

February 9, 2018

Via email: boardsec@oeb.ca

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario M4P 1E4

Object: Letter to OEB in response to December 18, 2017 Draft Report of the Board -
"Framework for Determining Wireline Pole Attachment Charges"

To the Board Secretary:

Cogeco Connexion Inc. ("**Cogeco**") is hereby filing this letter in response to the Ontario Energy Board's ("**OEB**") call for submissions on its Draft Report – Framework for Determining Wireline Attachment Charges (the "**OEB Report**") issued on December 18, 2017.

In addition to the comments below, Cogeco has also reviewed and supports the submission filed by Rogers to the OEB on behalf of the carriers.

Introduction

At the outset, Cogeco is outraged by the entire PAWG process which was a dismal failure, the Nordicity report which is tremendously flawed, and the OEB Report which was released without any regard to due process or procedural fairness.

As a participant in the Pole Attachment Working Group ("**PAWG**"), Cogeco has serious concerns over, and takes exception with: the PAWG not being allowed to address its objectives; Nordicity's "OEB Wireline Pole Attachment Rates and Policy Framework" dated December 14, 2017 which was rife with errors; the OEB drawing upon the Nordicity report to frame the OEB Report; and, the conclusions the OEB reached on its own, without input from the affected parties, also found in the OEB Report.

Disproportionate Rate Increase and Consequent Effect

As stated above and as will be further detailed below, the entire process was flawed. Consequently, the conclusions derived from this process are equally flawed and alarming, especially the intention to impose a \$52.00 pole attachment rate across Ontario, a rate that is more than double the current rate of \$22.35, significantly more than the rate of inflation over the past 13 years since the OEB set this rate, and more than double the average rate elsewhere in Canada, as seen in the table below.

Province	Hydro	Telecom
Ontario	\$52	\$12
Alberta and BC	\$27	\$17
Newfoundland	\$26	\$18
New Brunswick	\$21	\$18
Quebec	\$20	\$13
Manitoba	\$20	\$16
Nova Scotia	\$14	\$18

It is also difficult to understand why this rate is approximately four times the rate for attaching to Bell poles, poles which are identical to any other pole owned by Local Distribution Companies (“LDCs”) in Ontario and to which power equipment is also attached.

Furthermore, the OEB Report suggests that LDCs be allowed to charge “market rates” for pole attachments, which essentially means that they would be charging whatever they want, absent any kind of benchmark, comparison or oversight as there is essentially no real “market” for this type of asset in Ontario. Cogeco cannot support a regulatory recommendation that a “market rate” be established in a context where an LDC holds a monopoly on poles. This is preposterous.

If LDCs are to be allowed to charge “market rates”, we submit that the table shown above be considered as providing pertinent evidence and constituting necessary information on what the market has to offer. LDCs in Ontario operate in an environment that is no different from the one in which Bell in Ontario or other LDCs in other provinces operate. Thus, the attachment fee that they should be allowed to charge should not depart significantly from attachment fees other LDCs charge elsewhere in Canada.

Beyond the impact on our operational costs, which is considerable, this increase will have far-reaching implications not only for Cogeco, but also for our customers and the

communities they live in.

First, network expansion may be delayed and deployment of our network to remote communities to provide broadband services may not be financially feasible. Given recent government initiatives, such as *Connect to Innovate*, meant to promote broadband expansion, the OEB Report will result in a situation that is contrary to the desires of both the federal and provincial governments. While we are aware that the OEB has no responsibility to set electricity rates in order to further the goal of increasing broadband availability, the recommendations in the OEB Report may nevertheless affect providers of a service that has come to be a necessity for Canadians. Additionally, whether directly or indirectly, these additional costs will likely be passed on to subscribers, who also happen to be taxpayers and consumers of LDC power.

Ontario businesses and families will no doubt be negatively affected by this unprecedented rate increase derived at in the absence of a proper public consultation. The PAWG process cannot be used as a replacement mechanism for public hearings and the examination process. Rates must be fair and set in a process that is consistent with the standard set by the OEB.

Failure of PAWG

According to the OEB, the PAWG was to “provide advice and guidance on matters such as costing data and the methodology used for determining charges”. As noted in the minutes of its first meeting, the PAWG’s key objective was to “develop a pole attachment rate model that is just and fair and based on best practices principles” as well as to examine key elements of the Pole Attachment Rate Model (regulatory framework; costing approaches; allocation methodologies; rate methodologies).

In the four meetings of the PAWG held over a two year period, there was no in-depth discussion on a rate model or the key elements that should go into such a model. Input and concerns from telecom participants were generally ignored and the telecommunications companies were stifled in their attempts to cross-examine financial inputs from the presenting LDCs, with Nordicity and the OEB choosing instead to accept all LDC material as factual. The recommendation by the telecommunications companies that expert evidence, rather than general knowledge, was required in order to examine the key elements if the PAWG was to develop a just and fair model, was also dismissed early in the process.

Flawed Nordicity Report

The OEB charged Nordicity with producing an “expert” report based on analyzing “findings from working group meetings” in order to “recommend an appropriate framework methodology for setting wireline pole attachment charges”. Not only do we consider the report to be flawed due to the failure of the PAWG, as previously noted, but also because it is based on assumptions and calculations from untested and unproven data. In addition, some cost estimates in the report are based on a data point sampling so small and with a spread so vast that the conclusions reached have no connection to reality.¹

Flawed OEB Report

The OEB Report, at page 1, explains that the OEB “embarked upon a policy **consultation with stakeholders** to collect, analyze, and discuss cost data and to examine policy matters related to setting updated pole attachment charges. This report is a culmination of efforts ...” However, in the absence of a methodology developed through consultation with stakeholders for the OEB to present in its report, the OEB Report instead focuses on setting a new province-wide pole attachment rate over which no consultation actually took place. In so doing, it ignores the recommendation of its own “expert” and does not provide any explanations or evidence for how it comes up with an annual rate of \$52.00 per pole.

An example of how misleading the OEB Report is can be seen in the two pictures of poles on page 12 of the OEB Report. Figure 1 shows a pole with a street light and three hydro cables (a total of four attachments) affixed and is labeled “A Joint-Use Utility Pole (Without Carrier Attachments)”. Figure 2 labelled “A Joint-Use Utility Pole (With Carrier Attachments)” shows at least fifteen visible attachments and implies that they are carrier attachments and thus the carriers must put excessive loading on poles. But in reality only two of the fifteen attachments belong to the carriers while the other thirteen belong to the LDC itself. This is but one illustration of the depth of misunderstanding from the “expert” over matters on which they made recommendations.

Cogeco fails to understand how the Board, as the regulator, can set rates through policy statements rather than following its own rules of holding an open and transparent public hearing where expert evidence from all parties is submitted before issuing an order, a conclusion or even guidelines. The PAWG was not a public hearing and the only evidence presented to the PAWG was untested, unchallenged and unfounded evidence from OEB’s own “expert”. Commenting on a draft report is not the same as being allowed the

¹ See OEB Report, at page 16 “in the absence of detailed cost data Nordicity proposes that ADM costs should be estimated between \$0.69 and \$6.19”, and at page 19 where allocation of maintenance costs to Carriers ranged from 5% to 92% and Nordicity assumed an average 48.5%.

opportunity to be heard in an open and transparent public hearing. Cogeco therefore questions how the OEB can defend its \$52.00 rate as being fair, just and reasonable.

Conclusions

The PAWG process was a sham and utterly pointless. It served no purpose other than offering the pretense of having gone through the motions of a “consultation”.

For the reasons explained above, Cogeco urges the OEB to maintain the current Wireline Pole Attachment rate of \$22.35 until such time as a proper, fulsome and fair consultation can be undertaken.

We thank the Board for the opportunity to comment.

A handwritten signature in black ink, appearing to read 'Cdignard', with a stylized, cursive script.

Caroline Dignard
Vice President, Legal Affairs and
Chief Privacy Officer