



**EB-2011-0140**

**IN THE MATTER OF** sections 70 and 78 of the *Ontario Energy Board Act 1998*, S.O.1998, c.15, (Schedule B);

**AND IN THE MATTER OF** a Board-initiated proceeding to designate an electricity transmitter to undertake development work for a new electricity transmission line between Northeast and Northwest Ontario: the East-West Tie Line.

**PROCEDURAL ORDER NO. 4**

**July 27, 2012**

On April 16, 2012, the Board issued Procedural Order No. 2, in which it approved an issues list for Phase 1 of this proceeding.

On June 14, 2012, the Board issued its Phase 1 Partial Decision and Order, in which it ruled specifically on issue 19 of the Issues List, which reads as follows: "What information should HONI Networks Inc. and Great Lakes Power Transmission LP be required to disclose?". The partial decision and order required Hydro One Networks Inc. ("HONI") and Great Lakes Power Transmission LP ("GLPT") to file with the Board, and provide to other parties, certain documents in their possession relevant to the development of the East-West Tie line. In accordance with the Board's *Practice Direction on Confidential Filings*, the partial decision and order made provision for any confidential information to be provided in non-confidential, redacted form to all parties, and in confidential, unredacted form to those individuals from whom the Board accepts a signed declaration and undertaking.

On July 11, 2011, the Board sent a letter to HONI and GLPT indicating that it would accept the declarations and undertakings it received from individual representatives of various parties, subject to any objections from HONI and GLPT. In the letter, the Board referred to section 6.1.2 of the *Practice Direction on Confidential Filings*, which provides that “the Board will, except where there are compelling reasons for not doing so, accept a declaration and undertaking from counsel for a party, and an expert or consultant for a party”. The Board went on to instruct HONI and GLPT that any objection must “contain the reasons why the Board should not accept the declaration and undertaking.”

On July 16, 2012, HONI filed an objection to the disclosure of the confidential, unredacted versions of four consultant reports to parties in this proceeding who are not registered transmitters. The reports are Dillon Consulting Limited’s *Services Plan*, Senes Consultants Limited’s *Socio-Economic Assessment Plan*, SNC Lavalin’s *Study Estimates Report*, and Stantec Inc.’s *Environmental Assessment Plan*. HONI submitted that entities who are not registered transmitters have no need to see the commercially sensitive information that has been redacted.

On July 19, 2012, Stantec Inc. filed an objection to the disclosure of its report to any party, on the basis that it is commercially sensitive. Stantec Inc. proposed that a total cost estimate for the work of Stantec Inc., Senes Consultants Limited, and Dillon Consulting Limited could be provided on a confidential basis.

The Board received replies to HONI’s objection from five parties: the Consumers Council of Canada, the Métis Nation of Ontario, the National Chief’s Office, Pic River First Nation, and the School Energy Coalition. Each of these parties was in support of the Board ordering disclosure of the four consultant reports in their confidential, unredacted form to all individuals from whom the Board has accepted a declaration and undertaking. In addition, several of these parties argued that HONI’s proposal, if accepted, would lead to the creation of two categories of parties (one with access to all of the record, and the other with access to only a part of the record) and that this was unnecessary, would not be consistent with procedural fairness and could ultimately undermine the Board’s processes.

The Board finds that HONI has not provided a compelling reason as to why any of the declarants should be denied access to confidential information filed on the record of this proceeding. The *Practice Direction on Confidential Filings* and the form of

declaration and undertaking provided therein afford sufficient protection for confidential information and the Board expects that declarants will abide by their commitments. The Board therefore directs HONI to provide a copy of the unredacted SNC Lavalin report to each individual from whom the Board has accepted a declaration and undertaking.

The Board has also considered Stantec Inc.'s objection. The Board finds that the disclosure by HONI of the confidential content of the reports by Dillon Consulting Limited, Senes Consultants Limited, and Stantec Inc. to those parties that have signed the declaration and undertaking could cause commercial harm to these entities. Moreover, the Board finds that the relief sought by Stantec Inc. will, if granted, cause no harm to any party to this proceeding. The redacted versions of the reports contain a significant amount of information about the work involved, and the individual cost estimates are essentially immaterial in the context of the project as a whole. In the light of these findings, the Board will remove the confidential, unredacted versions of the reports of Dillon Consulting Limited, Senes Consultants Limited, and Stantec Inc. from the record of this proceeding. Also, in order that parties to the proceeding have some information in respect of the costs for the work identified in the reports, the Board will adopt Stantec's proposal regarding the preparation of a confidential schedule of a single total cost estimate for the three reports combined. The Board thus directs HONI to file, in place of the confidential, unredacted version of these three reports, a confidential schedule showing the total cost estimate of the three reports on a combined basis and to provide the confidential schedule to each individual from whom the Board has accepted a declaration and undertaking.

The Phase 1 Partial Decision and Order, issued June 14, 2012, is also hereby amended to reflect the findings made in this Procedural Order No. 4.

#### **THE BOARD ORDERS THAT:**

1. The confidential, unredacted version of each item listed in Appendix A to this Procedural Order No. 4 will be immediately removed from the record of this proceeding.

2. On or before **August 3, 2012**, HONI shall provide the unredacted version of the SNC Lavalin *Study Estimates Report* to each individual from whom the Board has accepted a declaration and undertaking in this proceeding.
3. On or before **August 3, 2012**, HONI shall file with the Board a confidential schedule showing a single total cost estimate which is the sum of the cost estimates contained in the three reports identified in Appendix A to this Procedural Order No. 4. HONI shall provide this confidential schedule to each individual from whom the Board has accepted a declaration and undertaking in this proceeding.

All filings with the Board must quote file number EB-2011-0140 and consist of one electronic copy in searchable / unrestricted PDF format filed through the Board's web portal at <https://www.errr.ontarioenergyboard.ca>, and three paper copies mailed or delivered to the Board Secretary's office at the address below. Filings must be received by the Board by 4:45 p.m. on the stated date. If you do not have a user ID, visit the Board's website under e-Filing Services and complete a user ID/password request form.

Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have Internet access are required to submit all filings on a CD in PDF format, along with three paper copies. All communications should be directed to the attention of the Board Secretary at the address below:

Ontario Energy Board,  
P.O. Box 2319  
2300 Yonge St.  
Suite 2701,  
Toronto, Ontario, M4P 1E4  
Attention: Board Secretary  
Filings: <https://www.errr.ontarioenergyboard.ca/>  
Email: [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)  
Tel: 1-888-632-6273 (Toll free)  
Fax: 416-440-7656

**DATED** at Toronto, July 27, 2012  
**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX A**  
**Hydro One Networks Inc.**  
**East-West Tie – Preliminary Environmental Reports List**  
**Board File No: EB-2011-0140**

a) *Dillon Consulting Limited Services Plan*

- work plan and budget for consultation activities for proposed East-West Tie line in relation to Terms of Reference and Individual Environmental Assessment, including Canadian Environment Assessment Agency screening, OEB section 92 submission activities, First Nations and Métis consultation, and Biodiversity Initiative activities
- prepared: January 26, 2010

b) *Stantec Inc. Environmental Assessment Plan*

- proposal for consulting services for proposed East-West Tie line in relation to pre-EA work, Terms of Reference, Environmental Assessment, general support (CEAA screening, OEB application, Biodiversity Initiative, orthophotography, other permits/approvals)
- contains: cost estimate and assumptions
- prepared: February 9, 2010

c) *Senes Consultants Limited Socio-Economic Assessment Plan*

- work plan for activities for proposed East-West Tie line relating to: socio-economic, cultural and heritage sections of Terms of Reference and Environmental Assessment; socio-economic studies; conducting public information centres on socio-economic matters
- prepared: January 26, 2010