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October 31, 2011

VIA MAIL and E-MAIL

Ms. Kirsten Walli
Board Secretary: Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Dear Ms. Walli:

Re: Toronto Hydro-Electric System Limited – 2011 Electricity Distribution Rate Application (EB-2011-0144)

We apologize for being late with these submissions, the unusual time frame of 9:00 a.m. was originally missed by us in reviewing the procedural order.

For ease of reference we will refer to the VECC series of interrogatories, officially named Exhibits R1, Tab 6, Schedules 1-8 as VECC IRs 1-8, with similar "shortened" references for interrogatories posed by others, i.e. Board Staff IR 1 refers to Exhibit R1, Tab 1, Schedule 1.

Generally speaking, VECC is of the view that all of its interrogatories are relevant to the proceeding and, in particular, to the preliminary threshold before the Board. However, VECC is also of the view that the onus with respect to the preliminary issue is on THESL, and that THESL's failure to answer certain relevant interrogatories can, arguably, require the Board to make certain inferences in the context of determining the preliminary issue. Accordingly, while we would invite THESL to reconsider responding to all the interrogatories that it originally refused to answer, VECC will be following up on only certain unanswered questions in this submission.

EXHIBIT R1, TAB 6, SCHEDULE 2

The answer to VECC IR 2 refers to, in part, Board Staff IR 3; it appears that THESL may have, in the context of the preliminary issue, answered the VECC interrogatory, assuming that we interpret the answer to Board Staff IR 3 b) properly. Accordingly we would simply ask THESL to confirm that:

a) Board Staff IR 3 b) sets out THESL's projected actual expenditures (with the stated caveats) in the event THESL is required to apply a 3rd generation IRM rate increase in each of the years 2012, 2013 and 2014, and
b) That THESL is asserting that as a result of such projected actual expenditures under 3rd Generation IRM rate increases there will be seriously damaging impacts on system health and customer service.

EXHIBIT R1, TAB 6, SCHEDULE 4

VECC IR 4 seeks to establish the ability of THESL to offset its revenue requirement in the 2012 to 2014 time period by disposing of "obsolete facilities and real estate" during that term.

As SEC set out in its submissions dated October 29, 2011 under the heading **Introduction and Test**, a distributor seeking to rebase in advance of their next regularly scheduled cost of service proceeding have the obligation to "....clearly demonstrate why and how it cannot adequately manage its resources and financial needs...".

Specific to THESL, it was advised that should it seek a cost of service application for 2012 that it ". . . must justify, in its cost of service application, why early rebasing is required and why and how the distributor cannot adequately manage its resources and financial needs . . ."

In VECC's submission it is relevant to the preliminary issue before the Board whether THESL has, at its disposal, a material stockpile of "obsolete facilities and real estate" that it could dispose of throughout the IRM period in order to supplement its financial needs throughout the term. Accordingly VECC submits that THESL should be required to answer this interrogatory.

EXHIBIT R1 TAB 6 SCHEDULE 7

VECC IR 7 a) asked for the analysis and presentation provided to THESL senior management for the current rate proposal.

VECC respectfully submits that it is relevant to the question of whether THESL "cannot adequately manage its resources and financial needs. . ." as to what THESL senior management was advised with respect to the current rate proposal. VECC notes that THESL asserts in response to VECC R1 TAB 6 SCHEDULE 2 (page 2) that

> It is not possible for THESL to conduct its business responsibly while planning for dramatically different business condition scenarios that would exist as alternatives for the same period. Stated differently, THESL must

> use its best judgement as to which scenario is most probable and then plan accordingly; it cannot plan simultaneously for two radically different scenarios because such scenarios would imply conflicting commitments and plans for resource acquisition and deployment.
>
> THESL is of course aware that the prospect exists of revenue requirement being set under the IRM-PCI framework. . .

The impression that is left is that while THESL is aware of the possibility that its cost of service application may be rejected, it has not, in any meaningful way, prepared for that contingency. Presumably the information and analysis presented to senior management will either confirm that assertion, or provide evidence as to what steps THESL has taken in preparing for the rejection of its cost of service application, whether or not THESL considers such steps to constitute "planning for [a] dramatically different business condition".

Accordingly VECC respectfully submits that THESL should be required to answer this interrogatory in this phase of the application.

Yours truly,

Michael Buonaguro
Counsel for VECC