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May 9, 2024

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, P.O. Box 2319  
Toronto ON, M4P 1E4

Dear Ms. Marconi,

**RE: EB-2023-0195 Toronto Hydro Application for Electricity Distribution Rates  
Energy Probe Interrogatories to OEB Staff on the PEG Framework Report**

Attached are the interrogatories of Energy Probe Research Foundation (Energy Probe) to OEB Staff on the PEG Framework Report in the EB-2023-0195 proceeding.

Respectfully submitted on behalf of Energy Probe.

Tom Ladanyi  
TL Energy Regulatory Consultants Inc.

cc. Patricia Adams (Energy Probe)  
Daliana Coban (Toronto Hydro)  
Thomas Eminowicz (OEB Staff)  
Mark Lowry (PEG)  
Intervenors of Record

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Energy Probe Research Foundation 417 Bloor Street West, Suite 202, Toronto, Ontario, M5S 1X6

Phone: (416) 964-9223 Fax: (416) 964-8239 E-mail: EnergyProbe@nextcity.com Internet: www.EnergyProbe.org

**EB-2023-0195**

**Toronto Hydro Application for Electricity Distribution Rates effective January 1, 2025**

**Energy Probe Interrogatories to OEB Staff on the PEG Framework Report**

**May 9, 2024**

**M1-EP-1**

**Reference:** Exhibit M1, Pages 5 and 6

**Preamble:** “OEB Staff retained PEG to provide an independent expert appraisal and commentary on THESL’s CIR proposal and ScottMadden’s evidence. The goal is to help the Board choose the right CIR plan for Toronto Hydro and not to change the general approach to CIR in Ontario.”

**Questions:**

- a) Did OEB Staff review and approve the PEG Framework Report prior to filing?
- b) Does OEB Staff agree with the findings of the report? If the answer is no, please list areas of disagreement.

**M1-EP-2**

**Reference:** Exhibit M1, Page 10

**Preamble:** “There is usually a need for utility revenue to grow between rate cases to address the financial attrition that would otherwise result from inflation, demand growth, and other changes in business conditions. In an MRP, this challenge is addressed by the attrition relief mechanism. An ARM uses predetermined formulas to address attrition drivers and these formulas are not linked to the utility’s contemporaneous cost growth.”

**Questions:**

- a) Does the inflation factor I in the traditional I-X price cap and revenue cap rate plans provide a utility with compensation for attrition due to inflation in an MRP? Please explain your answer.
- b) Does an annual forecast of bill determinants provide a utility with protection from financial attrition due to demand growth in a price cap MRP? Please explain your answer.

c) Does an annual update of the return on equity in an MRP provide a utility with compensation for financial attrition due to changes in business conditions? Please explain your answer.

d) Do deferral and variance accounts, Z-factors, and off-ramps protect a utility from financial attrition due to other changes in an MRP? Please explain your answer.

### **M1-EP-3**

**Reference:** Exhibit M1, page 13 and Figure 1a

**Preamble:** “It can be seen that MRPs are now used in numerous states. Energy distributors operate under MRPs in California, Ohio, New York, and New England.”

#### **Questions:**

- a) Please file a table listing states where MRPs have expired including years they were in place, the reasons for expiry, and the rate setting models that replaced them.
- b) Please file a table listing states that which never had MRP’s showing the models used for rate setting.

### **M1-EP-4**

**Reference:** Exhibit M1, Page 17

**Preamble:** “To decide on a value for X, regulators will typically want recent evidence on utility productivity trends by considering one or more productivity studies. Trends in the productivity of broad national (or, more rarely, regional) peer groups are commonly used to establish the base productivity trend.”

#### **Question:**

- a) If trends in the productivity of utilities are used to establish the base utility productivity trend, would that not create issues of circularity?
- b) For example, in Ontario, many distributors have negative productivity which has been used by the OEB to accept zero as the value for X. If the basic objective of incentive regulation is to incent utilities to improve productivity, should the OEB be accepting IR plans where X equals zero?

## M1-EP-5

**Reference:** Exhibit M1, Page 40 and Figure 3a

### **Question:**

Please file a table listing states where electric revenue decoupling mechanisms have expired including years they were in place, the reasons for expiry, and the models used for rate setting.

## M1-EP-6

**Reference:** Exhibit M1, Page 63

**Preamble:** “Toronto Hydro is encouraged to consider an alternative approach in the future that might be more efficient in establishing the revenue requirement for the base year and following years as well as meeting OEB RRF objectives and improving the balance of risk between customers and the utility.”

### **Question:**

Does the proposed CIR 2.0 change the balance of risk between customers and the utility compared to the Custom IR approved by the OEB in the EB-2018-0165 Decision? If the answer is yes, does CIR 2.0 increase or decrease the risk borne by ratepayers?

## M1-EP-7

**References:** Exhibit M1, “*PIM Pros and Cons and Performance Metrics in Practice*”, Pages 47 to 50; and “*Performance Incentive Mechanism*”, Page 70.

**Preamble:** The following is a quote from “*The Price of Time, the Real Story of Interest*”, by Edward Chancellor, Atlantic Monthly Press, 2022, pages 120 and 121.

*“Metrics serve to stifle innovation and creativity; they imitate science but resemble faith. When an institution is guided by some specific target, critical judgement is suspended. In the 1970’s American social scientist Donald Campbell pointed out that **‘the more any quantitative social indicator is used for social decision-making, the more subject it will be to corruption pressures and more apt it will be to distort and corrupt the social processes it is intended to monitor.’** Historian Jerry Muller adds a corollary to Campbell’s Law, namely **“anything that can be measured and rewarded will be gamed.”**”*

*The most famous target law emerged several decades ago. Charles Goodhart of the London School of Economics observed that whenever the Bank of England targeted a particular measure of money supply, that measure’s earlier relationship to inflation broke down. **Goodhart’s Law states that any measure used for control is unreliable.**”*

**Questions:**

- a) Is PEG aware of *Campbell's Law* and *Goodhart's Law*?
- b) Does PEG agree that if performance measures are used in rate setting, there is a concern that such performance measures could be gamed and become unreliable as expressed by the *Campbell's Law* and the *Goodhart's Law*?
- c) Does PEG agree that to prevent gaming of performance measures to ensure their reliability would require detail independent audits of all numerical inputs used in the derivation of actual results of performance measures.
- d) Does PEG agree that the use of PIMs in rate setting could result in greater complexity and increased regulatory costs for ratepayers.

**M1-EP-8**

**Reference:** Exhibit M1, "*THESL's CIR 2.0 Proposal*", Pages 69 to 71

**Questions:**

- a) In PEG's opinion is the proposed CIR 2.0 more complicated or less complicated than the current Custom IR approved by the OEB in EB-2018-0165?
- b) In PEG's opinion does the proposed CIR 2.0 provide greater or lower incentives for productivity improvements in capital and OM&A than the current Custom IR?

**M1-EP-9**

**Reference:** Exhibit M1, "*THESL's Rationale for CIR 2.0*", Pages 72 to 80

**Questions:**

- a) Does PEG agree that Toronto Hydro's rationale for CIR 2.0 is that Toronto Hydro wants to spend more money than it can get from ratepayers under the current Custom IR?
- b) Does PEG agree that Toronto Hydro has not proven why it needs to spend more money than can be obtained if Toronto Hydro used OEB's Price Cap rate setting method that is used by the vast majority of distributors in Ontario?