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March 24, 2020

**VIA RESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4  
Attention: Registrar

Dear Ms. Long:

**Re: Cost Claim Objection Reply**  
**Board File No.: EB-2018-0165 (the Proceeding)**

We are counsel to the Distributed Resource Coalition (**DRC**) in the Proceeding and hereby respond to Toronto Hydro-Electric System Limited's (**THESL's**) objection to DRC's cost claim.

THESL failed to acknowledge that DRC was the only intervenor to incur the costs of expert evidence, which was sanctioned and relied upon by the Board. Absent that evidence and the significant additional processes resulting from Energy Probe's intervention on same, DRC's costs were approximately \$69,000 — among the lowest of all intervenors.<sup>1</sup> Even with the expert evidence and all attendant processes, DRC's costs were less than or consistent with the preponderance of intervenors. This supports DRC's efficiency and responsible participation.

DRC's costs associated with evidence preparation were largely consistent with the estimate provided by DRC to the Board by letter dated February 12, 2019, which expressly excluded then unknown potential interrogatory and hearing time. The bulk of the additional costs resulted from Energy Probe's extensive interrogatories and unsuccessful challenge to the extensive qualifications of DRC's expert witness. Board Staff also introduced limited law regarding expert witnesses and expressly acknowledged DRC's comprehensive submissions:

*MR. MILLAR: I did do a bit of research into this in the event it might be helpful to the Panel. I did circulate a single case. Frankly, Ms. DeMarco has circulated many more cases than I did, and in fact a helpful overview of the topic.<sup>2</sup>*

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<sup>1</sup> Only the cost claim of the Greater Toronto Apartment Association (GTAA) is below \$69,000.

<sup>2</sup> Transcript, July 16, 2019, Volume 11, 24:25-25:1.

*MR. MILLAR: I will just go first, Madam Chair. Again I am providing very high level overview. My guess is Ms. DeMarco will get into much more detail than I have, and just to [make] myself seem useful, maybe I will provide some high-level overview.<sup>3</sup>*

DRC estimates that approximately 32% of its costs were associated with unanticipated expert evidence interrogatory and qualification challenges.

Further, DRC took all reasonable measures in attempt to mitigate such costs including: (i) providing extensive information on the qualifications and independence of DRC's expert witness through the interrogatory process and (ii) attempting to avoid costs of witness qualification by letter filed June 26, 2019 and direct communications with THESL legal counsel and Energy Probe prior to the testimony of the DRC witness. Neither would forego a challenge of the expert qualification, thereby necessitating related hearing and preparation time.

Moreover, DRC's expert evidence and submissions also contributed to the Board's understanding of new and emerging issues directly in THESL's application. DRC's interrogatories, submissions, and expert evidence probed key issues that were not addressed by any other intervenor relating to load forecasts, productivity, reliability, OM&A, capital budget and plans, electrification of City fleet resources, THESL fleet renewal, data requirements, and energy storage proposals.

The Board specifically relied upon DRC in several aspects of its December 19, 2019 Decision including:

- The Board agreed with DRC that there should be further analysis of the overall costs of THESL's fleet composition and directed THESL to provide more detailed cost benefit analysis between electric vehicle (**EV**), hybrid and combustion engines for its fleet program for future rebasing applications and develop utilization measures beyond fleet use in standard hours.<sup>4</sup>
- The Board directly cited and summarized DRC's expert evidence in detail and noted that the evidence supported the view that THESL should not be precluded from including cost effective capital and OM&A costs of EV charging infrastructure in its 2020 to 2024 revenue requirement.<sup>5</sup>
- The Board indicated that it expects THESL to enhance its approach to forecasting customers and connections through consideration of economic and demographic conditions, and made determinations as to the materiality of EVs and distributed energy resources (**DERs**) for load forecasting used for rate-setting purposes. The Board further acknowledged that the information brought forward by DRC indicated that the impact of EVs and DERs may grow rapidly.<sup>6</sup> The Board established an expectation that THESL complete a more detailed analysis of the impact of DERs and EVs on load and load profiles to be considered for any future load forecasts.<sup>7</sup>
- The Board noted DRC's support for THESL's proposed dual control centre investment (\$40.2m) and approved the related budget.<sup>8</sup>
- The Board approved the proposed THESL expenditures that were supported by DRC for grid performance energy storage systems (**ESS**) (\$5.5m) and renewable enabling investments ESS (\$0.3m from rate base; \$4.7m provincial funding).

<sup>3</sup> Transcript, July 16, 2019, Volume 11, 26:27-27:11.

<sup>4</sup> Ontario Energy Board, Decision and Order (December 19, 2019), pp. 103-104.

<sup>5</sup> Ontario Energy Board, Decision and Order (December 19, 2019), pp. 119-122.

<sup>6</sup> Ontario Energy Board, Decision and Order (December 19, 2019), pp. 126-127.

<sup>7</sup> Ontario Energy Board, Decision and Order (December 19, 2019), pp. 122, 124.

<sup>8</sup> Ontario Energy Board, Decision and Order (December 19, 2019), p. 100.

- The Board also made determinations on the proposed transit electrification customer-specific (TTC) ESS investments (\$42.3m), which were of specific examination by DRC.<sup>9</sup>

In light of the foregoing, DRC respectfully requests that the Board award DRC 100% of its eligible costs in the Proceeding.

Sincerely,

A handwritten signature in black ink, appearing to be 'Lisa (Elisabeth) DeMarco', with a long, sweeping horizontal stroke extending to the right.

Lisa (Elisabeth) DeMarco

- c. Daliana Coban and Amanda Klein, Toronto Hydro-Electric System Limited  
Charles Keizer, Torys LLP  
Lawrie Gluck and Michael Millar, Ontario Energy Board  
All Parties of Record

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<sup>9</sup> Ontario Energy Board, Decision and Order (December 19, 2019), pp. 109-119.