

Board Staff Interrogatories
Toronto Hydro-Electric System Limited (“THESL”)
Section 29 Application
EB-2013-0234

Issue 4/Board staff/1

Reference: Expert Report of George Hariton - page 7

Preamble: Expert Report states:

“There is no feasible substitute for antennas and their supporting structures. Thus structures to support antennas constitute the relevant product market. This includes poles, towers and masts. Depending on circumstances, it can also include the side of a building or an inside mount, and other structures.”

Questions:

- (a) Is it Mr. Hariton’s opinion that the relevant product market includes *any* support structure to which wireless equipment can be attached (including distribution poles, street-lighting poles, dedicated cellular tower, rooftop installation, building walls and inside installations)?
- (b) What is the basis for the rejection of narrower product markets?

Issue 4/Board staff/2

Reference: Expert Report of George Hariton - page 8; page 9; page 17.

Preamble: Expert Report states:

“It follows that the geographic market for an antenna, and for the structure supporting it, is very narrow. Depending on the nature of the terrain and the network architecture, relevant markets can be a city block.”

“It is not practical to define geographic markets as narrowly as city blocks, of course. Some meaningful aggregation of locations must be used. A significant degree of homogeneity of substitutes may

be achieved according to City of Toronto zoning. As a first approximation, a residential zone geographic market should be distinguished from a commercial zone geographic market, with downtown core areas perhaps forming a third distinct geographic market.”

“In summary, THESL has significant market power in at least some markets for attachment of antennas, particularly residential neighborhoods and perhaps others as well. As a consequence, forbearance of the rates for access to these poles is not in accord with the provisions of the *Ontario Energy Board Act 1998*.”

Question:

What are the implications on the Board's requirement to determine whether competition is, or will be, sufficient to protect the public interest if THESL's market power differs across identified city zones?

Issue 4/Board staff/3

Reference: Expert Report of George Hariton - page 8.

Preamble: Expert Report states:

“Substitutes for pole attachments vary according to city zoning, among other factors. For example, in areas with tall commercial buildings, mounting antennas high up on the walls may be an acceptable alternative to siting them on poles. In residential neighborhoods, this substitute may not be economical. Accordingly, the ability to charge higher prices will likely vary by type of neighborhood. No deep knowledge is required to design a pricing scheme that discriminates between residential and commercial neighborhoods.”

Question:

While THESL certainly has the *ability* to discriminate by city zone, even city block, the *profitability* of geographic price discrimination depends on THESL's knowledge of the *value* of pole access at a particular location to the wireless service provider (WSP).

Is it Mr. Hariton's opinion that THESL has (ex-ante – before an pole attachment application has been made) knowledge of WSP's demand for capacity and coverage at

a particular location, the extent to which such network requirements can be met using alternate siting options (or network configurations), and the extent to which the lack of pole attachment reduces network capacity and quality of service?