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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
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Dear Ms. Walli:

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

These are the Submissions of Building Owners and Managers Association ("BOMA") Pursuant to Paragraph 1 of Procedural Order No. 2.

1. The Board has characterized the Preliminary Issue in this case as "whether the application filed by Toronto Hydro-Electric System Limited ("THESL") is acceptable or whether it should be dismissed."

2. In light of this characterization, the Board's decision to introduce the Preliminary Issue into this proceeding, and the severe consequences to THESL of having its case dismissed, and for the reasons outlined below, BOMA supports THESL's proposal to present a witness panel of senior executives to address its evidence on the need for a cost-of-service treatment of its application. THESL contends it would be unable too manage its resources and financial needs under the Board's current IRM Framework, because of the urgent need to renew and replace aging infrastructure as set out in its Ten year capital plan, and related evidence, and the magnitude of the capital expenditures necessary implement these measures.

3. THESL's evidence in support of this proposition, as presented in its capital budget, capital plan and related explanatory documents, in voluminous and complex. BOMA would appreciate the presentation of a careful review and summary of the case and the opportunity to question those senior executives.

4. Such a presentation would enable BOMA and other participants to make more informed oral submissions during the remainder of the hearing.

5. A one day proceeding for hearing the *viva voce* evidence and cross-examination on this evidence would not prejudice the timely progression of the hearing of the Preliminary Issue.

6. BOMA is of the view that it would be wise regulatory practice and in the public interest for the Board, at this juncture, to accede to THESL's request.

7. Finally, Section 10.1 of the Statutory Power Procedures Act would appear to give THESL a right to give *viva voce* evidence as part of the oral hearing.

Respectfully Submitted on October 25, 2011 by BOMA, through its counsel.

J. Thomas Brett