

29 March 2011

Ontario Energy Board
2300 Yonge St., 27th Floor
Toronto, ON
M4P 1E4

Attn: Ms Kirsten Walli
Board Secretary

By electronic filing and e-mail

Dear Ms Walli:

Re: EB-2011-0011 THESL CDM Application – Pollution Probe Motion

In accord with P.O. 2 in this matter, GEC attaches its written submission.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch

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

AND IN THE MATTER OF an Application by Toronto
Hydro-Electric System Limited Inc. for an Order or
Orders granting approval of initiatives and amounts
related to the Conservation and Demand Management
Code.

GEC Submissions on Pollution Probe Motion to Amend the Issues List

GEC offers the following submissions in support of the Pollution Probe Motion to Review parts of the Issues List Decision in this matter:

1. GEC made submissions on the draft issues list seeking the addition of the issue: *The appropriateness of the CDM budget in its entirety*. (Pollution Probe Record, p. 101)
2. The relief requested in Pollution Probe's motion, if granted, would effectively cover the issue that GEC proposed.
3. GEC's submission in support of the inclusion of the proposed added issue stated:

This is suggested to permit discussion of the adequacy (or inadequacy or excessiveness) of the budget including non-program specific aspects and in the event that the nine programs are found to be insufficient to meet the Directive and/or the Board's objective "To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances". (Pollution Probe Record, p. 101)

4. In its Decision the Board rejected GEC's proposed issue stating:

GEC proposed one additional issue to be included as a new issue 4. GEC recommended that the Board include an issue to review Toronto Hydro's CDM budget in its entirety. The Board believes that Toronto Hydro's budget for OPA CDM programs is outside the scope of this hearing. (Decision, p.3)

5. GEC agrees that Toronto Hydro's budget for OPA programs is not being approved in this hearing nor is the design of those programs. However, GEC submits that the Board

misconstrued GEC's suggested issue as being focussed on the adequacy of the budget for OPA programs. GEC submits that the adequacy of Toronto Hydro's overall CDM spending including its Board approved programs, its non-program-specific costs and its OPA Province-wide programs are all matters that are relevant to the Board's jurisdiction arising from section 1.(1) 3 of the Act which explicitly calls upon the Board to promote CDM in a manner consistent with Government policies and with due regard to the consumers' economic circumstances. To determine whether added Board approved program spending would be appropriate, a matter squarely within the Board's objectives, the context, including the overheads and the province-wide programs, must be considered.

6. Further, the Minister's March 31st Directive to the Board at paragraph 6(c) states that the Board shall not preclude consideration of CDM Programs or funding for CDM Programs on the basis that a distributor's CDM Targets have been or are expected to be exceeded. Thus the Minister has explicitly opened the door for the Board to consider whether the allocated Directive minimum goals should be exceeded. (Pollution Probe Record p. 25).
7. Additionally, the Board's traditional mandate to ensure economic efficiency and consumer protection dictates that optimal CDM spending be encouraged. To evaluate the optimality of the utility plans the totality of the budget and related efforts must be considered.

All of which is respectfully submitted, this 29th day of March, 2011

**David Poch
Counsel to GEC**