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Reply To: Thomas Brett
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Our File No. 141748

VIA RESS, EMAIL AND COURIER

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attention: Kirsten Walli
Board Secretary

Dear Ms. Walli:

**Re: Toronto Hydro Electric System Limited ("THESL"), 2015 Custom IR
Procedural Order No. 2; Board File No. EB-2014-0116**

BOMA is writing with respect to the Board's decision to allow THESL to make a presentation of their case to the Board on November 17, 2014, at the start of the Technical Conference.

BOMA has serious concerns with the Board's decision to hold an "evidence conference", as it may, if not properly implemented, be open to abuse. First, the apparent rationale for the request is unusual. THESL's application is no different in any material respect, "structural", "substantive", or otherwise, from a number of other recent Custom IRM submissions, including those of Horizon, Enbridge, or Hydro One. More important, the "evidence conference" allows THESL the opportunity to shape, or "spin" its evidence after having determined the concerns of intervenors, and identified weak spots in its evidence. In effect, it creates an opportunity for THESL to make a second argument-in-chief. It is important that the Board ensure that THESL does not do this.

In order to maintain procedural fairness, BOMA respectfully submits that it should only be on the following conditions:

- that intervenors are free to ask any questions about the THESL submission during the Technical Conference;

- that THESL be required to make its presentation at least one day before the beginning of the Technical Conference, so as to give intervenors the opportunity to digest the material and prepare questions;
- that THESL is not at liberty to amend its evidence in any manner or respect as part of the "presentation", or to make argument; the presentation should be a straightforward summary of the evidence;
- in the event THESL does change its evidence in any manner, including an attempt to "shape" it to emphasize its conformance to the principles of the RRFE or otherwise, the Board should refrain from hearing it further and intervenors should be permitted another round of interrogatories with respect to the material that was already presented.

Finally, this request, and the Board's agreement to it, reflects a questionable procedure. In BOMA's view, it would have been preferable for the Board to canvass parties for their submissions before allowing THESL this privilege.

Yours sincerely,

FOGLER, RUBINOFF LLP



Thomas Brett

TB/dd

cc: All Parties