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February 19, 2010

BY EMAIL & COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

Board File No. EB-2009-0139
Toronto Hydro-Electric System Limited – 2010 Cost of Service Application
Argument of Energy Probe

Pursuant to the direction of the Board, attached please find two hard copies of the Argument of Energy Probe Research Foundation (Energy Probe) in the EB 2009-0139 proceeding for the Board's consideration. An electronic version of this communication will be forwarded in PDF format.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc: Glen Winn, Toronto Hydro-Electric System Limited (By email)
Mark Rodger, Borden Ladner Gervais LLP (By email)
Peter Faye, Counsel to Energy Probe (By email)
Intervenors of Record (By email)

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ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*,
1998, S.O. 1998, c.15, Sched. B, as amended;

AND IN THE MATTER OF an Application by Toronto
Hydro-Electric System Limited for an order approving
just and reasonable rates and other charges for electricity
distribution to be effective May 1, 2010.

Final Argument On Behalf Of

Energy Probe Research Foundation

February 19, 2010

**Final Argument On Behalf Of
Energy Probe Research Foundation**

How these Matters came before the Board

1. On August 28, 2009, Toronto Hydro-Electric System Limited (the “Applicant” or “THESL”), filed an Application seeking approval for changes to the rates that it charges for electricity distribution, to be effective May 1, 2010. The Board issued a Notice of Application and Hearing on September 16, 2009. Energy Probe filed a Notice of Intervention on September 21, 2009, as a full time intervenor.
2. Procedural Order No. 1 was issued by the Board on October 19, 2009 and provided both a Proposed Issues List and a procedural schedule for the proceeding. Parties were encouraged to make submissions on the proposed issues list.
3. The Issues Decision and Procedural Order No. 2 was issued by the Board on November 10, 2009. Energy Probe filed its Interrogatories on November 16, 2009; the Responses of the Applicant were filed November 30, 2009.
4. Energy Probe actively participated in the Settlement Conference, which commenced on December 8, 2009, lasted several days and concluded on December 18, 2009. Subsequently a Settlement Agreement was filed with the Board and was accepted by the Board on February 4, 2010, the first day of the Oral Hearing with Energy Probe in attendance.

Argument Overview

5. In the Settlement Agreement complete settlement was reached on 20 Issues and partial settlement was reached on 7 other Issues, leaving only 3 areas to be explored in the Oral Hearing and outstanding for Argument:

- i) Cost of Capital (Issues 3.7, 5.1 and 5.2)**
- ii) Distributed Generation (Issues 1.1, 4.1, 4.2 and 4.4)**
- iii) Individual Suite Metering (Issues 7.1 and 7.2)**

6. In its Argument, Energy Probe will not seek to explore all outstanding Issues before the Board, but will be examining those Issues of concern to Energy Probe where we believe we can be of most assistance to the Board.

7. Energy Probe takes no position on the Distributed Generation and Individual Metering Issues.

Issue 5. CAPITAL STRUCTURE AND COST OF CAPITAL

5.1 Is the proposed Capital Structure, Rate of Return on Equity, and Short-Term Debt Rate appropriate?

5.2 Is the proposed Long-Term Debt Rate appropriate?

8. The Board will be aware that Energy Probe has submitted argument in respect of the Capital Structure and Cost of Capital issues in a number of 2010 cost of service proceedings, beginning with its Argument filed in EB-2009-0259 – Burlington Hydro Inc. on January 18, 2010.

9. Energy Probe has attempted to be consistent in the arguments it has submitted on the Capital Structure and Cost of Capital issues in each proceeding when dealing with two adjustments that it submits the Board should make to the cost of capital for the distributor: the first to the deemed capital structure and the second to the allowed return on equity.

10. Energy Probe has had the opportunity to review the submissions of Mr. Randy Aiken, Consultant to the Building Owners and Managers Association of the Greater Toronto Area ("BOMA"), in this proceeding, and has had the opportunity to discuss these topics with him at length over several months.

11. Rather than duplicate the BOMA submissions, Energy Probe adopts all of their Capital Structure and Cost of Capital comments in this proceeding and supports them.

Costs

12. Energy Probe submits that it participated responsibly in this proceeding. Energy Probe requests the Board award 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

February 19, 2010

Energy Probe Research Foundation