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February 16, 2012

BY EMAIL & COURIER

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge St, Suite 2701  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Board File No. EB-2011-0054**  
**Hydro Ottawa Limited – 2012 Cost of Service Application**  
**Energy Probe – Reply to Costs Objection**

Pursuant to the Decision and Order, issued by the Board and as corrected on December 30, 2011, please find attached the Reply of Energy Probe Research Foundation (Energy Probe) to the Costs Objection of the Applicant in the EB-2011-0054 proceeding for consideration by the Board.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh  
Case Manager

cc: Patrick Hoey, Hydro Ottawa Limited (By email)  
Fred Cass, Aird & Berlis LLP (By email)  
Randy Aiken, Aiken & Associates (By email)

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**Ontario Energy Board**

**IN THE MATTER OF** the *Ontario Energy Board Act*,  
1998, S.O. 1998, c. 15, Schedule B;

**AND IN THE MATTER OF** an application by Hydro  
Ottawa Limited for an order approving just and reasonable  
rates and other charges for electricity distribution to be  
effective January 1, 2012.

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**ENERGY PROBE RESEARCH FOUNDATION  
("ENERGY PROBE")**

**REPLY TO HYDRO OTTAWA LIMITED  
COSTS OBJECTION**

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**February 16, 2012**

**HYDRO OTTAWA LIMITED  
2012 RATES**

**EB-2010-0054**

**ENERGY PROBE REPLY TO COSTS OBJECTION**

**How these Matters came before the Board**

1. On June 17, 2011, Hydro Ottawa Limited (the “Applicant” or “Hydro Ottawa”), filed an Application seeking approval for changes to the rates that it charges for electricity distribution, to be effective January 1, 2012. The Board issued a Notice of Application and Hearing on July 7, 2011.
2. Hydro Ottawa filed correspondence on July 28, 2011, objecting to Ecology Ottawa and EnviroCentre’s applications for cost eligibility. Hydro Ottawa stated that these parties have not identified which consumer groups they represent and how that representation would be different from the other intervenors representing consumer groups.
3. Procedural Order No. 1 was issued by the Board on July 29, 2011 and provided a procedural schedule for the proceeding. Energy Probe Research Foundation (“Energy Probe”), Consumers Council of Canada (“CCC”) School Energy Coalition (“SEC”) and the Vulnerable Energy Consumers Coalition (“VECC”) applied for and were granted intervenor status and were found to be eligible for costs. No objections were received by the Board from the Applicant in respect of Energy Probe, CCC, SEC and VECC.

4. On August 9, 2011, Ecology Ottawa filed a letter in support of its request for cost eligibility. In Procedural Order No. 2, issued August 11, 2011, the Board approved the Issues List and determined that Ecology Ottawa met the eligibility requirements under section 3 of the Board's *Practice Direction on Cost Awards*.

5. The Board issued its Decision and Order on December 28, 2011. The Rate Order was issued on January 26, 2012. Pursuant to the Decision and Order, Energy Probe filed its Costs Submission on February 2, 2012. The Applicant filed its Cost Objections letter on February 9, 2012, finding objections to the Costs of all intervening parties.

### **Reply to Objections**

6. In the Costs Objection letter filed by the Applicant over the signature of Patrick Hoey, the Director of Regulatory Affairs (the "Objection Letter"), the Board is invited to compare the cost claims filed under the Applicant's last completed cost-of-service proceeding (EB-2007-0713) with those filed in the current proceeding.

7. Energy Probe notes that its costs claim for the Applicant's last completed cost-of-service proceeding and for its last application for a cost-of-service (EB-2010-0133) were almost identical. In both proceedings, the Applicant filed no cost objections and the Board found those claims to be reasonable. Energy Probe has been before the Board as an intervenor for over 30 years and has had the basis of its costs reviewed by the Board hundreds of times.

8. As the Board reviews the analysis of the cost claims put forward by the Applicant, Energy Probe submits that the scope of the two proceedings bears analysis as well. The prefiled evidence in the EB-2011-0054 proceeding totaled 2,278 pages; in the EB-2007-0713 proceeding, the prefiled evidence totaled some 1,099 pages.

9. The amount of evidence was more than double but the number of hours claimed only increased by 76% for all intervenors combined (excluding Mr. Silk). By that comparison, intervenor productivity has increased.

10. Other figures of interest.... there were 986 pages of interrogatory responses in the EB-2011-0054 proceeding, almost as large as the prefiled evidence in EB-2007-0713. In addition, there were some 560 pages of transcript in the EB-2011-0054 proceeding, while in the EB-2007-0713 proceeding there were some 54 pages of transcript.

#### ***Reply to SEC Claim Specifics***

11. Energy Probe believes that in the Objection Letter the Applicant has misconstrued the higher number of hours contained in the SEC Costs Submission.

12. In its Practice Direction on Cost Awards, the Board directs intervenors to make reasonable efforts to co-operate with other parties. One of the ways intervenors may cooperate is by one of the intervenors taking the lead on one or more issues. As a predictable result, that intervenor will accumulate more hours in its intervention.

13. It is the submission of Energy Probe that SEC took the lead in a number of areas, most specifically in reviewing the Modified International Financial Reporting Standards ("MIFRS") issues. Energy Probe would have had a minimum of 20 additional hours in cost claims without the SEC contribution of taking the lead in the MIFRS issues, resulting in an addition to Energy Probe Costs of more than \$6,000.00.

***Reply to Costs Claimed by CCC, Energy Probe, SEC and VECC***

14. Energy Probe submits that the Applicant in its filed objections, the Objection Letter, has not identified portions of the Board's Practice Direction on Cost Awards, specifically Section 5, Principles in Awarding Costs, Subsection 5.01, consisting of behaviour that the Board may consider "In determining the amount of a cost award to a party..."

15. It appears to Energy Probe that the Applicant is principally objecting to the quantum of the Costs submitted by intervenors protecting the interests of Hydro Ottawa's ratepayers. It has, in the main, based its objections on an inaccurate comparison of the magnitude of the current proceeding to that of EB-2007-0713.

16. Energy Probe submits that intervenors did cooperate with each other throughout the proceeding to minimize cost claims, both in the review of evidence and in process.

## **Final Comments**

**17. For all the reasons submitted to the Board in this Reply, Energy Probe Research Foundation requests that it be awarded a full recovery of its costs incurred in its participation in this proceeding, which is only in the public interest and without pecuniary purpose.**

**Respectfully submitted at Toronto, Ontario this 16<sup>th</sup> day of February 2012.**

**ENERGY PROBE RESEARCH FOUNDATION**