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March 15, 2012

Delivered by Email

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

Dear Ms. Walli:

**Re: Toronto-Hydro Electric System Limited (“THESL”)
CANDAS Proceeding (EB-2011-0120)**

We are writing on behalf of THESL in response to a letter from counsel to the Consumer’s Council of Canada (“CCC”) dated March 14, 2012. THESL objects to CCC’s request that the Board make an interim order for costs at this time.

THESL is one of many intervenors in this proceeding and the issue of cost responsibility is an unsettled matter at this time.¹ CCC itself acknowledged this in proposing in its March 14, 2012 letter that the Board should “make either CANDAS or THESL or both responsible for payment of costs on an interim basis.”

THESL submits that it is premature and potentially prejudicial for the Board to determine any cost responsibility now. Pursuant to CANDAS’ March 14, 2012 letter to the Board on settlement matters in this proceeding, all participants who attended the March 5 settlement conference (including CCC) agreed to request of the Board that this proceeding be suspended until May 25, 2012 while CANDAS and THESL pursue bilateral settlement negotiations. This issue of costs in the proceeding is one of the matters that CANDAS and THESL may be able to propose settlement on, or otherwise come to a joint position on in the course of those settlement negotiations. THESL is concerned that CCC’s request for interim costs may drive a wedge between THESL and CANDAS during the settlement negotiations period, and thus undermine the prospects for success in those discussions. At a minimum, the fruitfulness of the settlement discussions will be apparent shortly and THESL submits that it would be appropriate for the Board to await the report of those discussions, including a potential settlement agreement, before agreeing to award interim costs to any party in this proceeding.

¹ See pages 3-4 of Procedural Order #1.

THESL submits that it is not appropriate to require THESL, CANDAS, both, or some other party to be responsible to pay interim intervenor costs when it is not at all clear whether the same party or parties will ultimately be held responsible by the Board for costs at the end of this proceeding. THESL submits that, among other things, to award interim costs now could result in an unjust shifting of interim cost responsibility from the party that chose to incur those costs to a party that is ultimately not responsible for any of those costs.

CCC chose to incur certain costs in this proceeding, in a context where the timing and nature of the final disposition of the issues, including cost responsibility, was not known to any party. Furthermore, CCC has provided no evidence of financial hardship that has been caused by this proceeding. Rather, CCC has simply asserted that interim costs should be awarded because of the duration of the proceeding.

Finally, it is unclear what process could apply to the awarding of interim costs. Without a conclusion to the proceeding, the Board and the ultimate funding proponent(s) would be at a disadvantage in assessing cost eligibility, including the contribution of the intervenors to the Board's understanding of the issues.

In the alternative, THESL submits that if the Board determines that interim costs should be awarded to any party, the award should be strictly without prejudice to the ultimate disposition of the costs issue, and that any such interim award then be reconciled to the final cost award decision such that no party effectively bears a greater or lesser burden than that which is directed by that final decision.

Sincerely,

Original Signed by John A.D. Vellone

John A.D. Vellone

CC: Colin McLorg and Amanda Klein, THESL
Helen Newland, CANDAS
Robert Warren, CCC

jv