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BY E-MAIL

June 10, 2016

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: Motion by the Carriers to Review and Vary Decision EB-2013-0416/EB-2014-0247 as it relates to the Specific Charge for Cable and Telecom Companies Access to the Power Poles charged by Hydro One Networks Inc.
OEB File Number: EB-2015-0141

In accordance with direction provided in the Oral Hearing on May 19, 2016, attached are the submissions of OEB staff for the EB-2015-0141 proceeding.

Yours truly,

Original Signed By

Harold Thiessen
OEB staff
Case Manager – EB-2015-0141

Att.

MOTION BY ROGERS COMMUNICATIONS PARTNERSHIP *ET AL.* TO REVIEW AND VARY DECISION EB-2013-0416/EB-2014-0247

EB-2015-0141

OEB Staff Submission

June 10, 2016

INTRODUCTION

This is a motion brought by Rogers Communications Partnership and other cable and telecommunications companies and associations (collectively, "the Carriers")[1] to review and vary the decision of the Ontario Energy Board (OEB) dated March 12, 2015 approving distribution rates and charges for Hydro One Networks Inc. (Hydro One) for 2015 to 2017.[2] The only aspect of that decision being challenged is the increase in the annual charge that Hydro One requires the Carriers to pay in order to use Hydro One's power poles (the "Pole Access Charge"), which at the time of Hydro One's application had been at $22.35 per pole since 2005.

This case raises many of the same issues that were recently addressed by the OEB in its decision on Hydro Ottawa's pole attachment charge.[3] In this submission, OEB staff applies the Hydro Ottawa decision to the facts at hand. There is, however, one significant issue that arises here for the first time and on which the Hydro Ottawa decision provides little guidance: whether Hydro One's costs of clearing trees and other vegetation from around the poles should be reflected in the Pole Access Charge or not. Hydro One says they should be; the companies that pay the charge say they should not.

For the reasons below, OEB staff submits that vegetation management costs should not be included in the calculation of the Pole Access Charge. This significantly lowers the charge. Nevertheless, applying the OEB's findings in the Hydro Ottawa decision to other aspects of the calculation – in particular, the finding that "indirect" costs should be allocated on the basis of the actual number of attachers per pole, rather than the 2.5 attachers that was presumed when the charge was first established in 2005 – results in a Pole Access Charge of $41.56, nearly double the current rate of $22.35 and in fact a little higher than the $37.05 the OEB approved for 2015, but much lower than the $70.04 that Hydro One now asks the OEB to accept.

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[1] The Carriers comprise: Rogers Communications Partnership, Allsteam Inc., Shaw Communications Canada 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, and Canadian Cable Systems Alliance Inc.
[2] Decision, March 12, 2015 (EB-2013-0416/EB-2014-0247).
[3] Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004).

BACKGROUND

Hydro One's Application to Raise the Pole Access Charge

The current Pole Access Charge of $22.35 per pole per year was fixed by the OEB on March 7, 2005.[4] That proceeding was an application under section 74 of the *Ontario Energy Board Act, 1998* by the Canadian Cable Television Association (CCTA) for an amendment to the licences of all licensed electricity distributors, including Hydro One. The OEB set a province-wide pole attachment charge of $22.35, but said that a distributor could apply to vary the charge: "Any LDC that believes that the province-wide rate is not appropriate can bring an application to have the rates modified based on its own costing."[5]

It was not until the last few years that any distributors asked for an exception to the province-wide charge of $22.35. In Toronto Hydro's most recent Custom Incentive Rate (CIR) application, it agreed to settle the pole attachment rate issue with the intervenors; the OEB approved the settlement of $42.00 per pole for the duration of the CIR period.[6] Earlier this year the OEB approved an increase to Hydro Ottawa's pole attachment rate to $53.00.[7]

In its December 19, 2013 application for distribution rates and charges for 2015 to 2019, Hydro One sought to increase the Pole Access Charge to $37.05 in 2015, $37.42 in 2016, $37.80 in 2017, $38.18 in 2018, and $38.56 in 2019.[8] At the hearing on Hydro One's application (EB-2013-0416), no cable or telecommunications companies intervened, and the Pole Access Charge was not a contested issue.

[4] Decision and Order, March 7, 2005 (RP-2003-0249), p. 8.
[5] *Ibid.*, p. 8.
[6] Decision on Settlement Proposal, July 23, 2015 (EB-2014-0116); Settlement Proposal filed June 11, 2015 (EB-2014-0116).
[7] Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), p. 1.
[8] EB-2013-0416/Exhibit G2/Tab 5/Schedule 1/Page 31. The Pole Access Charge is described in Hydro One's application as the "Specific Charge for Cable and Telecom Companies Access to the Power Poles".

The OEB approved Hydro One's application on March 12, 2015, but only for three rate years (2015 to 2017), not the five (2015 to 2019) Hydro One had asked for.[9] The OEB's decision did not refer specifically to the Pole Access Charge.

The Carriers' Challenge

Following the OEB's March 12, 2015 decision, but before the OEB issued a final rate order, several of the Carriers wrote to the OEB requesting leave to bring a motion to review and vary the decision as it relates to the Pole Access Charge. They were soon joined by the remaining Carriers.[10] Leave was required under Rule 40.02 of the OEB's *Rules of Practice and Procedure* because the Carriers were not parties to the hearing on the Hydro One rate application.

The OEB granted leave to bring this motion to review and vary on June 30, 2015.[11] At the same time, the OEB confirmed that it has jurisdiction to set the Pole Access Charge under section 78 of the *Ontario Energy Board Act, 1998*. Citing its recent ruling in the Toronto Hydro matter (EB-2014-0116), the OEB explained that "pole attachment rates are incidental to the distribution of electricity, as the poles are an essential facility properly considered under section 78 of the Act."[12]

In its April 17, 2015 decision on Hydro One's draft rate order, the OEB determined that the Pole Access Charge would remain at $22.35 until the Carriers challenge was resolved. The OEB stated:

> As no finding has yet been made on the requests for leave to file a motion, the OEB will not approve the new specific service charge for pole attachments as final. That charge will be interim at its current level until the EB-2015-0141 matter is resolved. Hydro One is directed to track the lost incremental revenue it would have received through the proposed increase to the Specific Charge for Cable and Telecom Companies Access to the Power Poles in order that it may it may apply to recover that revenue if applicable.[13]

[9] Decision, March 12, 2015 (EB-2013-0416/EB-2014-0247).
[10] Procedural Order No. 2, May 19, 2015 (EB-2015-0141).
[11] Decision and Order, June 30, 2015 (EB-2015-0141).
[12] Decision and Order, June 30, 2015 (EB-2015-0141), p. 4. The jurisdictional question was later raised in the Hydro Ottawa proceeding. Again, the OEB determined that it had jurisdiction under section 78 to set pole attachment charges: Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), p. 5.
[13] Decision on Draft Rate Order, April 17, 2015 (EB-2013-0416), p.3.

On April 23, 2015, the OEB issued a final rate order approving Hydro One's tariff of rates and charges except the Pole Access Charge, which remains at its current level on an interim basis, pending the outcome of this proceeding.[14]

On July 20, 2015, the Carriers jointly filed a notice of motion to review and vary the OEB's March 12, 2015 decision, insofar as it relates to the Pole Access Charge. The Carriers asked for a hearing *de novo* on the Pole Access Charge.

The OEB agreed to hold a new hearing on the Pole Access Charge. It explained in Procedural Order No. 3 that "the purpose of this motion to review and vary will be to fix the final Pole Access Charge, which until the disposition of the motion will remain at the interim level of $22.35 per pole per year", and directed the parties to focus their arguments on whether Hydro One's proposed increase to the Pole Access Charge is just and reasonable.

In Procedural Order No. 4, the OEB explained that "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." The OEB also noted that "the OEB plans to undertake a policy review of miscellaneous rates and charges commencing this year which will include a review of pole attachment rate methodology." OEB staff can advise that the first meeting of the newly established Pole Attachment Working Group, which includes representatives of distributors as well as the cable and telecommunications industry, was held on May 30, 2016.

Both Hydro One and the Carriers filed evidence and responded to interrogatories. A transcribed technical conference was held on January 12, 2016, followed immediately by a settlement conference, which did not result in a settlement.

In response to a request from the Carriers, the OEB ordered Hydro One to answer a second round of interrogatories.[15] Dissatisfied with Hydro One's answers, the Carriers brought a motion to compel Hydro One to provide supplementary answers, which the OEB heard orally on May 19, 2016. At the hearing of the motion, Hydro One agreed to provide additional information, which it did by way of

[14] Rate Order, April 23, 2015 (EB-2013-0416).
[15] Decision and Procedural Order No. 8.

affirmed testimony. At the conclusion of the oral hearing, the OEB established a schedule for written argument.[16]

APPLYING THE HYDRO OTTAWA DECISION TO THE FACTS AT HAND

In the Hydro Ottawa case, as in this proceeding, the OEB determined that, in light of the OEB policy review that had been announced, it would set the pole attachment charge using the approved 2005 methodology.[17] In the Hydro Ottawa decision the OEB made a number of findings that inform OEB staff's submissions in the present proceeding. In summary, the OEB found that the approved methodology entails the following:

- the charge should be calculated using historical actual costs with no annual inflation adjustment consistent with methodology in its 2005 decision

- administration costs and loss in productivity costs should be determined on a per pole basis and divided by the number of attachers

- net embedded costs should be based on Hydro Ottawa's 2013 year end net book values

- a 5% reduction for power assets in USofA account 1830 was appropriate, rather than the 15% reduction suggested by the carriers who intervened in that case

- the allocation factor should be calculated based on the actual number of attachers per pole, rather than the 2.5 attachers per pole that was deemed in the OEB's 2005 CCTA decision

The Hydro Ottawa decision is currently under appeal at the Divisional Court. On April 19, 2016, the Carriers requested an adjournment of their motion to review

[16] OEB staff has not summarized all of the numerous procedural issues that have arisen in this case.
[17] Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), pp. 2-3.

and vary the Hydro One Pole Access Charge pending the outcome of that appeal. The OEB denied the request.[18]

Applying the findings above to the facts in this case, OEB staff makes the following submissions. For convenience, the submissions are generally organized using the same headings as the Hydro Ottawa decision (which in turn was organized in accordance with the elements of the approved methodology as set out in Appendix 2 to the CCTA decision). The calculations of the Pole Access Charge under the 2005 OEB methodology, the Hydro One final proposal and the total charge under the elements of OEB staff submission are provided in Table 1 attached.

Historical vs. Forecast Costs

OEB staff submits that the Pole Access Charge should be determined using historical costs, in keeping with the Hydro Ottawa decision. This raises the question: which historical costs, 2014 or 2015?

In its Argument in Chief, Hydro One calculated the charge in two different ways for illustrative purposes, using 2014 costs and 2015 costs, but proposes to use 2014 costs. OEB staff agrees that the 2014 costs are more appropriate in this case. The 2014 costs were provided by Hydro One in its supplementary evidence filed on December 22, 2015, and were therefore open to being questioned in the technical conference on January 12, 2016 and in the second round of interrogatories that the OEB ordered in Decision and Procedural Order No. 8.

By contrast, the actual 2015 costs were not provided until April 15, 2016, when Hydro One responded to the second round of interrogatories. Because the 2015 actuals are relatively untested, the 2014 actuals are more reliable. OEB staff notes that the use of 2014 instead of 2015 works in the Carriers' favour, as the 2014 figures (and therefore the charge) are lower.

Number of Attachers per Pole

The 2005 CCTA decision established the province-wide pole attachment rate based on the presumption that there were, on average, 2.5 attachers per pole. In

[18] Decision and Procedural Order No. 9, May 4, 2016 (EB-2015-0141).

its initial rate application (EB-2013-0416), Hydro One chose to keep the number of attachers at the 2.5 level, however in this proceeding it now uses the actual number of attachers per pole, which it calculates to be 1.3.

As the OEB held in the Hydro Ottawa decision, the approved methodology does not require the use of the default 2.5 in all cases. Rather, it allows a distributor to apply for a rate other than the province-wide $22.35 if it can demonstrate that its specific circumstances justify such a departure. The OEB said that "information specific to the utility is the most useful" and that it would therefore rely on the actual attachment data filed by Hydro Ottawa.[19] The charge approved by the OEB in the Hydro Ottawa decision is based on 1.74 attachers per pole.[20]

OEB staff submits that in this case, the actual number of attachers should also be used. OEB staff notes that the OEB's CCTA decision does not define the terms "attacher" or "pole" for the purpose of calculating the attachers per pole ratio. It appears to OEB staff that both terms can be seen as open to interpretation.

In order to arrive at its value of 1.3, Hydro One simply used its total number of "permitted" attachments (767,761) and divided that by the number of poles that contain attachments (576,068) to arrive at its number of attachers per joint use pole.[21]

OEB staff submits that this is a reasonable approach and accepts Hydro One's actual number of attachers per joint use pole to be 1.3.

Direct Costs

As the OEB explained in Hydro Ottawa, "Direct costs are incremental costs incurred by the distributor that result directly from the presence of the third-party equipment. The direct costs consist of (A) administration costs and (B) loss in productivity costs."[22]

[19] Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), p. 7.
[20] *Ibid.,* p. 8.
[21] Exhibit I/Tab 3/Sch 5, VECC IR 5, September 8, 2015; Motion Hearing Transcript, May 19, 2016, pp. 32-33. Hydro One explained in the motion hearing that if an attacher has more than one attachment on a single pole, only one is included in the numerator (i.e. the 767,761).
[22] *Ibid.*, p. 9.

In that case the OEB found that administration and loss in productivity costs should be determined on a per pole basis and then divided by the number of attachers per pole. This aspect of the Hydro Ottawa decision appears not to be controversial in this proceeding.

Hydro One has calculated the total direct costs, using 2014 actual data, to be $3.99 per pole.

OEB staff notes that, for administration and loss in productivity costs, Hydro One used the costs from the 2005 CCTA decision and simply adjusted them for inflation, rather than using the actual costs like Hydro Ottawa did. Hydro One was asked about this in the technical conference and explained that deriving the actual costs would have been "a huge undertaking".[23]

OEB staff accepts this as a reasonable approach when considering the cost and effort to determine the actual amount, and the small share of the total pole attachment rate that this item represents.

Indirect Costs

In the Hydro Ottawa decision, the OEB explained the concept of "indirect costs", as that term is used in the 2005 CCTA decision:

> Indirect costs or common costs are borne by the distributor and the third parties. The 2005 Decision concluded that depreciation, maintenance and carrying costs are representative indirect costs. The determination of the indirect costs starts with the establishment of an appropriate net embedded cost of a pole.[24]

[23] Technical Conference Transcript, November 12, 2015, pp. 30-31. The relevant exchange reads:
MR. HARPER: Okay, fine. Now I notice that in calculating the rate, you used the 2014 -- excuse me, the 2012 audited cost to calculate some of the capital rated values. But for the loss of productivity and administration costs, you simply used the 1995 values from RP-2003-0249 and escalated them up to 2012 using 3 percent per annum. Am I correct?
MR. BOLDT: Yes, that's correct.
MR. HARPER: And in response to Carriers -- you don't have to turn them up, but it's Carriers interrogatories 9 and 10 -- you've indicated that you had not performed an analysis of the employee activities and related costs associated with these particular cost items.
I was wondering if you can explain to me why you didn't do that, and why you relied strictly on escalation of historical costs?
MR. BOLDT: It's a huge undertaking and we hadn't -- we simply hadn't done. We hadn't looked at it.
MR. HARPER: Okay, fine. I'll take that as your answer, then.

[24] Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), p. 11.

Under the approved methodology, indirect costs account for the vast majority of the province-wide pole attachment charge ($20.43 of the $22.35, with the remaining $1.92 comprising direct costs).[25]

Net Embedded Cost

In the Hydro Ottawa case, the OEB reduced the actual net embedded cost per pole by 5% to reflect the fact that some of the pole costs relate to "power-specific assets", that is, assets used for supporting overhead distribution conductors and service conductors, which are not needed to support telecommunications attachments. This was less than the 15% that the carrier intervenors had proposed. The OEB "relie[d] on the evidence provided by Hydro Ottawa as to the actual configuration of its assets (i.e. using brackets rather than crossarms in its distribution system construction)", and found that the evidence did not support a 15% reduction.[26]

In the present proceeding, Hydro One proposes a 15% reduction for power specific assets. That is, Hydro One takes the average net book value of USofA Account 1830 (Poles, Towers and Fixtures) and reduces it by 15% to arrive at the net embedded cost of a pole, which is then used as an input in the calculation of the Pole Access Charge. Hydro One explained in a response to an interrogatory, "as approved in RP-2003-0249, 85% of the Net Book Value was used to determine the Net Embedded Cost. The 15% that is removed from the cost represents the value that is associated with power-specific assets."[27]

In OEB staff's view, it is not accurate that the OEB "approved" a 15% reduction in the CCTA decision. Nowhere in the decision is there any reference to a 15% reduction. Nevertheless, OEB staff submits that implicit in the decision is the notion that the attachers should not have to contribute to the cost of power-specific assets. The OEB's calculation of the province-wide pole attachment charge incorporated a per-pole net embedded cost of $478. That number was drawn from an earlier CRTC decision known as Telecom Decision CRTC 99-13. In the CRTC decision, the utilities and the carriers agreed that "items such as cross arms

[25] Decision and Order, March 7, 2005 (RP-2003-0249), p. 13.
[26] Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), p. 13.
[27] Hydro One Response to Carrier Interrogatory #4, September 8, 2015,

should be excluded from the capital costs of power utility poles".[28] The CRTC noted that utilities "are not subject to any regulatory accounting requirements to maintain separate sub-accounts for support structures and, as a consequence, the accounting costs for poles alone are not available".[29] In the absence of such costing data for the industry as a whole, the CRTC relied on an analysis performed by Milton Hydro of its poles, which showed that the net embedded cost of a pole was $478. The CRTC adopted $478 as "a reasonable proxy" for industry "poles alone" costs.[30]

In summary, OEB staff submits that although the approved methodology recognizes that the cost of power-specific asset should be removed from the net embedded cost of a pole, it does not prescribe a 15% reduction. The approved methodology provides the OEB with some discretion about how much of a reduction to apply in cases where a distributor seeks a variance of the province-wide pole attachment charge.

Unlike in the Hydro Ottawa case, where the carriers proposed a 15% reduction, supported by expert evidence, and Hydro Ottawa proposed only 5%, supported by evidence of how its poles are actually configured, the issue of carving out the power-specific asset costs from the net embedded cost of the pole does not appear to have been contentious in this proceeding. Hydro One started with 15% – the same as what the carriers in the Hydro Ottawa case were looking for – and the Carriers in this case seem to have accepted that.[31] Accordingly, there was little exploration of the issue in the technical conference or interrogatories.

[28] Telecom Decision CRTC 99-13 (included in Appendix C to the Evidence of Michael Piaskoski, filed by the Carriers in this proceeding), para. 212.
[29] *Ibid.*, para. 206.
[30] *Ibid.*, para. 208.
[31] Hydro One's calculation of the Pole Access Charge in its initial rate application included a 15% reduction for power-specific assets: Hydro One response to Carrier Interrogatory #4, September 8, 2015. The Carriers indicated that they did not intend to challenge Hydro One's calculation, except for the inclusion of the vegetation management costs in the pole maintenance costs: Evidence of Michael Piaskoski, filed November 20, 2015 (OEB staff notes that the Carriers said this before certain other issues arose, such as whether to use the actual number of attachers or the 2.5 presumed in the CCTA decision). OEB staff does not know what the Carriers or the intervenors will say about power-specific asset issue in their written arguments, due June 10, 2016.

Although the 15% reduction proposed by Hydro One is larger than what the OEB accepted in the Hydro Ottawa decision, and therefore more favourable to the Carriers, OEB staff submits that there is no evidence that it is unreasonable.

Depreciation, Pole Maintenance and Capital Carrying Costs

In the Hydro Ottawa decision, the OEB found that, "Consistent with the OEB's findings on net embedded cost, it is reasonable to reduce the depreciation and pole maintenance expenses by 5% to account for the inclusion of power-specific assets."[32] OEB staff submits that, for the reasons discussed above in respect of the net embedded cost, the appropriate reduction for Hydro One would be 15%.

In Hydro One's calculation of the Pole Access Charge, it has reduced the depreciation cost by 15% but not the pole maintenance cost.[33] In OEB staff's view, Hydro One's explanation for its treatment of the power-specific component of the pole maintenance cost is not entirely clear – although it did not apply a 15% reduction, it does appear to have excluded some power-specific costs.[34] It may be helpful to the OEB if Hydro One were to clarify this in its Reply. Subject to what Hydro One may say in its Reply, OEB staff's view is that there is not enough evidence to warrant a departure from Hydro One's proposed approach to the power-specific costs. In any case, the answer does not have a significant bearing on the overall charge. By OEB staff's calculation, if a 15% reduction were applied to the maintenance expenses, the charge would go down by only 29 cents.[35]

In the Hydro Ottawa case, the OEB confirmed that under the approved methodology, capital carrying cost is derived by using the net embedded cost and multiplying it by the before-tax weighted average cost of capital for the year.[36] In the calculations provided by Hydro One it used its pre-tax weighted average cost of capital which was 8.49% for 2014.

[32] Hydro Ottawa Decision, EB-2015-0004, p. 14
[33] Response to VECC IR 2.14, April 15, 2016
[34] *Ibid*
[35] Reduce the $5.52 Pole Maintenance expense by 15% to $4.69 using Table 3, Column #4, Hydro One Argument in Chief.
[36] Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), p. 14.

The Hydro Ottawa case also confirmed that depreciation cost is derived by using the year-end acquisition value multiplied by the depreciation rate with an adjustment for power specific assets. Hydro One used a depreciation rate of 1.7%, multiplied by 0.85 to remove any power specific assets (this implies a 15% reduction for power specific assets in this case as opposed to a 5% reduction found in Hydro Ottawa) and then divided by the number of poles.

Based on the evidence on the record and Hydro One's Argument in Chief, OEB staff accepts the methodology used by Hydro One to calculate the carrying cost and depreciation cost amounts. As for the pole maintenance costs, in addition to the minor point above regarding the treatment of the power-specific costs, OEB staff takes issue with Hydro One's proposal to include vegetation management costs in the pole maintenance costs. This is discussed below.

Vegetation Management Costs

In its initial rate application, and again in its Argument in Chief, Hydro One included vegetation management costs in the pole maintenance costs in its calculation of the Pole Access Charge. The Carriers have said those costs should be excluded, as they are not part of the approved methodology.

In OEB staff's view, the question is not whether, as a matter of policy, it makes sense to include vegetation management costs. That is an issue to be left to the policy review now underway. Rather, the question is simply whether the approved methodology includes them or not.

The answer makes a big difference to the rate. Hydro One has, in its Argument in Chief, calculated the Pole Access Charge both ways – with and without vegetation management costs. Table 3 in its Argument in Chief shows that, all other inputs being equal, factoring in vegetation management costs yields a Pole Access Charge of $70.04, whereas leaving them out yields $41.56.[37] In OEB staff's view, therefore, the treatment of vegetation management costs is the main issue in this case.

[37] Hydro One Argument in Chief, Table 3, Columns 4 and 5, which were derived using 2014 actual costs and a 15% reduction for power specific costs. Using 2015 costs results in $68.01 with vegetation management costs included, as compared with $44.26 with vegetation management costs excluded (Columns 6 and 7).

OEB staff submits that under the approved methodology, vegetation management costs are to be excluded. Although the OEB's 2005 CCTA decision does not expressly say anything about vegetation management, it can be inferred that vegetation management costs were left out. That is because the Decision relied on and built upon the earlier CRTC decision, Telecom Decision CRTC 99-13.

In the CRTC decision, vegetation management costs were clearly excluded:

> 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. Furthermore, the Commission notes that in the Milton Hydro study, pole maintenance costs, excluding tree trimming, are $6.47 ($5.00 for pole testing and $1.47 for straightening). Consistent with the Commission's determination that the Milton Hydro data should be used in the rate calculation, maintenance costs of $6.47 will be included in the monthly pole rental rate.[38]

In the CCTA decision, the OEB took the $6.47 from the CRTC case and adjusted it for inflation, resulting in a pole maintenance expense of $7.61 per year.[39] The $7.61 that was then fed into the formula for calculating the pole attachment charge therefore did not include vegetation management expenses. Put another way, the methodology approved by the OEB in the CCTA decision accounted for pole maintenance costs, but those pole maintenance costs did not include vegetation management.

Hydro One argues that it has pole attachment agreements in place with many of the Carriers that provide that vegetation management costs are included in the Pole Access Charge. Hydro One says these agreements show that "the Carriers have in fact been paying for vegetation management as part of the pole attachment charge".[40]

In OEB staff's submission, whatever those agreements may say about vegetation management is not relevant to the question of whether vegetation management costs are included in the OEB approved methodology or not.[41] The answer to that

[38] Telecom Decision CRTC 99-13 (included in Appendix C to the Evidence of Michael Piaskoski, filed by the Carriers in this proceeding), para. 212.
[39] CCTA Decision, Appendix 2, row F.
[40] Hydro One Argument in Chief, para. 23.
[41] One such agreement is in evidence: Evidence of Michael Piaskoski, filed by the Carriers November 20, 2015, Appendix D.

question can only be determined by looking at the methodology itself, that is, the OEB's decision in the CCTA case. Even if Hydro One and some or all of the Carriers interpreted the approved methodology to include vegetation management costs, and structured their pole attachment agreements accordingly, that would not change the approved methodology itself. As the Carriers have suggested, it appears as though there may simply have been a misunderstanding about what the approved methodology entailed.[42]

OEB staff also notes that vegetation management was not an issue in the Hydro Ottawa case. Hydro Ottawa did not include vegetation management costs in its proposed pole attachment charge,[43] and none of the other parties objected. Vegetation management was not the focus of argument and was not discussed in the OEB's decision. OEB staff therefore submits that excluding the vegetation management costs, while not expressly required by the Hydro Ottawa decision, would be consistent with it.

Allocation Factor

Under the approved methodology, the indirect costs associated with a pole are split between the distributor and the third party attachers according to an "allocation factor". In the CCTA decision, this allocation was determined to be 21.9%, meaning that each attacher was responsible for 21.9% of the total indirect costs, which was built into the pole attachment charge. Although the calculation of the 21.9% allocation factor is not clearly set out in the decision, it was evidently derived by notionally dividing a typical 40 foot pole into different segments, only some of which are used by the third party attachers (e.g. the "communications space"). The total amount of space on the pole used by the attachers is then divided between the number of attachers on the pole, which was assumed to be 2.5.[44]

[42] Evidence of Michael Piaskoski, filed by the Carriers November 20, 2015, para. 20.
[43] In response to an interrogatory, Hydro Ottawa explained that "Tree trimming costs were not included in the calculation of pole maintenance expense" (Hydro Ottawa response to Carriers IR #11, EB-2015-0004).
[44] Decision and Order, March 7, 2005, (RP-2003-0249). The decision relied on the CRTC decision, which explained that "an allocation factor based on the percentage of usable space consumed" should be built into the pole attachment rate: Telecom Decision CRTC 99-13, paras. 222-224.

In the Hydro Ottawa case, the OEB approved an allocation factor of 28.8%, which was higher than the 21.9% found in the CCTA decision. That is because Hydro Ottawa demonstrated that it had fewer than the 2.5 attachers per pole assumed in the CCTA decision: there were actually only 1.74. The OEB referred to the formula for calculating the allocation factor in a footnote.[45]

In this case, as outlined above, Hydro One has provided evidence on the space allocation for a 40 foot joint use pole[46] (but using slightly adjusted space allocations[47] from those used in the CCTA decision) and that it has 1.3 attachers per pole. Hydro One has calculated the allocation factor as 34.3%.[48] The allocation factor is higher than in the Hydro Ottawa decision because there are fewer attachers on the pole to share the costs. However, OEB staff is not entirely clear on how Hydro One arrived at the 34.3% allocation factor[49] and invites Hydro One to clarify how it arrived at its allocation factor in its Reply.

CONCLUSION

For the reasons above, OEB staff submits that, based on the approved methodology as interpreted by the OEB in the recent Hydro Ottawa decision and the evidence provided by Hydro One, the Pole Access Charge should be based on:

- escalated direct costs
- 2014 actual indirect costs
- the actual number of 1.3 attachers per pole
- a 15% reduction to the net embedded cost per pole to exclude the cost of power-specific assets
- pole maintenance costs not including vegetation management costs.

Hydro One has calculated the Pole Access Charge in this manner in its Argument in Chief, for illustrative purposes. The result is $41.56.[50] Hydro One further explains the calculation in its response to OEB Staff interrogatory #2.1 filed on April 15, 2016 and in its response to undertaking J1.1 filed on May 25, 2016. The

[45] Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), p. 14.
[46] Exhibit I, Tab 4, Schedule 3, September 8, 2015
[47] Exhibit I/Tab 4/Sch3, Response to Rogers' IR #3
[48] Hydro One Argument in Chief, May 27, 2016, p. 3.
[49] See Table 2 for OEB staff's calculation of the allocation factor based on the 2005 method.
[50] Hydro One Argument in Chief, p. 7, Table 3, column 4.

only difference between this calculation and Hydro One's preferred approach, which leads to a Pole Access Charge of $70.04, is that Hydro One includes the vegetation management costs.[51]

In OEB staff's view, a Pole Access Charge of $41.56 would be consistent with the approved methodology and therefore just and reasonable. Although it would be a significant increase from the interim $22.35, it would be about the same as the $42.00 approved in the Toronto Hydro case and less than the $53.00 approved in the Hydro Ottawa case.

The calculations of the Pole Access Charge under the 2005 OEB methodology, the Hydro One final proposal and the charge under the OEB staff submission are provided in Table 1 attached. Table 2, the OEB staff calculations of the allocation factor based on the 2005 methodology is also attached.

OEB staff adds the proviso that there are two issues that Hydro One should clarify in its Reply: the treatment of power-specific assets in the pole maintenance cost and the derivation of the allocation factor used by Hydro One. In suggesting that $41.56 would be just and reasonable, OEB staff has assumed a satisfactory explanation of those two issues will be provided.

IMPLEMENTATION

OEB staff submits that the new Pole Access Charge should be set on a final rather than an interim basis. There is no need to hold off on setting a final charge until the conclusion of the OEB's policy review of pole attachment charges, as the Carriers argued in the Hydro Ottawa case. The OEB decided in that case to make the charge final, noting that "new policies should be applied on a prospective basis"[52]

In OEB staff's view, a final charge would provide rate certainty to the Carriers and revenue certainty to Hydro One. Even more to the point, the OEB indicated at the very outset, when it granted leave to the Carriers to bring this motion, that the very

[51] Hydro One Argument in Chief, p. 7, Table 3, column 5.
[52] Decision and Order on Pole Attachment Charge, February 25, 2016, (EB-2015-0004) p. 15.

purpose of the motion would be to set a final Pole Access Charge: "The OEB will fix the final charge through the hearing of this motion."[53]

OEB staff further submits that the effective date for the new Pole Access Charge should be January 1, 2015, the same day all of Hydro One's other rates and charges took effect.[54] This would be consistent with the OEB's approach in the Hydro Ottawa decision.[55] The OEB has previously directed Hydro One that it may apply to recover its tracked lost revenues.[56] Accordingly, OEB staff submits that Hydro One include in their draft rate order, an application for an Accounting Order to establish a deferral account to record the revenue difference between the interim pole attachment rate and the rate approved in this proceeding, over the term that interim rates were in place, for eventual disposition to all Hydro One customers.

All of which is respectfully submitted.

[53] Decision and Order, June 30, 2015 (EB-2015-0141), p. 1.
[54] Rate Order, April 23, 2015 (EB-2013-0416).
[55] Decision and Rate Order on Pole Attachment Charge, February 25, 2016, (EB-2015-0004) p. 15.
[56] Decision on Draft Rate Order, April 17, 2015 (EB-2013-0416).

Table 1

Pole Attachment Charge Calculations

		RP-2003-0249 - CCTA		Hydro One - Argument In Chief		OEB Staff Submission	
		1	**Notes**	**2**	**Notes**	**3**	**Notes**
	Applicable Year			**2014**	Historical Costs	**2014**	Historical Costs
	DIRECT COST						
A	Administration	$0.69	CRTC estimate of 0.62 plus inflation	$0.90	Escalated 3% per year from 2005.	$0.90	Escalated 3% per year from 2005.
B	Loss in Productivity	$1.23	Cost/attacher (2.5)	$3.09	Escalated 3% per year from 2005, and adjusted for 1.3 attachers.	$3.09	Escalated 3% per year from 2005, and adjusted for 1.3 attachers.
C	TOTAL DIRECT COST (B+C)	$1.92		$3.99		$3.99	
	INDIRECT COST						
D	Net Embedded Cost per pole	$478.00	40 foot pole	$944.49	NBV of 1,575,195 poles in service * 85%	$944.49	NBV of 1,575,195 poles in service * 85%
E	Depreciation Expense	$31.11		$23.83	Hydro One depreciation of 1.7% adjusted by 15% for power assets.	$23.83	Hydro One depreciation of 1.7% adjusted by 15% for power assets.
F	Pole Maintenance Expense	$7.61		$88.56	Vegetation Management included	$5.52	Vegetation Management excluded
G	Capital Carrying Cost	$54.59	11.42% cost of capital	$80.19	Pre-Tax weighted cost of capital (8.49%)	$80.19	Pre-Tax weighted cost of capital (8.49%)
H	TOTAL INDIRECT COST (E+F+G)	$93.31		$192.58		$109.54	
I	Allocation Factor	21.9%	2.5 attachers per pole	34.3%	1.3 attachers per pole	34.3%	1.3 attachers per pole
J	Indirect Costs Allocated (H x I)	$20.43		$66.05		$37.57	
K	ANNUAL POLE RENTAL CHARGE (C+J)	$22.35		$70.04		$41.56	

Notes for Each Column
1. RP-2003-0249, Appendix 2
2. Hydro One Argument in Chief, EB-2015-0141, May 27, 2016
3. OEB Staff Submission, June 10, 2016

Table 2

Allocation Factor and Pole Attachment Charge Calculations

	2005 OEB				
			2.5	**Length per**	
		Pole Length	**Attachers**	**Attacher**	
		Feet			
a	Power Space	11.5	1		
b	Communications Space	2.0	2.5	0.80	
c	Separation Space	3.25	2.5	1.30	
d	Total Useable Space	16.75	3.5	2.10	= a+b+c
e	Clearance	17.25			
f	Buried	6.0			
g	Total Common Space	23.25	3.5	6.64	= 23.25/3.5
h	Total Pole Length	40.0		8.74	= d+g
i	Allocation Rate			0.21857	= 8.74/40
j	Common Cost	$ 93.31		$ 20.39	= 93.31x21.9
k	Direct Cost			$ 1.92	
l	Total Rate			$ 22.31	= j+k

	Hydro One				
			1.3	**Length per**	
		Pole Length	**Attachers**	**Attacher**	
		Feet[1]			
a	Power Space	10	1		
b	Communications Space	2.0	1.3	1.54	
c	Separation Space	3.25	1.3	2.50	
d	Total Useable Space	15.25	2.3	4.04	= a+b+c
e	Clearance	18.75			
f	Buried	6.0			
g	Total Common Space	24.75	2.3	10.76	= 24.75/2.3
h	Total Pole Length	40.0		14.80	= d+g
i	Allocation Rate			0.36998	=14.80/40
j	Common Cost[2]	$ 192.58		$ 71.25	= 192.58x36.9
k	Direct Cost			$ 3.99	
l	Total Rate			$ 75.24	= j+k

1 *Pole lengths from Exhibit I/Tab 4/Sch3, September 8, 2015*

2 *Common cost from Hydro One Argument in Chief, Table 3, p. 7, column #5.*