

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

January 14, 2011

DELIVERED

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

Dear Ms. Walli:

**Re: Toronto Hydro-Electric System Limited 2011 Cost of Service Application
Board File No. EB-2010-0142
Toronto Hydro-Electric System Limited Application for Smart Sub-
metering Licence
Board File No. EB-2010-0233**

We are counsel to the Smart Sub-metering Working Group ("SSMWG").

We enclose a Notice of Motion by the SSMWG for an Order requiring Toronto Hydro-Electric System Limited ("THESL") to respond to the Interrogatories of the SSMWG which THESL either refused or neglected to answer, or partially answered, in this proceeding. A copy of the Notice of Motion and this letter will be filed electronically through the Board's Regulatory Electronic Submission System.

One of the refusals of significance relates to the cost allocation study which the Board ordered THESL to undertake in its Decision in respect of THESL's 2010 Rate Application (EB-2009-0139). This cost allocation study was intended to determine whether there is any cross-subsidy by THESL ratepayers of THESL's Suite Metering Program.

The study filed by THESL, being the *Cost of Service Study for Individually Metered Suites in Multi-unit Residential Buildings*, prepared by BDR, dated November 29, 2010, was filed both in the cost of service application (EB-2010-0142) and, at the request of the Board, in THESL's application for a Smart Sub-metering Licence (EB-2010-0233). The SSMWG therefore requests that any Order of the Board related to that cost allocation study apply to both proceedings.

By THESL's own evidence, its Suite Metering Program was serving approximately 9,423 units at the end of 2009. Instead of looking at the costs associated with serving these 9,423 customers, THESL has cast a sub-class which includes virtually the entire universe of individually metered multi-residential units, totalling almost 120,000 customers, of which it appears approximately 110,000 have received smart meters as part of THESL's Smart

Meter Program. This distorts the cost allocation study and is of no benefit to determine the extent of the cross-subsidy to THESL's Suite Metering Program.

As well, the SSMWG asked Interrogatories No. 11, 12 and 13 (First Round), for which no responses – nor refusals - were received.

As a result, the SSMWG is not in a position to provide questions for and to participate in the Technical Conference in respect of the suite metering issues that are of interest to the SSMWG. Furthermore, the SSMWG will not be in a position to file evidence by the date directed by the Board. The attached Notice of Motion therefore seeks an order amending the timetable to permit the SSMWG an opportunity to receive THESL's responses and to participate in the proceeding thereafter accordingly.

The SSMWG respectfully requests that its motion be heard orally at a time and date selected by the Board.

Yours truly,

AIRD & BERLIS LLP



Dennis M. O'Leary

DMO/ct
Enclosure

Copies via email to:

The Applicant

M. Rodger, Borden Ladner Gervais LLP

Intervenors

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