



Ontario
Energy
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DECISION AND ORDER

EB-2021-0302

Wireline Pole Attachment Charge

BY DELEGATION, BEFORE: Brian Hewson
Vice President
Consumer Policy & Industry Performance

December 16, 2021

BACKGROUND

On March 22, 2018, the Ontario Energy Board (OEB) issued its [Report of the Ontario Energy Board: Wireline Pole Attachment Charges](#) (Report) which established a province-wide charge for wireline telecom attachments to distribution poles to be applied by licensed electricity distributors that do not have an OEB-approved distributor-specific charge in place.

The Report set the charge at \$43.63 annually per attacher, per pole, effective January 1, 2019, to be adjusted each year by the OEB's inflation factor.

As a result of the inflationary adjustment for January 1, 2020, the charge was set at \$44.50.¹ The OEB suspended the inflationary adjustment for 2021 on an interim basis, in light of the October 1, 2020 mandate letter from the Minister to the Chair of the OEB's Board of Directors, which identified as an organizational priority for the OEB to "Consider pole attachment policy in the context of opportunities to better serve areas that are currently underserved."²

On April 12, 2021, Bill 257, the *Supporting Broadband and Infrastructure Expansion Act, 2021*, received Royal Assent. Among other things, that Act added a new Part VI.1 to the *Ontario Energy Board Act, 1998* (OEB Act) establishing new powers to make regulations concerning the development, use of or access to electricity distribution and transmission infrastructure for prescribed purposes. These amendments will come into force on January 1, 2022.

On December 10, 2021, a regulation was filed under the new Part VI.1: O. Reg. 842/21 (Electricity Infrastructure (Part VI.1 of the Act)), which will also come into force on January 1, 2022.

The Regulation establishes the provision (or facilitation of the provision) of telecommunications services by telecommunications service providers and others as a prescribed purpose for the purposes of the new Part VI.1.³ The Regulation also requires the OEB to establish a generic, province-wide pole attachment charge for 2022 based on the approach set out in the Report, including the cost data and other information and assumptions relied on in the Report, but with two prescribed modifications, namely: (1) the OEB must use the "proportional use" methodology described in the Report for

¹ OEB [letter](#) to distributors, November 28, 2019.

² Wireline Pole Attachment Charge Order (EB-2020-0288), December 10, 2020.

³ Section 3 of the Regulation. Wireless attachments are expressly excluded from the ambit of the Regulation.

allocating common costs between different attachers, rather than the “hybrid equal sharing” approach adopted in the Report;⁴ and (2) the OEB must not make any adjustments for inflation for 2021 or 2022. The Regulation further requires the OEB to set the charge for 2023 and subsequent years by adjusting the prior year’s charge for inflation in accordance with the inflation adjustment mechanism described in the Report (that is, based on the OEB-approved inflation factor). As a result of the Regulation, calculating the charge each year will be a mechanistic exercise. The Regulation stipulates that the annual charge will be established by order without a hearing.

DECISION

This Order is being issued by a delegated decision-maker without a hearing pursuant to section 6 of the OEB Act and section 5(3) of the Regulation.

As shown in Schedule A to this Order, the OEB has calculated the charge for 2022, in accordance with the directions set out in the Regulation, as \$34.76 per attacher, per year, per pole.

This charge applies to every distributor that was subject to last year’s order (EB-2020-0288), i.e., every distributor that is required as a condition of licence to provide access to telecom attachments and to charge the amount approved by the OEB. As required by the Regulation, this charge also applies to InnPower Corporation, which is the only distributor that currently has approval to charge a distributor-specific amount rather than the generic province-wide charge.⁵ However, as specified in section 5(4) of the Regulation, if the charge set by the OEB for 2022 (or a subsequent year) conflicts with an agreement between a licensed distributor and a telecommunications entity that applies in that year, the agreement prevails over the OEB’s order to the extent of the conflict. The OEB is required by section 5(6) of the Regulation to include a reference to this conflict rule in its order setting the pole attachment charge.

The OEB is also taking this opportunity to make the 2021 charge – which is currently interim – final at its present level of \$44.50, effective January 1, 2021. Although not

⁴ Section 5(1) of the Regulation. The Report described three ways to allocate the common costs of a pole amongst the various users of the pole – “proportional use”, “equal use”, and “hybrid equal sharing” – and opted for hybrid equal sharing.

⁵ InnPower’s approved wireline pole attachment charge is currently \$38.82 (EB-2016-0085). As a result of section 5(2) of the Regulation, as of January 1, 2022 InnPower will begin charging the same amount as other licensed distributors: \$34.76.

required by the Regulation, the OEB considers it appropriate to forgo any inflationary adjustment for the 2021 charge.

The OEB previously established a variance account for distributors to track the revenue differences between the pole attachment charge incorporated in rates and the updated charge, following the issuance of the Report. Many distributors have rebased their rates since the issuance of the Report, and reflected an updated pole attachment charge in their underlying rate structure. The OEB is confirming that these distributors will be allowed to track, in the existing pole attachment variance account, any revenue shortfall resulting from the pole attachment charge for 2021 and 2022 as set by this Order and from the pole attachment charge set under the Regulation for subsequent years, until their next rebasing. Accounting guidance will be issued shortly on this matter.

IT IS ORDERED THAT:

1. The 2021 wireline pole attachment charge of \$44.50 per attacher, per year, per pole, which was approved on interim basis in EB-2020-0288, is declared final as of January 1, 2021.
2. Effective January 1, 2022, the wireline pole attachment charge will be \$34.76 per attacher, per year, per pole. The 2022 charge applies to all licensed distributors subject to the OEB's Order in EB-2020-0288 as well as to InnPower Corporation.
3. In accordance with section 5(4) of the Regulation, if the charge specified in paragraph 2 conflicts with an agreement between a licensed distributor and a telecommunications entity that applies in that year, the agreement prevails over paragraph 2 of this Order to the extent of the conflict.

DATED at Toronto December 16, 2021

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar

SCHEDULE A
DECISION AND ORDER
EB-2021-0302
DECEMBER 16, 2021

CALCULATION OF WIRELINE POLE ATTACHMENT CHARGE EFFECTIVE JANUARY 1, 2022

Components of Charge		2022 Charge (using the Proportional Use Methodology)
Total Annual Common (Indirect) Costs	A ¹	\$108.75
Allocation Ratio per Telecom Attacher	B ²	24.11%
Annual Common (Indirect) Cost per Telecom Attacher	C = A x B	\$26.22
Total Annual Direct Costs per Telecom Attacher	D ³	\$6.15
Annual Pole Attachment Charge per Telecom Attacher	E = C +D	\$32.37
2022 Pole Attachment Charge per Telecom Attacher effective January 1, 2022	F = E + Inflation ⁴	\$34.76

¹ The total common costs are specified as \$108.75 in Appendix B to the Report.

² The allocation ratio per telecom attacher under the “proportional use” methodology is specified as 24.11% on p. 70 of the [report](#) prepared by NGL Nordicity Group Limited, which is referred to in the Report. This compares to 32.45% under the “hybrid equal sharing” methodology: see Appendix B to the Report.

³ The total direct costs are specified as \$6.15 in Appendix B to the Report and are not affected by the common cost allocation methodology.

⁴ Includes three years of inflation (2.1% for 2015/16, 1.9% for 2016/17, and 1.2% 2017/18) as set out in the Report as well as the inflation adjustment of 2.0% on January 1, 2020. There was no adjustment to account for the 2019 inflation, as per the Report. Nor is there an inflationary adjustment for 2021 or 2022, in accordance with the Regulation.