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BY E-MAIL AND WEB POSTING

December 11, 2014

TO: All Rate Regulated Electricity Distributors

Intervenors in Toronto Hydro-Electric System Limited (“THESL”) Wireless Attachment Proceeding (EB-2013-0234)

Intervenors in the Canadian Distributed Antenna Systems Coalition (“CANDAS”) Proceeding (EB-2011-0120)

**RE: Wireless Attachment Consultation
Board File No. EB-2014-0365**

The purpose of this memo is to remind distributors that the Board, as part of the Canadian Cable Television Association (“CCTA”) proceeding (EB-2003-0049), approved a charge of \$22.35 per pole attachment per year. In the CANDAS proceeding (EB-2011-0120), the Board confirmed that this rate applies to both wireline and wireless attachments. This charge applies to all electricity distributors with the exception of THESL. In the THESL Wireless Attachment proceeding (EB-2013-0234), the Board determined that THESL could charge market rates for all wireless attachments.

The Board is now considering whether all distributors should be able to charge market rates for wireless attachments, and is seeking comments from distributors and all interested parties on this proposal.

Background

Canadian Cable Television Association (“CCTA”) Application (EB-2003-0049)

CCTA filed an application on April 15, 2004. The Application sought an amendment to the licences of all local distribution companies (“LDCs”) in Ontario to enable access to

the power poles of LDCs for the purpose of supporting cable television transmission lines. The CCTA's proposed amendment was to require a standard pole attachment agreement, including a standard pole rental charge as part of the standard terms and conditions for the purpose of supporting cable television transmission lines.

The Board issued a decision and order on this application on March 7, 2005, granting access to LDC poles at a rate of \$22.35 per pole attachment. The Board did not establish a standard pole attachment agreement through the CCTA Decision and Order. The Board accepted the agreement reached by the parties during settlement discussions that they should negotiate terms and conditions of access after the Board had determined whether access would be granted and, if so, the rate. The parties subsequently negotiated a model joint use agreement. This agreement was filed with the Board but was never formally approved by the Board.

Canadian Distributed Antenna Systems Coalition (“CANDAS”) Application (EB-2011-0120)

On April 25, 2011, CANDAS filed an application on behalf of its member companies seeking an order of the Board: (i) determining that the Board's Decision and Order on the CCTA application requires LDCs to provide “Canadian carriers”, as that term is defined in the *Telecommunications Act*, S.C. 1993, c. 38, with access to LDC poles for the purpose of attaching wireless equipment, including wireless components of distributed antenna systems; and (ii) directing all LDCs to provide access if they are not doing so.

The Board issued a decision and order on the CANDAS application on September 13, 2012 in which the Board found that the CCTA Order applied to CANDAS as a Canadian carrier under the *Telecommunications Act*. On that basis, the access rate (i.e. the current approved rate of \$22.35 per pole attachment) applies to both wireline and wireless attachments.

Pole Attachments and Future Review

Section 2.11.7 of the Filing Requirements for Electricity Distribution Rate Applications – Chapter 2, provides direction on the evidence that must be filed in support of a change to a Specific Service Charge. As yet, no distributor has filed evidence in support of a change to the pole attachment rate.

The option remains open to distributors filing a Cost of Service or Custom IR application to file evidence in support of a change to the \$22.35 charge. The Board does recognize that this charge was based on costs that are now more than 10 years old. However, distributors may wish to take into consideration that the Board plans to undertake a review of all Specific Service Charges next fiscal year, including pole attachments.

Toronto Hydro-Electric System Limited [EB-2013-0234]

On June 14, 2013, THESL filed an application with the Board seeking an order pursuant to section 29 of the *Ontario Energy Board Act, 1998* (the Act) that the Board refrain from regulating the terms, conditions and rates for the attachment of wireless telecommunications devices to THESL's utility poles.

THESL was required by the Board's Decision and Order on the CCTA application to allow access to its utility poles for Canadian carriers' (wireline and wireless) at a regulated rate of \$22.35 for each pole attachment. THESL proposed to charge a competitive rate for wireless attachments to its utility poles.

THESL and the parties to the proceeding reached a settlement that would grant THESL a licence exemption under section 74 of the Act to allow THESL to charge a market rate for wireless attachments. Any revenues resulting from the market rates would continue to be a revenue offset to the distribution revenue requirement.

The Board accepted the Settlement Proposal and the Board amended THESL's licence as follows:

22 Pole Attachments

22.1 The Licensee shall provide access to its distribution poles to all Canadian carriers, as defined by the Telecommunications Act, and to all cable companies that operate in the Province of Ontario. For each attachment, with the exception of wireless attachments, the Licensee shall charge the rate approved by the Board and included in the Licensee's tariff.

22.2 The Licensee shall: a) annually report the net revenue, and the calculations used to determine that net revenue, earned from allowing

wireless attachments to its poles. Net revenues will be accumulated in a deferral account approved by the Board;

b) credit that net revenue against its revenue requirement subject to Board approval in rate proceedings; and

c) provide access for wireless attachments to its poles on commercial terms normally found in a competitive market.

Request for Written Comments

The Board is now considering whether all distributors should have their licences amended to allow market rates to be charged for wireless attachments, under the same conditions as THESL.

The Board invites stakeholders to comment in writing on this proposal by **January 16, 2015** in accordance with the filing instructions set out in Appendix A.

All comments received will be posted on the Board's website.

If you have questions regarding this consultation, please contact Vince Mazzone at vince.mazzone@ontarioenergyboard.ca or at 416-544-5159. The Board's toll free number is 1-888-632-6273.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary

Attachment: Appendix A Filing Instructions

Appendix A

EB-2014-0365

FILING INSTRUCTIONS

Please submit electronic copies of filings in searchable/unrestricted Adobe Acrobat (PDF) format through the Board's web portal at pes.ontarioenergyboard.ca/eservice and also file two paper copies at the address below. You will need a user ID to make filings through the Board's web portal. If you do not have a user ID, visit the "[e-filings services](#)" webpage on the Board's website at www.ontarioenergyboard.ca and fill out a user ID password request.

Please use the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail to boardsec@ontarioenergyboard.ca. If you do not have internet access, please provide a CD containing your filing in PDF format as described above to the Board Secretary at the following address:

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario M4P 1E4

All filings to the Board must be received by the Board Secretary by 4:45 p.m. on the required date. Filings must quote file number **EB-2014-0365** and include your name, address, telephone number and, where available, your e-mail address and fax number. All filings received by the Board in relation to this consultation will be available for viewing at the Board's offices and will be placed on the Board's website.

If the written comment is from a private citizen (i.e., not a lawyer representing a client, not a consultant representing a client or organization, not an individual in an organization that represents the interests of consumers or other groups, and not an individual from a regulated entity), before making the written comment available for viewing at the Board's offices or placing the written comment on the Board's website, the Board will remove any personal (i.e., not business) contact information from the written comment (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the written comment will be available for viewing at the Board's offices and will be placed on the Board's website.