



GARDINER ROBERTS

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File No.: 96289

July 23, 2012

E-FILED

Ms. Kirsten Walli
Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street (27th Floor)
P.O. Box 2319
Toronto, ON
M4P 1E4

Dear Ms. Walli,

**Re: Application by Hydro One Networks Inc. ("Hydro One")
for Orders Approving Revenue Requirement in Rates for 2013, 2014;
Board File No. EB-2012-0031**

Under paragraph 1 of Procedural Order No. 1 ("**PO1**") in this matter, Goldcorp requests the Board to add the following issue ("**Interim Rate Issue**") to the Draft Issues List in Appendix B of that order:

9.2 Should the Board establish an interim rate for Goldcorp in order to recover any bypass compensation due in an appropriate amount over the remaining life of the Red Lake Transformer Station ("**RLTS**")?

(Goldcorp would expect that the Board would determine an interim rate for it that would recover any such bypass compensation. The rate would be interim because it would last only until the amount of bypass compensation as determined by the Board was paid off. Goldcorp would then revert to being a General Service Demand Billed customer at approved rates.)

Goldcorp asks the Board to add the Interim Rate Issue to the Draft Issues List for the reasons set out below:

REASONS

1. Goldcorp submits that the Board will be able to provide a final order that would satisfy the terms of Goldcorp's CCRA with Hydro One.
2. Goldcorp submits that customers are entitled to transparency, basic supporting evidence, and a fair opportunity to challenge assumptions when a transmitter seeks compensation under section 6.7 of the Transmission System Code ("**TSC**").

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3. Goldcorp wishes to adduce additional evidence to demonstrate that GL-1 will result in positive benefits to Hydro One's customers and the Ontario Electricity System which the Board should consider in determining the costs to be recovered in the requested Interim Rate.

Background

In March 2010, Goldcorp and Hydro One began negotiating bypass compensation with respect to the proposed new 10.7 km, 115 kV transmission line from a point near Harry's Corner to Goldcorp's Balmer Complex Transformer Station in the Municipality of Red Lake ("GL-1"). Those discussions continued until the end of August 2011. The new line was approved under EB-2011-0106 to be built and paid for by Goldcorp and then transferred at no cost to Hydro One. Hydro One claimed bypass compensation from \$8 million to \$11 million, an unexplained variation of approximately 30%. This difference serves to highlight an inconsistency in Hydro One's application of the TSC.

CCRA

In February 2012, Goldcorp and Hydro One executed a Connection and Cost Recovery Agreement (CCRA-Load for the Red Lake's Goldmine Supply System Expansion, "CCRA"). The terms of Goldcorp's CCRA with Hydro One state: *The Customer shall pay bypass compensation in accordance with the methodology set out in Section 6.7 of the Transmission System Code unless a final order of the OEB or a court of competent jurisdiction states that the Customer shall not be required to pay the said bypass compensation.* If the Board adds the Interim Rate Issue to the Draft Issues List in this hearing, the Board will be able to provide a final order that would satisfy the terms of the CCRA. A copy of that Agreement is attached.

Positive Benefits to the Rate Base

As Goldcorp established in its EB-2011-0106 Application, the need for new transmission capacity in the Red Lake area has been clear for several years:

The Ontario Power Authority, the IESO and the Board share responsibility for transmission adequacy in Ontario. In the record of the Ontario Power Authority's 2007 Integrated Power System Plan there is a reference to electricity needs in the Red Lake Area in a letter from the Municipality of Red Lake that expressed a concern with "... insufficient capacity for current and future growth" (EB-2007-070711/135/1). In the IESO's most recent 18-Month Outlook, the area served by Ear Falls is identified as having "no margin to support expected local growth." (*Exhibit B, Tab 1, Schedule 3, lines 15-21*).

Even with these recognized needs and system shortfalls, neither Hydro One nor the OPA (due to a withdrawal of IPSP 1 & 2) have completed any formal public regional planning to address these issues. Without its GL-1 initiative, Goldcorp submits that an overloading situation would develop at RLTS. Quite simply, GL-1 represented the most cost effective solution to the efficient connection of new load in the region. A schematic map of the Red Lake Area Transmission and Distribution Circuit Layout is enclosed.



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Goldcorp has spent over \$15 million to build GL-1, spent millions more on further improvements to Hydro One's system and on studies of how to integrate GL-1 into that system. Goldcorp has agreed to transfer ownership of GL-1 to Hydro One prior to commissioning, at no cost to Hydro One, and Goldcorp has paid for all the studies Hydro One required to ensure that it was built to Hydro One's standards.

These circumstances raise a legitimate question as to whether Hydro One's demand for bypass compensation is reasonable. First, Goldcorp will simply be transferring load from Hydro One's existing distribution lines to Hydro One's own newly built GL-1 transmission line and not to a transmission line owned by Goldcorp or another person. That transfer does not appear to trigger section 6.7.6 of the TSC which reads as follows:

Subject to sections 6.7.2, 6.7.7 and 6.7.8, for all or a portion of existing load a load customer may bypass a transmitter-owned connection facility with its own connection facility or the connection facility of another person, provided that the load customer compensates the transmitter.

Second, Goldcorp believes that the ownership circumstances, additional load, system benefits, utilization of Hydro One's facilities and improvements to them described above will increase Hydro One's revenues and mitigate the need for bypass compensation.

These benefits along with Hydro One's accounting deficiencies need to be taken into account. As part of the Interim Rate Issue, Goldcorp would submit evidence to demonstrate the GL-1 has resulted in positive benefits to Hydro One's system including:

- an increase in the available capacity of Hydro One's existing transformation and distribution system in the Red Lake area to service new load demand;
- an improvement in the overall electricity service in the Red Lake area;
- additional transmission and/or distribution revenues to Hydro One;
- a net reduction in the region's line losses;
- a deferred need for a planned fourth 44 kV circuit (M5) to relieve and balance loads on M6; and,
- a deferred need for a costly third transformer at RLTS.

Transparency and Right to Challenge Assumptions

Goldcorp submitted information requests to discover the basis of Hydro One's calculation, but Hydro One's response is incomplete, flawed, and conflicting with other data sources. For these reasons, the calculations have been challenged by Goldcorp. Hydro One's calculation may be seen in Goldcorp's Application in EB-2012-0361.



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Goldcorp submits that Load Customers should be entitled to transparency and basic supporting evidence when a Transmitter carries out the requirements of section 6.7 of the TSC. If the Board accepts the Interim Rate Issue as an issue in this proceeding, it would enable Goldcorp to obtain the information required to understand/justify Hydro One's bypass compensation estimate, and challenge Hydro One's calculations.

Goldcorp further submits that it should be allowed to adduce evidence that the GL-1 facilities will be owned by Hydro One and not by Goldcorp and that such facilities were urgently required to address a looming power supply crisis in the region. Goldcorp's evidence would also show that GL-1 provides efficiency improvements to the regional electricity system and enhances Hydro One's ability to connect remote First Nations and other growing loads in the region.

Goldcorp has made all these points to Hydro One and requested information required to test the bypass compensation request, all to no avail. Goldcorp submits that, if it is to pay bypass compensation, it should be entitled to full and transparent disclosure of information and the right to test and challenge Hydro One's estimate. Goldcorp submits that the best way to provide those rights is to hear the Interim Rate Issue in this proceeding.

The EB-2011-0361 Application

On October 17, 2011 Goldcorp filed that Application in Board File No. EB-2011-0361. In that Application Goldcorp is seeking an order declaring that sections 4.13, 6.7.6, 6.7.7 and 11.2 of the TSC are *ultra vires* the *Ontario Energy Board Act*, 1998 ("**The Act**"). Goldcorp filed that application because i) it believed that it was not obligated to pay bypass compensation under the terms of section 6.7.6 of the Transmission System Code ("**TSC**"), ii) it was unfair of Hydro One to demand bypass compensation in the circumstances of GL-1, iii) it was concerned about the size of and analytical and accounting deficiencies in the amounts demanded by Hydro One, and it could find no other Board process that would enable Goldcorp to review and challenge Hydro One's claim to bypass compensation and the appropriate amount.

In its Decision of January 23, 2012, the Board suggested that Goldcorp could pursue any one of three other alternative procedures:

1. bring a motion to review the Board's Decision in EB-2011-0106, which granted Goldcorp leave to build GL-1;
2. bring an Application to review and amend Hydro One's Electricity Transmission Licence to exempt Hydro One from having to comply with the requirements of the bypass compensation sections of the TSC; or,
3. bring an Application to amend the TSC by deleting the bypass compensation section altogether.

Goldcorp is not necessarily interested in challenging the TSC, rather the company is seeking a fair and transparent process to challenge Hydro One's Bypass Compensation calculation for the reasons outlined above. If Goldcorp is to be required to pay bypass compensation, then it would submit that it should be recoverable by Hydro One through an interim rate order. That is



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why it is requesting the Board to state the Interim Rate Issue. If the Board agrees, it will not be necessary for Goldcorp to continue with its EB-2011-0361 Application.

SUBMISSIONS

Goldcorp submits that this proceeding is about establishing Hydro One's rates. Goldcorp is asking the Board to set a new interim rate for Hydro One and, if necessary, determine which costs ought to be fairly recovered in it. That request is a legitimate rates-hearing issue that would satisfy the terms of the CCRA, and finally provide a means for transparent and fair challenge of Hydro One's bypass compensation calculation.

Goldcorp appreciates that the Board's has limited time at its disposal and will not want this issue to take up undue hearing time, but submits that the issue could largely be dealt with in writing. In that way, the Board could fully address both whether it is reasonable for Hydro One to expect Goldcorp to pay bypass compensation under the circumstances and, if so, what the appropriate quantum should be, and whether compensation found due would be recovered over time in the interim rate.

One of the options given to Goldcorp in the January 23 Decision in EB-2011-0361 was to bring an application to amend Hydro One's Electricity Transmission Licence to exempt Hydro One from having to comply with the requirements of the bypass compensation provisions of the TSC. Adding the Interim Rate Issue to the Draft Issues List in this proceeding would effectively be bringing that application, but without the need to deploy the additional resources required for a new and separate proceeding. Goldcorp hopes that the Board will agree that its request for an interim rate is a legitimate and relevant hearing issue.

Process

Goldcorp recommends the following process for consideration:

1. this issue would be added to the Issues List;
2. Hydro One would then file its written evidence on this issue;
3. following the Board's timetable, Goldcorp would submit written interrogatories and information requests to Hydro One;
4. Goldcorp and other parties would then file their written evidence on the bypass compensation issue by September 5th, 2012;
5. issue would be joined between Goldcorp and the others in final argument, and the Board could then render its decision on whether any bypass compensation is payable and, if so, how much; and,
6. Goldcorp would then expect the Board to set an interim rate to recover any bypass compensation determined by the Board appropriately payable Hydro One over the remaining life of the RLTS.



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All of which is respectfully submitted.

Yours truly,

Gardiner Roberts LLP

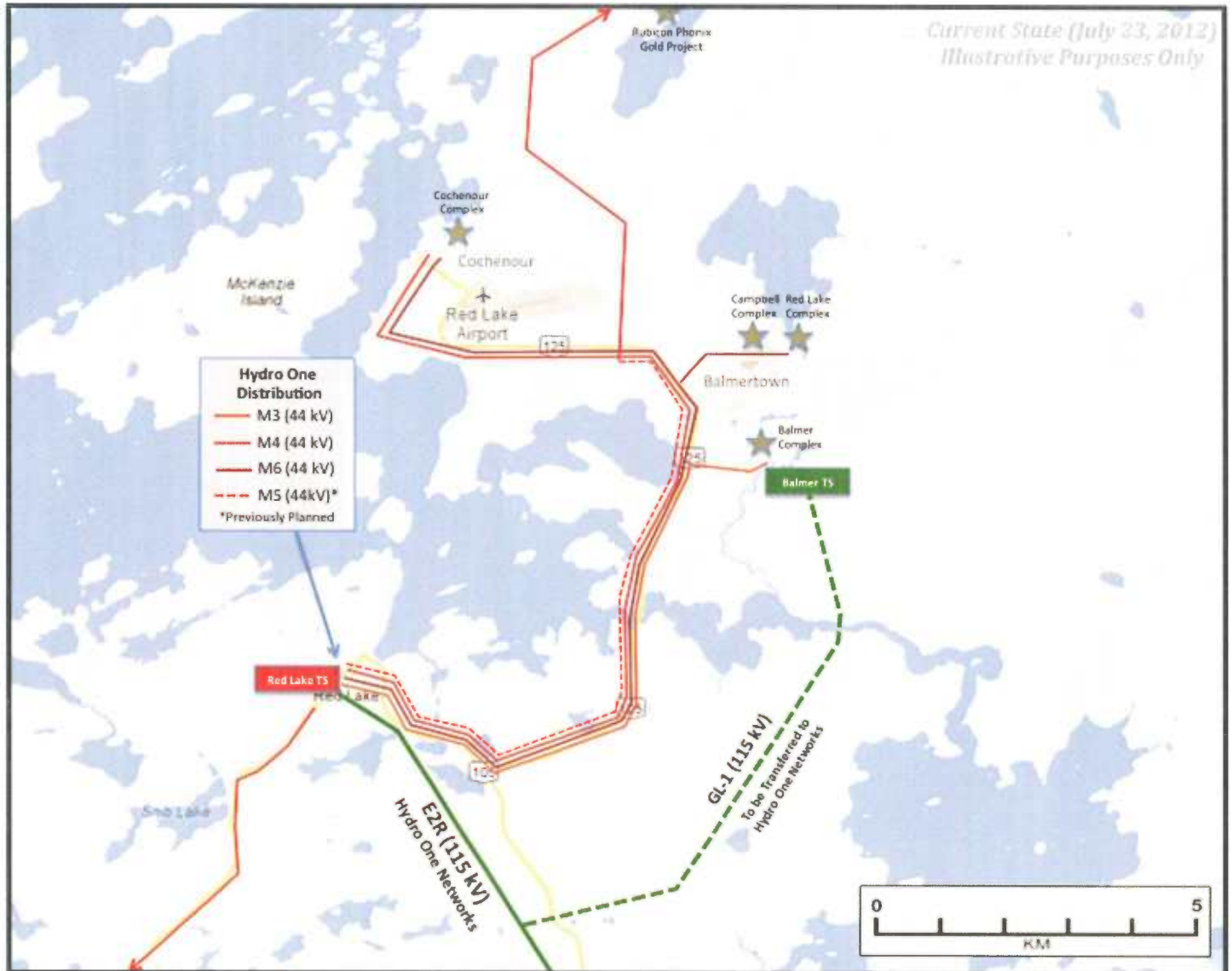
A handwritten signature in blue ink, appearing to read 'Ian Blue'. The signature is written in a cursive, flowing style. Below the signature, the name 'Ian A. Blue' is printed in a standard, sans-serif font.

cc: Hydro One Counsel and Representatives
cc: Intervenors Counsel and Representatives

Attachments

1. Schematic map of transmission and Distribution Circuit layout – Red Lake area
2. CCRA - Load for the Red Lake's Goldmine Supply System Expansion

Red Lake Area Transmission and Distribution Circuit Layout



Note: GI-1 will free up capacity on M3 & M6

For Illustrative Purposes Only



CONNECTION AND COST RECOVERY AGREEMENT (CCRA) - LOAD

between

Goldcorp Inc.

and

Hydro One Networks Inc.

for

Red Lake Gold Mines Supply System Expansion

CONNECTION AND COST RECOVERY AGREEMENT (CCRA) – LOAD

Goldcorp Inc. (the "Customer") has requested and **Hydro One Networks Inc.** ("Hydro One") has agreed to arrange for a 115 kV electrical supply to Balmer CTS a new Customer-owned transformer station (the "Project") on the terms and conditions set forth in this Agreement dated _____ day of _____, 20____ (the "Agreement"), the attached Standard Terms and Conditions for Load Customer Transmission Customer Connection Projects V3 9-2007 (the "Standard Terms and Conditions" or "T&C") and the attached Terms and Conditions for Contestable Work December 2011 (the "Contestable T&C"). Schedules "A" and "B" attached hereto, the Standard Terms and Conditions and the Contestable T&C are to be read with and form part of this Agreement.

Project Summary

Goldcorp is currently supplied from Red Lake TS at 44 kV and they are planning to expand the electricity supply to their existing facilities by building a new 115/44 kV transformer station (Balmer CTS). Balmer CTS would be supplied from a new 10.65 km tap line from Hydro One owned existing 115 kV line E2R. The tap point for the new line would be at Harry's Corner which is approximately 5 km south of the existing Red Lake TS. The Customer will build the 10.65 km of transmission line and plans to transfer ownership to Hydro One under the Terms and Conditions for Contestable work. The connection of the new tap line to E2R including the tap structure is non-contestable work and will be constructed by Hydro One.

Term: The term of this Agreement commences on the date first written above and terminates on the 15th anniversary of the In Service Date.

Special Circumstances

In addition to the circumstances described in Section 5 of the Standard Terms and Conditions, the Ready for Service Date is subject to the Customer executing and delivering this Agreement to Hydro One by no later than the 2ND day of February, 2012 (the "**Execution Date**").

The Customer shall pay bypass compensation in accordance with the methodology set out in Section 6.7 of the Transmission System Code unless a final order of the OEB or a court of competent jurisdiction states that the Customer shall not be required to pay the said bypass compensation.

Standard Terms and Conditions Amendments:

The second line of Section 30 of the Standard Terms and Conditions is hereby amended by deleting the words "(with the exception of Section 15.5 thereof)".

The first sentence of Section 19 of the Standard Terms and Conditions is hereby deleted and is replaced with the following:

19. In the event that the Customer sells, leases or otherwise transfers or disposes of the Customer's Facilities to a third party during the Term of the Agreement, the Customer shall cause the purchaser, lessee or other third party to whom the Customer's Facilities are transferred or disposed to enter into an

**CONNECTION AND COST RECOVERY
AGREEMENT (CCRA) – LOAD**

assumption agreement with Hydro One to assume all of the Customer's obligations in the Agreement; and notwithstanding such assumption agreement unless:

- (i) Hydro One agrees otherwise, in writing; or
- (ii) the purchaser, lessee or other third party at time of transfer or disposition has a medium-low risk classification or better risk classification under the then-current Code requirements,

the Customer shall remain obligated under Sections 10.1 12, 15.1 and 16 hereof.

Subject to Section 31 of the Standard Terms and Conditions, this Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior oral or written representations and agreements concerning the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the signatures of their proper authorized signatories, as of the day and year first written above.

GOLDCORP INC.



Name: Curtis Pedwell
Title: Maintenance Manager, Red Lake Gold Mines
I have the authority to bind the Corporation

HYDRO ONE NETWORKS INC.



Name: Myles D'Arcey
Title: Senior V.P., Customer Operations
Execution Date:
I have the authority to bind the Corporation

**CONNECTION AND COST RECOVERY
AGREEMENT (CCRA) – LOAD**

Schedule “A” Red Lake Gold Mines Supply System Expansion

PROJECT SCOPE

New or Modified Connection Facilities: New 10.65 km, 115 kV transmission line between Customer-owned Balmer CST and Hydro One's tap point on the E2R line at Harry's Corner. Hydro One will connect the Contestable Work Assets to Hydro One's E2R circuit at Harry's Corner.

Connection Point: Goldcorp Junction

Ready for Service Date: June 15, 2012

HYDRO ONE CONNECTION WORK

Part 1: Transformation Connection Pool Work

Hydro One will:

Not Applicable

NOTES:

Part 2: Line Connection Pool Work

Hydro One will:

Provide project management, engineering, equipment and materials, construction, commissioning and energization for all Line Connection Pool Work. Hydro One, or its agents, will supply and install all materials and equipment not specifically described herein that is required or may be necessary to complete the all Line Connection Pool Work.

All materials and equipment removed will be scrapped at site unless specifically stated otherwise.

Hydro One will perform the following work:

The work required to connect the Contestable Work Assets to Hydro One's E2R Circuit at Harry's Corner, including, but not limited to the construction of a line tap from Hydro One's E2R circuit to the circuit switch terminal. Furthermore, perform all work required to accommodate the connections of the Contestable Work Assets and the Customer's Blamer CTS.

Lines

Install 3-pole DE structure on both sides of the E2R ROW immediately south of structure 458. Fly tap to the main line and dead end on the Customer's A-Frame structure and provide mid