

September 12, 2011

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EMAIL AND RESS

File 10606.00062

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms Walli:

Re: CANDAS Application/EB-2011-0120

We are counsel to the Consumers Council of Canada, one of the parties to this proceeding.

Pursuant to Procedural Order No. 2, written interrogatories on the evidence filed by, among others, Toronto Hydro-Electric System Limited ("THESL") are due today.

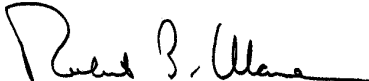
The proper scope of the interrogatories has been thrown into doubt by the letter dated September 9, 2011 from THESL's counsel, Mr. Rodger, to the Board.

Notwithstanding the apparently clear terms of the Board's letter of September 7, 2011, Mr. Rodger continues to take the position that the question of whether the Board should forbear from regulating, pursuant to subsection 29(1) of the *Ontario Energy Board Act, 1998*, remains, in his words, a "threshold issue" in this proceeding. Based on that assertion, Mr. Rodger takes the position that the question of the terms and conditions that should apply to access to THESL's poles is not one to be determined in this application. If that were the case, then interrogatories directed to the question of what THESL believes should be the terms and conditions that apply will inevitably be met with the response that the information sought is not in issue in the application.

In light of the confusion created by Mr. Rodger's letter, we respectfully suggest that the Board should resolve, finally, what the issues in the proceeding are before requiring the delivery of written interrogatories to THESL. In the absence of that clarification, it would seem inevitable that there will be applications to the Board for orders requiring THESL to provide answers to interrogatories which it has refused to answer. If only in the interests of efficiency, we respectfully suggest that clarification of the issues list would be helpful.

Yours very truly,

WeirFoulds LLP



Robert B. Warren

RBW/dh

cc: Mark Rodger
cc: Kristi Sebalj
cc: Helen Newland
cc: Julie Girvan
cc: All parties

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