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August 20, 2014

via RESS e-filing – signed original to follow by courier

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Wyse Meter Solutions Inc. (“Wyse”) Unit Sub-Metering License Renewal Application
OEB File No. EB-2014-0214
Toronto Hydro-Electric System Limited (“THESL”) Submission**

Pursuant to Procedural Order No. 1 issued by the Board on August 12, 2014, THESL’s submission, setting out its view on the above noted proceeding, is enclosed.

Please do not hesitate to contact me if you have any questions.

Yours truly,

[original signed by]

[Kaleb Ruch on behalf of]

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**Wyse Metering Solutions Inc. ("Wyse") Unit Sub-Metering
License Renewal Application**

OEB File No. EB-2014-0214

Toronto Hydro-Electric System Limited ("THESL") Submission

BACKGROUND

1. On August 8, 2014, THESL filed a letter with Ontario Energy Board (the "OEB") requesting intervenor status in the above noted proceeding. On August 12, the OEB issued Procedural Order No. 1 directing THESL to file a written submission setting out its views on the application by August 20, 2014.
2. THESL's submission is set out below. However, THESL notes that it does not have full knowledge and information about how the applicant proposes to use its unit sub-metering license in THESL's service territory. Therefore, its ability to file a comprehensive submission at this stage of the proceeding is limited; the submission that follows is intended to do nothing more than articulate the issues that are raised by the information available to THESL at this point in time.
3. THESL requests that the OEB allow THESL to examine the applicant's business plans as they relate to THESL's service area. In addition, THESL submits that given the importance and complexity of the issues that THESL has raised in this submission, this application should be proceed by way of an oral hearing.

THESL'S INTERESTS IN THE APPLICATION

1. As a utility regulated by the OEB, THESL has a substantial interest in the regulation of electricity rates in Ontario, including matters of jurisdiction, substance and procedure. THESL's interests extend to all decisions of the OEB that may affect THESL's operation in the Ontario electricity market.
2. THESL has a direct interest in Wyse Meter Solutions Inc.'s ("Wyse") application to provide unit sub-metering services in Ontario, and intends to examine the effect of Wyse's

application on THESL's operations, particularly its ability to continue distributing electricity to its existing customers in the City of Toronto.

ISSUES

3. Wyse has demanded that THESL remove its meters from various buildings that already have individually metered units and terminate its contractual relationship with the customers that have been serviced by those meters.¹ THESL believes that the applicant intends to use its unit sub-metering license to effect the removal of THESL's meters, and respectfully submits that this raises important policy and legal issues for the OEB to consider in making a decision with respect to the renewal of Wyse's unit sub-metering license.
4. The *Energy Consumer Protection Act* (the "ECPA")² and Ontario Regulation 389/10 made under the *ECPA* (the "ECPA Regulation") allow a licensed suite meter provider to install suite meters before or after construction of a building.³ However, the ECPA and the ECPA Regulation do not explicitly authorize licensed providers to remove existing meters when, for example, the units within a building are already individually metered, and do not provide direction with respect to the financial implications of the removal of existing meters and installation of suite meters by another provider.
5. If the OEB finds that the ECPA implicitly authorizes licensed suite meter providers to remove existing meters from a building that already has individually metered units, THESL notes that the ECPA is silent with respect to the rights and obligations of affected parties, namely consumers and their existing service provider, in this case a licensed distributor. In addition, nothing in either the ECPA or the ECPA Regulation addresses the extent to which a suite meter provider can compel the termination of the contractual relationship between the existing service provider and individually metered customers.
6. Accordingly, THESL seeks guidance from the OEB as to whether and under what circumstances, once a licensed distributor has extended its distribution system through the metering of a building to individual units as a result of its duty to connect, any entity can compel the licensed distributor to remove the related assets, terminate the contractual relationship with the affected ratepayers, and cease to provide service to them.

¹ The meters that Wyse proposes to remove are conventional smart meters that were installed in each unit to support Time-of-Use billing. The affected customers are members of the residential rate class.

² 2010, S.O. 2010, c. 8 [ECPA].

³ ECPA Regulation, at section 38.

AUTHORITY AND JURISDICTION

7. Nothing in the ECPA abrogates or derogates from the powers and duties of the *OEB* in respect of energy consumers as provided under the *Ontario Energy Board Act, 1998*⁴ (the "*OEB Act*").⁵ The OEB has in all matters within its jurisdiction authority to hear and determine all questions of law and of fact.⁶
8. In carrying out its responsibilities under the *OEB Act* or any other Act in relation to electricity, the OEB is guided by two paramount objectives: 1) protecting the interest of consumers, and 2) maintaining a financially viable electricity industry. THESL respectfully submits that both of these objectives are relevant to the issues in this proceeding.

CONSUMER INTERESTS

9. While it is impossible to be definitive at this stage of the proceeding, it appears to be likely that the interests of some consumers could be adversely affected by the Wyse proposal to changeover existing meters. Some of the potential issues relating to consumer interests include:
 - a. **Electricity Rates**
 - i. In the event of the removal of existing THESL meters the OEB will have to consider and approve a mechanism for the recovery of the cost of removal, including the derecognition losses related to the removed metering assets, by THESL from the new suite metering entity and/or the landlord.
 - ii. Toronto Hydro's current cost allocation model, on the basis of which rates will be set over the 2015-2019 period, is founded upon the utility's current projection of customers. Any changes that Toronto Hydro experiences due to the mass removal of meters and the corresponding loss of metered customers would have implications for all other distribution customers.
 - b. **Consent**
 - i. Wyse's proposal to unilaterally suite meter units that are already individually metered raises the issue as to whether it is permissible or appropriate to allow landlords to changeover metering services from one provider, in this case a licensed distributor, to another without the informed consent of each affected tenant.

⁴ S.O. 1998, c. 15, Sched. B [*OEB Act*].

⁵ ECPA, *supra* note 1 at s. 1(5).

⁶ *OEB Act*, *supra* note 3 at s. 19(1).

UTILITY INTERESTS

10. THESL's interests could also be adversely affected by Wyse's proposal to changeover existing meters. THESL has filed an application with the OEB, to set rates for 2015-2019. During this period, THESL expects that its base rates will be escalated by a mechanistic adjustment. If Wyse is allowed to remove THESL's meters, the utility could incur additional expenses that are not built into its base rates. THESL could also experience a reduction in distribution revenue, along with other consequences related to a reduction in the number of customers.

CONCLUSION

11. THESL believes the applicant intends to use its unit sub-metering license to effect the removal of THESL meters that are already individually metering individual tenants within existing multi-residential buildings; accordingly THESL seeks to examine the applicant's business plans as they relate to THESL's service area.
12. THESL seeks guidance from the OEB as to whether and under what circumstances any entity can compel the licensed distributor to remove the related metering assets, terminate the contractual relationship with the affected individually metered ratepayers and cease to provide service to them.
13. Pursuant to s. 70(1) of the *Ontario Energy Board Act, 1998* (the "*OEB Act*"), THESL requests that the OEB insert appropriate conditions in Wyse's unit sub-metering license to protect the interest of consumers and the financial viability of the utility.