

## Interrogatory Responses

**EB-2013-0234**

### **ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** an application by Toronto  
Hydro-Electric System Limited for an order pursuant to Section  
29 of the *Ontario Energy Board Act, 1998*.

### **RESPONSES BY THE NORDICITY GROUP**

### **TO THE**

### **INTERROGATORIES OF TORONTO HYDRO-ELECTRIC SYSTEM LIMITED ("THESL")**

**March 31, 2014**



## RESPONSES TO THESL INTERROGATORIES

### ISSUE(S): 1

1. **Reference(s):** Pole Attachment Regulation, paragraph 2

Please provide a copy of the British Columbia legislation providing the Utilities Commission with jurisdiction to regulate pole attachments.

**RESPONSE:**

The information regarding the jurisdiction of the BC Utilities Commission (BCUC) to regulate pole attachment rates was referenced during a phone interview with Philip Nakoneshny (Director of Rates at BCUC). Specifically, Section 70 of the British Columbia Utilities Commission Act gives the BCUC jurisdiction to be involved in pole attachment rates. The British Columbia Utilities Commission Act can be found online here (since it seems to be unavailable in PDF format):

[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_96473\\_01#section70](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96473_01#section70)

2. **Reference(s):** Pole Attachment Regulation, paragraph 4

Please provide copies of the “cases of complaints to public utilities boards” referred to in this paragraph.

**RESPONSE:**

The cases referenced include the Alberta Energy and Utilities board case; submission documents by Bull, Houser & Tupper LLP (BC Utilities Commission); submission documents by Newfoundland Power Inc.; and submission documents by the Nova Scotia Utility and Review Board. These documents can be found in Appendix A.

3. **Reference(s):** Pole Attachment Regulation, paragraph 5

Please provide a copy of the “survey conducted by Newfoundland Power” referred to in this paragraph.

**RESPONSE:**

The actual survey conducted by Newfoundland Power was not publicly available at the time of this report. The results of the survey, however, were submitted as ‘Exhibit 4, page 2 of 2’ in the Newfoundland Power Inc. submission to the Board of Commissioners of Public Utilities. A copy of the submission can be found in Appendix A (Exhibit 4, page 2 of 2 can be found on page 26 of Appendix A).

4. **Reference(s):** Pole Attachment Regulation, paragraph 17

Please provide copies of the “legal documents between utilities and utilities boards” referred to in this paragraph.

**RESPONSE:**

Legal documents include the submissions and exhibits referenced in the report. Where we make reference to legal submissions, we provide the title of the legal document and where it can be found online. The documents requested in the following Interrogatories are the legal documents referenced here.

5. **Reference(s):** Pole Attachment Regulation, paragraph 19

Please provide a copy of the Nova Scotia Utility and Review Board decision referred to in this paragraph.

**RESPONSE:**

The Nova Scotia Utility and Review Board document can be found in Appendix A.

6. **Reference(s):** Pole Attachment Regulation, paragraph 20

Please provide a copy of the post-hearing submission of the Competition Bureau referred to in this paragraph.

**RESPONSE:**

The post-hearing submission was not publically available and was being quoted as it appeared in the Nova Scotia Utility and Review Board decision (pp. 31-32). This is the same document referred to in Interrogatory 5. It can be found in Appendix A.

7. **Reference(s):** Pole Attachment Regulation, paragraph 21

Please provide a copy of the submission of “Seaside” referred to in this paragraph.

**RESPONSE:**

As explained in paragraph 21, Seaside was an intervenor in the Nova Scotia Utility and Review Board case and the quotation and reference was being quoted as it appeared in the Nova Scotia Utility and Review Board decision (p. 32). This is the same document referred to in Interrogatories 5 and 6. It can be found in Appendix A.

8. **Reference(s):** Pole Attachment Regulation, paragraph 23

Please provide copies of the materials on which the summary of Canadian Pole Attachment Rates is based.

**RESPONSE:**

Table 2, referenced in paragraph 23, is a summary table of the rates found in the documents referenced in the report. Source materials for the table are:

- Nova Scotia Power – Rate available from the Nova Scotia Utility and Review Board document referred to in Interrog 5, 6, and 7. This document is included in Appendix A.
- Quebec - The Hydro Quebec website makes reference to Structure Leasing. Documents are available in French only and it was unclear whether the beneficial leasing agreement refers to pole attachments. The website address is:  
[http://www.hydroquebec.com/distribution/en/produits\\_services/location\\_structures.html](http://www.hydroquebec.com/distribution/en/produits_services/location_structures.html)
- Newfoundland (Newfoundland Power and Aliant) – This rate was sourced from the Newfoundland Power Inc. submission referred to in Interrog 3. This document is included in Appendix A.
- Toronto – This rate is the current rate set by the OEB and is referenced in OEB documents pertaining to this case.
- New Brunswick – This rate is stated on NB Power’s website and can be found online here:  
<http://www.nbpower.com/html/en/residential/rates/policies/rspo4.html>
- The Alberta (TransAlta and TELUS) – This rate was the approved rate in 2000 (effective 2001) from the Alberta Energy and Utilities Board Decision 2000-86. This document is available in Appendix A.

9. **Reference(s):** Pole Attachment Regulation, paragraph 25

Please provide copies of the “four other cases where either utilizes or attachers filed applications regarding pole attachment rates” referred to in this paragraph.

**RESPONSE:**

The “four other cases” are the following (already referenced cases): Nova Scotia Utilities Board application (Interrog 5); the Newfoundland Power Inc. application (Interrog 3); the Alberta Energy Board application (Interrog 8); and the British Columbia Utilities Commission filing (Interrog 1). All of these case documents can be found in Appendix A.

10. **Reference(s):** Pole Attachment Regulation, paragraph 25

Please provide a copy of the legislation under which pole attachment rates are regulated by the Nova Scotia Utility and Review Board.

**RESPONSE:**

The Nova Scotia Utilities Board application (referenced in Interrog 5) stated that the case ‘was heard under the authority of Section 64 of the Public Utilities Act, R.S.N.S., 1989, c.380’. A copy of the entire Public Utilities Act can be found in Appendix A.

11. **Reference(s):** Pole Attachment Regulation, paragraph 27

Please provide copies of all the documents referred to in footnote 9.

**RESPONSE:**

A copy of the documents referred to in footnote 9 are contained in Appendix A.

12. **Reference(s):** Pole Attachment Regulation, paragraph 28

Please provide a copy of the legislation under which the New Brunswick Energy and Utilities Board regulates the rates for pole attachments.

**RESPONSE:**

The New Brunswick Energy and Utilities Board Act can be found in Appendix A.

13. **Reference(s):** Pole Attachment Regulation, paragraph 28

Please provide a copy of the legislation under which the New Brunswick Energy and Utilities Board regulates the rates for pole attachments.

**RESPONSE:**

Same as Interrog 12, can be found in Appendix A.

14. **Reference(s):** Pole Attachment Regulation, paragraph 29

Please provide a copy of the decision of the Alberta Energy and Utilities Board referred to in footnote 11.

**RESPONSE:**

This document can be found in Appendix A.

15. **Reference(s):** Pole Attachment Regulation, paragraphs 33-46 inclusive

Please provide copies of the federal and state legislation either referred to or relied on for the statements in these paragraphs.

**RESPONSE:**

These paragraphs make extensive reference to 47 U.S.C. § 224 on pole attachments, as well as to the FCC's Report and Order and Order of Reconsideration released on April 7, 2011 (referred throughout those paragraphs as the 'FCC's 2011 Pole Attachment Order'). In addition, paragraph 46 mentions the FCC's Report and Order released on February 6, 1998 ('FCC's 1998 Implementation Order') and the 2002 decision by the U.S. Supreme Court on *National Cable & Telecommunications Association, Inc. v. Gulf Power Co. et al.* All of the above references can be found in Appendix B (attached).