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January 26, 2015

RESS, EMAIL & COURIER

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

Re: Toronto Hydro-Electric System Limited ("THESL") Custom Incentive Rate Application (EB-2014-0116)

We are counsel to the applicant, THESL, in the above-noted matter. Filed with this letter are THESL's submissions in response to the motion by School Energy Coalition filed December 19, 2014.

Yours truly,



Myriam M. Seers

cc: A. Klein and D. Coban, THESL
C. Keizer and C. Smith, Torys LLP
All Parties

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 approving just and reasonable rates and other charges for electricity distribution to be effective May 1, 2015 and for each following year effective January 1 through to December 31, 2019.

**RESPONDING SUBMISSION OF TORONTO HYDRO
(on motion by SEC to compel production of CEA reports)**

1. On December 19, 2014, School Energy Coalition (“**SEC**”) filed a motion to compel Toronto Hydro to produce eight Canadian Electricity Association (“**CEA**”) survey benchmarking reports that were provided to Toronto Hydro by the CEA (the “**CEA Reports**”).
2. Toronto Hydro understands that the CEA has opposed SEC’s motion and that, should the Board grant the motion, the CEA intends to exercise its right to appeal the Board’s decision to the Ontario Divisional Court. Toronto Hydro also understands the CEA’s position to be that:
 - (a) the CEA Reports are protected from disclosure because they are the subject of copyright that belongs to the CEA, and
 - (b) even if the CEA Reports are not protected from disclosure because of copyright, six of the eight CEA Reports contain confidential information that, if disclosed, would have a detrimental impact on the CEA’s interests that outweighs whatever probative value the CEA Studies might have in this proceeding.

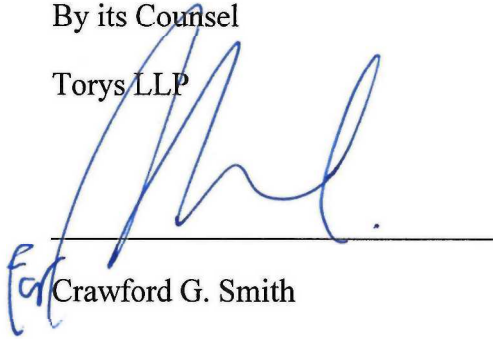
3. Toronto Hydro takes no position as to whether the CEA Reports are protected by copyright.
4. In the event that the Board engages in an analysis of the CEA's position on confidentiality, Toronto Hydro proposes that the Board adopt the following compromise solution to balance the request made in SEC's motion with the CEA's confidentiality concerns:
 - (a) Toronto Hydro will file the CEA Reports in a redacted form, in which the rankings of Toronto Hydro and the names of the other utilities who participated in the benchmarking process will be visible. The rankings of the other utilities will be redacted (the "**Redacted CEA Reports**").
 - (b) The Redacted CEA Reports will be filed confidentially, such that only the Board, Board Staff, interveners' counsel and external consultants will have access to them, and then only by signing a personal undertaking. The Redacted CEA Reports will not form part of the public record.
 - (c) The filing of the Redacted CEA Reports will not set a precedent, and will be without prejudice to the rights of the CEA to challenge the request for production of CEA benchmarking studies in a future proceeding before the Board.
5. This compromise would provide for timely disclosure of the requested information while at the same time addressing the CEA's concerns regarding the protection of its confidential information.
6. Toronto Hydro emphasizes that its overarching interest in making this submission is to ensure that the issues raised in SEC's motion be resolved as expeditiously as possible and that this dispute not result in any delays in the hearing of the application.

All of which is respectfully submitted this 26th day of January, 2015.

TORONTO HYDRO-ELECTRIC SYSTEM LIMITED

By its Counsel

Torys LLP



Crawford G. Smith