

March 21, 2014

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

Dear Ms. Wall:

**Re: EB-2013-0234 – Toronto Hydro-Electric System Limited – Section 29
Application**

The Consumers Council of Canada (“Council” or “CCC”) is an intervenor in the above-referenced proceeding. On February 28, 2014, Toronto Hydro-Electric System Limited (“THESL”) filed its responses to interrogatories. THSL has requested that a number of those interrogatories be kept confidential. On March 5, 2014, the Ontario Energy Board (“Board”) issued Procedural Order No. 5 in which it provided Board Staff and intervenors an opportunity to provide submissions on the request for confidentiality. These are the submissions of the Council.

The Council will address, specifically, THESL’s request to keep the following interrogatories confidential – CCC #16, and SEC #7. As a matter of principle the Council is of the view that deeming evidence confidential should only be on an exception basis, as the Board’s proceedings should be as transparent as possible.

CCC # 16 states, “The evidence indicates that the current authorized rate for pole attachments is \$22.35 and that it is intended to cover direct and indirect costs. In addition, the evidence states that THESL’s direct and indirect costs for pole attachments are higher than that. Provide a schedule setting out all of the direct and indirect costs associated with pole attachments. If THESL were to develop a cost-based rate what would it be?” THESL is a regulated entity and the actual costs incurred when providing a service should not be confidential. The Council is of the view that having these costs on the public record is important in this case.

An issue in this case is, to the extent the Board refrains, in whole or in part, from regulating the terms, conditions and rates of wireless attachments, what should be the appropriate treatment of and/or disposition of the costs and revenues. In effect, the Board will have to ensure that under this scenario the interests of ratepayers are sufficiently protected. That involves an assessment of the costs associated with providing the service. Without a clear understanding of those costs, there is the potential for cross-subsidization to occur between the regulated and unregulated businesses.

With respect to SEC # 7, which asks for the actual revenue received from wireless attachments on its poles for 2008 to 2013, the Council urges the Board to reject THESL's request for confidentiality. This is, and has been a service that has been regulated over the 2008-2013 period.

THESL's argument is that these revenues have been the subject of confidential agreements between THESL and the wireless companies. SEC was not asking for the agreements to be filed, but rather the revenue generated over that period. The Council sees no reason why providing the numbers requested could impose any harm on THESL or the wireless companies. The Council is of the view that the numbers are important in terms of assessing the nature of this market.

Yours truly,

Julie E. Girvan

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CC: THESL Regulatory
Robert Warren, WeirFoulds
All parties