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Novemer 20, 2015

By Email, RESS, and Same Day Courier

Ontario Energy Board
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Toronto ON M4P 1E4

Attention: Kirsten Walli, Board Secretary
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Dear Sir/Madam:

Re: OEB File: EB-2015-0141 – Motion for Review and Variance of Decision EB-2013-0416/EB 2014-0247

Pursuant to Procedural Order No. 4 in this proceeding, the Carriers submit the attached evidence of Michael Piaskoski, Rogers Communications Inc.

Yours very truly,

Timothy Pinos
TP/CS/gmc
Enclosures

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EB-2015-0141

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 Decision EB-2013-0416/EB-2014-0247 of the Ontario Energy Board (the "**OEB**") issued March 12, 2015 approving distribution rates and charges for Hydro One Networks Inc. ("**Hydro One**") for 2015 through 2017, including an increase to the Pole Access Charge;

AND IN THE MATTER OF the Decision of the OEB issued April 17, 2015 setting the Pole Access Charge as interim rather than final;

AND IN THE MATTER OF the Decision and Order issued June 30, 2015 by the OEB granting party status to Rogers Communications Partnership, Allstream Inc., Shaw Communications Inc., Cogeco Cable Inc., on behalf of itself and its affiliate, Cogeco Cable Canada LP, Quebecor Media, Bragg Communications, Packet-tel Corp., Niagara Regional Broadband Network, Tbaytel, Independent Telecommunications Providers Association (ITPA) and Canadian Cable Systems Alliance Inc. (CCSA) (collectively, the "**Carriers**");

AND IN THE MATTER OF Procedural Order No. 4 of the OEB issued October 26, 2015 setting dates for, *inter alia*, evidence of the Carriers.

Evidence of Michael Piaskoski
Rogers Communications Partnership

November 20, 2015

A. Introduction and Summary

1. My name is Michael Piaskoski. I hold the title of Director, Municipal & Industry Relations (Corporate Affairs – Regulatory) at Rogers Communications Partnership, a positon I have held for the last eight years. In my role, I am responsible for managing the commercial relationships and negotiating all access agreements with hydro companies, municipalities and telecom carriers. I have extensive experience in pole rate hearings and, in the past year, have represented Rogers and the telecom industry in rate hearings for New Brunswick Power, Toronto Hydro, Hydro Ottawa and Hydro One. A copy of my CV is attached hereto as Appendix A.

2. I am providing this evidence on behalf of the Carriers to address certain issues related to Hydro One's application in EB-2013-0416 (the "**HONI Rate Application**") to, *inter alia*, increase the fee it charges (the "**Pole Access Charge**") telecommunications service providers ("**Wireline Attachers**") to attach their wireline facilities to Hydro One poles ("**Wireline Attachments**") from $22.35 to $37.05.

3. As directed by the OEB in its Procedural Order #4,[1] the review of Hydro One's proposed increase to the Pole Access Charge is to be conducted within the context of the current approved OEB methodology (the "**OEB Approved Methodology**") established in Decision and Order RP-2003-0249, issued March 7, 2005 (the "**2005 Decision**").[2]

4. The Carriers have reviewed the evidence of Hydro One with respect to the costing inputs of the proposed Pole Access Charge and, with the exception of the calculations of pole maintenance costs, are of the view that Hydro One has calculated the Pole Access Charge in accordance with the OEB Approved

[1] Ontario Energy Board Procedural Order #4 in EB-2015-0141, October 26, 2015, attached as Appendix B.

[2] Ontario Energy Board, Decision and Order in RP-2003-0249, dated March 7, 2005.

Methodology, and do not intend to challenge these other cost inputs and factors submitted by Hydro One in its evidence.

5. With respect to the pole maintenance costs, the Carriers believe that Hydro One has incorrectly included what it refers to as "vegetation management costs" in the pole maintenance costs, which are part of the indirect or common costs that are passed on to Wireline Attachers through the Pole Access Charge. When the vegetation management costs are correctly excluded from pole maintenance costs, the resultant Pole Access Charge is $20.75.[3]

6. The following table summarizes the various costing inputs and assumptions arising from the 2005 Decision, as proposed by Hydro One in its application, and as determined by the Carriers.

Inputs	OEB 2005	Hydro One	Carriers
DIRECT COSTS			
Admin Costs	$0.69	$0.85	$0.85
Loss in productivity	$1.23	$1.51	$1.51
Total Direct Costs	**$1.92**	**$2.36**	**$2.36**
INDIRECT COSTS			
Net Embedded Cost (NEC)	$478	$746	$746
Depreciation cost	$31.11	$12.68	$12.68
Pole maintenance costs	$7.61	**$82.41**	**$7.91**
Capital carrying cost	$54.49	$63.32	$63.32
Total Indirect Costs	**$93.21**	**$158.41**	**$83.92**
ALLOCATION			
# of non-power attachers	**2.5**	**2.5**	**2.5**
Allocation Factor	21.9%	21.9%	21.9%
Indirect allocated	**$20.43**	**$34.69**	**$18.39**
Pole Rate	**$22.35**	**$37.05**	**$20.75**

[3] The proposed Pole Access Charge of $20.75 is calculated by removing vegetation management costs (Line Clearing and Brush Control) from the calculation of the Maintenance Lines and Forestry component of the proposed Pole Access Charge, and maintaining all other cost inputs, as proposed by Hydro One.

7. My evidence addresses the following reasons that Hydro One has incorrectly included (or at the very least, severely overstated) the vegetation management costs as part of its pole maintenance costs:

   (a) The OEB Approved Methodology expressly provides that vegetation management costs should not be included as part of the pole maintenance costs. It is clear from the 2005 Decision that the OEB intended that vegetation management (or tree-trimming) costs should not be recovered through the Pole Access Charge.

   (b) Even if Hydro One were permitted to recover vegetation management costs from the Pole Access Charge, the costs it seeks to recover in this proceeding far exceed what it has agreed to charge pursuant to the various Pole Attachment Agreements it has executed with the Carriers.

   (c) Because (i) a significant number of Hydro One poles requiring vegetation management do not even have Wireline Attachments and (ii) poles with Wireline Attachments require dramatically different types and costs of vegetation management activities, it is unfair and inappropriate in principle for Hydro One to allocate vegetation costs to Wireline Attachers on a gross averaging basis based on its entire inventory of poles.

B. Background

8. Hydro One proposes to increase its Pole Access Charge from $22.35 to $37.05, representing a 66% increase over the Pole Access Charge set by the OEB in the 2005 Decision.

9. A review of Hydro One's costing inputs shows that, when compared to the inputs approved by the OEB in the 2005 Decision, maintenance costs per pole have increased by almost 1000% (from $7.61[4] to $82.41 for 2012).

10. The primary source of this increase is the inclusion of "vegetation management costs" (*i.e.*, "brush control" and "line clearing") in the pole maintenance costs, which are set out below based on 2012 figures:[5]

> **D- "Maintenance Lines and Forestry" =>**
>
> Per Pole sum of Maintenance per year = $ 82.41
>
> Lines = Lines 2012 $M, Line Patrols ($8.65M) + Defect Correction ($5.04M) Total = $13.69M divided by # of poles (1.73M) or $7.91/pole for 2012
>
> Forestry = Forestry 2012 $M, Brush Control ($34.7M) + Line Clearing ($87.1M) + Customer Notification ($7.1M) =Total $128.9M=> divided by # of poles (1.73M) or $74.50/pole for 2012

11. As described in detail by Hydro One, and summarized below, vegetation management costs include (1) land owner contact and job planning costs, (2) brush control costs and (3) line clearing costs:[6]

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4 2005 Decision, *supra* note 2, at p. 12.

5 *Response to Interrogatories of Hydro One Networks Inc.*, September 8, 2015, ["***HONI IRRs***"] at Exhibit 1, Tab 1, Schedule 1, at p. 2 of 2.

6 *Ibid*, at Exhibit I, Tab 4, Schedule 8, at p. 2 of 5.

Activity	Description	Cost (2012)[7]
Land Owner Contact and Job Planning	Job planning, project layout, property owner notification and negotiation for brush control and line clearing	$7.1M
Brush Control	Management of plant communities to minimize the presence of tree species that can grow tall enough to contact the overhead lines. It also provides an accessible right-of-way to allow equipment inspection and maintenance and emergency response.	$34.7M
Line clearing	Tree risk assessment, tree removal and tree pruning to provide sufficient clearances to power and telecom conductors and electrical equipment and to mitigate tree risk between scheduled maintenance.	$87.1M
TOTAL		$128.9M
	Per Pole cost = $128.9 million / 1.73 million poles = $74.50	

C. Vegetation management costs are not part of the OEB Approved Methodology

12. In Procedural Order #4, the OEB directed that its review of the Pole Access Charge would be conducted within the context of the OEB Approved Methodology:

> "As described in Procedural Order #3, the motion will be a hearing on Hydro One's proposed increase to the Pole Access Charge and whether that increase is just and reasonable. The OEB's review of the Pole Access Charge in this proceeding will be within the context of the current approved OEB methodology as described in Decision and Order RP-2003-0249, issued March 7, 2005. However, as mentioned in a recent OEB decision, the OEB plans to undertake a policy review of miscellaneous rates and charges commencing this year which will include a review of Pole Access Charge methodology"[8] [emphasis added.]

13. The policy review referred to above was formally announced by the Board in its memorandum dated November 5, 2015. The memorandum makes it clear that

[7] *Ibid,* at Exhibit I, Tab 1, Schedule 1, at p. 2 of 2.

[8] Procedural Order #4, *supra* note 1, at p.1.

the methodology of determining rates for pole attachments will be part of this review:

> "As a first component of this phase, the OEB plans to prioritize the review of wireline pole attachments. The OEB will establish a Pole Attachments Working Group (PAWG) to provide advice on the technical aspects and related details to be addressed in the respect of pole attachments. The subsequent review of pole attachments will consider the methodology used for determining charges, including the appropriate treatment of any revenues that carriers may receive from third parties" [emphasis added.][9]

14. Based on a review of the 2005 Decision, it is clear that the pole maintenance expense adopted by the OEB in setting the pole access charge at that time did not include vegetation management or tree-trimming costs. The Board adopted the maintenance costs that had been proposed by the CCTA in that proceeding. These costs were based on the values provided in a 1995 Milton Hydro cost study (adjusted for inflation) and were approved and adopted by the CRTC in its 1999 pole rate decision (the "**CRTC Decision**").

15. The CRTC decision explicitly excluded tree trimming costs from the maintenance costs component of the Pole Access Charge, stating as follows:

> "The Commission considers that maintenance costs should exclude tree trimming. Rather, the power utilities should be permitted to levy a separate charge on cable companies to reflect tree trimming activities. The Commission considers that this matter is best left to be resolved by the parties in the first instance."[10]

16. A copy of the CRTC Decision is attached as Appendix C.

[9] Ontario Energy Board Notice re: Review of Miscellaneous Rates and Charges in EB-2015-0304, November 5, 2015, at pp 1-2.

[10] Telecom Decision CRTC 99-13, *Part VII Application – Access of supporting structures of municipal power utilities – CCTA v MEA et al – Final Decision* (28 September 1999), at para. 212.

17. Therefore, in accordance with the Approved Methodology, Hydro One cannot include its vegetation management costs as part of its pole maintenance costs.[11]

D. Vegetation management costs exceed what is permitted under Hydro One's Pole Attachment Agreements

18. Even if the Board were to determine that vegetation management costs should be included in the pole maintenance costs for the purpose of this proceeding (which the Carriers expressly deny), the amounts claimed by Hydro One are far in excess of what it is contractually permitted to charge and what is reasonable and necessary for it to recover its costs.

19. The Carriers note that, with the exception of ITPA, CCSA and one other Carrier, Hydro One has entered into a standard form of *Agreement for Licensed Occupancy of Power Utility Distribution Poles (for Telecommunications Attachments)* with each of the Wireline Attachers (the "**Pole Attachment Agreement**"). The Pole Attachment Agreement sets out the terms and conditions under which a Wireline Attacher is permitted to install its Wireline Attachments on Hydro One's poles. As an example, a copy of the Pole Attachment Agreement between Hydro One and Rogers is attached hereto as Appendix D.

20. The Pole Attachment Agreement also governs the means by which Hydro One is permitted to recover its "Line Clearing" costs from a Wireline Attacher (referred to as the "Licensee" in the agreement), stating that the Licensee's financial contribution to Line Clearing costs has been incorporated into the Pole Rental Rate of $22.35.[12] Unfortunately, this is an incorrect statement because, as stated above, the Pole Rental Rate does not include vegetation management costs. At no point did the $22.35 rate include vegetation management costs.

[11] The Carriers note that OEB Approved Methodology does not incorporate an annual inflation.

[12] *Agreement for Licensed Occupancy of Power Utility Distribution Poles (for Telecommunications Attachments)* between Hydro One and Rogers Communications Partnership, s. 11; and Decision Table 14 of the associated Contract Administration Guide.

21. Line Clearing is defined in the Pole Attachment Agreement as "the provision of adequate neutral conductor clearance from tree interference for all attachments carried on, to, or supported by Joint Use Poles, and includes underbrushing, tree removal, cabling or guying of trees, pruning or trimming, treatment of cuts, application of herbicidal sprays and disposal of debris"[13] [emphasis added.]

22. Furthermore, section 14.2 of Hydro One's Contract Administration Guide provides that a Wireline Attacher's monetary contribution towards Line Clearing is based upon and recognizes the following factors:

- "Hydro One's incremental costs to maneuver in and around Licensee's Attachments as part of maintenance Line Clearing around Joint Use Poles.
- Hydro One's removal and clean-up of storm damaged trees along a Joint Use Pole Line.
- maintenance Line Clearing reduces costs for new or added Attachments.
- the Wireline Attacher's input and influence in the local Line Clearing program to meet joint requirements when feasible;
- joint interest in maintaining the integrity of Hydro One's neutral along a line of Poles from tree-related damage" [emphasis added.]

23. Under these agreements, Hydro One and each Wireline Attacher agreed that the Wireline Attacher should contribute to vegetation management costs that are related specifically to the clearance of the space around the *neutral wire*, and not to such costs related to clearance around all power facilities on the pole. However, it is clear that the vegetation management activities conducted by Hydro One and included in its evidence as part of the pole maintenance costs are much broader in scope than those contemplated in the Pole Attachment Agreement, which obligates the Wireline Attacher to contribute to the cost of "adequate neutral conductor clearance".

[13] *Ibid*, definition of "Line Clearing"

24. In the HONI Rate Application, Hydro One describes its line clearing activities as follows:

> "**6.2 Line Clearing**
>
> 6.2.1 Introduction
>
> The distribution line clearing program manages the right-of-way edge to meet clearance and reliability expectations, ensure public and employee safety, and minimize environmental, ecological and social impacts.
>
> 6.2.2 Investment Plan
>
> The line clearing program manages vegetation along the right-of-way edge by:
>
> 1) Removing damaged or diseased trees that pose a threat of falling into a line; and
>
> 2) Pruning trees to maintain clearances to energized facilities." [Emphasis added.][14]

25. Hydro One describes the purpose of its vegetation management program generally, as to:

- "manage clearances to energized equipment to maintain an acceptable and sustainable level of reliability;
- manage safety hazards posed by trees in proximity to energized lines;
- improve customer satisfaction by managing the largest contributor to "outages";
- manage plant species on the right-of-way floor to permit worker access for maintenance and restoration of power; and
- minimize environmental, ecological and social impacts."[15]

26. The vegetation management costs Hydro One seeks to recover through the Pole Access Charge clearly include costs associated with clearing vegetation from energized facilities ("power… conductors and electrical equipment"). The focus of these efforts by Hydro One is to minimize the threat of power outages due to interference from trees and other forms of vegetation. The Wireline Attachers do

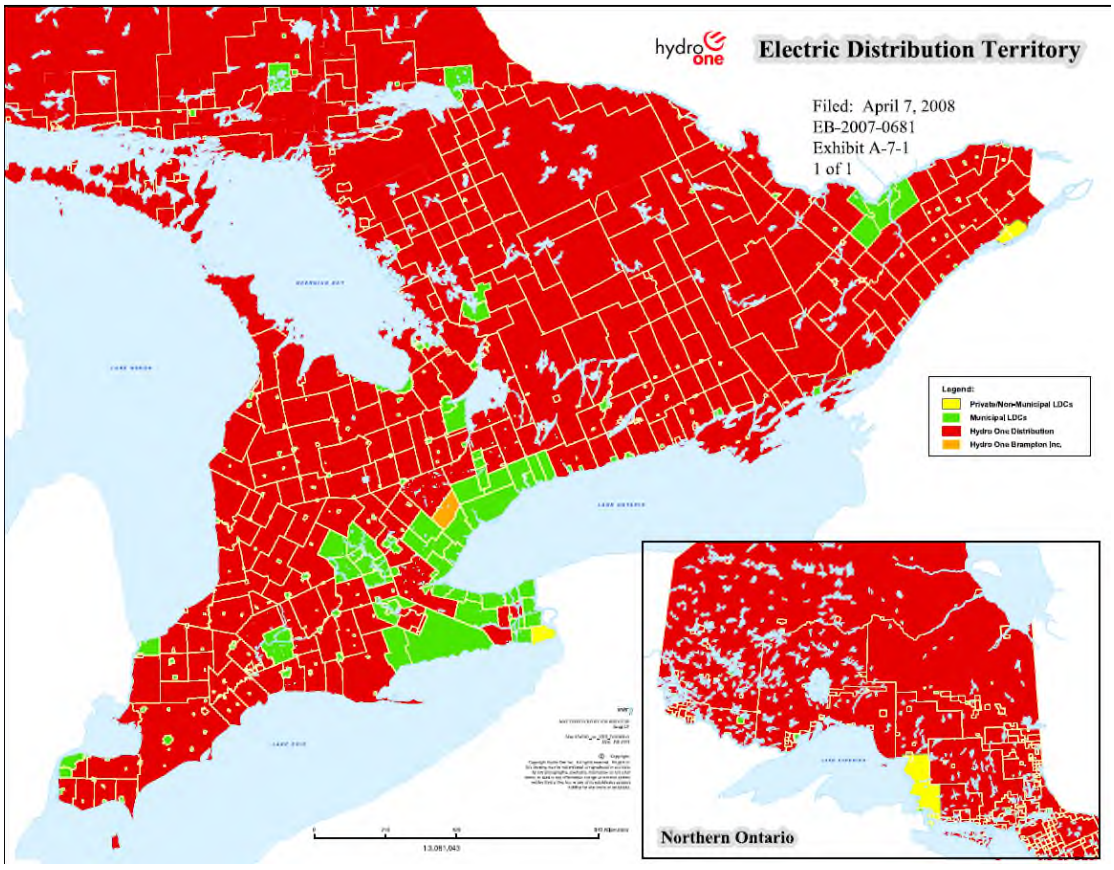
[14] Hydro One Networks Inc., Application and Evidence in EB-2013-0416, Exhibit C1, Tab 2, Schedule 2.

[15] *Ibid*, Exhibit C1, Tab 2, Schedule 2.

not derive *any* benefit from vegetation management activities that are unrelated to any maintenance around the neutral wire. Accordingly, it is inappropriate for the Wireline Attachers to contribute to the cost of such activities.

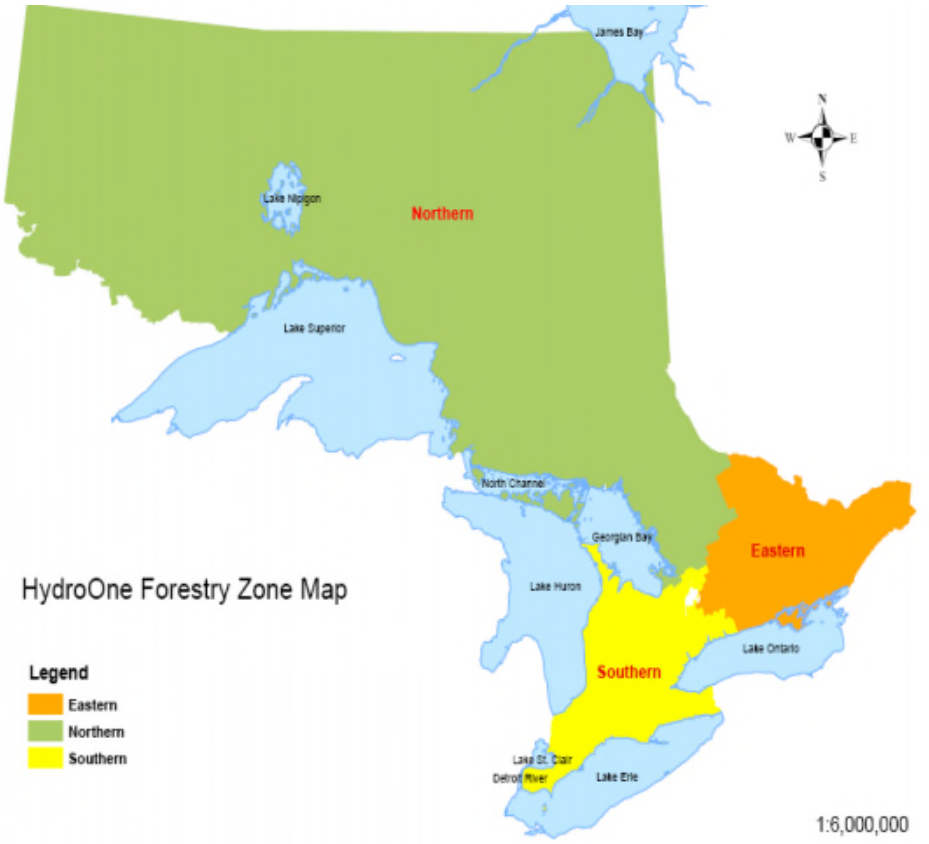
E. Vegetation management costs vary significantly by pole location and must be appropriately recovered outside of the Pole Access Charge.

27. Hydro One's service territory is approximately 650 thousand square kilometres and comprises most of Ontario, aside from a number of urban centres (e.g., Toronto, Ottawa, London), according to a vegetation management benchmarking study prepared on behalf of Hydro One (the "**Benchmarking Study**"),[16] and as demonstrated by the following map:



[16] *Hydro One 2009 – Vegetation Management Benchmarking Study*, prepared by CN Utility Consulting, Inc., September 18, 2009 and filed with the OEB in EB-2009-0096,at Exhibit A-15-2, Attachment 1, at p. 8.

28. Hydro One's service territory includes different types of vegetation cover in different areas: the north is coniferous forest, while the central is mixed forest transitioning to broadleaf forest. The far south of the Province contains more grassland and cropland and a majority of the Province's urban centres.[17] Hydro One itself acknowledges the diversity of the vegetation management requirements of its overall service territory. Accordingly, it has divided vegetation management operations into three zones: (1) Eastern, (2) Northern and (3) Southern as shown below:[18]

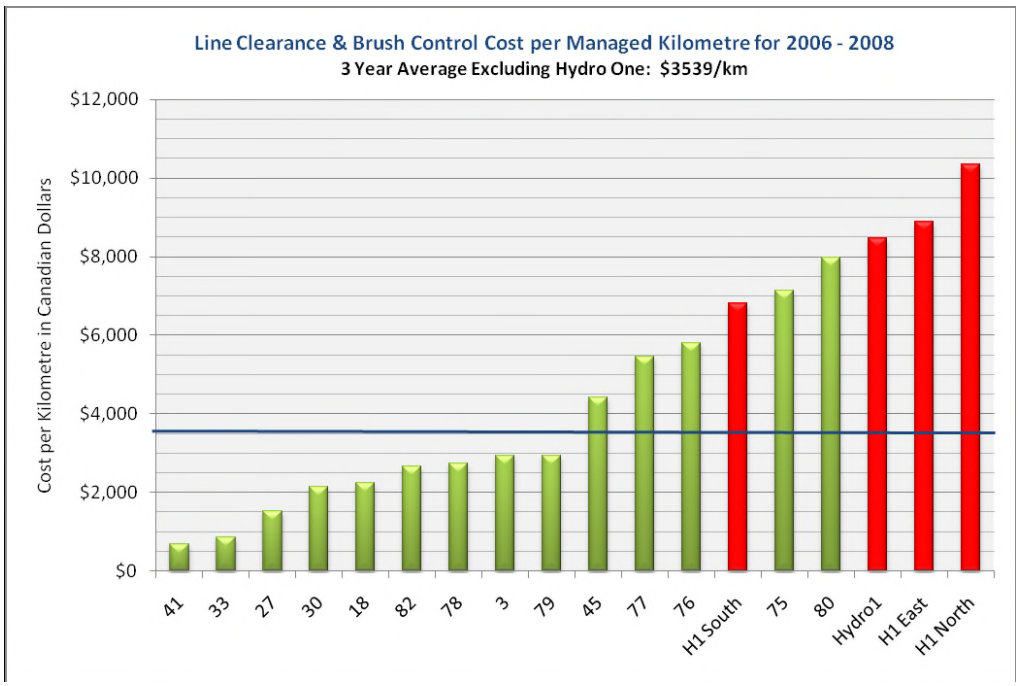


29. Vegetation management costs, including line clearing and brush control costs, per managed kilometre, vary significantly among each of the Southern, Northern and Eastern zones. For the years 2006-2008, combined line clearing and brush

[17] *Ibid*, at p. 41.

[18] *Ibid*, at p. 42.

control costs per managed kilometre were approximately $6,300 for the Southern zone, $8,500 for the Eastern zone, and $10,200 for the Northern zone. The significant difference in cost for line clearing and brush control in each zone is evident in the following chart, which compares Hydro One's costs by zone with a number of comparable utilities:[19]

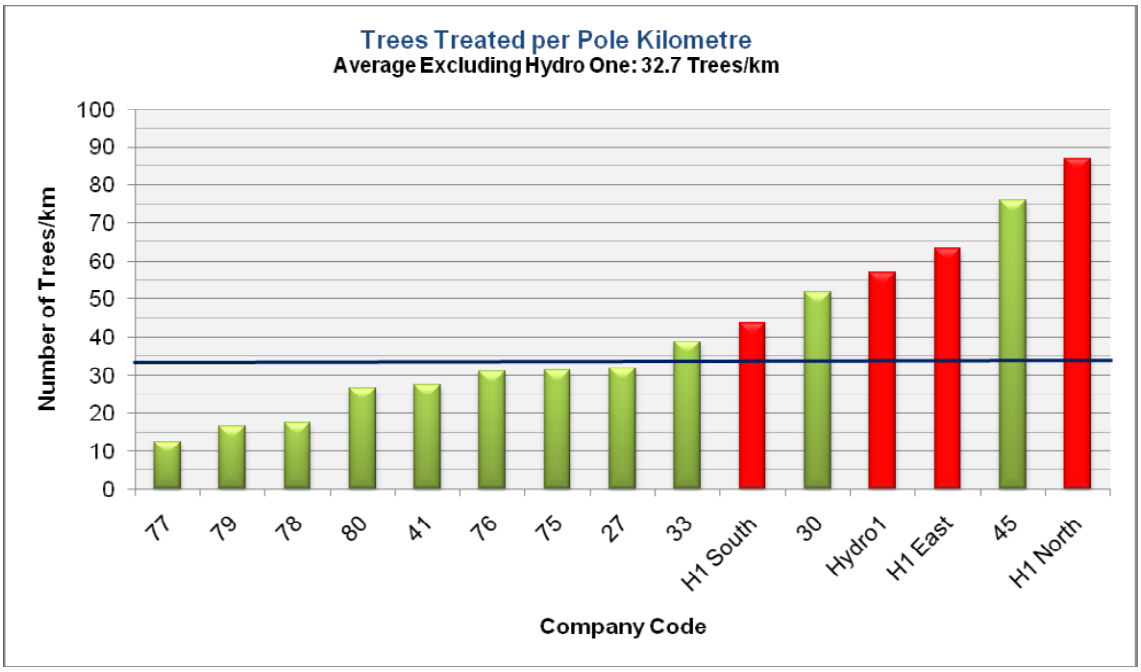


30. Reasons for the relative difference in cost of line clearing and brush control in the Eastern, Southern, and Northern zones include differences in vegetation density and physical size of service territory.[20] For instance, the average number of trees treated by Hydro One per pole kilometre vary significantly among the Eastern, Southern and Northern zones - approximately 44 trees per kilometre in the Southern zone; 63 per kilometre in the Eastern zone, and 86 per kilometre in the

[19] *Ibid*, at p. 18. Note that the numbers on the "x" axis represent the "Company Code" for utility companies which were compared to Hydro One in the Benchmarking Study.

[20] *Ibid*, at p. 18.

Northern zone. This disparity is demonstrated by the following chart from the Benchmarking Study[21]:



31. A similar diversity of line clearing and brush control requirements (and the associated costs) exists within the boundaries of each of vegetation zone. This diversity exists because poles within the boundaries of towns and communities (which are more likely to have Wireline Attachments) require less vegetation management than other poles.

32. Only 15% of Hydro One's 1,730,000 poles have Wireline Attachments.[22] On that basis alone, only the vegetation management costs for those poles should be shared with Wireline Attachers. Furthermore, a greater number of poles with Wireline Attachments exist in the Eastern and Southern zones, which also contain a higher proportion of populated areas than the Northern zone and

[21] *Ibid*, at p. 30.
[22] HONI IRRs, *supra*, note 5, Exhibit 1, Tab 3, Schedule 5, at p. 2 of 3. 319,055 is the total number of attachments that pay the Pole Attachment Rate. Based on an average number of 1.3 attachers per pole, 234,599 poles have Wireline Attachments. 234,599/1,730,000 = ~15%.

require significantly less vegetation management due to, unsurprisingly, less vegetation.

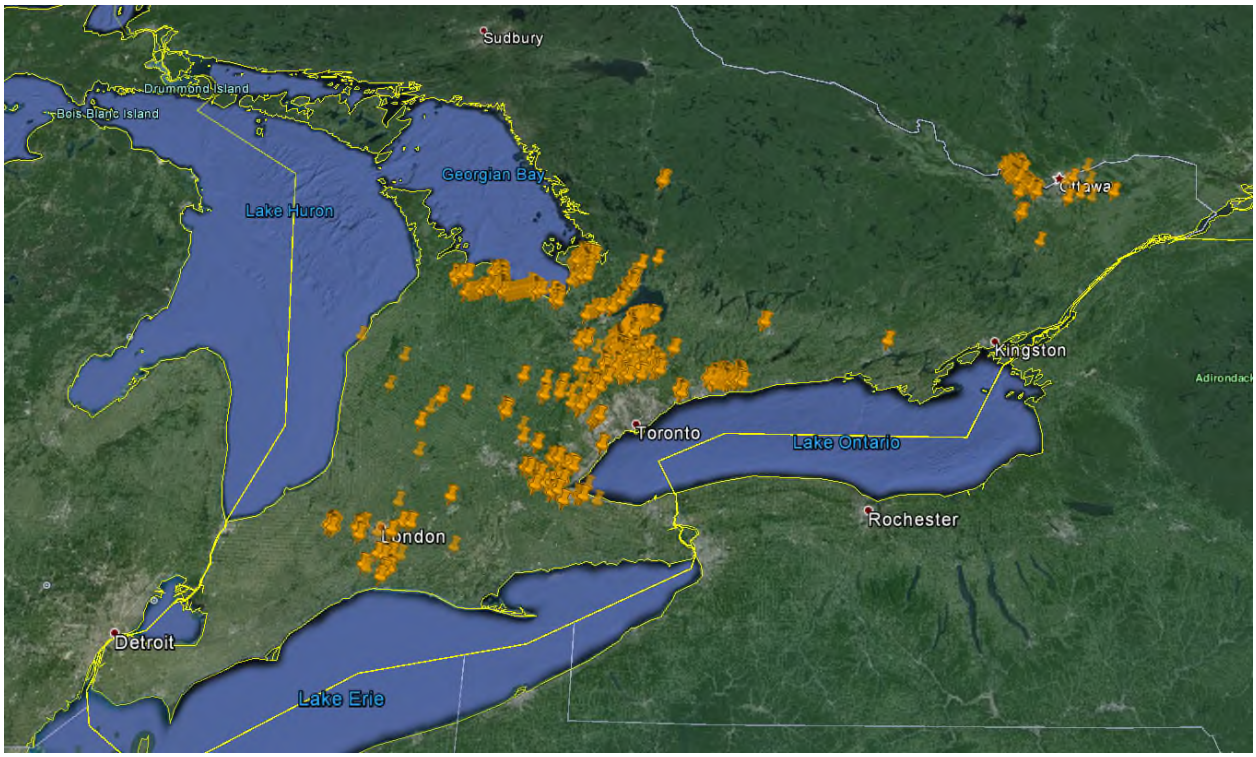
33. Fewer Wireline Attachments exist on Hydro One poles in the Northern zone, where Hydro One asserts that vegetation management costs are highest, with a majority of the Wireline Attachments being on Hydro One poles in the Southern zone, where Hydro One asserts that vegetation management costs are lowest. For that reason alone, vegetation management costs are appropriately allocated to Carriers outside of the Pole Access Charge. This will permit vegetation management costs charged to the Wireline Attachers to be based on **actual** costs, and not on a gross averaging basis which causes them to subsidize the vegetation management of poles they are not attached to.

34. Some Wireline Attachers operate exclusively in one of the Southern, Eastern, or Northern zones, and in many cases, specific areas therein. Those areas serviced throughout Hydro One's network, and specifically within the Northern zone, are typically urban and suburban areas where vegetation is inherently limited, relative to unpopulated and sparsely populated areas, and where vegetation is managed by municipalities and independently by local residents. For instance, in the Northern zone, Wireline Attachments exist within and in close proximity to communities such as Timmins, Sudbury, North Bay and Elliott Lake, where Hydro One's vegetation management costs must be significantly less than its vegetation management costs in the Northern zone outside of those communities.

35. Even in rural and recreational areas, Wireline Attachments will be found on poles that are in close proximity to communities with businesses, residences or other dwellings. This is because the Carriers do not provide services to businesses, residences or other dwellings in areas where demand is insufficient to justify an investment in the necessary infrastructure . Hydro One's poles in these areas require relatively less vegetation management activities than poles located in

more remote areas. Accordingly, it is inappropriate for Wireline Attachers, which operate specifically in areas where vegetation management costs are limited, to share a proportion of Hydro One's vegetation management costs in areas in which they do not operate. A chart which describes the zone(s) serviced by the Carriers is attached hereto as Appendix E.

36. Rogers' Wireline Attachments on Hydro One poles are predominately in the Southern and Eastern zones and in close proximity to urban areas, including Hamilton, Collingwood, Newmarket, Barrie, Pickering, Oshawa, Peterborough and Ottawa, where it is expected that the vegetation management requirements would be less than those in more rural areas and in the Northern zone. The following map depicts the locations of Rogers' Wireline Attachment on Hydro One poles in Ontario (each orange "pin" representing a collection of Hydro One poles with Wireline Attachments):



37. In order to reflect the diversity of the Wireline Attachers' areas serviced, vegetation management cannot be part of a universal Pole Access Charge. For

instance, some Wireline Attachers service a broad customer base which includes customers in each of the Southern, Eastern and Northern zones. Other Wireline Attachers service a narrow customer base in only a few communities in a single zone. Accordingly, vegetation management costs are most appropriately passed on directly to individual Wireline Attachers, based on the real cost incurred for vegetation management of the poles to which the Wireline Attacher has a Wireline Attachment.

38. Hydro One's vegetation management costs are therefore, appropriately excluded from the calculation of the Pole Access Charge.

F. Conclusion

39. In conclusion, Hydro One has incorrectly included (or at the very least, severely overstated) the vegetation management as part of its pole maintenance costs:

(a) The OEB Approved Methodology expressly provides that vegetation management costs should not be included as part of the pole maintenance costs. It is clear from the 2005 Decision that the OEB intended that vegetation management (or tree-trimming) costs should not be recovered through the Pole Access Charge.

(b) Even if Hydro One were permitted to recover vegetation management costs from the Pole Access Charge, the costs it seeks to recover in this proceeding far exceed what it has agreed to charge pursuant to the various Pole Attachment Agreements it has executed with the Carriers.

(c) Because (i) a significant number of Hydro One pole requiring vegetation management do not even have Wireline Attachments and (ii) poles with Wireline Attachments require dramatically different types and costs of vegetation management activities, it is unfair and inappropriate in principle

for Hydro One to allocate vegetation costs to Wireline Attachers on a gross averaging basis based on its entire inventory of poles.