



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. 7

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 and subsequently amended by letters dated May 3 and June 7, 2011, seeking the following orders of the Board:

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.

On December 9, 2011 the Board issued a Decision and Order with respect to motions filed by the Consumers Council of Canada (“CCC”) and CANDAS for an order of the Board requiring Toronto Hydro Electric System Limited (“THESL”) to provide further and better responses to certain interrogatories (the “Motion Decision”).

On December 22, 2011 the Board received a Notice of Motion from THESL seeking an Order of the Board under Rule 23.03 of the Board’s *Rules of Practice and Procedure* directing CANDAS to provide further and better responses to THESL interrogatories Nos. 1(d) and (e), 18(a), 19(d), and 50 and CEA interrogatories Nos. 19(b), 33, and 60 (the “Motion”).

The grounds for the Motion are based on the Board’s December 9, 2011 Decision and Order which THESL asserts contained a determination that that the price charged for wireless attachments is relevant to the CANDAS proceeding and on THESL’s submission that the information requested in the Motion Decision cannot be considered by the Board in isolation. THESL also indicates that on November 16, 2011, in response to Undertaking JTC1.3, CANDAS did provide some limited updates to its original interrogatory responses, but maintained its objection to providing additional information in respect of the disputed interrogatories that were the subject of this undertaking.

THESL submits in its Notice of Motion that the information requested through the disputed interrogatories is directly relevant to this proceeding and entirely consistent with the pricing information ordered by the Board in its December 9, 2011 Motion Decision.

The Board will hear the Motion in writing and provides the relevant filing dates below.

The Board considers it necessary to make provision for the following matters related to this proceeding.

THE BOARD ORDERS THAT:

1. THESL shall file any further written submissions related to the Motion with the Board and provide a copy of such submissions to CANDAS on or before **January 3, 2011**.
2. CANDAS shall file its written submissions in response to the Motion with the Board and provide a copy of such submissions to THESL on or before **January 10, 2011**.
3. THESL shall file any written reply submissions with the Board and provide a copy to CANDAS on or before **January 13, 2012**.

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, December 23, 2011.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary