accelerated Amounts");
 - (iv) draw on any cash, or draw under any letter of credit, then held by or for the benefit of Toronto Hydro as an Expansion Deposit or Capital Contribution or otherwise, free from any claim or right of any nature whatsoever of the Customer, including any equity or right of purchase or redemption by the Customer, to cover all costs incurred on, or prior to, the date of termination, including costs for materials ordered for the expansion, storage costs and facilities removal costs and any amounts owing under this Offer to Connect, including the Accelerated Amounts; and/or
 - (v) terminate this Offer to Connect, provided that, any termination shall not affect any obligations incurred prior to the effective date of termination or any other rights that Toronto Hydro may have arising out of any rights or obligations that are expressed to survive termination of this Offer to Connect.
12. **TITLE AND RISK OF LOSS**
- 12.1 Notwithstanding that Toronto Hydro may install equipment and materials under this Offer to Connect to which title is intended to pass to the Customer, title to such equipment or materials shall be transferred to the Customer, and risk of loss shall be assumed by the Customer, upon delivery to the Property.
- 12.2 Toronto Hydro shall be entitled to receive reasonable compensation for storing any materials or equipment not delivered to the Customer due to a delay caused by the Customer and such equipment or materials shall be held at the Customer's risk.
13. **WARRANTIES**
- 13.1 Toronto Hydro warrants that the services it provides are in accordance with Good Utility Practice.
- 13.2 Except as expressly set forth in this Offer to Connect, Toronto Hydro provides no warranties, for fitness for purpose or otherwise, and whether statutory or otherwise, to the Customer.
14. **MISCELLANEOUS**
- 14.1 This Offer to Connect, including the Schedules attached, shall constitute the entire agreement between the parties, and there are no other agreements or understandings, either written or oral, to conflict with, alter or enlarge this Offer to Connect unless agreed to in writing between the parties subsequent to the effective date of this Offer to Connect.
- 14.2 Failure or delay by Toronto Hydro in enforcing any right under, or provision of this Offer to Connect shall not be deemed a waiver of such provision or right with respect to the instant, or any previous, or subsequent, breach.
- 14.3 This Offer to Connect shall be governed by the laws of the Province of Ontario and the laws of Canada as applicable.
- 14.4 Toronto Hydro shall be entitled to access at all reasonable times to any of the Customer's properties to perform the services in this Offer to Connect.
- 14.5 Interest on unpaid amounts shall bear interest at the rate of 1.5 percent calculated and compounded monthly (19.56 percent per annum) at and from the due date up to and including the date of payment in full of such amount, together with all interest accrued to the date of payment.
- 14.6 Toronto Hydro and the Customer agree to execute and deliver such further documents as may be required for either party to fulfill its obligations and enforce its rights under this Offer to Connect.
- 14.7 If any provision of this Offer to Connect is declared illegal, invalid or unenforceable for any reason whatsoever, to the extent permitted by law, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of any of the other provisions.
- 14.8 This Offer to Connect and the obligations of the parties under it are subject to all applicable present and future laws, rules, regulations and orders of any regulatory or legislative body or other duly constituted authority having jurisdiction over Toronto Hydro or the Customer.
- 14.9 Time shall be of the essence.
- 14.10 If there is a conflict between this Offer to Connect and Toronto Hydro's Conditions of Service, this Offer to Connect shall govern.

	A	B	C	D	E	F	G	H	I	J	K
1	REQUEST FOR ECONOMIC EVALUATION (NPV CALCULATION)										
2	January 23, 2007 Version										
3											
4	Important: Enter Data in Yellow Boxes only, including zero values										
5											
6											
7	Requested by:	DAN STANOEV					Date:	nov 20 2008			
8											
9	Tel. Ext:	27818									
10											
11	Supervisor Approval:	Dave Graham									
12											
13	Project Information:										
14	Address	AVONSHIRE COMMUNITY - PHASE 1					WO Number	158422			
15											
16	Service Type (as applicable)	(any 'x')	Res		<input checked="" type="checkbox"/>	Commercial				Industrial	
17											
18	1,000 10000 kW Incremental Power Factor = 99% TDP										
19											
20	Transformer Size	2000	kVA	Incremental Load	20000	kVA	Total Load	20000	kVA		
21											
22											
23	Customer Class	14	Expected In-Service Date					Jun-09			
24											
25	Type of Account Meter	Monthly demand > 1000 kW and up to 5000 kW					No. of Meters Installed	792			
26											
27											
28											
29											
30											
31											
32											
33											
34											
35											
36											
37	EXPANSION PREP - ENHANCEMENT COSTS										
38	KW Avg Charges (\$)										
39											
40	OH and U/G	1000	X	= \$484,000.00							
41											
42											
43											
44	Enhancements Costs = \$484,000.00										
45											
46	NETWORK VALU COST (SHARD)										
47											
48	IMPARTED EXPANSION COST = \$484,000.00										
49											
50											
51											
52											
53											
54											
55											
56											
57											
58											
59											
60											
61											
62											
63											
64											
65	Customer Connection Forecast - Number of Installed Meter										
66											
67	Customer Class										
68	Residential										
69	General Service (< 50 kW)										
70	General Service (50 - 999 kW)										
71	General Service (1000 - 4999 kW)										
72	Large User (5000+ kW)										
73	Total Customer Monthly Peak Demand - kva - (Class 3, 4 and/or 5)										
74											
75	Residential										
76	General Service (< 50 kW)										
77	General Service (50 - 999 kW)										
78	General Service (1000 - 4999 kW)										
79	Large User (5000+ kW)										
80											
81	Notes:										
82											

TORONTO HYDRO ELECTRIC SYSTEM
CAPITAL EXPENDITURE AND CAPITAL MODEL

Scenario: 150422
Project: UTILITY - PHASE 1
Start Date: nov 20 2008
End Date: Jun-2009
Period: 26

Case Scenario 4B



Item	WACC	Return	Cost	QTY
WACC	0%			
Return	0%			
Cost	0%			
QTY	0%			

Item	WACC	Return	Cost	QTY
WACC	0%			
Return	0%			
Cost	0%			
QTY	0%			

Item	WACC	Return	Cost	QTY
WACC	0%			
Return	0%			
Cost	0%			
QTY	0%			

Item	WACC	Return	Cost	QTY
WACC	0%			
Return	0%			
Cost	0%			
QTY	0%			

A. MODEL PARAMETER BASE ASSUMPTIONS

Item	2000
Current Year	35.17%
Income Tax Rate	0.15%
LGT tax ratio	0.50%
PCT tax rate	0.00%
Inflation	5.30%
WACC	

Description	Value	Percentage
1 Diet. System Assets (class 1)	12.5	8%
2 Buildings (class 1)	60	4%
3 Computer Eqt. (class 10)	7.5	5%
4 Applications Software (class 12)	50	100%
5 Office Equipment (class 8)	10	20%

Order	Description
1	Residential
2	General Service (< 50 kW)
3	General Service (50 - 999 kW)
4	General Service (1000 - 4999 kW)
5	Large User (5000+ kW)

[illegible]

Customer Class	
1 Residential	
2 General Service (< 60 kW)	
3 General Service (60 - 990 kW)	
4 General Service (1000 - 4990 kW)	
5 Large User (5000+ kW)	

Category	% Engineering Admins Reclassified
Engineering Admins	10.7%



4800 DUFFERIN STREET
TORONTO, ONTARIO
M3H 5S9

March 6, 2009

Toronto Hydro-Electric System Limited
14 Carlton Street
Asset Management
3rd Floor, 500 Commissioner Street
Toronto, ON M4M 3N7

Attention: Jim Trgachef, Supervisor

Dear Sir:

**Re: Residences of Avonshire Inc.
Address: 100, & 115 Harrison Garden Boulevard and 5,7 & 9 Oakburn Crescent**

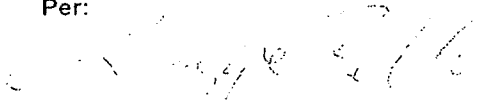
You will recall that you hosted a meeting last fall with representatives of Deltera Inc. at which time the discussion turned to the metering of the planned condominium projects which Deltera and related companies are and will be building in Toronto. At this meeting, you advised that effective February 28, 2008, Toronto Hydro was the only entity that had the right to own and supply meters for any of our projects and that no other options for metering were available. As a result of this, Residences of Avonshire Inc. request for an offer to connect in respect of the above noted building did not contemplate this building being suite metered by any entity other than Toronto Hydro and the offer to connect received contemplates Toronto Hydro installing individual suite meters.

It has come to our attention that contrary to the advice received, Residences of Avonshire Inc. does have the right under Subsection 53.17 of the *Electricity Act, 1998* to choose to have this project smart sub-metered by a licensed sub-metering company. Residences of Avonshire Inc. is desirous of considering the sub-metered option and would have requested an offer to connect which contemplated the above project being smart sub-metered but for the information provided at the meeting at your offices last fall.

We therefore require that Toronto Hydro provide a further offer to connect which contemplates the above project being smart sub-metered by a licensed sub-metering company. This offer should specifically contemplate that Toronto Hydro will install a bulk meter and Residences of Avonshire Inc.'s intention to smart sub-meter the units at the project downstream of the bulk meter.

I would appreciate confirmation that an appropriate Offer to Connect will be prepared and forwarded to Residences of Avonshire Inc. within the next two weeks. Given your familiarity already with the project, we trust that you will make every effort to meet this timeframe.

Yours truly,
RESIDENCES OF AVONSHIRE INC.
Per:


Giuseppe Bello
Project Manager

Colin J. McLorg
14 Carlton St.
Toronto, Ontario
M5B 1K5

Telephone: 416-542-2513
Facsimile: 416-542-2776
cmclorg@torontohydro.com



2009 April 22

Mr. Giuseppe Bello
Project Manager
Residences of Avonshire Inc
4800 Dufferin Street
Toronto, ON M3H 5S9
via email

Dear Mr. Bello:

RE: Metering and Offers to Connect for 'Avonshire' Projects

Thank you for your letter of March 10, 2009 to our Mr. Trgachef. Unfortunately, conflicting address information in your letter resulted in delays in its delivery. Your letter, received by me April 20, has been referred to me for reply.

Your letter generally concerns Toronto Hydro's policy and practice regarding offers to connect and smart metering for new condominiums, particularly those mentioned in the subject line of your letter. Your letter goes on to request that Toronto Hydro prepare a revised Offer to Connect for those condominiums based on a bulk meter / sub-metering configuration. As explained below, Toronto Hydro does not offer that connection configuration for new condominiums and therefore will not prepare a revised Offer to Connect on that basis.

The Ontario Energy Board ('OEB') regulates Toronto Hydro rates and service offerings. The OEB has defined the term 'smart metering' as follows: "The Board uses the term 'smart metering' to describe the situation in which a licensed distributor individually meters every condominium unit (and the condominium's common areas) with a smart meter. In this scenario, each unit will become a residential customer of the licensed distributor and each unit and the common areas must have a separate account with the licensed distributor."¹

As set out in Toronto Hydro's Conditions of Service, for condominium projects commenced with Toronto Hydro on and after February 28, 2008 ('new condominiums'), Toronto Hydro will provide smart metering as defined by the OEB (i.e., individual unit or suite metering

¹ [EB-2007-0772 Notice of Proposal etc. issued January 8, 2008]

compliant with smart metering regulations) for all separate units and for common areas ('individually metered units') at no charge to the developer. Upon registration and creation of the condominium corporation, the holders of the individually metered units become the direct customers of Toronto Hydro.

Toronto Hydro (along with other licensed distributors) has been specifically authorized to conduct smart metering as part of its standard, licensed distribution activities. The OEB has stated as follows:

"The Board has previously determined in rates proceedings related to smart metering activities of certain distributors that smart metering is a part of the distribution activity that is already covered by distributors' distribution licences. As there is no distinction between smart metering condominiums and other residences, the Board has determined that only licensed distributors can smart meter condominiums. In the Board's view, this is in keeping with the current regulatory framework in the electricity sector.

The Board is also of the view that Regulation 442 allows all licensed distributors to smart meter in condominiums."²

"As set out in the January Notice, the Board remains of the view that smart metering is a distribution activity, and that the Electricity Act and Regulation 442 taken together allow all licensed distributors to undertake smart metering in condominiums. The distributor would do so as a distribution activity within its licensed service area."³

Toronto Hydro therefore asserts that it is authorized to connect new condominiums in the manner described in its Conditions of Service and that it has no obligation to do otherwise.

The statement of Toronto Hydro's position in this matter is not entirely correct in your letter. Specifically, you state your understanding that Toronto Hydro advised you that "Toronto Hydro was the only entity that had the right to own and supply meters for any of our projects and that no other options for metering were available."

While it is the case that ultimately Toronto Hydro will own the metering infrastructure and will attach the individually metered units as direct customers, Toronto Hydro's Conditions of Service provide for alternative bids for the installation of meters and do not preclude the installation of an additional sub-metering system, should the developer or condominium wish to install one, provided it does not interfere with Toronto Hydro's equipment.

Your request for a further Offer to Connect assuming bulk metering is based on an incorrect interpretation of Section 53.17 of the *Electricity Act*, which you state contradicts Toronto Hydro's advice referred to above. In fact, that Section provides as follows:

"Despite the Condominium Act, 1998 and any other Act, a distributor and any other person licensed by the Board to do so shall, in the circumstances prescribed by regulation, install a smart meter, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies of a type prescribed by regulation."

Section 53.17 of the *Electricity Act* does not contradict Toronto Hydro's position and is irrelevant to this issue, since with respect to new condominiums, it does not prohibit a

² [EB-2007-0772 Notice of Proposal etc, January 8, 2008, pages 2-3]

³ [EB-2007-0772 Notice of Proposal etc, June 10, 2008, pages 4]

distributor from installing smart metering, nor require a non-distributor to provide sub-metering, but rather goes to the requirement that whatever equipment is installed be of a type required by regulation. Furthermore, it clearly does not establish a right on the part of any person to install sub-metering equipment. Sub-metering is referred to because such configurations are allowed, but not required, in the case of existing condominiums already fitted with bulk meters.

In summary, nothing with respect to new condominiums in Toronto Hydro's metering or connection practice or in its Conditions of Service is out of compliance with Code, regulation, or legislation. The OEB has expressly concluded that smart metering of condominiums is a distribution activity authorized by the existing licenses of distributors, and has not established any obligation on distributors to provide for sub-metering configurations in new condominiums.

For these reasons Toronto Hydro does not accept the request set out in your letter. Please contact me if you have concerns or questions around any of these matters.

Yours truly,

(Original signed by)

Colin McLorg
Manager, Regulatory Policy and Relations
416-542-2513
cmclorg@torontohydro.com

February 2, 2009

Metrogate Inc.
4800 Dufferin Street
Toronto, Ontario M3H 5S9



Attention: Lou Tersigni

Dear Sir:

Re: Metrogate Inc. development of Solaris at Metrogate, Phase I and II,
Ventus at Metrogate, Phases I and II, and
Metrogate Townhouses
as legally described in PIN's 06164-0466 (LT), 06164-0469 (LT), 06164-0470 (LT), 06164-0472 (LT),
and 06164-0473 (LT) ("Property")
1512 high-rise residential units (1512 Toronto Hydro suite meters)
74 townhouses
Toronto Hydro Customer Class 4
Toronto Hydro Project No. P0016652 Work Order No. 170242 ("Project")

Toronto Hydro-Electric System Limited ("Toronto Hydro") acknowledges receipt of Metrogate Inc.'s ("Customer") written request for connection of the Project to the Toronto Hydro main distribution system.

The Customer has represented to Toronto Hydro that 1586 residential units will be constructed and connected to the Toronto Hydro main distribution system and the estimated increased demand load attributable to the Project will be 3,100 kW ("Estimated Incremental Demand").

In order to connect the Project, an expansion to the Toronto Hydro main distribution system will be needed.

Based on the plans dated April 1, 2008 ("Plans") this document, including all Schedules attached, is Toronto Hydro's firm Offer to Connect ("Offer to Connect") as required by the Distribution System Code ("Distribution System Code") established by the Ontario Energy Board ("OEB").

In addition to the obligations set forth in this Offer to Connect, the Customer shall be bound by and required to comply with all provisions of the Conditions of Service filed by Toronto Hydro with the OEB. A copy of the Conditions of Service can be obtained at www.torontohydro.com.

Terms used in this Offer to Connect shall have the meaning ascribed thereto in the Distribution System Code and the Conditions of Service unless otherwise defined herein.

The following Schedules attached hereto form a part of this Offer to Connect:

Schedule A – Connection Work and Fees;
Schedule B – Expansion Work and Fees;
Schedule C – Capital Contribution Requirements and Economic Evaluation;
Schedule D – Expansion Deposit;
Schedule E – Alternative Bid Process and Contestable Work;
Schedule F – General Terms and Conditions.

A Capital Contribution, as described in Schedule C, will not be required from the Customer.

An Expansion Deposit, as described in Schedule D, will be required from the Customer.

toronto hydro-electric system limited

This Offer to Connect includes Contestable Work for which the Customer may obtain an alternative bid as described in Schedule E.

Based on the Plans and information provided to Toronto Hydro, as of the date of this Offer to Connect, an easement will be required to connect the Project. General easement requirements are set out under the heading "Easements" in Schedule F, General Terms and Conditions.

If the terms and conditions of this Offer to Connect are acceptable to the Customer, a duly authorized officer of the Customer shall sign the duplicate copy and return it to Toronto Hydro within 60 days of the date set forth above. If a signed copy is not returned to Toronto Hydro within that time period, Toronto Hydro reserves the right to revoke this Offer to Connect without further notice to the Customer. The Customer is advised that Toronto Hydro requires a minimum of 24 weeks, if not more ("lead time") to complete the Project, after receiving the signed Offer to Connect from the Customer, and, if necessary the Customer should make arrangements to return the signed Offer to Connect earlier, to accommodate the required lead time.

If the expansion work for this Project has not commenced within one (1) year from the date set forth above, Toronto Hydro has the right to terminate this Offer to Connect in accordance with its rights of termination as set out herein.

Any notice, communication, inquiry and payment regarding this Offer to Connect shall be directed as follows:

To: Toronto Hydro-Electric System Limited
Asset Management - 3rd Floor, 500 Commissioners Street
Toronto, Ontario M4M 3N7
Attention: Jim Trgachef, Supervisor
Standards and Policy Planning
Telephone (416) 542-2514, Facsimile: (416) 542-2731

To: The Customer at the address set forth below:
Metrogate Inc.
4800 Dufferin Street
Toronto, Ontario M3H 5S9
Attention: Lou Tersigni
Telephone: (416) 736-2545, Facsimile: (416) 661-8923

All payments and security as may be required hereunder shall be due and payable, or deliverable, upon acceptance of this Offer to Connect by the Customer.

Please sign in the appropriate place below and return one signed copy, and all payments and security as may be required, to the address indicated above.

Yours truly,

Toronto Hydro-Electric System Limited

Per: 

Name: Anthony Haines,

Title: President

I have authority to bind the Corporation.

Metrogate Inc. acknowledges its understanding of, accepts, agrees to comply with, and be bound by, all of the terms and conditions of this Offer to Connect, which include the provisions set forth above and all of the Schedules attached. The Customer acknowledges that by accepting this Offer to Connect a binding agreement is created and, upon signing, this Offer to Connect constitutes a legally valid and binding obligation of the Customer, enforceable in accordance with its terms.

The Customer confirms that it will not be obtaining alternative bids for the Contestable Work described in Schedule E.

Metrogate Inc.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

OR

Metrogate Inc. confirms it is not accepting Toronto Hydro's Offer to Connect and it will be proceeding by way of an alternative bid process for the Contestable Work, as described in Schedule E.

Metrogate Inc.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

Offer to Connect Metrogate Inc, February 2, 2009

**SCHEDULE A
CONNECTION WORK and FEES**

1. Connection Assets are the assets between the point of connection to the Toronto Hydro main distribution system and the ownership demarcation point as defined in Table 1.3 of Toronto Hydro's Conditions of Service.
2. The Connection Work and Connection Fees to supply and install the Connection Assets for the Project are described below.
3. Toronto Hydro shall recover costs associated with the installation of Connection Assets through:
 - (a) Basic Connection Fees which are part of the Economic Evaluation; and
 - (b) Variable Connection Fees collected directly from the Customer. The variable Connection Fees arise from the Variable Connection Work and are in addition to the Basic Connection Fees.
4. The Variable Connection Fees are payable by the Customer to Toronto Hydro pursuant to this Offer to Connect upon acceptance of this Offer to Connect by the Customer, or, if the Customer pursues an alternative bid process described in Schedule E, to the Customer's qualified contractor.

Connection Work shall mean the following:

- All necessary engineering design, drawings and inspections;
- Supply & install:
 - U/G road crossing and primary cable.
- Supply:
 - All switching and isolations;
 - All primary connections and terminations in transformer and to the underground primary distribution system;
 - All transformation, switchgear and termination as required.

NOTE: Customer is responsible for:

- Trenching, supplying and installing a 3Wx2H concrete encased duct structure on private Property from street line to transformer building vaults.

Connection Fees:

a) A Basic Connection Fee of \$1,310.00 per commercial meter connection and \$850.00 per residential meter connection has been included in Toronto Hydro's Economic Evaluation.	
b) Variable Connection Fees	\$76,154.01
GST 5%	<u>\$ 3,807.70</u>
TOTAL CONNECTION FEES, GST	\$79,961.71
Less Deposit and GST received	- \$ 0
BALANCE OUTSTANDING	\$79,961.71

The Connection Fees are based on the Connection Work being done during non-winter conditions. If the Customer requires the Connection Work to be done during winter conditions that would result in additional costs, Toronto Hydro will advise the Customer of the estimated additional costs and if the Customer provides a written request to Toronto Hydro to proceed, a Project Invoice will be issued and payment must be received by Toronto Hydro prior to the commencement of any of the applicable work.

SCHEDULE B EXPANSION WORK AND FEES

1. The Uncontestable Expansion Work and Contestable Expansion Work that must be performed to connect the Project to the Toronto Hydro main distribution system, and corresponding Fees and Total Expansion Fees ("Total Expansion Fees") are described below.
2. The Customer will also be responsible for the payment of the operating, maintenance and administration costs ("OM&A Costs") of the Project, including applicable taxes. The OM&A Costs are included in the Economic Evaluation.
3. The Expansion Fees and OM&A Costs are recovered by Toronto Hydro by way of Capital Contribution if applicable, as described in Schedule C and the increased distribution revenues attributable to the Project, which are received by Toronto Hydro ("Incremental Revenues").

Uncontestable Expansion Work shall mean the following:

- All necessary engineering design, drawings and inspections;
- Supply & install:
 - Primary terminations and connections to the existing Toronto Hydro distribution system;
 - Reconfiguration of distribution and supply to the existing hotel;
 - The necessary switching and outage arrangements to allow connections to existing Toronto Hydro distribution system.

Uncontestable Expansion Fees:

Enhancement Costs (3,100 x \$260 per kW)	\$ 806,000.00
Materials	\$ 40,800.00
Labour (engineering design, inspections)	\$ 43,800.00
Equipment	\$ 3,800.00
Basic Connection Charge (74 x \$850.00 and 11x \$1,310.00 per meter connection)	\$ 77,310.00
Overhead (including administration)	<u>\$ 104,070.14</u>
TOTAL UNCONTESTABLE EXPANSION FEES	\$1,075,780.14

Contestable Expansion Work shall mean the following:

- Supply & install:
 - All necessary duct structures, cable chambers, tap boxes, splice vaults, submersible transformer vaults, switchgear foundations on Village Green Square, Street 'A', Street 'B', Street 'C' and an extension to existing Toronto Hydro distribution system on Village Green Square.

Contestable Expansion Fees:

Materials	\$ 407,657.24
Labour (construction)	\$ 213,180.32
Equipment	\$ 29,568.46
Overhead (including administration)	<u>\$ 69,658.48</u>
TOTAL CONTESTABLE EXPANSION FEES	\$ 720,064.50
TOTAL UNCONTESTABLE EXPANSION FEES	<u>\$1,075,780.14</u>
TOTAL EXPANSION FEES (CONTESTABLE AND UNCONTESTABLE)	\$1,795,844.64
GST (5%)	<u>\$ 89,792.23</u>
TOTAL EXPANSION FEES, GST	\$1,885,636.87

The Expansion Fees are based on the Expansion Work being done during non-winter conditions. If the Customer requires the Expansion Work to be done during winter conditions that would result in additional costs, Toronto Hydro will advise the Customer of the estimated additional costs and if the Customer provides a written request to Toronto Hydro to proceed, a Project Invoice will be issued and payment must be received by Toronto Hydro prior to the commencement of any applicable work.

SCHEDULE C
CAPITAL CONTRIBUTION REQUIREMENTS and ECONOMIC EVALUATION

1. The Customer acknowledges that it has represented to Toronto Hydro that the estimated increased demand load attributable to the Project will be 3,100 kW ("Estimated Incremental Demand") and that 1586 residential units will be connected to the Toronto Hydro main distribution system.
1. To determine the amount of Capital Contribution that is required from the Customer for this Project, Toronto Hydro has performed, as described in Appendix B of the Distribution System Code, an economic evaluation ("Initial Economic Evaluation"). A copy of the Initial Economic Evaluation, including the calculation used to determine the amount of the Capital Contribution to be paid by the Customer, including all of the assumptions and inputs used to produce the Initial Economic Evaluation, is included with this Offer to Connect.
3. As a result of Toronto Hydro's Initial Economic Evaluation of the Project, the Customer will not be required to pay a Capital Contribution.

**SCHEDULE D
EXPANSION DEPOSIT**

1. An Expansion Deposit is intended to ensure that Toronto Hydro is held harmless in respect of the Expansion Fees and OM&A Costs by securing payment of the Total Expansion Fees in the event the Estimated Incremental Demand does not materialize. The Expansion Deposit shall be in the form of cash, or an irrevocable commercial letter of credit issued by a Schedule 1 bank as defined in the Bank Act, or a surety bond. The form of security must expressly provide for its use to cover the events for which it is held as a deposit. Any portion of the Expansion Deposit held as cash, which is returned to the Customer, shall include interest on the returned amount from the date of receipt of the full amount of the Expansion Deposit, at the Prime Business Rate set by the Bank of Canada less two (2) percent.
2. The Customer is required to post an Expansion Deposit, upon acceptance of this Offer to Connect, for the difference between the actual Expansion Fees and GST and the amount of the Capital Contribution and GST paid by the Customer, in accordance with Toronto Hydro's Initial Economic Evaluation of the Project.
3. This Expansion Deposit is in addition to any other charges that may be payable to Toronto Hydro under this Offer to Connect, or the Conditions of Service, or otherwise.
4. The amount of the Expansion Deposit is set out below.
5. After the facilities are energized, the Expansion Deposit shall be reduced, at the end of each 365-day period, by an amount calculated by multiplying the original Expansion Deposit by a percentage derived by dividing the actual demand materialized in that 365-day period, by the Estimated Incremental Demand contemplated in this Offer to Connect. For information about reduction in the amount of the Expansion Deposit after each 365 day period, please contact Carrie Matthew at (416) 542-3100 ext. 32076.
6. If after five (5) years from the energization date of the facilities, the Estimated Incremental Demand contemplated by this Offer to Connect has not materialized, Toronto Hydro shall retain any cash held as an Expansion Deposit, or be entitled to realize on any letter of credit or bond held as an Expansion Deposit and retain any cash resulting therefrom, with no obligation to return any portion of such monies to the Customer at any time.

EXPANSION DEPOSIT:

TOTAL EXPANSION FEES AND GST	\$1,885,636.87
LESS CAPITAL CONTRIBUTION AND GST	-\$ 0
EXPANSION DEPOSIT	\$1,885,636.87

SCHEDULE E
ALTERNATIVE BID PROCESS AND CONTESTABLE WORK

1. Toronto Hydro advises the Customer that part of the work that will be required for the expansion and connection to the existing distribution facilities includes work for which the Customer may obtain an alternative bid i.e. work that would not involve work with existing Toronto Hydro assets. The work for which the Customer may obtain alternative bid, "Contestable Work" is described below.
2. The Customer must use a contractor for the Contestable Work qualified by Toronto Hydro in accordance with its Conditions of Service. To qualify, contractors shall submit a "Contractor Qualification Application" and meet the requirements posted at:
http://www.torontohydro.com/electricsystem/customer_care/cond_of_services/index.cfm
at least 30 business days prior to their selection by the Customer to undertake Contestable Work. The Customer shall not be entitled to start performance of the Contestable Work until the contractor has completed its qualification by Toronto Hydro and has been qualified for no less than 30 business days.
3. Toronto Hydro does not make any representation or warranty regarding any contractor selected by the Customer to do any work regardless of whether the contractor has been qualified by Toronto Hydro or not and shall have no liability to the Customer in respect of such work.
4. If the Customer decides to hire a qualified contractor to perform the Contestable Work, the Customer will be required to select, hire and pay the contractor's costs for such work and to assume full responsibility for the construction of all of the Contestable Work.
5. The Customer shall ensure that the Contestable Work is done in accordance with Toronto Hydro's design and technical standards and specifications.
6. The Customer and his qualified contractor shall only use materials that meet the same specifications as Toronto Hydro approved materials (i.e. same manufacturers and same part numbers). Once the Customer has hired a qualified contractor, the Customer may request and obtain from Toronto Hydro the listing of approved materials that may be required for the Contestable Work.
7. The Customer will be required to pay for administering the contract with the qualified contractor, or if agreed by Toronto Hydro, pay Toronto Hydro a fee for performing this activity on its behalf. Upon request if Toronto Hydro is agreeable to performing such activity, Toronto Hydro will advise the Customer of the amount of the fee. Administering the contract includes, among other things, acquiring all permissions, permits and easements.
8. Toronto Hydro shall have the right to inspect and approve all aspects of the facilities constructed by the qualified contractor as part of its system commissioning activities, prior to connecting the expanded facilities to the Toronto Hydro main distribution system. If all of Toronto Hydro's requirements for the Contestable Work, including but not limited to, those set out in Sections 5, 6, and 7 above, have not been completed satisfactorily to Toronto Hydro, acting reasonably, the Project will not be energized, until the Contestable Work is in compliance with all of Toronto Hydro's requirements.
9. If the Customer decides to pursue an alternative bid for the Contestable Work, Toronto Hydro may charge the Customer costs, including, but not limited to, the following, for:
 - (a) additional design, engineering or installation of facilities required to complete the Project that are required in addition to the original Offer to Connect; and,
 - (b) inspection or approval of the work performed by the contractor hired by the Customer; and
 - (c) making the final connection of the new facilities to the Toronto Hydro distribution system.
("Additional Costs for Alternative Bid Work").

10. If the Customer decides to hire a qualified contractor to perform the Contestable Work, the Customer must:
 1. Sign an Alternative Bid Agreement;
 2. Hire a qualified contractor;
 3. Pay to Toronto Hydro, the firm amount of Toronto Hydro's Additional Costs for Alternative Bid Work, as set out below;
 4. Provide the Alternative Bid Expansion Deposit as set out below.
11. After the Customer has performed the Contestable Work and Toronto Hydro has inspected and approved the constructed facilities, the Customer shall transfer the expansion facilities that were constructed under the alternative bid option to Toronto Hydro and Toronto Hydro shall pay to the Customer, a transfer price, ("Transfer Price") to be determined, as hereinafter set out.
12. The Transfer Price for the Contestable Work shall be the lower of the Customer's Costs or the amount set out in this Offer to Connect of the Contestable Work. The Customer's Costs shall mean:
 - (a) the costs the Customer paid to have the Contestable Work performed, excluding the Variable Connection Work, as provided by evidence satisfactory to Toronto Hydro;
 - (b) the Additional Costs for Alternative Bid Work charged by Toronto Hydro.Toronto Hydro shall be satisfied that all Customer's Costs shall have been properly incurred.
13. If the Customer does not provide the calculation setting out the Customer's Costs to Toronto Hydro within 30 days of all new facilities being energized, then the amount of the Transfer Price shall be the amount set out in this Offer to Connect for the Contestable Work.
14. Toronto Hydro shall carry out a final economic evaluation after the facilities are energized ("Final Economic Evaluation"). The Final Economic Evaluation shall be based on the amounts used in this Offer to Connect for costs and forecasted revenues, and the amount of the Transfer Price to be paid by Toronto Hydro to the Customer for the Contestable Work, where applicable. A copy of the Final Economic Evaluation shall be provided to the Customer.
15. Any amount payable by the Customer to Toronto Hydro, may be deducted from the Transfer Price owing to the Customer by Toronto Hydro.
16. If the Customer pursues an Alternative Bid, the Customer shall post an Alternative Bid Expansion Deposit in the amount of 10% of the Expansion Deposit as set out in Schedule D.
17. Toronto Hydro will retain the Alternative Bid Expansion Deposit for a warranty period of up to two years. The warranty begins at the end of the Realization Period, defined below.
18. The Realization Period for a Project ends, upon the first to occur of:
 - (i) the materialization of the last forecasted connection in the expansion project, or
 - (ii) Five (5) years after energization of the new facilities.
19. Toronto Hydro shall be entitled to retain and use the Alternative Bid Expansion Deposit to complete, repairing or bring up to standard the facilities constructed by the Customer, including Toronto Hydro's costs to ensure that the expansion is completed to the proper design, technical standards and specifications, using approved materials and that the facilities operate properly when energized.
20. Toronto Hydro shall return to the Customer the unapplied portion of the Alternative Bid Expansion Deposit, if any, at the end of the two-year warranty period.
21. Upon receipt of notice from the Customer that it intends to hire an alternative bid contractor, Toronto Hydro will provide an Alternative Bid Agreement.

Contestable Work shall mean the following:

Note:

- All Customer-supplied materials must be submitted to Toronto Hydro for approval prior to installation and meet Toronto Hydro Distribution Construction Standards;
- All equipment and underground plant installed must be inspected and approved prior to connection to the Toronto Hydro distribution system;
- Customer is responsible for applying for and obtaining any necessary City road cut permits.

Description of Work to be Completed by the Customer:

- Supply & install:
 - All necessary duct structures, cable chambers, tap boxes, splice vaults, submersible transformer vaults, switchgear foundations on Village Green Square, Street 'A', Street 'B', Street 'C' and an extension to existing Toronto Hydro distribution system in Village Green Square;
 - All primary cables complete with terminations thereof, except final connection to the Toronto Hydro distribution system;
 - All secondary cables complete with terminations thereof, except final connection to the Toronto Hydro distribution system;
 - All switchgears, submersible transformers;
 - All cable risers completed to the installation of the first section of U-Guard on the termination poles.

Description of Work to Be Completed by Toronto Hydro:

- All necessary engineering design and inspections and material approvals;
- Connections to existing Toronto Hydro distribution system;
- Primary cable termination connections to the existing Toronto Hydro distribution system on Sufferance Road;
- The necessary switching and outage arrangements to allow connection to existing distribution system.

Toronto Hydro's Additional Costs for Alternative Bid Work	\$ 10,750.00
GST (5%)	\$ <u>537.50</u>
TOTAL ADDITIONAL COSTS FOR ALTERNATIVE BID WORK, GST	\$ 11,287.50
ALTERNATIVE BID EXPANSION DEPOSIT	\$188,563.68

SCHEDULE F
GENERAL TERMS AND CONDITIONS
of OFFER TO CONNECT

1. ASSIGNMENT

- 1.1** Neither party may assign this Offer to Connect without the prior written consent of the other party, such consent not to be unreasonably withheld.

2. DEMARCATION POINTS

- 2.1** The ownership and operational demarcation points of the Project shall be identified as such by Toronto Hydro on the as-constructed drawings.
- 2.2** In accordance with Toronto Hydro's Conditions of Service, the Customer is responsible for maintaining, repairing and replacing, in a safe condition satisfactory to Toronto Hydro, all the Customer's civil infrastructure on private property that is deemed required by Toronto Hydro to house Toronto Hydro's Connection Assets, including but not limited to poles, underground conduits, cable chambers, cable pull rooms, transformer rooms, transformer vaults and transformer pads.

3. DISPUTE RESOLUTION

- 3.1** Any controversy between the parties arising under this Offer to Connect not resolved by discussions between the parties shall be determined by an arbitration tribunal convened pursuant to a notice of submission given either by Toronto Hydro or the Customer.
- 3.2** The notice shall name one arbitrator.
- 3.3** The party receiving the notice shall, within 10 days of notice to the other, name the second arbitrator or, if it fails to do so, the party giving the notice of submission shall name the second arbitrator.
- 3.4** The two arbitrators appointed shall name the third arbitrator within 10 days, or if they fail to do so within that time period, either party may make application to the applicable court for appointment of the third arbitrator.
- 3.5** Any arbitrator selected to act under this Offer to Connect shall be qualified by education, training and experience to pass on the particular question in dispute and shall have no connection to either of the parties other than acting in previous arbitrations.
- 3.6** The arbitration shall be conducted in accordance with the provisions of *The Arbitration Act, 1991 S.O. c-17*, as amended.
- 3.7** The decisions of the arbitration tribunal shall be made in writing and shall be final and binding on the parties as to the questions submitted and the parties shall have no right of appeal therefrom.

4. EASEMENTS

- 4.1** Upon request by Toronto Hydro, the Customer shall, at its own expense, execute, register and provide a solicitor's opinion on title in a form acceptable to Toronto Hydro, within the time period specified by Toronto Hydro, and subject only to those encumbrances permitted in writing by Toronto Hydro, such easement agreements as Toronto Hydro may require for the installation and continued existence of any electrical or telecommunication plants or access to same for the life of such plant or as otherwise required to perform its responsibility as a distribution company.
- 4.2** The customer acknowledges that in order for an easement to be registered, it shall be required, at its expense, to arrange for and register any necessary

documentation required by the appropriate Land Registry Office, including a Reference Plan, prepared by an Ontario Land Surveyor, describing the extent of the lands required for the easement.

5. FORCE MAJEURE

- 5.1** Force Majeure means any act, event, cause or condition that is beyond Toronto Hydro's reasonable control, including wind, ice, lightning or other storms, earthquakes, landslides, floods, washouts, fires, explosions, contamination, breakage of equipment or machinery, delays in transportation, strikes, lockouts or other labour disturbances, civil disobedience or disturbances, war, acts of sabotage, blockades, insurrections, vandals, riots, epidemics, loss of any relevant license or a declaration of force majeure by Hydro One Networks Inc., or any successor, under any agreement which Hydro One Networks Inc., or any successor, has with Toronto Hydro in connection with any work to be performed by Toronto Hydro under this Offer to Connect.
- 5.2** If by reason of Force Majeure, Toronto Hydro is unable, wholly or partially, to perform or comply with any or all of its obligations under, this Offer to Connect, it shall be relieved of such obligations, and any liability (including liability for any injury, damage or loss to the Customer caused by such event of Force Majeure) for failing to perform or comply with such obligations, during the continuance of Force Majeure.

6. LIMITATION OF LIABILITY

- 6.1** Toronto Hydro shall not be responsible for the acts or omissions of the Customer or its employees, contractors, subcontractors or agent.
- 6.2** Neither Toronto Hydro nor any of its employees, agents, officers, directors or other representatives ("Representatives") shall be liable for any loss, injury or damage to persons or property caused in whole or in part by negligence or fault of the Customer, or any of the Customer's Representatives, contractors or subcontractors.
- 6.3** Notwithstanding any other provision in this Offer to Connect, or any applicable statutory provision Toronto Hydro and its Representatives shall only be liable for any damages which arise directly out of the wilful misconduct or negligence of Toronto Hydro or its Representatives.
- 6.4** Neither Toronto Hydro nor any of its Representatives shall be liable under any circumstances whatsoever for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect, consequential, incidental or special damages, including but not limited to punitive or exemplary damages, arising from any breach of this Offer to Connect, fundamental or otherwise, or from any tortious acts, including the negligence or wilful misconduct of it or its Representatives, however arising.
- 6.5** No action arising out of this Offer to Connect, regardless of the form thereof, may be brought by either party more than two (2) years following the date the cause of action arose, provided however that, subject to any applicable law, Toronto Hydro may bring an action for non-payment of amounts, or non-delivery of Expansion

- Deposits, required to be paid or delivered by the Customer under this Offer to Connect at any time.
- 6.6 The Customer shall indemnify and save harmless Toronto Hydro and its Representatives from any action, claim, penalty, damages, losses, judgements, settlements, costs and expenses or other remedy brought by any party or governmental authority, arising out of or resulting from any negligent act or failure to act or any willful misconduct by the Customer or any of its Representatives.
- 6.7 All of the provisions of Sections 6.1, 6.2, 6.3, 6.4, 6.5 and 6.6 shall survive the termination of this Offer to Connect.
7. **NOTICE**
- 7.1 Any notice to be given under this Offer to Connect shall be in writing and delivered by prepaid registered mail, hand, courier or facsimile to the contact for the parties as set forth in the Offer to Connect.
- 7.2 Delivery by facsimile shall be deemed received on the day following transmittal provided the facsimile is received as confirmed by the issuance of a confirmation receipt at the point of transmission.
- 7.3 Delivery by hand or courier shall be deemed received on the date delivered.
- 7.4 Delivery by prepaid registered mail shall be deemed received on the 5th business day after mailing.
- 7.5 Either party may change its address for notice by providing written notice of that change to the other party.
8. **REVISED PLANS**
- 8.1 If the Customer submits revised plans or requires additional design work, Toronto Hydro may provide, at cost, a new offer based on the revised plans or the additional design work.
- 8.2 If the Plans are revised at any time, after acceptance of this Offer to Connect shall be withdrawn or terminated immediately, despite any acceptance by the Customer. A new Offer to Connect will only be provided to the Customer upon payment in the amount of \$3,500.00 that must be paid prior to the new Offer to Connect being provided to the Customer.
9. **SECURITY INTEREST**
- 9.1 As security for its obligation under this Offer to Connect, the Customer grants to Toronto Hydro a present and continuing security interest in, and lien on (and right of set-off against), and assignment of all money, cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, delivered as an Expansion Deposit or otherwise pursuant to the terms of this Offer to Connect, or for the benefit of Toronto Hydro.
- 9.2 The Customer agrees to take such action as Toronto Hydro reasonably requires in order to perfect Toronto Hydro's first-priority security interest in, and lien on (and right of set-off against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.
- 9.3 Toronto Hydro shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Customer's obligations under this Offer to

Connect (Customer remaining liable for any amounts owing to Toronto Hydro after such application), subject to Toronto Hydro's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

10. **TAXES**

- 10.1 Unless specified, none of the amounts payable or deliverable under the Offer to Connect include goods and services taxes or any other taxes that may be payable.
- 10.2 The Customer shall pay all such taxes in accordance with applicable laws.

11. **TERMINATION**

- 11.1 Each of the following shall constitute an event of default ("Event of Default"):
- (i) the Customer fails to make any payment at the time specified for payment in this Offer to Connect and such failure has not been remedied within 4 days notice of such failure;
 - (ii) the Customer fails to deliver any Expansion Deposit, including a renewal, or additional Expansion Deposit within the time period specified for delivery in this Offer to Connect;
 - (iii) the Customer fails to execute and deliver any agreement, or deliver any other document, within the time period specified for execution and/or delivery;
 - (iv) the Customer fails to commence the Expansion Work within 1 year from the date of this Offer to Connect;
 - (v) the Customer cancels the Project for any reason;
 - (vi) the Customer fails to comply with any other covenant or obligation in this Offer to Connect and such failure has not been remedied (where it is possible to remedy such failure) within 15 days of the initial failure to perform;
 - (vii) a resolution has passed, or documents filed at an office of public record, for the merger, amalgamation, dissolution, termination of existence, liquidation or winding-up of the Customer, unless the prior consent of Toronto Hydro has been obtained;
 - (viii) a receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy of the Customer or any of its property is appointed by any government authority, and such receiver, manager, receiver-manager, liquidator, monitor or trustee is not discharged within 30 days of appointment; or, if by decree of any government authority, the Customer is adjudicated bankrupt or insolvent, or any substantial part of its property is taken, and such decree is not discharged within 30 days after the entry thereof; or, if a petition to declare bankruptcy or to reorganize such party pursuant to any applicable law is filed against the Customer and is not dismissed within 30 days of such filing;
 - (ix) the Customer files, or consents to the filing of, a petition in bankruptcy or seeks, or consents to, an order or other protection under any provision of any legislation relating to insolvency or

bankruptcy ("Insolvency Legislation"); or files, or consents to the filing of, a petition, application, answer or consent seeking relief or assistance in respect of itself under provision of any Insolvency Legislation; or files, consents to the filing of, an answer admitting the material allegations of a petition filed against it in any proceeding described herein; or makes an assignment for the benefit of its creditors; or admits in writing its inability to pay its debts generally as they become due; or consents to the appointment of a receiver, trustee, or liquidator over any, or all, of its property.

- 11.2 Upon the occurrence of an Event of Default, Toronto Hydro may, at its sole option, do any one or more of the following:
- (i) exercise any of the rights and remedies of a secured party including any such rights and remedies under law then in effect;
 - (ii) exercise its rights of set-off against any and all property of the Customer in the possession of Toronto Hydro;
 - (iii) declare the full amounts of the Expansion Fees and OM&A Costs that are unpaid and unrecovered as due and owing ("Accelerated Amounts");
 - (iv) draw on any cash, or draw under any letter of credit, then held by or for the benefit of Toronto Hydro as an Expansion Deposit or Capital Contribution or otherwise, free from any claim or right of any nature whatsoever of the Customer, including any equity or right of purchase or redemption by the Customer, to cover all costs incurred on, or prior to, the date of termination, including costs for materials ordered for the expansion, storage costs and facilities removal costs and any amounts owing under this Offer to Connect, including the Accelerated Amounts; and/or
 - (v) terminate this Offer to Connect, provided that, any termination shall not affect any obligations incurred prior to the effective date of termination or any other rights that Toronto Hydro may have arising out of any rights or obligations that are expressed to survive termination of this Offer to Connect.

12. TITLE AND RISK OF LOSS

- 12.1 Notwithstanding that Toronto Hydro may install equipment and materials under this Offer to Connect to which title is intended to pass to the Customer, title to such equipment or materials shall be transferred to the Customer, and risk of loss shall be assumed by the Customer, upon delivery to the Property.
- 12.2 Toronto Hydro shall be entitled to receive reasonable compensation for storing any materials or equipment not delivered to the Customer due to a delay caused by the

Customer and such equipment or materials shall be held at the Customer's risk.

13. WARRANTIES

- 13.1 Toronto Hydro warrants that the services it provides are in accordance with Good Utility Practice.
- 13.2 Except as expressly set forth in this Offer to Connect, Toronto Hydro provides no warranties, for fitness for purpose or otherwise, and whether statutory or otherwise, to the Customer.

14. MISCELLANEOUS

- 14.1 This Offer to Connect, including the Schedules attached, shall constitute the entire agreement between the parties, and there are no other agreements or understandings, either written or oral, to conflict with, alter or enlarge this Offer to Connect unless agreed to in writing between the parties subsequent to the effective date of this Offer to Connect.
- 14.2 Failure or delay by Toronto Hydro in enforcing any right under, or provision of this Offer to Connect shall not be deemed a waiver of such provision or right with respect to the instant, or any previous, or subsequent, breach.
- 14.3 This Offer to Connect shall be governed by the laws of the Province of Ontario and the laws of Canada as applicable.
- 14.4 Toronto Hydro shall be entitled to access at all reasonable times to any of the Customer's properties to perform the services in this Offer to Connect.
- 14.5 Interest on unpaid amounts shall bear interest at the rate of 1.5 percent calculated and compounded monthly (19.56 percent per annum) at and from the due date up to and including the date of payment in full of such amount, together with all interest accrued to the date of payment.
- 14.6 Toronto Hydro and the Customer agree to execute and deliver such further documents as may be required for either party to fulfill its obligations and enforce its rights under this Offer to Connect.
- 14.7 If any provision of this Offer to Connect is declared illegal, invalid or unenforceable for any reason whatsoever, to the extent permitted by law, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of any of the other provisions.
- 14.8 This Offer to Connect and the obligations of the parties under it are subject to all applicable present and future laws, rules, regulations and orders of any regulatory or legislative body or other duly constituted authority having jurisdiction over Toronto Hydro or the Customer.
- 14.9 Time shall be of the essence.
- 14.10 If there is a conflict between this Offer to Connect and Toronto Hydro's Conditions of Service, this Offer to Connect shall govern.

	A	B	C	D	E	F	G	H	I	J	K
1	REQUEST FOR ECONOMIC EVALUATION (NPV CALCULATION)										
2	January 23, 2007 Version										
3											
4	Important: Enter Data in Yellow Boxes only, including zero values										
5											
6											
7	Requested by:	DAN STANOEV					Date:	November 1, 2008			
8											
9	Tel. Ext:	418-542-7818									
10											
11	Supervisor Approval:	Dave Graham									
12											
13	Project Information:										
14	Address	METROGATE DEVELOPMENTS					WO Number	170242			
15											
16	Service Type (as applicable)	(key 'a')	Res		<input checked="" type="checkbox"/>	Commercial				Industrial	
17											
18					3,100	KW	Power Factor: 89%				
19											
20	Transformer Size	5	KVA	Incremental Load	326.12	KVA	Total Load	326.12	KVA		
21											
22	Customer Class	4		Expected In-Service Date				Oct-10			
23											
24	Type of Account Meter	Monthly demand > 1000 KW and up to 5000 KW							No. of Meters Installed	1597	
25											
26											
27											
28											
29											
30											
31											
32											
33											
34											
35											
36											
37	EXPANSION FEES & ENHANCEMENT COSTS										
38		KW					Avg Charges (\$)				
39											
40	O/H and U/G	3,100		X		\$260.00		=	\$808,000.00		
41											
42											
43											
44	Enhancements Costs = \$808,000.00										
45											
46	NETWORK VAULT COST SHARING = \$										
47											
48	IMPARTED EXPANSION COST = \$808,000.00										
49											
50	MATERIALS = \$448,457.24										
51	LABOUR (DESIGN, ENG & CONSTRUCTION) = \$256,880.32										
52	EQUIPMENT = \$33,368.46										
53	BASIC CONNECTION FEE/ CONNECTION TRANSFORMATION COST = \$77,310.00										
54	TRANSFER PRICE = \$										
55	ADDITIONAL COST = \$										
56	ADMIN OVERHEAD COST = \$173,728.63										
57	GRAND TOTAL = \$1,795,844.65										
58											
59											
60											
61											
62											
63											
64											
65	Customer Connection Forecast - Number of Installed Meter										
66	Service Class	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
67	Residential	934	0	324	324	0	0	0	0	0	0
68	General Service (< 50 kW)	4	0	2	2	0	0	0	0	0	0
69	General Service (50 - 999 kW)										
70	General Service (1000 - 4999 kW)										
71	Large User (5000+ kW)										
72											
73	Total Customer Monthly Peak Demand - kva - (Class 3, 4 and/or 5)										
74	Control Class	Control									
75	Residential										
76	General Service (< 50 kW)										
77	General Service (50 - 999 kW)										
78	General Service (1000 - 4999 kW)										
79	Large User (5000+ kW)										
80											
81	Notes:										
82											

**TORONTO HYDRO ELECTRIC SYSTEM
CAPITAL BUSINESS CASE ECONOMIC MODEL**

A. MODEL PARAMETER BASE ASSUMPTIONS

Item	2008
Current Year	38512%
Income Tax Rate	0.15%
LCT tax rate	0.30%
PCT tax rate	0.00%
Inflation	5.30%
WACC	5.30%

B. ASSET CLASSES

Description	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000	3001	3002	3003	3004	300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METROGATE INC.
4800 DUFFERIN STREET
TORONTO, ONTARIO
M3H 5S9

March 10, 2009

Toronto Hydro-Electric System Limited
14 Carlton Street
Asset Management
3rd Floor, 500 Commissioner Street
Toronto, ON M4M 3N7

Attention: Jim Trgachef, Supervisor

Dear Sir:

Re: Metrogate Inc. development of Solaris at Metrogate, Phase I and II, Ventus at Metrogate, Phases I and II, and Metrogate Townhouses as legally described in PIN's 06164-0466 (LT), 06164-0469 (LT), 06164-0470 (LT), and 06164-0473 (LT) (Metrogate)
Number of Units: 1512 high-rise residential unit and 74 townhouses

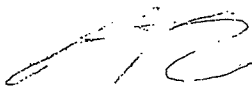
You will recall that you hosted a meeting last fall with representatives of Deltera Inc. at which time the discussion turned to the metering of the planned condominium projects which Deltera and related companies are and will be building in Toronto. At this meeting, you advised that effective February 28, 2008, Toronto Hydro was the only entity that had the right to own and supply meters for any of our projects and that no other options for metering were available. As a result of this, Metrogate Inc.'s request for an offer to connect in respect of the above noted building did not contemplate this building being suite metered by any entity other than Toronto Hydro and the offer to connect received contemplates Toronto Hydro installing individual suite meters.

It has come to our attention that contrary to the advice received, Metrogate Inc. does have the right under Subsection 53.17 of the *Electricity Act, 1998* to choose to have this project smart sub-metered by a licensed sub-metering company. Metrogate Inc. is desirous of considering the sub-metered option and would have requested an offer to connect which contemplated the above project being smart sub-metered but for the information provided at the meeting at your offices last fall.

We therefore require that Toronto Hydro provide a further offer to connect which contemplates the above project being smart sub-metered by a licensed sub-metering company. This offer should specifically contemplate that Toronto Hydro will install a bulk meter and Metrogate Inc.'s intention to smart sub-meter the units at the project downstream of the bulk meter.

I would appreciate confirmation that an appropriate Offer to Connect will be prepared and forwarded to Metrogate Inc. within the next two weeks. Given your familiarity already with the project, and the fact that construction is underway we trust that you will make every effort to meet this timeframe.

Yours very truly,
METROGATE INC.
Per:



Lou Tersigni
Project Manager

Colin J. McLorg
14 Carlton St.
Toronto, Ontario
M5B 1K5

Telephone: 416-542-2513
Facsimile: 416-542-2776
cmclorg@torontohydro.com



2009 April 22

Mr. Lou Tersigni
Project Manager
Metrogate Inc
4800 Dufferin Street
Toronto, ON M3H 5S9
via email

Dear Mr. Tersigni:

RE: Metering and Offers to Connect for 'Metrogate' Projects

Thank you for your letter of March 10, 2009 to our Mr. Trgachef. Unfortunately, conflicting address information in your letter resulted in delays in its delivery. Your letter, received by me April 20, has been referred to me for reply.

Your letter generally concerns Toronto Hydro's policy and practice regarding offers to connect and smart metering for new condominiums, particularly those mentioned in the subject line of your letter. Your letter goes on to request that Toronto Hydro prepare a revised Offer to Connect for those condominiums based on a bulk meter / sub-metering configuration. As explained below, Toronto Hydro does not offer that connection configuration for new condominiums and therefore will not prepare a revised Offer to Connect on that basis.

The Ontario Energy Board ('OEB') regulates Toronto Hydro rates and service offerings. The OEB has defined the term 'smart metering' as follows: "The Board uses the term 'smart metering' to describe the situation in which a licensed distributor individually meters every condominium unit (and the condominium's common areas) with a smart meter. In this scenario, each unit will become a residential customer of the licensed distributor and each unit and the common areas must have a separate account with the licensed distributor."¹

As set out in Toronto Hydro's Conditions of Service, for condominium projects commenced with Toronto Hydro on and after February 28, 2008 ('new condominiums'), Toronto Hydro will provide smart metering as defined by the OEB (i.e., individual unit or suite metering

¹ [EB-2007-0772 Notice of Proposal etc. issued January 8, 2008]

compliant with smart metering regulations) for all separate units and for common areas ('individually metered units') at no charge to the developer. Upon registration and creation of the condominium corporation, the holders of the individually metered units become the direct customers of Toronto Hydro.

Toronto Hydro (along with other licensed distributors) has been specifically authorized to conduct smart metering as part of its standard, licensed distribution activities. The OEB has stated as follows:

"The Board has previously determined in rates proceedings related to smart metering activities of certain distributors that smart metering is a part of the distribution activity that is already covered by distributors' distribution licences. As there is no distinction between smart metering condominiums and other residences, the Board has determined that only licensed distributors can smart meter condominiums. In the Board's view, this is in keeping with the current regulatory framework in the electricity sector.

The Board is also of the view that Regulation 442 allows all licensed distributors to smart meter in condominiums."²

"As set out in the January Notice, the Board remains of the view that smart metering is a distribution activity, and that the Electricity Act and Regulation 442 taken together allow all licensed distributors to undertake smart metering in condominiums. The distributor would do so as a distribution activity within its licensed service area."³

Toronto Hydro therefore asserts that it is authorized to connect new condominiums in the manner described in its Conditions of Service and that it has no obligation to do otherwise.

The statement of Toronto Hydro's position in this matter is not entirely correct in your letter. Specifically, you state your understanding that Toronto Hydro advised you that "Toronto Hydro was the only entity that had the right to own and supply meters for any of our projects and that no other options for metering were available."

While it is the case that ultimately Toronto Hydro will own the metering infrastructure and will attach the individually metered units as direct customers, Toronto Hydro's Conditions of Service provide for alternative bids for the installation of meters and do not preclude the installation of an additional sub-metering system, should the developer or condominium wish to install one, provided it does not interfere with Toronto Hydro's equipment.

Your request for a further Offer to Connect assuming bulk metering is based on an incorrect interpretation of Section 53.17 of the *Electricity Act*, which you state contradicts Toronto Hydro's advice referred to above. In fact, that Section provides as follows:

"Despite the Condominium Act, 1998 and any other Act, a distributor and any other person licensed by the Board to do so shall, in the circumstances prescribed by regulation, install a smart meter, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies of a type prescribed by regulation."

Section 53.17 of the *Electricity Act* does not contradict Toronto Hydro's position and is irrelevant to this issue, since with respect to new condominiums, it does not prohibit a

² [EB-2007-0772 Notice of Proposal etc, January 8, 2008, pages 2-3]

³ [EB-2007-0772 Notice of Proposal etc, June 10, 2008, pages 4]

distributor from installing smart metering, nor require a non-distributor to provide sub-metering, but rather goes to the requirement that whatever equipment is installed be of a type required by regulation. Furthermore, it clearly does not establish a right on the part of any person to install sub-metering equipment. Sub-metering is referred to because such configurations are allowed, but not required, in the case of existing condominiums already fitted with bulk meters.

In summary, nothing with respect to new condominiums in Toronto Hydro's metering or connection practice or in its Conditions of Service is out of compliance with Code, regulation, or legislation. The OEB has expressly concluded that smart metering of condominiums is a distribution activity authorized by the existing licenses of distributors, and has not established any obligation on distributors to provide for sub-metering configurations in new condominiums.

For these reasons Toronto Hydro does not accept the request set out in your letter. Please contact me if you have concerns or questions around any of these matters.

Yours truly,

(Original signed by)

Colin McLorg
Manager, Regulatory Policy and Relations
416-542-2513
cmclorg@torontohydro.com

TAB 15

Paul Gasparatto

From: Paul Gasparatto
Sent: May 8, 2009 12:08 PM
To: regulatoryaffairs regulatoryaffairs
Cc: Jill Bada; Maureen Helt
Subject: Letter on Specific Metering Allegations
Attachments: CO20090066_THESL Metering_Confirmation Request_20090509.pdf

Dear Colin,

Please find attached a letter that outlines specific incidents of concerns relating to THESL's metering policy. We would appreciate THESL's response to questions about the incidents.

Regards,

Paul Gasparatto
Regulatory Policy and Compliance
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at market.operations@oeb.gov.on.ca

Ontario Energy
Board
P.O. Box 2319
2300 Yonge Street
27th. Floor
Toronto ON M4P 1E4
Telephone: (416) 481-1967
Facsimile: (416) 440-7656
Compliance Office

Commission de l'Énergie
de l'Ontario
C.P. 2319
2300, rue Yonge
27e étage
Toronto ON M4P 1E4
Téléphone: (416) 481-1967
Télécopieur: (416) 440-7656



May 09, 2009

File No.: CO20080066

VIA E-MAIL (regulatoryaffairs@torontohydro.com)

Mr. Colin McLorg
Manager Regulatory Affairs
Toronto Hydro Electric System Limited
14 Carlton Street
Toronto, ON
M5B 1K5

Re: Installation of Metering in New Condominium Corporations

Dear Mr. McLorg:

The Compliance Office has received specific allegations of incidents where Toronto Hydro Electric System Ltd. ("THESL") has informed developers that individual units in new condominiums must be metered by THESL. These allegations also suggest that THESL has refused to provide an Offer to Connect that allows for the installation of a bulk meter and the installation of a smart sub-metering system by a smart sub-meter provider.

In order to better understand these allegations, please review the following examples and provide the requested information:

- Mr. Lou Tersigni, the project manager of the Metrogate Inc. development states that he requested THESL provide an Offer to Connect that contemplated the project being smart sub-metered by a smart sub-meter provider. In response, you sent a letter to Mr. Tersigni on April 22, 2009, informing Mr. Tersigni that THESL does not offer connections based on a bulk meter/sub-metering configuration.
 - Please confirm the intention of your letter was to inform Mr. Tersigni of THESL's policy that THESL will not install, in new condominiums, a bulk meter for the purpose of allowing the installation of a smart sub-metering

system by a licensed sub-meter provider, and that each unit in a new condominium must be individually smart metered by the distributor.

- Mr. Guiseppi Bello, project manager of the Residences of Avonshire Inc. development states that he also requested THESL provide an Offer to Connect that contemplated the project being smart sub-metered by a smart sub-meter provider. In response, you also sent a letter to Mr. Bello on April 22, 2009, informing Mr. Bello that THESL does not offer connections based on a bulk meter/sub-metering configuration.
 - Please confirm the intention of your letter was to inform Mr. Bello of THESL's policy that THESL will not install, in new condominiums, a bulk meter for the purpose of allowing the installation of a smart sub-metering system by a licensed sub-meter provider, and that each unit in a new condominium must be individually smart metered by the distributor.
- A number of representatives from the developer Deltera Inc. have stated that they attended a meeting at THESL's offices on September 26, 2008. During the meeting THESL representative Jim Trgachef informed the group that THESL was the only entity that had the right to own and supply smart meters for any project begun after February 28, 2008, and no other options were available to customers.
 - Please confirm with Jim Trgachef as to whether or not this meeting occurred, if Jim Tragchef has the authority to speak on behalf of THESL, whether or not the statements alleged to be made by Mr. Trgachef are accurate and if Mr. Tragchef's statements represent the views and position of THESL.
 - If the report on Mr. Trgachef's statements is accurate, please confirm whether the intention of these statements was to inform developers of THESL's policy that THESL will not install, in new condominiums, a bulk meter for the purpose of allowing the installation of a smart sub-metering system by a licensed sub-meter provider, and that each unit in a new condominium must be individually smart metered by the distributor.
- A number of representatives from the licensed sub-meter provider Enbridge Electric Connections Inc. stated that they attended a meeting arranged by the Greater Toronto Apartment Association on October 8, 2008. At the meeting THESL representative Leo Guidolin advised those in attendance that all new condominiums must be individually metered and that THESL was the only entity that could provide that service.
 - Please confirm your understanding as to whether or not this meeting occurred, if Mr. Guidolin has the authority to speak on behalf of THESL, whether or not the statements alleged to be made by Mr. Guidolin are accurate and if Mr. Guidolin's statements represent the views and position of THESL.

- o If the report on Mr. Guidolin's statements is accurate, please confirm whether the intention of these statements was to inform developers of THESL's policy that THESL will not install, in new condominiums, a bulk meter for the purpose of allowing the installation of a smart sub-metering system by a licensed sub-meter provider, and that each unit in a new condominium must be individually smart metered by the distributor.

In addition to the above, the Compliance Office requests that THESL respond to one of the concerns outlined in the letters that the Compliance Office issued to THESL in October 2008 and January 2009. In those letters the Chief Compliance Officer stated the view that if THESL were to refuse to connect a property by reason of the customer's decision to install smart sub-metering, THESL would be non-compliant with its obligation to connect under section 28 of the *Electricity Act, 1998*. Based on the evidence, it appears that THESL has refused to connect customers in the manner that they have requested. THESL's responses to CCO's letters did not address concerns related to the obligation to connect. We once again request that THESL provide its view on how its policies and actions are compliant with section 28 of the *Electricity Act, 1998*.

Additionally, according to the evidence provided, THESL is refusing to provide a bulk meter upon request of the customer. Section 5.1.5 of the Distribution System Code states that:

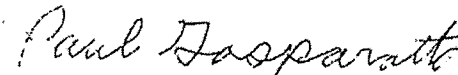
"A distributor shall provide an interval meter within a reasonable period of time to any customer who submits to it a written request for such meter installation, either directly or through an authorized party ... "

Since the bulk meter for a new condominium would also be an interval meter, it would appear that THESL is also in breach of section 5.1.5 of the DSC in that it is refusing to provide an interval meter when requested to do so. Please explain how THESL's policies and actions are compliant with a distributor's obligation to provide an interval meter.

I appreciate you providing this information so that we can better understand THESL's activities and rationale for its metering policy. I request that you respond by May 20, 2009.

If our continued investigation reveals any further allegations, we will also bring that information to your attention for response. If you have any questions or concerns with this request, please contact me directly at (416) 440-7724. Thank you for your cooperation in this matter.

Yours truly,


Paul Gasparatto
Project Advisor
Regulatory Policy and Compliance

TAB 16

Paul Gasparatto

From: Colin McLorg [cmclorg@torontohydro.com]
Sent: May 20, 2009 4:55 PM
To: Paul Gasparatto
Cc: George Vegh
Subject: TH reply re CO20090066 - Condo smart metering

Hello Paul - please see attached the TH reply to your letter of May 9. I mention in it a further letter from TH to Howard Wetston, which I expect to be able to forward to you tomorrow.

Regards,

Colin McLorg
Manager, Regulatory Policy & Relations
Toronto Hydro-Electric System
416-542-2513 office
416-903-7837 cell
cmclorg@torontohydro.com

Colin J. McLorg
14 Carlton St.
Toronto, Ontario
M5B 1K5

Telephone: 416-542-2513
Facsimile: 416-542-2776
cmclorg@torontohydro.com



May 20, 2009

Mr. Paul Gasparatto
Project Advisor, Regulatory Policy and Compliance
Ontario Energy Board
P.O. Box 2319
2300 Yonge St
Toronto, ON M4P 1E4

via email and regular mail

Dear Mr. Gasparatto:

RE: Board File C020090066 – Installation of Metering in New Condominium Units

Thank you for your letter of May 9, 2009, with respect to allegations made by certain parties about Toronto Hydro-Electric System Limited (THESL) metering policy and practice for new condominiums. The purpose of this letter is to provide you with the facts that you are seeking as part of your investigation. In this letter, THESL does not engage in arguments over the merits of compliance staff's policy positions. THESL's positions on these matters have been canvassed in previous correspondence. In addition, THESL believes the position taken by compliance staff in this matter assumes articles of policy respecting the smart metering obligations of utilities that have not been determined by the Board and that should be addressed by the Board on a policy basis. I will forward copy of a letter from THESL to the Chair of the OEB to that effect for your reference.

The first two items in your letter concern letters I wrote to representatives of Tridel with respect to two condominium projects for which THESL has provided Offers to Connect. I have attached for your reference copies of those letters, which are identical except for address information.

The next two items concern statements allegedly made by THESL representatives at meetings attended by representatives of Deltera Inc and Enbridge Electric Connections Inc. It is, of course, not possible to confirm whether they or any representatives were properly understood by the audience, but in this instance the complainants evidently misunderstood THESL's policy if they believe that THESL's position is that only THESL is able to supply smart meters. As you are aware from our previous correspondence, THESL's Conditions of Service expressly provide for installation of suite metering infrastructure under the Alternative Bid option. Our previous correspondence has also made reference to

the Board's own statements that licensed distributors are entitled to conduct smart metering in condominiums, and that they are the only parties authorized to do so.

The next two items in your letter pertain to THESL's obligation to connect under Section 28 of the *Electricity Act* and its provision of bulk meters. You state at page 3 of your letter:

"...the Compliance Office requests that THESL respond to one of the concerns outlined in the letters that the Compliance Office issued to THESL in October 2008 and January 2009. In those letters the Chief Compliance Officer stated the view that if THESL were to refuse to connect a property by reason of the customer's decision to install smart sub-metering, THESL would be non-compliant with its obligation to connect under section 28 of the *Electricity Act*, 1998. Based on the evidence, it appears that THESL has refused to connect customers in the manner that they have requested. THESL's responses to CCO's letters did not address concerns related to the obligation to connect. We once again request that THESL provide its view on how its policies and actions are compliant with section 28 of the *Electricity Act*, 1998."

THESL has in fact responded to the Chief Compliance Officer's concern around Section 28 by noting at page 2 of my February 9th letter "Furthermore, there are no grounds for your hypothetical under which THESL would refuse to connect a customer." THESL has not and will not refuse to connect new condominium developments to its distribution system. THESL's standard practice is to provide a bulk meter to the building under construction which itself is used to bill the electricity used after the main switchboard is energized, prior to which electricity is supplied on a temporary service basis. At no time under THESL's policy and practice is any customer denied or otherwise without electricity service, and nothing under that policy and practice conflicts in any way with THESL's obligations under Section 28 of the *Electricity Act*.

In summary,

- There is, and has been, no instance of any customer being denied connection to the electricity distribution network for the reasons suggested in your letter.
- There is no policy on THESL's part that requires that THESL provide or install suite metering infrastructure.

I trust that this responds to your inquiries. Please contact me if you require further information.

Yours truly,

(Original signed by)

Colin McLorg
Manager, Regulatory Affairs
416-542-2513
regulatoryaffairs@torontohydro.com

c. Ms. Kirsten Walli, Board Secretary

TAB 17

Paul Gasparatto

From: Colin McLorg [cmclorg@torontohydro.com]
Sent: May 20, 2009 6:02 PM
To: Paul Gasparatto
Subject: Further response from TH re condo smart metering
Attachments: AH Letter to Mr. Howard Wetston_May 20,2009 Re Suite Metering.pdf

Hello Paul - here is the letter I mentioned in my earlier email.

Regards,

Colin McLorg
Manager, Regulatory Policy & Relations
Toronto Hydro-Electric System
416-542-2513 office
416-903-7837 cell
cmclorg@torontohydro.com

Anthony Haines
14 Carlton Street
Toronto, Ontario
M5B 1K5

Telephone: 416.542.3339
Facsimile: 416.542.2602
www.torontohydro.com



May 20, 2009

Mr. Howard Wetston
Chair, Ontario Energy Board
P.O. Box 2319, 2300 Yonge St
Toronto, ON M4P 1E4

By email and regular mail

Dear Mr. Wetston:

RE: Policy Concerning Distributor Connection and Metering of New Condominiums

Introduction and Summary

The OEB compliance office has indicated that it may seek enforcement action against Toronto Hydro Electric System Limited ("THESL"), with respect to THESL's policy concerning the connection and metering of new condominiums. The purpose of this letter is to provide information for the Board to consider in determining whether to issue notice of an intention to make an order in accordance with s. 112.2 of the *Ontario Energy Board Act* (the "*Act*"). THESL's main submission is that compliance staff's position goes to the heart of the new mandates governing distributors and the OEB under the *Green Energy Act*, namely to facilitate the implementation of the smart grid, to promote the connection and use of renewable energy sources, and to promote electricity conservation. THESL's position is that, rather than have these issues debated in a compliance hearing, the Board and the sector would be better served by addressing this issue on a policy basis, following a process that allows all of the issues to be debated and considered in a more forward looking manner.

Compliance Staff's Allegation and OEB Policy

Compliance staff's allegation is apparently that THESL's provision of smart suite metering services to new condominiums is inappropriate because it does not give primacy to a condominium developer's "ability to choose between having a licenced distributor install smart meters or having a licenced smart sub-metering provider install smart sub-meters."¹ Although THESL does not agree with compliance staff on the merits of the allegation, and will vigorously defend itself if a compliance action is commenced, raising all possible defences, including raising the policy issues outlined in this letter, the purpose of this letter is not to address the merits of a compliance action. Rather, it is to address the underlying policy position of compliance staff and its compatibility with the new mandates given to the OEB and distributors as a result of the enactment of the *Green Energy Act*.

¹ Letter from the Chief Compliance Officer to Toronto Hydro, January 29, 2009.

The Green Energy Act and the new Mandates for the OEB and Distributors

Under the *Green Energy Act*, distributors have been given distinct policy responsibilities, including the development and implementation of the smart grid, expanding and reinforcing distribution systems to accommodate the connection of renewable energy generation facilities, and achieving conservation targets. All of these responsibilities are aligned with new statutory objectives granted to the Board.² None of these responsibilities are shared by condominium developers or third party sub-meter providers. As is discussed immediately below, a distributor's ability to meet all of these responsibilities is affected by the provision of smart metering to condominium unit owners.

Smart Grid Development and Implementation

Section 70(2.1) of the *Act*, as amended by the *Green Energy Act*, requires distributors to prepare plans for, and make investments in, "the development and implementation of the smart grid in relation to their distribution system." Those investments include investments in smart metering. As was noted in the *Report of the Ontario Smart Grid Forum*, smart meters are "a major smart grid component."³ The *Report* states:

"Smart meters, a major smart grid component, can give consumers timely information on price and consumption. Emerging devices will empower consumers to act on this information automatically while at the same time improving their energy efficiency, comfort and convenience. New sensing, monitoring, protection and control technologies will enhance the ability of the grid to incorporate renewable generation.

The institutional structure of the electricity industry makes it easy to look at how the smart grid will impact each piece of the system in isolation, but the most profound impact of a smart grid may be its ability to link these pieces more closely together. In Ontario we have numerous distribution utilities, one large transmission company and a few smaller ones; one large generating company and many smaller ones. The province has a system/market operator and a corporation responsible for longer-term system planning, and procuring electricity supply and demand resources. While the smart grid will affect each of these segments in different ways, it will affect all of them by increasing their ability to work together to better serve consumers."

² The Board's new objectives in relation to electricity are:

- "To promote the conservation of electricity"
- "To facilitate the implementation of a smart grid in Ontario."
- "To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities." (*OEB Act*, s. 1(1)).

³ *Enabling Tomorrow's Electricity System Report of the Ontario Smart Grid Forum*, p. 3

Smart meters are thus an integral component of Ontario's development of a smart grid. In order to ensure that all consumers will be able to benefit from smart grid technology, it is important to allow all customers' meters to be integrated with the smart grid. In other words, a meter is not just a commercial product purchased by condominium developers (like counter tops and appliances); it is an instrument that distributors are expected to use so that they can meet their statutory obligations to develop and implement the smart grid.

The smart grid mandate for distributors is at its nascent stage. As a result, all of the areas where distributor smart metering is superior to third party sub-metering have not yet emerged. However, some obvious initial areas are:

- Conservation
- Home automation
- Customer use of utility energy management internet portals;
- Theft detection (through observation of the difference between bulk meter readings and the sum of suite meter readings); and
- Future developments including domestic electricity storage and a widening scope of end-user participation in smart grid mechanisms

Renewable Energy Generation

A second new mandate given to distributors is to make plans for, and investments in, the expansion or reinforcement of distribution systems to accommodate the connection of renewable energy generation facilities.⁴ In order to connect small scale solar panels for condominium units, distributors will have to install two meters for customers, one to record how much energy is purchased from the system, another to record how much is generated by the customers. This requires metering individual condominium units. Condominium developers and commercial sub-meter providers do not have this mandate, and in fact load displacement renewable generation would be directly contrary to the economic interests of sub-meterers.

Conservation

Finally, the *Green Energy Act* imposes obligations on distributors to meet conservation targets. The conservation targets can be met a number of ways, and smart metering is key to achieving them. For example, a distributor's smart meters can provide in-home display and load control applications. This is most effectively carried out at the customer specific level, not just the bulk meter level. There is also an important customer education element to this information, which is lost if the distributor can no longer communicate directly with consumers. Again, conservation activities are directly contrary to the economic interests of sub-meterers.

⁴ *Ontario Energy Board Act*, s. 70(2.1).

May 20, 2009
Howard Wetston

Implications of Change in Mandate

It is not necessary at this stage to identify all of the ways in which metering technology at the customer specific level can facilitate smart grid development, renewable energy connection and achieving conservation targets. These will emerge over time. However, three points are clear:

First, the primary responsibility for all of these areas is with the distributor. Distributor's mandates are ambitious and challenging and they should be given the tools to do their jobs. These mandates are not shared by commercial sub-meter providers, and since sub-meterers are not rate-regulated and have no access to Lost Revenue Adjustment Mechanisms, in many circumstances their economic interests directly conflict with utility's GEA mandates.

Second, the OEB's mandate under the *Green Energy Act* is to facilitate distributor's meeting these obligations. This is reflected in the three new objectives given to the OEB through the *Green Energy Act* amendments. These objectives thus carry more weight than the objective of a condominium developer's so-called right to choose a service provider.

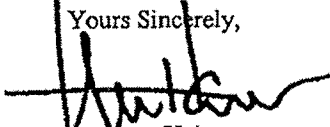
Third, given this new mandate, for both the Board and for THESL, it would be helpful to work through the policy implications in a thoughtful and orderly manner, one that can address the broader policy ramifications in an appropriate process. The Board can, of course, determine the process to address this in its discretion. However, it is clear that prosecutions under Part VII.1 of the *Act* are not well suited for this process. Further, it would be unfortunate if the purpose of the first initiative commenced by the OEB under its new mandate is to target distributors who are trying to implement government policy that animates the *Green Energy Act*.

Conclusion

THESL hopes that the Board will take these matters into consideration when considering whether to issue notice of an intention to make an order in accordance with s. 112.2 of the *Act* and would be pleased to meet with you or your staff to further discuss these issues at your convenience.

Thank you for your consideration.

Yours Sincerely,



Anthony Haines
President

WVS

Copy: George Vegh, Counsel, McCarthy Tétrault
OEB Compliance Office

TAB 18

Paul Gasparatto

From: Paul Gasparatto
Sent: May 21, 2009 8:36 AM
To: 'Colin McLorg'
Cc: George Vegh; Maureen Helt; Jill Bada
Subject: RE: TH reply re CO20090066 - Condo smart metering

Good Morning Colin,

Thank you for the two letters you e-mailed me. We shall review and consider the next steps.

Regards,

Paul Gasparatto
Regulatory Policy and Compliance
Project Advisor
Compliance

Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Tel: 416-440-7724
1-888-632-6273 ext. 724
Email: paul.gasparatto@oeb.gov.on.ca

For general enquiries, please contact the Market Participant Hotline at
market.operations@oeb.gov.on.ca

From: Colin McLorg [mailto:cmclorg@torontohydro.com]
Sent: May 20, 2009 4:56 PM
To: Paul Gasparatto
Cc: George Vegh
Subject: TH reply re CO20090066 - Condo smart metering

Hello Paul - please see attached the TH reply to your letter of May 9. I mention in it a further letter from TH to Howard Wetston, which I expect to be able to forward to you tomorrow.

Regards,

Colin McLorg
Manager, Regulatory Policy & Relations
Toronto Hydro-Electric System
416-542-2513 office
416-903-7837 cell
nclorg@torontohydro.com

EXHIBIT D

TAB 1

January 29, 2009

Residences of Avonshire Inc. and
K & G Oakburn Apartments I Ltd.
299 Rochampton Avenue
Toronto, Ontario M4P 1S2



Attention: Mark Gallow

Dear Sir:

Re: Residences of Avonshire Inc. development of 100, & 115 Harrison Garden Boulevard
and 5, 7 & 9 Oakburn Crescent
as legally described in PIN Nos. 10104-1613 (LT), 10104-1614 (LT), 10104-1622 (LT) and
10104-1624 (LT) ("Property")
K & G Oakburn Apartments I Ltd. development of 105 Harrison Garden Boulevard
as legally described in PIN Nos. 10104-1623 (LT) and 10104-1625 (LT) ("Property")
748 high-rise residential units (748 Toronto Hydro suite meters)
41 townhouses
792 connections
Toronto Hydro Customer Class 4
Toronto Hydro Project No. P0016652 Work Order No. 158422 ("Project")

Toronto Hydro-Electric System Limited ("Toronto Hydro") acknowledges receipt of Residences of Avonshire Inc.'s and K & G Oakburn Apartments I Ltd. ("Customer") written request for connection of the Project to the Toronto Hydro main distribution system.

The Customer has represented to Toronto Hydro that 789 residential units will be constructed and connected to the Toronto Hydro main distribution system and the estimated increased demand load attributable to the Project will be 1,900 kW ("Estimated Incremental Demand").

In order to connect the Project, an expansion to the Toronto Hydro main distribution system will be needed.

Based on the plans dated January 22, 2008 ("Plans") this document, including all Schedules attached, is Toronto Hydro's firm Offer to Connect ("Offer to Connect") as required by the Distribution System Code ("Distribution System Code") established by the Ontario Energy Board ("OEB").

In addition to the obligations set forth in this Offer to Connect, the Customer shall be bound by and required to comply with all provisions of the Conditions of Service filed by Toronto Hydro with the OEB. A copy of the Conditions of Service can be obtained at www.torontohydro.com.

Terms used in this Offer to Connect shall have the meaning ascribed thereto in the Distribution System Code and the Conditions of Service unless otherwise defined herein.

The following Schedules attached hereto form a part of this Offer to Connect:

Schedule A – Connection Work and Fees;
Schedule B – Expansion Work and Fees;
Schedule C – Capital Contribution Requirements and Economic Evaluation;
Schedule D – Expansion Deposit;
Schedule E – Alternative Bid Process and Contestable Work;
Schedule F – General Terms and Conditions.

A Capital Contribution, as described in Schedule C, will be required from the Customer.

toronto hydro-electric system limited

An Expansion Deposit, as described in Schedule D, will be required from the Customer.

This Offer to Connect includes Contestable Work for which the Customer may obtain an alternative bid as described in Schedule E.

Based on the Plans and information provided to Toronto Hydro, as of the date of this Offer to Connect, an easement will be required to connect the Project. General easement requirements are set out under the heading "Easements" in Schedule F, General Terms and Conditions.

If the terms and conditions of this Offer to Connect are acceptable to the Customer, a duly authorized officer of the Customer shall sign the duplicate copy and return it to Toronto Hydro within 60 days of the date set forth above. If a signed copy is not returned to Toronto Hydro within that time period, Toronto Hydro reserves the right to revoke this Offer to Connect without further notice to the Customer. The Customer is advised that Toronto Hydro requires a minimum of 24 weeks, if not more ("lead time") to complete the Project, after receiving the signed Offer to Connect from the Customer, and, if necessary the Customer should make arrangements to return the signed Offer to Connect earlier, to accommodate the required lead time.

If the expansion work for this Project has not commenced within one (1) year from the date set forth above, Toronto Hydro has the right to terminate this Offer to Connect in accordance with its rights of termination as set out herein.

Any notice, communication, inquiry and payment regarding this Offer to Connect shall be directed as follows:

To: Toronto Hydro-Electric System Limited
Asset Management - 3rd Floor, 500 Commissioners Street
Toronto, Ontario M4M 3N7
Attention: Jim Trgachef, Supervisor
Standards and Policy Planning
Telephone (416) 542-2514, Facsimile: (416) 542-2731

To: The Customer at the address set forth below:
Residences of Avonshire Inc. and
K & G Oakburn Apartments I Ltd.
299 Rochampton Avenue
Toronto, Ontario M4P 1S2
Attention: Mark Gallow
Telephone: (416) 487-2844, Facsimile: (416) 487-7550

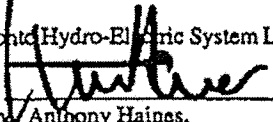
All payments and security as may be required hereunder shall be due and payable, or deliverable, upon acceptance of this Offer to Connect by the Customer.

Each of Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd. shall be jointly and severally liable for all the obligations in this Offer to Connect.

Please sign in the appropriate place below and return one signed copy, and all payments and security as may be required, to the address indicated above.

Yours truly,

Toronto Hydro-Electric System Limited

Per: 
Name: Anthony Haines,
Title: President
I have authority to bind the Corporation.

Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd. each acknowledges its understanding of, accepts, agrees jointly and severally to comply with, and be bound by, all of the terms and conditions of this Offer to Connect, which include the provisions set forth above and all of the Schedules attached. Each acknowledges that by accepting this Offer to Connect a binding agreement is created and, upon signing, this Offer to Connect constitutes a legally valid and binding obligation, enforceable in accordance with its terms.

Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd. each confirms that it will not be obtaining alternative bids for the Contestable Work described in Schedule E.

Residences of Avonshire Inc.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

K & G Oakburn Apartments I Ltd.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

OR

Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd. each confirms it is not accepting Toronto Hydro's Offer to Connect and it will be proceeding by way of an alternative bid process for the Contestable Work, as described in Schedule E.

Residences of Avonshire Inc.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

K & G Oakburn Apartments I Ltd.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

Offer to Connect Residences of Avonshire Inc. and K & G Oakburn Apartments I Ltd., 100, 105, & 115 Harrison Garden Boulevard and 5, 7 & 9 Oakburn Crescent, January 29, 2009

**SCHEDULE A
CONNECTION WORK and FEES**

1. Connection Assets are the assets between the point of connection to the Toronto Hydro main distribution system and the ownership demarcation point as defined in Table 1.3 of Toronto Hydro's Conditions of Service.
2. The Connection Work and Connection Fees to supply and install the Connection Assets for the Project are described below.
3. Toronto Hydro shall recover costs associated with the installation of Connection Assets through:
 - (a) Basic Connection Fees which are part of the Economic Evaluation; and
 - (b) Variable Connection Fees collected directly from the Customer. The variable Connection Fees arise from the Variable Connection Work and are in addition to the Basic Connection Fees.
4. The Variable Connection Fees are payable by the Customer to Toronto Hydro pursuant to this Offer to Connect upon acceptance of this Offer to Connect by the Customer, or, if the Customer pursues an alternative bid process described in Schedule E, to the Customer's qualified contractor.

Connection Work shall mean the following:

- All necessary engineering design and inspections;
- Supply & Install:
 - U/G road crossing and primary cable.
- Supply:
 - The necessary switching and isolations required to connect the Customer to the Toronto Hydro distribution system;
 - Primary connections and terminations in transformer vault and to the Toronto Hydro distribution system;
 - All transformation, switchgear and termination as required.

NOTE:

- Customer is responsible for:
 - Trenching, supplying and installing a 2Wx2H concrete encased duct structure on private property from street line to transformer building vaults.

Connection Fees:

- a) Basic Connection Fees of \$1,310.00 per meter connection and \$850.00 per meter connection have been included in Toronto Hydro's Economic Evaluation.

b) Variable Connection Fees	\$193,930.60
GST 5%	<u>\$ 9,696.53</u>
TOTAL CONNECTION FEES, GST	\$203,627.13
Less Deposit and GST received	- \$ 0
BALANCE OUTSTANDING	\$203,627.13

The Connection Fees are based on the Connection Work being done during non-winter conditions. If the Customer requires the Connection Work to be done during winter conditions that would result in additional costs, Toronto Hydro will advise the Customer of the estimated additional costs and if the Customer provides a written request to Toronto Hydro to proceed, a Project Invoice will be issued and payment must be received by Toronto Hydro prior to the commencement of any of the applicable work.

**SCHEDULE B
EXPANSION WORK AND FEES**

1. The Uncontestable Expansion Work and Contestable Expansion Work that must be performed to connect the Project to the Toronto Hydro main distribution system, and corresponding Fees and Total Expansion Fees ("Total Expansion Fees") are described below.
2. The Customer will also be responsible for the payment of the operating, maintenance and administration costs ("OM&A Costs") of the Project, including applicable taxes. The OM&A Costs are included in the Economic Evaluation.
3. The Expansion Fees and OM&A Costs are recovered by Toronto Hydro by way of Capital Contribution if applicable, as described in Schedule C and the increased distribution revenues attributable to the Project, which are received by Toronto Hydro ("Incremental Revenues").

Uncontestable Expansion Work shall mean the following:

- All necessary engineering design and inspections;
- Supply & install:
 - Primary terminations and connections to the existing Toronto Hydro distribution system;
 - The necessary switching and outage arrangements to allow connections to existing distribution system.

Uncontestable Expansion Fees:

Enhancement Costs (1,900 x \$260 per kW)	\$ 494,000.00
Materials	\$ 24,500.00
Labour (engineering design, inspections)	\$ 32,500.00
Equipment	\$ 1,500.00
Basic Connection Charge (3 x \$1,310.00 and 41 x \$850.00, per meter connection)	\$ 38,780.00
Overhead (including administration)	<u>\$ 63,326.08</u>
TOTAL UNCONTESTABLE EXPANSION FEES	\$ 654,606.08

Contestable Expansion Work shall mean the following:

- Supply & install:
 - All necessary duct structures, cable chambers, tap boxes, splice vaults, submersible transformer vaults, switchgear foundations on Harrison Garden extension and Oakburn Crescent to Avondale Avenue cable riser poles.

Contestable Expansion Fees:

Materials	\$ 358,759.09
Labour (construction)	\$ 198,380.43
Equipment	\$ 26,793.96
Overhead (including administration)	<u>\$ 62,539.28</u>
TOTAL CONTESTABLE EXPANSION FEES	\$ 646,472.76
TOTAL UNCONTESTABLE EXPANSION FEES	\$ 654,606.08
TOTAL EXPANSION FEES (CONTESTABLE AND UNCONTESTABLE)	\$1,301,078.84
GST (5%)	<u>\$ 65,053.94</u>
TOTAL EXPANSION FEES, GST	\$1,366,132.78

The Expansion Fees are based on the Expansion Work being done during non-winter conditions. If the Customer requires the Expansion Work to be done during winter conditions that would result in additional costs, Toronto Hydro will advise the Customer of the estimated additional costs and if the Customer provides a written request to Toronto Hydro to proceed, a Project Invoice will be issued and payment must be received by Toronto Hydro prior to the commencement of any applicable work.

SCHEDULE C
CAPITAL CONTRIBUTION REQUIREMENTS and ECONOMIC EVALUATION

1. The Customer acknowledges that it has represented to Toronto Hydro that the estimated increased demand load attributable to the Project will be 1,900 kW ("Estimated Incremental Demand") and that 789 residential units will be connected to the Toronto Hydro main distribution system.
2. To determine the amount of Capital Contribution that is required from the Customer for this Project, Toronto Hydro has performed, as described in Appendix B of the Distribution System Code, an economic evaluation ("Initial Economic Evaluation"). A copy of the Initial Economic Evaluation, including the calculation used to determine the amount of the Capital Contribution to be paid by the Customer, including all of the assumptions and inputs used to produce the Initial Economic Evaluation, is included with this Offer to Connect.
3. As a result of Toronto Hydro's Initial Economic Evaluation of the Project, the Customer shall pay to Toronto Hydro, upon acceptance of this Offer to Connect, a Capital Contribution in the amount set forth below:

Capital Contribution	\$92,981.00
GST (5%)	<u>\$ 4,649.05</u>
Capital Contribution and GST	\$97,630.05

**SCHEDULE D
EXPANSION DEPOSIT**

1. An Expansion Deposit is intended to ensure that Toronto Hydro is held harmless in respect of the Expansion Fees and OM&A Costs by securing payment of the Total Expansion Fees in the event the Estimated Incremental Demand does not materialize. The Expansion Deposit shall be in the form of cash, or an irrevocable commercial letter of credit issued by a Schedule 1 bank as defined in the Bank Act, or a surety bond. The form of security must expressly provide for its use to cover the events for which it is held as a deposit. Any portion of the Expansion Deposit held as cash, which is returned to the Customer, shall include interest on the returned amount from the date of receipt of the full amount of the Expansion Deposit, at the Prime Business Rate set by the Bank of Canada less two (2) percent.
2. The Customer is required to post an Expansion Deposit, upon acceptance of this Offer to Connect, for the difference between the actual Expansion Fees and GST and the amount of the Capital Contribution and GST paid by the Customer, in accordance with Toronto Hydro's Initial Economic Evaluation of the Project.
3. This Expansion Deposit is in addition to any other charges that may be payable to Toronto Hydro under this Offer to Connect, or the Conditions of Service, or otherwise.
4. The amount of the Expansion Deposit is set out below.
5. After the facilities are energized, the Expansion Deposit shall be reduced, at the end of each 365-day period, by an amount calculated by multiplying the original Expansion Deposit by a percentage derived by dividing the actual connections completed or materialized in that 365-day period, by the total number of connections contemplated in this Offer to Connect. For information about reduction in the amount of the Expansion Deposit after each 365 day period, please contact Carrie Matthew at (416) 542-3100 ext. 32076.
6. If after five (5) years from the energization date of the facilities, the total number of connections contemplated by the original Offer to Connect have not materialized, Toronto Hydro shall retain any cash held as an Expansion Deposit, or to be entitled to realize on any letter of credit or bond held as an Expansion Deposit and retain any cash resulting therefrom, with no obligation to return any portion of such monies to the Customer at any time.

EXPANSION DEPOSIT:

TOTAL EXPANSION FEES AND GST	\$1,366,132.78
LESS CAPITAL CONTRIBUTION AND GST	-\$ 97,630.05
EXPANSION DEPOSIT	\$1,268,502.73

SCHEDULE E
ALTERNATIVE BID PROCESS AND CONTESTABLE WORK

1. Toronto Hydro advises the Customer that part of the work that will be required for the expansion and connection to the existing distribution facilities includes work for which the Customer may obtain an alternative bid i.e. work that would not involve work with existing Toronto Hydro assets. The work for which the Customer may obtain alternative bid, "Contestable Work" is described below.
2. The Customer must use a contractor for the Contestable Work qualified by Toronto Hydro in accordance with its Conditions of Service. To qualify, contractors shall submit a "Contractor Qualification Application" and meet the requirements posted at:
http://www.torontohydro.com/electricsystem/customer_care/cond_of_services/index.cfm
at least 30 business days prior to their selection by the Customer to undertake Contestable Work. The Customer shall not be entitled to start performance of the Contestable Work until the contractor has completed its qualification by Toronto Hydro and has been qualified for no less than 30 business days.
3. Toronto Hydro does not make any representation or warranty regarding any contractor selected by the Customer to do any work regardless of whether the contractor has been qualified by Toronto Hydro or not and shall have no liability to the Customer in respect of such work.
4. If the Customer decides to hire a qualified contractor to perform the Contestable Work, the Customer will be required to select, hire and pay the contractor's costs for such work and to assume full responsibility for the construction of all of the Contestable Work.
5. The Customer shall ensure that the Contestable Work is done in accordance with Toronto Hydro's design and technical standards and specifications.
6. The Customer and his qualified contractor shall only use materials that meet the same specifications as Toronto Hydro approved materials (i.e. same manufacturers and same part numbers). Once the Customer has hired a qualified contractor, the Customer may request and obtain from Toronto Hydro the listing of approved materials that may be required for the Contestable Work.
7. The Customer will be required to pay for administering the contract with the qualified contractor, or if agreed by Toronto Hydro, pay Toronto Hydro a fee for performing this activity on its behalf. Upon request if Toronto Hydro is agreeable to performing such activity, Toronto Hydro will advise the Customer of the amount of the fee. Administering the contract includes, among other things, acquiring all permissions, permits and easements.
8. Toronto Hydro shall have the right to inspect and approve all aspects of the facilities constructed by the qualified contractor as part of its system commissioning activities, prior to connecting the expanded facilities to the Toronto Hydro main distribution system. If all of Toronto Hydro's requirements for the Contestable Work, including but not limited to, those set out in Sections 5, 6, and 7 above, have not been completed satisfactorily to Toronto Hydro, acting reasonably, the Project will not be energized, until the Contestable Work is in compliance with all of Toronto Hydro's requirements.
9. If the Customer decides to pursue an alternative bid for the Contestable Work, Toronto Hydro may charge the Customer costs, including, but not limited to, the following, for:
 - (a) additional design, engineering or installation of facilities required to complete the Project that are required in addition to the original Offer to Connect; and,
 - (b) inspection or approval of the work performed by the contractor hired by the Customer; and
 - (c) making the final connection of the new facilities to the Toronto Hydro distribution system. ("Additional Costs for Alternative Bid Work").

10. If the Customer decides to hire a qualified contractor to perform the Contestable Work, the Customer must:
 1. Sign an Alternative Bid Agreement;
 2. Hire a qualified contractor;
 3. Pay to Toronto Hydro, the firm amount of Toronto Hydro's Additional Costs for Alternative Bid Work, as set out below;
 4. Provide the Alternative Bid Expansion Deposit as set out below.
11. After the Customer has performed the Contestable Work and Toronto Hydro has inspected and approved the constructed facilities, the Customer shall transfer the expansion facilities that were constructed under the alternative bid option to Toronto Hydro and Toronto Hydro shall pay to the Customer, a transfer price, ("Transfer Price") to be determined, as hereinafter set out.
12. The Transfer Price for the Contestable Work shall be the lower of the Customer's Costs or the amount set out in this Offer to Connect of the Contestable Work. The Customer's Costs shall mean:
 - (a) the costs the Customer paid to have the Contestable Work performed, excluding the Variable Connection Work, as provided by evidence satisfactory to Toronto Hydro;
 - (b) the Additional Costs for Alternative Bid Work charged by Toronto Hydro.Toronto Hydro shall be satisfied that all Customer's Costs shall have been properly incurred.
13. If the Customer does not provide the calculation setting out the Customer's Costs to Toronto Hydro within 30 days of all new facilities being energized, then the amount of the Transfer Price shall be the amount set out in this Offer to Connect for the Contestable Work.
14. Toronto Hydro shall carry out a final economic evaluation after the facilities are energized ("Final Economic Evaluation"). The Final Economic Evaluation shall be based on the amounts used in this Offer to Connect for costs and forecasted revenues, and the amount of the Transfer Price to be paid by Toronto Hydro to the Customer for the Contestable Work, where applicable. A copy of the Final Economic Evaluation shall be provided to the Customer.
15. Any amount payable by the Customer to Toronto Hydro, may be deducted from the Transfer Price owing to the Customer by Toronto Hydro.
16. If the Customer pursues an Alternative Bid, the Customer shall post an Alternative Bid Expansion Deposit in the amount of 10% of the Expansion Deposit as set out in Schedule D.
17. Toronto Hydro will retain the Alternative Bid Expansion Deposit for a warranty period of up to two years. The warranty begins at the end of the Realization Period, defined below.
18. The Realization Period for a Project ends, upon the first to occur of:
 - (i) the materialization of the last forecasted connection in the expansion project, or
 - (ii) Five (5) years after energization of the new facilities.
19. Toronto Hydro shall be entitled to retain and use the Alternative Bid Expansion Deposit to complete, repalring or bring up to standard the facilities constructed by the Customer, including Toronto Hydro's costs to ensure that the expansion is completed to the proper design, technical standards and specifications, using approved materials and that the facilities operate properly when energized.
20. Toronto Hydro shall return to the Customer the unapplied portion of the Alternative Bid Expansion Deposit, if any, at the end of the two-year warranty period.
21. Upon receipt of notice from the Customer that it intends to hire an alternative bid contractor, Toronto Hydro will provide an Alternative Bid Agreement.

Contestable Work shall mean the following:

Note:

- All Customer-supplied materials must be submitted to Toronto Hydro for approval prior to installation and meet Toronto Hydro Distribution Construction Standards;
- All equipment and underground plant installed must be inspected and approved prior to connection to the Toronto Hydro distribution system;
- Customer is responsible for applying for and obtaining any necessary City road cut permits.

Description of Work to Be Completed by the Customer:

- Supply & install:
 - All necessary duct structures, cable chambers, tap boxes, splice vaults, submersible transformer vaults, switchgear foundations on Harrison Garden extension and Oakburn Crescent to Avondale Avenue cable riser poles;
 - All primary cables complete with terminations thereof, except final connection to the Toronto Hydro distribution system;
 - All secondary cables complete with terminations thereof, except final connection to the Toronto Hydro distribution system;
 - All switchgears, submersible transformers;
 - All cable risers completed to the installation of the first section of U-Guard on the termination poles.

Description of Work to Be Completed by Toronto Hydro:

- All necessary engineering design and inspections and material approvals;
- Primary cable termination connections to the existing Toronto Hydro distribution system on Harrison Garden Blvd;
- The necessary switching and outage arrangements to allow connection to existing distribution system.

Toronto Hydro's Additional Costs for Alternative Bid Work	\$ 9,800.00
GST (5%)	\$ 490.00
TOTAL ADDITIONAL COSTS FOR ALTERNATIVE BID WORK, GST	\$ 10,290.00
ALTERNATIVE BID EXPANSION DEPOSIT	\$126,850.27

**SCHEDULE F
GENERAL TERMS AND CONDITIONS
of OFFER TO CONNECT**

- 1. ASSIGNMENT**
 - 1.1 Neither party may assign this Offer to Connect without the prior written consent of the other party, such consent not to be unreasonably withheld.
- 2. DEMARCATION POINTS**
 - 2.1 The ownership and operational demarcation points of the Project shall be identified as such by Toronto Hydro on the as-constructed drawings.
 - 2.2 In accordance with Toronto Hydro's Conditions of Service, the Customer is responsible for maintaining, repairing and replacing, in a safe condition satisfactory to Toronto Hydro, all the Customer's civil infrastructure on private property that is deemed required by Toronto Hydro to house Toronto Hydro's Connection Assets, including but not limited to poles, underground conduits, cable chambers, cable pull rooms, transformer rooms, transformer vaults and transformer pads.
- 3. DISPUTE RESOLUTION**
 - 3.1 Any controversy between the parties arising under this Offer to Connect not resolved by discussions between the parties shall be determined by an arbitration tribunal convened pursuant to a notice of submission given either by Toronto Hydro or the Customer.
 - 3.2 The notice shall name one arbitrator.
 - 3.3 The party receiving the notice shall, within 10 days of notice to the other, name the second arbitrator or, if it fails to do so, the party giving the notice of submission shall name the second arbitrator.
 - 3.4 The two arbitrators appointed shall name the third arbitrator within 10 days, or if they fail to do so within that time period, either party may make application to the applicable court for appointment of the third arbitrator.
 - 3.5 Any arbitrator selected to act under this Offer to Connect shall be qualified by education, training and experience to pass on the particular question in dispute and shall have no connection to either of the parties other than acting in previous arbitrations.
 - 3.6 The arbitration shall be conducted in accordance with the provisions of *The Arbitration Act, 1991 S.O. c-17*, as amended.
 - 3.7 The decisions of the arbitration tribunal shall be made in writing and shall be final and binding on the parties as to the questions submitted and the parties shall have no right of appeal therefrom.
- 4. EASEMENTS**
 - 4.1 Upon request by Toronto Hydro, the Customer shall, at its own expense, execute, register and provide a solicitor's opinion on title in a form acceptable to Toronto Hydro, within the time period specified by Toronto Hydro, and subject only to those encumbrances permitted in writing by Toronto Hydro, such easement agreements as Toronto Hydro may require for the installation and continued existence of any electrical or telecommunication plants or access to same for the life of such plant or as otherwise required to perform its responsibility as a distribution company.
 - 4.2 The customer acknowledges that in order for an easement to be registered, it shall be required, at its expense, to arrange for and register any necessary documentation required by the appropriate Land Registry Office, including a Reference Plan, prepared by an Ontario Land Surveyor, describing the extent of the lands required for the easement.
- 5. FORCE MAJEURE**
 - 5.1 Force Majeure means any act, event, cause or condition that is beyond Toronto Hydro's reasonable control, including wind, ice, lightning or other storms, earthquakes, landslides, floods, washouts, fires, explosions, contamination, breakage of equipment or machinery, delays in transportation, strikes, lockouts or other labour disturbances, civil disobedience or disturbances, war, acts of sabotage, blockades, insurrections, vandals, riots, epidemics, loss of any relevant license or a declaration of force majeure by Hydro One Networks Inc., or any successor, under any agreement which Hydro One Networks Inc., or any successor, has with Toronto Hydro in connection with any work to be performed by Toronto Hydro under this Offer to Connect.
 - 5.2 If by reason of Force Majeure, Toronto Hydro is unable, wholly or partially, to perform or comply with any or all of its obligations under this Offer to Connect, it shall be relieved of such obligations, and any liability (including liability for any injury, damage or loss to the Customer caused by such event of Force Majeure) for failing to perform or comply with such obligations, during the continuance of Force Majeure.
- 6. LIMITATION OF LIABILITY**
 - 6.1 Toronto Hydro shall not be responsible for the acts or omissions of the Customer or its employees, contractors, subcontractors or agent.
 - 6.2 Neither Toronto Hydro nor any of its employees, agents, officers, directors or other representatives ("Representatives") shall be liable for any loss, injury or damage to persons or property caused in whole or in part by negligence or fault of the Customer, or any of the Customer's Representatives, contractors or subcontractors.
 - 6.3 Notwithstanding any other provision in this Offer to Connect, or any applicable statutory provision Toronto Hydro and its Representatives shall only be liable for any damages which arise directly out of the wilful misconduct or negligence of Toronto Hydro or its Representatives.
 - 6.4 Neither Toronto Hydro nor any of its Representatives shall be liable under any circumstances whatsoever for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect, consequential, incidental or special damages, including but not limited to punitive or exemplary damages, arising from any breach of this Offer to Connect, fundamental or otherwise, or from any tortious acts, including the negligence or wilful misconduct of it or its Representatives, however arising.
 - 6.5 No action arising out of this Offer to Connect, regardless of the form thereof, may be brought by either party more than two (2) years following the date the cause of action arose, provided however that, subject to any applicable law, Toronto Hydro may bring an action for non-payment of amounts, or non-delivery of Expansion Deposits, required to be paid or delivered by the Customer under this Offer to Connect at any time.

- 6.6 The Customer shall indemnify and save harmless Toronto Hydro and its Representatives from any action, claim, penalty, damages, losses, judgements, settlements, costs and expenses or other remedy brought by any party or governmental authority, arising out of or resulting from any negligent act or failure to act or any willful misconduct by the Customer or any of its Representatives.
- 6.7 All of the provisions of Sections 6.1, 6.2, 6.3, 6.4, 6.5 and 6.6 shall survive the termination of this Offer to Connect.
- 7. NOTICE**
- 7.1 Any notice to be given under this Offer to Connect shall be in writing and delivered by prepaid registered mail, hand, courier or facsimile to the contact for the parties as set forth in the Offer to Connect.
- 7.2 Delivery by facsimile shall be deemed received on the day following transmittal provided the facsimile is received as confirmed by the issuance of a confirmation receipt at the point of transmission.
- 7.3 Delivery by hand or courier shall be deemed received on the date delivered.
- 7.4 Delivery by prepaid registered mail shall be deemed received on the 5th business day after mailing.
- 7.5 Either party may change its address for notice by providing written notice of that change to the other party.
- 8. REVISED PLANS**
- 8.1 If the Customer submits revised plans or requires additional design work, Toronto Hydro may provide, at cost, a new offer based on the revised plans or the additional design work.
- 8.2 If the Plans are revised at any time, after acceptance of this Offer to Connect shall be withdrawn or terminated immediately, despite any acceptance by the Customer. A new Offer to Connect will only be provided to the Customer upon payment in the amount of \$3,500.00 that must be paid prior to the new Offer to Connect being provided to the Customer.
- 9. SECURITY INTEREST**
- 9.1 As security for its obligation under this Offer to Connect, the Customer grants to Toronto Hydro a present and continuing security interest in, and lien on (and right of set-off against), and assignment of all money, cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, delivered as an Expansion Deposit or otherwise pursuant to the terms of this Offer to Connect, or for the benefit of Toronto Hydro.
- 9.2 The Customer agrees to take such action as Toronto Hydro reasonably requires in order to perfect Toronto Hydro's first-priority security interest in, and lien on (and right of set-off against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.
- 9.3 Toronto Hydro shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Customer's obligations under this Offer to Connect (Customer remaining liable for any amounts owing to Toronto Hydro after such application), subject to Toronto Hydro's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.
- 10. TAXES**
- 10.1 Unless specified, none of the amounts payable or deliverable under the Offer to Connect include goods and services taxes or any other taxes that may be payable.
- 10.2 The Customer shall pay all such taxes in accordance with applicable laws.
- 11. TERMINATION**
- 11.1 Each of the following shall constitute an event of default ("Event of Default"):
- (i) the Customer fails to make any payment at the time specified for payment in this Offer to Connect and such failure has not been remedied within 4 days notice of such failure;
 - (ii) the Customer fails to deliver any Expansion Deposit, including a renewal, or additional Expansion Deposit within the time period specified for delivery in this Offer to Connect;
 - (iii) the Customer fails to execute and deliver any agreement, or deliver any other document, within the time period specified for execution and/or delivery;
 - (iv) the Customer fails to commence the Expansion Work within 1 year from the date of this Offer to Connect;
 - (v) the Customer cancels the Project for any reason;
 - (vi) the Customer fails to comply with any other covenant or obligation in this Offer to Connect and such failure has not been remedied (where it is possible to remedy such failure) within 15 days of the initial failure to perform;
 - (vii) a resolution has passed, or documents filed at an office of public record, for the merger, amalgamation, dissolution, termination of existence, liquidation or winding-up of the Customer, unless the prior consent of Toronto Hydro has been obtained;
 - (viii) a receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy of the Customer or any of its property is appointed by any government authority, and such receiver, manager, receiver-manager, liquidator, monitor or trustee is not discharged within 30 days of appointment; or, if by decree of any government authority, the Customer is adjudicated bankrupt or insolvent, or any substantial part of its property is taken, and such decree is not discharged within 30 days after the entry thereof; or, if a petition to declare bankruptcy or to reorganize such party pursuant to any applicable law is filed against the Customer and is not dismissed within 30 days of such filing;
 - (ix) the Customer files, or consents to the filing of, a petition in bankruptcy or seeks, or consents to, an order or other protection under any provision of any legislation relating to insolvency or bankruptcy ("Insolvency Legislation"); or files, or consents to the filing of, a petition, application,

- answer or consent seeking relief or assistance in respect of itself under provision of any Insolvency Legislation; or files, consents to the filing of, an answer admitting the material allegations of a petition filed against it in any proceeding described herein; or makes an assignment for the benefit of its creditors; or admits in writing its inability to pay its debts generally as they become due; or consents to the appointment of a receiver, trustee, or liquidator over any, or all, of its property.
- 11.2 Upon the occurrence of an Event of Default, Toronto Hydro may, at its sole option, do any one or more of the following:
- (i) exercise any of the rights and remedies of a secured party including any such rights and remedies under law then in effect;
 - (ii) exercise its rights of set-off against any and all property of the Customer in the possession of Toronto Hydro;
 - (iii) declare the full amounts of the Expansion Fees and OM&A Costs that are unpaid and unrecovered as due and owing ("Accelerated Amounts");
 - (iv) draw on any cash, or draw under any letter of credit, then held by or for the benefit of Toronto Hydro as an Expansion Deposit or Capital Contribution or otherwise, free from any claim or right of any nature whatsoever of the Customer, including any equity or right of purchase or redemption by the Customer, to cover all costs incurred on, or prior to, the date of termination, including costs for materials ordered for the expansion, storage costs and facilities removal costs and any amounts owing under this Offer to Connect, including the Accelerated Amounts; and/or
 - (v) terminate this Offer to Connect, provided that, any termination shall not affect any obligations incurred prior to the effective date of termination or any other rights that Toronto Hydro may have arising out of any rights or obligations that are expressed to survive termination of this Offer to Connect.
12. **TITLE AND RISK OF LOSS**
- 12.1 Notwithstanding that Toronto Hydro may install equipment and materials under this Offer to Connect to which title is intended to pass to the Customer, title to such equipment or materials shall be transferred to the Customer, and risk of loss shall be assumed by the Customer, upon delivery to the Property.
- 12.2 Toronto Hydro shall be entitled to receive reasonable compensation for storing any materials or equipment not delivered to the Customer due to a delay caused by the Customer and such equipment or materials shall be held at the Customer's risk.
13. **WARRANTIES**
- 13.1 Toronto Hydro warrants that the services it provides are in accordance with Good Utility Practice.
- 13.2 Except as expressly set forth in this Offer to Connect, Toronto Hydro provides no warranties, for fitness for purpose or otherwise, and whether statutory or otherwise, to the Customer.
14. **MISCELLANEOUS**
- 14.1 This Offer to Connect, including the Schedules attached, shall constitute the entire agreement between the parties, and there are no other agreements or understandings, either written or oral, to conflict with, alter or enlarge this Offer to Connect unless agreed to in writing between the parties subsequent to the effective date of this Offer to Connect.
- 14.2 Failure or delay by Toronto Hydro in enforcing any right under, or provision of this Offer to Connect shall not be deemed a waiver of such provision or right with respect to the instant, or any previous, or subsequent, breach.
- 14.3 This Offer to Connect shall be governed by the laws of the Province of Ontario and the laws of Canada as applicable.
- 14.4 Toronto Hydro shall be entitled to access at all reasonable times to any of the Customer's properties to perform the services in this Offer to Connect.
- 14.5 Interest on unpaid amounts shall bear interest at the rate of 1.5 percent calculated and compounded monthly (19.56 percent per annum) at and from the due date up to and including the date of payment in full of such amount, together with all interest accrued to the date of payment.
- 14.6 Toronto Hydro and the Customer agree to execute and deliver such further documents as may be required for either party to fulfill its obligations and enforce its rights under this Offer to Connect.
- 14.7 If any provision of this Offer to Connect is declared illegal, invalid or unenforceable for any reason whatsoever, to the extent permitted by law, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of any of the other provisions.
- 14.8 This Offer to Connect and the obligations of the parties under it are subject to all applicable present and future laws, rules, regulations and orders of any regulatory or legislative body or other duly constituted authority having jurisdiction over Toronto Hydro or the Customer.
- 14.9 Time shall be of the essence.
- 14.10 If there is a conflict between this Offer to Connect and Toronto Hydro's Conditions of Service, this Offer to Connect shall govern.

	A	B	C	D	E	F	G	H	I	J	K
1	REQUEST FOR ECONOMIC EVALUATION (NPV CALCULATION)										
2	January 23, 2007 Version										
3											
4	Important: Enter Data in Yellow Boxes only, including zero values										
5											
6											
7	Requested by:	DAN STANOEY					Date:	Nov 20 2008			
8											
9	Tel. Ext.:	27918									
10											
11	Supervisor Approval:	Dave Graham									
12											
13	Project Information										
14	Address:	AVONSHIRE COMMUNITY - PHASE 1					WO Number:	158422			
15											
16	Service Type	Day W.	Res	Commercial	Industrial						
17											
18											
19											
20	Transformer Size	1500 KVA	Incremental Load	15000.0 KVA	Total Load	15000.0 KVA	N/A				
21											
22											
23	Customer Class	X					Expected In-Service Date	Jun-09			
24											
25	Type of Account Meter	Monthly demand > 1000 kW and up to 5000 kW					No. of Meters Installed	763			
26											
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[illegible]

ENGINEERING DEMAND SURVEY CUSTOMER DEMAND SURVEY

A. MODEL PARAMETER BASE ASSUMPTIONS

Item	Value
Current Year	1970
Annual Tax Rate	0.0000
LTV Net rate	0.0000
PCT Net rate	0.0000
Inflation	0.0000
WACC	0.0000

B. ASSET CLASSES

Description	Value
1) Total System Assets (plant)	0.0000
2) Building (class 1)	0.0000
3) Computer Eqp. (class 10)	0.0000
4) Application Software (class 12)	0.0000
5) Other Equipment (class 2)	0.0000

C. CUSTOMER CLASSES

Customer Class	Value
1) Residential	0.0000
2) General Service (< 50 kW)	0.0000
3) General Service (50 - 800 kW)	0.0000
4) General Service (1000 - 4000 kW)	0.0000
5) Large User (5000+ kW)	0.0000

D. CUSTOMER RATES

Customer Class	Value
1) Residential	0.0000
2) General Service (< 50 kW)	0.0000
3) General Service (50 - 800 kW)	0.0000
4) General Service (1000 - 4000 kW)	0.0000
5) Large User (5000+ kW)	0.0000

E. AVERAGE CUSTOMER DEMAND

Customer Class	Value
1) Residential	0.0000
2) General Service (< 50 kW)	0.0000
3) General Service (50 - 800 kW)	0.0000
4) General Service (1000 - 4000 kW)	0.0000
5) Large User (5000+ kW)	0.0000

D

Customer Class	Value
1) Residential	0.0000
2) General Service (< 50 kW)	0.0000
3) General Service (50 - 800 kW)	0.0000
4) General Service (1000 - 4000 kW)	0.0000
5) Large User (5000+ kW)	0.0000

TAB 2



4800 DUFFERIN STREET
TORONTO, ONTARIO
M3H 5S9

March 6, 2009

Toronto Hydro-Electric System Limited
14 Carlton Street
Asset Management
3rd Floor, 500 Commissioner Street
Toronto, ON M4M 3N7

Attention: Jim Trgachef, Supervisor

Dear Sir:

Re: Residences of Avonshire Inc.
Address: 100, & 115 Harrison Garden Boulevard and 5,7 & 9 Oakburn Crescent

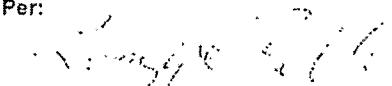
You will recall that you hosted a meeting last fall with representatives of Deltera Inc. at which time the discussion turned to the metering of the planned condominium projects which Deltera and related companies are and will be building in Toronto. At this meeting, you advised that effective February 28, 2008, Toronto Hydro was the only entity that had the right to own and supply meters for any of our projects and that no other options for metering were available. As a result of this, Residences of Avonshire Inc. request for an offer to connect in respect of the above noted building did not contemplate this building being suite metered by any entity other than Toronto Hydro and the offer to connect received contemplates Toronto Hydro installing individual suite meters.

It has come to our attention that contrary to the advice received, Residences of Avonshire Inc. does have the right under Subsection 53.17 of the *Electricity Act, 1998* to choose to have this project smart sub-metered by a licensed sub-metering company. Residences of Avonshire Inc. is desirous of considering the sub-metered option and would have requested an offer to connect which contemplated the above project being smart sub-metered but for the information provided at the meeting at your offices last fall.

We therefore require that Toronto Hydro provide a further offer to connect which contemplates the above project being smart sub-metered by a licensed sub-metering company. This offer should specifically contemplate that Toronto Hydro will install a bulk meter and Residences of Avonshire Inc.'s intention to smart sub-meter the units at the project downstream of the bulk meter.

I would appreciate confirmation that an appropriate Offer to Connect will be prepared and forwarded to Residences of Avonshire Inc. within the next two weeks. Given your familiarity already with the project, we trust that you will make every effort to meet this timeframe.

Yours truly,
RESIDENCES OF AVONSHIRE INC.
Per:


Giuseppe Bello
Project Manager

TAB 3

Colin J. McLorg
14 Carlton St.
Toronto, Ontario
M5B 1K5

Telephone: 416-542-2513
Facsimile: 416-542-2776
cmclorg@torontohydro.com



2009 April 22

Mr. Giuseppi Bello
Project Manager
Residences of Avonshire Inc
4800 Dufferin Street
Toronto, ON M3H 5S9
via email

Dear Mr. Bello:

RE: Metering and Offers to Connect for 'Avonshire' Projects

Thank you for your letter of March 10, 2009 to our Mr. Trgachef. Unfortunately, conflicting address information in your letter resulted in delays in its delivery. Your letter, received by me April 20, has been referred to me for reply.

Your letter generally concerns Toronto Hydro's policy and practice regarding offers to connect and smart metering for new condominiums, particularly those mentioned in the subject line of your letter. Your letter goes on to request that Toronto Hydro prepare a revised Offer to Connect for those condominiums based on a bulk meter / sub-metering configuration. As explained below, Toronto Hydro does not offer that connection configuration for new condominiums and therefore will not prepare a revised Offer to Connect on that basis.

The Ontario Energy Board ('OEB') regulates Toronto Hydro rates and service offerings. The OEB has defined the term 'smart metering' as follows: "The Board uses the term 'smart metering' to describe the situation in which a licensed distributor individually meters every condominium unit (and the condominium's common areas) with a smart meter. In this scenario, each unit will become a residential customer of the licensed distributor and each unit and the common areas must have a separate account with the licensed distributor."¹

As set out in Toronto Hydro's Conditions of Service, for condominium projects commenced with Toronto Hydro on and after February 28, 2008 ('new condominiums'), Toronto Hydro will provide smart metering as defined by the OEB (i.e., individual unit or suite metering

¹ [EB-2007-0772 Notice of Proposal etc. issued January 8, 2008]

compliant with smart metering regulations) for all separate units and for common areas ('individually metered units') at no charge to the developer. Upon registration and creation of the condominium corporation, the holders of the individually metered units become the direct customers of Toronto Hydro.

Toronto Hydro (along with other licensed distributors) has been specifically authorized to conduct smart metering as part of its standard, licensed distribution activities. The OEB has stated as follows:

"The Board has previously determined in rates proceedings related to smart metering activities of certain distributors that smart metering is a part of the distribution activity that is already covered by distributors' distribution licences. As there is no distinction between smart metering condominiums and other residences, the Board has determined that only licensed distributors can smart meter condominiums. In the Board's view, this is in keeping with the current regulatory framework in the electricity sector.

The Board is also of the view that Regulation 442 allows all licensed distributors to smart meter in condominiums."²

"As set out in the January Notice, the Board remains of the view that smart metering is a distribution activity, and that the Electricity Act and Regulation 442 taken together allow all licensed distributors to undertake smart metering in condominiums. The distributor would do so as a distribution activity within its licensed service area."³

Toronto Hydro therefore asserts that it is authorized to connect new condominiums in the manner described in its Conditions of Service and that it has no obligation to do otherwise.

The statement of Toronto Hydro's position in this matter is not entirely correct in your letter. Specifically, you state your understanding that Toronto Hydro advised you that "Toronto Hydro was the only entity that had the right to own and supply meters for any of our projects and that no other options for metering were available."

While it is the case that ultimately Toronto Hydro will own the metering infrastructure and will attach the individually metered units as direct customers, Toronto Hydro's Conditions of Service provide for alternative bids for the installation of meters and do not preclude the installation of an additional sub-metering system, should the developer or condominium wish to install one, provided it does not interfere with Toronto Hydro's equipment.

Your request for a further Offer to Connect assuming bulk metering is based on an incorrect interpretation of Section 53.17 of the *Electricity Act*, which you state contradicts Toronto Hydro's advice referred to above. In fact, that Section provides as follows:

"Despite the Condominium Act, 1998 and any other Act, a distributor and any other person licensed by the Board to do so shall, in the circumstances prescribed by regulation, install a smart meter, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies of a type prescribed by regulation."

Section 53.17 of the *Electricity Act* does not contradict Toronto Hydro's position and is irrelevant to this issue, since with respect to new condominiums, it does not prohibit a

² [EB-2007-0772 Notice of Proposal etc, January 8, 2008, pages 2-3]

³ [EB-2007-0772 Notice of Proposal etc, June 10, 2008, pages 4]

distributor from installing smart metering, nor require a non-distributor to provide sub-metering, but rather goes to the requirement that whatever equipment is installed be of a type required by regulation. Furthermore, it clearly does not establish a right on the part of any person to install sub-metering equipment. Sub-metering is referred to because such configurations are allowed, but not required, in the case of existing condominiums already fitted with bulk meters.

In summary, nothing with respect to new condominiums in Toronto Hydro's metering or connection practice or in its Conditions of Service is out of compliance with Code, regulation, or legislation. The OEB has expressly concluded that smart metering of condominiums is a distribution activity authorized by the existing licenses of distributors, and has not established any obligation on distributors to provide for sub-metering configurations in new condominiums.

For these reasons Toronto Hydro does not accept the request set out in your letter. Please contact me if you have concerns or questions around any of these matters.

Yours truly,

(Original signed by)

Colin McLorg

Manager, Regulatory Policy and Relations

416-542-2513

cmclorg@torontohydro.com

EXHIBIT E

TAB 1

February 2, 2009

Metrogate Inc.
4800 Dufferin Street
Toronto, Ontario M3H 5S9



Attention: Lou Tersigni

Dear Sir:

Re: Metrogate Inc. development of Solaris at Metrogate, Phase I and II,
Ventus at Metrogate, Phases I and II, and
Metrogate Townhouses
as legally described in PIN's 06164-0466 (LT), 06164-0469 (LT), 06164-0470 (LT), 06164-0472 (LT),
and 06164-0473 (LT) ("Property")
1512 high-rise residential units (1512 Toronto Hydro suite meters)
74 townhouses
Toronto Hydro Customer Class 4
Toronto Hydro Project No. P0016652 Work Order No. 170242 ("Project")

Toronto Hydro-Electric System Limited ("Toronto Hydro") acknowledges receipt of Metrogate Inc.'s ("Customer") written request for connection of the Project to the Toronto Hydro main distribution system.

The Customer has represented to Toronto Hydro that 1586 residential units will be constructed and connected to the Toronto Hydro main distribution system and the estimated increased demand load attributable to the Project will be 3,100 kW ("Estimated Incremental Demand").

In order to connect the Project, an expansion to the Toronto Hydro main distribution system will be needed.

Based on the plans dated April 1, 2008 ("Plans") this document, including all Schedules attached, is Toronto Hydro's firm Offer to Connect ("Offer to Connect") as required by the Distribution System Code ("Distribution System Code") established by the Ontario Energy Board ("OEB").

In addition to the obligations set forth in this Offer to Connect, the Customer shall be bound by and required to comply with all provisions of the Conditions of Service filed by Toronto Hydro with the OEB. A copy of the Conditions of Service can be obtained at www.torontohydro.com.

Terms used in this Offer to Connect shall have the meaning ascribed thereto in the Distribution System Code and the Conditions of Service unless otherwise defined herein.

The following Schedules attached hereto form a part of this Offer to Connect:

Schedule A – Connection Work and Fees;
Schedule B – Expansion Work and Fees;
Schedule C – Capital Contribution Requirements and Economic Evaluation;
Schedule D – Expansion Deposit;
Schedule E – Alternative Bid Process and Contestable Work;
Schedule F – General Terms and Conditions.

A Capital Contribution, as described in Schedule C, will not be required from the Customer.

An Expansion Deposit, as described in Schedule D, will be required from the Customer.

toronto hydro-electric system limited

This Offer to Connect includes Contestable Work for which the Customer may obtain an alternative bid as described in Schedule E.

Based on the Plans and information provided to Toronto Hydro, as of the date of this Offer to Connect, an easement will be required to connect the Project. General easement requirements are set out under the heading "Easements" in Schedule F, General Terms and Conditions.

If the terms and conditions of this Offer to Connect are acceptable to the Customer, a duly authorized officer of the Customer shall sign the duplicate copy and return it to Toronto Hydro within 60 days of the date set forth above. If a signed copy is not returned to Toronto Hydro within that time period, Toronto Hydro reserves the right to revoke this Offer to Connect without further notice to the Customer. The Customer is advised that Toronto Hydro requires a minimum of 24 weeks, if not more ("lead time") to complete the Project, after receiving the signed Offer to Connect from the Customer, and, if necessary the Customer should make arrangements to return the signed Offer to Connect earlier, to accommodate the required lead time.

If the expansion work for this Project has not commenced within one (1) year from the date set forth above, Toronto Hydro has the right to terminate this Offer to Connect in accordance with its rights of termination as set out herein.

Any notice, communication, inquiry and payment regarding this Offer to Connect shall be directed as follows:

To: Toronto Hydro-Electric System Limited
Asset Management - 3rd Floor, 500 Commissioners Street
Toronto, Ontario M4M 3N7
Attention: Jim Trgachef, Supervisor
Standards and Policy Planning
Telephone (416) 542-2514, Facsimile: (416) 542-2731

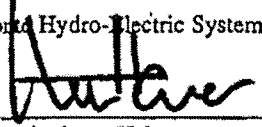
To: The Customer at the address set forth below:
Metrogate Inc.
4800 Dufferin Street
Toronto, Ontario M3H 5S9
Attention: Lou Tersigni
Telephone: (416) 736-2545, Facsimile: (416) 661-8923

All payments and security as may be required hereunder shall be due and payable, or deliverable, upon acceptance of this Offer to Connect by the Customer.

Please sign in the appropriate place below and return one signed copy, and all payments and security as may be required, to the address indicated above.

Yours truly,

Toronto Hydro-Electric System Limited

Per: 
Name: Anthony Haines,
Title: President

I have authority to bind the Corporation.

Metrogate Inc. acknowledges its understanding of, accepts, agrees to comply with, and be bound by, all of the terms and conditions of this Offer to Connect, which include the provisions set forth above and all of the Schedules attached. The Customer acknowledges that by accepting this Offer to Connect a binding agreement is created and, upon signing, this Offer to Connect constitutes a legally valid and binding obligation of the Customer, enforceable in accordance with its terms.

The Customer confirms that it will not be obtaining alternative bids for the Contestable Work described in Schedule E.

Metrogate Inc.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

OR

Metrogate Inc. confirms it is not accepting Toronto Hydro's Offer to Connect and it will be proceeding by way of an alternative bid process for the Contestable Work, as described in Schedule E.

Metrogate Inc.

Per: _____ Date: _____

Name:

Title:

I have authority to bind the Corporation.

Offer to Connect Metrogate Inc, February 2, 2009

**SCHEDULE A
CONNECTION WORK and FEES**

1. Connection Assets are the assets between the point of connection to the Toronto Hydro main distribution system and the ownership demarcation point as defined in Table 1.3 of Toronto Hydro's Conditions of Service.
2. The Connection Work and Connection Fees to supply and install the Connection Assets for the Project are described below.
3. Toronto Hydro shall recover costs associated with the installation of Connection Assets through:
 - (a) Basic Connection Fees which are part of the Economic Evaluation; and
 - (b) Variable Connection Fees collected directly from the Customer. The variable Connection Fees arise from the Variable Connection Work and are in addition to the Basic Connection Fees.
4. The Variable Connection Fees are payable by the Customer to Toronto Hydro pursuant to this Offer to Connect upon acceptance of this Offer to Connect by the Customer, or, if the Customer pursues an alternative bid process described in Schedule E, to the Customer's qualified contractor.

Connection Work shall mean the following:

- All necessary engineering design, drawings and inspections;
- Supply & install:
 - U/G road crossing and primary cable.
- Supply:
 - All switching and isolations;
 - All primary connections and terminations in transformer and to the underground primary distribution system;
 - All transformation, switchgear and termination as required.

NOTE: Customer is responsible for:

- Trenching, supplying and installing a 3Wx2H concrete encased duct structure on private Property from street line to transformer building vaults.

Connection Fees:

a) A Basic Connection Fee of \$1,310.00 per commercial meter connection and \$850.00 per residential meter connection has been included in Toronto Hydro's Economic Evaluation.	
b) Variable Connection Fees	\$76,154.01
GST 5%	<u>\$ 3,807.70</u>
TOTAL CONNECTION FEES, GST	\$79,961.71
Less Deposit and GST received	- \$ 0
BALANCE OUTSTANDING	\$79,961.71

The Connection Fees are based on the Connection Work being done during non-winter conditions. If the Customer requires the Connection Work to be done during winter conditions that would result in additional costs, Toronto Hydro will advise the Customer of the estimated additional costs and if the Customer provides a written request to Toronto Hydro to proceed, a Project Invoice will be issued and payment must be received by Toronto Hydro prior to the commencement of any of the applicable work.

SCHEDULE B EXPANSION WORK AND FEES

1. The Uncontestable Expansion Work and Contestable Expansion Work that must be performed to connect the Project to the Toronto Hydro main distribution system, and corresponding Fees and Total Expansion Fees ("Total Expansion Fees") are described below.
2. The Customer will also be responsible for the payment of the operating, maintenance and administration costs ("OM&A Costs") of the Project, including applicable taxes. The OM&A Costs are included in the Economic Evaluation.
3. The Expansion Fees and OM&A Costs are recovered by Toronto Hydro by way of Capital Contribution if applicable, as described in Schedule C and the increased distribution revenues attributable to the Project, which are received by Toronto Hydro ("Incremental Revenues").

Uncontestable Expansion Work shall mean the following:

- All necessary engineering design, drawings and inspections;
- Supply & install:
 - Primary terminations and connections to the existing Toronto Hydro distribution system;
 - Reconfiguration of distribution and supply to the existing hotel;
 - The necessary switching and outage arrangements to allow connections to existing Toronto Hydro distribution system.

Uncontestable Expansion Fees:

Enhancement Costs (3,100 x \$260 per kW)	\$ 806,000.00
Materials	\$ 40,800.00
Labour (engineering design, inspections)	\$ 43,800.00
Equipment	\$ 3,800.00
Basic Connection Charge (74 x \$850.00 and 11x \$1,310.00 per meter connection)	\$ 77,310.00
Overhead (including administration)	<u>\$ 104,070.14</u>
TOTAL UNCONTESTABLE EXPANSION FEES	\$1,075,780.14

Contestable Expansion Work shall mean the following:

- Supply & install:
 - All necessary duct structures, cable chambers, tap boxes, splice vaults, submersible transformer vaults, switchgear foundations on Village Green Square, Street 'A', Street 'B', Street 'C' and an extension to existing Toronto Hydro distribution system on Village Green Square.

Contestable Expansion Fees:

Materials	\$ 407,657.24
Labour (construction)	\$ 213,180.32
Equipment	\$ 29,568.46
Overhead (including administration)	<u>\$ 69,658.48</u>
TOTAL CONTESTABLE EXPANSION FEES	\$ 720,064.50
TOTAL UNCONTESTABLE EXPANSION FEES	<u>\$1,075,780.14</u>
TOTAL EXPANSION FEES (CONTESTABLE AND UNCONTESTABLE)	\$1,795,844.64
GST (5%)	<u>\$ 89,792.23</u>
TOTAL EXPANSION FEES, GST	\$1,885,636.87

The Expansion Fees are based on the Expansion Work being done during non-winter conditions. If the Customer requires the Expansion Work to be done during winter conditions that would result in additional costs, Toronto Hydro will advise the Customer of the estimated additional costs and if the Customer provides a written request to Toronto Hydro to proceed, a Project Invoice will be issued and payment must be received by Toronto Hydro prior to the commencement of any applicable work.

SCHEDULE C
CAPITAL CONTRIBUTION REQUIREMENTS and ECONOMIC EVALUATION

1. The Customer acknowledges that it has represented to Toronto Hydro that the estimated increased demand load attributable to the Project will be 3,100 kW ("Estimated Incremental Demand") and that 1586 residential units will be connected to the Toronto Hydro main distribution system.
1. To determine the amount of Capital Contribution that is required from the Customer for this Project, Toronto Hydro has performed, as described in Appendix B of the Distribution System Code, an economic evaluation ("Initial Economic Evaluation"). A copy of the Initial Economic Evaluation, including the calculation used to determine the amount of the Capital Contribution to be paid by the Customer, including all of the assumptions and inputs used to produce the Initial Economic Evaluation, is included with this Offer to Connect.
3. As a result of Toronto Hydro's Initial Economic Evaluation of the Project, the Customer will not be required to pay a Capital Contribution.

**SCHEDULE D
EXPANSION DEPOSIT**

1. An Expansion Deposit is intended to ensure that Toronto Hydro is held harmless in respect of the Expansion Fees and OM&A Costs by securing payment of the Total Expansion Fees in the event the Estimated Incremental Demand does not materialize. The Expansion Deposit shall be in the form of cash, or an irrevocable commercial letter of credit issued by a Schedule 1 bank as defined in the Bank Act, or a surety bond. The form of security must expressly provide for its use to cover the events for which it is held as a deposit. Any portion of the Expansion Deposit held as cash, which is returned to the Customer, shall include interest on the returned amount from the date of receipt of the full amount of the Expansion Deposit, at the Prime Business Rate set by the Bank of Canada less two (2) percent.
2. The Customer is required to post an Expansion Deposit, upon acceptance of this Offer to Connect, for the difference between the actual Expansion Fees and GST and the amount of the Capital Contribution and GST paid by the Customer, in accordance with Toronto Hydro's Initial Economic Evaluation of the Project.
3. This Expansion Deposit is in addition to any other charges that may be payable to Toronto Hydro under this Offer to Connect, or the Conditions of Service, or otherwise.
4. The amount of the Expansion Deposit is set out below.
5. After the facilities are energized, the Expansion Deposit shall be reduced, at the end of each 365-day period, by an amount calculated by multiplying the original Expansion Deposit by a percentage derived by dividing the actual demand materialized in that 365-day period, by the Estimated Incremental Demand contemplated in this Offer to Connect. For information about reduction in the amount of the Expansion Deposit after each 365 day period, please contact Carrie Matthew at (416) 542-3100 ext. 32076.
6. If after five (5) years from the energization date of the facilities, the Estimated Incremental Demand contemplated by this Offer to Connect has not materialized, Toronto Hydro shall retain any cash held as an Expansion Deposit, or be entitled to realize on any letter of credit or bond held as an Expansion Deposit and retain any cash resulting therefrom, with no obligation to return any portion of such monies to the Customer at any time.

EXPANSION DEPOSIT:

TOTAL EXPANSION FEES AND GST	\$1,885,636.87
LESS CAPITAL CONTRIBUTION AND GST	<u>-\$ 0</u>
EXPANSION DEPOSIT	\$1,885,636.87

SCHEDULE E
ALTERNATIVE BID PROCESS AND CONTESTABLE WORK

1. Toronto Hydro advises the Customer that part of the work that will be required for the expansion and connection to the existing distribution facilities includes work for which the Customer may obtain an alternative bid i.e. work that would not involve work with existing Toronto Hydro assets. The work for which the Customer may obtain alternative bid, "Contestable Work" is described below.
2. The Customer must use a contractor for the Contestable Work qualified by Toronto Hydro in accordance with its Conditions of Service. To qualify, contractors shall submit a "Contractor Qualification Application" and meet the requirements posted at:
http://www.torontohydro.com/electricsystem/customer_care/cond_of_services/index.cfm
at least 30 business days prior to their selection by the Customer to undertake Contestable Work. The Customer shall not be entitled to start performance of the Contestable Work until the contractor has completed its qualification by Toronto Hydro and has been qualified for no less than 30 business days.
3. Toronto Hydro does not make any representation or warranty regarding any contractor selected by the Customer to do any work regardless of whether the contractor has been qualified by Toronto Hydro or not and shall have no liability to the Customer in respect of such work.
4. If the Customer decides to hire a qualified contractor to perform the Contestable Work, the Customer will be required to select, hire and pay the contractor's costs for such work and to assume full responsibility for the construction of all of the Contestable Work.
5. The Customer shall ensure that the Contestable Work is done in accordance with Toronto Hydro's design and technical standards and specifications.
6. The Customer and his qualified contractor shall only use materials that meet the same specifications as Toronto Hydro approved materials (i.e. same manufacturers and same part numbers). Once the Customer has hired a qualified contractor, the Customer may request and obtain from Toronto Hydro the listing of approved materials that may be required for the Contestable Work.
7. The Customer will be required to pay for administering the contract with the qualified contractor, or if agreed by Toronto Hydro, pay Toronto Hydro a fee for performing this activity on its behalf. Upon request if Toronto Hydro is agreeable to performing such activity, Toronto Hydro will advise the Customer of the amount of the fee. Administering the contract includes, among other things, acquiring all permissions, permits and easements.
8. Toronto Hydro shall have the right to inspect and approve all aspects of the facilities constructed by the qualified contractor as part of its system commissioning activities, prior to connecting the expanded facilities to the Toronto Hydro main distribution system. If all of Toronto Hydro's requirements for the Contestable Work, including but not limited to, those set out in Sections 5, 6, and 7 above, have not been completed satisfactorily to Toronto Hydro, acting reasonably, the Project will not be energized, until the Contestable Work is in compliance with all of Toronto Hydro's requirements.
9. If the Customer decides to pursue an alternative bid for the Contestable Work, Toronto Hydro may charge the Customer costs, including, but not limited to, the following, for:
 - (a) additional design, engineering or installation of facilities required to complete the Project that are required in addition to the original Offer to Connect; and,
 - (b) inspection or approval of the work performed by the contractor hired by the Customer; and
 - (c) making the final connection of the new facilities to the Toronto Hydro distribution system.
("Additional Costs for Alternative Bid Work").

10. If the Customer decides to hire a qualified contractor to perform the Contestable Work, the Customer must:
 1. Sign an Alternative Bid Agreement;
 2. Hire a qualified contractor;
 3. Pay to Toronto Hydro, the firm amount of Toronto Hydro's Additional Costs for Alternative Bid Work, as set out below;
 4. Provide the Alternative Bid Expansion Deposit as set out below.
11. After the Customer has performed the Contestable Work and Toronto Hydro has inspected and approved the constructed facilities, the Customer shall transfer the expansion facilities that were constructed under the alternative bid option to Toronto Hydro and Toronto Hydro shall pay to the Customer, a transfer price, ("Transfer Price") to be determined, as hereinafter set out.
12. The Transfer Price for the Contestable Work shall be the lower of the Customer's Costs or the amount set out in this Offer to Connect of the Contestable Work. The Customer's Costs shall mean:
 - (a) the costs the Customer paid to have the Contestable Work performed, excluding the Variable Connection Work, as provided by evidence satisfactory to Toronto Hydro;
 - (b) the Additional Costs for Alternative Bid Work charged by Toronto Hydro.Toronto Hydro shall be satisfied that all Customer's Costs shall have been properly incurred.
13. If the Customer does not provide the calculation setting out the Customer's Costs to Toronto Hydro within 30 days of all new facilities being energized, then the amount of the Transfer Price shall be the amount set out in this Offer to Connect for the Contestable Work.
14. Toronto Hydro shall carry out a final economic evaluation after the facilities are energized ("Final Economic Evaluation"). The Final Economic Evaluation shall be based on the amounts used in this Offer to Connect for costs and forecasted revenues, and the amount of the Transfer Price to be paid by Toronto Hydro to the Customer for the Contestable Work, where applicable. A copy of the Final Economic Evaluation shall be provided to the Customer.
15. Any amount payable by the Customer to Toronto Hydro, may be deducted from the Transfer Price owing to the Customer by Toronto Hydro.
16. If the Customer pursues an Alternative Bid, the Customer shall post an Alternative Bid Expansion Deposit in the amount of 10% of the Expansion Deposit as set out in Schedule D.
17. Toronto Hydro will retain the Alternative Bid Expansion Deposit for a warranty period of up to two years. The warranty begins at the end of the Realization Period, defined below.
18. The Realization Period for a Project ends, upon the first to occur of:
 - (i) the materialization of the last forecasted connection in the expansion project, or
 - (ii) Five (5) years after energization of the new facilities.
19. Toronto Hydro shall be entitled to retain and use the Alternative Bid Expansion Deposit to complete, repairing or bring up to standard the facilities constructed by the Customer, including Toronto Hydro's costs to ensure that the expansion is completed to the proper design, technical standards and specifications, using approved materials and that the facilities operate properly when energized.
20. Toronto Hydro shall return to the Customer the unapplied portion of the Alternative Bid Expansion Deposit, if any, at the end of the two-year warranty period.
21. Upon receipt of notice from the Customer that it intends to hire an alternative bid contractor, Toronto Hydro will provide an Alternative Bid Agreement.

Contestable Work shall mean the following:

Note:

- All Customer-supplied materials must be submitted to Toronto Hydro for approval prior to installation and meet Toronto Hydro Distribution Construction Standards;
- All equipment and underground plant installed must be inspected and approved prior to connection to the Toronto Hydro distribution system;
- Customer is responsible for applying for and obtaining any necessary City road cut permits.

Description of Work to be Completed by the Customer:

- Supply & install:
 - All necessary duct structures, cable chambers, tap boxes, splice vaults, submersible transformer vaults, switchgear foundations on Village Green Square, Street 'A', Street 'B', Street 'C' and an extension to existing Toronto Hydro distribution system in Village Green Square;
 - All primary cables complete with terminations thereof, except final connection to the Toronto Hydro distribution system;
 - All secondary cables complete with terminations thereof, except final connection to the Toronto Hydro distribution system;
 - All switchgears, submersible transformers;
 - All cable risers completed to the installation of the first section of U-Guard on the termination poles.

Description of Work to Be Completed by Toronto Hydro:

- All necessary engineering design and inspections and material approvals;
- Connections to existing Toronto Hydro distribution system;
- Primary cable termination connections to the existing Toronto Hydro distribution system on Sufferance Road;
- The necessary switching and outage arrangements to allow connection to existing distribution system.

Toronto Hydro's Additional Costs for Alternative Bid Work	\$ 10,750.00
GST (5%)	\$ <u>537.50</u>
TOTAL ADDITIONAL COSTS FOR ALTERNATIVE BID WORK, GST	\$ 11,287.50
ALTERNATIVE BID EXPANSION DEPOSIT	\$188,563.68

**SCHEDULE F
GENERAL TERMS AND CONDITIONS
of OFFER TO CONNECT**

1. ASSIGNMENT

- 1.1 Neither party may assign this Offer to Connect without the prior written consent of the other party, such consent not to be unreasonably withheld.

2. DEMARCATION POINTS

- 2.1 The ownership and operational demarcation points of the Project shall be identified as such by Toronto Hydro on the as-constructed drawings.
- 2.2 In accordance with Toronto Hydro's Conditions of Service, the Customer is responsible for maintaining, repairing and replacing, in a safe condition satisfactory to Toronto Hydro, all the Customer's civil infrastructure on private property that is deemed required by Toronto Hydro to house Toronto Hydro's Connection Assets, including but not limited to poles, underground conduits, cable chambers, cable pull rooms, transformer rooms, transformer vaults and transformer pads.

3. DISPUTE RESOLUTION

- 3.1 Any controversy between the parties arising under this Offer to Connect not resolved by discussions between the parties shall be determined by an arbitration tribunal convened pursuant to a notice of submission given either by Toronto Hydro or the Customer.
- 3.2 The notice shall name one arbitrator.
- 3.3 The party receiving the notice shall, within 10 days of notice to the other, name the second arbitrator or, if it fails to do so, the party giving the notice of submission shall name the second arbitrator.
- 3.4 The two arbitrators appointed shall name the third arbitrator within 10 days, or if they fail to do so within that time period, either party may make application to the applicable court for appointment of the third arbitrator.
- 3.5 Any arbitrator selected to act under this Offer to Connect shall be qualified by education, training and experience to pass on the particular question in dispute and shall have no connection to either of the parties other than acting in previous arbitrations.
- 3.6 The arbitration shall be conducted in accordance with the provisions of *The Arbitration Act, 1991* S.O. c-17, as amended.
- 3.7 The decisions of the arbitration tribunal shall be made in writing and shall be final and binding on the parties as to the questions submitted and the parties shall have no right of appeal therefrom.

4. EASEMENTS

- 4.1 Upon request by Toronto Hydro, the Customer shall, at its own expense, execute, register and provide a solicitor's opinion on title in a form acceptable to Toronto Hydro, within the time period specified by Toronto Hydro, and subject only to those encumbrances permitted in writing by Toronto Hydro, such easement agreements as Toronto Hydro may require for the installation and continued existence of any electrical or telecommunication plants or access to same for the life of such plant or as otherwise required to perform its responsibility as a distribution company.
- 4.2 The customer acknowledges that in order for an easement to be registered, it shall be required, at its expense, to arrange for and register any necessary

documentation required by the appropriate Land Registry Office, including a Reference Plan, prepared by an Ontario Land Surveyor, describing the extent of the lands required for the easement.

5. FORCE MAJEURE

- 5.1 Force Majeure means any act, event, cause or condition that is beyond Toronto Hydro's reasonable control, including wind, ice, lightning or other storms, earthquakes, landslides, floods, washouts, fires, explosions, contamination, breakage of equipment or machinery, delays in transportation, strikes, lockouts or other labour disturbances, civil disobedience or disturbances, war, acts of sabotage, blockades, insurrections, vandals, riots, epidemics, loss of any relevant license or a declaration of force majeure by Hydro One Networks Inc., or any successor, under any agreement which Hydro One Networks Inc., or any successor, has with Toronto Hydro in connection with any work to be performed by Toronto Hydro under this Offer to Connect.
- 5.2 If by reason of Force Majeure, Toronto Hydro is unable, wholly or partially, to perform or comply with any or all of its obligations under, this Offer to Connect, it shall be relieved of such obligations, and any liability (including liability for any injury, damage or loss to the Customer caused by such event of Force Majeure) for failing to perform or comply with such obligations, during the continuance of Force Majeure.

6. LIMITATION OF LIABILITY

- 6.1 Toronto Hydro shall not be responsible for the acts or omissions of the Customer or its employees, contractors, subcontractors or agent.
- 6.2 Neither Toronto Hydro nor any of its employees, agents, officers, directors or other representatives ("Representatives") shall be liable for any loss, injury or damage to persons or property caused in whole or in part by negligence or fault of the Customer, or any of the Customer's Representatives, contractors or subcontractors.
- 6.3 Notwithstanding any other provision in this Offer to Connect, or any applicable statutory provision Toronto Hydro and its Representatives shall only be liable for any damages which arise directly out of the wilful misconduct or negligence of Toronto Hydro or its Representatives.
- 6.4 Neither Toronto Hydro nor any of its Representatives shall be liable under any circumstances whatsoever for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect, consequential, incidental or special damages, including but not limited to punitive or exemplary damages, arising from any breach of this Offer to Connect, fundamental or otherwise, or from any tortious acts, including the negligence or wilful misconduct of it or its Representatives, however arising.
- 6.5 No action arising out of this Offer to Connect, regardless of the form thereof, may be brought by either party more than two (2) years following the date the cause of action arose, provided however that, subject to any applicable law, Toronto Hydro may bring an action for non-payment of amounts, or non-delivery of Expansion

- Deposits, required to be paid or delivered by the Customer under this Offer to Connect at any time.
- 6.6 The Customer shall indemnify and save harmless Toronto Hydro and its Representatives from any action, claim, penalty, damages, losses, judgements, settlements, costs and expenses or other remedy brought by any party or governmental authority, arising out of or resulting from any negligent act or failure to act or any willful misconduct by the Customer or any of its Representatives.
- 6.7 All of the provisions of Sections 6.1, 6.2, 6.3, 6.4, 6.5 and 6.6 shall survive the termination of this Offer to Connect.
7. **NOTICE**
- 7.1 Any notice to be given under this Offer to Connect shall be in writing and delivered by prepaid registered mail, hand, courier or facsimile to the contact for the parties as set forth in the Offer to Connect.
- 7.2 Delivery by facsimile shall be deemed received on the day following transmittal provided the facsimile is received as confirmed by the issuance of a confirmation receipt at the point of transmission.
- 7.3 Delivery by hand or courier shall be deemed received on the date delivered.
- 7.4 Delivery by prepaid registered mail shall be deemed received on the 5th business day after mailing.
- 7.5 Either party may change its address for notice by providing written notice of that change to the other party.
8. **REVISED PLANS**
- 8.1 If the Customer submits revised plans or requires additional design work, Toronto Hydro may provide, at cost, a new offer based on the revised plans or the additional design work.
- 8.2 If the Plans are revised at any time, after acceptance of this Offer to Connect shall be withdrawn or terminated immediately, despite any acceptance by the Customer. A new Offer to Connect will only be provided to the Customer upon payment in the amount of \$3,500.00 that must be paid prior to the new Offer to Connect being provided to the Customer.
9. **SECURITY INTEREST**
- 9.1 As security for its obligation under this Offer to Connect, the Customer grants to Toronto Hydro a present and continuing security interest in, and lien on (and right of set-off against), and assignment of all money, cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, delivered as an Expansion Deposit or otherwise pursuant to the terms of this Offer to Connect, or for the benefit of Toronto Hydro.
- 9.2 The Customer agrees to take such action as Toronto Hydro reasonably requires in order to perfect Toronto Hydro's first-priority security interest in, and lien on (and right of set-off against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.
- 9.3 Toronto Hydro shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Customer's obligations under this Offer to Connect (Customer remaining liable for any amounts owing to Toronto Hydro after such application), subject to Toronto Hydro's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.
10. **TAXES**
- 10.1 Unless specified, none of the amounts payable or deliverable under the Offer to Connect include goods and services taxes or any other taxes that may be payable.
- 10.2 The Customer shall pay all such taxes in accordance with applicable laws.
11. **TERMINATION**
- 11.1 Each of the following shall constitute an event of default ("Event of Default"):
- (i) the Customer fails to make any payment at the time specified for payment in this Offer to Connect and such failure has not been remedied within 4 days notice of such failure;
 - (ii) the Customer fails to deliver any Expansion Deposit, including a renewal, or additional Expansion Deposit within the time period specified for delivery in this Offer to Connect;
 - (iii) the Customer fails to execute and deliver any agreement, or deliver any other document, within the time period specified for execution and/or delivery;
 - (iv) the Customer fails to commence the Expansion Work within 1 year from the date of this Offer to Connect;
 - (v) the Customer cancels the Project for any reason;
 - (vi) the Customer fails to comply with any other covenant or obligation in this Offer to Connect and such failure has not been remedied (where it is possible to remedy such failure) within 15 days of the initial failure to perform;
 - (vii) a resolution has passed, or documents filed at an office of public record, for the merger, amalgamation, dissolution, termination of existence, liquidation or winding-up of the Customer, unless the prior consent of Toronto Hydro has been obtained;
 - (viii) a receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy of the Customer or any of its property is appointed by any government authority, and such receiver, manager, receiver-manager, liquidator, monitor or trustee is not discharged within 30 days of appointment; or, if by decree of any government authority, the Customer is adjudicated bankrupt or insolvent, or any substantial part of its property is taken, and such decree is not discharged within 30 days after the entry thereof; or, if a petition to declare bankruptcy or to reorganize such party pursuant to any applicable law is filed against the Customer and is not dismissed within 30 days of such filing;
 - (ix) the Customer files, or consents to the filing of, a petition in bankruptcy or seeks, or consents to, an order or other protection under any provision of any legislation relating to insolvency or

- bankruptcy ("Insolvency Legislation"); or files, or consents to the filing of, a petition, application, answer or consent seeking relief or assistance in respect of itself under provision of any Insolvency Legislation; or files, consents to the filing of, an answer admitting the material allegations of a petition filed against it in any proceeding described herein; or makes an assignment for the benefit of its creditors; or admits in writing its inability to pay its debts generally as they become due; or consents to the appointment of a receiver, trustee, or liquidator over any, or all, of its property.
- 11.2 Upon the occurrence of an Event of Default, Toronto Hydro may, at its sole option, do any one or more of the following:
- (i) exercise any of the rights and remedies of a secured party including any such rights and remedies under law then in effect;
 - (ii) exercise its rights of set-off against any and all property of the Customer in the possession of Toronto Hydro;
 - (iii) declare the full amounts of the Expansion Fees and OM&A Costs that are unpaid and unrecovered as due and owing ("Accelerated Amounts");
 - (iv) draw on any cash, or draw under any letter of credit, then held by or for the benefit of Toronto Hydro as an Expansion Deposit or Capital Contribution or otherwise, free from any claim or right of any nature whatsoever of the Customer, including any equity or right of purchase or redemption by the Customer, to cover all costs incurred on, or prior to, the date of termination, including costs for materials ordered for the expansion, storage costs and facilities removal costs and any amounts owing under this Offer to Connect, including the Accelerated Amounts; and/or
 - (v) terminate this Offer to Connect, provided that, any termination shall not affect any obligations incurred prior to the effective date of termination or any other rights that Toronto Hydro may have arising out of any rights or obligations that are expressed to survive termination of this Offer to Connect.
12. **TITLE AND RISK OF LOSS**
- 12.1 Notwithstanding that Toronto Hydro may install equipment and materials under this Offer to Connect to which title is intended to pass to the Customer, title to such equipment or materials shall be transferred to the Customer, and risk of loss shall be assumed by the Customer, upon delivery to the Property.
- 12.2 Toronto Hydro shall be entitled to receive reasonable compensation for storing any materials or equipment not delivered to the Customer due to a delay caused by the Customer and such equipment or materials shall be held at the Customer's risk.
13. **WARRANTIES**
- 13.1 Toronto Hydro warrants that the services it provides are in accordance with Good Utility Practice.
- 13.2 Except as expressly set forth in this Offer to Connect, Toronto Hydro provides no warranties, for fitness for purpose or otherwise, and whether statutory or otherwise, to the Customer.
14. **MISCELLANEOUS**
- 14.1 This Offer to Connect, including the Schedules attached, shall constitute the entire agreement between the parties, and there are no other agreements or understandings, either written or oral, to conflict with, alter or enlarge this Offer to Connect unless agreed to in writing between the parties subsequent to the effective date of this Offer to Connect.
- 14.2 Failure or delay by Toronto Hydro in enforcing any right under, or provision of this Offer to Connect shall not be deemed a waiver of such provision or right with respect to the instant, or any previous, or subsequent, breach.
- 14.3 This Offer to Connect shall be governed by the laws of the Province of Ontario and the laws of Canada as applicable.
- 14.4 Toronto Hydro shall be entitled to access at all reasonable times to any of the Customer's properties to perform the services in this Offer to Connect.
- 14.5 Interest on unpaid amounts shall bear interest at the rate of 1.5 percent calculated and compounded monthly (19.56 percent per annum) at and from the due date up to and including the date of payment in full of such amount, together with all interest accrued to the date of payment.
- 14.6 Toronto Hydro and the Customer agree to execute and deliver such further documents as may be required for either party to fulfill its obligations and enforce its rights under this Offer to Connect.
- 14.7 If any provision of this Offer to Connect is declared illegal, invalid or unenforceable for any reason whatsoever, to the extent permitted by law, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of any of the other provisions.
- 14.8 This Offer to Connect and the obligations of the parties under it are subject to all applicable present and future laws, rules, regulations and orders of any regulatory or legislative body or other duly constituted authority having jurisdiction over Toronto Hydro or the Customer.
- 14.9 Time shall be of the essence.
- 14.10 If there is a conflict between this Offer to Connect and Toronto Hydro's Conditions of Service, this Offer to Connect shall govern.

1	REQUEST FOR ECONOMIC EVALUATION (RFE CALCULATION)									
2	January 23, 2007 Version									
3	WARNING: Error Data in Yellow Boxes only, including zero values									
4										
5										
6										
7	Requested by: DAN STANOEY									
8	Date: November 1, 2008									
9	Tel. Ext: 418-542-7818									
10	Supervisor Approval: _____ Date: _____									
11	Project Information:									
12	Address: METROQUATE DEVELOPMENTS									
13	WFO Number: 170242									
14	Service Type: _____ (see application)									
15	Rate: _____									
16	Commercial: _____ Industrial: _____									
17	3,100 kW (100% RFE) - Power Factor: 0.95									
18	Transformer: _____									
19	KVA: _____									
20	KVA: _____									
21	KVA: _____									
22	Customer Class: _____									
23	Expected In-Service Date: Oct-10									
24	Type of Monthly demand > 1000 kW and up to 6000 kW									
25	Account Meter: _____									
26	No. of Meters: 1587									
27										
28										
29										
30	OM and LIO: _____									
31	X _____									
32	Avg Charges (\$): _____									
33	EXPANSION FEES & EXPANSION COSTS: _____									
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**TORONTO-WATER/SEWERING SYSTEM
CAPITAL BUDGET CASE ECONOMIC MODEL**

A. MODEL PARAMETER BASE ASSUMPTIONS

Year	2010
Current Year	2010
Income Tax Rate	26.15%
LCI tax rate	0.15%
PCT tax rate	0.30%
Inflation	0.00%
WACC	6.30%

B. ASSET CLASSES

Description	Life (years)	Cost (\$)
1) Dist. System Assets (Class 1)	20	100
2) Building (class 1)	10	100
3) Computer Eq. (class 10)	5	100
4) Application Software (class 12)	5	100
5) Office Equipment (class 8)	10	100

C. CUSTOMER CLASSES

Description	Life (years)	Cost (\$)
1) Residential	10	100
2) General Service (< 50 kW)	10	100
3) General Service (50 - 999 kW)	10	100
4) General Service (1000 - 4999 kW)	10	100
5) Large User (5000+ kW)	10	100

D. CUSTOMER RATES

Customer Class	Rate (\$/kWh)	Rate (\$/kWh)	Rate (\$/kWh)	Rate (\$/kWh)	Rate (\$/kWh)
1) Residential	0.0715	0.0715	0.0715	0.0715	0.0715
2) General Service (< 50 kW)	0.0715	0.0715	0.0715	0.0715	0.0715
3) General Service (50 - 999 kW)	0.0715	0.0715	0.0715	0.0715	0.0715
4) General Service (1000 - 4999 kW)	0.0715	0.0715	0.0715	0.0715	0.0715
5) Large User (5000+ kW)	0.0715	0.0715	0.0715	0.0715	0.0715

E. AVERAGE CUSTOMER DEMAND

Customer Class	Demand (kW)	Demand (kW)	Demand (kW)	Demand (kW)	Demand (kW)
1) Residential	1.0	1.0	1.0	1.0	1.0
2) General Service (< 50 kW)	1.0	1.0	1.0	1.0	1.0
3) General Service (50 - 999 kW)	1.0	1.0	1.0	1.0	1.0
4) General Service (1000 - 4999 kW)	1.0	1.0	1.0	1.0	1.0
5) Large User (5000+ kW)	1.0	1.0	1.0	1.0	1.0

G

% Engineering Admin. Recharge	10.7%
Recharge Rate	10.7%
Engineering Admin.	10.7%

TAB 2

METROGATE INC.
4800 DUFFERIN STREET
TORONTO, ONTARIO
M3H 5S9

March 10, 2009

Toronto Hydro-Electric System Limited
14 Carlton Street
Asset Management
3rd Floor, 500 Commissioner Street
Toronto, ON M4M 3N7

Attention: Jim Trgachef, Supervisor

Dear Sir:

Re: Metrogate Inc. development of Solaris at Metrogate, Phase I and II, Ventus at Metrogate, Phases I and II, and Metrogate Townhouses as legally described in PIN's 06164-0466 (LT), 06164-0469 (LT), 06164-0470 (LT), and 06164-0473 (LT) (Metrogate)
Number of Units: 1512 high-rise residential unit and 74 townhouses

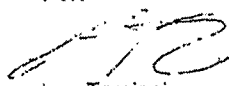
You will recall that you hosted a meeting last fall with representatives of Deltera Inc. at which time the discussion turned to the metering of the planned condominium projects which Deltera and related companies are and will be building in Toronto. At this meeting, you advised that effective February 28, 2008, Toronto Hydro was the only entity that had the right to own and supply meters for any of our projects and that no other options for metering were available. As a result of this, Metrogate Inc.'s request for an offer to connect in respect of the above noted building did not contemplate this building being suite metered by any entity other than Toronto Hydro and the offer to connect received contemplates Toronto Hydro installing individual suite meters.

It has come to our attention that contrary to the advice received, Metrogate Inc. does have the right under Subsection 53.17 of the *Electricity Act, 1998* to choose to have this project smart sub-metered by a licensed sub-metering company. Metrogate Inc. is desirous of considering the sub-metered option and would have requested an offer to connect which contemplated the above project being smart sub-metered but for the information provided at the meeting at your offices last fall.

We therefore require that Toronto Hydro provide a further offer to connect which contemplates the above project being smart sub-metered by a licensed sub-metering company. This offer should specifically contemplate that Toronto Hydro will install a bulk meter and Metrogate Inc.'s intention to smart sub-meter the units at the project downstream of the bulk meter.

I would appreciate confirmation that an appropriate Offer to Connect will be prepared and forwarded to Metrogate Inc. within the next two weeks. Given your familiarity already with the project, and the fact that construction is underway we trust that you will make every effort to meet this timeframe.

Yours very truly,
METROGATE INC.
Per:


Lou Tersigni
Project Manager

TAB 3

Colin J. McLorg
14 Carlton St.
Toronto, Ontario
M5B 1K5
Telephone: 416-542-2513
Facsimile: 416-542-2776
cmclorg@torontohydro.com



2009 April 22

Mr. Lou Tersigni
Project Manager
Metrogate Inc
4800 Dufferin Street
Toronto, ON M3H 5S9
via email

Dear Mr. Tersigni:

RE: Metering and Offers to Connect for 'Metrogate' Projects

Thank you for your letter of March 10, 2009 to our Mr. Trgachef. Unfortunately, conflicting address information in your letter resulted in delays in its delivery. Your letter, received by me April 20, has been referred to me for reply.

Your letter generally concerns Toronto Hydro's policy and practice regarding offers to connect and smart metering for new condominiums, particularly those mentioned in the subject line of your letter. Your letter goes on to request that Toronto Hydro prepare a revised Offer to Connect for those condominiums based on a bulk meter / sub-metering configuration. As explained below, Toronto Hydro does not offer that connection configuration for new condominiums and therefore will not prepare a revised Offer to Connect on that basis.

The Ontario Energy Board ('OEB') regulates Toronto Hydro rates and service offerings. The OEB has defined the term 'smart metering' as follows: "The Board uses the term 'smart metering' to describe the situation in which a licensed distributor individually meters every condominium unit (and the condominium's common areas) with a smart meter. In this scenario, each unit will become a residential customer of the licensed distributor and each unit and the common areas must have a separate account with the licensed distributor."¹

As set out in Toronto Hydro's Conditions of Service, for condominium projects commenced with Toronto Hydro on and after February 28, 2008 ('new condominiums'), Toronto Hydro will provide smart metering as defined by the OEB (i.e., individual unit or suite metering

¹ [EB-2007-0772 Notice of Proposal etc. issued January 8, 2008]

compliant with smart metering regulations) for all separate units and for common areas ('individually metered units') at no charge to the developer. Upon registration and creation of the condominium corporation, the holders of the individually metered units become the direct customers of Toronto Hydro.

Toronto Hydro (along with other licensed distributors) has been specifically authorized to conduct smart metering as part of its standard, licensed distribution activities. The OEB has stated as follows:

"The Board has previously determined in rates proceedings related to smart metering activities of certain distributors that smart metering is a part of the distribution activity that is already covered by distributors' distribution licences. As there is no distinction between smart metering condominiums and other residences, the Board has determined that only licensed distributors can smart meter condominiums. In the Board's view, this is in keeping with the current regulatory framework in the electricity sector.

The Board is also of the view that Regulation 442 allows all licensed distributors to smart meter in condominiums."²

"As set out in the January Notice, the Board remains of the view that smart metering is a distribution activity, and that the Electricity Act and Regulation 442 taken together allow all licensed distributors to undertake smart metering in condominiums. The distributor would do so as a distribution activity within its licensed service area."³

Toronto Hydro therefore asserts that it is authorized to connect new condominiums in the manner described in its Conditions of Service and that it has no obligation to do otherwise.

The statement of Toronto Hydro's position in this matter is not entirely correct in your letter. Specifically, you state your understanding that Toronto Hydro advised you that "Toronto Hydro was the only entity that had the right to own and supply meters for any of our projects and that no other options for metering were available."

While it is the case that ultimately Toronto Hydro will own the metering infrastructure and will attach the individually metered units as direct customers, Toronto Hydro's Conditions of Service provide for alternative bids for the installation of meters and do not preclude the installation of an additional sub-metering system, should the developer or condominium wish to install one, provided it does not interfere with Toronto Hydro's equipment.

Your request for a further Offer to Connect assuming bulk metering is based on an incorrect interpretation of Section 53.17 of the *Electricity Act*, which you state contradicts Toronto Hydro's advice referred to above. In fact, that Section provides as follows:

"Despite the Condominium Act, 1998 and any other Act, a distributor and any other person licensed by the Board to do so shall, in the circumstances prescribed by regulation, install a smart meter, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies of a type prescribed by regulation."

Section 53.17 of the *Electricity Act* does not contradict Toronto Hydro's position and is irrelevant to this issue, since with respect to new condominiums, it does not prohibit a

² [EB-2007-0772 Notice of Proposal etc, January 8, 2008, pages 2-3]

³ [EB-2007-0772 Notice of Proposal etc, June 10, 2008, pages 4]

distributor from installing smart metering, nor require a non-distributor to provide sub-metering, but rather goes to the requirement that whatever equipment is installed be of a type required by regulation. Furthermore, it clearly does not establish a right on the part of any person to install sub-metering equipment. Sub-metering is referred to because such configurations are allowed, but not required, in the case of existing condominiums already fitted with bulk meters.

In summary, nothing with respect to new condominiums in Toronto Hydro's metering or connection practice or in its Conditions of Service is out of compliance with Code, regulation, or legislation. The OEB has expressly concluded that smart metering of condominiums is a distribution activity authorized by the existing licenses of distributors, and has not established any obligation on distributors to provide for sub-metering configurations in new condominiums.

For these reasons Toronto Hydro does not accept the request set out in your letter. Please contact me if you have concerns or questions around any of these matters.

Yours truly,

(Original signed by)

Colin McLorg

Manager, Regulatory Policy and Relations

416-542-2513

cmclorg@torontohydro.com

EXHIBIT F

TAB 1



Electricity Distribution Licence

ED-2002-0497

Toronto Hydro-Electric System Limited

Valid Until
October 16, 2023

A handwritten signature in cursive script, reading "M.C. Garner".

Mark C. Garner
Secretary
Ontario Energy Board

Date of Issuance: October 17, 2003

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
26th. Floor
Toronto, ON M4P 1E4

Commission de l'Énergie de l'Ontario
C.P. 2319
2300, rue Yonge
26e étage
Toronto ON M4P 1E4

1 **Definitions**

In this Licence:

"Accounting Procedures Handbook" means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

"Act" means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

"Affiliate Relationships Code for Electricity Distributors and Transmitters" means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

"distribution services" means services related to the distribution of electricity and the services the Board has required distributors to carry out, including the sales of electricity to consumers under section 29 of the Act, for which a charge or rate has been established in the Rate Order;

"Distribution System Code" means the code approved by the Board which, among other things, establishes the obligations of the distributor with respect to the services and terms of service to be offered to customers and retailers and provides minimum, technical operating standards of distribution systems;

"Electricity Act" means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

"Licensee" means: Toronto Hydro-Electric System Limited;

"Market Rules" means the rules made under section 32 of the Electricity Act;

"Performance Standards" means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

"Rate Order" means an Order or Orders of the Board establishing rates the Licensee is permitted to charge;

"regulation" means a regulation made under the Act or the Electricity Act;

"Retail Settlement Code" means the code approved by the Board which, among other things, establishes a distributor's obligations and responsibilities associated with financial settlement among retailers and consumers and provides for tracking and facilitating consumer transfers among competitive retailers;

"service area" with respect to a distributor, means the area in which the distributor is authorized by its licence to distribute electricity;

"Standard Supply Service Code" means the code approved by the Board which, among other things, establishes the minimum conditions that a distributor must meet in carrying out its obligations to sell electricity under section 29 of the Electricity Act;

"wholesaler" means a person that purchases electricity or ancillary services in the IMO-administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IMO-administered markets or directly to another person other than a consumer.

2 Interpretation

2.1 In this Licence words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this licence where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens and where the time for doing an act expires on a holiday, the act may be done on the next day.

3 Authorization

3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence:

- a) to own and operate a distribution system in the service area described in Schedule 1 of this Licence;
- b) to retail electricity for the purposes of fulfilling its obligation under section 29 of the Electricity Act in the manner specified in Schedule 2 of this Licence; and
- c) to act as a wholesaler for the purposes of fulfilling its obligations under the Retail Settlement Code or under section 29 of the Electricity Act.

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4	Obligation to Comply with Legislation, Regulations and Market Rules	25
4.1	The Licensee shall comply with all applicable provisions of the Act and the Electricity Act and regulations under these Acts except where the Licensee has been exempted from such compliance by regulation.	26
4.2	The Licensee shall comply with all applicable Market Rules.	27
5	Obligation to Comply with Codes	28
5.1	The Licensee shall at all times comply with the following Codes (collectively the "Codes") approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board. Any exemptions granted to the licensee are set out in Schedule 3 of this Licence. The following Codes apply to this Licence:	29
a)	the Affiliate Relationships Code for Electricity Distributors and Transmitters;	30
b)	the Distribution System Code;	31
c)	the Retail Settlement Code; and	32
d)	the Standard Supply Service Code.	33
5.2	The Licensee shall:	34
a)	make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and	35
b)	provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.	36
6	Obligation to Provide Non-discriminatory Access	37
6.1	The Licensee shall, upon the request of a consumer, generator or retailer, provide such consumer, generator or retailer with access to the Licensee's distribution system and shall convey electricity on behalf of such consumer, generator or retailer in accordance with the terms of this Licence.	38
7	Obligation to Connect	39
7.1	The Licensee shall connect a building to its distribution system if:	40

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a)	the building lies along any of the lines of the distributor's distribution system; and	41
b)	the owner, occupant or other person in charge of the building requests the connection in writing.	42
7.2	The Licensee shall make an offer to connect a building to its distribution system if:	43
a)	the building is within the Licensee's service area as described in Schedule 1; and	44
b)	the owner, occupant or other person in charge of the building requests the connection in writing.	45
7.3	The terms of such connection or offer to connect shall be fair and reasonable and made in accordance with the Distribution System Code, and the Licensee's Rate Order as approved by the Board.	46
7.4	The Licensee shall not refuse to connect or refuse to make an offer to connect unless it is permitted to do so by the <i>Act</i> or a regulation or any Codes to which the Licensee is obligated to comply with as a condition of this Licence.	47
8	Obligation to Sell Electricity	48
8.1	The Licensee shall fulfill its obligation under section 29 of the Electricity Act to sell electricity in accordance with the requirements established in the Standard Supply Service Code, the Retail Settlement Code and the Licensee's Rate Order as approved by the Board.	49
9	Obligation to Maintain System Integrity	50
9.1	The Licensee shall maintain its distribution system in accordance with the standards established in the Distribution System Code and Market Rules, and have regard to any other recognized industry operating or planning standards adopted by the Board.	51
10	Market Power Mitigation Rebates	52
10.1	The Licensee shall comply with the pass through of Ontario Power Generation rebate conditions set out in Appendix A of this Licence.	53

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11	Distribution Rates	54
11.1	The Licensee shall not charge for connection to the distribution system, the distribution of electricity or the retailing of electricity to meet its obligation under section 29 of the Electricity Act except in accordance with a Rate Order of the Board.	55
12	Separation of Business Activities	56
12.1	The Licensee shall keep financial records associated with distributing electricity separate from its financial records associated with transmitting electricity or other activities in accordance with the Accounting Procedures Handbook and as otherwise required by the Board.	57
13	Expansion of Distribution System	58
13.1	The Licensee shall not construct, expand or reinforce an electricity distribution system or make an interconnection except in accordance with the Act and Regulations, the Distribution System Code and applicable provisions of the Market Rules.	59
13.2	In order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity, the Board may order the Licensee to expand or reinforce its distribution system in accordance with Market Rules and the Distribution System Code, or in such a manner as the Board may determine.	60
14	Provision of Information to the Board	61
14.1	The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.	62
14.2	Without limiting the generality of condition 14.1 the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.	63
15	Restrictions on Provision of Information	64
15.1	The Licensee shall not use information regarding a consumer, retailer, wholesaler or generator obtained for one purpose for any other purpose without the written consent of the consumer, retailer, wholesaler or generator.	65
15.2	The Licensee shall not disclose information regarding a consumer, retailer, wholesaler or generator to any other party without the written consent of the consumer, retailer, wholesaler or generator, except where such information is required to be disclosed:	66

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- a) to comply with any legislative or regulatory requirements, including the conditions of this Licence; 67
 - b) for billing, settlement or market operations purposes; 68
 - c) for law enforcement purposes; or 69
 - d) to a debt collection agency for the processing of past due accounts of the consumer, retailer, wholesaler or generator. 70
- 15.3 The Licensee may disclose information regarding consumers, retailers, wholesalers or generators where the information has been sufficiently aggregated such that their particular information cannot reasonably be identified. 71
- 15.4 The Licensee shall inform consumers, retailers, wholesalers and generators of the conditions under which their information may be released to a third party without their consent. 72
- 15.5 If the Licensee discloses information under this section, the Licensee shall ensure that the information provided will not be used for any other purpose except the purpose for which it was disclosed. 73
- 16 Customer Complaint and Dispute Resolution** 74
- 16.1 The Licensee shall: 75
- a) have a process for resolving disputes with customers that deals with disputes in a fair, reasonable and timely manner; 76
 - b) publish information which will make its customers aware of and help them to use its dispute resolution process; 77
 - c) make a copy of the dispute resolution process available for inspection by members of the public at each of the Licensee's premises during normal business hours; 78
 - d) give or send free of charge a copy of the process to any person who reasonably requests it; and 79
 - e) subscribe to and refer unresolved complaints to an independent third party complaints resolution service provider selected by the Board. This condition will become effective on a date to be determined by the Board. The Board will provide reasonable notice to the Licensee of the date this condition becomes effective. 80

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17	Term of Licence	81
17.1	This Licence shall take effect on October 17, 2003 and expire on October 16, 2023. The term of this Licence may be extended by the Board.	82
18	Fees and Assessments	83
18.1	The Licensee shall pay all fees charged and amounts assessed by the Board.	84
19	Communication	85
19.1	The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.	86
19.2	All official communication relating to this Licence shall be in writing.	87
19.3	All written communication is to be regarded as having been given by the sender and received by the addressee:	88
a)	when delivered in person to the addressee by hand, by registered mail or by courier;	89
b)	ten (10) business days after the date of posting if the communication is sent by regular mail; and	90
c)	when received by facsimile transmission by the addressee, according to the sender's transmission report.	91
20	Copies of the Licence	92
20.1	The Licensee shall:	93
a)	make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and	94
b)	provide a copy of the Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.	95

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SCHEDULE 1 DEFINITION OF DISTRIBUTION SERVICE AREA

96

This Schedule specifies the area in which the Licensee is authorized to distribute and sell electricity in accordance with condition 8.1 of this Licence.

97

- 1 The City of Toronto as of January 1, 1998.

98

SCHEDULE 2 PROVISION OF STANDARD SUPPLY SERVICE

100

This Schedule specifies the manner in which the Licensee is authorized to retail electricity for the purposes of fulfilling its obligation under section 29 of the Electricity Act.

101

The Licensee is authorized to retail electricity directly to consumers within its service area in accordance with condition 8.1 of this Licence, any applicable exemptions to this Licence, and at the rates set out in the Rate Orders.

102

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SCHEDULE 3 LIST OF CODE EXEMPTIONS

103

This Schedule specifies any specific Code requirements from which the Licensee has been exempted.

104

The Licensee is exempt from the requirements of section 2.5.3 of the Standard Supply Service Code with respect to the price for small volume/residential consumers, subject to the Licensee offering an equal billing plan as described in its application for exemption from Fixed Reference Price, and meeting all other undertakings and material representations contained in the application and the materials filed in connection with it.

105

APPENDIX A MARKET POWER MITIGATION REBATES

1 Definitions and Interpretation

In this Licence,

"embedded distributor" means a distributor who is not a market participant and to whom a host distributor distributes electricity;

"embedded generator" means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates;

"host distributor" means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant.

In this Licence, a reference to the payment of a rebate amount by the IMO includes interim payments made by the IMO.

2 Information Given to IMO

a Prior to the payment of a rebate amount by the IMO to a distributor, the distributor shall provide the IMO, in the form specified by the IMO and before the expiry of the period specified by the IMO, with information in respect of the volumes of electricity withdrawn by the distributor from the IMO-controlled grid during the rebate period and distributed by the distributor in the distributor's service area to:

i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and

ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*.

b Prior to the payment of a rebate amount by the IMO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IMO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor's host distributor to the embedded distributor net of any electricity distributed to the embedded distributor which is attributable to embedded generation and distributed by the embedded distributor in the embedded distributor's service area to:

- i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and 118
- ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*. 119
- c Prior to the payment of a rebate amount by the IMO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IMO, in the form specified by the IMO and before the expiry of the period specified by the IMO, with the information provided to the host distributor by the embedded distributor in accordance with section 2. 120

The IMO may issue instructions or directions providing for any information to be given under this section. The IMO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment. 121

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IMO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IMO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period. 122

3 Pass Through of Rebate 123

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, any rebate received from the IMO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, to: 124

- a retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented; 125
- b consumers who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and 126
- c embedded distributors to whom the distributor distributes electricity. 127

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor. 128

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If requested in writing by OPGI, the distributor shall ensure that all rebates are identified as coming from OPGI in the following form on or with each applicable bill or settlement statement:

129

"ONTARIO POWER GENERATION INC. rebate"

130

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IMO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

131

Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

132

Pending pass-through or return to the IMO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.

133

TAB 2

Section 2 – DISTRIBUTION ACTIVITIES (GENERAL)

2.3.7.1 General

Describe the Distributor's access to meter installation requirements here.

Toronto Hydro will typically install metering equipment at the Customer supply voltage. The Customer must provide a convenient and safe location, satisfactory to Toronto Hydro, for the installation of meters, wires and ancillary equipment. Meters for new or upgraded residential services will be mounted outdoors on a meter socket approved by Toronto Hydro. No person, except those authorized by Toronto Hydro, may remove, connect, or otherwise interfere with meters, wires, or ancillary equipment owned by Toronto Hydro.

The Customer will be responsible for the care and safekeeping of Toronto Hydro meters, wires and ancillary equipment on the Customer's premises. If any Toronto Hydro equipment installed on Customer premises is damaged, destroyed, or lost other than by ordinary wear and tear, tempest or lightning, the Customer will be liable to pay to Toronto Hydro the value of such equipment, or at the option of Toronto Hydro, the cost of repairing the same.

The location allocated by the owner for Toronto Hydro metering shall provide direct access for Toronto Hydro staff and shall be subject to satisfactory environmental conditions, some of which are:

- Maintain a safe and adequate working space in front of equipment, not less than 1.2 metres (48") and a minimum ceiling height of 2.1 metres (84")
- Maintain an unobstructed working space in front of equipment, free from, or protected against, the adverse effects of moving machinery, vibration, dust, moisture or fumes

Where Toronto Hydro deems self-contained meters to be in a hazardous location, the Customer shall provide a meter cabinet or protective housing.

Any compartments, cabinets, boxes, sockets, or other workspace provided for the installation of Toronto Hydro's metering equipment shall be for the exclusive use of Toronto Hydro. No equipment, other than that provided and installed by Toronto Hydro, may be installed in any part of the Toronto Hydro metering workspace.

2.3.7.1.1 Metering Requirements for Multi-Unit Sites and Condominium Corporations

In an effort to promote conservation Toronto Hydro will provide electronic or conventional smart suite metering for each unit of a new Multi-unit site, or a condominium at no direct charge to the Customer. If

Section 2 – DISTRIBUTION ACTIVITIES (GENERAL)

the Customer chooses to pursue an Alternative Bid for the installation of suite metering and uses services of a qualified contractor, the Customer is required to:

- (i) select and hire a qualified contractor;
- (ii) ensure all contestable work is done in accordance with Toronto Hydro's technical standards and specifications; and
- (iii) assume full responsibility for the installation and warranty all aspects for a period of 2 years from date of commissioning.

Where the Customer transfers the metering facilities installed under the alternative bid option to Toronto Hydro and provided Toronto Hydro has inspected and approved the facilities installed, Toronto Hydro shall pay the Customer a transfer price. The transfer price shall be the lower of the cost to the Customer to install the metering facilities or Toronto Hydro's burden cost to install the metering facilities.

For existing condominium corporations that fall under the Condominium Act, 1998, and Ontario Regulation 442/07, the Condominium Corporation wishing to install smart suite metering systems, shall make arrangements with Toronto Hydro. In each case, the Customer will comply with the detailed technical requirements set forth at:

http://www.torontohydro.com/electricsystem/customer_care/cond_of_services/index.cfm

Installation and operation of a smart sub-metering system will require a licence from the Ontario Energy Board.

a) Individual Metering and House Metering Requirements for Multi-Unit Sites

Where individual units in a multi-unit site, or condominium, are to be metered individually, the building owner (or operator, or property manager, or condominium corporation) shall enter into a contract with Toronto Hydro for the supply of electrical energy for all common or shared services. Common or shared services typically include lighting of all common areas shared by the tenants, or units owners, or which supply common services such as heating, air conditioning, hot water heating, elevators, and common laundry facilities. In such cases, in addition to the individual meter for each unit, a separate house meter (or halls meter) will be required to measure the energy used for all common or shared services.