



EB-2009-0180  
EB-2009-0181  
EB-2009-0182  
EB-2009-0183

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

**AND IN THE MATTER OF** an application pursuant to section 60(1) of the *Ontario Energy Board Act, 1998* by 1798594 Ontario Inc. seeking an electricity distribution licence;

**AND IN THE MATTER OF** an application pursuant to section 86(1)(a) of the *Ontario Energy Board Act, 1998* by Toronto Hydro Energy Services Inc. seeking an order granting leave to sell streetlighting assets as an entirety or substantially as an entirety to 1798594 Ontario Inc.;

**AND IN THE MATTER OF** an application pursuant to section 86(1)(b) of the *Ontario Energy Board Act, 1998* by Toronto Hydro Energy Services Inc. seeking an order granting leave to sell streetlighting assets necessary in serving the public to 1798594 Ontario Inc.;

**AND IN THE MATTER OF** an application pursuant to section 86(1)(c) by Toronto Hydro-Electric System Limited and 1798594 Ontario Inc. seeking leave to amalgamate;

**AND IN THE MATTER OF** a request pursuant to section 77(5) of the *Ontario Energy Board Act, 1998* by 1798594 Ontario Inc. seeking the cancellation of the distribution licence applied for in a separate application under section 60 of the *Ontario Energy Board Act, 1998*;

**AND IN THE MATTER OF** an application pursuant to section 18(2) of the *Ontario Energy Board Act, 1998* by 1798594 Ontario Inc. and Toronto Hydro-Electric System Limited for an order assigning Toronto Hydro-Electric System Limited's electricity distribution licence to a proposed amalgamated entity consisting of 1798594 Ontario Inc. and Toronto Hydro-Electric System Limited.

## PROCEDURAL ORDER NO. 7

On June 15, 2009, Toronto Hydro Corporation's subsidiaries, 1798594 Ontario Inc. ("NewCo"), Toronto Hydro Energy Services Inc. ("THESI") and Toronto Hydro-

Electric System Limited (“THESL”) collectively referred to as the “Applicants” filed applications with the Ontario Energy Board (the “Board”) under sections 60(1), 86(1)(a)(b)(c) and 77(5) of *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B) (the “Act”). The applications were later amended to include a request for an order under section 18(2) of the Act and to withdraw the request which had been made under section 77(5) of the Act. The Board assigned the applications file numbers EB-2009-0180, EB-2009-0181, EB-2009-0182 and EB-2009-0183.

The applications collectively sought a declaration by the Board that streetlighting assets in the City of Toronto, owned by THESI, are deemed to be a distribution system and, ultimately, to make those assets part of a new amalgamated distribution company consisting of THESL and NewCo.

The Board issued its Decision and Order on the applications on February 11, 2010 (the “Decision”). In the Decision, the Board approved the transfer of assets that it considered to be distribution assets. Those assets were specifically identified in the Decision. The approval was conditional on the Applicants filing additional evidence setting out the revised transactions including an asset valuation within 90 days. The filing date was later extended to January 31, 2011.

In accordance with the Board’s Decision and the Board’s letter of March 9, 2010, the Applicants filed additional evidence with the Board on January 31, 2011 (the “Additional Evidence”).

In accordance with Procedural Order No. 4, Board Staff, the Electrical Contractors Association of Ontario/Greater Toronto Electrical Contractors Association and the School Energy Coalition filed interrogatories (“IRs”). The Applicants’ responses to the IRs were filed with the Board on March 23, 2011.

On April 6, 2011, the Board issued Procedural Order No. 5 in which it required the Applicants to provide a complete response to Board Staff interrogatory 4.1 in the manner set out by the Board in Procedural Order No. 5. In Procedural Order No. 5, the Board also set dates for filing of submissions.

On April 13, 2011, THESL filed a letter with the Board stating that it could not produce the information required by the Board in Procedural Order No. 5 by the date set by the Board. THESL further indicated that it will “provide a further update to the Board and intervenors as soon as it can determine if and when the required analysis can be provided”.

Procedural Order No. 6 was issued on April 21, 2011, in which the Board directed THESL to provide the Board and all intervenors in this proceeding with a date by which THESL expected to file with the Board the further evidence relating to the analysis requested by the Board in Procedural Order No. 5. The Board also cancelled the filing dates established in Procedural Order No. 5.

On May 6, 2011, THESL filed a letter with the Board stating that despite best efforts, THESL was unable to provide the information requested by the Board. THESL stated that the data required to perform the analysis required by the Board is not available. THESL stated that:

The contract cost to collect the streetlighting data last year was over \$1million and the project ran for about 8 months. THESL expects a similar or greater cost and timeframe would be required to conduct a similar survey for the distribution poles in order to collect asset vintage data from pole plates suitable to develop a DRC for those assets. Even if a sufficient number of pole plates were found to be in readable condition in the field in order to establish reliable vintage data, THESL believes that another project of this scope and cost for this purpose would not be justified in the circumstances.

The Board has considered THESL's letter and will not require that any further evidence be filed.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may amend this procedural order or issue further procedural orders from time to time.

**THE BOARD ORDERS THAT:**

1. The Applicants shall file their argument-in-chief in relation to their Additional Evidence with the Board and serve it on all intervenors on or before **June 3, 2011**.
2. Intervenors or Board Staff wishing to file a written submission on the Applicants' Additional Evidence shall file their submission with the Board and serve it on the Applicants and all intervenors on or before **June 14, 2011**.
3. If the Applicants wish to file a written reply submission, they shall file their reply submission with the Board and serve it on all intervenors on or before **June 24, 2011**.

Any filings to the Board must quote file numbers EB-2009-0180, EB-2009-0181, EB-2009-0182 and EB-2009-0183, be made through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

**ADDRESS OF THE BOARD**

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

Tel: 1-877-632-2727 (toll free)  
Fax: 416-440-7656  
E-mail: [Boardsec@ontarioenergyboard.ca](mailto:Boardsec@ontarioenergyboard.ca)

ISSUED at Toronto, May 24, 2011

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary