



EB-2013-0375

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 (EB-2011-0140);

AND IN THE MATTER OF a Notice of Motion by the Ojibways of Pic River First Nation for review of the Board's Decision and Order on Phase 2 Cost Awards in proceeding EB-2011-0140.

**NOTICE OF WRITTEN HEARING AND
PROCEDURAL ORDER NO. 1**

November 15, 2013

Background

The Ontario Energy Board recently held a 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 (EB-2011-0140).

The Board heard the EB-2011-0140 proceeding in two separate phases. The Board's Phase 2 Decision and Order was issued on August 7, 2013. The Board's Phase 2 Decision and Order on Cost Awards was subsequently issued on October 1, 2013.

On October 21, 2013, the Ojibways of Pic River First Nation (“PRFN”) filed a Notice of Motion to review and vary the Board’s Phase 2 Decision and Order on Cost Awards. PRFN was one of eight cost-eligible intervenors in the proceeding.

As indicated in the Board’s Phase 2 Decision and Order on Cost Awards, the cost awards and the Board’s own costs will be recovered from the following four licensed transmitters whose revenue requirements are recovered through the Ontario Uniform Transmission Rates (collectively, the “Licensed Transmitters”):

- Canadian Niagara Power Inc. (“CNPI”);
- Five Nations Energy Inc. (“FNEI”);
- Great Lakes Power Transmission LP (“GLPT”); and
- Hydro One Networks Inc. (“HONI”).

The Board notes that PRFN served the Notice of Motion on all the parties to EB-2011-0140 proceeding, but not on the four licensed transmitters listed above. All parties to the EB-2011-0140 proceeding, the Licensed Transmitters and Board staff shall each be considered as an “interested party” in this proceeding.

The Board has assigned file number EB-2013-0375 to this proceeding.

Type of Hearing and Procedural Steps

The Motion seeks to vary the Board’s EB-2011-0140 Phase 2 Decision and Order on Cost Awards to permit PRFN to recover its full cost claim amount of \$130,715.24 in fees, plus disbursements, for its participation in Phase 2 of the EB-2011-0140 proceeding.

The grounds for the Motion are that the Board made factual errors in its decision, which call into question the correctness of the Board’s decision. These alleged errors include the following:

1. Failure to consider the fundamental principle of Aboriginal Consultation that a First Nation participating in the consultation process will be made whole with respect to its costs and expenses incurred;

2. Overlooking the time spent by counsel for PRFN in adequately preparing to interpret case law and legal issues raised by another intervenor in the proceeding (the Métis Nation of Ontario);
3. Failure to account for PRFN's reasonable expectations regarding the interrogatory process based on procedures followed in other Board proceedings; and
4. Reducing PRFN's cost awards on the basis that PRFN changed its legal representatives during the proceeding.

The Board has determined the "threshold question" without a hearing, as permitted by Section 45.01 of the Rules of Practice and Procedure, and will proceed directly to a review of the merits of the Motion.

PRFN has requested a written hearing. The Board has determined that it will hear the Motion in writing.

THE BOARD ORDERS THAT:

1. PRFN is to immediately serve a copy of the Notice of Motion by email to the Licensed Transmitters.
2. PRFN shall file any additional material in support of its Motion with the Board, and serve it on all interested parties on or before **Friday November 22, 2013**.
3. Interested parties may file written submissions in respect of the Motion with the Board and serve it on PRFN and all other interested parties on or before **Friday December 6, 2013**.
4. PRFN may file a written reply submission with the Board and serve it on all interested parties on or before **Friday December 13, 2013**.

All filings to the Board must quote the file number, EB-2013-0375, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available you may email your document 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 two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary

E-mail: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, November 15, 2013
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary