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April 7, 2014

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-2013-0234 – Toronto Hydro-Electric System Limited**  
**Application under section 29 of the *Ontario Energy Board Act, 1998***  
**Energy Probe – Technical Conference Questions to Applicant**

Pursuant to Procedural Order No. 4, issued by the Board on January 28, 2014, attached please find the Technical Conference Questions of Energy Probe Research Foundation (Energy Probe) in respect of the expert report of Dr. Church filed in the EB-2013-0234 proceeding.

Energy Probe notes that it will have no questions for Dr. Jackson.

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

Yours truly,

David S. MacIntosh  
Case Manager

cc: Michael Bell, Ontario Energy Board (By email)  
Michael Miller, Ontario Energy Board (By email)  
Rob Barrass, Toronto Hydro-Electric System Limited (By email)  
Amanda Klein, Toronto Hydro-Electric System Limited (By email)  
Robert Warren, WeirFoulds LLP (By email)  
Lawrence Schwartz, Consultant to Energy Probe (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 Toronto  
Hydro-Electric System Limited for an order pursuant to Section  
29 of the *Ontario Energy Board Act, 1998*.

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**TECHNICAL CONFERENCE QUESTIONS OF  
ENERGY PROBE RESEARCH FOUNDATION  
("ENERGY PROBE")**

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**April 7, 2014**

**TORONTO HYDRO-ELECTRIC SYSTEM LIMITED  
SECTION 29 FORBEARANCE PROCEEDING  
EB-2013-0234**

**ENERGY PROBE RESEARCH FOUNDATION  
TECHNICAL CONFERENCE QUESTIONS**

**Competition**

4. What is the relevant antitrust market in which THESL supplies pole access for wireless attachments? Specifically:
- (a) What is the relevant product market?
  - (b) What is the relevant geographic market?

**TCQ 4-Energy Probe-1**

THESL response to Interrogatory 4-Energy Probe-4 (b), (c) and (e) were non-responsive.

- a) Does Professor Church place “substantial weight” on functional interchangeability?
- b) Is it Professor Church’s opinion, or his lawyers’, that the absence of wireless service providers in this hearing allow the conclusion that pole access at regulated rates is not important to wireless services providers?
- c) How does Professor Church use the HMT to arrive at the conclusion of a broad market?
- d) Answer to 4 (c) not responsive. Does Professor Church agree with Ware or not?

**TCQ 4-Energy Probe-2**

THESL response to Energy Probe 4-Energy Probe-5 (a), (b) requires clarification.

Meaning of “substitution”? Does Professor Church say that Public Mobile “substituted” (in his sense of the word) macro-cell sites for its pole-based DAS network?

### **TCQ 4-Energy Probe-3**

**The THESL response to Energy Probe 4-Energy Probe-7 --- answer not responsive.**

**Does Professor Church believe that Public Mobile's shift to permanent Macro Cell Site deployment supports the conclusion that cell towers and poles are in the same product market?**

### **General Areas of Interest:**

**Hypothetical Monopolist Test (HMT)**