



GARDINER ROBERTS

Ian A. Blue, Q.C.
Direct Line: 416 865 2962
Direct Fax: 416 865 6636
ibblue@gardiner-roberts.com
File No.: 97294

October 25, 2011

E-FILED

Ms. Kirsten Walli
Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street (27TH Floor)
P.O. Box 2319
Toronto, ON
M4P 1E4

Dear Ms. Walli,

Re: EB-2011-0144; re: Procedural Order No. 2

These are the Submissions of the City of Toronto pursuant to paragraph 1 of Procedural Order No. 2.

To further the City's goal of having a regulatory platform sufficiently flexible enough to allow it a full and fair exploration of the street lighting rate issue, the City supports the request of THESL for an order varying Procedural Order No. 1 to allow THESL to present a witness panel to provide *viva voce* evidence relevant to the preliminary issue during the oral hearing scheduled on November 1, 2011, and prior to hearing the oral submissions from Board staff, interveners and the applicant.

The City supports the submissions of THESL stated in the grounds for its motion. In addition, the City draws the Board's attention to section 10.1 of the *Statutory Powers Procedures Act, RSO, 1990, c. s. 22*, which is incorporated by reference in Section 34.01 of the OEB Rules of Practice and Procedure and reads as follows:

- 10.1**A party to a proceeding may, at an oral or electronic hearing,
- (a) call and examine witnesses and present evidence and submissions; and
 - (b) conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding.

GARDINER ROBERTS LLP

Suite Plaza, 40 King Street West, Suite 3100
Toronto, ON Canada M5H 3C2
Tel: 416 865 6600 Fax: 416 865 6636 www.gardiner-roberts.com





GARDINER ROBERTS

The City submits that since the Board intends to hold an oral hearing on the preliminary issue, THESL has the above statutory right to adduce *viva voce* evidence as it requests in its motion.

Yours truly,

GARDINER ROBERTS LLP


Ian A. Blue, Q.C.

cc. Lorraine Searles-Kelly
Robert Hatton

TORONTO: 273191\1 (97294)