EB-2010-0142

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Sch.B, as amended;

AND IN THE MATTER OF an Application by Toronto Hydro-Electric System Limited for an Order approving just and reasonable rates for electricity distribution.

FINAL ARGUMENT OF THE CONSUMERS COUNCIL OF CANADA

OVERVIEW:

1. These are the submissions of the Consumers Council of Canada ("Council") regarding the Supplementary Suite Metering evidence filed by Toronto Hydro-Electric System Limited ("THESL") on September 30, 2011.

2. The issues regarding suite metering services first arose THESL's three-year cost of service proceeding (for rates effective May 1, 2008) . In its Decision the Board determined that the issues regarding suite metering should be more appropriately considered in the context of a generic proceeding (**Decision with Reasons, EB-2007-0680, p. 20**). The issue arose again in THESL's 2010 rate proceeding. The Smart Sub-Metering Working Group ("SSMWG") intervened in that proceeding and claimed that the rate that THESL was charging for condominium smart metering was not fully recovering the costs of those services. In that case

they argued that the cost of providing services to these customers is greater than the cost of providing services to THESL's other residential customers.

3. The scope of the issue in that proceeding was:

- Is THESL's cost allocation in respect of residential consumers residing in individually metered multi-unit residential buildings (suite-metered customers) appropriate?

4. The SSMWG provided expert testimony from the Brattle Group concluding that, "it appears that THESL is not recovering sufficient revenues from its suite metered customers to offset the increased capital and OM&A expenditures associated with the installation and operation of the suite meters." (**Ex. K6, EB-2009-0139**).

5. The SSMWG concluded that, on the basis of the evidence THESL had not demonstrated that its suite-metering program was not being cross-subsidized but other ratepayers. They argued the Board had three choices:

- First, it should exclude the program unless, and until, a fully allocated cost study had been completed that justified associated costs and convincingly demonstrated that there is no cross subsidization;

- Second, the Board should decide that THESL's suite-metering program be transferred to an affiliate, thereby removing the need to address the cross-subsidization issue;

- Thirdly, THESL could be required to create a new rate class for smart metering services to residential multi-unit buildings. (**Decision with Reasons, EB-2009-0139, p. 27**)

6. THESL supported addressing the issues in a generic proceeding, as the issues were at that time being debated more broadly in the context of the proposed Energy Consumer Protection Act, 2009 (Bill 235) which was dealing with among other things the regulation of suite metering activities. THESL submitted that the remedies proposed by the SSMWG were

self-serving and clearly designed for no other purpose than the economic advantage of its members. With respect to the proposal for a separate rate class THESL argued that this should only be considered in the context of an extensive generic cost allocation proceeding.

7. The Council submitted in that proceeding that there was insufficient evidence to conclude there was a cross-subsidy and that the costs should be approved. The Council also agreed with THESL that a generic proceeding was warranted. (**Decision with Reasons, EB-2009-0139, p. 28**).

8. The Board directed THESL to undertake a cost allocation study related to the provision of its suite metering services which should include an analysis of the implications of creating and maintaining a separate rate class. The Board concluded that the potential for cross-subsidization is ongoing and that there may be merit in the establishment of a separate rate class for multi-unit provision of metering services. They directed the study to be filed in THESL's next rate proceeding. (**Decision with Reasons, EB-2009-0139)**

9. The initial study was filed on December 1, 2010, as part of its 2011 rate proceeding. On January 21, 2011, the Board ordered THESL to produce a further study on an alternative scenario separating out those suite metered customers served by Quadlogic meters. That study was filed on February 18, 2011. The evidence was tested in the oral hearing held in March 2011. In its Partial Decision the Board determined that the creation and maintenance of a separate rate class for multi-residential customers that are served utilizing Quadlogic technology "is the most effective and transparent manner in which to address the aforementioned issues". The Board expressed concerns about the competitive market and the need to ensure that procurement choices between licensed distributors and licensed unit sub-meter providers are made on a comparable economic basis. (**Partial Decision dated July 7, 2011, EB-2010-0142, p. 35).**

10. In that Decision the Board was clear about its intent to facilitate the establishment of a new rate class. The Board concluded that, "The objective of the subsequent phase of the proceeding is to establish both the cost allocation protocols for the new customer class and to establish the initial tariff that THESL will charge for this service." (**Partial Decision, EB-2010-0142, p. 36**) Whether a new rate class is appropriate or not is not the subject of this proceeding.

11. THESL filed its Supplementary Evidence on September 30, 2011. The evidence provides cost allocation parameters and a proposal for a new rate design. The SSMWG did not file evidence on any of the issues currently before the Board.

12. THESL's evidence is that it relied on the Board's cost allocation model and adjusted input assumptions where factual circumstances of the new class required an adjustment. There are three significant cost drivers that in THESL's view differ between customers served via a Quadlogic meter and the other residential consumers. These are the actual cost of the meters, the meter reading costs, and the cost of secondary assets. In addition, THESL provided an updated monthly load for Quadlogic customers of 334 kWhs/month. (**Argument-in-Chief, p. 7**).

13. Based on its assumptions THESL has determined that the new rate class should have a fixed rate of $16.29 per customer per 30-day period and a variable rate of 2.701 cents per kWh. The comparable residential rates are $20.16 per customer per 30 days, and a variable rate of 1.646 cents per kWh. (**Argument-in-Chief, p. 10**). All of THESL's numbers are based on its untested and unapproved rate application for 2011 rates.

SUBMISSIONS:

14. The Council accepts that the Board has determined that a separate rate class for those customers served using the Quadlogic technology. In addition, the Council agrees with THESL that is has responded to all of the Board's directions arising from the Partial Decision and subsequent procedural orders. The Board must now decide when the new rate class should be established, and the cost allocation and rate design methodology to be used in determining the actual rates.

15. THESL has applied for approval of rates for 2012, 2013 and 2014 based on a cost of service approach in its EB-2011-0144 application. The Board is currently considering, as a threshold issue, whether to proceed with the application, or to set 2012 rates using the Board's 3rd Generation Incentive Regulation Mechanism ("IRM").

16. The data used by THESL in this proceeding is based on its forecast of costs for 2012. Those costs and customer forecasts have not been tested or approved by the Board. The Council does not support using those costs in order to determine the actual rates for the new

Quadlogic rate class. If THESL is permitted to proceed with its cost of service proceeding the numbers will undoubtedly change. This means the rates proposed by THESL in this proceeding will no longer be appropriate.

17. If the Board accepts THESL's request to proceed with its cost of service application for 2012 the new rates for the Quadlogic customer class should be based on the Board approved numbers for 2012. The Council does not think it is appropriate to set the new rates now, based on untested numbers. It would be more appropriate to consider the new rates as part of the 2012 cost of service proceeding following approval of THESL's overall revenue requirement. The Council submits that this Decision can establish guidelines for determining the new rates, but ultimately the new rates cannot be set until the next proceeding, assuming THESL is not required to move to IRM. From the Council's perspective it would be a dangerous precedent to set rates on the basis of a forecast and not an approved revenue requirement.

18. If the Board decides that THESL's rates for 2012 are to be determined using the IRM formula, the Council submits that the new class should not be established until THESL's rates are rebased under a cost of service approach. The Board does not permit changes to the fixed and variable splits during IRM. In addition, the Board does not permit changes in the revenue to cost ratios. Furthermore, the Council is not aware of any case where a new rate class has been established during an IRM term. The Council is concerned that if the Board permits such changes during an IRM, the proceedings could become unnecessarily complex.

19. THESL has set out in its Argument-in-Chief the cost allocation process it undertook to establish the rates for the new customer class. With respect to cost allocation, the Council has reviewed the argument of the Vulnerable Energy Consumers Coalition ("VECC") and supports the submissions of VECC. Specifically, VECC has proposed to directly assign the cost of the Quadlogic meters to the Quadlogic class. In addition, VECC has proposed changes to the weighting factor for services and meter reading. Furthermore VECC has proposed changes to THESL's proposed cost allocation regarding the primary/secondary split, meter maintenance costs, and the direct assignment of primary feeders. The Council expects THESL to respond to the changes proposed by VECC in its reply argument and indicate to what extent they agree or

disagree with the proposals. Overall, the cost allocation process should, to the extent possible, reflect cost causality.

COSTS:

20. The Council requests that it be awarded 100% of its reasonably incurred costs for its participation in this proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

December 22, 2011

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