

Upper Canada Transmission Inc. (on behalf of
Nextbridge Infrastructure)
Application for leave to construct an electricity
transmission line between Thunder Bay and Wawa, Ontario

-and-

Hydro One Networks Inc.
Application to upgrade existing transmission station facilities
in the Districts of Thunder Bay and Algoma, Ontario

-and-

Hydro One Networks Inc.
Application for leave to construct an electricity transmission line
between Thunder Bay and Wawa, Ontario

**BOOK OF REFERENCES OF
BIINJITIWAABIK ZAAGING ANISHINAABEK
for CROSS EXAMINATION OF INDEPENDENT ELECTICITY SYSTEM OPERATOR**

DATED: October 9, 2018

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ETIENNE ESQUEGA
Lawyer for the Intervenor
Bijnjitiwaabik Zaaging Anishinaabek ("BZA")

**INDEPENDENT ELECTICITY SYSTEM OPERATOR (“IESO”)
CROSS EXAMINATION REFERENCE MATERIALS**

TAB	Document	Date Filed with OEB	Page No.
1.	IESO Response to BZA Interrogatory 1 EB-2017-0182/EB-2017-0194/EB-2017-0364	24/07/2018	3
2.	May 31, 2011 Letter from MOE to OPA EB-2011-0141 Exhibit Letter to OPA on EWT Consultation	01/02/2012	5
3.	May 2, 2012 Letter from OEB to PRFN EB-2011-0141 Board Reply Letter to PRFN	02/05/2012	8
4.	May 9, 2012 Letter from OPA to OEB EB-2011-0141 OPA Cover Letter of Consultation Record on EWT	10/05/2012	10

1 BZA INTERROGATORY 1

2 **BZA-1**

3 Reference: EB-2011-0140 Exhibit Letter to OPA on EWT Consultation (May 31 , 2011)
4 EB-2011_0140 Aboriginal Consultation Record (May 9, 2012)

5 The Ontario Power Authority was delegated the procedural aspects of Crown consultation with
6 respect to the East-West tie project for the period prior to the Board designating a transmitter.
7 This is confirmed in the May 31, 2011 letter from Jon Norman, of the Ministry of Energy to
8 Michael Lyle of the Ontario Power Authority.

9 The OPA filed its consultation record and an explanation of the consultation activities with the
10 Board on May 9, 2012.

11 INTERROGATORY

12 a) Please advise if as a result of the OPA/IESO consultation if the OPA/IESO made a
13 determination of which First Nation communities were most adversely affected by the
14 project. If so, please provide copies of any and all documentation/correspondence/memos
15 etc. concerning this determination.

16 b) Please advise if anyone from any other agency or ministry of the Ontario Government,
17 including the Ministry of Energy, ever communication which First Nation communities may
18 be most adversely affected by the project. If so, please provide copies of any and all
19 documentation/correspondence/memos etc. concerning this determination.

20 c) Specifically, are you aware if anyone has ever determined that BZA is less adversely
21 affected by the project? If so, please provide copies of any and all
22 documentation/correspondence/memos etc. concerning this determination.

23 d) Please advised if the IESO (formerly OPA) was delegated any further procedural aspects of
24 the Crown to consult, or monitor consultation efforts, after May 9, 2012.

25 e) If the OPA/IESO undertook further consultation, or monitored any consultation efforts, with
26 First Nation and Metis communities after the May 9, 2012 date provide an updated record of
27 consultation activities.

28 f) Please provide copies of any documents/correspondence/memos etc. including
29 correspondence between the Ministry of Energy and the IESO/OPA concerning
30 consultation.

31 g) If the OPA/IESO was relieved of the obligation to consultation or monitor consultation,
32 please produce a copy of any and all correspondence or documentation concerning the
33 same.

1 RESPONSE

- 2 a) through g) The OEB's Procedural Order No. 1 of August 13, 2018 made provisions for parties
3 to "request any relevant information and material from the IESO in respect of the Addendum to
4 the Updated Needs Assessment". The questions posed by BZA do not concern the Addendum
5 and it is the IESO's view that they are therefore beyond the scope of Procedural Order No. 1.

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Transmission and Distribution Policy Branch

May 31, 2011

Michael Lyle
General Counsel and Vice President
Legal, Aboriginal and Regulatory Affairs
Ontario Power Authority
120 Adelaide Street West, Suite 1600
Toronto, ON M5H 1T1

Dear Mr. Lyle:

Re: East-West Tie

Further to our discussions on the above-referenced project, this letter is to confirm the Crown and Ontario Power Authority (OPA) roles in any duty to consult on the proposed East-West tie project during the period prior to any Ontario Energy Board (Board) transmitter designation.

The Crown has decided to delegate certain procedural aspects of consultation to the OPA since the OPA is establishing the rationale, scope and timing of the East-West tie project and will be submitting a report on the project to the Board by the end of June. We understand that the OPA is already conducting a consultation process on the Integrated Power System Plan (IPSP) which will include all of the Aboriginal communities that may be affected by the East-West tie project. If timing requirements associated with the preparation of the report permit the coordination of discussions on the East-West tie project with IPSP consultations, this approach may facilitate rational use of Crown and Aboriginal community resources.

Crown Role

A list of communities (List) to consult on the East-West tie project has been provided to the OPA previously and is attached. Should the OPA determine that discussions on the East-West tie project can be coordinated with its consultations on the IPSP, the Crown will send letters to the relevant communities indicating that the OPA process for carrying out any duty to consult on the IPSP will include the process through which the Crown consults on the East-West tie project prior to any Board transmitter designation decision.

.../cont'd

Ministry officials, as appropriate and required, will accompany OPA staff in meetings on the East-West Tie project.

OPA Role

In meetings with communities on the List, we understand that the OPA will ensure the agenda provides for discussion of the Project and any Board transmitter designation process.

Community representatives should be offered the opportunity to provide input on the Project and the Board's possible designation of a transmitter. Community representatives should also be advised on how to obtain more information from the Board on the transmitter designation process and how they can participate in it.

The OPA will include a record of these discussions in its report on the preliminary assessment of need for the Project, which the Board has requested be submitted no later than June 30th, 2011.

I trust that this reflects our discussions regarding the respective roles of the Ministry and the OPA in addressing any duty to consult on the East-West tie project.

Sincerely



Jon Norman
Director

- c. MaryAnn Aldred, General Counsel, Ontario Energy Board
Peter Landmann, Counsel, Ministry of Energy
Kaili Sermat-Harding, Director, Strategic Policy Branch, Ministry of Energy

Attachment: FIRST NATION AND MÉTIS COMMUNITY CONSULTATION LIST
East-West Tie Transmission Project, 2011

First Nation		Address
1.	Animbiigoo Zaagi'igan Anishinaabek First Nation (Lake Nipigon Ojibway)	PO Box 120 Beardmore, ON P0T 1G0
2.	Biinjitiwaabik Zaaging Anishinaabek First Nation (Rocky Bay)	501 Spirit Bay Road MacDiarmid, ON P0T 2B0
3.	Bingwi Neyaashi Anishinaabek (Sand Point First Nation)	146 Court Street South Thunder Bay, ON P7B 2X6
4.	Fort William First Nation	90 Anemki Drive, Suite 200 Thunder Bay, ON P7J 1L3
5.	Ginoogaming First Nation	PO Box 89 Longlac, ON P0T 2A0
6.	Long Lake No. 58 First Nation	PO Box 609 Longlac, ON P0T 2A0
7.	Michipicoten First Nation	RR 1, PO Box 1, Site 8 Wawa, ON P0S 1K0
8.	Missanabie Cree First Nation	174B Highway 17 East, Bell's Point Garden River, ON P6A 6Z1
9.	Ojibways of Batchewana	236 Frontenac Street Sault Ste Marie, ON P6A 5K9
10.	Ojibways of Garden River	RR4, 7 Shingwauk Street Garden River, ON P6A 6Z8
11.	Ojibways of Pic River (Heron Bay First Nation)	PO Box 193 Heron Bay, ON P0T 1R0
12.	Pays Plat First Nation	10 Central Place Pays Plat, ON P0T 3C0
13.	Pic Moberg First Nation	PO Box 717 Moberg, ON P0M 2J0
14.	Red Rock Indian Band	PO Box 1030 Nipigon, ON P0T 2J0

Métis Organization		Address
1.	Greenstone Métis Council	PO Box 825, 205 Clarke Avenue Geraldton, ON P0T 1M0
2.	Red Sky Independent Métis Nation	406 East Victoria Avenue Thunder Bay, ON P7C 1A5
3.	Superior North Shore Métis Council	26 Princess Street Terrace Bay, ON P0T 2W0
4.	Thunder Bay Métis Council	226 May Street South Thunder Bay, ON P7E 1B4

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Facsimile: 416-440-7656
Toll free: 1-888-632-6273

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BY EMAIL: cgodby@harrisonpensa.com

May 2, 2012

Ms. C. Godby
Harrison Pensa LLP
450 Talbot Street
P.O. Box 3237
London ON, N6A 4K3

Dear Ms. Godby:

**Re: Request for Board Direction to OPA
East-West Tie Designation Proceeding (EB-2011-0140)**

The Board has considered your letter dated April 30, 2012, written on behalf of your client Pic River First Nation ("PRFN"). The letter requests that the Board direct the Ontario Power Authority ("OPA") to provide information and verification pertaining to the OPA's consultation activities to date with Aboriginal communities. Your letter indicates that such information had been requested from the OPA on March 29, 2012 and that, as of April 30, 2012, PRFN has not received any documentation from the OPA in response to its request.

Effective consultation is critical to the success of the development of the East - West Tie line. The Board agrees that a record of the OPA's Aboriginal consultation activities to date would be useful information for the record of this proceeding at this time, in that it can inform parties' submissions on the issues and filing requirements associated with consultation and the preparation of plans for consultation. However, the question of whether the OPA's consultation to date has been sufficient is not before the Board.

Your letter also requests the production of any "advice of the Crown that the OPA's consultation activities were completed". It is not clear to the Board that this "advice" exists. If the OPA has received such advice, it would be helpful to confirm this as part of the May 7 filing directed by this letter.

In conclusion, for the reasons stated above, the Board directs the OPA to file with the Board, as part of a submission or otherwise, a record of its Aboriginal consultation activities to date, regarding the East-West Tie line project, with copies to all intervenors in this proceeding, by May 7, 2012. This filing should include an explanation of the nature of the consultation activities carried out (e.g. meetings, letters) and feedback received from the communities consulted.

All parties will have a chance to respond to the OPA's submission, as well as other parties' submissions by May 16, 2012, as per the directions in Procedural Order 2.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary

c. All Intervenors



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VIA EMAIL, COURIER & RESS

May 9, 2012

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

Dear Ms. Walli:

Re: East-West Tie Designation Proceeding (EB-2011-0140)

I am writing in response to your letter of May 2, 2012 in which the Ontario Power Authority ("OPA") was directed to file:

- a record of its Aboriginal consultation activities to date, regarding the East-West Tie line project, with copies to all intervenors;
- an explanation of the nature of consultation activities carried out and the feedback from the communities consulted.

On May 4, 2012, the OPA requested that the submission date be extended to May 11, 2012.

On May 31, 2011, the Ministry of Energy delegated certain procedural aspects of any duty to consult on the East-West Tie line project to the OPA prior to any Board transmitter designation. The Ministry directed the OPA to consult with identified First Nation and Métis communities regarding its planning work in establishing the rationale, scope and timing of the East-West Tie line project. The Ministry also directed the OPA to include a record of its discussions with First Nations and Métis communities in its preliminary assessment report to the OEB by June 30, 2011. The OPA's consultation does not preclude project level consultation which may be delegated to the designated transmitter by the Crown.

The OPA worked closely with the Ministry in carrying out consultation activities. Representatives of the Ministry were directly involved in regional sessions and some community meetings and were provided frequent status updates on these activities. The OPA's preliminary assessment report was shared with the Ministry, and reflected a record of discussions with First Nations and Métis communities. The OEB asked in its

letter of May 2, 2012 for the OPA to confirm if “advice” from the Crown existed. There is no written record of such “advice”, however, the Crown did not express any concerns with respect to the activities undertaken by the OPA on its behalf.

The activities undertaken by the OPA on behalf of the Crown with respect to the East-West Tie line project include the following:

- Information about the East-West Tie process was shared by the Ministry of Energy with each of the identified First Nation and Métis communities;
- Regional sessions in Toronto, Sudbury and Thunder Bay on the Integrated Power System Plan included a distinct agenda item to provide the identified First Nation communities an opportunity to receive information and provide feedback regarding the rationale, scope, and timing of the East-West Tie line project and the OEB’s designation process;
- Community meetings were offered to First Nation and Métis communities that were identified by the Crown to discuss the East-West Tie line project, including the rationale, scope, and timing, as well as the OEB’s designation process; and
- The draft report was shared with all identified First Nation and Métis communities with an additional opportunity to provide written submissions on the OPA’s findings as they relate to the rationale, scope and timing of the East-West Tie line project, along with any Aboriginal interests as documented in the draft report.

The attached record of activities undertaken by the OPA demonstrates its efforts to ensure that each of the identified communities was provided with the information and the opportunity to raise interests or concerns in respect of the East-West Tie line project. While not all communities participated in regional sessions or community meetings, each community was provided several opportunities to receive information and provide feedback to the OPA.

The OPA’s report on the project, entitled *The Long Term Electricity Outlook for the Northwest and Context for the East-West Tie Expansion*, noted that the interests or concerns raised by First Nation and Métis communities through the consultation sessions were linked to the cost of the project and the importance of beginning consultation early in the project development phase. The OPA heard that it is important to consider potential project costs that may relate to Aboriginal participation in the transmission project and any accommodation of Aboriginal or treaty rights. These points were reiterated directly to the Board during the session for intervenors and transmitters on March 23, 2012.

Thank you,



Nancy Marconi
Manager, Regulatory Proceedings

cc: All Intervenors (EB-2011-0140)