

## 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 Hydro Ottawa  
Limited (“**Hydro Ottawa**”) for an order approving just and  
reasonable rates and other charges for electricity distribution  
to be effective January 1, 2016 and for each following year  
effective January 1 through to December 31, 2020;

**AND IN THE MATTER OF** Procedural Order No. 1 issued by  
the Ontario Energy Board on June 12, 2015 granting  
intervenor status to Rogers Communications Partnership,  
Quebecor Media and TELUS Communications Company  
(collectively, the “**Carriers**”);

**AND IN THE MATTER OF** Procedural Order No. 2 issued by  
the Ontario Energy Board on June 29, 2015 setting dates  
for, *inter alia*, interrogatories of the parties and the  
intervenors.

**Evidence of  
Kevin Richard,  
Rogers Communications Partnership**

**August 21, 2015**

**A. Introduction**

1. My name is Kevin Richard. I hold the title of Manager, Outside Plant Engineering (Ottawa Region) at Rogers Communications Partnership. I have over 30 years' experience in the telecommunications and cable industries, including 25 years' practical experience in fibre network planning, engineering, permitting and construction, allowing me to acquire a comprehensive understanding of industry-specific operational, technological and implementation issues. A copy of my CV is attached hereto as Appendix A.
2. I am providing this evidence on behalf the Carriers to address certain operational issues relating to Hydro Ottawa's application to increase the fee (the "**Pole Attachment Rate**") it charges telecommunications service providers ("**Wireline Attachments**") to attach their wireline facilities, comprised of a steel messenger strand and fibre optic cable lashed to the strand ("**Wireline Attachments**") to Hydro Ottawa poles.
3. My evidence addresses the following issues:
  - (a) the differences between pole tenancy and pole ownership with respect to Wireline Attachments on Hydro Ottawa's poles;
  - (b) the types of Hydro Ottawa pole fixtures that that serve only the interests of Hydro Ottawa and are not required in any capacity by the Wireline Attachments; and
  - (c) the pole replacement process and the impact of Wireline Attachments on that process.

**B. Advantages of being a pole owner over a pole tenant**

4. As I understand it, when calculating the Pole Attachment Rate, Hydro Ottawa has adopted a methodology for allocating the costs of a pole among the various users of the pole that requires the common costs of the pole to be shared equally among Hydro Ottawa and some of the third party attachments on the pole. One of the problems with this approach is that all the occupants of a pole are not treated equally and do not have equal rights and obligations. There are operational and contractual advantages enjoyed by Hydro Ottawa as the owner of the pole and disadvantages faced by Wireline Attachments, such as Rogers, as tenants of the pole.
5. This disparity between the owner of the pole and a tenant on the pole is found in practice, as well as in the agreement between Rogers and Hydro Ottawa granting Rogers access to Hydro Ottawa's poles (*Model Agreement for Licensed Attachment to Hydro Ottawa Limited by Rogers Communications Partnership*

dated July 26, 2012 (the “**Pole Attachment Agreement**”), attached hereto as Appendix B).

6. The following is a partial list of the benefits accrued to and enjoyed by Hydro Ottawa and the disadvantages faced by Wireline Attachers.
- (a) Hydro Ottawa can assess penalties for Wireline Attachments where no permit record can be found<sup>1</sup> and can demand posting of up to \$250K in security.<sup>2</sup>
  - (b) Hydro Ottawa will always have space on its poles to accommodate its facilities. However, the communications space for Wireline Attachments is limited and can become congested.
  - (c) Hydro Ottawa can refuse requests to attach for any number of reasons.<sup>3</sup>
  - (d) Hydro Ottawa can reject a request to attach to one of its poles even after it has issued a permit and the Wireline Attacher has paid for the make-ready work required to accommodate the Attachment on the pole.
  - (e) Hydro Ottawa can install its equipment within the communications space on the pole thereby limiting the space available for Wireline Attachers. In fact, under the Pole Attachment Agreement, the top spot in the communications space is reserved for Hydro Ottawa and a Wireline Attacher needs the consent of Hydro Ottawa to place an Attachment at this location and only where there is insufficient space elsewhere within the communications space.<sup>4</sup> Further, if a Wireline Attacher uses this position reserved for Hydro Ottawa, it must ensure that its Attachment has sufficient capacity to allow Hydro Ottawa to “over lash” its facilities to the Attachment.<sup>5</sup>
  - (f) Where a Wireline Attacher has more than one Attachment on a pole, Hydro Ottawa can require it to consolidate its Wireline Attachments into a single messenger strand or give up one of the underlying messenger strands to Hydro Ottawa (at no cost) or to a third party seeking access to the pole.<sup>6</sup> This can be hugely expensive and disruptive, particularly where a Wireline Attacher has acquired the assets of another Wireline Attacher,

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<sup>1</sup> Pole Attachment Agreement, subsection 11.11.

<sup>2</sup> Pole Attachment Agreement, subsection 5.1.

<sup>3</sup> Pole Attachment Agreement, subsection 7.11-7.13.

<sup>4</sup> Pole Attachment Agreement, subsection 9.22.

<sup>5</sup> Pole Attachment Agreement, subsection 9.22.

<sup>6</sup> Pole Attachment Agreement, subsection 9.3.

resulting in duplicate Wireline Attachments on the same pole.

- (g) All potential Wireline Attachers must go through a permit application process for their Wireline Attachments.<sup>7</sup> Plus, all work must be coordinated with Hydro Ottawa's schedule and availability of its onsite inspectors.
- (h) A Wireline Attacher must take the pole as it finds it. If no capacity is available, it will either be denied access or required to pay make-ready charges to cover the cost of modifying (or replacing) the pole to allow for the Attachment.
- (i) All make-ready work to a pole, which is paid for by the Wireline Attacher, must make the pole completely sound and compliant with all applicable specifications and standards, even if the pole was non-compliant prior to the Attachment being added. In this case, the Wireline Attacher would end up paying to correct prior deficiencies in Hydro Ottawa's pole that were not related to the Attachment.
- (j) If it is determined that the make-ready work requires the replacement of the existing pole with a new pole, the Wireline Attacher is responsible for the entire cost of the pole, even if the pole was near the end of its life. However, the brand new pole paid for by the Wireline Attacher will continue to be owned by Hydro Ottawa, to use for its own purposes and to generate Attachment revenues for itself.
- (k) The Wireline Attacher has no security or assurance in being able to maintain an Attachment at any particular pole. Hydro Ottawa may, at any time, remove a pole and not replace it, meaning that there would no longer be a pole upon which to affix the existing Attachment. In such a situation, the permit for the Attachment would cease.<sup>8</sup>
- (l) Under the Pole Attachment Agreement, Hydro Ottawa is not responsible for any damage to the Wireline Attachments or the services carried by the Wireline Attachments arising from its own equipment or services.<sup>9</sup> Further, Hydro Ottawa is not responsible for any damage to the Wireline Attachments or the Wireline Attachers' services arising from Hydro Ottawa's equipment or electrical supply.<sup>10</sup>

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<sup>7</sup> Pole Attachment Agreement, Article 7.

<sup>8</sup> Pole Attachment Agreement, subsection 12.1.

<sup>9</sup> Pole Attachment Agreement, subsection 14.1.

<sup>10</sup> Pole Attachment Agreement, subsection 9.23.

**C. Power-specific assets**

7. As I understand it, for the purpose of the Pole Attachment Rate, Hydro Ottawa is claiming that the cost of a pole, which is to be shared by Hydro Ottawa and the Wireline Attachers, should be calculated by using all of its installed costs of the poles and fixtures included in its Account #1830 for Poles, Towers and Fixtures. A list of the items included in this Account is reproduced below.
  1. Anchors, head arm, and other guys, including guy guards, guy clamps, strain insulators, pole plates, etc.
  2. Brackets.
  3. Crossarms and braces.
  4. Excavation and backfill, including disposal of excess excavated material.
  5. Extension arms.
  6. Foundations.
  7. Guards.
  8. Insulator pins and suspension bolts.
  9. Paving.
  10. Permits for construction.
  11. Pole steps and ladders.
  12. Poles, wood, steel, concrete, or other material.
  13. Racks complete with insulators.
  14. Railings.
  15. Reinforcing and stubbing.
  16. Settings.
  17. Shaving, painting, gaining, roofing, stenciling, and tagging.
  18. Towers.
  19. Transformer racks and platforms.
8. It is my understanding that, of the above cost items, the following are designed specifically for, and used solely by, Hydro Ottawa:
  2. Brackets
  3. Crossarms and braces.
  5. Extension arms.
  6. Foundations.
  8. Insulator pins and suspension bolts.
  13. Racks complete with insulators.
  14. Railings.
  18. Towers.
  19. Transformer racks and platforms.

**D. The pole replacement process**

9. As I understand it, in its evidence Hydro Ottawa has asserted that, when it replaces poles with Wireline Attachments, it is required to engage in an additional field inspection of each pole for each third party attacher and incur additional travel costs of sending a second pole removal crew to each pole to complete the replacement process. Hydro Ottawa claims that the need for these additional visits is directly attributable to the presence of the Wireline Attachments on the poles and, if not for these Wireline Attachments, it could replace the poles in a single visit by a single crew.
10. Based on my experience, save for a handful of instances, the replacement of a pole always requires the deployment of at least two different crews at separate times, regardless of whether the pole has Wireline Attachments or not.
11. The process can be described in the steps set out below. The pole replacement process often involves an entire line of poles.
  - (a) In the first step, a crew will be used to auger or drill the holes for the new replacement poles. Then the new poles will be installed and secured. This step may not occur immediately after the drilling of the holes and may not necessarily employ the same crew.
  - (b) In the next step, “linemen” will move the power cables and equipment from the old poles onto the new poles. These linemen are specialized workers who have been qualified to work within the power space. By their very qualifications and nature of the work they perform, they will normally be a completely different crew than the one used to drill the holes or place the new poles.
  - (c) In the final step, Hydro Ottawa will send in another crew to remove the old poles and remediate the land that was affected (i.e., fill in the holes).
  - (d) If the poles have Wireline Attachments, the Wireline Attachers are notified and advised as to when they must relocate their Wireline Attachments to the new poles. The transfer of the Wireline Attachments must be done after the new poles are installed and after the power cable and equipment have been moved but before the old poles are removed.
12. As can be seen from the above description, pole replacement by its nature and complexity requires different visits by different Hydro Ottawa crews, regardless of whether there are Attachments on the existing poles.
13. Furthermore, to the extent that Hydro Ottawa considers it necessary to conduct a field inspection to confirm the Attachments have been moved prior to removal of the old pole rather than simply confirming this by phone with Communications

Attachers, this can be achieved by a single visit for all third party attachers and not a visit for each Communications Attacher.

14. In addition, to the extent Hydro Ottawa is replacing a group or line of poles within a single neighbourhood or on a single thoroughfare, which is very often the case, all such poles will be inspected in a single visit to the entire group of poles. Hydro Ottawa will not repeatedly send out a crew to inspect and to remove each pole within the group or line of poles.