

## RESPONSES TO SEC'S INTERROGATORIES

### INTERROGATORY 1:

#### Reference: Ware Report

Please provide copies of the documents referenced in footnotes 16, 18, 19, 21, 23-25.

#### RESPONSE:

*Response provided by Dr. Ware:*

All the referenced documents are publicly available:

- |          |   |
|----------|---|
| Ft 16    | <a href="https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-50A1.pdf">https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-50A1.pdf</a>   |
| Ft 18    | <a href="https://mitpress.mit.edu/books/economics-regulation">https://mitpress.mit.edu/books/economics-regulation</a>   |
| Ft 19    | The footnote refers to the US Senate Report 95-580 (November 2, 1977), reprinted in 1978 United States Code Congressional and Administrative Service (U.S.C.C.A.N) as cited in Federal Communications Commission (FCC), Implementation of Section 224 of the Act A National Broadband Plan for Our Future, Report and Order and Order on Reconsideration, FCC 11-50, April 7, 2011, ¶128. |
| Ft 21    | <a href="http://www.amazon.ca/Industrial-Organization-A-Strategic-Approach/dp/025620571X">http://www.amazon.ca/Industrial-Organization-A-Strategic-Approach/dp/025620571X</a>   |
| Ft 23-25 | See Ft 16.  |

## RESPONSES TO SEC'S INTERROGATORIES

### INTERROGATORY 2:

**Reference: Ware Report, para 29**

Please confirm that the statutory objectives under the Telecommunication Act differ from the statutory objectives for electricity under the Ontario Energy Board Act.

*Response provided by Dr. Ware:*

My retainer is to provide economic expertise – I do not have any special expertise in interpreting the objectives of the Telecommunications Act or the Ontario Energy Board Act.

*Response provided by the Carriers:*

Confirmed

## RESPONSES TO SEC'S INTERROGATORIES

### INTERROGATORY 3:

**Reference: Ware Report, para 30**

Please expand Table 3 to include the jurisdictions included in Table 1.

### RESPONSE:

*Response provided by Dr. Ware:*

The three jurisdictions omitted from Table 3 but listed in Table 1 are Alberta, New Brunswick, and Newfoundland:

- Alberta: The rate approved in 2000 by the Alberta Utilities Commission is between the rates obtained using incremental cost and avoided cost. The allocation factor is 36% for telephone and cable utilities based on a weighted average between areas in which only one (additional) attacher is present on utility poles, and areas in which both telephone and cable utility attachments are present on poles. The number of attachers implied by the 36% allocation factor can be computed to be 1.66.
- New Brunswick: The New Brunswick Board Energy and Utilities did not determine the appropriate methodology to allocate common costs when it set the rental rate per pole in its Decision in 2006.
- Newfoundland: The rental rate per pole set in 2001 is a blended rate between the pole attachment rate previously charged by Newfoundland Power based upon existing agreements with cable operators, and the rate charged by Aliant to cable operators as ordered by the CRTC.

## **RESPONSES TO SEC'S INTERROGATORIES**

### **INTERROGATORY 4:**

**Reference(s):**        **none provided**

Please provide a copy of the engagement letter and/or retainer between the Carriers and both Dr. Ware and Ms. Blackwell.

### **RESPONSE:**

See paragraph 1 of Ms. Blackwell's evidence and paragraph 3 of Dr. Ware's evidence for the scope of their respective engagements by the Carriers. The other terms and conditions of the retainer agreements between the Carriers and Ms. Blackwell and Dr. Ware are not relevant to this proceeding and are confidential.

## RESPONSES TO THE SCHOOL ENERGY COALITION INTERROGATORIES

### INTERROGATORY 5:

**Reference(s):** none provided

Please detail Ms. Blackwell's experience regarding the economics and/or costing of pole attachments. Please provide copies of all expert reports authored for any judicial or regulatory proceedings on the topic.

### RESPONSE:

*Response provided by Ms. Blackwell*

I have participated in a number of regulatory proceedings respecting the establishment of the rates, terms and conditions for pole attachments during the past 15 years. During the period 1999 to 2006, I held the position of Vice-President, Telecommunications and Economics at the Canadian Cable Telecommunications Association (CCTA). I provided economic analysis of matters related to pole attachments that were subject to regulatory proceedings, discussed further below, and negotiated arrangements between cable companies that were members of the CCTA and various electrical distributors. This included electrical distributors operating in the provinces of Quebec, Nova Scotia and Alberta.

My analysis of pole attachments during my tenure at CCTA included pole space allocation methodologies and inputs, as well as factors employed to derive administrative costs, loss of productivity costs, and capital costs of poles (e.g., net embedded costs, depreciation expense, capital carrying costs, pole maintenance expenses). My analysis was a key input to the CCTA's participation in regulatory proceedings as well as the advice provided to CCTA member companies in their negotiations.

In 1999, the Canadian Radio-television and Telecommunications Commission (CRTC) issued Telecom Decision CRTC 99-13, "Part VII Application – Access to Supporting Structures of Municipal Power Utilities – CCTA vs. MEA et al," ("Decision 99-13"). While the proceeding leading to this decision pre-dates my employment at CCTA, I was involved in subsequent proceedings related to Decision 99-13. These included the application by MEA et al to the Federal Court of Appeal and the CCTA to the Supreme Court of Canada.

I provided analysis for CCTA's application to the Ontario Energy Board (the Board) during 2003 and 2004. My contributions included providing economic analysis for CCTA's application, assessments of the submissions of intervenors, preparation of interrogatories to intervenors and responses to interrogatories addressed to CCTA, for CCTA's witnesses at the oral hearing, and

inputs to CCTA's final and reply arguments. The proceeding before the Board culminated in its decision RP-2003-0249 which determined the current rate of \$22.35 for pole attachments.

As a consultant since 2006, I have provided economic analysis for clients participating in regulatory proceedings before the CRTC, including proceedings to establish the rates for wholesale services used by telecommunications and broadcasting carriers, of which pole attachment rates are one category, discussed further below. I have also undertaken economic analysis of rate proposals, including underlying costs and financial forecasts, for broadband internet services and television programming services.

In 2009, the CRTC initiated a proceeding to review the rates, terms and conditions of pole attachments for all of the major telephone companies under its jurisdiction, in Telecom Notice CRTC 2009-432. I was retained by several cable companies (referred to collectively as the "Cable Carriers") to provide economic analysis of the pole space allocation and costs used as inputs to the rates for pole attachments. My contributions included providing economic analysis for, and drafting of, the Cable Carriers' submissions, assessments of the telephone companies' evidence, preparation of interrogatories to the telephone companies and analysis of the information provided in the telephone companies' responses. The proceeding was conducted in writing without an oral hearing.

The CRTC's determinations, set out in Telecom Decision CRTC 2010-900, resulted in subsequent proceedings to consider the rates for attachments to service poles and the possible inclusion of an explicit markup in the rates for support structures. In addition, the Cable Carriers filed an application with the CRTC to review and vary parts of Telecom Decision CRTC 2010-900. I provided consulting services to the Cable Carriers of a similar nature to that provided in the original proceeding.

I continue to provide consulting services to individual cable companies regarding attachments to poles owned by both telephone companies and electrical distributors. In the case of telephone companies, this work has involved advice on the application of CRTC determinations in Telecom Decision CRTC 2010-900 and related decisions.

I have also appeared as an expert witness at oral hearings before the CRTC, the Copyright Board, and Quebec Superior Court, and authored expert reports. I prepared the report "Evolution of the Internet in Canada 2000-2007," which was filed as expert evidence by Videotron GP, in the class action case: *Union des consommateurs et al. v. Videotron s.e.n.c.* Court no: 500-06-000411-070, before the Quebec Superior Court. I was qualified as an expert in the field of regulatory economics during my appearance before the Quebec Superior Court on February 12 and 13, 2015 to testify to that report. I also prepared numerous reports respecting the economics of television distribution and programming services, for which I appeared as an expert before the CRTC. Recent examples include: "Analysis of Economic Evidence Filed by Applications for Mandatory Distribution and Wholesale Rate Increases," prepared for Cogeco Cable Inc., Rogers Communications Inc. and Shaw Communications Inc., filed in Broadcasting

Notice of Consultation CRTC 2013-19, February 2013, for which I appeared before the CRTC on April 29, 2013; and “Economic Impact of Proposed Revisions to BDU packaging of programming services,” prepared for Cogeco Cable Inc., filed in Broadcasting Notice of Consultation CRTC 2014-190, June 2014, for which I appeared before the CRTC on September 11, 2014.

**RESPONSES TO THE SCHOOL ENERGY COALITION INTERROGATORIES**

**INTERROGATORY 6:**

**Reference: Brown Evidence, para 10**

Please provide a copy of the current standard industry support structure agreement the Carriers have signed with Toronto Hydro.

**RESPONSE:**

Attachment A (separate document) is a copy of the standard MEARIE template. The actual executed agreements are by their terms "confidential" and accordingly cannot be provided.

## RESPONSES TO THE SCHOOL ENERGY COALITION INTERROGATORIES

### INTERROGATORY 7:

**Reference:** Brown Evidence, para 10

The Carriers claim that they face disadvantages as tenants of the pole as compared to Toronto Hydro as owner:

- a) Please confirm that if Toronto Hydro refuses a request to its pole, then it does not charge the wireline rate.
- b) Does Toronto Hydro require any of the Carriers to commit to a minimum or maximum length of time that they must attach to a pole? If so, please provide details.
- c) The Carrier's stated: "[w]here an attacher has more than one attachment (i.e. strand) on a pole, THESL can require it to consolidate its attachments into a single strand or give up one of its strands to THESL or a third party seeking access to a pole." How often has this happened to the Carriers in each of the last 3 years?
- d) What benefits, if any, do the Carriers believe pole tenancy has as compared to pole ownership?

### RESPONSE:

- (a) Confirmed. Toronto Hydro does, however, still charge the permit application fee.
- (b) Toronto Hydro has rights under its access agreements with the Carriers to terminate a particular permit or the entire agreement. Toronto Hydro does not require any of the Carriers to commit to a minimum or maximum length of time that they must attach to a pole.
- (c) To the best of the Carriers' knowledge, THESL has not requested this over the last three years until today, when Rogers was served with such a direction.
- (d) The pole tenant does not have to build its own pole infrastructure - although it could not do so if it wished, given the public interest in having only one such infrastructure. Note also that if a pole tenant could build its own pole infrastructure it would control the nature, costs and usage of the infrastructure, subject to applicable regulation.

**RESPONSES TO THE SCHOOL ENERGY COALITION INTERROGATORIES**

**INTERROGATORY 8:**

**Reference: None**

Is it the Carriers' understanding of Toronto Hydro's application that unlike distribution rates which will be adjusted annually, the wireline attachment rate will remain fixed for the entire term of the plan (2015-2019)?

**RESPONSE:**

It is the Carriers' understanding that Toronto Hydro is seeking a fixed wireline attachment rate for 2015-2019.

**RESPONSES TO THE SCHOOL ENERGY COALITION INTERROGATORIES**

**INTERROGATORY 9:**

**References: None**

For each of the individual Carriers, please provide its forecasted number of attachments to Toronto Hydro's poles for each year between 2015-2019.

**RESPONSE:**

None of the Carriers has prepared a forecast of the number of their attachments for each year for 2015-2019. However, based on historical data, Ms. Blackwell has estimated that the number of their attachments will grow 3.1% per year which is the compound annual growth rate of their attachments over the 2011-2014 period.