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FILED ELECTRONICALLY AND VIA COURIER

November 8, 2011

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
PO Box 2319, 27th Floor
Toronto, ON
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Michael D. Schafler
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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 ("**Application**").

We are writing further to Procedural Order No. 4, the Notice of Motion of CANDAS dated November 3, 2011 and the Technical Conference that took place on November 4, 2011. During the course of the Technical Conference, a number of questions that were relevant to interrogatories previously filed by CANDAS were refused by THESL. Accordingly, we have amended our existing Notice of Motion to seek relief from the Board in relation to those refusals (there were three).

Our Amended Notice of Motion is attached. We intend to address the additional points raised in the Amended Notice of Motion in our written submissions which we expect to deliver later today. Should you have any questions, please do not hesitate to contact us.

Yours very truly,

(signed) Michael D. Schafler

MDS/ag

cc: Mr. George Vinyard
 Helen Newland
 All Intervenors

EB-2011-0120

ONTARIO ENERGY BOARD

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

AMENDED NOTICE OF MOTION

THE CANADIAN DISTRIBUTED ANTENNA SYSTEMS COALITION (“CANDAS”) will make a motion on a date and at a time to be fixed by the Ontario Energy Board (the “**Board**”), at the Board’s Chambers at 2300 Yonge Street, Toronto, Ontario, in connection with the motion by Consumers Council of Canada (“**CCC**”) filed on October 31, 2011 for similar relief (“**CCC Motion**”).

PROPOSED METHOD OF HEARING: CANDAS proposes that the motion be heard orally.

THE MOTION IS FOR:

1. An Order of the Board directing Toronto Hydro-Electric System Limited (“**THESL**”) to provide responsive answers to the following CANDAS interrogatories: general interrogatories 1(h), 1(i), ~~2~~, 3(d), 4(a), and 4(f); Starkey interrogatories 10(e) and 32; and Yatchew interrogatory 20(b) (the “**CANDAS IRs**”); and
2. An Order of the Board directing THESL to provide responsive answers to the following CANDAS interrogatories that were also put to THESL witnesses and refused at the Technical Conference held on November 4, 2011 (the “**Additional CANDAS IRs**”): general interrogatories 5(e), 10(o), 10(p) and 10(q); and Byrne interrogatory 15(g)(iv); and

3. ~~2.~~ Such further and other relief that CANDAS may request and the Board may consider appropriate.

THE GROUNDS FOR THE MOTION ARE:

1. This motion is made pursuant to Rules 8 and 29.03 of the Board's *Rules of Practice and Procedure*;
2. THESL's responses to the CANDAS IRs and the Additional CANDAS IRs are unresponsive, incomplete or have been improperly refused;
3. Answers to the CANDAS IRs and the Additional CANDAS IRs are necessary so that CANDAS may adequately understand THESL's position and fully prepare for the hearing;
4. The CANDAS IRs and the Additional CANDAS IRs are relevant to the issues raised by this Application;
5. The CANDAS IRs may be categorized as follows:
 - a. Questions pertaining to THESL's letter to the Board dated August 13, 2010 [Application, para. 2.3, Tab 2¹]:
 - (i) General Interrogatories - 1(h), 1(i), 2, 3(d), 4(a) and 4(f);
 - b. Questions pertaining to the use of THESL's poles [Application, paras. 3.11, 10.9, 10.11-10.38]:
 - (i) Starkey Interrogatories – 10(e) and 32;
 - (ii) Yatchew Interrogatories – 20(b);
6. The Additional CANDAS IRs all relate to the use of THESL's poles [Application, paras. 3.11, 10.9]; and

¹ The references to the relevant sections in the Application are not exhaustive.

7. ~~6.~~ The CCC Motion;

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. Relevant documents forming part of the record of this proceeding and as contained in the Motion Record, filed;
2. The transcript of the Technical Conference held on November 4, 2011.
3. 2. Such further and other evidence as counsel may advise and this Board may permit.

November 3~~7~~⁸, 2011

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Solicitors for the Applicants,
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TO: ONTARIO ENERGY BOARD

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Board Secretary

AND TO: WEIRFOULDS LLP

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AND TO: All other Intervenors