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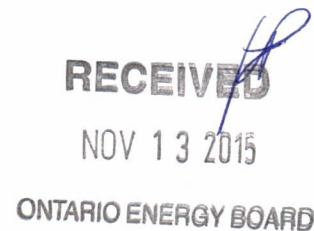


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November 12, 2015

BY EMAIL AND COURIER

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



Dear Ms. Walli:

**Re: File Number EB-2015-0004, Hydro Ottawa Limited - Application for
2016 2020 Distribution Rates (the "Application"), Final Argument**

Please find attached a copy of the submissions of Rogers Communications Partnership, TELUS Communications Company and Quebecor Media Inc. (the "Carriers") filed in accordance with Procedural Order No. 10.
Sincerely,

A handwritten signature in blue ink, appearing to read "Leslie Milton".

Leslie J. Milton
cc Applicant
Interested Parties

270052.00021/92110885.1

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 an Application by Hydro Ottawa
Limited for an Order approving electricity distribution rates
for the period from January 1, 2016 to December 31, 2020.

**SUBMISSIONS OF ROGERS COMMUNICATIONS
PARTNERSHIP, TELUS COMMUNICATIONS COMPANY,
AND QUEBECOR MEDIA INC. (the "CARRIERS")**

EXECUTIVE SUMMARY

1. On April 29, 2015, Hydro Ottawa filed a custom incentive rate application with the Board pursuant to section 78 of the *Ontario Energy Board Act, 1998* (the "**Act**") seeking approval, inter alia, of an annual per attacher pole rate of \$57.00 per pole in 2016, increasing 2.1% per year until 2020. In its Argument in Chief, Hydro Ottawa appears to have revised its request to approval of a final rate of \$55.75 for an undefined period.
2. Hydro Ottawa maintains that its rate proposal is based on application of the methodology used by the Board to establish the current province-wide annual rate of \$22.35 per pole in its Decision and Order in the RP-2003-0249 Proceeding (the "**2005 Decision**").
3. Hydro Ottawa seeks to vary the following crucial aspects of the methodology applied by the Board in the 2005 Decision (the "**2005 Methodology**"):
 1. The assumed number of attachers;
 2. The allocation factor for common pole costs; and
 3. Use of common costs of a bare pole (i.e., excluding power-specific fixture costs).

7. There are also a number of errors in Hydro Ottawa's cost inputs, including double recovery of inflated pole replacement costs, use of inconsistent accounting principles, and errors in its pole count.
8. The Carriers have determined that if the 2005 Methodology is properly applied to Hydro Ottawa's corrected cost evidence, as shown in Table 1 below, it yields a pole attachment rate of \$35.05.
9. Further, if the scope of this proceeding does permit parties to challenge certain aspects of the 2005 Methodology, being the common cost allocation factor and the number of attachers used to determine that allocation, then the Carriers submit that the applicable pole rate is \$27.43, based on 2 power attachers and 2.5 non-power attachers.
10. Given the Board's decision to exclude evidence and considerations relating to methodology, the Carriers submit that the only appropriate course of action is to make the current approved rate interim, pending a determination on methodology. Under no circumstances would approval of a final rate at this juncture satisfy the Board's statutory duty to establish a just and reasonable rate.

TABLE 1

	Price Component – per Pole	2005 Decision	Hydro Ottawa		2005 Methodology	Modified 2005 Methodology
	# of power attachers	1.0	1.0		1.0	2.0
	# non-power attachers	2.5	2.0		2.5	2.5
DIRECT COSTS						
A	Admin Costs	\$0.69	\$ 1.98		\$1.58	\$1.58
B	Loss in productivity	\$1.23	\$ 4.35		\$1.36	\$1.36
C	Total Direct Costs	\$1.92	\$6.33		\$2.95	\$2.95
INDIRECT COSTS						
D	Net Embedded Cost (NEC)	\$478	\$1,678		\$1,258	\$1,258
E	Depreciation Expense	\$31.11	\$43.29		\$34.80	\$34.80
F	Pole Maintenance Expense	\$7.61	\$12.61		\$10.64	\$10.64
G	Capital Carrying Cost (D x 8.04%)	\$54.59	\$134.91		\$101.13	\$101.13
H	Total Indirect Costs	\$93.31	\$190.81		\$146.57	\$146.57
ALLOCATION						
I	Allocation Factor	21.9%	25.9%		21.9%	16.7%
J	Indirect Costs allocated	\$20.43	\$49.42		\$32.10	\$24.48
K	POLE RATE	\$22.35	\$55.75		\$35.05	\$27.43

THE 2005 METHODOLOGY

11. In 2003, the Canadian Cable Television Association filed an application with the Board, seeking an Order under section 74(1) of the Act amending the licences of electricity distributors regulated by the Board (“**LDCs**”) to include a province-wide rate for access to utility poles for the purpose of supporting cable television transmission lines. The Board released its Decision and Order on the application (the “**2005 Decision**”) on March 7, 2005.

12. The Board held that as power poles are essential facilities for wireline communications companies, it should exercise its authority under section 74(1) of the Act to set a rate for access to the communications space on LDC poles. The Board emphasized that the rate must not simply be just and reasonable. There must also be no preference granted to the owner of pole:

The Board agrees that power poles are essential facilities. It is a well established principle of regulatory law that where a party controls essential facilities, it is important that non-discriminatory access be granted to other parties. Not only must rates be just and reasonable, there must be no preference in favour of the holder of the essential facilities. Duplication of poles is neither viable nor in the public interest.¹

13. The Board went on to establish a methodology for setting the rate (the “**2005 Methodology**”). In so doing, the Board made the following determinations based on the record before it:

- The impact of ownership of poles was neutral;²
- The methodology used to set the rate should be based on cost recovery, not revenue sharing;³
- A case can be made for allocation of common costs based on either proportionate or equal sharing of common space on a pole;⁴

¹ 2005 Decision, page 3.

² 2005 Decision, page 6.

³ 2005 Decision, page 6.

⁴ 2005 Decision, page 7.

- The Board preferred the equal sharing approach as the negotiated arrangements between electricity and telephone companies “appear to reflect equal allocation of common cost”;⁵
 - 2.5 third party non-power attachers and one power attacher should be assumed;⁶
 - A typical 40 foot pole, with 6 feet of buried space, 17.25 feet of clearance space, 2 feet of communications space, 3.25 feet of separation space and 11.5 feet of power space should be assumed;⁷ and
 - The province-wide rate should be set to recover representative historical direct (or incremental) administration and loss in productivity costs caused by each rate-paying attacher, plus 21.9% of the indirect (or common) representative historical annual costs of a bare pole; namely annual depreciation, maintenance and capital carrying costs of a bare pole.⁸
14. Applying the 2005 Methodology, the Board set, as a condition of licence applicable to LDCs such as Hydro Ottawa, a province-wide rate of \$22.35 per attacher. The Board stated that “[a]ny 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. Absent any application, the province wide rate will apply as a condition of licence, as of the date of the Order.”⁹ [Emphasis added]
15. The 2005 Methodology establishes a per attacher cost-based rate that is designed to recover:
- a. the historical direct (or incremental costs) caused *solely* by third party payers of the rate, plus
 - b. 21.9% of the historical indirect (or common) costs of *bare* pole.

⁵ 2005 Decision, page 7.

⁶ 2005 Decision, page 6.

⁷ 2005 Decision, page 8-9.

⁸ 2005 Decision, page 8-9 and 13.

⁹ 2005 Decision, page 8.

16. Specifically, the 2005 Methodology requires that the pole attachment rate be set as follows, as summarized in Appendix 2 of the 2005 Decision:

	Price Component - Per Pole	Explanation
	DIRECT COST	
A	Administration Costs	Historical per attacher administration cost. In the 2005 Decision, the Board used a cost of \$0.69, based on the CRTC's determination of a per attacher administration cost in 1999 of \$0.62, inflated to the date of the application (2003) ¹⁰
B	Loss in Productivity	Historical per attacher incremental loss in productivity costs due to the requirement to work around wireline telecommunications facilities. In the 2005 Decision, the Board used a cost of \$3.08 for 1991 inflated to the date of the application (2003) and divided by 2.5 pole attachers.
C	Total Direct Costs	B + C
	INDIRECT COST	
D	Net Embedded Cost per Pole	Historical net embedded cost of a bare pole. In the 2005 Decision, the Board used Milton Hydro's 1995 cost of a bare pole of \$478.00. This cost had been adopted by the CRTC in Decision 99-13, as being representative of the cost for "poles alone", consistent with Municipal Electric Association's ("MEA") agreement that "items such as cross-arms should be excluded from the capital costs of power utility poles". ¹¹
E	Depreciation Expense	Historical depreciation cost of a bare pole. The Board used Milton Hydro's 1995 depreciation expense for a bare pole of 31.11 in the 2005 Decision. This cost had also been adopted by the CRTC in Decision 99-13 for the reasons discussed above.
F	Pole Maintenance Expense	Historical pole maintenance expense. In the 2005 Decision, the Board used Milton Hydro's 1995 costs of pole testing and pole straightening, inflated to the date of the application (2003). ¹²
G	Capital Carrying Cost	Pre-tax weighted average cost of capital for the year of the application (2003) x D.
H	Total Indirect Costs per Pole	E + F + G
I	Allocation Factor	21.9% based on an assumed number of non-power attachers of 2.5 and 1 power attacher and assumed typical pole space allocations and utilization
J	Indirect Costs Allocated	H x I
K	Annual Pole Rental Charge	C + J

¹⁰ Telecom Decision CRTC 1999-13, *Part VII Application - Access to Supporting Structures of Municipal Power Utilities - CCTA vs. MEA et al - Final Decision* (28 September 1999) ("**Decision 99-13**"), Expert Evidence of David McKeown filed August 21, 2015 ("**McKeown Report**"), Attachment 3, paras. 194 and 209.

¹¹ Decision 99-13, paras. 199 and 206.

¹² Decision 99-13, para. 212.

(1) *The 2005 Methodology uses 2.5 non-power attachers and an indirect cost allocation factor of 21.9%*

17. The 2005 Methodology adopted an allocation factor of 21.9%, which is based on assumptions relating to the number of non-power (2.5) and power (1) attachers on the pole and the allocation and utilization of space by these attachers on a typical pole. These assumptions and the resulting allocation factor are an integral part of the 2005 Methodology. They are not part of an LDC's "own costing" that may be varied on application by an LDC, pursuant to the 2005 Decision.
18. Moreover, it is not just and reasonable, in the Carriers' submission, to consider the assumed number of attachers in isolation of other elements of the approach to allocation of indirect (or common) costs among occupants of a pole. The assumed number of non-power and power attachers is a critical determinant of the allocation factor which, in turn, drives approximately 90% of the costs currently recovered through the rate.
19. If there are 2 attachers paying the rate, a 21.9% allocation factor means that these attachers are funding almost 44% of Hydro Ottawa's annual pole costs - an amount that already exceeds the typical negotiated joint use arrangements between power and telephone companies.¹³ At the 25.9% allocation factor Hydro Ottawa seeks, it would recover more than 50% of its common pole costs from these two third party attachers, even though the wireline attachers are permitted to use only 2 feet of the pole. Meanwhile, Hydro Ottawa has dedicated power space of 11.5 feet, has access to and can generate revenues from the entire space on the pole, and has, pursuant to its access agreements, a priority right to install its own facilities in the communications space.¹⁴ Furthermore, unlike Hydro Ottawa, non-power attachers paying the pole rate have no control over the common costs of the pole, pole location, the timing of pole replacement

¹³ McKeown Report, paras. 49-50.

¹⁴ Evidence of Kevin Richard filed August 21, 2015 (the "**Richard Evidence**"), Appendix B, section 9.22.

or removal, or the allocation and use of space on the pole. They equally have no ability to generate revenues from the pole (including space on the pole) other than through their attachments, and no assurance that past or future pole fees have and will be used to build and maintain joint use poles.

20. The Board has also assumed a 21.9% “telecommunications space factor” in setting the rate that Hydro Ottawa applies to Hydro One power attachments, which use 10 feet or more of space on a pole, to be consistent with the 2005 Decision.¹⁵ Application of an increased allocation to wireline communications attachers in this proceeding is discriminatory and would serve to exacerbate the inequity that already exists between the allocation of costs to attachers with access to 10 feet or more of space on a pole, and to those that have access to a fraction of that space.
21. The Carriers submit that, pursuant to the 2005 Methodology, the Board should disregard Hydro Ottawa’s evidence and submissions proposing a different number of attachers and different allocation factor. The 2005 Methodology is clear. Moreover, variance of non-cost inputs (such as the number of attachers and the allocation factor) is inconsistent with, and significantly alters and broadens, the Board’s determination in the 2005 Decision that LDCs could apply for a different rate based on their own costs.
22. Furthermore, the Carriers submit that it would be grossly unfair and fundamentally inconsistent with the Board’s duty to establish a just and reasonable rate to allow Hydro Ottawa to vary the 2005 Methodology by proposing a different number of attachers and a different allocation factor, but not permit the Carriers to challenge other aspects of the 2005 Methodology (such as equal sharing).

¹⁵ EB-2010-0228, Hydro One Networks Inc. (December 17, 2010), paras. 18-26; Carriers #1(l); Transcript, August 13, 2015, page 27, line 28 - page 28, line 14; Undertaking JTC1.6.

- (2) *If this proceeding includes a review of elements of the allocation factor other than equal sharing, then the number of power attachers should be at least 2.5, the number of power attachers should be 2, and the separation space should be treated as common space***

23. Should the Board determine that the number of attachers and the allocation factor are properly within the scope of this proceeding, then the Carriers submit that the number of non-power (wireline telecom and streetlight) attachments should be at least 2.5, the number of power attachers should be increased to 2, and the separation space on a pole should be treated as common space based on the evidence, as discussed below. The resulting allocation factor is 16.7%.¹⁶

Number of non-power attachers should be at least 2.5

24. The evidence is that the number of potential third party attachers has grown, not shrunk since 2005.¹⁷ Broadband expansion is also expected to grow the number of attachers and billable attachments.¹⁸ Consistent with this, Hydro Ottawa's evidence is that the number of billable attachments (wireline and streetlight) is currently increasing.¹⁹
25. Hydro Ottawa's calculations of the average current number of third party attachers either do not include grandfathered overlash and clearance

¹⁶ Appendix 1 provides a detailed description of the derivation of the allocation factor using different numbers of attachers and equal sharing of common space on the pole.

¹⁷ McKeown Report, paras. 100-103.

¹⁸ There is no basis for Mr. Malone's assertion that further consolidation in the communications industry will occur. See also the McKeown Report, para. 103.

¹⁹ See Undertaking Response JTC1.17. The number of billable wireline communications attachments grew consistently between 2011 and 2013, contracted in 2014 due to Rogers' acquisition of Atria, and then grew by almost 2% by August 2015. Totals for each year are: 52,741 (2011); 54,723 (2012); 55,082 (2013); 50,269 (2014); 51,177 (August 2015). As Hydro Ottawa has not provided annual data for streetlights, it is not possible to determine whether these attachments have consistently grown as well, although the available data shows almost 2% growth in these attachments between 2013 (13,265 billable streetlight attachments) and August 2015 (13,516 billable streetlight attachments). (Carriers #4 and JTC1.7)

attachments²⁰, or, if they are, have done so on a pro-rated basis. It is Hydro Ottawa's evidence that it intends to re-negotiate and eliminate the pro-rated fees as existing agreements expire within the next few years.²¹ If this is the case, and the number of attachers is a proper consideration in this proceeding, then these billed attachments must be fully recognized. On this basis, Hydro Ottawa's numbers yield an average of 1.9 wireline and streetlight attachments in 2013 and at August 2015, despite the consolidation of Rogers and Atria. (See Appendix 2.)

26. Hydro Ottawa also seeks the ability to charge a unique "market-based" wireless attacher rate, presumably because it sees a market opportunity in this area.²² Third party attachers cannot be required to subsidize this opportunity through an equal allocation of common costs that fails to recognize these attachers.²³
27. The number attachers also cannot be limited to attachers that are currently paying a fee to Hydro Ottawa. All attachers benefit from use of space on a pole, including the common space, and should, under an equal sharing approach, share in these costs.
28. Finally, Hydro Ottawa builds its poles to accommodate Bell Canada attachments. No additional space is required (or pole costs incurred) for additional wireline telecommunications (or streetlight) attachments. Hydro Ottawa has declined to identify what its reciprocal rights and obligations with Bell Canada entail. However, it is clear that other attachers should not subsidize its arrangement,

²⁰ These attachments are billable attachments. In other words, they represent additional billed attachers on a pole.

²¹ Transcript, September 30, 2015, page 42, lines 8-26, page 49, lines 8-13, page 53, lines 3-7; Richard Evidence, Appendix B, Model Agreement for Licenced Attachment to Hydro Ottawa Limited by Rogers Communications Partnership, definition of "End of Term Date", opening paragraph, page 1.

²² McKeown Report, para. 107; Transcript, August 13, 2015, page 22, line 21 - page 23, line 28.

²³ To illustrate this, consider a situation where common costs of \$15 are allocated equally between an owner and a tenant. This means the tenant pays \$7.50 towards the common costs. If there is another tenant, an equal allocation of common costs is \$5. At \$7.50, the tenant subsidizes the new revenue stream from the new tenant by \$2.50 and receives no share of payments made by the third attacher. In contrast, the pole owner's contribution declines to \$7.50 less revenues received from the third attacher.

which, because it is reciprocal and Bell Canada's power attachment rate is not regulated, means the parties can establish whatever effective pole attachment rate they wish. In the circumstances, other third party attachers can be assumed to be at least the second wireline or streetlight attacher on a pole - consistent with an assumption of 2.5 third party non-power attachers.

29. Therefore, based on the evidence, the assumption of 2.5 attachers as prescribed by the 2005 Methodology should be retained.

The number of power attachers should be 2

30. In addition, Hydro Ottawa and Hydro One both make use of power space on Hydro Ottawa poles.²⁴ Thus if an equal sharing allocation of common space on a pole is to be applied, 2 power attachers to the pole should be assumed.

The separation space should be treated as common space

31. Without the separation space on a pole, there would be no joint use of the pole by wireline communications and power attachers. As presumptive equal beneficiaries of joint use, both power and wireline attachers should contribute to this common space. Simply put, a joint use pole must have a separation space, regardless of whether or not it is owned by the hydro utility or the telephone company; in the same way that all such poles must have a clearance and a buried space in order to support the power and telephone company attachments. Furthermore, Hydro Ottawa - unlike wireline communications attachers - can and does use this space for its own attachments and for streetlight attachments which, in turn, provide a direct and significant electricity distribution revenue stream to Hydro Ottawa.²⁵ Wireline telecommunications attachers, in contrast, cannot use, and derive no revenues from, the separation space or attachments in that space.

²⁴ Carriers #1(l); Undertaking JTC1.6

²⁵ Hydro Ottawa's Application, Exhibit H, Tab 11, Schedule 2, page 1 (Appendix 2-V).

(3) Costs of a bare pole are recovered through the 2005 Methodology

32. The 2005 Methodology is based on an allocation of the common costs of a *bare* pole. This means costs that exclude the costs of power-specific fixtures on power poles.
33. Hydro Ottawa's assertion that this requirement has been addressed by virtue of the relative space allocations on a pole used to derive the allocation factor is misleading and incorrect. The space allocations recognize that power attachers use more dedicated space on a bare pole than communications attachers. The space allocations do not address the fact that the common costs must be limited to the costs of a pole alone (as required to support third party attachments).
34. Consistent with this, the Board in the 2005 Decision, and the CRTC in Decision 99-13, used Milton Hydro's costs of a bare pole to establish the pole rate. The Nova Scotia Utilities and Review Board also used costs of a bare pole (calculated as 72% of pole and fixture costs) in its decision setting a pole rate. The Federal Communications Commission uses an 85% "bare pole factor" to eliminate power-specific fixture costs.²⁶ NB Power has proposed to deduct 15% from its installed pole costs to remove costs associated with power-specific items, following a detailed assessment of the magnitude of these costs.

(4) The 2005 Methodology does not provide for an inflation factor

35. The 2005 Methodology does not incorporate an annual inflation or escalation factor or use forecast costs. Consistent with this, Hydro Ottawa seeks a rate based on 2013 costs and has dropped its request for an annual inflation factor in its Argument in Chief.

²⁶ McKeown Report, paras. 71-75; Decision 99-13, paras. 199 and 206 (McKeown Report, Attachment 3); Nova Scotia Utility and Review Board Decision NSUARB-P-873, paras. 20-21 (McKeown Report, Attachment 5); Federal Communications Commission, Report and Order, CS Docket No. 97-98, para. 31 (McKeown Report, Attachment 6); New Brunswick Power, Pole Attachments: Report to the Board (30 September 2008) (McKeown Report, Attachment 4), page 1 and Appendix B.

REQUIRED REVISIONS TO HYDRO OTTAWA COST INPUTS

36. There are a number of errors in Hydro Ottawa's cost input evidence that inflate the costs or are inconsistent with accounting principles accepted by the Board. The revisions required to correct these errors are set out below. A summary of the required changes is attached as Appendix 3.

A. Direct Costs

(1) Administration Costs

37. Hydro Ottawa claims administration costs of \$3.96 per pole for invoicing pole attachers, processing permits and updating its GIS system.²⁷
38. Hydro Ottawa appears to have conceded that these costs should be divided by the number of attachers, to establish a per attacher cost, but has assumed 2 attachers. To be consistent with the 2005 Methodology and the evidence in this proceeding, the number of attachers should be 2.5. The resulting per attacher administration cost is \$1.58.²⁸

(2) Loss in productivity ("LIP") costs

39. Hydro Ottawa claims LIP costs of \$8.70 per pole based on the following:
- Responding to third party wires down - \$0.41²⁹
 - Responding to tree on third party wires - \$0.71³⁰
 - Pole replacement - \$7.58 (field visit cost of \$2.28 and removal crew trip cost of \$5.30)³¹

²⁷ Carriers #12(a).

²⁸ McKeown Report, para. 58. This cost includes some administrative costs incurred for non-paying third party attachers and therefore continues to be over-stated. (Undertaking JTC1.12)

²⁹ Carriers #13, Table 1; Hydro Ottawa Argument in Chief, Table 2. (\$14,720 divided by 35,663 affected poles = \$0.41)

³⁰ Carriers #13, Table 1; Hydro Ottawa Argument in Chief, Table 2. (\$25,300.80 divided by 35,663 affected poles = \$0.71)

40. The pole replacement costs claimed by Hydro Ottawa are said to reflect the additional time required for field inspection and removal of poles with third party attachments.³²
41. All pole replacement costs are typically capitalized and therefore included in common pole costs which are recovered separately through the rate. In this case, Hydro Ottawa has confirmed that all costs it incurs for its pole removal crews are capitalized and included in the net embedded and depreciation costs recorded in Account 1830.³³ These costs are therefore being recovered as indirect costs, and should not be recovered again as direct costs. Consistent with this approach, pole replacement costs were not considered in LIP costs used in the 2005 Decision.³⁴
42. Treatment of pole removal costs as common costs (and not costs that are *incremental* to third party non-power attachers) is consistent with the fact that third party wireline telecommunications and streetlight attachments are not the sole cause of these costs. Hydro Ottawa does not always install and remove poles in a single visit even when a pole has no third party attachments, as different crew (linesmen) must move Hydro Ottawa's facilities before the old pole can removed in any event.³⁵
43. In addition to these methodological considerations, Hydro Ottawa's cost estimates are overstated. Hydro Ottawa seeks costs for the time required to visit *each* replaced pole to conduct an inspection to determine if third party attachments have been moved, and for a crew to travel to *each* replaced pole to remove the old pole.³⁶ Hydro Ottawa does not travel separately to each replaced

³¹ Carriers #13, Table 1; Hydro Ottawa Argument in Chief, Table 2. (\$81,410.21 divided by 35,663 affected poles = \$2.28; \$188,987.99 divided by 35,663 affected poles = \$5.30)

³² Carriers #13(a) and (b)

³³ Transcript, August 13, 2015, page 72, line 25 - page 73, line 2; Transcript, October 16, 2015, page 88, Line 26 - page 89, line 15.

³⁴ 2005 Decision, Appendix 2; Decision 99-13, paras. 188-192 (McKeown Report, Attachment 3)

³⁵ Richard Evidence, paras. 10-12.

³⁶ Carriers #13(b)

pole to perform these activities. It does not in fact need to travel at all to any pole to determine if attachments have been moved - it could simply seek oral or email confirmation from attachers that this has occurred. In any event, many poles are replaced as a group. Hydro Ottawa's field and removal crews can travel once to each group of replaced poles; they do need to visit each pole separately.³⁷

44. For these reasons, the Carriers believe that, at a very minimum, the costs claimed for pole removal crew time must be removed from Hydro Ottawa's LIP costs. There are very strong arguments for removing the remaining pole replacement costs claimed by Hydro Ottawa as well.
45. Hydro Ottawa appears to have conceded that its LIP costs per pole must be allocated among the total number of attachers, but has done this based on 2 attachers, rather than 2.5 attachers as required by the 2005 Methodology.
46. Table 2 below summarizes the minimum adjustments required to Hydro Ottawa's LIP costs. If all pole replacement costs are removed, the LIP cost is \$0.45.³⁸

TABLE 2
ADJUSTMENTS TO LIP COSTS

Amount claimed by Hydro Ottawa	\$8.70
Deduction of pole removal costs included in indirect costs (\$5.30)	\$3.40
Allocation to 2.5 attachers	\$1.36

³⁷ Richard Evidence, paras. 13-14; Carriers #13(b) (1087 poles with attachments replaced in 2013); Carriers 9(e), Table 2 (257 poles replaced in 2013 as part of a pro-active pole replacement program)

³⁸ \$8.70 less claimed pole replacement costs of \$7.58 and divided by 2.5 attachers. The costs claimed for wires down and trees on wire are also over-stated, as they include activities performed for non-Hydro Ottawa poles which should be recovered from the pole owner. (Undertaking JTC1.12) In final argument, Hydro Ottawa tries to suggest that its LIP costs are understated as it has not included costs it incurs working around third party attachments. In the absence of evidence on these costs, it can only be assumed that they are immaterial.

B. Indirect Costs

(1) *Net embedded cost of a bare pole*

47. Hydro Ottawa claims a net embedded cost per pole of \$1,678, ostensibly based on the net book value recorded in Account 1830 for Poles, Towers and Fixtures as reported in its 2013 financial (GAAP) records, divided by 47,978 poles.³⁹ The magnitude of this net embedded pole cost is truly extraordinary. It is more than 3.5 times the embedded costs before the Board in 2005 (which is also the basis for the rate that Hydro Ottawa levies for Hydro One attachments in the power space) and is many multiples of Hydro One's estimate of its net embedded pole costs and of telephone company pole costs used by the CRTC to establish pole rates for joint use poles.⁴⁰
48. In any event, four adjustments must, at a minimum, be made to Hydro Ottawa's net embedded pole cost.
49. First, the same accounting system should be used to determine net embedded pole costs for purposes of the pole rate as is used to set Hydro Ottawa's electricity distribution rates (MIFRS). The net embedded cost Hydro Ottawa has proposed is based on GAAP.⁴¹ Hydro Ottawa's net embedded cost should reflect the gross costs recorded in Account 1830 on an MIFRS basis, less accumulated depreciation for the account.⁴²

³⁹ Carriers #7, Table 1

⁴⁰ Telecom Decision CRTC 2010-900, *Review of the large incumbent local exchange carriers' support structure service rates* (2 December 2010), Appendix 3; Evidence of Allstream Inc. filed August 21, 2015, Appendix A; EB-2015-0141, Exhibit I, Tab 1, Schedule 1, OEB (Board Staff) Interrogatory #1.

⁴¹ McKeown Report, para. 65; Carriers #7(a); Transcript, August 13, 2015, page 39, lines 8-15

⁴² In Argument in Chief, Hydro Ottawa suggests that its net embedded costs are understated on the basis that Account 1806 costs for rights of way and easements have not been included. Hydro Ottawa has not reported any costs for this account in its evidence. (See Hydro Ottawa's Application, Exhibit B, Tab 2, Schedule 1 (Appendix 2-BA).) Hydro Ottawa also refers to use of a "multi-grounded neutral" wire, but there is no evidence on what this facility is, its cost, and when, how and why this facility might be used by third party attachers. Accordingly, there is no basis for concluding that there are any costs associated with this claim, let alone any material costs.

50. Second, an average net embedded cost, rather than a year end value, should be used, consistent with Board directions, as well as the fact that the cost is used to determine an annual carrying cost.⁴³ The resulting net embedded cost for poles, towers and fixtures is \$71,551,862. (See Table 3 below.)

TABLE 3

MIFRS 2013 AVERAGE NET EMBEDDED COST⁴⁴

	Year end 2012	Year end 2013	Average
MIFRS Account 1830	\$71,187,843	\$80,588,905	\$75,888,374
Accumulated Depreciation	\$(3,352,403)	\$(5,320,624)	\$(4,336,514)
Net book value	\$67,835,441	\$75,268,282	\$71,551,862

51. Third, as discussed above, the costs of power-specific fixtures that are of no benefit to third party attachers must be deducted to establish the cost of a bare pole. Hydro Ottawa's Account 1830 (Poles, Towers and Fixtures) includes the costs of power-specific assets.⁴⁵ To include such costs would be inconsistent with the 2005 Methodology. In the absence of evidence from Hydro Ottawa on its account 1830 costs attributable to power-specific assets, the Carriers submit that 15% is a reasonable proxy for Hydro Ottawa's power-specific fixtures.⁴⁶
52. Fourth, Hydro Ottawa has understated the total number of poles covered by the Account 1830 cost data and used to determine the per pole net embedded cost. Hydro Ottawa has used 47,987 wood poles.⁴⁷ However, its evidence is that

⁴³ OEB, Chapter 2 of Filing Requirements for Transmission and Distribution Applications (June 22, 2011), pages 8 and 9; McKeown Report, paras. 67-68.

⁴⁴ McKeown Report, paras. 64 and 68; Hydro Ottawa Application, Exhibit B, Tab 2, Schedule 1 (Appendix 2-BA), pages 1 and 2 of 9

⁴⁵ McKeown Report, paras. 69-70; Richard Evidence, paras. 7-8; Allstream #2(c). It also includes the costs of more expensive, composite poles. (Transcript, October 16, 2015, page 91, lines 19-24)

⁴⁶ As discussed earlier, a 15% deduction has been applied by the Federal Communications and by NB Power, following a detailed assessment of power-specific fixture costs. The NSUARB applied a 28% deduction. (See para. 34 and footnote 26 above.) Hydro One has also proposed a 15% deduction. (EB-2015-0141, Exhibit I, Tab 1, Schedule 1, OEB (Board Staff) Interrogatory #1.)

⁴⁷ Carriers #7(b), Table 1

Account 1830 includes Hydro Ottawa's entire inventory of poles and as of year-end 2013, it owned 47,815 wood poles and 537 non-wood poles for a total of 48,352 poles.⁴⁸

53. Table 4 below summarizes the required adjustments to Hydro Ottawa's net embedded cost of a bare pole.⁴⁹

TABLE 4
ADJUSTMENTS TO NET EMBEDDED COST⁵⁰

MIFRS 2013 Net Book Value (Year-End)	\$75,268,282
MIFRS 2013 Net Book Value (average)	\$71,551,862
Removal of Power-Specific Costs (15% deduction)	\$60,819,083
Division by Correct Number of Poles (48,352)	\$1,257.84

(2) Depreciation cost of a bare pole

54. For the reasons discussed above, the following revisions should be made to Hydro Ottawa's claimed depreciation cost:

- Use of the MIFRS account 1830 depreciation cost;
- Removal of depreciation costs for power-specific fixtures;
- Division of resulting costs by the total number of poles (48,352).

55. As shown in Table 5 below, the corrected depreciation cost is \$34.80.⁵¹

⁴⁸ Hydro Ottawa Application, Exhibit B, Tab 1, Schedule 2, page 94; Undertaking JTC1.8. See also, Transcript, October 16, 2016, page 91, lines 19-24. Ideally, the pole count should reflect the average number of poles at year end 2012 and 2013. A comparable pole count for 2012 is not available on the record. However, as Hydro Ottawa's evidence is that the number of poles has been decreasing, use of the year-end 2013 value is conservative and results in an over-statement of all indirect per pole costs. (McKeown Report, paras. 83-84)

⁴⁹ Note that the net embedded costs are over-stated by any amounts for make-ready work that are capitalized and included in Account 1830. Make-ready costs are separately paid for fully by third party attachers at the time the costs are incurred. (McKeown Report, paras. 78-79)

⁵⁰ McKeown Report, paras. 64, 68, 76 and 85

TABLE 5

ADJUSTMENTS TO DEPRECIATION COST⁵²

MIFRS 2013 Depreciation Expense	\$1,979,636
Removal of Power-Specific Costs (15% Deduction)	\$1,682,691
Division by Correct Number of Poles (48,352)	\$34.80

(3) Maintenance expense of a bare pole

56. Similarly, the following revisions are required to Hydro Ottawa's claimed pole maintenance costs:

- Removal of maintenance costs for power-specific fixtures;⁵³ and
- Division of the resulting costs by the total number of poles (48,325).

57. Hydro Ottawa has determined its pole maintenance costs based on the costs recorded in its Account 5120, Maintenance of Poles, Towers and Fixtures. This account includes the costs of labour, materials and expenses used to maintain overhead line distribution facilities in Account 1830. A number of the covered activities relate to power-specific fixtures. In the absence of a detailed cost breakdown, a 15% deduction for activities related to power-specific fixtures is reasonable.⁵⁴

58. Applying the required adjustments, Hydro Ottawa's pole maintenance expense is \$10.64.

⁵¹ Hydro Ottawa's extraordinary embedded costs drive a very high depreciation cost. To the extent that the embedded costs are over-stated, depreciation costs are also over-stated.

⁵² McKeown Report, paras. 77 and 85

⁵³ The maintenance costs included in the 2005 Methodology appear to have been limited to pole testing and straightening. In the absence of repair costs, a deduction for power-specific costs would not have been necessary. (Decision 99-13 (McKeown Report, Attachment 3), para. 212)

⁵⁴ OEB, Accounting Procedures Handbook for Electricity Distributors (January 1, 2012), pages 166-167; McKeown Report, paras. 92-95

TABLE 6
ADJUSTMENTS TO POLE MAINTENANCE EXPENSE⁵⁵

2013 Account 5120 Pole Maintenance Expense	\$605,081
Removal of Power-Specific Asset Maintenance Costs (15%)	\$514,319
Division by Correct Number of Poles (48,352)	\$10.64

(4) Capital Carrying Cost

59. Hydro Ottawa's capital carrying cost is its net embedded pole cost (\$1,257.84) times its 2013 pre-tax capital cost (8.04%) or \$101.13.⁵⁶

POLE ATTACHMENT RATE

60. Application of the 2005 Methodology to Hydro Ottawa's costing evidence yields a pole rate of \$35.05. The detailed derivation of this rate is set out in Appendix 4.
61. Should the Board determine that the number of attachers and allocation factor are within the scope of this proceeding but other aspects of the 2005 Methodology are not, the Carriers submit that the pole rate is \$27.43, based on 2.5 non-power and 2 power attachers. (For the detailed derivation of this rate, see Appendix 5.)

INTERIM VERSUS FINAL RATE

62. The Carriers do not believe the Board can establish a just and reasonable rate, in accordance with its statutory duty, without considering the underlying methodology used to set the rate.

⁵⁵ McKeown Report, paras. 92 and 95

⁵⁶ Any over-statement of net embedded costs results in an over-statement of capital costs. As Hydro Ottawa's net embedded costs are extraordinary, its capital carrying costs are also extraordinary.

63. The issue is further complicated by the fact that there is no clear understanding of what is meant by the “methodology” which is within and outside of the scope of this proceeding, as defined by Procedural Order No. 9. The Order specifically identifies number of attachers as being outside the scope of the proceeding, but the Chairman later indicated that the Board intended to refer to the number of overlashers, rather than the number of attachers. However, the number of overlashers is an element of the number of attachers, as Hydro Ottawa applies the pole rate to overlashers.⁵⁷
64. The Carriers therefore submit that, absent consideration of all of the evidence before the Board relating to methodology, the only appropriate course of action is to declare Hydro Ottawa’s current pole rate interim. Under no circumstances should the Board approve a final rate without addressing the underlying methodology used to set the rate.

WIRELESS DEFERRAL ACCOUNT

80. The Carriers were not included in settlement discussions in which the other parties to this proceeding agreed that Hydro Ottawa would create a deferral account for wireless attachment revenues, retain those revenues for itself below a certain threshold, and refund the revenues to its electricity distribution customers if they exceed the threshold.
81. This type of deferral account approach might make sense if a proportional use model (whereby the allocation of common pole costs reflects incremental space allocated to rate-paying attachers) is applied to establish the pole rate, or, if an equal sharing approach is applied to establish the pole rate, wireless attachments are allocated an equal share of common costs. It is not, however, appropriate if the rate is set based on equal sharing of common costs that does

⁵⁷ Hydro Ottawa has applied the pole rate to all overlash attachments made since March 2005 in the same manner as direct attachments, notwithstanding that overlash attachments are not directly attached to, and consume no additional space on, a pole. Overlash attachments made prior to March 2005 currently pay a grandfathered rate. (Undertaking JTC1.17)

not allocate an equal share of those costs to wireless attachers. Effectively, under this approach, third party rate payers are required to both subsidize the common costs used to support wireless attachers and their attachments, and receive no share of the corresponding revenue stream - which flows solely to Hydro Ottawa and/or its electricity customers. In the Carriers' submission, this cannot be considered to be just and reasonable.

RIGHT OF REPLY

81. The Carriers request the right to reply to any new arguments submitted by intervenors that are contrary to the Carriers' interests in this proceeding.

OTHER JURISDICTIONAL CONCERNS

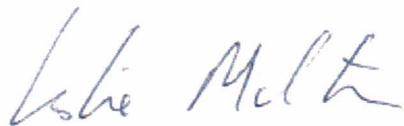
82. The Carriers identified their concern with the Board's decision to remove considerations relating to methodology from this proceeding at the October 16 hearing, as an error of law and jurisdiction.
83. The Carriers also respectfully submit that the Board cannot amend Hydro Ottawa's pole rate condition of licence and approve a revised pole attachment rate pursuant to an application under section 78 of the Act. The treatment of revenues from activities such as pole access as a revenue offset does not, in the Carriers' submission, confer on the Board jurisdiction to regulate these activities under section 78 of the Act. If this were the case, there would be no limit on the Board's jurisdiction under this provision.

CONCLUSION

84. For all these reasons, the Carriers request the Board to make Hydro Ottawa's current pole rate of \$22.35 interim, pending a review of the methodology used to determine the rate. In the alternative, the Carriers propose an interim rate of \$35.05 per pole based on application of the 2005 Methodology or of \$27.43 per pole if the allocation factor and number of attachers used to determine the allocation factor are within the scope of this proceeding.

All of which is respectfully submitted.

November 12, 2015.

A handwritten signature in blue ink, appearing to read "Leslie Milton" followed by a flourish that likely represents "Jennifer L. McAleer".

Leslie J. Milton and Jennifer L. McAleer

Counsel to the Carriers

APPENDIX 1

ALLOCATION FACTOR CALCULATIONS FOR EQUAL SHARING APPROACH

No. of Power Attachers	No. of Non-Power Attachers	Allocation Factor	
		Separation Space as Common	Separation Space as Dedicated
1	2.5	20.9%	21.9%
2	2.5	16.7%	18.2%
2	2	19.1%	21.1%
1	2	24.6%	25.9%

Calculation:

$$[(\text{dedicated space})/(\text{non-power attachers}) + (\text{common space}/(\text{power} + \text{non-power attachers}))]/40$$

 where:

dedicated space is 2 feet of communications space and, if separation space is considered to be dedicated (although it is clearly not), 3.25 feet of separation space; and

common space is 6 feet of buried space, 17.25 feet of clearance space and, if separation space is recognized as common space, 3.25 feet of separation space

APPENDIX 2
ATTACHER INFORMATION

	Year end 2013	August 2015
Full	46,173	43,825
Clearance	1,952	1,833
Partial	6,957	5,519
Total wireline	55,082	51,177
Streetlight	13,265	13,516
Wireline + Streetlight (A)	68,347	64,693
Number of Poles (B)	35,663	33,689
A/B	1.9	1.9

Sources: Carriers #1a; Carriers #4; JTC1.7; JTC1.7.

APPENDIX 3

SUMMARY OF CARRIERS' CORRECTIONS TO HYDRO OTTAWA COST INPUTS

	Consistent with RP-2003-0249		Not addressed in RP-2003-0249		Inconsistent with RP-2003-0249
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Cost Input	ISSUE	OEB in RP-2003-0249	Hydro Ottawa	Carrier's evidence
DIRECT COSTS				
Admin Costs	Allocation of costs across attachers	The Board adopted admin costs of \$0.62 per attacher from CRTC Decision 99-13 (plus inflation to 2003). In that decision, the CRTC used a per attacher admin cost equal to 50% of the total admin costs (consistent with the 2 attachers used by the CRTC)	Hydro Ottawa claims admin costs based on 2 attachers	The admin costs should be divided by 2.5 attachers. (McKeown Evidence, ¶¶ 57-58)
Loss in Productivity (LIP) Costs	Allocation of costs across attacherse	The Board divided LIP costs of \$3.08 per pole (plus inflation to 2003) by 2.5 (the assumed number of attachers per pole) to achieve a per attacher rate.	Hydro Ottawa claims LIP costs based on 2 attachers.	LIP costs should be divided by 2.5 attachers. (McKeown Evidence, ¶¶ 57-58)
LIP Costs	Inclusion of pole replacement costs	Pole replacement costs were not included in LIP costs in the 2005 Decision.	Hydro Ottawa claims pole replacement LIP costs attributable to an additional field visit and removal crew trip to each replaced pole	Pole replacement costs are not caused solely by third party attachers and should not be recovered through both direct and indirect costs. At a minimum, the removal crew trip costs should be removed from LIP costs as they are included in net embedded and depreciation costs. Arguably, all replacement costs are over-stated and should be removed. (McKeown Evidence, ¶ 60; Richard Evidence, ¶¶ 9-14)
INDIRECT COSTS				
	Year-end values v. average costs	This issue was not discussed in the 2005 Decision.	Hydro Ottawa used year-end values.	To be consistent with the Board's general rate-setting approach and the need to establish an annual capital carrying cost, average values should be used. (McKeown Evidence, ¶¶ 67-68)

Cost Input	ISSUE	OEB in RP-2003-0249	Hydro Ottawa	Carrier's evidence
Net Embedded Cost	GAAP v. MIFRS	This issue was not discussed in the 2005 Decision.	Hydro Ottawa used GAAP rather than MIFRS data	MIFRS data should be used. (McKeown Evidence, ¶¶ 61-66)
	Use correct number of poles	This issue was not discussed in the 2005 Decision.	Hydro Ottawa used 47,978 poles to determine the per pole cost	The correct number of poles is 48,352 (McKeown Evidence, ¶¶ 83-85)
	Net embedded costs include power-specific assets	The Board adopted Milton Hydro's 1995 net embedded cost of \$478 for a "bare" pole (or without any power-specific fixtures).	Hydro Ottawa made no adjustment to deduct power-specific asset costs.	Power-specific asset costs must be excluded. In this regard, the Carriers have applied a factor of 15%. (McKeown Evidence, ¶¶ 69-77)
Depreciation	GAAP v. MIFRS	This issue was not discussed in the 2005 Decision.	Hydro Ottawa used GAAP rather than MIFRS data	MIFRS data should be used. (McKeown Evidence, ¶¶ 61-66)
	Use correct number of poles	This issue was not discussed in the 2005 Decision.	Hydro Ottawa used 47,978 poles to determine the per pole cost	The correct number of poles is 48,352 (McKeown Evidence, ¶¶ 83-85)
	Depreciation costs include depreciation for power-specific assets	The Board adopted Milton Hydro's 1995 depreciation cost of a bare pole of \$31.11.	Hydro Ottawa made no adjustment to deduct power-specific asset costs.	There should be a deduction for power-specific assets. In this regard, the Carriers have applied a factor of 15%. (McKeown Evidence, ¶¶ 69-77)
Pole Maintenance Costs	Pole maintenance costs include maintenance for power-specific assets	The Board adopted Milton Hydro's pole maintenance cost of \$6.47 (adjusted for inflation) for pole testing and straightening.	Hydro Ottawa has included pole repair costs and made no adjustment to deduct maintenance costs for power-specific fixtures.	There should be a deduction for power-specific assets. In this regard, the Carriers have applied a factor of 15%. (McKeown Evidence, ¶¶ 92-96)
	Use correct number of poles	This issue was not discussed in the 2005 Decision.	Hydro Ottawa used 47,978 poles to determine the per pole cost	The correct number of poles is 48,352 (McKeown Evidence, ¶¶ 83-85)
Capital Carrying Cost	No apparent issue	The Board use the pre-tax weighted average cost of capital for the year of the application times net embedded cost of a pole		Subject to adjustment of the net embedded pole cost as discussed above, the Carriers' and Hydro Ottawa's position is consistent

APPENDIX 4

APPLICATION OF 2005 METHODOLOGY

	Price Component – per Pole	OEB 2005	Hydro Ottawa	Changes required	
	# of power attachers	1.0	1.0		1.0
	# non-power attachers	2.5	2.0	Use 2.5 attachers per 2005 Decision	2.5
DIRECT COSTS					
A	Admin Costs	\$0.69	\$ 1.98	Divide by 2.5 attachers	\$1.58
B	Loss in productivity	\$1.23	\$ 4.35	Divide by 2.5 attachers Deduct pole replacement costs in NEC	\$1.36
C	Total Direct Costs	\$1.92	\$6.33	A + B	\$2.95
INDIRECT COSTS					
D	Net Embedded Cost (NEC)	\$478	\$1,678	Use MIFRS net book value Use average value instead of year-end Deduct power-only assets Use correct # of poles	\$1,258
E	Depreciation Expense	\$31.11	\$43.29	Use MIFRS value Deduct power-only assets Use correct # of poles	\$34.80
F	Pole Maintenance Expense	\$7.61	\$12.61	Deduct power-only assets Use correct # of poles	\$10.64
G	Capital Carrying Cost (D x 8.04%)	\$54.59	\$134.91		\$101.13
H	Total Indirect Costs	\$93.31	\$190.81	E + F + G	\$146.57
ALLOCATION					
I	Allocation Factor	21.9%	25.9%	Use 21.9% per 2005 Decision	21.9%
J	Indirect Costs allocated	\$20.43	\$49.42	H X I	\$32.10
K	POLE RATE	\$22.35	\$55.75	C + J	\$35.05

APPENDIX 5

APPLICATION OF MODIFIED 2005 METHODOLOGY

	Price Component – per Pole	OEB 2005	Hydro Ottawa	Changes required	
	# of power attachers	1.0	1.0	Use 2 attachers	1.0
	# non-power attachers	2.5	2.0	Use 2.5 attachers	2.5
DIRECT COSTS					
A	Admin Costs	\$0.69	\$ 1.98	Divide by 2.5 attachers	\$1.58
B	Loss in productivity	\$1.23	\$ 4.35	Divide by 2.5 attachers Deduct pole replacement costs in NEC	\$1.36
C	Total Direct Costs	\$1.92	\$6.33	A + B	\$2.95
INDIRECT COSTS					
D	Net Embedded Cost (NEC)	\$478	\$1,678	Use MIFRS net book value Use average value instead of year-end Deduct power-only assets Use correct # of poles	\$1,258
E	Depreciation Expense	\$31.11	\$43.29	Use MIFRS Accounting Deduct power-only assets Use correct # of poles	\$34.80
F	Pole Maintenance Expense	\$7.61	\$12.61	Deduct power-only assets Use correct # of poles	\$10.64
G	Capital Carrying Cost (D x 8.04%)	\$54.59	\$134.91		\$101.13
H	Total Indirect Costs	\$93.31	\$190.81	E + F + G	\$146.57
ALLOCATION					
I	Allocation Factor	21.9%	25.9%	Use 16.7% based on 2 power and 2.5 non-power attachers and separation space as common space	16.7%
J	Indirect Costs allocated	\$20.43	\$49.42	H X I	\$24.48
K	POLE RATE	\$22.35	\$55.75	C + J	\$27.43