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June 10, 2016

VIA RESS FILING and COURIER

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

Dear Ms. Walli,

Re: Motion 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. (EB-2015-0141)

Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on the Motion 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. (EB-2015-0141).

We hope you will find the PWU's comments useful.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP


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ONTARIO ENERGY BOARD

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File 9

List of PWU Employers

Algoma Power
AMEC Nuclear Safety Solutions
Atlantic Power Corporation - Calstock Power Plant
Atlantic Power Corporation - Kapuskasing Power Plant
Atlantic Power Corporation - Nipigon Power Plant
BPC District Energy Investments Limited Partnership
Brant County Power Incorporated
Brighton Beach Power Limited
Brookfield Power Wind Operations
Brookfield Renewable Power - Mississagi Power Trust
Bruce Power Inc.
Canadian Nuclear Laboratories (AECL Chalk River)
Compass Group Corporation of the County of Brant
Covanta Durham York Renewable Energy Ltd.
Entegrus
Erie Thames Powerlines
Erth Corporation
Great Lakes Power (Generation)
Great Lakes Power Transmission
Grimsby Power Incorporated
Halton Hills Hydro Inc.
Hydro One Inc.
Independent Electricity System Operator
Inergi LP
InnPower (Innisfil Hydro Distribution Systems Limited)
Kenora Hydro Electric Corporation Ltd.
Kinectrics Inc.
Kitchener-Wilmot Hydro Inc.
Lake Superior Power Inc. (A Brookfield Company)
London Hydro Corporation
Milton Hydro Distribution Inc.
New Horizon System Solutions
Newmarket Hydro Ltd.
Norfolk Power Distribution Inc.
Nuclear Waste Management Organization
Nuvia Canada
Ontario Power Generation Inc.
Orangeville Hydro Limited
Portlands Energy Centre
PowerStream
PUC Services
Rogers Communications (Kincardine Cable TV Ltd.)
Sioux Lookout Hydro Inc.
SouthWestern Energy
The Electrical Safety Authority
TransAlta Generation Partnership O.H.S.C.
Westario Power
Whitby Hydro Energy Services Corporation

Motion 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.

Submissions of the Power Workers' Union

1. The following are the Power Workers' Union's ("PWU") submissions on the motion to review and vary Decision EB-2013-0416/EB-2014-0247 issued on March 12, 2015 (the "Decision") approving distribution rates and charges for Hydro One Networks Inc. ("Hydro One") for 2015–2017, as it relates to the specific charge that cable and telecom Companies (the "Carriers") are required to pay to access and occupy Hydro One power poles (the "Pole Access Charge") (EB-2015-0141).
2. In the Decision, the Board approved an increase to the annual Pole Access Charge that Hydro One is permitted to charge communications companies such as the Carriers from \$22.35 to \$37.05 per pole per year in 2015, \$37.42 in 2016 and \$37.80 in 2017. However in the OEB's June 30, 2015 Decision and Order which granted the Carriers leave to bring a motion to review the Decision, the Board decided that until the disposition of the motion the Pole Access Charge will remain at the interim level of \$22.35 per pole per year.
3. There is an issue in this case as to whether, in this proceeding, the Board is limited in the rates that it can approve to rates no higher than those initially applied for by Hydro One and determined by the Board in the original proceeding. The Board is under no such constraint. Having concluded that it was appropriate to conduct a review motion in this case (on natural justice grounds) this aspect of the Board's original decision is now rendered irrelevant. The Board's task is to consider the matter afresh, and to establish a rate that is just and reasonable, on the evidence that is available to it. The just and reasonable rate may be less than, the same as, or higher than the rate applied for by the LDC.

4. As described in Procedural Order #3, the motion will be a hearing on Hydro One's proposed increase to the Pole Access Charge and whether that increase is just and reasonable. 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 ("Approved Methodology or 2005 Decision").

5. The OEB has stated that it plans to undertake a policy review of miscellaneous rates and charges ("Generic Policy") commencing this year, which will include a review of pole attachment methodology and treatment of third party revenues.¹ Any decision the OEB renders in this case will be final pending the outcome of the OEB's Generic Policy review, as was the case with Hydro Ottawa Limited ("Hydro Ottawa").² Insofar as the Generic Policy review results in a new or different approach to the issue, any change in the rate charged by any LDC will require an order of the Board to that effect, made after a hearing for that purpose.

6. The Approved Methodology was issued by the OEB on March 7, 2005 which means that the province-wide rate of \$22.35 per pole per year and the costs used to calculate that rate are more than 10 years out of date. In the 2005 Decision the OEB made an allowance for any distributor who did not consider the province-wide rate appropriate for its circumstances. According to the OEB, any LDC can bring an application to have the rates modified based on its own costing³ and that is exactly what Hydro One has done. Hydro One's updated calculations include the most up-to-date costs that reflect the current circumstances that Hydro One is experiencing.⁴

7. There were a number of opportunities throughout this proceeding for evidence and discovery to ensure that the Board and interested parties have ample information to determine whether Hydro One's proposed increase to the Pole Access Charge is just and reasonable.

¹ EB-2015-0004, Decision on Motion and Procedural Order #9, October 14, 2015.

² DECISION AND RATE ORDER ON POLE ATTACHMENT CHARGE February 25, 2016

³ EB-2015-0004, Hydro Ottawa Limited, Decision and Rate Order on Pole Attachment Charge, February 25, 2016

⁴ EB-2015-0141, Undertaking – J1, Filed 2016-05-25

8. With the discovery of new information comes the possibility that the Board may change its original determination. In this current case the discovery of new information including the Hydro Ottawa case (EB-2015-0004) has shown that rate payers are unfairly paying for costs that should be borne by the Carriers. Obviously, the analysis undertaken by the Board in the Hydro Ottawa case is not binding on this panel of the Board in the sense that it is required to adopt it. Rather, that analysis is persuasive “to the extent it is persuasive”. The PWU submits that this recent consideration of these very issues by the Board is helpful and should be adopted in this case.

9. The PWU submits that all of the information provided in this proceeding should be considered when determining the final Pole Access Charge as it better reflects the reality of Hydro One’s current costs and service thereby ensuring that there is a meaningful link between the Pole Access Charge and the actual cost of providing that service.

10. The PWU submits that all of the costs associated with the Carriers accessing and occupying Hydro One poles should be included in the Pole Access Charge as long as it is consistent with the Approved Methodology and the OEB’s February 25, 2016 decision on the Pole Access Charge collected by Hydro Ottawa, EB-2015-0004 (“Hydro Ottawa Decision”):⁵

- a. number of attachers per pole to be based on the most recent, actual data available;
- b. historical costs rather than forecasted or projected costs with no annual inflation adjustment;
- c. direct costs to include administration costs and loss of productivity costs, determined on a per pole basis and divided by the number of attachers per pole;
- d. allocation factor to be calculated based on the number of attachers per pole

⁵ EB-2015-0004, Hydro Ottawa Limited, Decision and Rate Order on Pole Attachment Charge, February 25, 2016

11. In the PWU's view, Hydro One should be able to charge a rate based on updated information for the Pole Access Charge which means that any costs incurred by Hydro One to provide the Carriers access to Hydro One power poles should be included in the Pole Access Charge and the revenue from the Pole Access Charge should offset rates thereby benefiting ratepayers. Hydro One customers should not have to subsidize any of the costs that are related to the Pole Access Charge.

12. Hydro One has followed the Approved Methodology and the Hydro Ottawa Decision, answered all of the questions relevant to the scope of this proceeding, confirmed that the costs being used to calculate the Pole Access Charge are accurate and not being recovered elsewhere in rates⁶ and provided ample information on how the Pole Access Charge was calculated.

13. The PWU supports Hydro One's updated pole attachment rate calculation of \$70.04 per pole based on 2014 actual costs with 1.3 attachers, a 15% reduction for power-specific assets and forestry included.⁷

All of which is respectfully submitted.

⁶ EB-2015-0141, Motion Hearing, May 19, 2016, Transcript, Page 22

⁷ EB-2015-0141, Undertaking – J1, Filed 2016-05-25