

Hydro One Networks Inc.

7th Floor, South Tower
483 Bay Street
Toronto, Ontario M5G 2P5
www.HydroOne.com

Tel: (416) 345-5700
Fax: (416) 345-5870
Cell: (416) 258-9383
Susan.E.Frank@HydroOne.com

Susan Frank

Vice President and Chief Regulatory Officer
Regulatory Affairs



BY COURIER

August 5, 2014

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

Dear Ms. Walli:

EB-2013-0421 – Hydro One Networks Inc. Section 92 – Supply to Essex County Transmission Reinforcement Project - Submission on Threshold Questions

Pursuant to Procedural Order No. 2, please find enclosed Hydro One Networks Inc. submission regarding the above matter.

Sincerely,

ORIGINAL SIGNED BY SUSAN FRANK

Susan Frank

Attach.

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

AND IN THE MATTER OF an application by Hydro One Networks Inc. for an order or orders pursuant to section 92 of the *Ontario Energy Board Act, 1998* (as amended) granting leave to construct transmission line facilities in the Windsor-Essex Region, Ontario.

SUBMISSION OF HYDRO ONE NETWORKS INC.

Hydro One Networks Inc. (“Hydro One”) makes this submission in response to Procedural Order No. 2, dated July 22, 2014, in which the Ontario Energy Board (“the Board”) questioned the fact that Hydro One is not seeking Board approval for the construction of Leamington T.S. In the said Procedural Order, the Board invited Hydro One to clarify its position in relation to the approvals it is seeking in this Application.

Hydro One and Board Practice

By way of background, Hydro One states that since the advent of the *Ontario Energy Board Act, 1998* (“the Act”), and exemption Regulation 161/99 thereunder, as amended, Hydro One has traditionally not requested leave to construct, expand or reinforce transmission stations, whether such stations were being:

- (a) constructed, expanded or reinforced on a standalone basis or related to the construction, expansion or reinforcement of a transmission line not exceeding 2 km in length; or

- (b) constructed, expanded or reinforced as part of the construction, expansion or reinforcement of a project with a transmission line of greater than 2 km in length.

In the case of (a) above, consistent with the Board's filing requirements for transmission rate applications, Hydro One identifies all capital investment projects with capital expenditure forecasts in excess of \$3 million. The Board has therefore been made explicitly aware of such transmission stations and their cost by means of Hydro One's numerous cost-of-service rate applications over the years, at which time the Board had the opportunity to approve or disapprove of the clearly-stated cost of such projects. In the case of (b) above, the Board has explicitly been made aware of such transmission stations and their cost by means of Hydro One's clear statements to the Board, within the body of various s. 92 applications over the years, regarding the construction, etc., of transmission stations related to the line project.

In the recent Board Decision and Order in Hydro One's GATR application (EB-2013-0053) dated September 26, 2013, the Board stated:

"There are also additional facilities related to the overall refurbishment, but they are not part of this application. These are: (1) Providing two 230 kV circuit breakers and creating the "Guelph North Switching Station", to be known as Inverhaugh SS, at the location of the existing Guelph North Junction; and (2) Providing two 230 kV /115 kV autotransformers and two 115 kV circuit breakers at Cedar TS. The Board expects that the review of the costs associated with these facilities will form part of a subsequent Hydro One rate application."

The foregoing Decision is an example of a transmission station (Inverhaugh S.S.) to be built by Hydro One, upon providing full information to the Board, for which no s. 92 application was made, and for which no s. 92 leave to construct was granted.

OEB Act and O. Reg. 161/99

Although s. 89 of the *Ontario Energy Board Act, 1998* (“the Act”) defines electricity transmission lines to include transformers, plant and equipment, Hydro One points out that O. Reg. 161/99, s. 6.2(1), provides further and important guidance in interpreting the said definition. Regulation 161/99 contains criteria which effectively limit the application of section 92 to transmission lines greater than 2 kilometres in length, as noted in the Board’s Filing Requirements¹, in Chapter 1 (see also OEB Filing Requirements section below): “Chapter 4 details the filing requirements for applications for leave to construct electricity transmission projects under section 92 of the Act for the construction, expansion, or reinforcement of electricity transmission facilities greater than 2 km in length.”

It is important to note that there are no corresponding criteria in the Regulation to deal with stations. That is, there is nothing that sets a materiality threshold for the Board’s review in regard to stations. This could be interpreted to mean that all station construction, expansion and reinforcement, regardless of size or cost, is subject to section 92 approval. In Hydro One’s view, this reading would be impractical to implement and contrary to what was intended.

Hydro One submits that the intent of the Regulation is to focus the application of section 92 on lines and not stations. In Hydro One’s view, this is the only practical way to interpret and implement the Regulation and the underlying legislation.

Furthermore, if section 92(1) [*“No person shall construct, expand or reinforce an electricity transmission line...without first obtaining from the Board an order granting leave...”*] were interpreted to mean that leave to construct is needed for all of the enumerated items-- for not only the line but also for “transformers” and “plant” and “equipment”-- every transmitter in Ontario would need to apply to the Board for s. 92 leave every time a transformer, plant, or equipment that conveys electricity at voltages greater than 50 kilovolts is constructed, expanded, or reinforced anywhere in the Province. To interpret s. 92 in that way would render s. 92

¹ Chapter 1, page 2, of the Ontario Energy Board’s *Filing Requirements For Electricity Transmission and Distribution Applications*, dated June 28, 2012.

nonsensical. A finding by the Board in the present Application that s. 92 approval is required to build Leamington T.S. would require that interpretation.

OEB Filing Requirements

On July 31, 2014, the Board issued revised comprehensive Chapter 4 Filing Requirements for Applications under s. 92 of the Act. Section 4.3, *Information Required of Rate-regulated Applicants*, provides the Board's expectations of the components to include in an application. For example:

Section 4.3.3.2 Description of Physical Design

1. a section by section description of the physical form of the line;
2. transmission line details, including conductor type, ratings;
3. transmission structure description including the variety of towers;
4. transmission cable burial information and cross-section; and
5. line terminations.

Section 4.3.3.1 Route

The Board expects the leave to construct application to be for a single specific route, and that the route will be quite specific from engineering, economic and practical viewpoints. For example, it must be clear which side of the road a line is on, and the specific location of the support towers etc. in relation to affected properties. The route of the line is critical because the Board will only provide leave to construct for a specific route.

Hydro One's interpretation of these requirements is that the required information appears to relate to line work only. The only mention of stations in this section is in the context of the operation of the transmission line (s. 4.3.4.1).

OPGW

In Procedural Order No. 2, the Board also questioned why Hydro One is seeking approval for the installation of OPGW. In this application, Hydro One considers the OPGW a part of the line required to provide system telecommunications and to meet Hydro One and IESO Control Centre requirements for protection, control, metering and communication. Approval is therefore being sought for OPGW as part of the line approval.

Conclusion

In determining whether the construction, expansion or reinforcement of an electricity transmission line is in the public interest, the Board considers the interests of consumers with respect to prices and the reliability and quality of electricity services and where applicable, and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy sources. Hydro One submits that information on station costs, financial impact and a rate impact assessment, associated with both the line and station components of the project proposed in this Application, has been provided in the Application for the purpose of providing context to the requested line approval. The Board accordingly has the information and can gauge the impacts to consumers of the station. Hydro One is simply suggesting that formal Board approval for the station aspects of the project is not required, for the reasons stated above.

Hydro One therefore reiterates that an interpretation of s. 92 of the Act, read together with s. 6.2(1) of O. Reg. 161/99, that requires a proponent to seek leave to construct, expand or reinforce transformers, plant or equipment (which includes transmission stations) would be costly and cumbersome for the Board and for transmitter applicants, thereby diminishing economic efficiency and cost effectiveness in the transmission of electricity, while at the same time not contributing to the protection of the interests of consumers. Such a result cannot have been the Legislature's intention, particularly given the first and second of the Board's guiding objectives established by section 1(1) of the Act:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

An interpretation of s. 92 of the Act and an interpretation of exempting Regulation 161/99 that would require an endless number of "leave to construct" applications for transformers and transformer stations is an illogical interpretation that cannot have been the intention of the

drafters and that would neither protect consumers nor promote economic efficiency and cost effectiveness in the transmission of electricity.

Hydro One therefore submits that leave to construct transmission stations is not required by s. 92 of the Act.

August 5, 2014

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

ORIGINAL SIGNED BY MICHAEL ENGELBERG

Michael Engelberg, counsel for Hydro One Networks Inc.