EB-2009-0096

IN THE MATTER OF the *Ontario Energy Board Act, 1998*;

AND IN THE MATTER OF a review of an application filed by Hydro One Networks Inc. for an order approving just and reasonable rates and other charges for electricity distribution for 2010 and 2011.

ARGUMENT OF ROGERS CABLE COMMUNICATIONS INC. (Rogers)

Introduction and Summary.

1. Streetlights are a type of unmetered scattered load served by Hydro One Distribution. Streetlights are placed in a separate rate class, and are subject to a fixed charge of $1.00 per account. One street lighting account can have multiple connections.[1] The revenue to cost ratio for Hydro One's street lighting customers is 0.70.[2]

2. Cable amplification devices, such as those owned and operated by Rogers throughout Ontario, are another type of unmetered scattered load. Rogers is grouped, along with most types of USL customers other than streetlights, in Hydro One's General Service Energy Billed rate class. Though grouped in this broad rate class, USL customers receive a fixed charge derived for them in particular. The target fixed charge for USL customers in Hydro One's evidence is $27.80.[3] Each USL connection is treated by Hydro One as a separate account, and attracts a fixed charge.[4] Hydro One does not know what the revenue to cost ratio is for its non-street lighting USL customers.[5]

3. It defies logic that the fixed costs to serve each non-street light USL connection are 28 times more than those to serve multiple street light connections. Yet Hydro One's USL customers are subject to fixed charges that are in excess of 28 times more than those for Hydro One's street lighting customers.

[1] Exhibit H/8/2, part a).
[2] Exhibit G1/3/1, page 3, Table 1.
[3] Exhibit G1/4/5, page 2, Table 1.
[4] Exhibit H/8/2, part b).
[5] Transcript Volume 9, page 22, lines 8 through 10.

4. Hydro One says: *"The difference in the fixed charges for streetlight customers versus other USL customers is due to the treatment of these classes in the cost allocation and rate design model. The difference cannot be explained by differences or similarities in the distribution services provided."*[6] [Emphasis added]

5. This is a remarkable statement from a cost allocation and rate design perspective. It flies in the face of basic rate design principle that fairness requires a rate that results in like customers being charged for distribution services on the same basis, while unlike customers are charged on a different basis that reflects differences in the way they cause distribution costs.[7]

6. It is common ground[8] that load shape, timing of peak demand, differing use of distribution assets, and differences in customer care needs all influence the manner in which distribution costs are appropriately allocated to various types of customers.

7. On each of these parameters, USL customers are unlike the other customers included in Hydro One's General Service Energy Billed class. These differences are recognized in the separate identification by this Board of USL customers in considering cost allocation and rate design policy[9], and in separate rate classification of USL customers by many of Ontario's electricity distributors.

8. Hydro One also treats USL customers distinctly, as it is required to do by the Board's cost allocation guidelines. Those guidelines direct that where USL customers are grouped within a general service rate class, the USL fixed charges be reduced by applying a metering credit.[10]

---

[6] Exhibit H/8/2, part b).
[7] EB-2007-0031, January 29, 2009 Staff Discussion Paper, page 4; EB-2007-0681 (Hydro One 2008 Distribution Rates) Transcript Volume 5, page 73, line 1 through page 74, line 2.
[8] Transcript Volume 9, page 17, line 15 through page 18, line 9.
[9] For example, various EB-2007-0031 discussion papers, and the EB-2007-0067 November 28, 2007 Report of the Board *Application for Cost Allocation for Electricity Distributors*.
[10] Ibid.

9. Rogers is <u>not</u> in this argument proposing that USL customers be identified as a separate rate class by Hydro One. While Rogers does believe that ultimately this would be the fairest way to treat USL customers, there are other rate design considerations that could properly accompany such a change, all of which were the subject of consideration in the Board's currently suspended EB-2007-0031 distribution rate design review.

10. Rather Rogers is arguing that it is inappropriate that USL customers are not able to determine whether they are paying too much, or too little, in distribution charges.

11. ***Rogers is simply requesting that Hydro One, and by implication all of Ontario's electricity distributors, be required, in future cost of service filings, to include a separate revenue to cost ratio for their USL customers.***

12. This can be done, without material cost.[11] It has been done in the past, without trouble or objection.[12] There is absolutely no reason that it cannot be easily done going forward.[13]

13. Senior OEB Staff have indicated their expectation that this is in fact being done.[14]

14. Rogers respectfully submits that fairness requires that this Hearing Panel so direct Hydro One Distribution.

Argument.

15. Rogers requests that when considering this argument, the Hearing Panel review the transcript of examination on behalf of Rogers' of Hydro One's witness, Michael Roger. This examination can be found at Volume 5 of the transcript, pages 16 through 38. It is brief, and in Rogers' submission definitive. Unless otherwise indicated, the facts and propositions that follow were all acknowledged by Mr. Roger during this examination.

---

[11] Transcript Volume 9, page 23, lines 19 through 21.
[12] Transcript Volume 9, page 23, line 22 to page 24, line 3; Ex. K9.3, tab 8 which reproduces EB-2007-0681 Exhibit H/8/5, at the last page of the attachment, column 19.
[13] Transcript Volume 9, page 38, lines 16 through 22.
[14] Ex. K9.3, tab 5, page 3.

16. Apart from street lights, and sentinel lights, Hydro One's USL customers are included in Hydro One's broad General Service Energy Billed rate class. USL loads represent a very small portion of the volumes represented in that class. Rogers submits that the necessary conclusion from these facts is that Hydro One's USL customers' distribution service requirements have very little impact on determination of which costs are allocated to them.

17. Recognizing at least the most obvious difference between USL customers and other types of distribution customers, the Board has directed[15] that USL customers, where not separately classed, are to be provided with a fixed charge adjusted to reflect the fact that these customers are not metered, and thus should not pay for metering costs.

18. Even after application of this metering credit, however, Hydro One cannot say what the current revenue to cost ratio is for USL customers, nor what it has been since the last time such a ratio was derived for Hydro One's 2007 informational cost allocation filing.

19. When last examined in 2007, on data that was even at that time dated, Hydro One's USL customers were paying more than 200% of the costs to serve them.

20. Hydro One asserts that this Hearing Panel should approve its current target USL charges, as set out in Exhibit G1/4/5, because the Hearing Panel in Hydro One's last distribution cost of service case approved USL charges derived in the same fashion. On this basis, Hydro One asserts, this Panel can conclude that Hydro One's USL charges remain just and reasonable.

21. What the Hearing Panel in Hydro One's last distribution cost of service case determined, however, is that it had insufficient data to calculate the potential cost reductions that Rogers advocated in argument in that case. As the Hearing Panel in that case further noted, Rogers conceded that the data before the Board in that case was limited. Of course, this was because Hydro One had not produced a USL revenue to cost ratio in that filing,

[15] EB-2007-0667, November 28, 2007 Report of the Board, *Application of Cost Allocation for Electricity Distributors*, page 9, section 3.4.

despite having been requested through an interrogatory from Rogers to do so[16]. In those circumstances, the EB-2007-0681 Hearing Panel concluded that:[17]

> *The Board is convinced that the best way to approach these additional issues is through the rate design process currently under way in the Board's initiative on Rate Design [EB-2007-0031]...In the circumstances of this case, the Board accepts the USL rates and the USL credit proposed by Hydro One.* [Emphasis added]

22. The rate design review that the EB-2007-0681 Hearing Panel deferred Rogers' concerns to has since been indefinitely suspended.[18]

23. Following announcement of deferral of that rate design review, Rogers wrote to the Board seeking interim direction from the Board to address its concerns in the instances of distributors, like Hydro One, who do not classify or model USL customers separately. In that letter Rogers' requested the Board to direct all electricity distributors to complete cost allocation modeling in support of determining just and reasonable USL rates.[19]

24. The Board's Managing Director, Applications & Regulatory Audit, Marika Hare, responded by way of a letter to counsel dated December 1, 2009, and included at tab 5 of Exhibit K9.3 herein.

25. Rogers submits that Ms. Hare's letter reflects Board Staff's understanding that electricity distributors, when they file cost of service applications, are required to produce revenue to cost ratio evidence for USL customers to demonstrate that the charges for USL customers fall within the band of reasonableness currently required by the Board for USL customers in particular. That band of reasonableness is 0.80 to 1.20.[20]

---

[16] EB-2007-0681, Exhibit H/8/5 as reproduced in Exhibit K9.3 herein, tab 8, see part c).
[17] EB-2007-0681 Decision with Reasons, page 28, as reproduced at Exhibit K9.3 herein, tab 4.
[18] April 16, 2009 Notice re Deferral of Completion of Consultation on Rate Design Board File No,: EB-2007-0031.
[19] Ex. K9.3, tab 5, page 1.
[20] EB-2007-0667, *Application of Cost Allocation for Electricity Distributors, Report of the Board*, November 28, 2007, page 9, section 3.4, as reproduced at Exhibit K9.3 herein, tab 6.

26. Hydro One takes the position that it is sufficient for distributors who include USL customers within the distributor's General Service rate class (rather than designating USL customers as a distinct rate class) to demonstrate that the General Service rate class as a whole is subject to a revenue to cost ratio within the Board's mandated band of reasonableness. Hydro One's position is that if it doesn't have a separate rate class for USL, it does not have to demonstrate that its USL charges themselves fall within the Board directed band.

27. Rogers submits that basic ratemaking principles of fairness dictate that Hydro One's position must be rejected. As noted above; i) USL loads are a very small portion of the General Service Energy Billed rate class load; and ii) the characteristics of USL loads are distinct, and distinctly unlike those of the other customers included in Hydro One's General Service rate class.

28. Rogers submits that Ms. Hare's letter can only fairly be read to indicate Board Staff's expectation that, separate class or not, USL costs and revenues will be separately modeled in cost allocation filings supporting requested distribution rates. There is no other way for USL customers, and this Board, to determine whether the USL revenue to cost ratio which the Board expressly and distinctly requires is being achieved.

29. In respect of the matter of <u>Hydro One's</u> USL distribution charges, Ms. Hare's letter expressly defers to this Hearing Panel.

30. Non-street light USL customers are paying in excess of 28 times more in fixed charges for each USL connection than Hydro One's street light customers pay for multiple connections. Hydro One has acknowledged that this difference cannot be explained by similarities or differences in distribution services provided. It is simply a function of grouping non-street light USL customers with the broad General Service Energy Billed rate class, which Hydro One says it does simply because that is what it has always done.[21]

[21] Transcript Volume 9, page 30, lines 15 through 16.

31. Mr. Roger concedes that without a derived revenue to cost ratio for non-street light USL customers, he cannot say whether it costs more, or less, to serve non-street light USL customers than it does to serve street lights.

32. Mr. Roger also concedes that without a properly derived revenue to cost ratio, it is impossible to say whether non-streetlight USL customers are paying more than, or less than, the costs to serve them.

33. Finally, Mr. Roger indicates that Hydro One could, without material cost or concern, produce a revenue to cost ratio for non-street light USL customers as part of their next cost allocation filing, should they be directed to do so by this Hearing Panel.

Relief Requested.

34. It has been more than 6 years since Rogers raised with this Board its concerns with distribution rates for unmetered scattered load (USL). Since that time the Board has twice deferred those concerns to its EB-2007-0031 rate design review, including the deferral by this Hearing Panel's predecessor in the EB-2007-0681 application.

35. That rate design review has now been indefinitely suspended. During its currency, however, Rogers filed 3 sets of comments addressing USL rates.[22] Those comments document (with references) the following history:

(a) In May, 2005 the Board adopted an interim (for 2006 rates) treatment for USL, recognizing the need for a proper cost allocation determination of how USL should be treated for 2007 and beyond.

(b) In September, 2006 the Board directed electricity distributors to provide a proper cost allocation determination of costs to serve USL customers. Analysis of the results of that cost allocation demonstrated that the interim USL treatment was

[22] Comments (dated May 15, 2007) on Staff's March 30, 2007 discussion paper; Comments (dated June 4, 2008) on Staff's March 31, 2008 discussion paper; and Comments (dated March 5, 2009) on Staff's January 29, 2009 discussion paper.

still producing inappropriate results. (In Hydro One's case, USL customers were paying more than 200% of the costs to serve them.[23])

(c) In November, 2007, following consideration of the 2006 cost allocation reports, the Board directed a USL revenue to cost ratio range (and deferred the USL rate classification issues to its rate design review).

(d) In December, 2008 the Hearing Panel in the Hydro One 2008 distribution rate proceeding also deferred Rogers' USL issues to the rate design review.

36. Again, and to be crystal clear, Rogers is not, in this proceeding, arguing for a separate rate class in all instances for USL customers. While a number of Ontario's distributors expressly recognize the distinct features of USL loads through separate rate class designation, and while Rogers believes that to be the appropriate treatment for USL loads, that has not been the issue that Rogers has pursued in this proceeding. Ultimately Rogers believes that other rate design changes could usefully accompany any such direction from the Board.

37. In the interim, however, given the unique characteristics of USL loads and the distinct way in which such loads utilize electricity distribution assets and services, it is unfair and unreasonable that USL customers like Rogers are not provided with the information required to determine whether they are paying too much, or too little, for electricity distribution services.

38. The Board has recognized the distinct nature of USL customers, and has directed a specific revenue to cost ratio for USL customers. Without a properly derived revenue to cost ratio, the Board cannot determine whether the rate being paid by USL customers is within the directed band and thus just and reasonable.

39. It is respectfully submitted that Rogers, and other non-street light USL loads, are entitled to production by Hydro One, and other Ontario electricity distributors, of a properly derived revenue to cost ratio for USL loads, as part of the cost allocation filings made in support of cost of service rate applications.

[23] Exhibit K9.3 herein, tab 8, last page, column 19.

40. The record in this case is clear that it would be neither costly nor difficult for Hydro One to adhere to such a direction.

41. ***Rogers' respectfully requests that this Hearing Panel direct Hydro One to include, in future cost of service filings, a separate revenue to cost ratio for their USL customers.***

ALL OF WHICH IS RESPECTFULLY SUBMITTED by:
MACLEOD DIXON, LLP, per:

Ian A. Mondrow
Counsel to Rogers Cable Communications Inc.

February 5, 2010

166749.v1