

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.

**REPLY ARGUMENT
OF HYDRO OTTAWA LIMITED**

A. Introduction

1. Pursuant to the directions set out in paragraph 3 on page 2 of Procedural Order No. 10 issued October 29, 2015 in the proceeding initiated under EB-2015-0004, the following reply comments are respectfully submitted by Hydro Ottawa Limited (“Hydro Ottawa”) in response to submissions filed by Board Staff and interveners. This reply argument is filed in response to comments received November 12, 2015 from Board Staff and interveners which were filed in response Hydro Ottawa’s Argument in Chief that was filed November 5, 2015. All of which was submitted pursuant to the directions of Procedural Order. No.10.
2. Importantly, the following reply comments do not address the submission filed November 18, 2015 by Rogers Communications Partnership, TELUS Communications Company, Quebecor Media Inc. (collectively referred to as the Carriers) because said comments were filed outside the provisions set out in Procedural Order 10. In the event that the Carriers’ November 18, 2015 comments are not rendered inadmissible or struck from the record, Hydro Ottawa reserves the right to respond to said comments pursuant to any future directions as may be provided by the Board.
3. The following reply comments are submitted by Hydro Ottawa in response to Final Argument submissions received from the following interveners:

- (1) Ontario Energy Board Staff (“Board Staff”);¹
- (2) Rogers Communications Partnership, Telus Communications Company, and Quebecor Media Inc. (“Carriers”);²
- (3) Allstream Inc. (“Allstream”);³
- (4) Vulnerable Energy Consumers Coalition (“VECC”);⁴
- (5) School Energy Coalition (“SEC”);⁵
- (6) Energy Probe Research Foundation (“Energy Probe”);⁶
and
- (7) Consumers Council of Canada (“CCC”).⁷

4. This reply argument of Hydro Ottawa is filed in response to these Final Argument submissions in accordance with Procedural Order No. 10. Failure by Hydro Ottawa to address any statement or argument made by the above noted interveners shall not be interpreted as concurrence with or acceptance of such statement or argument.

B. High Level Observations

5. Having carefully reviewed the comments filed by all parties, it is clear that for some parties, namely the Carriers, the scope and parameters of the rate design methodology set out in OEB Decision RP-2003-0249 remains at issue. A consequence of this conclusion has led the Carriers and Allstream to assert that the Board is “unable” to approve or fix a pole attachment rate⁸ and that the Board cannot establish a just and reasonable rate in accordance with its statutory duty, “without considering the underlying methodology used to set the rate.”⁹

¹ Ontario Energy Board Staff Submission Pole Attachment Rate and Working Capital Allowance (“Board Staff Final Argument”).

² Submissions of Rogers Communications Partnership, Telus Communications Company and Quebecor Media Inc. (“Carriers Final Argument”).

³ Letter from Allstream Inc. to the Board dated November 12, 2015 (“Allstream Final Argument”).

⁴ VECC Argument.

⁵ Letter dated November 12, 2015 from Jay Shepherd Professional Corporation to the Board dated November 12, 2015 (“SEC Final Argument”).

⁶ Energy Probe Research Foundation Argument (“Energy Probe Final Argument”).

⁷ Letter dated November 12, 2015 from Julie E. Girvan to the Board (“CCC Final Argument”).

⁸ Allstream Final Argument, paragraphs 13 and 39; see also paragraphs 9 to 12 and 14.

⁹ Carriers Final Argument, paragraph 62.

6. In response, Hydro Ottawa respectfully submits that it is simply wrong to assert that the Board is unable to approve just and reasonable rates and charges until all ongoing or pending methodology or policy reviews that might have some bearing on rates or charges be concluded. At any particular time, the Board commonly has under way or pending at least one, if not several methodology or policy reviews that has some bearing on rates or charges. If it were necessary for the Board to await the conclusion of all such ongoing or pending methodology reviews before approving rates and charges, the Board's exercise of its rate-making jurisdiction would be paralyzed. It is clear that the Carrier and Allstream's argument is designed to buttress their request that the current \$22.35 rate be deemed interim until the outcome of the Board's Review of Miscellaneous Rates and Charges as initiated under EB-2015-0304. Hydro Ottawa respectfully requests that the Board see their arguments for what they are and the merit that they lack and deny their request.

7. By way of a second high level observation, Hydro Ottawa notes that the Carriers have devoted several pages of their Final Argument to re-interpreting the 2005 Decision (RP-2003-0249) and positioning its interpretations as fact. To illustrate, Hydro Ottawa notes that on page 5 of its Final Argument the Carriers state that the 2005 methodology establishes a cost based rate that is designed to recover historical direct and indirect costs. The Carriers parenthesize the words "incremental" and "common" costs which are the words used in the OEB's 2005 Decision¹⁰. Use of the terms incremental and common costs stem from the CRTC decision which were the terms used to describe the two elements of the CRTC's Phase II + 25% approach. The CRTC's Phase II costing approach is in fact forward looking and not historical. Other incorrect and/or misleading statements made by the Carriers include that Hydro Ottawa seeks to vary a number of aspects of the methodology. Hydro Ottawa cautions the Board against blind acceptance of the statements of fact the Carriers use to describe the OEB 2005 Decision or other assertions for which the record is devoid of corroborating evidence.

¹⁰ Page 4 of RP-2003-0249 "the 2005 Decision".

C. Number of Attachers

8. The Carriers allege that Hydro Ottawa seeks to vary aspects of the methodology including the assumed number of attachers. In their Final Argument, the Carriers argue that a) the allocation factor of 21.9% set out in RP-2003-0249 is based on assumptions relating to having 2.5 attachers and 1 power attacher;¹¹ b) that the 2.5 attacher underlies the allocation factor and are an integral part of the methodology and not part of the LDC's own costing that is variable upon application¹²; and c) if the number of attachers and allocation factor are in scope then the number of power attachers should be increased to 2 and the separation space should be treated as common space.¹³
9. The other interveners, including SEC, VECC, Energy Probe, and CCC, each disagree with the Carriers and point to the evidence filed on the record regarding the number of attachers. Both SEC and CCC for example argued¹⁴ that the Board should use 1.71 attachers per pole for each year between 2016-2020. In support of this position SEC noted that, contrary to the Carriers' witness's claims the evidence on the record illustrates that while the number of attachments on poles is likely increasing, the number of attachers is likely decreasing.¹⁵ Energy Probe submitted¹⁶ that a forecast of 1.75 attachers was reasonable arguing that Hydro Ottawa's 2.0 attacher forecast was neither realistic nor supported by the evidence and as such should not be supported by the Board. Finally, VECC submitted that while it was willing to adopt the 2.0 attachers proposed by Hydro Ottawa, using 1.75 third party attachers is appropriate.¹⁷ In support of this position VECC points to the Board's assumption in RP-2003-0249 that there would be an increasing number of telecommunications providers did not materialize and the fact that the Board could not have anticipated the number of mergers and consolidations that occurred in the Ottawa area.

¹¹ Paragraph 17, page 7 of the Carriers' Final Argument.

¹² Paragraph 17, page 7 of the Carriers' Final Argument

¹³ Paragraph 23, page 9 of the Carriers' Final Argument.

¹⁴ paragraph 38 on page 7 of SEC's Final Argument, and CCC Final Argument page 2.

¹⁵ Paragraph 37, page 7 of SEC's Final Argument.

¹⁶ Page 7 of Energy Probe's Final Argument.

¹⁷ Page 29 of VECC's Final Argument.

10. The Carriers argue that, despite Hydro Ottawa's evidence about the actual number of third party attachers per pole, the Board should take a forward-looking view of attachers (much like a forecast, rather than a historic, cost approach) by assuming or anticipating that the number of billable attachments will grow.¹⁸ However, the evidence on the record illustrates that mergers and consolidation of telecommunication attachers has had the effect of reducing the number of different "charge-paying" attachers.¹⁹ Moreover, because each attacher pays only one attachment rate per pole regardless of the number of attachments that it has on the pole, an increased number of attachments by existing attachers such as Bell Canada and Rogers may well cause Hydro Ottawa to incur additional costs for managing attachments, but it is unlikely to increase materially the number of charge-paying attachments.²⁰
11. In contrast to the position of the Carriers, Energy Probe submits that Hydro Ottawa should not use 2 third party attachers in the calculation of the pole attachment rate because the evidence shows that Hydro Ottawa's number of attachers per pole is actually less than 2. Specifically, Energy Probe argues that:
- ...the evidence in this proceeding is clear that the number of attachers per pole is less than 2.0. In particular, at the end of 2013 the number of attachers per pole was 1.74 (Undertaking J2.1) and at the end of August, 2015 the number had decreased marginally to 1.71 (Undertaking J2.3).
- ...
- Based on the actual historical figures for the 2013 to 2015 period and the noted mergers and acquisitions by telecom companies and the lack of any evidence in this proceeding of a significant new source of attachers in the Hydro Ottawa distribution system, Energy Probe submits that a forecast of 1.75 attachers per pole is reasonable.²¹
12. In addition to the evidence from interveners Hydro Ottawa notes that in Procedural Order # 9, issued October 14, 2015 the OEB noted that "matters related to methodology are out of scope including proportional versus equal sharing, the number of attachers per pole and the issue of pole ownership versus tenancy."

¹⁸ Carriers Final Argument, paragraph 24.

¹⁹ Pages 37-39, 69-71, 148 of Transcript from October 16, 2015 Oral Hearing.

²⁰ Page 68 of Transcript from October 16, 2015 Oral Hearing

²¹ Energy Probe Final Argument, page 7.

13. The issue of number of attachers was raised as an issue at the oral hearing held October 16, 2015 and addressed twice by the Chair of the OEB Panel Dr. Elsayed first as it relates to what was stated in Procedural Order # 9 and second to reiterate the Board Panel's position. In the words of Dr. Elsayed:

... the term that was used in that procedural order was not intended to be the number of attachers. We meant to say the number of overlashers. So the number of attachers is within the scope of the proceeding, because it is -- we do agree that it is an input to the methodology²²

and

.... when you look at the -- any methodology, there is a method to arrive at a certain number at the end. And then there is a number of inputs, depending on circumstances do change. The whole idea of conducting that policy review or looking at things today is that -- and the basis for some of what Hydro Ottawa has applied for is that there are certain things that do change.

Some of those input parameters do change. The method stays the same.

And that is why, for example, as I mentioned, **the number of attachers we consider as a Panel to be within the scope because it is not static. It doesn't stay the same.** The method is the same. The method has not changed since 2005. That is the distinction we're trying to make -- or we were trying to make in PO No. 9.²³ (Emphasis added)

14. In addition to Dr. Elsayad's ruling Hydro Ottawa notes that the very wording of the 2005 Decision illustrates that the number attachers is a consideration distinct from the methodology. If the number of attachers had been part of the methodology it would have been addressed by the Board in the Decision under the heading "What is the appropriate methodology?".²⁴ The number of attachers per pole is not addressed by the Board in the section of the 2005 Decision that deals with methodology. The number of attachers per pole is addressed in different section of the 2005 Decision, under the heading "How many attachers should be assumed?"²⁵

²² Page 17 of Transcript from October 16, 2015 Oral Hearing

²³ Page 19 of Transcript from October 16, 2015 Oral Hearing Lines 6-17

²⁴ 2005 Decision, pages 4 to 7.

²⁵ 2005 Decision, page 7.

15. As noted by the VECC, SEC, and Energy Probe and discussed above, the evidence on the record is clear that the number of “charge-paying” attachers, in Hydro Ottawa’s circumstances, is less than 2.5 per pole.²⁸ If Hydro Ottawa divides costs associated with pole attachments by an assumed number of 2.5 attachers per pole and then applies the rate calculated on this basis to less than 2.5 attachers per pole, the result is a shortfall in recovery of costs from attachers, which ultimately is borne by electricity distribution ratepayers.
16. For all these reasons, Hydro Ottawa submits that the Board should reject the Carriers’ argument to assume 2.5 attachers per pole when calculating Hydro Ottawa’s pole attachment rate as this does not reflect Hydro Ottawa circumstances.

Finally, with respect to the correct number of power attachers, the Carriers submitted that:

In addition, Hydro Ottawa and Hydro One both make use of power space on Hydro Ottawa poles. 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.²⁹

17. Hydro Ottawa indicated that it has 602 poles with HONI power attachments.³⁰ Relative to the total number of Hydro Ottawa poles, HONI power attachments is immaterial and does not warrant doubling the number of power attachers for the pole space allocation calculation. For this pole attachment rate application, the appropriate number of power attachers is one.

D. Separation Space

18. The Carriers argue that the separation space allowed on Hydro Ottawa’s poles should be treated as “common space”.³¹ Given that the separation space is needed to accommodate wireline attachers on the poles, but is not needed by the power attachment owner, Hydro Ottawa submits that there is no basis for treating it as common space.

²⁸ See paragraph 37 of Hydro Ottawa’s argument in chief.

²⁹ Carriers Final Argument, paragraph 30.

³⁰ IR-H-7-1, Carrier #1 (k)

³¹ Carriers Final Argument, paragraph 31.

19. Hydro Ottawa, the power attachment owner, does not need any separation space, and does not benefit from the space, because its workers are high voltage competent. Telecommunications workers are not high-voltage competent and need the “safety” separation space to provide clearance from the power lines and equipment. In Ottawa, streetlight workers are high-voltage competent, but in some locations the space is also used to achieve mounting height for optimal streetlight photometric patterns. Thus, the separation space is needed for both telecommunications attachments and streetlight attachments, albeit for different reasons, and the owners of both types of attachments share the cost of the space.³² In addition in the 2005 OEB Decision, the separation space was allocated to third party attachers and not treated as common space.
20. In their Final Argument, the Carriers assert that streetlight attachments “provide a direct and significant electricity distribution revenue stream to Hydro Ottawa”.³³ This assertion confuses the issue of pole attachment cost recovery with revenue from the distribution of electricity. Hydro Ottawa earns an “electricity distribution revenue stream” from streetlights regardless of whether the streetlights are attached to Hydro Ottawa’s poles. The fact that a streetlight is attached to one of Hydro Ottawa’s poles does not cause Hydro Ottawa to earn any more or less electricity distribution revenue than it would otherwise receive in respect of that particular streetlight; the issue is one of pole attachment costs and Hydro Ottawa charges the Board-approved attachment rate for all streetlight attachments.³⁴

E. Historical or Forecast Costs

21. VECC³⁵, SEC³⁶ and Energy Probe³⁷ and CCC³⁸ all submit that forecast or forward-looking cost inputs should be used to derive the pole attachment rate and note that such approach is consistent with the basis upon which the Board sets electricity distribution rates. Board Staff do not agree with this approach and assert that the 2005 Decision

³² Pages 7-8, 12-15 of Transcript from August 13, 2015 Technical Conference

³³ Carriers Final Argument, paragraph 31.

³⁴ IR:H-7-1 Carriers #1 (o), Page 100-101 of Transcript from October 16, 2015 Oral Hearing

³⁵ VECC Final Argument page 24

³⁶ SEC Final Argument, paragraph 4.

³⁷ Energy Probe Final Argument page 5.

³⁸ CCC Final Argument, pages 1 and 2.

was based on historical costs, that the record is not clear enough to proceed with a pole attachment rate based on a forecast and that, in this case, the use of historic data is reasonable.³⁹

22. SEC and CCC expressed concern that setting the pole attachment rate on historic costs and distribution rates on forecasted costs will result in distribution ratepayers subsidizing pole attachers as Hydro Ottawa's costs rise over time.⁴⁰ Energy Probe similarly pointed to the potential for subsidization of pole attachment costs by distribution customers, noting that while there is little impact to Hydro Ottawa and its total revenue requirement, it could be vastly unfair for pole attachment rates to be based on historical costs while distribution rates are based on forecasted costs.⁴¹ VECC pointed to the testimony of the Carriers' own witness in favour of forecasted rather than historical costs.⁴²
23. In common with the testimony of the Carriers' witness⁴³, Hydro Ottawa acknowledges that the preferable approach is to calculate the pole attachment rate on the basis of forecast costs rather than historic costs.⁴⁴ Hydro Ottawa submits that this is an appropriate matter for consideration in the Board's upcoming review of the methodology for calculating pole attachment rates. However, for the purposes of this case, Hydro Ottawa does not propose any change from a pole attachment rate based on historic costs to one based on forecast costs.
24. Hydro Ottawa points out that, although its proposed pole attachment rate is not based on forecast costs, it does include an annual escalation from the base amount of the rate approved by the Board for 2016.⁴⁵ The Carriers somewhat surprisingly allege that Hydro Ottawa "dropped" its request for an annual inflation factor in argument in chief.⁴⁶ Hydro Ottawa's argument in chief addressed the two aspects of Issue 4.11 in the Approved Issues List for this proceeding, namely, the costs underpinning the proposed pole

³⁹ Board Staff Final Argument, page 5.

⁴⁰ SEC Final Argument, page 2 and CCC Final Argument page 1-2

⁴¹ Energy Probe Final Argument, page 5.

⁴² VECC Final Argument, page 23

⁴³ Pages 166-167 of Transcript from October 16, 2015 Oral Hearing

⁴⁴ Page 84 of Transcript from October 16, 2015 Oral Hearing

⁴⁵ H-7-1: Table 1 and page 5 Section 3.3

⁴⁶ Carriers Final Argument, paragraph 35.

attachment rate and the application of the approved methodology in the determination of the rate, and at no time has Hydro Ottawa ever indicated an intention to “drop” the annual 2.1% escalation of the 2016 rate as applied to its 2017-2020 rates.

F. Calculation of the Pole Attachment Rate

(i) Direct Costs

(a) Administration Costs

25. In its argument in chief, Hydro Ottawa summarized the evidence with regard to the ongoing operational costs associated with managing and administering third party attachment permits and occupancy on its poles. It noted that the three sub-categories of activities captured in the Administration Costs are invoicing, updating the Geographic Information System (“GIS”) and permit processing. It outlined the evidence that provides a detailed description of the activities underlying the costs captured in each sub-category.
26. In the submissions made by other parties, a key area of disagreement arose from the issue of whether Administration Costs should be applied on a per pole basis or divided by the number of attachers per pole.
27. According to SEC, a review of the underlying evidence in the RP-2003-0249 proceeding reveals that the Administration Cost was calculated on a per pole basis. SEC goes on to say that it is not opposed to a calculation based on the number of charge-paying attachments, because it is the more appropriate method, but doing so would not be consistent with the approved methodology. SEC concludes on this point by saying “there is a legitimate question whether, if the methodology is out of scope, an exemption should be for this one component, but other methodology issues are ignored.”⁶⁶

⁶⁶ SEC Final Argument, paragraph 18.

28. Similarly, VECC questions whether the calculation of Administration Costs on a per pole basis or a per attacher basis is part of the approved methodology. Ultimately, VECC concludes that the “per pole derivation” is part of the methodology. In arriving at this conclusion VECC points to the statement by the presiding member of the Board panel.⁶⁷
29. Board Staff acknowledge⁶⁸ that the 2005 Decision did not specify that administrative costs are to be divided by the number of attachers, but argue that Hydro Ottawa’s failure to divide the Administration Costs by the number of attachers per pole will result in over-collection.⁶⁹ Similarly, Allstream argues that by not dividing by the number of attachers per pole, Hydro Ottawa would recover its Administration Costs twice which would lead to over-recovery.⁷⁰
30. As stated in its argument in chief, and reiterated above, Hydro Ottawa sees merit in dividing Administration (and Loss in Productivity) costs by the number of attachers per pole instead of the number of poles, even though this approach is not clear from the Board-approved methodology. However, given the proposition that costs should not be divided by the number of poles when the number of attachers per pole is known to be greater, the corollary is that costs should not be divided by an assumed number of attachers per pole when the actual number of attachers per pole is known to be less.

(b) Loss in Productivity

31. In its argument in chief, Hydro Ottawa set out the costs captured in the Loss in Productivity category under three distinct sub-categories, namely pole replacement (field verification and returning crew); wires down (field verification); and trees on wires (field verification). Hydro Ottawa noted that the costs captured in the Loss of Productivity category are costs incurred due to the presence of third party attachments on its poles and that, to the extent that these costs are not recovered from pole attachers, they are borne by electricity distribution ratepayers.

⁶⁷ VECC Final Argument, pages 9 and 10.

⁶⁸ Page 6 of Board Staff Final Argument.

⁶⁹ Page 7 of Board Staff Final Argument.

⁷⁰ Allstream Final Argument, paragraph 16.

32. Energy Probe submits that “the costs as calculated by Hydro Ottawa for recovery from pole attachers is lower than it probably should be.” Energy Probe points to the evidence of Hydro Ottawa to illustrate that it has underestimated the costs to be allocated to third parties for field verification as well as costs to work around third party attachments and to manage public inquires and complaints.⁷¹
33. VECC refers to the substantial body of evidence on the record illustrating the under-recovery of field verification costs associated with pole replacements and concludes that, since the costs of multiple visits necessitated by wire transfers are not otherwise recovered in direct or indirect costs, they should be captured in the Loss in Productivity direct costs.⁷²
34. VECC argues, however, that since pole removal costs (post wire transfer) are included in Account 1830 indirect costs, only a portion of the pole removal costs are recovered from third party attachers. VECC consequently submits that the percentage of indirect costs not recovered from third party attachers should be applied to the pole removal portion and included as a direct cost.⁷³ Hydro Ottawa agrees with VECC in that these incremental crew return costs with delayed wireline transfers should be a direct cost within the pole attachment rate.
35. The Carriers argue that costs for pole removal crew time must be removed from Hydro Ottawa’s Loss in Productivity costs and assert that there are arguments for removing the remaining pole replacement costs.⁷⁵ In support of their position, the Carriers point to what they claim to be an admission by Hydro Ottawa to the effect that “all costs it incurs for its pole removal crews are capitalized and included in Account 1830.”⁷⁶ The Carriers further argue that “[t]reatment 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

⁷¹ Energy Probe Final Argument, page 3-4

⁷² VECC Final Argument, page 12.

⁷³ VECC Final Argument, page 13.

⁷⁵ Carriers Final Argument, paragraph 44.

⁷⁶ Carriers Final Argument, paragraph 41.

third party wireline telecommunication and streetlight attachments are not the sole cause of these costs.”⁷⁷

36. Hydro Ottawa submits that the position taken by the Carriers with regard to Loss in Productivity costs is out of touch with the evidence in this case. It is clear that the activities associated with delayed wireline transfers and the need for returning crew visits significantly detracts from Hydro Ottawa’s productivity in completing pole replacement projects and are caused solely by the presence of wireline attachments. Even the Carriers’ witness, Mr. Richard, quite willingly accepted that, for a pole with wireline attachments, there are planning, coordination, timing and execution elements that are different than when there are no wireline attachments on a pole.⁷⁸

37. The need for Hydro Ottawa to send returning crews in order to complete the replacement of poles with wireline attachments was canvassed in evidence given at the hearing and during the Technical Conference by Hydro Ottawa and the Carriers. The witnesses for both Hydro Ottawa and the Carriers gave evidence that crews often must return on multiple occasions to confirm that wire transfers have been completed, or to remove the pole butt upon completion of the wire transfers, or both.⁷⁹

38. These additional costs are caused by the presence of wireline attachments on Hydro Ottawa’s poles and, according to principles of cost causation, the costs must be borne by the attachers that cause them, failing which electricity distribution ratepayers are forced to cross-subsidize wireline attachers. Hydro Ottawa agrees with VECC’s observation that there is substantial evidence on the record illustrating the under-recovery of field verification costs and VECC’s conclusion that, since the costs of multiple visits necessitated by wire transfers are not being recovered, these should be included in the Loss in Productivity direct costs.

⁷⁷ Paragraph 42 the Carriers Final Argument.

⁷⁸ Transcript, October 16, 2015, pages 123-124.

⁷⁹ Pages 42, 75-76, 123-124 of Transcript from October 16, 2015 Oral Hearing.

(ii) Indirect Costs(a) Net Embedded Pole Cost Per Pole

39. The Carriers put forward a number of contentions about Hydro Ottawa's net embedded cost per pole. They describe this particular cost as "extraordinary"⁸⁰, although the evidence in this case reveals that Toronto Hydro and Hydro Ottawa have very similar net embedded costs per pole.⁸¹ Further, as other parties have pointed out, the costs used in the derivation of the net embedded cost per pole are the same costs used in the setting of Hydro Ottawa's distribution rates and thus are accepted as reasonable when included for the purposes of Board-approved distribution rates.⁸²
40. Other than Hydro Ottawa, no party to this proceeding called a witness with expertise in costing of electricity distribution assets and thus the best evidence about the costs of Hydro Ottawa's assets is that of Hydro Ottawa itself. Board Staff supports Hydro Ottawa's net embedded cost per pole of \$1,569 and, in doing so, states that:
- ...despite the absence of more detailed information, OEB staff submits that the net embedded cost per pole provided by Hydro Ottawa of \$1,569 is reasonable for the purposes of this submission. The most complete set of information relating to net embedded costs, depreciation and pole maintenance is that filed by Hydro Ottawa.⁸³
41. The Carriers argue that 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".⁸⁴ For this purpose, the Carriers contend that 15% is a reasonable proxy to calculate the deduction to be made for power-specific assets. VECC, SEC and Energy Probe accept the 15% proxy to remove power-specific assets from the calculation, although Energy Probe refers to the costs recorded in Accounts 1806 and 1835 and points out that the real costs that should be allocated to third party attachers is higher than estimated by Hydro Ottawa.⁸⁵

⁸⁰ Carriers Final Argument, paragraph 47.

⁸¹ Exhibit K2.5.

⁸² VECC Final Argument, page 18, SEC Final Argument, page 5

⁸³ Board Staff Final Argument, page 10.

⁸⁴ Carriers Final Argument, paragraph 51.

⁸⁵ VECC Final Argument, page 19; SEC Final Argument, paragraph 22; and Energy Probe Final Argument, page 4.

42. The 15% “pole fixture proxy”, however, is problematic in this case because the evidence of Mr. McKeown on behalf of the Carriers does not justify the use of such a proxy in the circumstances of Hydro Ottawa. In their submissions about power-specific assets, the Carriers refer to a Report and Order of the Federal Communications Commission (“FCC”) that was cited in Mr. McKeown’s evidence.⁸⁶ The FCC’s reasoning for its conclusion that a 15% factor should be used to account for power-specific pole fixtures as follows:

.... The Commission promulgated a methodology to arrive at the net cost of a bare pole An adjustment to a utility’s net pole investment (of 15% for electric utilities and 5% for LEC’s⁸⁸) is necessary to eliminate investment in crossarms and other non-pole related items.¹²⁹

¹²⁹Electric utilities typically have more investment in crossarms than LEC’s. The 0.85 factor for electric utilities recognizes this difference. These adjustments are rebuttable.⁸⁹

43. The FCC’s reasons in support of the 15% factor made specific reference to crossarms, and other non-pole related items. Specifically, in FCC footnote 129, the investment in cross arms is the identified difference between the electrical utility of 15% versus the LEC’s 5% account adjustment. As noted by Hydro Ottawa witnesses at the technical conference, Hydro Ottawa uses brackets rather than crossarms in its distribution system construction.⁹³ The Carriers originally put forward evidence about power-specific (non-pole related) assets included in Account 1830, however it was clear during cross-examination that the majority of the identified 1830 power-specific assets are not part of Hydro Ottawa’s distribution system.⁹⁴ The reasoning for the 15% factor established by the FCC simply does not apply in the circumstances of Hydro Ottawa. Using the FCC Report and Order, the 5% account adjustment value attributed to the LEC poles is more applicable to Hydro Ottawa’s specific pole account 1830.

⁸⁶ Carriers Final Argument, paragraph 34, referring to Attachment 6 to the evidence of Mr. McKeown, Federal Communications Commission Report and Order CS Docket No. 97-97, paragraph 31.

⁸⁸ “LEC” in Canada is equivalent to the Incumbent Local Exchange Carriers (ILEC)

⁸⁹ FCC Report and Order, paragraph 31 and footnote 129.

⁹³ Transcript, Technical Conference, August 13, 2015, page 47.

⁹⁴ Transcript, October 16, 2015, pages 120-122.

44. Hydro Ottawa identified that its overhead multi-ground neutral system assets are captured in Account 1835. Hydro Ottawa also identified that the Carriers use overhead multi-ground neutral system.⁹⁵ The Carriers acknowledged their use of Hydro Ottawa's overhead multi-ground neutral system.⁹⁶ The evidence on record is that the Carriers do not pay for their use of Hydro Ottawa overhead multi-ground neutral system.⁹⁷
45. Hydro Ottawa identified that its distribution land rights are captured in Account 1806. Hydro Ottawa also identified that the Carriers use these land rights.¹⁰¹ The Carriers acknowledged their use of Hydro Ottawa's land rights. The evidence on record is that the Carriers do not pay for their use of Hydro Ottawa distribution land rights.¹⁰²
46. To the extent that Account 1830 includes some power-specific assets, the inclusion of such assets are offset by the fact that the costs of the multi-grounded neutral system recorded in Account 1830 and the right-of-way costs included in Account 1806 were not included in the calculation. In Energy Probes submission, it states:
- ... that the net embedded cost for pole calculated by Hydro Ottawa is based solely on assets recorded in account 1830. This cost does not include costs in account 1835 for multi-grounded neutral systems which are used by third party attachers or account 1806 for right-of-way and easements associated with poles (Tr. Vol. 2, pages 77-79). Again, Energy Probe submits that the real costs that should be allocated to third party attachers are actually higher than that estimated by Hydro Ottawa. However, there does not appear to be sufficient evidence on the record in this proceeding to increase the costs to be recovered.¹⁰⁴
47. Hydro Ottawa agrees with the Board Staff that the net embedded cost per pole provided by Hydro Ottawa is reasonable and unreduced for this submission.¹⁰⁶

⁹⁵ Transcript, October 16, 2015, pages 36-37, and 78, Exhibit K2.1

⁹⁶ Transcript, August 25, 2015, pages 21-22

⁹⁷ Transcript, October 16, 2015, page 78, and August 25, 2015, pages 21-22

¹⁰¹ Transcript, October 16, 2015, page 78

¹⁰² Transcript, August 25, 2015, pages 22

¹⁰⁴ Energy Probe Final Argument, page 4

¹⁰⁶ Board Staff Final Argument, page 10

48. AllStream states the cyclical investment is leading to abnormally high net book value (NBV) of Hydro Ottawa's pole.¹⁰⁷ Hydro Ottawa's NBV of its poles is not unusually high. Hydro Ottawa's NBV reflects a mature distribution system. The 2013 average Hydro Ottawa pole age was 38.5 years¹⁰⁸. With the OEB's previous depreciation rate of 25 years for poles, the Hydro Ottawa 2013 NBV was low due to the larger number of fully depreciated poles (17,577 with zero NBV).¹⁰⁹ The NBV is increasing at a rate greater than inflation as these zero value poles are replaced with new, full value poles. The new pole depreciation rate is 45 years. The Hydro Ottawa planned pole replacement for 2015 – 2019 is forecasted to be an average of 382.8 poles per year¹¹⁰. This level of planned pole replacement represents less than 1% of Hydro Ottawa's pole population. This planned pole replacement rate is not an unusually high investment rate nor is it a spike in the investment.
49. The Carriers also argue that, rather than a year-end 2013 net book value, an average 2013 net book value of assets should be used to determine net embedded cost per pole.¹¹¹ Hydro Ottawa submits that it is not appropriate to calculate an average value of assets for the year 2013 when the purpose of the calculation is to derive a pole attachment rate that will apply from 2016 to 2020. The objective is not to come up with a rate base value to be used for the purposes of a determination to be made by the Board in respect of the year 2013, but rather to come up with the best set of costs to be used for the purposes of determining a pole attachment rate in respect of the years 2016 to 2020.
50. At the time when Hydro Ottawa prepared its application to the Board, the best set of costs available to it for the purposes of determining the pole attachment rate were from the end of 2013. The pole attachment rate will be in effect for the period of 2016-2020. Future costs are increasing, as such, it is not appropriate to go back even further in time from the end of 2013 by calculating an average value of assets for the year 2013. Hydro Ottawa clarified that:

¹⁰⁷ AllStream Final Argument, pages 9-10

¹⁰⁸ Attachment B-1(B): 2014 Asset Management Plan, Fig 6.2

¹⁰⁹ IR Carriers 9(c)

¹¹⁰ IR Carriers 9(f) Table 3

¹¹¹ Carriers Final Argument, paragraph 50.

... did use the year-end values versus the average. If we were to use 2016-2020, we would obviously use the average values. But using average for 2013 didn't make a lot of sense because it is further away from the period that we are trying to set the rates for.¹¹²

G. Jurisdiction

51. Before concluding their submissions, the Carriers put forward an argument that, with all due respect, is rather astonishing. After all of the time that has been occupied on the issue of the pole attachment rate in this proceeding, the Carriers now contend that the Board cannot approve a revised pole attachment rate in the context of an application under section 78 of the *Ontario Energy Board Act, 1998*. Of course, approval of just and reasonable rates and charges, such as a pole attachment rate, lies at the core of the Board's jurisdiction under section 78. Hydro Ottawa submits that the Carriers' arguments regarding the constraints of the Board's jurisdiction are without merit and should accordingly be rejected.

H. Interim or Final Order

52. In its argument in chief, Hydro Ottawa submitted that the Board "can and should make a final order in this proceeding subject to a condition that any changes to the determination of pole attachment rates arising from the future policy review will be implemented in accordance with the directions of the Board regarding the implementation of the outcome of the policy review."¹²⁰ In support of its position, Hydro Ottawa noted that this treatment would be consistent with the agreement of parties regarding the Board's policy on cost of capital, as set out in the Settlement Proposal.
53. With the exception of the Carriers and OEB Staff, the submissions of all parties are consistent with Hydro Ottawa's position. Specifically, SEC¹²¹, VECC¹²², CCC¹²³, Energy Probe¹²⁴ and Allstream¹²⁵ agree that the pole attachment rate resulting from the current

¹¹² Transcript, October 16, 2015, page 77

¹²⁰ Argument in chief, page 15.

¹²¹ SEC Final Argument, paragraph 47.

¹²² VECC Final Argument, page 30.

¹²³ CCC Final Argument, page 2.

¹²⁴ Energy Probe Final Argument, pages 8-9.

proceeding should be declared final and that any changes arising from the OEB's future policy review should be applied prospectively. Indeed, a number of parties observed that it is the Board's practice to apply rate changes resulting from changes to Board policies on a prospective basis.

54. The Carriers, on the other hand, argue in favour of an interim rate. As well, Board Staff put forward three distinct rate treatment options, two of which involve declaring a pole attachment rate arising from the current proceeding interim.
55. Hydro Ottawa agrees with the concern emerging from submissions of other parties that setting the pole attachment rate on an interim basis will introduce regulatory uncertainty. Further, Hydro Ottawa notes that setting the charge on an interim basis suggests that it may be retroactively adjusted when the final charge is ultimately determined. Finally on this issue, Hydro Ottawa points out that the argument of the Carriers in support of an interim rate is founded on the theory that the Board cannot establish a just and reasonable charge in this case without considering the underlying methodology already approved by the Board which, as discussed above, is not a tenable proposition.¹²⁶

I. Wireless Deferral Account

56. The Carriers claim that it is not just and reasonable or appropriate that a deferral account was established to capture wireless attachment revenues that would be "retained those revenues for itself (Hydro Ottawa) below a certain threshold and refund the revenues to its electricity distribution customers if they exceed the threshold."¹²⁸ In support of this position the Carriers contend that a deferral account would be appropriate if a proportional use model were used to establish the pole rate but that it is not appropriate if the rate is set based on an equal sharing of costs. The result, as the Carriers allege, is that third party rate payers subsidize the common costs to support wireless attachments and receive no corresponding revenue.

¹²⁵ Allstream Final Argument, paragraph 38.

¹²⁶ See paragraphs 3 to 5, above.

¹²⁸ Carriers Final Argument, paragraph 80

57. Hydro Ottawa submits that the Carriers have confused just and reasonable rates with the mechanism for capturing revenues derived from rates as well as the mechanisms for disposing of amounts recorded in a deferral account.
58. With respect to treatment of rates as opposed to revenues the chair of the Board panel asked whether the Settlement Proposal (with the wireless deferral account), “affects particularly on the issue of pole attachment rate” and the witness for Hydro Ottawa responded that the rate was decoupled from the revenue. Apparently not satisfied with this response, counsel for the Carriers said that:
- “If the number of attachers is on the table then the potential for revenues from wireless attachers is very much on the table. You can’t expect some group of pole attachers to pay huge portions of the common cost of a pole and then Hydro Ottawa to go off and generate revenues from other people from that pole and not consider that when you set the position.”¹²⁹
59. Contrary to counsel’s assertions that pole attachers pay “huge portions” of the common cost of a pole, the evidence on the record illustrates that third party pole attachers pay a portion of Hydro Ottawa’s common costs but not all common costs attributed to their presence on the pole. More importantly, the evidence on the record of the EB-2015-0004 proceeding clearly illustrates that third party attachers pay only a fraction of the total pole costs relative to the amounts paid by ratepayers.
60. The current methodology for pole attachment rates does not permit Hydro Ottawa to recover compensation from wireless attachers who currently already have a wireline attachment. Hydro Ottawa does not have any wireless attachers that do not also have a wireline attachment and, as a result, revenues from wireless attachments, under the current methodology, are zero.
61. The Carrier Final Argument also confuse the mechanics of the deferral account. Revenues generated from wireless pole attachments will, pursuant to the Settlement Proposal, be given back to ratepayers during the 2016-2020 period. The Carriers argue that they were not included in the settlement discussions wherein they allege it was

¹²⁹ Transcript, October 16, 2015, page 104.

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 ratepayers if they exceed the threshold.”

62. As Hydro Ottawa’s witness explained,¹³⁰ amounts in Group 2 deferral accounts are disposed of during the term of the five year term if they exceed a threshold but at the end of the five year term all amounts are given back to ratepayers upon rebasing. This was made clear in the following exchange with counsel for the Carriers:

MS. MILTON: And am I correct in understanding that below a certain revenue threshold all funds in that deferral account would be retained by Hydro Ottawa?

MS. JONES: During the five-year term, but at the end of the five-year term all amounts will be disposed -- would be disposed, upon our refile and our rebasing.

MS. MILTON: But who will get those funds?

MS. JONES: It will go to ratepayers.

MS. MILTON: Your electricity ratepayers, correct?

MS. JONES: If there are any funds –

63. Finally, with respect to the Carriers’ statement about not being included in the settlement discussions, Hydro Ottawa notes that the Carriers did not attend these settlement discussions and as such did not include themselves as parties to the Settlement Proposal. This was acknowledged by the Board in Procedural Order No. 8.¹³¹

¹³⁰ Transcript, October 16, 2015, page 96.

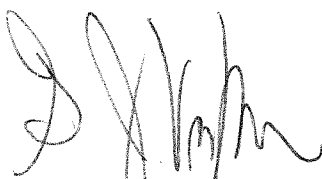
¹³¹ Page 6 of Procedural Order # 8.

J. Conclusion and Order Requested

64. Hydro Ottawa therefore submits that the Board should approve the proposed pole attachment rate as calculated in the manner set out in Table 2 of Hydro Ottawa's argument in chief.

All of which is respectfully submitted.

November 19, 2015.



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