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June 5, 2009

**Delivered by E-mail & Courier**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, Suite 2700  
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: OEB File No. EB-2008-0235  
London Hydro Inc. 2009 Electricity Distribution Rate Application**

We are counsel to London Hydro Inc. (“London Hydro”) in the above-captioned matter.

On April 23, 2009, after London Hydro filed its responses to Board staff and intervenor interrogatories, the Ontario Energy Board (the “Board”) issued Procedural Order No. 2 in respect of this proceeding. In Procedural Order No. 2, the Board determined that a technical conference would not be required. Instead, intervenors and Board staff would be permitted to submit supplemental interrogatories arising out of responses provided in the first set of interrogatories or new information filed by London Hydro since it filed its original application. London Hydro’s responses to the supplemental interrogatories were delivered on May 26, 2009, in compliance with Procedural Order No. 2.

Procedural Order No. 2 also addressed the conclusion of this proceeding. The Procedural Order established deadlines for the filing of written final submissions (June 16, 2009 for Board staff; June 19, 2009 for intervenors; and July 6, 2009 for London Hydro’s reply). Notwithstanding these deadlines, the Board indicated that it had not made a final determination on whether an oral hearing is required, and invited the parties to make submissions, subsequent to receipt of responses to the supplemental interrogatories, on the following two matters:

- 1) the need for an oral hearing; and
- 2) if so, which issues would be the subject of the oral hearing.

London Hydro is now in receipt of submissions from all of the intervenors in this proceeding (CCC, Energy Probe, LPMA, Schools and VECC). London Hydro has arranged its response according to the following themes:

- Intervenor comments on the need for an oral hearing;
- additional material requested from London Hydro;
- timing for the conclusion of the proceeding; and

- one intervenor's suggestion with respect to a settlement conference.

### **Intervenor comments on the need for an oral hearing**

All intervenors have agreed that an oral hearing is not required in this proceeding. London Hydro agrees that there is no reason for an oral hearing. Accordingly, we trust that this proceeding will conclude with written submissions, as contemplated by the Board.

### **Additional material requested from London Hydro**

Three intervenors have suggested that London Hydro file additional material prior to the filing of the intervenors' submissions. VECC believes that it would be useful for London Hydro "to file an Argument-in-Chief or, at a minimum, indicate what changes/revisions to its original December 2008 Application London Hydro acknowledges are required as a result of the interrogatory process." LPMA suggests that it would be useful "if London Hydro were to file an Impact Statement to reflect any changes that London Hydro acknowledges are required as a result of the interrogatory process." CCC submits "that London should be required to file its Argument-in-Chief first, followed by submissions of the intervenors."

London Hydro has considered these comments and agrees that it would be reasonable to provide the Board, staff and intervenors with a summary of the changes/revisions to its Application that have resulted from the interrogatory process, together with a summary of impacts that reflects these changes. London Hydro does not believe it is necessary to incur the time and expense involved in the preparation of an Argument-in-Chief. The Application itself is clear; and the summary that London Hydro is agreeing to provide would clearly set out any subsequent changes and the resulting impacts. London Hydro does not believe that a further summary of its Application, in the form of an Argument-in-Chief, is necessary or an economical use of resources.

London Hydro proposes that this summary be delivered by Monday, June 15<sup>th</sup>, although it will attempt to distribute the summary to the parties by Friday, June 12<sup>th</sup>. We will address this further in the context of the timing for the conclusion of the proceeding.

### **Timing for the conclusion of the proceeding**

The Board's current timeline for the conclusion of this proceeding contemplates Board staff submissions being filed by June 16, 2009; intervenor submissions by June 19, 2009; and London Hydro's reply submissions by July 6, 2009. London Hydro has the following comments in this regard:

First, while all intervenors have agreed that no oral hearing is necessary, the Board must still make a further determination on process in light of the requests for an Argument-in-Chief or a summary of changes and impacts, and the request of one intervenor for a settlement conference. We anticipate that this will be issued during the week of June 8, 2009. London Hydro staff are working now on the summary of changes and impacts in advance of what will likely be a new Procedural Order, but it will still take a brief period of time to complete, check and finalize that material. It is unlikely that London Hydro



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could meet the June 10<sup>th</sup> date suggested by VECC. As noted above, London Hydro will attempt to distribute the summary to the parties by Friday, June 12<sup>th</sup> but for the purposes of a Procedural Order, London Hydro proposes a deadline of Monday, June 15<sup>th</sup>. However, if the Board determines that it will require an Argument-in-Chief, additional time will be required.

Second, in addition to the need to incorporate the summary of changes and impacts into the timeline, I note that I will be out of the country for the period of June 25<sup>th</sup> through July 10<sup>th</sup>. This will affect my ability to assist London Hydro in finalizing its reply submission under the current timeline. London Hydro respectfully requests that the Board consider the following slightly modified timeline for the conclusion of this proceeding. You will see that we are proposing to extend Board staff and intervenor deadlines as well as the deadline for the London Hydro reply, and we suggest that this approach is reasonable for all parties.

Monday, June 15, 2009: London Hydro summary of changes and impacts arising out of the Interrogatory process  
Wednesday, June 24, 2009: Board Staff submissions on the London Hydro Application  
Monday, June 29, 2009: Intervenor submissions on the London Hydro Application  
Thursday, July 16, 2009: London Hydro reply submissions

#### **Schools' request for a settlement conference**

Having agreed that there is no need for an oral hearing, counsel to Schools has suggested that the Board should convene a settlement conference – not an oral hearing, but like an oral hearing, an oral proceeding that will require parties, their consultants and counsel to assemble at a significant cost to London Hydro and its customers. Counsel to Schools submits that because of London Hydro's size, "a settlement conference may be a cost effective way of narrowing or possibly eliminating the number of issues that need to be addressed in final written submissions."

London Hydro respectfully requests that the Board reject the request of this intervenor. London Hydro's size alone should not trigger a settlement conference. The Application is clear; the requested revenue requirement is reasonable and supported by the Application; and its impacts, even as proposed in the Application, are reasonable. While London Hydro does not have the calculations of the changes arising out of the interrogatory process at this time, it is anticipated that those changes will result in a reduced revenue requirement and reduced customer impacts.

Assuming this intervenor's concern is with cost effectiveness, London Hydro respectfully submits that the answer is not to increase the regulatory burden by introducing a settlement conference. Rather, the most cost effective approach is to conclude this proceeding with written submissions that focus on material matters. If this intervenor or any other wishes to request a reduction in London Hydro's proposed revenue requirement, it will have the opportunity to do so in its written submission.

We thank you in advance for your consideration in this matter, and we look forward to the timely conclusion of this proceeding. Should you have any questions or require further information, please do not hesitate to contact me.



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Yours very truly,

**BORDEN LADNER GERVAIS LLP**

*Original signed by James C. Sidlofsky*

**James C. Sidlofsky**

JCS/dp

cc: David Williamson, London Hydro  
Susan Casciano, London Hydro  
Bernie Watts, London Hydro  
Bruce Bacon, BLG  
Intervenors of Record

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