

# **Toronto Hydro-Electric System Limited (“THESL”)**

## **EB-2013-0234**

### **Agreed Issues List**

#### **Technology**

1. What is the current and likely future state of modern wireless networks?
2. For the technical operation of a modern wireless network, are there certain kinds of wireless network elements for which pole access is an option?
  - (a) For each such element, what purpose(s) does it serve and/or for what services and applications is it used?
  - (b) For each such element, are there siting alternatives to pole access?
  - (c) For each such element, are there technological alternatives?
3. For each of the elements discussed in Issue 2, is there an expectation that this is likely to change in the foreseeable future?

#### **Competition**

4. What is the relevant antitrust market in which THESL supplies pole access for wireless attachments? Specifically:
  - (a) What is the relevant product market?
  - (b) What is the relevant geographic market?
5. What is the relevant downstream market to which THESL’s supply of pole access for wireless attachments is an input?
6. Does THESL have market power in the provision of pole access to wireless service providers?
7. Given the relevant upstream and downstream markets, what effects, if any, would the exercise of market power by THESL in the supply of pole

access to wireless service providers have in the downstream market, and what is the significance of those effects?

8. Is the “essential facilities” doctrine applicable in the circumstances of this case, and if so, to what extent?

## **General**

9. If the Board were to forbear from regulating the terms, conditions and rates for the attachment of wireless equipment to THESL’s distribution poles, what are the potential impacts on THESL’s ratepayers in terms of rates and of service?
10. If the Board does refrain, in whole or in part, from regulating the terms, conditions and rates of wireless attachments, what is the appropriate treatment of and/or disposition of the costs and revenues?
11. What is the public interest for purposes of this application?

## **Contested Issues**

1. What appropriate options could be employed, if the Board does refrain, in part, from regulating the terms, conditions and rates of wireless attachments to THESL's distribution poles?
2. What appropriate conditions should be ordered, if the Board does refrain, in whole or in part, from regulating the terms, conditions and rates of wireless attachments to THESL's distribution poles?