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**VIA E-MAIL**

June 7, 2011

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
PO Box 2319, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Helen T Newland  
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Dear Ms. Walli:

**Re: Canadian Distributed Antenna Systems Coalition  
Application - Access to Power Poles  
Board File Number EB-2011-0120**

We are writing on behalf of the Applicant, Canadian Distributed Antenna Systems Coalition ("**CANDAS**") to respond to submissions, by a number of intervenors, stating their intention to seek an award of costs in connection with their participation in the above-noted proceeding.

**1. Eligibility**

Each of the Vulnerable Energy Consumers Coalition ("**VECC**"), the Consumers' Council of Canada ("**CCC**") and Energy Probe ("**Energy Probe**") has indicated its intention to seek an award of costs in this proceeding. These intervenors are non-profit, public interest organizations that represent the interests of residential consumers of electricity in Ontario. As such, they are eligible for an award of their reasonably-incurred costs in accordance with section 3.03 of the Ontario Energy Board Practice Direction on Cost Awards ("**Practice Direction**").

Each of the Electricity Distributors Association ("**EDA**") and the Canadian Electricity Association ("**CEA**") has also indicated its intention to seek an award of costs. The EDA is an association that represents Ontario's licensed electricity distributors, several of whom have sought intervenor or observer status separately, on their own behalf (i.e., Hydro Ottawa Limited ("**HOL**"), Power Stream Inc., Toronto Hydro Electric System Limited ("**THESL**"), Veridian Connections Inc., Hydro One Networks Inc. ("**HONI**") and

Newmarket Hydro have sought intervenor status; Kitchener Wilmot Hydro and Greater Sudbury Hydro Inc. have sought observer status). The CEA is a national industry association that represents the commercial interests of generators, transmitters and distributors, including some of the same utilities (or their affiliates) that have intervened on their own behalf or through the EDA (i.e., HONI, HOL and THESL).

CANDAS submits that the EDA is not eligible for an award of costs for the following reasons:

- (i) Contrary to the submissions of the EDA, section 3.05(b) of the Practice Direction states that distributors, transmitters and generators of electricity (*inter alia*) are **not eligible** for an award of costs, **either individually or in a group**.
- (ii) Although Section 3.07 of the Practice Direction does allow for cost awards to distributors, transmitters and generators in “special circumstances,” the EDA intervention discloses no such special circumstances.
- (iii) The EDA will not add a perspective, expertise or specialized knowledge of the matters at issue that is unique or different from that of its individual members.
- (iv) In contrast to the situation in EB-2010-0038 on which the EDA relies, the EDA does not represent a public interest that is relevant to the Board’s mandate as per section 3.03(b) of the Practice Direction.
- (v) Individual distributors have the ability to recover their regulatory costs from ratepayers.

CANDAS opposes the request of the CEA for cost eligibility for the same reasons that it opposes the request of the EDA.

## 2. Assessment of Costs

CANDAS submits that the costs of the Board and those of any intervenor that the Board determines is eligible for an award of costs should be assessed against all licensed electricity distributors. It is the conduct of some of these distributors in respect of a rate-regulated service (i.e., pole attachment) that has given rise to the CANDAS Application. CANDAS further submits that it would be unfair to assess costs against it, as proposed by the EDA. Although CANDAS is the Applicant in this case it is, in fact, advancing broad public interest issues in much the same fashion as do VECC, CCC and

Energy Probe in proceedings initiated by regulated utilities. It is for this reason that in its Application, CANDAS has asked to recover its costs directly from THESL, whose letter to the Board of August 13, 2010 (Tab 3 of the Application) was a major impetus for the Application.

Yours very truly,

A handwritten signature in black ink, appearing to read "H.T. Newland". The signature is fluid and cursive, with a large initial "H" and a long, sweeping underline.

HTN/ko

cc. Mr. George Vinyard  
ExteNet Systems, Inc.

Intervenors in EB-2011-0120