

September 27, 2013

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File 15441.00001

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2701  
2300 Yonge Street  
Toronto ON M4P 1E4

Dear Ms Walli:

**Re: EB-2013-0234**

We are counsel to the applicant, Toronto Hydro-Electric System Limited ("THESL") in this matter.

Our client has received applications for intervenor status from four groups representing the interests of consumers. They are the School Energy Coalition ("SEC"), the Vulnerable Energy Consumers Coalition ("VECC"), Energy Probe Research Foundation ("Energy Probe") and the Consumers Council of Canada ("CCC").

We have written to the Board with respect to the applications for intervenor status of SEC, Energy Probe, and VECC indicating the criteria that we think the Board should apply in determining whether to grant them intervenor status. We think it useful to reiterate the criteria that the Board should apply to all four of these applications for intervenor status.

The Board's *Rules of Practice and Procedure* ("Rules") require that a person applying for intervenor status satisfy the Board that he or she has a substantial interest in the matter (emphasis added). That substantial interest must, of necessity, relate to the issues raised by the application. Finally, that substantial interest in the issues raised by the application must relate to the identified interests of the particular constituency that the intervenor represents.

THESL's application is pursuant to section 29 of the *Ontario Energy Board Act, 1998*. Under that section, the Board is required to make a determination to refrain, in whole or in part, from regulating, in this case the terms, conditions, and rates for access to THESL's poles for the attachment of wireless telecommunications devices, if it finds as a question of fact that that access is or will be subject to competition sufficient to protect the public interest (emphasis added).

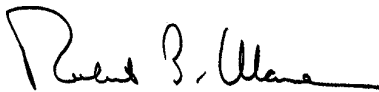
All four intervening consumer groups have indicated that the public interest which concerns them is a question either of rates or the allocation of revenue from the granting of access to THESL's poles.

THESL's application is not about rates, nor is it about how those rates, once determined, should be allocated to different ratepayer groups. THESL has undertaken to account for the costs and revenues related to attachment of wireless telecommunication devices to its poles, and that, under the Board's regulatory framework, the question of how the excess of revenues over costs should be allocated is a matter to be determined in the appropriate THESL rates case.

As THESL has indicated, it has no principled opposition to the participation of intervenors in its application. Indeed, the informed participation of intervenors with a genuine, substantial interest in the issues to be considered by the Board can be beneficial. For that to be the case, however, the requirements of the Board's Rules must be applied rigorously.

Yours truly,

**WeirFoulds LLP**



Robert B. Warren

RBW/dh

cc: Toronto Hydro-Electric System Limited  
Attention: A. Klein and R. Barrass  
cc: All Parties

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