



**EB-2011-0120**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

**AND IN THE MATTER OF** by the Canadian Distributed Antenna Systems Coalition for certain orders under the *Ontario Energy Board Act, 1998*.

### **NOTICE OF APPLICATION AND HEARING**

On April 25, 2011, the Canadian Distributed Antenna Systems Coalition ("CANDAS") filed an application on behalf of its member companies with the Ontario Energy Board (the "Board") seeking the following:

1. Orders under subsections 70(1.1) and 74(1) of the *Ontario Energy Board Act, 1998* (the "Act"): (i) determining that the Board's RP-2003-0249 Decision and Order dated March 7, 2005 (the "CCTA Order") requires electricity distributors to provide "Canadian carriers", as that term is defined in the *Telecommunications Act*, S.C. 1993, c. 38, with access to electricity distributor's poles for the purpose of attaching wireless equipment, including wireless components of distributed antenna systems ("DAS"); and (ii) directing all licensed electricity distributors to provide access if they are not so doing;
2. in the alternative, an Order under subsection 74(1) of the Act amending the licences of all electricity distributors requiring them to provide Canadian carriers with timely access to the power poles of such distributors for the purpose of attaching wireless equipment, including wireless components of DAS;
3. an interim Order under subsection 21(7) of the Act directing electricity distributors to refrain from adopting, implementing or enforcing, as the case may be, any policy or conduct that denies Canadian carriers timely access to

- the power poles of such distributors for purposes of attaching wireless equipment, including DAS, pending disposition of the applicant's requests for final orders;
4. an interim Order under subsection 21(7) of the Act directing Toronto Hydro Energy Services Inc. ("THESI") to identify THESI's light standards, poles or other structures classified as distribution assets in accordance with the Board's EB-2009-0180 Decision and Order issued on February 11, 2010 and to refrain from removing, selling or disposing of any DAS facilities currently affixed to any of the foregoing, pending disposition of the applicant's requests for final orders;
  5. an Order under subsections 74(1) and 70(2)(c) of the Act amending the licences of all licensed electricity distributors requiring them to include, in their Conditions of Service, the terms and conditions of access to power poles by Canadian carriers, including the terms and conditions of access for the purpose of deploying the wireless and wireline components of DAS, such terms and conditions to provide for, without limitation: commercially reasonable procedures for the timely processing of applications for attachments and the performance of the work required to prepare poles for attachments ("Make Ready Work"); technical requirements that are consistent with applicable safety regulations and standards; and a standard form of licensed occupancy agreement, such agreement to provide for attachment permits with terms of at least 15 years from the date of attachment and for commercially reasonable renewal rights;
  6. its costs of this proceeding in a fashion and quantum to be decided by the Board pursuant to section 30 of the Act; and
  7. such further and other relief as the Board may consider just and reasonable.

On May 3, 2011, CANDAS withdrew its request for interim relief in relation to directing THESI to identify THESI's light standards, poles or other structures classified as distribution assets in accordance with the Board's EB-2009-0180 Decision and Order issued on February 11, 2010 and to refrain from removing, selling or disposing of any DAS facilities currently affixed to any of the foregoing, pending disposition of the applicant's requests for final orders (i.e., #4, above).

As a preliminary matter, the Board intends to hear the applicant's remaining request for interim relief (i.e., #3, above) by way of an oral hearing. The Board will determine, in due course, whether the applicant's remaining requests for relief will be heard orally or in writing.

### **How to see the Application**

Copies of the application are available for inspection at the Board's office in Toronto and at the office of the Counsel for the applicant and may be posted on its website.

### **How to Participate**

You may participate in this proceeding in one of three ways:

#### **1. Become an Intervenor**

Intervenors participate actively in the proceeding (i.e., submit written questions, evidence, and arguments, and cross-examine witnesses at an oral hearing).

A request for intervenor status must be made by letter of intervention and be received by the Board no later than **10 days** from the publication or service date of this notice. A letter of intervention must include: (a) a description of how you are, or may be, affected by the outcome of this proceeding; (b) if you represent a group, a description of the group and its membership; and (c) whether you intend to seek an award of costs and the grounds for your cost award eligibility.

You must provide a copy of your letter of intervention to the applicant.

Everything an intervenor files with the Board, including the intervenor's name and contact information, will be placed on the public record, which means that all filings will be available for viewing at the Board's offices and will be placed on the Board's website.

If you already have a user ID, please submit your intervention request through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca). Additionally, two paper copies must be submitted to the address set out below.

If you do not have a user ID, visit the Board's website under e-Filing Services and complete a user ID/password request form. For instructions on how to submit documents and naming conventions please refer to the RESS Document Guidelines found at [www.ontarioenergyboard.ca/OEB/Industry](http://www.ontarioenergyboard.ca/OEB/Industry), e-Filing Services.

The Board also accepts interventions by e-mail, at the address below, and again, two additional paper copies are required. Those who do not have internet access are required to submit their intervention request on a CD in PDF format, along with two paper copies.

## **2. Send a Letter with your Comments to the Board**

If you wish to comment on the proceeding without becoming an intervenor, you may submit a letter of comment to the Board Secretary.

All letters of comment sent to the Board will be placed on the public record, which means that the letters will be available for viewing at the Board's offices and will be placed on the Board's website.

Before placing the letter of comment on the public record, the Board will remove any personal (i.e., not business) contact information from the letter of comment (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the letter of comment will become part of the public record.

A complete copy of your letter of comment, including your name, contact information, and the content of the letter, will be provided to the applicant and the Hearing Panel.

Your letter of comment must be received by the Board no later than **30 days** from the publication or service date of this notice. The Board accepts letters of comment by either post or e-mail at the addresses below.

## **3. Become an Observer**

Observers do not participate actively in the proceeding but receive documents issued by the Board in the proceeding. There is no fee for observers to receive documents issued by the Board.

A request for observer status must be made in writing and be received by the Board no later than **10 days** from the publication or service date of this notice. The Board accepts observer request letters by either post or e-mail at the addresses below.

All letters requesting observer status will become part of the public record, which means that the letters will be available for viewing at the Board's offices and will be placed on the Board's website.

Before placing the request for observer status on the public record, the Board will remove any personal (i.e., not business) contact information from the request (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the request for observer status will become part of the public record.

Observers may also request documents filed by the applicant and other parties to the proceeding but must request these documents directly from the relevant party. Observers may be required to pay for the costs of reproducing and delivering the material.

If you already have a user ID, please submit your intervention request through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca). Additionally, two paper copies are required. If you do not have a user ID, please visit the Board's website under e-filings and fill out a user ID password request. For instructions on how to submit and naming conventions please refer to the RESS Document Guidelines found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca), e-Filing Services. The Board also accepts interventions by e-mail, at the address below, and again, two additional paper copies are required. Those who do not have internet access are required to submit their intervention request on a CD or diskette in PDF format, along with two paper copies.

### **How to Contact Us**

In responding to this notice, please reference Board file number EB-2011-0120 in the subject line of your e-mail or at the top of your letter. It is also important that you provide your name, postal address and telephone number and, if available, an e-mail address and fax number. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

### **Need More Information?**

Further information on how to participate may be obtained by visiting the Board's website at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca) or by calling our Consumer Relations Centre at 1-877-632-2727.

**Addresses**

| <b>The Board</b>   | <b>Applicant</b>   |
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| Attention: Board Secretary<br>Ontario Energy Board<br>P.O. Box 2319<br>2300 Yonge Street, 27th Floor<br>Toronto, ON M4P 1E4<br><br>Filings:<br><a href="https://www.errr.ontarioenergyboard.ca/">https://www.errr.ontarioenergyboard.ca/</a><br><br>E-mail: <a href="mailto:boardsec@ontarioenergyboard.ca">boardsec@ontarioenergyboard.ca</a><br>Tel: 1-888-632-6273 (Toll free)<br>Fax: 416-440-7656 | Canadian Distributed Antenna Systems<br>Coalition<br><br><b><u>Counsel to the Applicant</u></b><br>Fraser Milner Casgrain LLP<br>77 King Street West, Suite 400<br>Toronto Dominion Centre<br>Toronto, ON M5K 0A1<br><br>Attention: Helen T. Newland<br>Tel: 416-863-4471<br>Fax: 416-863-4592<br>E-mail: <a href="mailto:helen.newland@fmc-law.com">helen.newland@fmc-law.com</a><br><br>Attention : Michael D. Schafler<br>Tel : 416-863-4457<br>Fax : 416-863-4592<br>E-mail : <a href="mailto:michael.schafler@fmc-law.com">michael.schafler@fmc-law.com</a> |

**ISSUED** at Toronto, May 11, 2011

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary