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**FILED ELECTRONICALLY AND VIA COURIER**

September 2, 2011

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

Dear Ms. Walli:

**RE:           Application by Canadian Distributed  
              Antenna Systems Coalition ("CANDAS");  
              Board File No.: EB-2011-0120**

We represent CANDAS in connection with its Application to the Board regarding access to the power poles of licensed electricity distributors for the purpose of attaching wireless telecommunications equipment.

We are writing to seek an urgent case conference with one or more members of the Panel assigned to hear this case. The reasons for our request are as follows:

CANDAS filed its Application on April 21, 2011. Two Procedural Orders have since been issued. Pursuant to Procedural Order No. 2 all intervenors were to file their responding evidence by today and CANDAS was given until September 9, 2011 to file interrogatories on the intervenors' evidence.

Late this afternoon we received a three volume Motion from THESL (which is supported by CEA, who delivered a supporting report from LCC, also late this afternoon). The Motion raises a number of new issues in that it seeks a summary dismissal of the Application on the basis of numerous grounds. In the Alternative the Motion seeks an Order under s.29 of the OEB Act to the effect that the Board refrain from exercising its jurisdiction in this matter. It appears that the Motion is in effect a counter application.

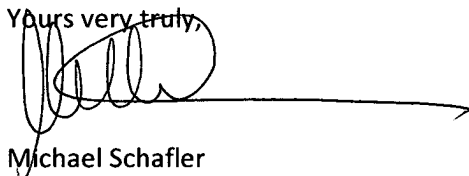
It is regrettable that neither THESL nor CEA chose to alert CANDAS or the Board of their intention to file the Motion which - on the basis of its voluminous supporting materials alone - was being prepared for many weeks.

The filing of the Motion raises a number of fundamental issues, which, at this time, would potentially include:

- Is the Motion – and THESL’s position – an impermissible collateral attack on the CCTA Order?
- Is the Motion, in addition, a collateral attack on the sufficiency of the IR Responses given by CANDAS? If so, is the appropriate remedy not a Motion to compel answers?
- Can the timetable promulgated in Procedural Order No. 2 fairly and adequately permit CANDAS to make its case?
- Should the evidence filed in support of the Motion (including the LCC Report) be considered as the “intervenor’s evidence” that Procedural Order No. 2 contemplated was to be filed on September 2, 2011, or is this evidence to be treated differently?
- Should CANDAS be required to deliver interrogatories in response to the materials filed today? If so, only in respect of those portions of the evidence that deal with the issues raised in the Application or, alternatively, in respect of all of the evidence filed today, even if such evidence clearly is in respect of new issues?
- Is the filing of this material, in the context of the history giving rise to the Application, an abuse of process?
- Are portions of the evidence inadmissible in that they are opinions on the “ultimate issue” that, as a matter of law, only the Board is entitled to give?
- Should the Motion be heard in conjunction with the Application and, if so, what are the new procedural rules governing this hearing?

CANDAS respectfully submits that it is entitled to raise these issues with the Board on an urgent basis and that the fairest, most expedient and efficient way to do so would be by way of an appearance. We are available on Tuesday and Wednesday September 6 and 7, respectively, at any time, for such purposes. We are also available on September 8, but only in the morning due to pre-existing commitments that unfortunately cannot be altered.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Michael Schafler', with a long horizontal line extending to the right.

Michael Schafler

MDS/ag

cc: Helen Newland  
George Vinyard  
Mary Anne Aldred  
Kristi Sebalj  
All Intervenors