



**BY ELECTRONIC MAIL** ([boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca))

**April 10, 2015**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

ATTN: Board Secretary

**RE: OEB File: EB-2013-0416/EB-2014-0247 – Application by Hydro One Networks Inc. for approval of distribution rates for 2015 to 2019**

Shaw Communications Inc. and Shaw Cablesystems Limited (each “Shaw”) are in receipt of the April 7, 2015 letter filed with the Ontario Energy Board (the “Board”) by counsel to Hydro One Networks Inc. (“Hydro One”) responding to letters filed with the Board by Shaw and other cable carriers on April 1, 2015. In its April 1, 2015 correspondence, Shaw requested leave from the Board to bring a motion to review and vary the portion of the Board’s decision in EB-2013-0416 that approved of a significant increase in the rate that Hydro One charges to telecommunications common carriers and cable distribution undertakings for attachments to Hydro One’s distribution poles (“Joint Use Rate”) for the years 2015 to 2019 (the “Decision”).

In its April 7, 2015 letter, Hydro One opposes the relief sought by Shaw by providing a “Timeline of Events” and suggesting that Shaw and other cable carriers had “numerous opportunities to participate” in the proceeding that lead to the Decision. However, by Hydro One’s own admission, Shaw was not invited to participate in 2013 consultations that occurred in advance of EB-2013-0416.

More importantly, the Notice of Application that Hydro One published in several newspapers on February 5, 2104 (online: [http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/427963/view/NOA\\_Hydro\\_One\\_Eng\\_Published\\_20140503.PDF](http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/427963/view/NOA_Hydro_One_Eng_Published_20140503.PDF)) does not refer to Hydro One’s intention to increase its Joint Use Rate. Indeed, the Notice only refers to Hydro One’s intention to increase rates for “electricity distribution” for “residential customers” and “businesses” that may also be affected. Clearly, this was not adequate notice of Hydro One’s intention to seek to change the Joint Use Rate as part of EB-2013-0416.

Nor was Shaw advised directly by Hydro One of the proposed rate increase as a Joint Use pole customer of Hydro One. In this regard, Shaw notes that it has no knowledge of what Hydro One means when it refers to it having engaged in an “open and collaborative process”. Hydro One certainly was not open or collaborative with Shaw as to its intentions to seek a significant increase to the Joint Use Rate. Hydro One knows who its Joint Use

pole customers are and it would not have been unduly onerous for Hydro One to have provided notice to Shaw and its other Joint Use pole customers of its intention to seek a sizeable increase to the rate approved by the Board in its Decision.

In relation to Hydro One's argument that "in order to succeed on a motion for a request," Shaw and the other cable companies have failed to raise "sufficient ground to doubt the correctness of the Board's decision in approving the new joint use rates," the request filed by Shaw on April 1, 2015 is under Rule 40.02 for leave to file a request under Rule 40.01. Since Shaw had no actual or adequate notice of the issues in the EB-2013-0416 proceedings, it did not seek party or intervenor status in EB-2013-0416 and was not therefore a party. It must, therefore, first obtain leave before making a motion for a request to review the Decision pursuant to Rule 40.01. Shaw's understanding is that if leave is granted, then in the motion that it could then bring under Rule 40.01, it will have an opportunity to set out the grounds to doubt the correctness or other grounds for review of Board decisions. Hydro One's argument in this regard is misplaced.

Shaw hereby requests that the Board issue an Order:

1. Granting Shaw leave, pursuant to Rule 40.02 of the Board's *Rules of Practice and Procedure*, to bring a motion pursuant to Rule 40.01 requesting that the Board review and vary the Decision as it relates to the Joint Use Rates that Shaw and other communications companies are required to pay to Hydro One in respect of their wireline attachments to the poles of Hydro One;
2. Extending the deadline for Shaw to file a motion to review and vary the Decision until 20 days after the date on which the Board grants Shaw leave; and
3. Staying that part of the Decision and any resulting Order that approve the Joint Use Rates that Shaw and other communications companies are required to pay Hydro One in respect of their wireline attachments Hydro One poles.

Shaw thanks the Board for its consideration of this matter.

Sincerely,

[*Original Signed by*]

Paul Cowling  
Vice President, Regulatory Affairs

- c. Hydro One  
Intervenors of record  
Rogers  
Eastlink  
Cogeco  
Allstream  
Videotron