

February 24, 2012

Via Courier

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto ON
M4P 1E4

Dear Madame:

**Re: Board File No.: EB-2011-0350
February 22, 2012 Decision and Order on Suite Metering Issues (EB-2010-0142)**

We are counsel for TransCanada Power Transmission ("TPT"), an intervenor in the above noted proceeding and the moving party in a motion to require the Applicants to respond to Interrogatory Requests. The purpose of this letter is to bring to the panel's attention a recent decision of the Board that is relevant to the issues in the motion. In the motion, TPT made the following submission:¹

"Thus, in every instance where the Board has permitted utilities to participate in contestable activities, it has required them to comply with regulatory requirements to ensure that they cannot make use of information and resources acquired in the course of providing utility services to their competitive advantage."

The submission provided several examples of where the Board has followed this approach. The Board's February 22, 2012 Decision and Order on Suite Metering Issues.² provides another example of this approach. In that decision, the Board stated:³

However, the rather unique regulatory framework involving both monopoly and competitive services occupying the same space introduces another consideration that must be recognised by the Board. It would be insufficient for the Board to limit its review of the situation to a consideration of whether or not THESL is operating in a manner that has been accepted in the past and whether or not it has applied well established

¹ TPT Submissions in Chief, para. 14.

² EB-2010-0142

³ EB-2010-0142, p. 4 (emphasis added).

principles of ratemaking. The legislative framework that has been introduced brings with it matters of public policy that must be considered in the review of THESL's operating protocols associated with its provision of suite metering services. It is not a matter of whether or not THESL is operating in a predatory fashion. The simple co-existence of the monopoly and competitive services necessitates a thorough and purposeful review.

I trust that the panel finds this helpful.

Sincerely,

signed in the original

George Vegh

GAV:mt
att.