



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

Toronto Hydro-Electric System Limited

Board File No. EB-2013-0234

May 15, 2014

BACKGROUND

On June 14, 2013, Toronto Hydro-Electric System Limited (“THESL”) filed an application with the Ontario Energy Board seeking an order pursuant to section 29 of the *Ontario Energy Board Act, 1998* that the Board refrain from regulating the terms, conditions and rates for the attachment of wireless telecommunications devices (“wireless attachments”) to THESL’s utility poles.

THESL is currently required by the Board’s Decision and Order in EB-2003-0049 dated March 7, 2005 to give Canadian carriers and cable companies access to its distribution poles for wireless attachments at a regulated rate. THESL is proposing to charge a competitive rate for wireless attachments to its utility poles.

Settlement Conference

In accordance with Procedural Order No. 7, a Settlement Conference was held on May 12 and 13, 2014 for the purpose of settling or narrowing of Issues.

A settlement proposal was filed with the Board on May 15, 2014.

The *Practice Direction on Settlement Conferences*¹ states the following for the role of Board staff on settlement proposals:

Where it is not a party to the proposal, Board staff will file a submission with the Board commenting on two aspects of the settlement proposal: whether the settlement proposal represents an acceptable outcome from a public interest perspective, and whether the accompanying explanation and rationale is adequate to support the settlement proposal.

The following are Board staff’s submissions.

BOARD STAFF SUBMISSIONS

1. Does the settlement proposal represent an acceptable outcome from a public interest perspective?

¹ Revised April 24, 2014

Board staff accepts that the settlement proposal represents an acceptable outcome from a public interest perspective. The test established under section 74 is in fact the public interest. The evidence demonstrates that the use of the revenues from wireless attachments to offset rates will benefit ratepayers. THESL will not be harmed. Although granting THESL the ability to charge negotiated rates will likely increase the costs wireless companies must pay to access poles, the evidence of the experts suggests that overall this will be a very small portion of their costs, and is unlikely to materially impact wireless customers' bills.²

2. Is the accompanying explanation and rationale adequate to support the settlement proposal?

Board staff is generally satisfied with the explanation and rationale that supports the settlement proposal. Board staff suggests that the panel may wish to seek clarification on the following issues:

Do parties agree that the settlement will have no impact on the fee or conditions for wireline attachments?

Is THESL required to charge at least its incremental costs for wireless attachments to ensure there can be no harm to ratepayers?

In the event that circumstances change in the future, does the Board retain jurisdiction to re-examine the issue of wireless pole attachments?

In the event that there is a dispute about access to the poles, would the Board retain oversight of how this access has been provided?

All of which is respectfully submitted.

² See the Joint Written Statement of the competition experts, answers to question 33 and 35.