



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 an application by Canadian
Distributed Antenna Systems Coalition for certain orders
under the *Ontario Energy Board Act*, 1998.

PROCEDURAL ORDER No. 4

The Canadian Distributed Antenna Systems Coalition (“CANDAS”) filed an application on behalf of its member companies with the Ontario Energy Board (the “Board”), received on April 25, 2011 seeking certain orders of the Board, including requests for interim relief. In letters to the Board dated May 3, 2011 and June 7, 2011, CANDAS withdrew its requests for interim relief. The current application therefore seeks 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 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;
 4. its costs of this proceeding in a fashion and quantum to be decided by the Board pursuant to section 30 of the Act; and
 5. such further and other relief as the Board may consider just and reasonable.

The Board issued a Notice of Application and Hearing on May 11, 2011.

A number of parties requested and were granted intervenor status in this proceeding. In addition, the Board has issued three previous Procedural Orders during the course of this proceeding, which should be referenced for information regarding the procedural history of this matter to date.

On October 31, 2011, counsel for the Consumers Council of Canada (“CCC”), an intervenor in this proceeding, filed a Notice of Motion for an order of the Board requiring Toronto Hydro Electric System Limited (“THESL”) to provide further and better responses to certain interrogatories filed by CCC. On November 3, 2011, counsel for CANDAS also filed a Notice of Motion for an order of the Board requiring THESL to provide further and better responses to certain interrogatories filed by CANDAS .

The Board has determined that it will hear both motions in writing. The Board is mindful of the requests of the moving parties to have the matters heard orally, but the Board's current regulatory schedule is such that a written hearing will result in a more timely decision in these matters than an oral hearing would in this case. The Board also notes that the hearing of these motions will result in a revision to the dates for the Settlement Conference and for the related filing of any Settlement Proposal that were set in Procedural Order No. 3.

Please be aware that this procedural order may be amended, and further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Each of CCC and CANDAS shall file any additional written submissions on their respective motions with the Board and copy all other parties in this proceeding by **November 7, 2011**.
2. THESL shall file any written submissions on the motions by CCC and/or CANDAS with the Board and copy all other parties in this proceeding by **November 10, 2011**.
3. Each of CCC and CANDAS shall file any written reply submissions with the Board and copy all parties in this proceeding by **November 14, 2011**.
4. **Paragraphs 6 and 7** of Procedural Order No. 3 are hereby rescinded. All other dates set in Procedural Order No. 3 remain unchanged.
5. A Settlement Conference will be convened on **November 28, 2011**, at 9:30 a.m. with the objective of reaching a settlement among the parties on as many issues as possible. The Settlement Conference will be held at 2300 Yonge Street, Toronto in the Board's hearing rooms on the 25th Floor and if needed, may continue until **November 29, 2011**.
6. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board no later than 4:45 p.m. on **December 5, 2011**.

All filings to the Board must quote file number EB-2011-0120, be made through the Board's web portal at www.errr.ontarioenergyboard.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available you may email your document to the BoardSec@ontarioenergyboard.ca. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required. 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.

DATED at Toronto, November 3, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary