



**EB-2015-0141**

**IN THE MATTER OF** the *Ontario Energy Board Act*,  
1998, S.O. 1998, c. 15, (Schedule B);

**AND IN THE MATTER OF** a motion by Rogers  
Communications Partnership *et al.* for leave to bring  
a motion for the review and variance of Decision  
EB-2013-0416/EB-2014-0247 as it relates to the  
Specific Charge for Cable and Telecom Companies  
Access to the Power Poles charged by Hydro One  
Networks Inc.

## **PROCEDURAL ORDER NO. 1**

**May 1, 2015**

### **Background**

On March 12, 2015, the Board issued Decision EB-2013-0416/EB-2014-0247 (the Decision) in which it approved distribution rates and charges for Hydro One Networks Inc. (Hydro One) for 2015 through 2017. Included in Hydro One's application was an increase in the charge that cable and telecommunications companies are required to pay Hydro One for using its power poles, known as the Specific Charge for Cable and Telecom Companies Access to the Power Poles (hereinafter, "the pole access charge").

Following the release of the Decision, Rogers Communications Partnership (Rogers) and several other cable and telecommunications companies (collectively, the Applicants) wrote to the Board seeking leave under Rule 40.02 of the Board's Rules of Practice and Procedure to bring a motion under Rule 40.01.<sup>1</sup> The purpose of the Rule

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<sup>1</sup> Rogers sent a letter to the Board requesting leave on April 1, 2015. Letters requesting leave were also sent by Shaw Communications Inc., on behalf of itself and Shaw Cablesystems Limited, on April 1, 2015; Cogeco Cable Inc., on behalf of itself and its affiliates, including Cogeco Cable Canada LP and Cogeco Data Services Inc. (undated; received by the Board on April 1, 2015), Bragg Communications Inc., operating as "Eastlink", on April 1, 2015; Allstream Inc. on April 1, 2015; and Quebecor Media Inc., on behalf of Videotron G.P., on April 1, 2015. The Board has also received letters in support of the Applicants from the Independent Telecommunications Providers Association (dated April 21, 2015) and the Canadian Cable Systems Alliance Inc. (dated April 23, 2015).

40.01 motion would be to request the Board to review and vary the Decision as it relates to the pole access charge.

Leave is required under Rule 40.02 because the Applicants were not parties to the hearing on the Hydro One rate application. The Applicants say they did not participate in the hearing because they were not given proper notice that Hydro One had applied to increase the pole access charge.

The Board notes that, although Rule 40.02 states that a request for leave must be made “by way of a motion”, none of the Applicants has served and filed a formal Notice of Motion for leave. Nevertheless, the Board is satisfied that in the circumstances, the various letters received from the Applicants will suffice. Counsel to Hydro One, in a letter to the Board dated April 7, 2015, acknowledged receipt of those letters.

In the same letter, counsel to Hydro One urged the Board to deny the Applicants’ request for leave, arguing, among other things, that adequate notice had been provided.

On April 17, 2015, further to its Decision in the EB-2013-01416/EB-2014-0247 proceedings, the Board issued a decision in respect of Hydro One’s draft rate order, in which the Board determined that the pole access charge will remain as an interim rather than a final charge until the Applicants’ challenge to the Decision is resolved. The Board reiterated this in its final rate order decision on April 23, 2015.

### **Further Submissions Invited**

The Board will hold a written hearing on the Applicants’ request under Rule 40.02 for leave to bring a motion to review and vary the Decision under Rule 40.01.

The Board will consider all correspondence that has already been received in this matter. All such correspondence is available on the Board website under file number EB-2015-0141.

The Board will also consider any further submissions in accordance with the schedule set out below, including from any cable and telecommunications companies that use Hydro One poles but have not already requested leave.

Submissions should focus on the issue of whether leave should be granted under Rule 40.02. Submissions respecting whether the increase in the pole access charge was

appropriate should be left for the motion under Rule 40.01 that would be heard if leave is granted.

**IT IS THEREFORE ORDERED THAT:**

1. All parties to the EB-2013-0416/EB-2014-0247 proceeding shall be considered parties to this motion for leave.
2. Hydro One shall serve a copy of this procedural order on all customers currently subject to the Specific Charge for Cable and Telecom Companies Access to the Power Poles, and file a list of all customers so served with the Board, on or before May 8, 2015.
3. Any person, other than an Applicant, who is served with this procedural order pursuant to Item 2 above and who wishes to be added as a party to this motion for leave shall advise the Board by letter on or before May 15, 2015, and that person will be added as a party to this motion.
4. Any person added as a party to this motion for leave pursuant to Item 3 above shall file any submission in respect of the motion with the Board and serve it on all parties on or before May 20, 2015.
5. The Applicants shall file any further submission in respect of the motion with the Board and serve it on all parties on or before May 20, 2015.
6. Any other party who wishes to make a submission on the motion for leave, other than Hydro One, shall file it with the Board and serve it on all parties on or before May 25, 2015.
7. Hydro One shall file any further submission on the motion for leave with the Board and serve it on all parties on or before June 1, 2015.
8. The Applicants, and any person added as a party to this motion under Item 3 above, shall file any reply submission with the Board and serve it on all parties on or before June 8, 2015.

All filings to the Board must quote the file number, EB-2015-0141, be made in searchable / unrestricted PDF format electronically through the Board's web portal at [www.pes.ontarioenergyboard.ca/eservice/](http://www.pes.ontarioenergyboard.ca/eservice/). Two paper copies must also be filed at the

Board's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca/OEB/Industry](http://www.ontarioenergyboard.ca/OEB/Industry). If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this motion, parties must include the Case Manager, Harold Thiessen at [harold.thiessen@ontarioenergyboard.ca](mailto:harold.thiessen@ontarioenergyboard.ca) and Board Co-Counsel, Jennifer Lea at [jennifer.lea@ontarioenergyboard.ca](mailto:jennifer.lea@ontarioenergyboard.ca) and Ian Richler at [ian.richler@ontarioenergyboard.ca](mailto:ian.richler@ontarioenergyboard.ca).

### **ADDRESS**

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**DATED** at Toronto, May 1, 2015

### **ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary