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BY RESS and EMAIL

March 6, 2015

File: EB-2014-0116

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: File Number EB-2014-0116, Toronto Hydro-Electric System Limited
Application for 2015 Distribution Rate

We are counsel to Rogers Communications Partnership; Cogeco Cable Inc. on behalf of itself and its affiliates, including Cogeco Cable Canada LP and Cogeco Data Services Inc.; Allstream Inc.; and TELUS Communications Company and its affiliates (the "Carriers"). Please find attached a Notice of Motion by the Carriers.

Yours truly,

A handwritten signature in blue ink, appearing to read "Leslie Milton".

Leslie J. Milton

cc: Applicant and Intervenors (by email)

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, in particular section 78 of that Act;

AND IN THE MATTER OF an Application by Toronto Hydro-System Electric Limited for an Order or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity as of May 1, 2015.

NOTICE OF MOTION

Rogers Communications Partnership; Cogeco Cable Inc. on behalf of itself and its affiliates, including Cogeco Cable Canada LP and Cogeco Data Services Inc.; Allstream Inc.; and TELUS Communications Company and its affiliates (the “Carriers”) will make a motion to the Ontario Energy Board (“the Board”) at its offices at 2300 Yonge Street, Toronto, on a date and at a time to be fixed by the Board.

PROPOSED METHOD OF HEARING:

The Carriers prefer an oral hearing but, in the interest of time and efficiency, defer to the discretion of the Board in determining the most appropriate procedure for the hearing of this motion.

THE MOTION IS FOR:

1. An order striking out the request by Toronto Hydro-System Electric Limited (“THESL”), in its Application for 2015 Distribution Rates, for an increase in its annual wireline pole attachment rate, on the basis that the Board lacks jurisdiction under section 78 of the *Ontario Energy Board Act, 1998* to hear THESL’s request.
2. In the alternative, a procedural order establishing a revised schedule for the hearing of THESL’s requested wireline pole attachment rate increase.
3. Such further and other relief as the Carriers may request and the Board may grant.

THE GROUNDS FOR THE MOTION ARE:

1. The Board issued a Notice of Proceeding on an application by Toronto Hydro-System Electric Limited (“THESL”) pursuant to section 78 of the *Ontario Energy Board Act, 1998* (the “Act”) for an order or orders approving just and reasonable payment amounts for prescribed generating facilities commencing May 1, 2015 (the “Application”).
2. As part of its Application for increases in its electricity distribution rates, THESL requested an increase in its wireline pole attachment rate (the “Request”). The rate is currently \$22.35 per pole; THESL initially requested an increase to \$92.53 per pole and amended that request February 27, 2015 to \$84.98.
3. The Carriers wrote to the Board, requesting that the Board strike out the Request on the basis that THESL provided inadequate notice to its customers. The Board agreed, for several reasons, that THESL had not provided adequate notice.¹
4. Rogers has only recently become an intervenor in this proceeding, pursuant to Procedural Order No. 7, dated February 23, 2015, and the request by the remaining Carriers for intervenor status was only granted on March 5, 2015. Moreover, now that its pole attachment rate increase request is the subject of some scrutiny, THESL filed February 27, 2015 revised supporting evidence. This new evidence had to be considered by the Carriers in the preparation of interrogatories due March 5 –a mere four business days following receipt and due on the same day as most of the Carriers received intervenor status.
5. THESL made its Application pursuant to section 78 of the Act. Section 78 only pertains to electricity rates; section 74 provides the Board with the power to make other kinds of licence amendments, such as amendments to a condition of licence relating to pole access and pole attachment rates.
6. In Procedural Order No. 7, the Board established an abbreviated schedule, including a one-day oral hearing, on the issue of the pole attachment rates. This schedule takes place within a compressed and unprecedented timeline; the hearing is to take place only six weeks after interrogatories are to be filed with the Board. In addition, this six-week period includes the March Break period, during which many of the individuals working for the Carriers, as well as their experts and consultants, all who need to be involved in this matter will be unavailable.
7. Rule 8.01 of the Board’s Rules of Practice and Procedure (“Rules”) provides that a party may bring a motion if it requires a decision or order of the Board on any matter arising during a proceeding. Rule 7.01 provides the Board with the specific power to extend a time limit on such conditions that it considers appropriate.
8. The Carriers bring this motion to seek an order from the Board striking out the portion of the Application pertaining to the Request on the basis that it lacks jurisdiction to consider the Request pursuant to section 78 of the Act. In the alternative, the Carriers bring this

¹ Decision and Procedural Order No. 7, February 23, 2015, p. 3.

motion to seek a procedural order from the Board establishing a revised schedule for the hearing of THESL's requested wireline pole attachment rate increase.

9. The Carriers have prepared and filed with the Board interrogatories developed to the best of their ability in accordance with the March 5 deadline established by Procedural Order No. 7. However, the extraordinarily tight timeframe for preparing and filing the interrogatories, and compliance with the highly compressed schedule thereafter for the filing of intervenor evidence (and preparation of this evidence without any opportunity to pursue deficiencies in the responses provided by THESL or further interrogatories) is highly prejudicial to the Carriers.

THESL's application is outside the Board's jurisdiction under section 78 of the Act

10. The entirety of THESL's Application, including the Request, is made pursuant to subsection 78(3) of the Act. Section 78 of the Act concerns rate-setting for the distribution of electricity. It does not address rate-setting for other discrete issues.² Accordingly, the Board has no jurisdiction under section 78 to hear pole attachment rate increase requests.

11. The header for section 78 of the Act is "Orders by Board, electricity rates".

12. Subsection 78(1) is the foundation of the Board's jurisdiction to set rates for the transmission of electricity. It refers only to electricity:

78. (1) No transmitter shall charge for the transmission of electricity except in accordance with an order of the Board, which is not bound by the terms of any contract.

13. Subsection 78(3) states:

Rates

(3) The Board may make orders approving or fixing just and reasonable rates for the transmitting or distributing of electricity or such other activity as may be prescribed and for the retailing of electricity in order to meet a distributor's obligations under section 29 of the *Electricity Act, 1998*.

[On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is amended by striking out "electricity or such other activity" and substituting "electricity, unit sub-metering or unit smart metering or such other activity". See: 2010, c. 8, ss. 38 (14), 40.]

14. Subsection 78(3) refers only to electricity and to "such other activity as may be prescribed". Pole attachment is not a prescribed activity.

² Decision at p. 3: the Board found that "the issue is a discrete one: the costs Toronto Hydro incurs to supply wireline attachments".

15. Counsel for THESL stated at the Board's February 17, 2015 hearing that the pole attachment rate increase properly falls under section 78 because it is a revenue offset:

What we're talking about is a revenue offset. So it's an amount that is intended to recover the cost of providing the for-profit service that telecom communities -- companies are looking for, which is the attachment. And that amount goes into offsetting distribution rates, just like any other revenue.³

[W]e're not seeking a licence amendment, which I believe is section 74. This is part and parcel, again, back to the notice point of electricity distribution rates, because it is an offset to what the rates would otherwise be.⁴

16. In THESL's estimation, therefore, any activity that can be considered a revenue offset -- i.e., any activity by THESL that brings in revenue -- should properly be regulated by the Board pursuant to section 78 because of its potential effect on electricity rates.
17. By that logic, THESL could ask the Board to set a rate for any revenue-generating activity it decides to engage in as part of an application pursuant to section 78 for approval of electricity rates. There would be very little, if any, limit on the Board's jurisdiction if that were the case. THESL could, for example, include in a section 78 application a request that the Board set rates at which it would sell its used vans, or rent out its premises to other businesses, as the revenue received would provide a revenue offset. The Carriers respectfully submit that the Legislature did not intend to grant the Board this near-unlimited jurisdiction pursuant to section 78.
18. More particularly, the rate for access to power poles involves considerations beyond THESL's revenue generation. The Board has determined (in RP-2003-0249) that power poles are essential facilities. It concluded that "[d]uplication of poles is neither viable nor in the public interest". The determination of an appropriate access rate is crucial to the safeguarding of the public interest. It is not, therefore, a rate for "transmitting or distributing of electricity", but a rate designed to accomplish broader public interest goals.
19. Moreover the Board cannot expand its jurisdiction under section 78 by approving (as part of a settlement agreement or otherwise) a condition of licence that makes reference to a rate set in an approved tariff. Again, if this were the case, there would be no practical limitation on the Board's authority under section 78 - a result that is contrary to the express wording of the provision.
20. The Carriers submit that the Board's jurisdiction to regulate pole attachment rates is provided by section 74 of the Act, which gives the Board a broad power to amend licences in the public interest:

³ Transcript of the Board's February 17, 2015 hearing, p. 10, lines 8-14.

⁴ Transcript of the Board's February 17, 2015 hearing, p. 11, lines 14-18.

Amendment of licence

74. (1) The Board may, on the application of any person, amend a licence if it considers the amendment to be,

(a) necessary to implement a directive issued under this Act; or

(b) in the public interest, having regard to the objectives of the Board and the purposes of the *Electricity Act*, 1998.

21. In its plain and ordinary meaning and taking into context the different meaning of section 78, section 74 confers upon the Board the jurisdiction that it requires to make amendments to licences other than electricity rate changes. The Board may consider that amendments to THESL's pole attachment rates would be in the public interest pursuant to paragraph 74(1)(b).
22. If the Board's jurisdiction under section 78 were as broad as THESL claims it is, section 74 would be redundant. Such a result is contrary to the presumption against redundancy, which is a rule of statutory interpretation.⁵
23. There is also no impediment to THESL bringing an application pursuant to section 74 of the Act requesting an increase in its approved pole attachment rate, should it wish to do so.
24. For these reasons, the Carriers submit that the Board does not have jurisdiction to consider THESL's request for an increase in its approved pole attachment rate brought pursuant to section 78 of the Act, and this aspect of THESL's application should be dismissed on this basis.

In the alternative, the schedule set out in Procedural Order No. 7 unreasonably and unnecessarily prejudices the Carriers ability to address the Request

25. In Procedural Order No. 7, the Board established a special schedule, on a highly compressed timeline, for the hearing of the Request. The entire process – from the grant of intervenor status to the hearing - is scheduled to be concluded in a period of less than eight weeks, which includes the March Break period when key representatives of the Carriers and their consultants are unavailable.⁶
26. The first two deadlines have already passed; the second, the deadline for the filing and serving of written interrogatories, occurred March 5, 2015 – just eight business days after the grant of intervenor status to Rogers, only four business days after the receipt of revised supporting evidence from THESL and the same day as most of the Carriers were

⁵ Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5th ed. (Markham: LexisNexis, 2008), at p. 210; *R. v. Proulx*, 2000 SCC 5, [2000] 1 S.C.R. 61, at para. 28.

⁶ Procedural Order No. 7, p. 4.

granted intervenor status. The Carriers had no choice but to comply with the March 5 deadline to the best of their ability, notwithstanding that the representative of TELUS was not available to provide instructions for this filing. However, they ask that the Board modify the remainder of the schedule in order to enable their key representatives to instruct their counsel, and in order to allow their costing expert to obtain the necessary supporting evidence from THESL and prepare evidence.

Key personnel will be absent throughout the currently applicable schedule

27. Due to March Break, each of the Carriers' key representatives, as well as the Carriers' costing expert and legal counsel, has a previously scheduled vacation or other unavailability in March, in the middle of the current schedule. The short deadlines established in the schedule preclude the delegation of their work to others, because there is simply not enough time for a new person to become familiar with this issue.⁷
28. Michael Piaskoski is essential to Rogers' participation in this proceeding. He has primary responsibility for this matter at Rogers and has a previously scheduled vacation from March 9 to March 18, inclusive. During this time he will not be available to provide information to the Carriers' costing expert. He will also not be able to discuss strategy or instruct counsel with regard to evidence or interrogatories.⁸ Similarly, Johanne Laperrière has primary responsibility for this matter at Cogeco Data and is unavailable March 3, 6, 11, 13, and March 16 to 21, while Bianca Sgambetterra, who has primary responsibility for this matter at Cogeco Cable, is unavailable until March 10.⁹ Charlene Schneider, of TELUS, is key to TELUS's participation, and has been unavailable from March 1 to 5.¹⁰
29. Suzanne Blackwell, the Carriers' costing expert will be on vacation from March 28 to April 5. She will therefore be absent during the opportunity to request additional written evidence through interrogatories.¹¹ Ms. Blackwell will also have a reduced ability to assist the Carriers in developing responses to interrogatories relating to the Carriers' evidence, as she will be away for three of the available eleven days. No other expert is available to the Carriers given the short notice and time period established for this process.
30. Leslie Milton, counsel for the Carriers in this proceeding, will be unavailable from March 13 to March 22, 2015. Ms. Milton has extensive experience in pole attachment regulation, appearing in numerous pole rate hearings. During her absence, she will be unable to assist the Carriers with the review of interrogatory responses and preparation of evidence.¹²

⁷ Affidavit of Michael Piaskoski, attached as Appendix A of this Motion, para 3.

⁸ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, paras 4 - 6.

⁹ Affidavit of Johanne Laperrière, attached as Appendix B to this Motion, paras 4 - 8.

¹⁰ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 7.

¹¹ Affidavit of Suzanne Blackwell, attached as Appendix C to this Motion, para 4 - 6.

¹² Affidavit of Michael Piaskoski, attached as Appendix A of this Motion, para 8.

The current schedule is far shorter than other pole rate hearings

31. Pole attachment rate proceedings before utility boards and other tribunals in Canada are typically conducted over a period of five months or more, not a mere eight weeks (plus what appears to be a two-week period for final argument and for the Board to render a decision on this issue).¹³
32. In 2009 for example, the Carriers participated in a proceeding before the Canadian Radio-television and Telecommunications Commission (“CRTC”) to set rates for the use of telephone company poles by others. The schedule for that proceeding is set out in Telecom Notice of Consultation CRTC 2009-432.¹⁴ This proceeding included one round of interrogatories by intervenors which included a deficiency process, an interrogatory process by the CRTC, and written evidence and reply comments. The deadline for the first round of interrogatories was August 11, 2009, CRTC interrogatories were issued October 23, 2009, comments were filed November 25, 2009 and reply comments were filed December 4, 2009. This proceeding, which did not include an oral hearing, took nearly five months.¹⁵
33. This Board’s previous proceeding which established THESL’s pole attachment rate was commenced by an application filed in December, 2003, the oral hearing took place in October, 2004, and a decision was rendered March, 2005.¹⁶
34. Rogers is also currently involved in a proceeding before the New Brunswick Energy & Utilities Board which includes the pole attachment rate. The schedule for that proceeding is set to last five and a half months; it began with Round 1 Interrogatories on January 19, 2015, and will end with a hearing on June 15, 2015. The schedule includes two rounds of interrogatories, each including a motions day to pursue deficiencies in responses, and more than a month between the receipt of the second round responses from New Brunswick Power and the filing of intervenor evidence.¹⁷ Significantly, New Brunswick Power notified Rogers of the application, which was filed November 21, 2014. Moreover, while New Brunswick Power is seeking a substantial pole rate increase, its requested rate is less than half what THESL is proposing.¹⁸ In contrast, THESL is seeking a rate increase that is approximately three times the highest rate currently paid by Rogers.¹⁹ Furthermore, the evidence filed by THESL in support of the increase and revised February 27, 2015, is extremely thin and without supporting documentation²⁰ - as evidenced by the detailed interrogatories submitted by the Carriers on March 5, 2015.

¹³ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 9.

¹⁴ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 10 and Exhibit A.

¹⁵ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 10.

¹⁶ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 11.

¹⁷ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 12 and Exhibit B.

¹⁸ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 13.

¹⁹ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 13.

²⁰ Affidavit of Michael Piaskoski, attached as Appendix A to this Motion, para 13; Affidavit of Suzanne Blackwell, attached as Appendix C to this Motion, para 5.

No prejudice to THESL; potential harm to the Carriers

35. There will be no prejudice to THESL if the proceeding to set the pole attachment rate is delayed. Moreover, if there is any such prejudice (which is denied) it is entirely the result of THESL's failure to provide proper notice of the Request. In contrast, the Carriers – who brought this matter to the attention of the Board as soon as they learned of THESL's Request, and have retained counsel and experts immediately to assist them – will be prejudiced by the current schedule.
36. The amount at stake is a small piece of THESL's revenue requirement – incremental revenues at the rate requested by THESL of \$3.7 million relative to a revenue requirement of \$667 million revenue requirement, or 0.6%. If the Board has jurisdiction to consider this aspect of THESL's application (which is disputed for the reasons set out above), THESL also has the ability, or the Board on its own motion can, make THESL's pole attachment rate interim and impose a final rate retroactively to May 1, 2015, should the Board determine that is appropriate.²¹
37. In contrast, the Carriers will be significantly prejudiced by a truncated process that does not provide them with sufficient time to gather the evidence necessary to properly test THESL's Request – notwithstanding that they, not THESL, brought this matter to the attention of the Board at the earliest possible opportunity.
38. The Carriers therefore submit that the balance of fairness weighs in favour of the Board revising the schedule as follows:
 - March 5 – Interrogatories concerning THESL's evidence
 - March 20 – Responses from THESL
 - March 25 – Deficiency requests relating to THESL interrogatory responses
 - March 27 – Decision by Board on deficiency requests
 - April 2 – Further responses by THESL in light of decision by Board on deficiency requests
 - April 22 – Intervenor evidence
 - April 29 – Interrogatories on intervenor and THESL evidence
 - May 15 – Responses to interrogatories

THE FOLLOWING DOCUMENTARY MATERIAL AND EVIDENCE WILL BE RELIED UPON AT THE HEARING OF THE MOTION:

²¹ Transcript of the Board's February 17, 2015 hearing, at p. 17, lines 27-28; *Ontario Energy Board Act*, SO 1998, c 15, s 21(7).

1. The Record in EB-2014-0116.
2. Affidavit of Michael Piaskoski, attached as Appendix A to this Motion.
3. Affidavit of Johanne Laperrière, attached as Appendix B to this Motion.
4. Affidavit of Suzanne Blackwell, attached as Appendix C to this Motion.
5. Such further and other material as counsel may advise and the Board may permit.

March 6, 2015

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APPENDIX "A"

EB-2014-0116

**IN THE MATTER OF the *Ontario Energy Board Act 1998*,
in particular section 78 of that Act;**

**AND IN THE MATTER OF an Application by Toronto
Hydro-System Electric Limited for an Order or Orders
approving or fixing just and reasonable rates and other
service charges for the distribution of electricity as of May 1,
2015.**

AFFIDAVIT OF MICHAEL PIASKOSKI

Fasken Martineau DuMoulin LLP
55 Metcalfe St., Suite 1300
Ottawa, ON K1P6L5

Leslie J. Milton
Tel: 613 236 3882
Fax: 613 230 6423

Solicitors for Rogers Communications Partnership; Cogeco Cable Inc. on behalf of itself and its
affiliates, including Cogeco Cable Canada LP and Cogeco Data Services Inc.; Allstream Inc.;
and TELUS Communications Company and its affiliates (the "Carriers")

I, Michael Piaskoski, of the City of Toronto, Province of Ontario, make oath and say as follows:

1. This Affidavit is in support of a motion to the Ontario Energy Board for the striking out of the request by Toronto Hydro-Electric System Limited in its general rate application for 2015/2016 for an increase in its wireline pole attachment rate, or in the alternative, a modification of the schedule for hearing the matter. The motion is made by the Carriers.
2. I am Director, Municipal & Industry Relations, Regulatory at Rogers Communications Partnership ("**Rogers**").
3. I have knowledge of the matters contained herein. Where I do not have personal knowledge of the information, I have stated the source of the information and verily believe it to be true.

Unavailability in March, 2015

1. In my role as Director, Municipal & Industry Relations at Rogers, my duties include negotiating the terms of access and consent Rogers requires in order to construct its network on public and private property, including on support structures such as telephone and hydro poles. In that capacity, I manage pole attachment agreements and relationships with over 65 power and electricity companies across the country. Accordingly, I have primary responsibility for the regulation of communications attachments to poles and the rates charged therefor.
2. I actively participated in the pole rate hearing conducted by the Canadian Radio-television and Telecommunications Commission ("**CRTC**") in 2010 (discussed in detail below). I am also currently involved in the pole rate hearing before the New Brunswick Energy & Utilities Board (also discussed in detail below). In these proceedings, I work extensively with our legal counsel and expert economic consultants to: review and analyze all evidence filed; prepare interrogatories and review the responses provided thereto; provide our own evidence; and produce written argument. I am an integral part of these types of proceedings and participate in every aspect of them. As such I am necessary for Rogers to properly participate in this proceeding.
3. In my experience, the analysis of pole attachment rates is a complex and arcane science, and, like other regulated rates, understood by few. A proposed pole attachment rate is based on a variety of factors, including numerous costing inputs which are themselves based on empirical evidence, forecasts and assumptions, as well as differing methodologies used to determine how the costs of a pole should be allocated among the pole owner and those who attach to the pole. All of these factors must be thoroughly investigated and analyzed, and then properly tested and challenged, all as part of a complete and proper hearing.
4. I will be away on vacation and unavailable from March 9, 2015 to March 18, 2015.
5. During the time of my absence, I will not be available to provide information to the Carriers' expert economist. I will also not be able to discuss hearing strategy with the other Carriers, nor will I be able to instruct the Carriers' counsel.

6. I have read the Board's Procedural Order No. 7, released February 23, 2015. That Procedural Order sets out the current schedule for this proceeding. The time period during which I will be unavailable significantly overlaps with the current schedule. If the current schedule is maintained, Rogers would be prejudiced as it would be denied the benefit of my full participation in this proceeding.
7. I am informed by Charlene Schneider, the representative for TELUS Communications Company in this proceeding, that she is unavailable between March 1 and March 5 inclusive, and therefore cannot assist with or provide instructions on the preparation of interrogatories currently due March 5, 2015.
8. I am also informed by Leslie Milton, counsel for the Carriers in this proceeding, that she is unavailable between March 13 and March 22, 2015. Ms. Milton has extensive experience in pole attachment regulation and has appeared in numerous pole rate hearings, including the pole rate proceeding in 2009/2010 before the CRTC, the 2005/2006 proceeding before the New Brunswick Board of Commissioners of Public Utilities establishing the current pole attachment rate applicable to New Brunswick Power, as well as the current proceeding before the New Brunswick Energy and Utilities Board concerning New Brunswick Power's pole attachment rate. During her absence, Ms. Milton will not be able to assist the Carriers with the preparation of the review of interrogatory responses and the preparation of evidence by the Carriers and, as such, the Carriers will be prejudiced if the original schedule for this proceeding remains in place.

Other Pole Attachment Rate Proceedings

9. It is my experience that pole attachment rate reviews before utility boards and other tribunals in Canada are typically conducted over a period of five months or more, not a mere eight weeks (plus what appears to be a two-week period for final argument and for the Board to render a decision on this issue).
10. In 2009 for example, the Carriers participated in a proceeding before the CRTC to set rates for the use of their own poles by others. The schedule for that proceeding is set out in Telecom Notice of Consultation CRTC 2009-432, a copy of which is attached as Exhibit A to this Affidavit. This proceeding included one round of interrogatories by intervenors which included a deficiency process, an interrogatory process by the CRTC, and written evidence and reply comments. The deadline for the first round of interrogatories was August 11, 2009, CRTC interrogatories were issued October 23, 2009, comments were filed November 25, 2009 and reply comments were filed December 4, 2009. This proceeding, which did not include an oral hearing, took nearly five months.
11. I also understand that the OEB's previous proceeding which established THESL's pole attachment rate was commenced by an application filed in December, 2003, the oral hearing took place in October, 2004, and a decision was rendered March, 2005.
12. Rogers is also currently involved in a pole attachment rate-setting proceeding before the New Brunswick Energy & Utilities Board. The schedule for that proceeding is set to last for five and a half months; it began with Round 1 Interrogatories on January 9, 2015, and

will end with a hearing on June 15, 2015. The schedule includes two rounds of interrogatories, including a motions day to pursue deficiencies in responses, and more than a month between the receipt of the second round responses from New Brunswick Power and the filing of intervenor evidence. (A copy of the schedule is attached to this Affidavit as Exhibit B.)

13. Significantly, New Brunswick Power notified Rogers of the application, which was filed November 21, 2014. Moreover, while New Brunswick Power is seeking a substantial pole rate increase, its requested rate is less than half what THESL is proposing. In contrast, THESL is seeking rate increase that is approximately three times the highest rate that Rogers currently pays for wireline pole attachments. Moreover, the evidence filed by THESL in support of the increase and revised February 27, 2015, is extremely thin and without supporting documentation.

SWORN BEFORE ME, at the City of Toronto,
Province of Ontario, on March 4, 2015.



DAVID GOLUBOFF
A Commissioner for taking oaths, etc.



Michael Piaskoski

Canadian Radio-television and
Telecommunications CommissionConseil de la radiodiffusion et des
télécommunications canadiennes

Home > Decisions, Notices and Orders

THIS IS EXHIBIT A TO THE AFFIDAVITOF MICHAEL PIASKOSKISOLEMNLY DECLARED BEFORE ME AT TORONTOTHIS 4th DAY OF MARCH, 2015SWORN BEFORE ME AT THE CITY OF TORONTO, ONON MARCH 4, 2015

David G. Schubert
a Commissioner for
taking oaths,
etc.

ARCHIVED - Telecom Notice of Consultation CRTC 2009-432¹ This Web page has been archived on the Web.**Archived Content**

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See also : 2009-432-1

Ottawa, 21 July 2009

Call for comments – Review of the large incumbent local exchange carriers' support structure service ratesFile number: 8690-T66-200814774 and 8690-C12-200910408

With this notice, the Commission initiates a proceeding to examine the support structure service rates of TELUS Communications Company, Bell Aliant, Bell Canada, and MTS Allstream. The Commission also approves these companies' existing support structure service rates on an interim basis.

Introduction

1. The Commission received an application by TELUS Communications Company (TCC), dated 30 October 2008, requesting that the Commission review the rates, terms, and conditions of the support structure service tariffs of the large incumbent local exchange carriers (ILECs).¹ TCC also requested that the Commission
 - ▶ direct the ILECs to file cost studies to establish revised rates,
 - ▶ declare current support structure service rates interim, and,
 - ▶ when revised support structure service rates are finalized, apply these rates retroactively to the date of TCC's application.
2. The Commission received comments from Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), Bell Canada, and Télébec, Limited Partnership (Télébec) [collectively, Bell Canada et al.]; Bragg Communications Inc. (Bragg), the Canadian Cable Systems Alliance (CCSA), Cogeco Cable Inc. (Cogeco), Rogers Communications Inc. (RCI), Shaw Communications Inc. (Shaw), and Quebecor Media Inc. on behalf of its affiliate Vidéotron Ltd. (Vidéotron) [collectively, the cable carriers]; L'Association des Compagnies de Téléphone du Québec (ACTQ); MTS Allstream Inc. (MTS Allstream), Maskatel Inc. (Maskatel) and Téléphone Drummond Inc. (Drummond); MTO Telecom Inc. (MTO Telecom); and Xittel telecommunications inc. (Xittel).
3. Bell Canada et al. and MTS Allstream generally supported TCC's application. The cable carriers and other parties commenting generally opposed TCC's application and are referred to collectively as the interveners.

4. The public record of this proceeding, which closed on 16 April 2009, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings," or by using the file number provided above.
5. In order to determine whether and, if so, how it should review the ILECs' support structure service tariffs, the Commission has considered the following issues:

I. Should the ILECs' support structure service rates be reviewed and, if so, on what basis?

II. If the support structure service rates are to be reviewed, should current rates be declared to have interim approval?

III. Should the associated support structure service terms and conditions be reviewed?

I. Should the ILECs' support structure service rates be reviewed and, if so, on what basis?

6. The Commission considers that parties' submissions raise issues regarding (a) whether support structure service rates, which are capped at existing levels, can be reviewed; (b) whether rates should be reviewed; and (c) the appropriate pricing approach.

(a) Can the capped support structure service rates be reviewed?

7. The cable carriers noted that in Telecom Decision 2002-34, the Commission had capped support structure service rates at existing levels. They submitted that, as a result, rates may decrease, but cannot increase.
8. Conversely, TCC, Bell Canada et al., and MTS Allstream submitted that capped rates can increase. TCC and Bell Canada et al. also submitted that the Commission has a duty to ensure that rates are just and reasonable at all times.
9. The Commission notes that in Telecom Decision 2002-34, it capped the ILECs' support structure service rates at existing levels as a substitute for the application of an I-X factor.² The Commission finds that a capped service rate can be reviewed based on changes in service costs, consistent with section 27 of the *Telecommunications Act* (the Act).

(b) Should support structure service rates be reviewed?

10. The Commission notes that each ILEC filed an updated cost study for its support structure service tariff, as requested by a Commission staff letter dated 6 February 2009.
11. TCC and Bell Canada et al. submitted that support structure service costs for items such as material and labour have increased since the Commission approved the current support structure service rates in Telecom Decision 95-13. MTS Allstream submitted that TCC's application to review rates based on cost changes is consistent with Telecom Decisions 95-13, 97-9, and 2002-34, as confirmed in Telecom Decision 2008-17. The interveners generally submitted that support structure service rates should not be reviewed.
12. The Commission's preliminary assessment of the cost studies filed by Bell Aliant, Bell Canada, MTS Allstream, Télébec, and TCC indicates that costs have increased since current support structure service rates were approved in 1995.
13. Accordingly, the Commission considers that the ILECs' support structure service rates should be reviewed. It anticipates that, consistent with recent determinations regarding the ILECs' Phase II costing manuals, any revised rates would be company-specific.

(c) What is the appropriate pricing approach?

14. Bell Canada et al., MTS Allstream, and TCC submitted that Telecom Decision 95-13 had established the pricing principles for support structures that were confirmed in Telecom Decision 2008-17. TCC and Bell Canada et al. also referred to the existence of higher rates for support structures, such as hydro structures, that are under the jurisdiction of other regulatory bodies. They noted that the Ontario Energy

- Board had approved a hydro pole rate of \$22.35 per year, which is greater than the current ILEC rate of \$9.60 per year.
15. TCC and Bell Canada et al. submitted that the Commission should consider such other rates when reviewing the ILECs' support structure service rates and that doing so would represent a market-based approach. They submitted that failure to do so would violate paragraph 1(a)(ii) of the Governor in Council's *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction). TCC and Bell Canada et al. also submitted that the pricing approach confirmed in Telecom Decision 2008-17 does not preclude such an approach.
 16. TCC and Bell Canada et al. noted, further, that Telecom Decision 95-13 referred to competitive equity as a factor in setting support structure service rates and to the limited extent of retail service competition at that time. They submitted that competition has since increased significantly. They also submitted that current support structure service rates were approved at an artificially low level to promote the development of the cable industry. They submitted, further, that such an approach would violate the Policy Direction, as it would not represent maximum reliance on market forces and would not be competitively neutral or symmetrical.
 17. The cable carriers submitted that because the support structure service pricing approach confirmed in Telecom Decision 2008-17 does not take into account rates charged by non-ILEC support structure providers, TCC's request to do so is not consistent with that decision. The cable carriers and Xittel also submitted that support structure service rates approved by other regulatory bodies, which have different regulatory frameworks, are not necessarily an appropriate benchmark for the ILECs' support structure service rates.
 18. The cable carriers submitted that Telecom Decision 95-13 does not suggest that current rates were approved at an artificially low level. They also submitted that in Telecom Decision 95-13, the Commission had rejected Stentor's cost-sharing proposal because ILECs would have priority access to the structures they owned in order to meet their current and anticipated future needs. They noted that, in contrast, competitors only have a right of access to an ILEC's structure if spare capacity is available.
 19. The Commission notes that, in the proceeding leading to Telecom Decision 2008-17, Bell Canada et al. and Saskatchewan Telecommunications (SaskTel) proposed that support structure service rates take into account rates charged by other support structure providers such as electrical utilities. The Commission did not adopt that approach; rather, it determined that support structure services would be priced in accordance with existing pricing principles. The Commission notes that it did not consider rates approved by other regulatory bodies or rates otherwise established when it approved the ILECs' current rates. The Commission notes that the existing pricing approach was initially established in Telecom Decision 95-13.
 20. The pricing approach adopted in Telecom Decision 95-13 requires that ILEC support structure service rates must, at a minimum, exceed the ILEC's causally attributable prospective incremental costs and make a reasonable and appropriate contribution to the associated fixed structure costs. The Commission notes that it found in Telecom Decision 2008-17 that its determination to use the existing pricing approach for support structure services is consistent with the Policy Direction.
 21. In Telecom Decision 95-13 the Commission rejected Stentor's cost-sharing proposal, noting that the telephone companies would have priority access to their support structures to meet current and anticipated future needs. The Commission also notes that the pricing approach used in Telecom Decision 95-13 includes an assessment of the contribution that support structure service rates make to the ILECs' fixed structure costs in order that, consistent with section 27 of the Act, approved rates are just and reasonable.
 22. Accordingly, the Commission finds that the pricing approach adopted in Telecom Decision 95-13, discussed above, is the approach that applies with respect to the ILECs' support structures.

Conclusion

23. In light of the above, the Commission determines that it will conduct a proceeding to review the ILECs' support structure service rates based on updated costs. Consistent with its determinations in Telecom Decision 2008-14, the Commission anticipates that any revised rates will be ILEC-specific.

I. Should current support structure service rates be declared to have interim approval?

24. Bell Canada et al. supported TCC's request that current support structure service rates be declared to have interim approval, with revised final rates to apply retroactively to the date of TCC's application. MTS Allstream and other interveners generally opposed TCC's request.
25. Based on the Commission's preliminary review of each ILEC's cost study, it appears that costs have increased and that rates may therefore increase. Consequently, the Commission considers it appropriate to approve the current support structure service rates on an interim basis.
26. Accordingly, the Commission declares that each ILEC's current support structure service rates have interim approval effective the date of this notice.

II. Should the associated support structure service terms and conditions be reviewed?

27. Bell Canada submitted that a review of support structure service terms and conditions (terms) would likely be a complex and lengthy process, and submitted that the Commission should review only support structure service rates. TCC did not object.
28. While opposed to a review of rates, certain interveners, including the cable carriers and MTO Telecom, submitted that they experience difficulties in their support structure dealings with the ILECs. The cable carriers submitted that they experience what they characterized as significant challenges regarding the ILECs' interpretation and application of certain terms. These interveners submitted that, therefore, the Commission should also review support structure service terms, or that terms but not rates, should be reviewed.
29. The Commission considers that the concerns described by interveners relate principally to the implementation of the ILECs' support structure service tariffs. The Commission also considers that it would be more effective and efficient to examine these issues if and when they arise. A company with a specific concern regarding an ILEC's implementation of its support structure service tariff may apply to the Commission for a determination in accordance with existing procedures.
30. Accordingly, the Commission will review each ILEC's support structure service rates, based on existing terms, according to the procedure below.

Procedure

31. Bell Aliant, Bell Canada, MTS Allstream, Télébec, and TCC (collectively, the ILECs);³ Bragg; the CCSA; Cogeco; RCI; Shaw; Vidéotron; ACTQ; Maskatel and Drummond; MTO Telecom; and Xittel are made parties to this proceeding.
32. Parties other than those identified in paragraph 31 above that are interested in participating in this proceeding (including receiving copies of all submissions) must notify the Commission of their intention to do so by filling out the online form; or by writing to the Secretary General, CRTC, Ottawa, Ontario, K1A 0N2; or by faxing to: 819-994-0218 by **4 August 2009** (the registration date). Parties are to provide their email address, where available. If parties do not have access to the Internet, they are to indicate in their notice whether they wish to receive disk versions of hard-copy filings.
33. As soon as possible after the registration date, the Commission will post on its website a complete list of interested parties, their mailing addresses, and, if available, their email addresses, identifying those parties who wish to receive disk versions.
34. The record developed to date regarding the application that led to this notice is made part of the record of this proceeding.
35. The Commission and the parties may address interrogatories to the ILECs regarding their submissions and cost studies. Any such interrogatories must be filed with the Commission and served on the relevant party or parties by **11 August 2009**.
36. Responses to interrogatories are to be filed with the Commission and served on all parties by **8 September 2009**.
37. Requests by parties for further responses to their interrogatories, specifying in each case why a further response is both relevant and necessary, and requests for public disclosure of information for which confidentiality has been claimed, setting out in each case the reasons for disclosure, must be filed with the Commission and served on the relevant party or parties by **22 September 2009**.

38. Written responses to requests for further responses to interrogatories and for public disclosure must be filed with the Commission and served on the party or parties making the request by **29 September 2009**.
39. Determinations will be issued regarding requests for further information and public disclosure as soon as possible. Any information to be provided pursuant to such determinations must be filed with the Commission and served on all interested parties by **16 October 2009**.
40. The Commission may address further interrogatories to the ILECs by **23 October 2009**.
41. Responses to the Commission's further interrogatories are to be filed with the Commission and served on all parties by **10 November 2009**.
42. All parties may file written comments with the Commission on any matter within the scope of this proceeding, serving copies on all other parties, by **25 November 2009**.
43. All parties may file reply comments with the Commission, serving copies on all other parties, by **4 December 2009**.
44. The Commission expects to publish a decision on the issues raised in this notice of consultation within 120 days of the close of record.
45. Where a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date.
46. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
47. Electronic submissions should be in HTML format. As an alternative, those making submissions may use Microsoft Word for text and Microsoft Excel for spreadsheets.
48. Each paragraph of all submissions should be numbered. In addition, the line *****End of document***** should be entered following the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
49. The Commission encourages parties to monitor the record of this proceeding and/or the Commission's website for additional information that they may find useful when preparing their submissions.

Important notice

50. Note that all information that parties provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.
51. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
52. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
53. Please note that the information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not link directly to the information that was provided as part of this public process.

Location of CRTC offices

54. Submissions may be examined or will be made available promptly upon request at Commission offices during normal business hours.

Toll-free telephone: 1-877-249-2782
Toll-free TDD: 1-877-909-2782

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Regional Offices

Metropolitan Place
99 Wyse Road, Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West, Suite 504
Montréal, Quebec H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East, Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

Kensington Building
275 Portage Avenue, Suite 1810
Winnipeg, Manitoba R3B 2B3
Tel.: 204-983-6306
TDD: 204-983-8274
Fax: 204-983-6317

2220 12th Avenue, Suite 620
Regina, Saskatchewan S4P 0M8
Tel.: 306-780-3422

10405 Jasper Avenue, Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

580 Hornby Street, Suite 530
Vancouver, British Columbia V6C 3B6
Tel.: 604-666-2111
TDD: 604-666-0778
Fax: 604-666-8322

Secretary General

Related documents

- ▶ *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008
- ▶ *Review of certain Phase II costing issues*, Telecom Decision CRTC 2008-14, 21 February 2008, as amended by Telecom Decision CRTC 2008-14-1, 11 April 2008.
- ▶ *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002, as amended by Telecom Decision CRTC 2002-34-1, 15 July 2002

► *Price cap regulation and related issues*, Telecom Decision CRTC 97-9, 1 May 1997

► *Access to telephone company support structures*, Telecom Decision CRTC 95-13, 22 June 1995

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

Footnotes:

- ¹ Each ILEC's telecommunications poles, conduits, and aerial strands are available for use by other companies, subject to the terms and conditions in its tariffs.
- ² I-X, which stands for "inflation less productivity," is a factor applied to some wholesale service rates. In such cases, in each year that I-X does not equal zero, the rate changes automatically.
- ³ SaskTel requested that it be excluded from a review of the ILECs' support structure service rates.

Date Modified: 2009-07-21



New Brunswick Energy and Utilities Board

Filing Schedule

Matter No. 0272 - NB Power 2015-2016 General Rate Application
pour 2015-2016

THIS IS EXHIBIT B TO THE AFFIDAVIT
OF MICHAEL P. ASKOCK
SOLEMNLY DECLARED BEFORE ME AT TORONTO
THIS 4th DAY OF MARCH, 2015
SWORN BEFORE ME AT THE CITY OF
TORONTO, ON. ON MARCH 4, 2015
DAVID GOLUBOFF, a Commissioner of oaths,
etc.

Event

Date/Comments

Pre-Hearing - 9:30 AM - Delta Brunswick

Mon, Dec 22, 2014

☒ Completed

Round 1 Interrogatories - 12:00 PM

Mon, Jan 19, 2015

☐ Completed

Round 1 Interrogatories from Pole Attachment Parties: Rogers, f6networks
and Eastlink - 12:00 PM

Wed, Jan 28, 2015

☐ Completed

Round 1 Interrogatory Responses - 12:00 PM

Fri, Feb 6, 2015

☐ Completed

Round 1 Interrogatory Responses to Pole Attachment Parties: Rogers,
f6networks and Eastlink - 12:00 PM

Mon, Feb 9, 2015

☐ Completed

Notice of Motion - 12:00 PM

Thu, Feb 12, 2015

☐ Completed

ADR on Motion - 9:30 AM - Board Premises

Mon, Feb 16, 2015

☐ Completed

Motions Day - 9:30 AM - Board Premises

Mon, Feb 16, 2015

☐ Completed

Additional Responses Arising from Motions Day - 12:00 PM

Fri, Feb 20, 2015

☐ Completed

Round 2 Interrogatories - 12:00 PM

Mon, Mar 9, 2015

☐ Completed

Round 2 Interrogatory Responses - 12:00 PM

Fri, Mar 27, 2015

☐ Completed

Notice of Motion - 12:00 PM

Tue, Mar 31, 2015

☐ Completed

ADR on Motion - 9:30 AM - Board Premises

Tue, Apr 7, 2015

☐ Completed

Motions Day - 9:30 AM - Board Premises

Tue, Apr 7, 2015

☐ Completed

Additional Responses Arising from Motions Day - 12:00 PM

Mon, Apr 13, 2015

☐ Completed

Filing Schedule

Matter No. 0272 - NB Power 2015-2016 General Rate Application / Énergie NB Demande générale de tarifs pour 2015-2016

Event	Date/Comments
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Intervener Evidence Filed - 12:00 PM	Mon, May 4, 2015 <input type="checkbox"/> Completed
Interrogatories on Intervener Evidence - 12:00 PM	Mon, May 11, 2015 <input type="checkbox"/> Completed
Interrogatory Responses - 12:00 PM	Mon, May 25, 2015 <input type="checkbox"/> Completed
Notice of Motion - 12:00 PM	Wed, May 27, 2015 <input type="checkbox"/> Completed
ADR on Motion - 9:30 AM - Board Premises	Fri, May 29, 2015 <input type="checkbox"/> Completed
Motions Day - 9:30 AM - Board Premises	Fri, May 29, 2015 <input type="checkbox"/> Completed
Additional Responses Arising from Motions Day - 12:00 PM	Wed, Jun 3, 2015 <input type="checkbox"/> Completed
Rebuttal Evidence Filed (all parties) - 12:00 PM	Mon, Jun 8, 2015 <input type="checkbox"/> Completed
Hearing	Mon, Jun 15, 2015 <input type="checkbox"/> Completed

APPENDIX "B"

EB-2014-0116

**IN THE MATTER OF the *Ontario Energy Board Act 1998*,
in particular section 78 of that Act;**

**AND IN THE MATTER OF an Application by Toronto
Hydro-System Electric Limited for an Order or Orders
approving or fixing just and reasonable rates and other
service charges for the distribution of electricity as of May 1,
2015.**

AFFIDAVIT OF JOHANNE LAPERRIÈRE

Fasken Martineau DuMoulin LLP
55 Metcalfe St., Suite 1300
Ottawa, ON K1P6L5

Leslie J. Milton
Tel: 613 236 3882
Fax: 613 230 6423

Solicitors for Rogers Communications Partnership; Cogeco Cable Inc. on behalf of itself and its affiliates, including Cogeco Cable Canada LP and Cogeco Data Services Inc. ("Cogeco"); Allstream Inc.; and TELUS Communications Company and its affiliates (collectively, the "Carriers")

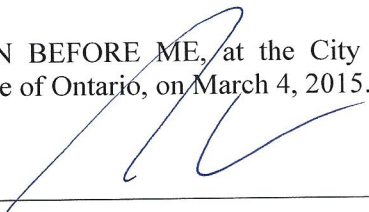
I, Johanne Laperrière, of the City of Toronto, Province of Ontario, make oath and say as follows:

1. This Affidavit is in support of a motion to the Ontario Energy Board for the striking out of the request by Toronto Hydro-Electric System Limited in its general rate application for 2015/2016 for an increase in its wireline pole attachment rate, or in the alternative, a modification of the schedule for hearing the matter. The motion is made by the Carriers.
2. I am Director – Legal Services of Cogeco Data Services Inc. (“Cogeco Data”).
3. I have knowledge of the matters contained herein. Where I do not have personal knowledge of the information, I have stated the source of the information and verily believe it to be true.

Unavailability in March, 2015

4. My duties include responsibility and management of litigation matters and providing instructions to outside legal counsel including the Carriers’ counsel in representing Cogeco Data in this matter. At Cogeco Data, I have responsibility for pole attachment regulation, and as such my participation is necessary for Cogeco Data to properly participate in this proceeding.
5. I will be unavailable on March 6, 11, 13, and March 16 to 21.
6. During this time I will not be available to provide information to the Carriers’ expert economist. I will also not be able to discuss hearing strategy with the other Carriers, nor will I be able to instruct the Carriers’ counsel.
7. I am also informed by Ms. Bianca Sgambetterra, Senior Advisor, Regulatory Affairs, Cogeco Cable Inc. (“Cogeco Cable”), that for medical reasons she cannot be available to participate in this matter until March 10, 2015. Ms. Sgambetterra has responsibility for pole attachment regulation at Cogeco Cable and as such her participation is necessary for Cogeco to properly participate in this proceeding.
8. I have read the Board’s Procedural Order No. 7, released February 23, 2015. That Procedural Order sets out the current schedule for this proceeding. The time periods during which I and Ms. Sgambetterra will be unavailable significantly overlap with the current schedule. If the current schedule is maintained, Cogeco will be prejudiced as it will be denied the benefit of my and Ms. Sgambetterra’s full participation in this proceeding.

SWORN BEFORE ME, at the City of Toronto,
Province of Ontario, on March 4, 2015.



A Commissioner for taking oaths, etc.

C. Wirth



Johanne Laperrière

**IN THE MATTER OF the *Ontario Energy Board Act 1998*,
in particular section 78 of that Act;**

**AND IN THE MATTER OF an Application by Toronto
Hydro-System Electric Limited for an Order or Orders
approving or fixing just and reasonable rates and other
service charges for the distribution of electricity as of May 1,
2015.**

AFFIDAVIT OF SUZANNE BLACKWELL

Fasken Martineau DuMoulin LLP

55 Metcalfe St., Suite 1300

Ottawa, ON K1P6L5

Leslie J. Milton

Tel: 613 236 3882

Fax: 613 230 6423

Solicitors for Rogers Communications Partnership; Cogeco Cable Inc. on behalf of itself and its affiliates, including Cogeco Cable Canada LP and Cogeco Data Services Inc.; Allstream Inc.; and TELUS Communications Company and its affiliates (the "Carriers")

I, Suzanne Blackwell, of the City of Ottawa, Province of Ontario, make oath and say as follows:

1. This Affidavit is in support of a motion to the Ontario Energy Board for the striking out of the request by Toronto Hydro-Electric System Limited in its general rate application for 2015/2016 for an increase in its wireline pole attachment rate, or in the alternative, a modification of the schedule for hearing the matter. The motion is made by the Carriers.
2. I am an economist and am President at Giganomics Consulting Inc. ("Giganomics"). I have been engaged by the Carriers to act as their costing expert during this proceeding.
3. I have knowledge of the matters contained herein. Where I do not have personal knowledge of the information, I have stated the source of the information and verily believe it to be true.

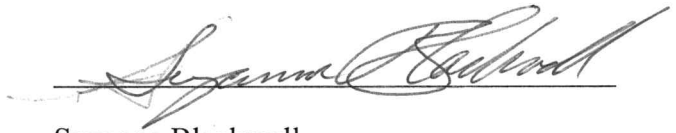
Unavailability in March and April, 2015

4. I am the only economist whom the Carriers have engaged to provide evidence and consulting during this proceeding. I have over twenty years' experience as an economist in the communications industry, including analysis and evidence regarding several proposals for wireline pole attachment rates. As such, my participation is necessary for the Carriers to properly participate in this proceeding.
5. I have already undertaken analysis of the limited information provided to support the proposed wireline attachment rate and identified substantial additional information that is required to complete the analysis and prepare evidence. In my view, the amount of information that needs to be provided to complete the record prior to preparing evidence is voluminous and the two weeks provided between the receipt of interrogatory responses and filing of evidence will be insufficient to properly contribute to the record of the proceeding.
6. I will also be on vacation and unavailable from March 28 to April 5. During this time I will not be available to consult with and guide the Carriers and their counsel. In particular, I will not be available to assist with developing the additional interrogatories to the other parties to this proceeding which I expect will be necessary to obtain critical information.
7. I have read the Board's Procedural Order No. 7, released February 23, 2015. That Procedural Order sets out the current schedule for this proceeding. The current schedule is very tight given the limited evidence that has been filed to date, and the days that I will not be available will greatly hamper my ability to provide the Carriers with the proper guidance and evidence that they will need. If the current schedule is maintained, the Carriers would be prejudiced as they would be denied the benefit of my full assistance in this proceeding and sufficient time to establish the necessary evidentiary record.

SWORN BEFORE ME, at the City of Ottawa,
Province of Ontario, on March 4, 2015.

A handwritten signature in cursive script, reading "Andrea Kate Vander-Heyden", written over a horizontal line.

A Commissioner for taking oaths, etc.

A handwritten signature in cursive script, reading "Suzanne Blackwell", written over a horizontal line.

Suzanne Blackwell

**Andrea Kate Vander-Heyden, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires March 27, 2016.**