



**BY ELECTRONIC MAIL** ([boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca))

10 October 2013

Ms. Kirsten Walli  
Board Secretary, Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Toronto Hydro-Electric System Limited ("THESL") – Application pursuant to Section 29 of the *Ontario Energy Board Act, 1998*, Board File No. EB-2013-0234**

Pursuant to Rule 24.02 of the *Ontario Energy Board Rules of Practice and Procedure*, and the publication of a Notice of Application and Hearing in the Toronto Star by THESL on September 10, 2013, Shaw Communications Inc. provides herein its Written Comments in the above-noted proceeding.

Shaw Communications Inc. is a diversified communications and media company, providing consumers with broadband cable television, High-Speed Internet, Home Phone, telecommunications services (through Shaw Business), satellite direct-to-home services (through Shaw Direct) and engaging programming content (through Shaw Media). Shaw serves 3.3 million customers, through a reliable and extensive fibre network. Shaw Media operates one of the largest conventional television networks in Canada, Global Television, and 19 specialty networks including HGTV Canada, Food Network Canada, HISTORY® and Showcase.

As a Canadian carrier within the meaning of the *Telecommunications Act*,<sup>1</sup> and a licensed wireline cable distribution undertaking pursuant to the *Broadcasting Act*,<sup>2</sup> Shaw's ability and that of its competitors to continuously innovate and provide competitive offerings depends on timely, predictable and non-discriminatory access to public rights-of-way and the networks of aerial and underground support structures, such as pole, strand, conduit, and duct networks, that the hydro and gas utilities and incumbent local exchange carriers (ILECs) respectively, or jointly control across the country.

Support structure services, including access to hydro-electricity distribution poles, must be offered on a technologically and competitively neutral, non-discriminatory basis. This principle was underscored in the Board's recent Decision on Preliminary Issue and Order dated September 13, 2012 in Board File No. EB-2011-0120 ("CANDAS Decision and Order"), and is consistently applied by the Canadian Radio-television and Telecommunications Commission in the latter's oversight of support structure services provided by ILECs. It should not be left up to the subjective priorities or criteria of the owner of support structure networks to determine the pace and extent of competition between competing telecommunications carriers and service offerings.

---

<sup>1</sup> S.C. 1993, c. 38.

<sup>2</sup> S.C. 1991, c. 11.

The relief requested by THESL, namely, that the Board refrain from regulating the terms, conditions and rates for the attachment of wireless telecommunications devices to THESL's utility poles,<sup>3</sup> seeks to re-open the Board's determination in the CANDAS Decision and Order on the basis of technology and based upon the nature of the communications services to be provided by a given carrier. As such, Shaw has filed for and been granted a request for observer status in the proceeding in order to better understand the basis of THESL's position on the matter.<sup>4</sup> Shaw intends to observe the proceeding in order to develop a better understanding of the basis of THESL's position. In the process, Shaw may develop further views on the policy implications of THESL's application on the public interest in competition in telecommunications services. Shaw therefore respectfully requests that the Board provide for a procedure whereby Shaw and other interested persons may provide further written comment on THESL's application once the written record of this proceeding has fully taken shape.

Yours very truly,

**SHAW COMMUNICATIONS INC.**

*[Original signed by Chris Ewasiuk]*

Chris Ewasiuk  
Director, Access Regulatory Affairs

---

<sup>3</sup> THESL, Notice of Application dated June 13, 2013 at 1.

<sup>4</sup> Shaw Communications Inc., Letter dated September 20, 2013 to the Ontario Energy Board (Kirsten Walli) re Shaw Communications Inc. request for observer status.