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February 9, 2018

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli,

RE: EB-2015-0304 – Comments on Draft Report of London Property Management Association

The following comments are provided on behalf of the London Property Management Association (“LPMA”) on the *Draft Report of the Board: Framework for Determining Wireless Pole Attachment Charges* (“Draft Report”) dated December 18, 2017.

LPMA is generally supportive of the Board’s review of the wireline pole attachment rate. This rate, which has not been updated since 2005, except by a limited number of distributors, has resulted in distribution customers, such as LPMA members, subsidizing wireline pole attachers for more than a decade.

It is the submission of LPMA that wireline attachers should be treated no differently from other customers of a distributor. There is an expectation that all customers receive a fair allocation of the appropriate costs. This is required to ensure there is no cross-subsidization taking place between types of customers and to ensure that rates are just and reasonable for all customers taking a service from a distributor.

LPMA believes that the Draft Report is a step in the right direction. However, LPMA suggests that there are a number of areas where the result could be improved. The comments that follow touch on each of the sections identified in Chapter 3 of the Draft Report, Overview of Key Policy Issues, followed by a number of comments on specific matters.

A. Allocation Methodology – “Principles for Allocating Common Costs”

LPMA submits that the guiding principle behind the allocation of common costs should be that these costs are divided equally between all users. Each user, whether it be the power user or a third-party, should be allocated an equal portion of the common costs. Each party that attaches to a pole, regardless of whether they are a power user or a third-party, benefits equally from the common space. A second third-party attacher benefits to the same degree as the first third-party attacher.

In the Draft Report, the Board proposes to move from this equal sharing approach which was adopted by the Board in the CCTA decision to the hybrid equal sharing methodology. LPMA does not support this move for a number of reasons.

Any change in the methodology should be examined through a generic hearing process so that all parties have the opportunity to test the proposed methodology. This did not happen in this consultation. Indeed, the hybrid equal sharing methodology was little more than aside in the Nordicity report.

Further, it is not clear that Nordicity actually recommended the hybrid approach, given that at page 72 of the report, under the heading of Conclusions and Recommendations:

“Therefore, the equal sharing methodology is recommended to allocate indirect costs in the determination of the pole attachment rate. Consideration of any other methodology would require a detailed assessment of costs such as incremental cost (minimum threshold) and standalone cost (maximum threshold) in the Ontario context.”

Clearly, Nordicity was recommending the equal share methodology, not the hybrid equal share methodology. At page 40 of their report, Nordicity indicates that the hybrid equal share methodology is a novel approach proposed by them and has not been applied by any Canadian jurisdiction to the best of their knowledge. To implement such a significant change, to a new and unused methodology, in the absence of a generic proceeding where such a change could be tested, is simply bad regulatory practice.

There has been no justification provided for the movement from the allocation of common costs based on the number of users (equal sharing), to the allocation of common costs based on the number of groups of users (hybrid equal sharing).

Further, LPMA notes that the Board is planning to conduct a follow-up policy consultation which it calls Part II of the Pole Attachment Review. Part of this review will consider moving from a cost-based approach to a market-based approach that would be more reflective of a competitive market and the Board’s approach to wireless attachments. LPMA believes that changing the allocation methodology for common costs at this time could lead to rate instability – not just for the pole attachment rate, but for distribution rates in general.

B. LDC-Specific or Province-Wide Rate

The Draft Report indicates that the Board will approve a province-wide rate for 2018. This rate will be adjusted using the Board’s inflation rate each year. The Board has also indicated that distributors can choose to seek their own utility-specific pole attachment rate at their rebasing based on the approved methodology set out in the Board’s final report.

While LPMA agrees that setting a new provincial rate for 2018 is appropriate, this should be viewed as transition to a true cost-based rate going forward. LPMA believes that distributors should be required to apply for a utility-specific rate at the time of their individual rebasing applications. The pole attachment rate should be set on the same basis as any distribution related rates. Given that some distributors may not currently be collecting costs and the number of attachers/attachments at the level of detail required to set their own specific rate, LPMA submits that the Board should set a time, after which any rebasing application must include the request for a utility-specific rate. For example, given the Board’s requirement for sub-accounts is likely to be implemented in 2018 or 2019, the Board could determine that rebasing applications filed for 2019 and 2020 rates would not require evidence for a utility-specific pole attachment rate. All such rebasing applications for 2021 and subsequent year rates would be required to file the appropriate evidence.

There are several reasons for the requirement of utility-specific rates. First, the information provided to the working group from just five distributors revealed significant variances in costs between these distributors.

Second, distributors that may have a cost lower than that represented by the province-wide rate are unlikely to come in voluntarily and request a reduction in the rate. This, of course, is unfair to the third-party attachers. The rate being charged to them cannot be considered to be just and reasonable if it over recover the costs associated with the service being provided.

Third, distributors have no incentive to bring forward an application for a utility-specific rate. Any revenues gained or lost as a result of a change in the attachment rate is automatically offset by revenues lost or gained from distribution ratepayers, since cost allocation is a zero-sum exercise.

When a distributor applies for a utility-specific attachment rate, there are a number of issues that should be addressed in the final report.

First, it should be made clear to the distributors that they are expected to use forecast costs and attachers/attachments in the calculation of the proposed attachment rate. This is equivalent to the process used for the rates for distribution ratepayers. As noted elsewhere in these comments, use of historical data in the calculation of pole attachment rates results in an underestimation bias in these rates and results in cross-subsidization from distribution ratepayers to pole attachers.

Second, the final report should make it clear that the utility-specific rate, once approved, will be adjusted annually during the IRM or deferred rebasing period using the same inflation factor as the Board will apply to the province-wide rate. A distributor should also be free to file evidence that a different escalation factor is appropriate based on their specific circumstances.

Third, the final report should clearly explain what is meant by the OEB methodology. Is the methodology simply the mathematical formulas included in the Draft Pole Attachment Workform? Are all of the inputs to the workform to be utility specific and if not, what inputs are to be maintained at the province-wide values?

LPMA notes that the Board has indicated that it has balanced the need to ensure that the rate is representative of costs on an ongoing basis, while avoiding an overly administrative and costly process for setting an LDC-specific rate for each LDC in the province. LPMA assumes that this statement was made in regard to the determination of an updated rate for 2018. LPMA submits that there is no overly administrative or costly process involved in distributors setting utility-specific rates as part of a cost of service or custom IR application. The Board is requiring the collection of detailed costs related to pole attachments and has produced a pole attachment workform that simply needs to be populated with utility-specific data which is now required to be collected by the Board.

On a related process issue, LPMA submits that when a distributor files a cost of service or custom IR application, the Registrar should be instructed that notice should be provided to all third-party attachers and that such notice indicate that the wireline attachment rate may change. This will ensure that notice is provided to these customers on the same basis as it is provided to distribution ratepayers.

C. Inflationary Adjustments

The Board has indicated that it will implement an annual inflationary adjustment mechanism to the single province-wide rate that is set for 2018. The adjustment is to be based on the base IPI with no productivity and stretch factor applied.

LPMA supports the annual inflationary adjustment mechanism as described in the Draft Report. LPMA believes that some sort of annual adjustment is required to minimize the impact of inflation over time. There is no good or logical reason why pole attachment rates should be fixed over an IRM term, or over a deferred rebasing period due to a merger, while distribution rates continue to change and escalate. This would only result in distribution customers subsidizing pole attachment rates to a greater and greater extent year after year.

A gradual increase in the pole attachment rate is also likely to result in the avoidance of a large increase when the province wide rate is re-estimated, or when a distributor requests a utility-specific rate through a cost of service application.

This approach provides protection for distribution ratepayers from subsidizing the pole attachment rate between rebasing applications and provides pole attachment customers with greater certainty about rate increases during an IRM and/or deferred rebasing period.

D. LDC Collection of Cost Data

LPMA submits that it is essential that accurate information be available in the future when determining a new province-wide rate or a distributor specific pole attachment rate.

LPMA, therefore, supports the Board's requirement that all LDCs set up sub-accounts to track cost inputs related to the pole attachment charge. LPMA also supports the addition of the costs associated with the set up and maintenance of the sub-accounts to be added to the direct administration costs since this clearly reflects cost causality.

LPMA also supports the requirement for LDCs to collect and track the number of attachments on each pole, in addition to the number of attachers on each joint use pole. This information should be useful in calculating the number of attachers or attachments to a pole that used in the rate setting methodology. It will also be essential that this information be available for any distributor that applies for their own specific pole attachment rate. This information is equally as valuable as the tracking of costs attributed to carrier attachments.

E. Separation Space

LPMA submits that separation space should continue to be part of the communication space since the separation is needed to accommodate carriers attaching to a pole. It is the view of LPMA that the Board's approach that all pole costs related to the construction and maintenance of separation space on joint use poles should continue to be allocated to carriers as part of the overall costs in the pole attachment rate calculation.

F. Allocation of Vegetation Management Costs

The Board has proposed that vegetation management costs will be required to be recovered through the wireline pole attachment charge. LPMA strongly supports this proposal.

During the working group meetings, it became apparent that while many carriers had joint use agreements with distributors that contained provisions for vegetation management, some distributors recovered vegetation management costs through these agreements, while others did not. For those distributors that were not recovering vegetation management costs through joint use agreement, distribution customers are subsidizing these costs. Moreover, for those distributors with joint use agreement, it appeared that the cost recovery varied significantly from distributor to distributor.

As the Board is aware, cost allocation is a zero-sum exercise. There is little, if any, incentive for a distributor to ensure that they are recovering a fair share of vegetation management costs through the pole attachment rate. The distributor will simply recover the remaining vegetation management costs from distribution ratepayers.

By including the costs in the pole attachment rate, distribution customers/ratepayers and the Board will have greater transparency in how these costs are being allocated.

G. Allocation of Neutral Power Wire Costs

The Board has determined that it will not allocate costs associated with an LDC distribution pole neutral wire into the common cost of the poles at this time. The Board further indicated that the costs of carriers bonding to the neutral should continue to be paid for by the carriers, separate from the wireline pole attachment rate.

LPMA supports this proposal in the immediate term, but submits that the Board should direct the distributors to report on and track the costs of carriers bonding to the neutral and the amount recovered from the carriers. LPMA is concerned that this issue may be similar to the use of joint use agreements for vegetation management costs. Some distributors may have agreements in place to recover the costs of bonding to the neutral, while others may not. The degree of recovery may also be different across distributors. LPMA submits that the Board should investigate and monitor these costs to determine if changes should be made to the approach in a future review of the pole attachment rates.

H. Overlapping Revenues

LPMA has reviewed the Board's approach with respect to this issue and supports it. As indicated by the information supplied by the participating carriers and LDCs, LPMA is satisfied that overlappers do pay the pole attachment rate.

LPMA strongly supports the Board requirement for LDCs to begin collecting and tracing attachment data, so that the number of overlappers, as compared to the number of carriers who own strand, can be better understood in the future.

I. Bell Canada Agreements with LDCs

LPMA agrees with the Board's approach with respect to Bell Canada agreements with LDCs.

J. Comments on Specific Matters

a) Implementation

LPMA has had the opportunity to see the draft comments of the School Energy Coalition ("SEC") with respect to the method of implementation as proposed in the Draft Report. LPMA shares the concerns expressed by SEC in those comments and supports SEC in the recommendation that the final Report set out a generic hearing process to determine the provincial pole attachment rate.

Customer groups, including the carriers, have not had the opportunity to request information from distributors as would be their right in a hearing through interrogatories. They have not had the opportunity to test the material provided by the distributors or the report from Nordicity. They have not had the opportunity to file their own expert evidence. LPMA does not believe that the Draft Report should be the end of the process. Rather it should be the beginning of a hearing process to set a rate that ultimately impacts all customers (since cost allocation is a zero-sum exercise). Simply put, it is a poor regulatory practice. A generic hearing process would correct and legitimize this.

b) Use of Average Historical Data

The biggest criticism of the methodology used in the Draft Report is the use of average historical data in the calculation of the net embedded cost per pole. This calculation is the most important cost input into whichever methodology is ultimately used. Based on the information provided in the Draft Pole Attachment Workform, the carrying cost per pole and the depreciation expense per pole represent approximately two-thirds of the total pole attachment costs in 2015, based on 1.3 attachers per pole, using the hybrid equal sharing allocation methodology, as proposed by the Board. Both of these costs are directly related to the net embedded cost per pole (i.e. the net book value of the poles divided by the number of poles).

The Nordicity report calculated the average net embedded cost per pole over the 2005 through 2015 period to be \$905 (Table 21). The Draft Report indicates that the Board has reduced this period to 2010 through

2015. Based on the information in Table 21, this results in an average net embedded cost per pole of about \$1,076, or an increase of just under 20%. Furthermore, the 2015 average embedded cost is \$1,314, which is more than 22% higher than the six-year average used in the Draft Report.

LPMA has two issues with the use of the six-year historical average in determining the average net embedded cost per pole. The first is why a historical period used and the second is why a six-year average used.

With respect to the use of a historical period in the determination of a rate, LPMA notes that this is a significant divergence from the rate setting methodology used to set rates for distribution ratepayers. These rates are set based on forecasted costs, including forecasts of rate base, return on rate base and depreciation expense. Included in rate base is the net book value of poles, which is used in determining the average net embedded cost per pole.

As the Board is aware, virtually every Distribution System Plan that has been filed with the Board includes significant pole replacement activity. The cost of the poles being added to rate base are significantly higher than the cost of the poles being replaced, which in many instances are fully depreciated. This means that the net book value for poles increases from one year to another. Pole replacements do not increase the overall number of poles in the system, so the net embedded cost per pole grows as well. This is reflected in Table 21 of the Nordicity report. The net embedded cost per pole has increased in every year shown. Over the 20015 to 2015 period, the average annual compound increase is 8%. Over the 2010 through 2015 period used by the Board, the average annual compound increase is nearly 9%.

The only valid reason LPMA can see for using historical data to calculate a rate is that forecast data (in this case, for 2018) was not available.

With respect to the six-year average used in the Draft Report, LPMA submits that given the unmistakable and expected increase in the net embedded average cost per pole, it makes no sense to use an average when there is a clear trend in the cost per pole. In fact, using an average, of any length, when there is an increasing trend in the cost per pole biases the entire calculation and results in a pole attachment rate that is too low. This in turn results in distribution ratepayers subsidizing pole attachers.

This subsidization can be seen clearly from another angle. Distribution ratepayers have rates set on forecasted rate base. Forecasted rate base is almost always greater than historical rate base, partly due to customer growth, but also because of asset replacement, where the costs of an asset today are higher than the original cost of the asset included in rate base. The increase is even more pronounced when accumulated depreciation is taken into account. Old assets may be fully depreciated, or nearly fully depreciated, while the new replacement assets have little accumulated depreciation.

It therefore stands to reason that rates set based on forecasted rate base will be higher than rates set on historical rate base. This leads to the inevitable conclusion that setting pole attachment rates based on historical net book values will result in subsidization from distribution ratepayers simply based on the different net book values used.

The Board would never consider allowing a distributor to set residential rates based on an average rate base over the 2010 to 2015 period while setting rates for other rate classes based on forecasted 2018 rate base figures. LPMA submits that the same should apply to the pole attachment rate.

LPMA submits that the use of historical data to set rates should only be used where forecast information is not available. LPMA further submits that the use of an average of historical data where the data in question clearly exhibits an increasing trend, results in an underestimation bias in the rate calculated. In circumstances like this, where historical data needs to be used, the Board should use the most recent year of data available. In this consultation, that would be data for 2015. Use of the most recent data available will minimize (but not eliminate) the underestimation bias in calculating the pole attachment rate and minimize the level of cross subsidization from distribution ratepayers.

Finally, LPMA notes that the Draft Report allows LDCs to apply for a custom pole attachment rate using the OEB's methodology and their own specific costs. LPMA submits that the Board should indicate in the final report that such an application for a custom rate should be consistent with the application for distribution rates and be based on forecasted costs and net embedded cost per pole. In particular, the LDCs will have a forecast of the net book value of poles, as part of their overall rate base. There is no need to use historical data.

c) Proposed Rounding of the Rate

LPMA notes that the Draft Report states that the wireline attachment rate will be \$52 per year per attacher for 2018, even though the Board's own calculation that results from the methodology and inputs used in a rate of \$52.36.

LPMA submits that it is improper for the Board to round the rate to the nearest dollar. Not only has the Board provided no reasons for the rounding, but in doing so, has created an automatic cross-subsidy. In this case, by rounding down, the Board has created a subsidy from distribution ratepayers to pole attachers. If the rate had been calculated to be \$52.56 and rounded up, the subsidy would have been from pole attachers to distribution ratepayers. Both situations are not appropriate and are easily eliminated by not rounding.

LPMA notes that when the Board applies inflation to the 2018 rate (whether \$52.00 or \$52.36), the result is not likely to be a figure that ends in .00.

LPMA submits that there is no reason why the Board should round the pole attachment rate to the nearest dollar. The Board does not do this type of rounding when calculating and approving the monthly charge for residential customers or any other type of distribution customer that has a monthly fixed charge. Why should there be different treatment for different types of customers?

d) Revenue Variance Account

LPMA notes that in the executive summary of the Draft Report, the Board has indicated that the provincial wireline pole attachment charge will be implemented for all LDCs that do not have an OEB-approved specific charge and that in conjunction with this, a variance account will be set up to track the difference in revenues received under the new charge, as compared to the previous pole attachment charge.

LPMA strongly supports the need for the variance account. As can be seen by the magnitude of the proposed increase in the charge, distribution ratepayers have been providing a subsidy to pole attachers. Tracking of the incremental revenue will allow for the increase to be refunded to the ratepayers at a future time.

e) Attachments or Attachments

The pole attachment rate is currently charged based on the number of attachers and not on the number of attachments. The Draft Report does not propose any change in the new rate. This is because many distributors do not have information on the number of attachments.

As noted above in Part D, LPMA supports the collection and maintenance of data on the number of attachments, as recommended in the Draft Report. In future reviews this information could be used to refine the approach in the determination of the pole attachment rate.

Yours very truly,

Randy Aiken

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