

March 11, 2015

**EMAIL AND RESS**

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**Re: Toronto Hydro-Electric System Limited CIR Application 2015-2019  
(EB-2014-0116)**

We are counsel to Toronto Hydro-Electric System Limited ("**Toronto Hydro**") in the above-noted matter. We write to provide Toronto Hydro's position in respect of certain procedural matters raised by the Notice of Motion filed by 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 (together, the "**Carriers**") on March 6, 2015 (the "**Carriers' Motion**"). Toronto Hydro intends to make submissions on the merits of the motion at such time as may be established by the Board.

The Carriers' Motion is for an order to strike out Toronto Hydro's request for an increase in its annual wireline pole attachment rate on the basis that the Ontario Energy Board (the "**Board**") lacks jurisdiction to consider the request under section 78 of the *Ontario Energy Board Act* (the "**OEB Act**"). Alternatively, the Carriers' Motion requests a revised schedule for the hearing of this particular issue.

A key concern for Toronto Hydro is that the hearing of the motion and consideration of Toronto Hydro's requested change in the wireline pole attachment rate not impact the overall schedule of the proceeding. As such, in Toronto Hydro's view, the motion should be heard in writing. An oral hearing of the motion would be more likely to cause further delay and there are no issues raised in the motion that require the motion to be heard orally.

With respect to scheduling matters generally, Toronto Hydro notes that the Board has already ruled on this matter in the context of this proceeding. In particular, at p. 3 of its Decision and Procedural Order No. 7 dated February 23, 2015, the Board states that:

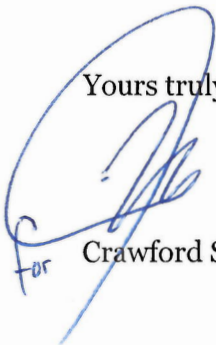
the panel does not accept that it will take Rogers and the other carriers months to prepare to participate in the proceeding. The issue of costs related to wireline attachments is not new. Therefore, should Rogers and the other carriers choose to ask interrogatories or file evidence, they should be able to do so within the time allotted in the schedule that has been established by the OEB.

Moreover, at p. 4 of the Decision and Procedural Order No. 7, the Board states that the Carriers were only granted late intervenor status in this proceeding on the condition that they adhere to the schedule outlined in the Decision and Procedural Order No. 7. As such, scheduling issues have already been considered and decided on by the Board. Having been granted late intervenor status on this basis, the Carriers' standing in the proceeding is premised on the condition that they adhere to the established schedule. The Carriers should not now be permitted to delay the proceeding through the Notice of Motion.

If the Board is nevertheless inclined to revise the schedule for considering the requested change to wireline pole attachment rates in a way that may affect the overall schedule of the proceeding, Toronto Hydro intends to request that the current wireline pole attachment rate be declared interim and, if the Board subsequently approves an increased rate, that Toronto Hydro be permitted to recover from attachers the difference between the current rate and the approved rate for the duration of the interim period. That incremental revenue would be recorded in a variance account and refunded to Toronto Hydro's distribution customers by way of a negative rate rider at a later date. In this way, it would be Toronto Hydro's expectation that impacts to the overall schedule of the proceeding could be avoided.

Finally, Toronto Hydro notes that the Carriers have suggested a schedule that includes a number of additional procedural steps, such as with respect to deficiency requests and for further rounds of interrogatories. In preparing its forecasted costs for this proceeding, Toronto Hydro did not anticipate the costs of a robust second phase with numerous additional procedural steps. If the Board is inclined to establish a schedule and process similar to that which has been proposed by the Carriers, Toronto Hydro also intends to request a variance account in which to record the difference between its forecasted regulatory costs for this application and proceeding, and the regulatory costs that it actually incurs.

Yours truly,



Crawford Smith

cc. Charles Keizer, Torys LLP  
Daliana Coban, Toronto Hydro  
Intervenors