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BY EMAIL AND RESS

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto ON M4P 1E4

Dear Ms. Walli:

Re. EB-2017-0182 and EB-2017-0194 (NextBridge East-West Tie (EWT) Line Leave to Construct and related Hydro One station facilities application) and EB-2017-0364 (Hydro One Lake Superior Link (LSL) Leave to Construct)

We write on behalf of NextBridge.

NextBridge has reviewed the interrogatory responses filed by Hydro One on September 24, 2018, and is concerned that Hydro One has claimed confidentiality over a large number of documents and items, and has refused or failed to completely answer a number of other interrogatories. As the hearing for this matter is set to begin in less than a week, there is urgency to these concerns.

Confidentiality

Hydro One's September 24th cover letter filing its interrogatory responses indicates that it has only claimed confidentiality over three responses. NextBridge's review indicates that confidentiality is actually being claimed over a larger number of items. In many cases, Hydro One has indicated that a particular matter or item is confidential, and then has not provided any response even on a confidential basis.

In accordance with section 5.1 of the OEB's Practice Direction on Confidential Filings, NextBridge writes to object to Hydro One's claims of confidentiality over certain interrogatory responses. As set out in Table A attached to this letter, the information and documents claimed as confidential in response to each of the interrogatories are relevant to the upcoming hearing, and, Hydro One has failed to provide sufficient explanation and basis for why they should be treated as confidential.

NextBridge, therefore, requests that the OEB determine that each of the items claimed as confidential by Hydro One be declared to be public. For those items where Hydro One has failed to provide the documents or information said to be confidential, NextBridge requests that the OEB require full responses to be filed. Given that the hearing will begin on October 2nd, NextBridge requests that full responses be filed by the end of the week (September 28th).

In the alternative, if the OEB is not prepared to determine that some or all of the items claimed as confidential should be filed publicly, NextBridge requests that the OEB require full responses to be filed on a confidential basis and permit NextBridge's counsel (Mr. Cass of Aird & Berlis LLP

and Mr. Murphy of NextEra Energy Resources, LLC) to sign the OEB's Declaration and Undertaking and be provided with copies of all confidential material as contemplated under section 6 of the OEB's Practice Direction on Confidential Filings.

Incomplete Responses

In a number of cases, Hydro One has not completely answered NextBridge's interrogatories. Ordinarily, NextBridge could bring a motion to compel complete answers, but this is not possible in the short time before the hearing commences on October 2nd.

Table B attached to this letter sets out the interrogatories that Hydro One has not completely answered, and the reasons why responses are needed for the hearing. Through this letter to the OEB, NextBridge requests that Hydro One provide complete responses by the end of the week (September 28th), so that hearing time is not taken up pursuing these items.

Yours truly,

AIRD & BERLIS LLP



David Stevens

cc. all parties in EB-2017-0182 and EB-2017-0194

TABLE A

	IR #	Description	Response Provided	Why the information is needed for the Hearing	Why the information is not confidential
1.	Staff #18(a) and NextBridge #14	Is Hydro One willing to provide a not-to-exceed price.	Response is fully redacted.	In Procedural Order No. 2, OEB allowed “[a]dditional questions . . . focused on facilitating a comparison of the Hydro One-LSL and NextBridge-EWT Applications.” The not to exceed price interrogatory was posed to both NextBridge and Hydro One. For NextBridge not to be able to view the not to exceed proposal of Hydro One thwarts NextBridge’s ability to facilitate the comparison of the two projects, as well as to test the veracity of the proposal under cross-examination.	Hydro One has provided no basis to claim confidentiality on its response to the not-to-exceed ratemaking proposal. Further, it is challenging to discern how such a proposal or response could be considered confidential given that the Subsection 96(2) public interest evaluation of a Leave to Construct includes a consideration of the interests of consumers with respect to prices. For Hydro One to hold the response or proposal from public disclosure is contrary to the ability of consumers to transparency associated with an evaluation of Hydro One’s price. Therefore, the Board should deny any request for the proposal or response to be protected as confidential.
2.	Staff #18(b) and NextBridge #14	Would Hydro One provide varying capital costs to reflect different risk sharing proposals.	Reference is made to another proceeding or project, the identity of which is redacted	Same as 18(a).	Same as 18(a).
3.	Staff #18(c) and NextBridge #14	Does Hydro One have other proposals to ensure the project is brought in on time and on budget.	Reference is made to another proceeding or project, the identity of which is redacted.	Same as 18(a).	Same as 18(a).

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4.	NextBridge #24(b)	Provide copies of workpapers associated with the all-in costs for the four circuit and double circuit transmission towers.	Costs of material supply and construction have been provided through a confidential bid process and extensive industry knowledge. The results are confidential.	Without back-up information on how the costs of for Hydro One's towers was developed, there is little ability to test the veracity of Hydro One's claim that it is saving customers money by optimizing tower design without sacrificing reliability. A claim of confidentiality is not a basis not to produce the information.	Hydro One has not provided sufficient level of detail on the information it is refusing to provide, and, thus, it is not possible to ascertain whether or not there is a valid claim of confidentiality.
5.	NextBridge #24(f)	Provide any visual simulations of the four circuit transmission line.	The response is provided as Attachment 1, which is fully redacted.	Hydro One has been reluctant throughout the proceeding to show basic tower designs and photos. At the same time, it is developing a quad circuit tower that has never been used before. A photo simulation would help the parties and OEB ascertain is the design if reliable, if it is consistent with the minimum technical requirements of the OEB, and, also, the level of design stage Hydro One is at with the quad circuit design, which, in turn, also goes to the level of price certainty there is with the transmission tower and its design.	Hydro One does not provide a basis for the claim that a photo simulation is confidential. NextBridge cannot recall a proponent of a transmission line claiming that a photo simulation of a transmission tower is confidential.
6.	NextBridge #24(g)	For the last 3 years, provide copies of documentation, analyses and studies related to the design, testing etc. for the proposed four circuit transmission line.	The design documentation related to the 4 circuit guided structure is proprietary and will not be provided.	NextBridge sought the information in 24(g) to understand whether Hydro One's quad circuit towers were consistent with the public interest criteria of cost and reliability. A claim of proprietary design is not a basis not to produce the information.	Hydro One has not provided sufficient level of detail on the information it is refusing to provide, and, thus, it is not possible to ascertain whether or not there is a valid claim of confidentiality.

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7.	NextBridge #25(a)	Provide copies of all documents and plans on how Hydro One will deliver, assemble and construct, operate and maintain the four circuit transmission towers and string its conductor.	Documents will not be provided for proprietary reasons.	Same as 24(g).	Same as 24(g).
8.	NextBridge #40(c)	Provide copies of all SNC-Lavalin work product developed for the Lake Superior Link project that was finalized prior to the filing of the Application	These work products are considered confidential as they contain commercially sensitive information.	Hydro One's Application and subsequent statements are that SNC-Lavalin will be its engineering, procurement and constructor contractor that will bear the risk of 85% of the construction costs. Hydro One and SNC-Lavalin are in a partnership. Hydro One also states it will have minimal oversight over the actual work of SNC-Lavalin and that the project is a "turnkey" project. Thus, to evaluate whether SNC-Lavalin and Hydro One prior to filing the Application had work product deserving of a reasonable proposal should be tested in the hearing. For example, it is NextBridge's understanding that the quad circuit tower design has changed multiple times since the filing of the Application. It is also NextBridge's understanding that SNC Lavalin is responsible of tower design, engineering and construction. The purpose of reviewing the SNC Lavalin work product is to understand the level of cost and technical maturity of the Hydro One Application and what steps have been taken	Hydro One has not provided sufficient level of detail on the information it is refusing to provide, and, thus, it is not possible to ascertain whether or not there is a valid claim of confidentiality.

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				posting filing of the Application to close gaps in cost estimates and the technical maturity of the proposed transmission project. A claim of confidentiality is not a basis not to produce the information.	
9.	NextBridge #41(c)	Provide copies of all work product developed by SNC-Lavalin for the Lake Superior Link project since the filing of the Application.	Work product information is confidential between Hydro One and SNC-Lavalin.	Same as 40(c).	Same as 40(c).
10.	NextBridge #42(b)	For the last 10 years, provide specified information for any transmission project over 50 kilometers and at least 100 kV and above worked on by SNC- Lavalin	The information requested is confidential and in some cases, proprietary information and SNC-Lavalin has strict contractual and confidentiality undertakings with our respective clients and therefore SNC-Lavalin cannot share any such information listed above.	NextBridge was asked the same question to facilitate a comparison with Hydro One by SEC. In response, NextBridge provided information in a format that was authorized by Valard's clients. Further, Hydro One holds out SNC-Lavalin as bearing the risk of 85% of the costs associated with construction. To test whether there is an overreliance on SNC-Lavalin and SNC-Lavalin's track record to perform in a manner that is in the public interest, the information sought is needed to test the reasonableness of Hydro One's reliance on SNC-Lavalin. A claim of confidentiality or proprietary is not a basis not to produce the information.	NextBridge provided this information without a claim of confidentiality, while at the same time providing it in a format that was acceptable to Valard's clients. Hydro One should be able to do the same.

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11.	NextBridge #42(c)	For the last 5 years, provide specified information for any SNC-Lavalin capital project over \$100 million.	The information requested is confidential and in some cases, proprietary information and SNC-Lavalin has strict contractual and confidentiality undertakings with our respective clients and therefore SNC-Lavalin cannot share any such information listed above.	Same as 42(b).	Same as 42(b).

TABLE B

	IR #	Description	Response Provided	Why the information is needed for the Hearing
1.	NextBridge #6(a)	Provide all correspondence between HONI and the Ministry of Energy related to Lake Superior Link.	Points to an Attachment 1 and there is no Attachment 1.	The communications and representation made by Hydro One to the Ministry of Energy are relevant to commitments or lack of commitments it has made to the Ministry on costs, reliability and an in-service date.
2.	NextBridge #11(a)	Provide a breakdown of costs related to all development activities prior to the filing of the Application in the same format as provided in EB-2011-0140 to Board Interrogatory 26 with the following columns: (1) the cost estimate provided in response to the EB-2011-0140 Board Interrogatory 26; (2) the “at filing of the Lake Superior Link Leave to Construct” cost estimate; (3) the amount of costs for each cost category attributable to development activities for routing through Pukaskwa National Park; and (4) the amount of costs for each cost category attributable to development activities for routing around Pukaskwa National Park. For each cost category, provide a detailed cost breakdown including separating expenses and capital costs.	Non-responsive.	Hydro One’s curt response is in contrast to Procedural Order No. 2 issued in the NextBridge proceeding that requested additional information on NextBridge’s development activities and costs to evaluate the reasonableness of those costs. In response, NextBridge provided additional evidence that explained its development activities and the reasonableness of the costs. As the Board is seeking to compare the NextBridge and Hydro One proposals, this information is needed to provide a point of comparison on the development activities and costs.

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3.	NextBridge #11(f)	For each identified executive, employee, and contractor also identify if he or she has conducted any work related to the NextBridge East-West Tie Line project and the scope of work associated with their work related to the NextBridge East-West Tie Line and scope of work on Hydro One's Lake Superior Link.	This part of the question was not answered.	NextBridge has worked to provide a cost competitive East West Tie Line proposal. At the same time, discussions with Hydro One over crossings, use of its right of way, access rights, the technical requirements for interconnecting and crossing Hydro One have been challenging, and, at times, complying with Hydro One's requirements adds costs to NextBridge's project. There is a concern that employees and contractors of Hydro One who are requiring higher standards than the industry normal may have an incentive to favor the Lake Superior Link (LSL) project. The information was sought to identify whether there were employees and contractors working both to promote the LSL project and work related to the NextBridge East West Tie proposal and the scope of their work in order to ascertain whether there are issues that need to be addressed, so that NextBridge is not disadvantaged by Hydro One employees and contractors with an incentive to add costs to the NextBridge project or otherwise not be cooperative.
4.	NextBridge #15(a)	Provide copies of all documents and correspondence between HONI and Parks Canada related to routing the Lake Superior Link project through Pukaskwa National Park. i. Identify whether any of HONI's documents or correspondence includes visual simulations of the proposed four circuit transmission towers.	Non responsive and points NextBridge to an Attachment 2 that is close to 1000 pages comprised of multiple documents, without reference to date or document. It also states that drawings have been provided to Parks Canada, but does not provide them as part of its response.	Hydro One claims that its quad circuit tower design is cost effective and reliable and will be acceptable to Parks Canada. Its quad circuit tower design has changed multiple times, and the information requested is needed to understand whether the quad circuit towers are reliable, cost-effective and whether Parks Canada views them as viable, given without Parks Canada's approval Hydro One's project schedule is also questionable given how little work it has done to route around the Pukaskwa National Park.
5.	NextBridge #24(a)	Provide copies of the current tower designs for the four circuit transmission line, including all load trees, finite element models, and tower weight.	Hydro Ones states that drawings of the current quad circuit tower design are included in Attachment 1 to Exhibit I, Tab 1, Schedule 2. NextBridge cannot find those drawings at that reference.	The information sought on Hydro One's tower designs is to assess whether they are consistent with the OEB minimal technical requirements and are otherwise reliable.

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6.	NextBridge #24(b)	Provide the all-in (design, testing, manufacturing, delivery, assembly, construction) cost estimate for the four circuit towers to be used in Pukaskwa National Park. Explain where in Table 3 of the Application these costs are captured. Provide a number of additional items of information.	Non-responsive.	Same as NextBridge #15. The tower and cost information sought here is to test the reasonableness of Hydro One's construction cost estimates and the reliability of its proposed quad circuit tower.
7.	NextBridge #26(c)	Confirm that Hydro One will only place the guy anchors within the right of way of existing EWT Line for the Pukaskwa Park segment. If confirmed, explain how Hydro One will assure that all guyed anchors will be within the existing right of way under all terrain scenarios, including providing copies of all supporting engineering and modeling.	Hydro One provided a footprint sketch, but indicates that engineering models will not be provided as part of these proceedings.	Same as 24(a).
8.	NextBridge #27(a)	Explain in detail the process and status of the full scale testing of the tower designs for the four circuit transmission line.	No details were provided about the planned testing process.	To understand whether the full scale tower testing will be conducted in a cost-effective and manner that promotes reliability, some level of detail is needed to evaluate the process. It is also helpful to understand the process in relationship to whether Hydro One will meet its project schedule milestones. This is even more relevant now that Hydro One has presented a new quad circuit tower design, and to understand the process it will undertake to ensure it is reliable is in the public interest.

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9.	NextBridge #28	Explain in detail the impact to the environmental footprint for retrofitting the existing foundations for the four circuit transmission towers.	No details are provided about impact to environmental footprint.	Hydro One has conceded in response to Staff Interrogatory No. 2 “Hydro One has recently determined that the number of foundations requiring replacement is significant enough that it would be preferable to adopt a different design for the new quad structures.” NextBridge suspected this would be the case and raised it in the Motion to Dismiss proceeding and again here to. NextBridge needs to understand the footprint of the foundations so to test the reasonableness of Hydro One’s construction cost estimates and the reliability of the foundation for the tower design.
10.	NextBridge #37	Provide (from start to finish) the milestones and timeline for the consultation and participation activities associated with the Bruce to Milton project.	Said to be “Out of scope.”	In order to measure Hydro One’s ability to meet its project schedule, this information was sought to benchmark Hydro One against a recent project. The statement “out of scope” is not sufficient to not provide the information.
11.	NextBridge #44(a) and #47(a)	Provide a detailed explanation of (1) the activities (include a detailed scope for each activity) and capital items included in each of the cost categories listed in column 1 of Table 3; (2) the reasonableness of each activity and capital item; (3) how each cost estimate in column 2 was developed, including copies of all workpapers; and (4) the potential for an increase in any of the column 2 cost estimates. For each cost category, provide a detailed explanation of the activities conducted or to be conducted and work product produced or to be produced.	Categories listed in Table 3 are self-explanatory for the particular activity.	Hydro One’s curt response is in contrast to Procedural Order No. 2 issued in the NextBridge proceeding that requested additional information on NextBridge’s construction costs to evaluate the reasonableness of those costs. In response, NextBridge provided additional evidence that explained its construction phase activities and the reasonableness of the costs. As the Board is seeking to compare the NextBridge and Hydro One proposals, this information is needed to provide a point of comparison on the construction activities that make up Hydro One’s broad categories and how the costs were estimated for those categories.

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12	NextBridge #47(b) and (c)	<p>b) For each identified activity(ies) and work product, indicate whether any of the activities or work product was competitively bid. For each competitively bid activity(ies) and work product, identify the selected bidder, whether the selected bidder was the lowest cost bidder and criteria used to select the bidder. For each activity and work product not competitively procured, explain in detail why it was not competitively bid.</p> <p>c) For each identified activity(ies) and work product, identify any cost management or containment measures implemented.</p>	Not responsive.	Same as 44(a).
13	NextBridge #48	<p>a) Provide a copy of the most up-to-date tables showing all proposed transmission structures for the Lake Superior Link project, including structure numbers, span lengths, structure types, and the associated structure drawings per structure type.</p> <p>b) Provide one table for routing through Pukaskwa National Park; and</p> <p>c) One table for routing around Pukaskwa National Park.</p> <p>d) If one or both of tables have not been developed, explain why not and when they will be developed.</p>	The answers provided, which mostly point to the response to NextBridge #24, Attachment 1, do not provide complete information.	Same as 24(a).

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14	NextBridge #50(c)	Provide the projected spend rate for the Lake Superior Link project from present to in-service date, broken down by scope of work, and expenses and capital expenditures.	Non-responsive.	Throughout the NextBridge proceeding, NextBridge has been asked about projected spend rates for construction, and to facilitate a comparison with NextBridge, this interrogatory requested similar information. See, e.g., Staff #16 that requested NextBridge provide essentially the same information that NextBridge #50(c) requests of Hydro One. The information also is needed to test the reasonableness of Hydro One's construction costs and ability to meet its proposed in-service date.
15	NextBridge #66	<p>For each Hydro One transmission tower failure or collapse over the past 10 years provide a number of pieces of data and information.</p> <p>a) The voltage, number of towers involved, number of circuits on the towers and location indicated by urban or rural;</p> <p>b) The days of the outage of the transmission circuit (from substation to substation);</p> <p>c) Whether there was a loss of load; if yes, the duration of the loss of load;</p> <p>d) Was a root cause analysis conducted? If no, why not. If yes, provide a copy of the root cause analysis.</p> <p>e) Were any remedial measures or procedures implemented? If not, why not. If yes, provide a copy.</p>	Information was only provided in relation to two incidents. NextBridge is aware that there are more such incidents.	Hydro One is proposing new quad tower circuit design. It claims its design is as reliable as NextBridge's paralleling two circuit design. Hydro One, however, has had a series of tower failures, and the information sought was to understand of Hydro One's history of tower failures, whether it conducted a root cause analysis and implemented mitigation measures, as well as understanding if Hydro One had effectively and timely restored the towers that failed – all information that goes to whether Hydro One's quad circuit design that present a single point of failure for 87 towers presents a risk to reliability to the customers relying on that line for their electricity. In fact, Hydro One placed into evidence resumés of experts that show they worked on Hydro One tower failure in 2018, 2016, 2011, 2008, 2006, 2003, and 2002. EB-2017-0364, May 7, 2018 Additional Evidence, Attachment 16 (Resume of Hathout, p 2 of the resumé, page 9 of the attachment). Thus, there are more tower failure information than Hydro One has provided, and there is no basis provided to withhold the information.

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16	NextBridge #72	Provide a copy of the referred to Contractor Execution Plan in the EPC contract. If the plan has not yet been detailed, explain why and when it will be developed.	Non-responsive.	The contractor execution plan is needed to understand whether Hydro One's proposed in-service date is achievable and whether the plan provides sufficient flexibility to address scheduling issues that may arise. If such a plan does not exist that should be the answer, not that Hydro One will submit after the EPC contract is executed, which is after a decision on its Leave to Construct.
17	NextBridge #73	Please confirm if an alternatives assessment was completed on routes and route refinements by Hydro One as part of the Niagara Reinforcement Project environmental assessment process.	Said to be "Out of scope".	Same as 37.