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BY EMAIL and RESS

June 10, 2016
Our File: EB20150141

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2015-0141 – Carriers’ Motion to Review and Vary – SEC Final Argument

1. We are counsel to the School Energy Coalition (“SEC”). This is SEC’s Final Argument on the motion to review and vary Hydro One Network Inc.’s (“HONI”) pole attachment rate for each year between 2015 and 2017, initiated by a number of telecommunication carriers (the “Carriers”).¹ For the reasons set out below, SEC submits that the appropriate pole attachment rate should be set at \$72.16 per attacher per pole, a slight increase from that proposed by Hydro One.

2. The Board has treated the motion to review and vary as a hearing *de novo*. Parties had an opportunity to file evidence, ask interrogatories, and both a technical conference and a settlement conference were held.

3. The Board directed in Procedural Order No.4 that, in setting the just and reasonable pole attachment rate, parties should be guided by the methodology approved in the CCTA decision (RP-2003-0249).² Parties have also had the benefit of the Board’s decision in the Hydro Ottawa pole attachment rate decision (“Hydro Ottawa Decision”).³

¹ 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)

² *Decision and Order* (RP-2003-0249 - CCTA), March 7 2005

³ *Decision and Rate Order on Pole Attachment Charge* (EB-2015-0004 - Hydro Ottawa), February 25, 2016 (“Hydro Ottawa Decision”)

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Hydro One's Inputs and Methodology

4. SEC has reviewed the Final Argument of Hydro One, and with one exception agrees with its calculation of the pole attachment rate. Hydro One has utilized the proper inputs to the approved CCTA methodology, and used as the source of the data, actual 2014 year-end information, which is the last year of actuals before the current Hydro One 3 year rates were set. While SEC believes that forecast using costs would be more appropriate, using actual historic values as Hydro One has, is consistent with the Board's decision in the Hydro Ottawa Decision.⁴

5. The proposed rate includes not just 2014 year-end direct and indirect cost information, but also the number of actual attachers per pole, which the Board determined in the Hydro Ottawa proceeding is an input to the approved methodology.⁵

6. The only issue SEC has is that it appears Hydro One's calculation of the allocation factor to be applied to the indirect costs is incorrect. Based on the methodology for determining the allocation factor referenced in the Hydro Ottawa Decision⁶, the proper factor for 1.3 attachers per pole is 35.4%⁷, not 34.3%. This has the effect of increasing the pole attachment rate from propped \$70.04 to \$72.16. SEC has provided the full calculation at Appendix A.

Vegetation Management Costs Should Be Included

7. The only difference between the CCTA methodology and Hydro One's proposal is the inclusion of vegetation management costs. SEC submits this is appropriately included in this proceeding because Hydro One's agreements with the Carriers explicitly state that they will be responsible for an appropriate share of the vegetation management costs. These agreements were renewed as recently as 2014.⁸

8. It appears from the interrogatory responses that the Carriers do not oppose paying their share of the vegetation management costs, specifically line clearing, but they argue vegetation management it is not within the scope of this proceeding, and thus should not form part of the pole attachment rate.⁹ SEC disagrees.

⁴ *Hydro Ottawa Decision*, p.8-9

⁵ *Hydro Ottawa Decision*, p.6

⁶ *Hydro Ottawa Decision*, p.14, footnote 37, which cites to the formula contained in Interrogatory Response IR:H-7-1 (Carriers #4), p.2 which is:

$$= \frac{1}{h} * \left[\frac{s}{n} + \frac{t}{n} + \frac{c}{(n+e)} + \frac{b}{(n+e)} \right] :$$

Whereas:

h (size of typical pole) = 40"

b (buried depth) = 6"

c (clearance space) = 17.25"

t (telecom space) = 2"

s (separation space) = 3.25"

p (power space) = 11.5"

Specific to Hydro One:

n (average number of 3rd party attachers on Hydro One's poles) = 1.3

e (number of electrical companies in the power space on Hydro One's poles) = 1

⁷ $0.353679 = 1/40 * ((3.25/1.3) + (2/1.3) + (17.25/(1.3+1)) + (6/(1.3+1)))$

⁸ Hydro One Argument, para 24

⁹ Carriers' Response to Hydro One Interrogatory No.7

9. What makes this situation different from other costs that may not form part of the CCTA methodology is that the Carriers have specifically contracted with Hydro One that these types of costs are incorporated into the pole attachment rate. For example, in Rogers' agreement with Hydro One ("Rogers-Hydro One Agreement"), it expressly provides that routine maintained line clearing will be recovered in the Pole Rental Rate.¹⁰ While it appears that this was not actually the case previously, as vegetation management costs were not included in the CCTA methodology, it demonstrates the intent of the parties that those costs should be included within the pole attachment rate. Section 14 of the Rogers-Hydro One Agreement sets out the rationale for why those costs should be borne by the attacher (referred to in the agreement as the licensee) and should be included in the pole attachment rate.

10. Furthermore, there is no principled reason for costs for vegetation management related to lines¹¹ to be treated any differently from other pole maintenance costs that are included. They are costs that the Carriers benefit from directly, and so should bear their fair share.

11. At the Technical Conference, the Carriers' witness recognized that for the vegetation management costs that it believes they are responsible for; it would be reasonable for Hydro One to bill those costs separately to each individual Carrier who has an attachment.¹² The problem is there is no established method to determine how much to invoice, nor do the Carriers suggest a way. They believe this should be left up to the upcoming policy review.¹³ While that may be appropriate going forward as with the entire pole attachment rate methodology, distribution ratepayers are still then paying for the Carriers' fair share of these costs.

Summary

12. SEC submits that the just and reasonable pole attachment rate based on the Board's guidance is \$72.16 per year. While SEC recognizes that the amount is higher than was originally approved in EB-2013-0416, it is the correct rate based on the evidence, specific contractual relationship the Carriers have with Hydro One, and Board approved methodology from the CCTA methodology. It ensures that Carriers pay their fair share of costs for access to place their facilities on Hydro One's poles, and that they are not cross-subsidised by electricity ratepayers.

All of which is respectfully submitted.

¹⁰ See for example, Agreement for Licensed Occupancy of Power Utility Distribution Poles between Hydro One Networks Inc. and Rogers Communications Inc., section 11 and Decision Table 14. (Appendix D to the Carriers' Evidence)

¹¹ Hydro One has included for line related vegetation management expenses: costs for line patrol, defect correction, customer notification, brush control and line clearing. See Hydro One Response to Board Staff Interrogatory 2.1 (I-1-Schedule 2.1, p.6)

¹² Technical Conference Transcript p.50-51

¹³ Technical Conference Transcript, p.51

Jay Shepherd P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and all parties (by email)

A

SEC Hydro One Pole Attachment Rate Derivation Table

Price Component		Explanation		Source
<u>Direct Costs</u>				
A	Adminstration Cost per pole	\$ 0.90	Admin. Costs from 2005 decision (\$0.69), add inflation of Admin cost from 2005, inflation of 3% for 9 years: $(0.69*(1.03)^9=\$0.90)$	I-1-2.1, p.7, Ln 2
B	Loss in Productivity per pole per attacher	\$ 3.09	Loss of Productivity from 2005 decision (\$1.23), multiply by 2.5 Attachers, to get full rate, divide by 1.3 Attachers to get rate per attacher, add inflation of 3% for 9 years: $(\$1.23/2.5*1.3*(1.03)^9=\$3.09)$	I-1-2.1, p.7, Ln 4
C	Total Direct Cost	\$ 3.99	A+B	
<u>Indirect Costs</u>				
D	Net Embedded Cost per pole	\$ 944.49	(Total Adjusted Average NBV)/ (Number of In-Service Poles)	I-1-2.1, p.7, Ln 10-13
	Year End Acquisition Value	\$ 2,597,800,000	2014 Year End Acquisition Value	I-1-2.1, p.7, Ln 10-13
	Year End Accumulated Depreciation	\$ 847,500,000	2014 Year End Accumulated Depreciation	I-1-2.1, p.7, Ln 10-13
	Total Year End NBV	\$ 1,750,300,000	(Year End Acquisition Value - Year End Accumulaed Depreciation) /2	I-1-2.1, p.7, Ln 10-13
	Total Adjusted Year End NBV	\$ 1,487,755,000	Total Year End NBV * 0.85 (to remove any power only assets)	I-1-2.1, p.7, Ln 10-13
	Number of In-Service Poles	1,575,195		I-1-2.1, p.7, Ln 10-13
E	Depreciation Expense per pole	\$ 23.83	(Total Adjusted Depreciation Expense) / (Number of In-Service Poles)	I-1-2.1, p.7, Ln 19-21
	Year End Acquisition Value	\$ 2,597,800,000	2014 Year End Acquisition Value	I-1-2.1, p.7, Ln 19-21
	Depreciation Expense	\$ 44,162,600	(Year End Acquisition Value) * (1.7% HONI Depreciation Rate)	I-1-2.1, p.7, Ln 19-21
	Adjusted Depreciation Expense	\$ 37,538,210	Depreciation Expense * 0.85 (to remove any power only assets)	I-1-2.1, p.7, Ln 19-21
	Number of In-Service Poles	1,575,195	Qty. of Poles Corrected at Year End December 2014	
F	Pole Maintenance Expense per pole	\$ 88.56	(Total Maintenance Expense Depreciation Expense) / (Number of In-Service Poles)	I-1-2.1, p.6, Ln 1-10
	Maintenance Expense	\$ 8,700,000	(Line Patrol (\$5.4M) + Defect Correction (\$3.3M)	I-1-2.1, p.6, Ln 1-10
	Vegetation Management Maintenance Expe	\$ 130,800,000	(Customer Notification (\$9.2M) + Brush Control (\$23.9M) + Line Clearing 7 (\$97.7M)	I-1-2.1, p.6, Ln 1-10
	Total Maintenance Expense	\$ 139,500,000	(Non-Forest Maintenance Expense) + (Forest Maintenance Expense)	I-1-2.1, p.6, Ln 1-10
	Number of In-Service Poles	1,575,195	Qty. of Poles Corrected at Year End December 2014	I-1-2.1, p.6, Ln 1-10
G	Capital Carrying Cost per pole	\$ 80.19	D * (Pre-Tax WACC)	I-1-2.1, p.86, Ln 1-2
	Pre-Tax WACC	8.49%	2012 Pre-Weighted Average Cost of Capital (Set in EB-2009-0096 for 2011 and in place until 2014 due to IRM)	I-1-2.1, p.86, Ln 1-2, EB-2009-0096 DRO, Schedule 1.4)
H	Total Indirect Costs per pole	\$ 192.58	E+F+G	
I	Total Indirect Cost Allocation per pole	\$ 68.17	Total Indirect Cost per pole (G) * Allocation Factor	I-1-2.1, p.5, Ln 2
	Allocation Factor	35.40%	Based on 1.3 Attachers using EB-2015-0004 approved formula for calculation allocation factor	See para 6 of SEC Argument
J	Total Cost Per Attacher	\$ 72.16	C+I	