

**INTERROGATORIES FOR  
THE CANADIAN DISTRIBUTED ANTENNA SYSTEMS COALITION (“CANDAS”)  
FROM THE CONSUMERS COUNCIL OF CANADA  
RE: EB-2011-0120**

**I Background to the Application**

1. Sections 3.5 and following refer to the CCTA proceeding.
  - (a) Were the members of CANDAS members of the CCTA at the time of the CCTA proceeding?
  - (b) Did the members of CANDAS, or anyone else, give evidence in the CCTA proceeding with respect to wireless connections?
  - (c) If so, please provide a copy of that evidence.
2. Section 3.13 refers to the order of the Ontario Energy Board (Board) resulting from the CCTA proceeding. The Board ordered that, among other things, “the licence conditions of the electricity distributors licenced by this Board shall as of the date of this Order be amended to provide that all Canadian carriers as defined by the *Telecommunications Act* and all cable companies that operate in the province of Ontario shall have access to the power poles of the electricity distributors at the rate of \$22.35 per pole per year.”

Section 3.16 refers to a Compliance Bulletin issued by the Board on May 30, 2005 providing, among other things, that “distributors are required to process attachment requests in a timely manner, and that the axis obligation applied, regardless of whether an agreement had been negotiated”.

  - (a) Has CANDAS sought to enforce the terms of the CCTA order by, for example, seeking a compliance order? If not, why not?
  - (b) Would a compliance order, requiring THESL and other electricity distributors to comply with the CCTA order, satisfy the requirements of CANDAS? If not, why not?
3. Section 3.17 of the application states an “agreed-upon standard form of access agreement” was filed with the Board, on August 3, 2005, by the CCTA, and a representative of some 60 electricity distributors.
  - (a) Please provide a copy of the “agreed-upon standard form of access agreement”.
  - (b) In filing the “agreed-upon standard form of access agreement”, what relief was sought from the Board?

- (c) Was there any follow-up, by the CCTA, or anyone else, when the Board apparently failed to act on the filing of the “agreed-upon standard form of access agreement”.
  - (d) How do the contents of that “agreed-upon standard form of access agreement” differ from what CANDAS is seeking in this application?
4. Section 8.1 of the application refers to a letter from THESL, filed with the Board on August 13, 2010. A copy of that letter is included as tab 3 to the application. THESL’s letter states, among other things, that wireless attachments impair operational efficiency and prevent incremental safety hazards to electricity distributors.
- (a) What is CANDAS’s response to the alleged impairment of operational efficiency and incremental safety hazards?
5. Section 2.7 of the application states that “at least one other large electricity distributor in Ontario appears to be following THESL’s leads, adopting a “no wireless policy”. [Emphasis added]
- (a) Who is the other large electricity distributor referred to?
  - (b) What is the basis for the allegation that that electricity distributor appears to be following THESL’s lead?
6. Section 2.7 states that “certain other distributors appear to be considering whether or not to permit wireless attachments and, if so, on what terms and conditions?” Who are those “other distributors”, and what is the basis for the allegation that they are considering whether or not to permit wireless attachments?
7. Section 2.8 of the application states that “investments in wireless networks that were made in reliance on the CCTA Order have become stranded”.
- (a) What are those investments and what is the current value of them?
8. Section 2.8 of the application states that in some cases the terms and conditions of pole access are “completely indeterminate” or “subject to such uncertainties as to preclude the requisite capital investments”.
- (a) What are the terms and conditions being referred to?
  - (b) What conditions would preclude the requisite capital investments?
9. Section 6.8 of the application refers to THESL’s “standard pole attachment agreement”.
- (a) Please provide a copy of that “standard pole attachment agreement”.

10. In section 8.4 of the application, reference is made to the more than \$10 million investment made in developing the Toronto DAS Network.
  - (a) Did ExteNet Dascom or Public Mobile seek compensation from THESL for that investment? If not, why not? If so, please provide details as to what compensation was sought?
11. Section 10.31 of the application asserts that, because the Board refrained from imposing any other terms and conditions of access, has “allowed distributors to impose on attachers what, in some cases, are onerous requirements”.
  - (a) Please provide the identity of the distributors referred to.
  - (b) Please describe what those “onerous requirements” are.
12. Sections 3.18 and 3.19 of the application refer to a decision of the New Brunswick Board of Commissioners of Public Utilities.
  - (a) Please describe the arrangements that are in place in New Brunswick regarding pole access.

## **II The Application**

13. The application seeks, among other things, an order amending the licences of all licenced electricity distributors to include, in their Conditions of Service, a “standard form of licenced occupancy agreement”.
  - (a) Does CANDAS expect that agreement to be established by the Board as a result of this proceeding? If not, how will the agreement be developed and approved?
14. In section 10.38 of the application, the applicant “requests that the Board establish well-defined and equitable terms and conditions of access, similar to those adopted by the FCC.”
  - (a) Does CANDAS propose that the terms and conditions be identical to those adopted by the FCC? If not, how would the terms and conditions differ?
  - (b) Does CANDAS propose that the terms and conditions be identical for all licenced electricity distributors? If not, how will the terms and conditions be developed for individual distributors?
  - (c) Will those terms and conditions be incorporated into the distribution system code, or dealt with through another regulatory mechanism. If the latter, what regulatory mechanism?
  - (d) Will individual electricity distributors be permitted to develop their own terms and conditions to the extent that they could justify individual utility-specific

issues? If so, would those terms and conditions have to be approved by the Board?

- (e) Should the terms and conditions requested be established in this application or through some generic process which would allow input from all relevant stakeholders?
15. The terms and conditions adopted by the FCC appear to be those set out in a “Report and Order on Reconsideration” adopted April 7, 2011 (the “FCC Report”). At section 59 of the FCC Report it states that “if the pole owner is an electric utility, it retains the statutory right to deny access where there is insufficient capacity or for reasons of safety, reliability, or generally applicable engineering purposes. [Emphasis added]
- (a) Please identify circumstances in the United States where an electric utility has denied access for reasons of “safety, reliability, or generally applicable engineering purposes”, and where that denial has been subject to regulatory review.
  - (b) Does CANDAS support reserving a right in licenced electricity distributors to deny access for reasons of “safety, reliability, or generally applicable engineering purposes”? If not, why not?

### **III Written Evidence of George A. Vinyard**

16. (p. 5) The evidence sets out minimum terms and conditions that should govern attachments to utility infrastructure. Please provide examples of arrangements currently in place in other jurisdictions that meet these terms and conditions. Please include examples of what Mr. Vinyard sees as "best practices".
17. (p. 6) The evidence states that "confidentiality or non-disclosure provisions in attachment agreements should be strictly limited to the need to protect truly confidential customer or utility technical information and maintain the security of facilities". Please indicate how confidential concerns have been addressed in other jurisdictions.
18. (p. 6) The evidence states that attachments to electricity distribution poles should be accommodated and carried out in a manner that: (i) is fully compliant with all applicable safety regulations; (ii) does not interfere with the primary function of the pole owner, i.e. the reliable delivery of power to electricity consumers; and (iii) does not impose incremental costs or burdens on ratepayers that are not recovered in rates.
- (a) Given these requirements, who should be responsible for determining whether the attachments could interfere with the primary function of the pole owner?
  - (b) How can the arrangements be structured to ensure that incremental costs or burdens are not imposed on utility ratepayers?

19. (p. 9) With respect to cost recovery, how should the Board go about determining an appropriate rate? Is it appropriate for the same rate to be applied across Ontario even if the geography or operating characteristics differ among various jurisdictions? How can utility ratepayers be ensured that they are not subsidizing pole attachments? How is the development of rates for attachments typically dealt with in other jurisdictions?
20. (P. 12) Do CANDAS members have arrangements with other LDCs in Ontario for pole attachments? If so, please list all of those arrangements. If not, why not?

**IV Written Evidence Of Bob Boron (Filed July 26, 2011)**

21. (p. 4) Please comment on the discussion provided in the August 13, 2010, letter provided to the Board from Toronto Hydro regarding pole attachment space. Specifically what are Mr. Boron's views regarding THESL's assertion that on many THESL poles there is limited space available.

**V Written Evidence Of Brian O'Shaughnessy**

22. (p. 9) Mr. O'Shaughnessy states that "if pole access is affirmed on commercially reasonable terms and conditions, Public Mobile will be in a position to consider restoring its network build planning process in partnership with ExteNet". [Emphasis added]
  - (a) What are the "commercially reasonable terms and conditions" referred to?
  - (b) Does Mr. O'Shaughnessy expect the Board to set "commercially reasonable terms and conditions" in this application?
  - (c) May Public Mobile not proceed with its network build planning process even if the Board approves commercially reasonable terms and conditions?