

J. Mark Rodger
T (416) 367-6190
F (416) 361-7088
mrodger@blg.com
John A.D. Vellone
T (416) 367-6730
F (416) 361-2758
jvellone@blg.com

Borden Ladner Gervais LLP
Scotia Plaza, 40 King Street W
Toronto, ON, Canada M5H 3Y4
T 416.367.6000
F 416.367.6749
blg.com



July 19, 2012

Delivered by Email and RESS

Ms. Kirsten Walli, Board Secretary
Ontario Energy Board
2300 Yonge Street, Ste. 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Toronto-Hydro Electric System Limited (“THESL”) Correspondence
Board File No.: EB-2011-0120**

We write to respond to several matters raised in a letter from counsel to CANDAS dated July 17, 2012 in advance of the Board’s oral hearing on the Preliminary Issue on July 23, 2012.

We understand that CANDAS does not object to THESL’s request to amend the evidentiary record to allow the new information. To-date, no other party has objected. THESL asks that the Board grant THESL’s request to amend the evidentiary record prior to the July 23rd oral hearing.

THESL intends to rely on this new evidence, such as it is, in its submissions on the Preliminary Issue. THESL submits it is not appropriate to defer any party’s consideration of this new important information until after the hearing on the Preliminary Issue. The Agreement is an example of an arm’s length commercial agreement that has been successfully concluded between an LDC and a third party wireless attacher, in contrast to the decade long factual circumstances between LDCs and wireline attachers underpinning the CCTA Decision.

It appears that CANDAS’ primary concern relates to the confidential treatment of the new information. In this regard, THESL would propose the following as a reasonable compromise solution. If no party contests the confidentiality request for the purposes of the hearing on the Preliminary Issue, then it is open to the Board to grant the request on an interim basis. This would allow the Board to revisit its decision on the confidentiality of the new information once it makes its determination on the Preliminary Issue. THESL and the applicable third party attacher would certainly make further submissions on confidentiality should the issue arise again at that time.

Finally, with new information on the record – THESL acknowledges that a further discovery process is appropriate. THESL will cooperate in the process the Board orders, whether through written interrogatories (as suggested by CANDAS) or through viva-voce discovery of witnesses.

Yours sincerely,

BORDEN LADNER GERVAIS LLP

Original signed by John A.D. Vellone

John A.D. Vellone

JMR/jv

copy to; CANDAS, all parties

TOR01: 4967289: v2