



**PUBLIC INTEREST ADVOCACY CENTRE**  
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September 19, 2013

**VIA MAIL and E-MAIL**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge St.  
Toronto, ON  
M4P 1E4

Dear Ms. Walli:

**Re: Vulnerable Energy Consumers Coalition (VECC)**  
**Addendum to Notice of Intervention - EB-2013-0234**  
**Toronto Hydro-Electric System Limited**

Please find enclosed the Vulnerable Energy Consumers Coalition Addendum to Notice of Intervention with respect to the above-noted proceeding.

We have also directed a copy of the same to the Applicant as well as counsel.

Thank you.

Yours truly,

Michael Janigan  
Counsel for VECC

cc THESL – Amanda Klein – [regulatoryaffairs@torontohydro.com](mailto:regulatoryaffairs@torontohydro.com)  
Counsel – Robert Warren – [rwarren@weirfoulds.com](mailto:rwarren@weirfoulds.com)

**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 Toronto Hydro-Electric System Limited for an  
order pursuant to section 29 of the Ontario Energy Board Act, 1998.

**Addendum to Notice of Intervention  
of the  
Vulnerable Energy Consumers Coalition (VECC)**

1. VECC filed a Notice of Intervention in the within proceeding on September 12, 2013. In response to a request for further information concerning its interest and issues from the applicant the Toronto Hydro-Electric System Limited (THESL), VECC is filing this addendum to the information set out in its Notice of Intervention in further compliance with Sec. 23.03(a) and (b) of the OEB Rules of Practice.
2. VECC notes that in 2005, by Decision rendered in RP2003-0249, the Ontario Energy Board ruled that the power poles of the applicant are essential facilities and that non-discriminatory access was available to other carriers at a rate that was fixed as just and reasonable.
3. In Decision EB 2011-0120, the Board ruled that requirement for access and the attachment rate set pursuant to the record of proceedings in RP 2003-0249 applied to wireless attachments.
4. In this proceeding, the applicant seeks, in effect, to negate the previous Board rulings by alleging that competition exists with respect to wireless attachments sufficient to protect the public interest. The effect of such a finding under sec. 29 of the *Ontario Energy Board Act 1998* is to compel the Board to refrain from regulating the terms, conditions, and rates for attachments of wireless telecommunications devices.
5. VECC represents a constituency whose interests are, at least, a subset of the larger “public interest” referred to in sec. 29. If the Board **refrains** from regulating the Applicant’s wireless attachment service, the issue of the treatment of the revenue associated with the use of the facilities formerly in rate base arises as a matter of public interest to be considered in accordance with the test in sec. 29. of the Act. The financial outcome of potential forbearance is an integral consideration of the public interest test set out in that section and a matter of concern to VECC.

6. Because of the potential loss of the recovery of any contribution to Revenue Requirement from wireless attachments formerly in rate base, VECC thus has an interest in the extent if any, that competition in the relevant product market, will protect the public interest. In particular, VECC will wish ascertain why forbearance is superior, from a public interest standpoint, to an application by THESL for increased regulated rates, particularly as the Applicant has sought to leave in place the same rates for wired connections.
7. In relation to the competitive test for forbearance, VECC seeks to verify the Applicant's contention that there will be no loss of competition for downstream wireless services stemming from an exercise of unregulated market power over wireless pole attachments, nor any impairment of competition for wireless providers seeking attachment within the ambit of the sec. 29 test.
8. VECC is thus intervening to ensure that the request for relief by the Applicant produces no detriment to its constituents either through removal from the applicant's revenue requirement of potential contribution from revenue for a service developed and secured by rate base assets with or without the presence of competition. VECC also submits that the maintenance of , or departure from, regulated rates for wireless pole attachments should neither subsidize parties seeking attachment, nor reflect super normal rates based on market power.

**DATED AT OTTAWA, SEPTEMBER 19, 2013**