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Russ Friesen  
Vice President, Regulatory  
Vice-président des Affaires réglementaires  
MTS Allstream

EB-2015-014  
~~EB-2013-0416~~

1 April 2015

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto ON M4P 1E4  
Attention: Board Secretary

OEB BOARD SECRETARY	
File No:	Sub File: 4
Panel	MH, EE, KQ, JL
Licensing	Harold
Other	
00/04	NG

**by RESS and Mail**

Dear Ms. Walli:

15-0141

**Subject: Allstream Inc. Request for Late Intervenor Status – EB-2013-0416/EB-2014-0247, Hydro One Networks Inc. 2015, 2016 and 2017 Distribution Rate Application**

- Allstream Inc. (Allstream) hereby requests late intervenor status in the above referenced proceeding regarding an application of Hydro One Networks Inc. (“HONI”). In addition, Allstream requests leave to review and vary the Board’s decision dated 12 March 2015 approving the HONI’s electricity distribution rates for 2015-2017 (the “Decision”), an extension of the deadline by which it must file such an application for review and variance, and a stay of that part of the Decision and any resulting Order that approves the rate that Allstream and other communications companies are required to pay to HONI in respect of their attachments to the poles of HONI.
- Allstream is a “Canadian Carrier” within the meaning of the *Telecommunications Act*, and has attachments to HONI poles. In respect of its attachments, Allstream pays fees to HONI at a rate established by the Board (the “Joint Use Rate”). As such, Allstream has a direct interest in any rate approved by the Board for such attachments.
- Allstream received a letter from HONI on 30 March 2015 informing Allstream that the Board had approved an increase to its “telecommunication joint use rates for 2015 through to 2017”.
- Allstream received no notice that HONI’s Joint Use Rate was subject to an application for increase. The Notice published by the Board regarding HONI’s application makes

reference only to the rates for “electricity distribution”. Allstream became aware of the proposed increase to the Joint Use Rate only with HONI’s 30 March 2015 letter, which presented the increase to the Joint Use Rate as having already received approval. As a consequence, Allstream was unable to challenge HONI’s evidence or otherwise participate in the proceeding considering HONI’s application.

5. Allstream has been prejudiced because it was denied procedural fairness in this proceeding. Allstream’s interests were directly impacted, but Allstream was not afforded an opportunity to participate. Because no notice was given, Allstream was denied its right to be heard.
6. This situation is very similar to one that arose in EB-2014-0116, Toronto Hydro-Electric System Limited’s (“THESL’s”) application regarding distribution rates. In that case, THESL failed to provide notice to communications attachers that its rate for pole attachments was the subject of a proposed increase. The Notice of Application referred only to rates for “electricity distribution”. In Decision and Procedural Order No. 7, dated 23 February 2015, the Board ruled that the Notice was not adequate. The Board established a procedure that, in its view, would allow “meaningful participation” by carriers that were granted late intervenor status.
7. Allstream is aware of and supports a letter to be filed today by Rogers Communications Partnership (“Rogers”). Like Rogers, Allstream requests that the Board:
  - a) grant Allstream late intervenor status;
  - b) grant Allstream leave to bring a motion to review and vary a Board decision under s. 40.02 of the *Rules of Practice and Procedure*;
  - c) extend the deadline for any communications attacher to file a motion to review and vary the Decision until 20 days after the date on which the Board grants any communications attacher leave to file the review and vary motion, under ss. 7.01 and 7.02 of the *Rules of Practice and Procedure*; and

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d) stay that part of the Decision and any resulting Order that approves the Joint Use Rate that Allstream and other communications companies are required to pay to HONI in respect of their attachments to the poles of HONI.

8. Allstream requests that further correspondence with respect to this matter be sent to:

David Peaker, Allstream Inc.  
4<sup>th</sup> Floor, 150 Laurier Ave West,  
Ottawa ON K1P 5J4  
[iworkstation@mtsallstream.com](mailto:iworkstation@mtsallstream.com)  
Tel: (613) 688-8693

Yours truly,



for Russ Friesen  
Vice President, Regulatory

c.c.: David Peaker, Allstream, [iworkstation@mtsallstream.com](mailto:iworkstation@mtsallstream.com)  
[boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca);  
[harold.thiessen@ontarioenergyboard.ca](mailto:harold.thiessen@ontarioenergyboard.ca);  
[jennifer.lea@ontarioenergyboard.ca](mailto:jennifer.lea@ontarioenergyboard.ca)  
Parties to EB-2013-416/EB-2014-0247  
Rogers

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