EB-2015-0004

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 for an Order approving electricity distribution rates for the period from January 1, 2016 to December 31, 2020.

ENERGY PROBE RESEARCH FOUNDATION
("ENERGY PROBE")

ARGUMENT

November 12, 2015

HYDRO OTTAWA LIMITED
2016 RATES APPLICATION

EB-2015-0004

ARGUMENT OF ENERGY PROBE RESEARCH FOUNDATION

A- INTRODUCTION

Hydro Ottawa Limited ("Hydro Ottawa") filed a custom incentive rate application on April 29, 2015 for approval of electricity distribution rates to be effective during the five year period from January 1, 2016 to December 31, 2020. The application included a proposal for a pole attachment charge. The proposed pole attachment charge is the subject of Issue 4.11 in the Approved Issues List (Issues List Decision dated August 21, 2015) for this proceeding.

Parties reached a comprehensive settlement of all issues in the custom incentive rate application except for Issue 4.11 and Issue 3.1 regarding Hydro Ottawa's working capital allowance included in rate base, which was awaiting completion of a lead/lag study. Issue 3.1 was subsequently settled by the parties, while Issue 4.11 proceeded to a hearing.

The Board heard oral evidence in relation to Issue 4.11 on September 30 and October 16, 2015.

In Procedural Order No. 10 dated October 29, 2015, the Board also requested that parties make submissions on whether the Board should set the pole attachment charge on an interim or final basis, in light of the Board's upcoming policy review of pole attachment charges.

This is the argument of Energy Probe Research Foundation ("Energy Probe") on Issue 4.11.

B - SUBMISSIONS

Issue 4.11, as set out in the Approved Issues List, is as follows:

> ***"Are the costs underpinning the proposed new charges for the specific charge for Access to Power Poles appropriate and is the rate design appropriate?"***

Energy Probe has had the opportunity to review the detailed and concise draft argument of the Vulnerable Energy Consumers Coalition ("VECC"). Energy Probe adopts those submissions with two exceptions noted below. In addition, Energy Probe makes additional submissions on some of the components of the pole access rate addressed in the VECC argument.

i) Additional Submissions to Those of VECC

In this section, Energy Probe makes a number of submissions on a limited number of components of the pole access rate, without impacting on the proposed rates as part of this proceeding. As noted above, Energy Probe supports the submissions of VECC on these issues. The comments are reflective of Energy Probe's position that the rates proposed by Hydro Ottawa in its' November 5, 2015 Argument In Chief are based on conservative estimates and likely under recover the true costs associate with pole attachments.

a) Direct Costs - Loss In Productivity

Energy Probe submits that to the extent that there is additional work or additional costs associated with replacing poles when there are third party attachers involved, then these costs should be included as direct costs for the loss in productivity.

Hydro Ottawa identified three general categories of expenses in this area. They include pole replacement (field verification and returning crew), wires down (field verification) and trees on wires (field verification). Energy Probe submits that each of these costs categories should be recovered from both pole attachers and distribution customers. Pole attachers should be allocated their appropriate share of these costs and Energy Probe supports the recovery of these costs as proposed by Hydro Ottawa.

Energy Probe submits that the costs as calculated by Hydro Ottawa for recovery from pole attachers is lower than it probably should be. As indicated in their Argument In Chief (paragraph 28), Hydro Ottawa has calculated its incremental costs associated with replacement of poles with third party attachers based on one site visit for verification, ***even though several field visits are the norm*** (emphasis added). Indeed, it was Hydro Ottawa's evidence that several verification visits occur before the third party attachment is transferred (IR H-1-7, Carriers #13 b). As shown in that interrogatory response, the average cost per visit is $75. By using one site visit in the calculation of the costs of the loss in productivity when the evidence is that more than one site field visit is the norm, Hydro Ottawa has underestimated the costs that should be allocated to third party attachers.

Similarly, Hydro Ottawa has not included any costs to take into account loss in productivity resulting from time lost due to staff and contractors having to work around third party attachments on poles or managing public enquiries or complaints about old poles that remain in place because third party attachments have not been removed (Argument In Chief, paragraph 29). Again, Energy Probe submits that Hydro Ottawa has underestimated the direct cost associated with loss in productivity due do third party attachers and attachments. However, there does not appear to be sufficient evidence on the record in this proceeding to increase the costs to be recovered.

b) Indirect Costs

Energy Probe supports the recovery from third party attachers for an appropriate share of the costs identified as being indirect costs, namely the depreciation expense, capital cost and maintenance expense of the bare pole. Energy Probe supports the use of an adjustment factor of a 15% reduction as proposed by the Mr. McKeown (Expert Evidence of David McKeown, paragraphs 71-77) and supported by VECC in their submissions.

However, Energy Probe notes that the net embedded cost for pole calculated by Hydro Ottawa is based solely on assets recorded in account 1830. This cost does not include costs in account 1835 for multi-grounded neutral systems which are used by third party attachers or account 1806 for right-of-way and easements associated with poles (Tr. Vol. 2, pages 77-79). Again, Energy Probe submits that the real costs that should be allocated to third party attachers are actually higher than that estimated by Hydro Ottawa. However, there does not appear to be sufficient evidence on the record in this proceeding to increase the costs to be recovered.

c) Use of Year-End vs. Average Book Value

Hydro Ottawa has used year-end 2013 values for the asset values rather than the average asset value (average of opening and closing balances) in their calculation.

Energy Probe submits that the use of the 2013 year-end book value would only be appropriate if the Board were to set the access to power pole rate based on historical costs. Energy Probe does not support this approach, as noted below. Energy Probe supports using forecast costs for setting rates and believes that the forecasted average book value for each of the years should be used. This is consistent with how rates for other customers (distribution customers) are set by the Board. It would not be appropriate for one set of customers using regulated assets to have their rates or charges based on one methodology, while another group of customers has their rates or charges based on another methodology.

d) PILs

Energy Probe submits that the rates for access to power poles should be set on the same basis as the rates for distribution customers. With respect to PILs, this means that the rates for pole attachers should reflect a cost of capital that reflects recovery of PILs on the return on equity component of the cost of capital. In other words, the pre-tax cost of capital should be used as this reflects an allowance for PILs in the costs to be recovered. Again, pole attachers should be treated the same way as residential, commercial and industrial distribution customers are treated. Both should be allocated their share of PILs.

e) Setting of the Rate

Energy Probe notes that there are basically three ways that the Board could set the access to power poles rate. It could base it on the historical 2013 costs, with no further adjustments for 2016 through 2020. It could base it on the historical costs for 2013, but then adjust it by an escalator to bring the rate up to a 2016 figure, followed by changes in each of 2017 through 2020. The escalator could be based on inflation, productivity and/or an inflation factor.

Energy Probe submits that the third way is the appropriate way to set the rate. The rate should be set based on forecasted costs for each of 2016 through 2020, resulting in a different rate each year.

The main reason for this preferred approach is that it matches the way the Board sets the rates for distribution customers. Rates for those customers are based on forecasted costs of assets, OM&A, depreciation, cost of capital and PILs. The same methodology should be used for the pole attachment rate.

The methodology used has no impact on Hydro Ottawa, as they will have rates designed to recover their total revenue requirement. However, because the allocation of costs, and the resulting rates designed to recover those rates, is a zero sum exercise between customers, it is submitted that it is important that rates are set for all customers, pole attachers and distribution customers, based on the same methodology. It would be vastly unfair for the pole attachment rate to be based on historical costs while distribution rates are set on forecasted costs. This would lead to a subsidization of costs by distribution customers that could not be considered to be either just or reasonable.

ii) Exceptions to the VECC Submissions

As noted above, Energy Probe supports the detailed submissions of VECC, with the following two exceptions. Energy Probe notes that VECC provided it with an electronic version of the spreadsheet it has used to show and explain the calculation of the rates for the 2016 through 2020 period. Energy Probe has used that spreadsheet, with VECC's permission to highlight the two changes that it is proposing in this submission. This has been attached as Appendix A to this argument.

a) Pre-Tax Cost of Capital

As noted above, Energy Probe submits that the pre-tax cost of capital should be used in the calculation of the carrying costs associated with the adjusted average net book value per pole. Energy Probe notes that VECC also supports this approach.

VECC has used the pre-tax cost of capital parameters set out in the response to Undertaking J2.4. This response reflects the pre-tax weighted average cost of capital ("WACC") based on the October 15, 2015 Cost of Capital Parameter Updates for 2016 Applications released by the Board.

However, as can be seen in the September 18, 2015 Settlement Proposal, only the return on equity has been updated to reflect this change. In particular, neither the long term debt rate nor the short term debt rate change. This is clearly illustrated in the Revenue Requirement Work Forms ("RRWF") for 2016 through 2020 filed as part of the Amendment to the September 18, 2015 Settlement Proposal filed on November 5, 2015. This amendment reflected the updated cost of capital parameters in the calculation of the revenue requirement.

Based on the cost of capital parameters included in the amended RRWF, Energy Probe has calculated the pre-tax WACC to be 7.06% in 2016, 7.10% in 2017, 7.13% in 2017, 7.17% in 2019 and 7.19% in 2020. These figures have been included on line E1 in the spreadsheet included in Appendix A.

b) Attachers Per Pole

The second, and more substantial, difference proposed by Energy Probe is the number of attachers per pole. Hydro Ottawa and VECC propose the use of 2.0 attachers per pole, why the Carriers appear to support a figure of 2.5.

Energy Probe submits that neither of these figures is supported by the evidence and should be rejected by the Board as being reasonable forecasts.

Hydro Ottawa based its use of 2.0 attachers per pole on an average of three users per pole, one of which would be Hydro Ottawa, along with two third party attachers. Hydro Ottawa characterized this figure as *"optimistic considering the merger and acquisitions by telecom companies and other types of attachers"* (IR H-7-1 Carries #4a).

However, the evidence in this proceeding is clear that the number of attachers per pole is less than 2.0. In particular, at the end of 2013, the number of attachers per pole was 1.74 (Undertaking J2.1) and at the end of August, 2015, the number had decreased marginally to 1.71 (Undertaking J2.3).

Energy Probe submits that a forecast of 2.0 attachers per pole is not realistic, is not supported by the evidence and should not be accepted by the Board. Energy Probes that believes forecasting the number of attachers per pole is no different than forecasting the number of customers by rate class and should be based on historical data and expectations for the forecast period. Based on the actual historical figures for the 2013 to 2015 period and the noted mergers and acquisitions by telecom companies and the lack of any evidence in this proceeding of a significant new source of attachers in the Hydro Ottawa distribution system, Energy Probe submits that a forecast of 1.75 attachers per pole is reasonable.

Energy Probe has used 1.75 attachers per pole to calculate the 28.6% figure used in Line H in Appendix A. This figure has been calculated using the formula and values for the other components in the formula show in the response to IR H-1-7 Carriers #4b. In that interrogatory response, Hydro Ottawa calculated the 25.9% based on an average number of third party attachers on a pole of 2.0. Energy Probe has replaced this figure with 1.75 and has not changed any of the other inputs. The resulting calculation yields a figure of 28.6%.

c) Summary

In summary, Energy Probe submits that the Board should approve the access to power poles rates as set out in Appendix A to this argument. These rates are $55.86 in 2016, $60.06 in 2017, $64.11 in 2018, $68.26 in 2019 and $72.22 in 2020.

C - INTERIM OR FINAL ORDER

The Board has announced that it is undertaking a policy review of miscellaneous rates and charges commencing this year (EB-2015-0304) that will include a review of pole attachment methodology and treatment of third party revenues.

As a result of this pending review, the scope of this hearing related to the pole attachment rate excluded matters related to the methodology.

In Procedural Order No. 10, the Board requested parties make submissions on whether it should set the pole attachment rate in this proceeding on an interim rather than a final basis.

Energy Probe submits that it should set the pole attachment rate in this proceeding on a final basis for the 2016 through 2020 period, subject to any direction from the Board regarding the implementation of any changes resulting from the outcome of the EB-2015-0304 policy review.

This is consistent with the September 18, 2015 Settlement Proposal with respect to potential changes in the deemed capital structure. Hydro Ottawa discussed this in paragraphs 45 and 46 of their Argument In Chief. Energy Probe agrees that the implementation of the new policy for the purposes of Hydro Ottawa's rates would be subject to such directions as may be given by the Board in the policy review.

In the absence of any direction from the Board in the EB-2015-0304 policy review, Energy Probe submits that the Board should set rates on a final basis for each of 2016 through 2020. There are two main reasons for this.

First, the setting of pole access rates on an interim basis pending the outcome of a planned policy review would lack consistency with the Board's stated practice. As the Board indicated in its October 7, 2014 letter to Jay Shepherd, Counsel for the School Energy Coalition, in response to his concerns about the then existing working capital policy that it was initiating a review of working capital needs but:

> *As you may be aware, the Board's practice to date has been to apply any changes to policies prospectively. Therefore, the existing policy will remain in effect until the completion of the policy review on WCA. (emphasis added)*

Energy Probe submits that there is no reason why the Board should deviate from this practice when it comes to the pole access rate, subject to such directions as may be given by the Board in the policy review.

Second, regulatory certainty and efficiency should be maintained. Since the pending review of miscellaneous rates and charges will cover more than just the pole access rate, this would mean that interim status should be extended to all of the miscellaneous charges pending the outcome of the review.

In addition, the Board is undertaking, or has indicated it will be undertaking, other policy reviews. For example, the Board's current EB-2015-0043 initiative to develop new distribution rate design for commercial and industrial customers is under way. In addition, the Board has committed in its 2014-2017 Business Plan to a policy review of cost of capital used in setting distribution rates.

Making rates interim pending the outcome of policy reviews that could impact them would be difficult to administer from a regulatory perspective and would create significant uncertainty for both customers as well as distributors. Making rates interim for the outcome of some policy reviews and not for others would also create significant uncertainty for both customers and distributors.

Energy Probe notes that priorities change, as evidenced by the fact that the promised cost of capital review has yet to commence, and announced policy reviews can take longer than anticipated, as evidenced by the recent cost allocation review for unmetered loads. Energy Probe submits that the Board's current practice of applying any policy changes on a prospective basis is a reasonable approach and should not be changed.

D - COSTS

Energy Probe requests that it be awarded 100% of its reasonably incurred costs. Energy Probe worked with other intervenors in this proceeding to ensure complete coverage of the issues with a minimum of duplication. As an example, Energy Probe was the lead intervenor with respect to the working capital allowance, while VECC and the School Energy Coalition took the lead dealing with the pole access rate issue.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

November 12, 2015

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