



EB-2013-0421

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.

**NOTICE OF NEW COST ALLOCATION ISSUE
AND
PROCEDURAL ORDER NO. 3.
January 28, 2015
Amended January 30, 2015**

BACKGROUND

Hydro One Networks Inc. ("Hydro One") applied to the Ontario Energy Board (the "Board") for an order granting leave to construct approximately 13 kilometers of transmission line in the Windsor-Essex area and to install optic ground wire on existing and new towers as part of the Supply to Essex County Transmission Reinforcement project. The Application was filed on January 22, 2014, under s. 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the "Act").

The Board issued a Notice of Application and Hearing ("Notice") on February 13, 2014. The Notice was published and served in accordance with the Board's Letter of Direction.

On March 31, 2014, the Board issued Procedural Order No. 1, in which amongst other things it granted intervenor status to Comber Wind Limited Partnership, E.L.K. Energy Inc. ("E.L.K"), Entegrus Powerlines Inc. ("Entegrus"), Enwin Utilities, Essex Powerlines Corporation ("Essex"), the Independent Electricity System Operator and the Ontario Power Authority.

On July 22, 2014, the Board issued Procedural Order No. 2 and determined that before considering the merits of the application, it would first consider the threshold issue of what transmission facilities fall under the scope of s. 92 of the Act and for which an applicant must seek Board approval. The Board issued its Decision on the threshold questions on December 16, 2014. Accordingly, Hydro One will be required to update its application to reflect the Board's Decision with respect to the approvals Hydro One now seeks.

E3 COALITION REQUESTS

In a letter to the Board dated Nov 26, 2014 counsel for E.L.K., Entegrus and Essex advised the Board of the following matters:

First, that the three distributors, each having earlier been granted individual intervenor status, had formed a coalition, (E3 Coalition), to pursue their common concerns, as described below, regarding the proposed cost allocation methodology. To that end, these intervenors have retained counsel and consulting services. These distributors also wish to retain their individual intervenor status.

Second, the members of the E3 Coalition expressed concern regarding the large increases to their rate bases that would result from the proposed allocation methodology, the additional rate impact their customers would experience as embedded customers of Hydro One Distribution, and the impact on their individual borrowing costs resulting from differences in the timing of recovery of allocated costs and the timing of the requirement to pay. The E3 Coalition indicated that it wishes to submit interrogatories, may submit evidence, anticipates an oral hearing and wishes to cross examine witnesses and to submit final argument.

Third, the E3 Coalition requested eligibility to apply for cost awards. The E3 Coalition advised that each of its members will be responsible for one third of the costs of external advisors and anticipates incurring expenses in excess of each member's respective approved regulatory budget. In requesting cost eligibility, the E3 Coalition acknowledged that the Board's *Practice Direction on Cost Awards* (Practice Direction) indicates that the Board will generally not award costs to an electricity distributor, but submitted that exceptions to this policy are provided for in section 3.06 of the *Practice Direction*, where the distributor is a customer of the applicant, and in section 3.07 of the *Practice Direction*, under special circumstances. The E3 Coalition submits that it meets the criteria in sections 3.06 and 3.07 of the Practice Direction.

The Board hereby grants intervenor status to the E3 Coalition for Phase 2 of the proceeding as described below. The intervenor status of each of the members of the E3 Coalition will be maintained separately for Phase 1 of the proceeding as previously granted, without eligibility for costs. The Board has also determined that the E3 Coalition is eligible to make a cost claim for Phase 2 of the proceeding. Cost claims from each of the members of the E3 Coalition will therefore not be allowed for costs associated with Phase 2 of the proceeding. The Board's decision is based on the policy nature of Phase 2 of the proceeding. The Board appreciates the sharing of resources and efficiencies that will result from combining the resources of the parties.

PHASED APPROACH AND NOTICE OF NEW ISSUES

The October 2012 *Report of the Board - A Renewed Regulatory Framework for Electricity Distributors* (the RRFE Report) concluded that a reconsideration of the cost responsibility rules was desirable for regional planning purposes. Hydro One's proposed allocation of costs in the current Leave to Construct application is not consistent with the Board's current cost responsibility rules. However, Hydro One suggests that its cost allocation proposal is consistent with a shift to place greater emphasis on the "beneficiary pays principle" as articulated by the Board in its RRFE Report.

The Board has decided that in addition to considering the specific cost allocation issues and associated proposals in this proceeding, it will examine the broader policy question as to whether its regulatory instruments need to be revised in relation to cost allocation. The Board's decision will therefore be implemented more generally, including consideration of any necessary revisions to the Transmission System Code and/or Distribution System Code, as well as to this application.

To facilitate the consideration of both the Leave to Construct and the cost allocation issues, the Board will proceed with the hearing in two parallel phases. Each of the phases is described in greater detail below and the procedural steps associated with each phase are provided for in the Order.

Phase 1

Phase 1 will deal with the Leave to Construct application, including a consideration of the component and total costs of the project, but will not address cost allocation issues. Participants in Phase 1 are those that were granted intervenor status by the Board in Procedural Order No. 1. The Board has provided for interrogatories, responses and

argument below. The decision in Phase 1 will, however, be contingent on the completion of Phase 2. The Board advised in Procedural Order No. 2 that the hearing would proceed on a written basis, and Phase 1 of the proceeding will be written.

The Board will continue to treat the members of the E3 Coalition as individual parties in Phase 1 without cost eligibility.

Phase 2

Phase 2 of the proceeding will deal with the cost allocation issues which have been raised in the application:

1. The appropriate allocation of costs associated with transmission connection assets between system benefit (i.e. recovered from all ratepayers) and customer benefit (i.e. capital contribution required by the distributors).

The TSC currently provides for only transmission 'network' costs to be recovered from all ratepayers. However, an August 26, 2013 Notice of Amendments to Codes related to regional planning (EB-2011-0043) proposed an allocation of costs on the basis of the proportional benefit between the load customer(s) and the overall system (i.e. a portion of connection costs to be recovered from all ratepayers). Hydro One's proposal in this application is based on the supplemental proposed amendment set out in the August 26, 2013 Notice. The Board's findings on this aspect of the application are intended to inform potential changes to the TSC.

2. The appropriate allocation of costs at the distribution level between the directly connected and embedded distributors and their customers.

Cost allocation at the distribution level is generally addressed by the DSC. However, the current Hydro One application proposes an allocation based on load customer cost responsibility provisions in the current TSC. The findings from this part of the allocation could inform changes to the DSC.

PLEASE NOTE THAT PHASE 2 INTRODUCES NEW ISSUES INTO THE CURRENT CASE WHICH WERE NOT CONTEMPLATED IN THE ORIGINAL NOTICE. THIS DOCUMENT THEREFORE PROVIDES NOTICE TO ALL PARTIES SERVED OF THE NEW ISSUES THAT WILL BE HEARD IN PHASE 2 OF THIS PROCEEDING.

Parties that were already granted intervenor status in this case shall be deemed to be intervenors in both Phase 1 and Phase 2 of the proceeding. By way of service of this Notice and Procedural Order No. 3 to all parties that participated in the consultation process related to regional planning (EB-2011-0043), all electricity distributors and transmitters, and other consumer and interest groups the Board invites applications for intervenor status and, if applicable, cost eligibility by parties that have a substantial interest in the issues that the Board intends to address in Phase 2 of the proceeding.

Cost awards will be available to eligible persons under section 30 of the Act. The costs to be awarded in Phase 2 will be recovered from all licensed rate-regulated electricity transmitters and all licensed rate-regulated distributors based on their respective transmission or distribution revenues.

The Board expects that groups representing the same interests or class of persons will make every effort to communicate and co-ordinate their participation in Phase 2.

The Board considers it necessary to make provision for the following procedural matters. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. Hydro One shall, on or before **February 16, 2015**, file with the Board and provide a copy to all parties in the Phase 1 proceeding, and post on its website, a revised application that reflects the Board's Decision on the Threshold Questions. The expectation is that there will be no changes in the proposed allocation process as a result of the Board's Decision on the Threshold Questions.

Phase 1 of the Proceeding (Leave to Construct):

2. Board staff and intervenors in Phase 1 who wish information and material from Hydro One that is in addition to the updated pre-filed evidence filed with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and copied to Hydro One by **March 2, 2015**. Where possible, the interrogatories should specifically reference the pre-filed evidence.
3. Hydro One shall file with the Board complete responses to each of the interrogatories and copy them to all parties in Phase 1 by **March 16, 2015**.

4. Board staff and intervenors in Phase 2 shall, by **March 20, 2015** indicate whether they intend to file evidence. If any party indicates an intention to file evidence, the Board will issue further procedural orders revising the schedule that is set out below.
5. Hydro One shall file argument-in-chief, if any, with the Board and copy all parties in Phase 1, by **March 23, 2015**.
6. Board staff and intervenors in Phase 1 shall file their written submissions, if any, with the Board, and copy Hydro One, by March 30, 2015.
7. Any reply submission shall be filed by Hydro One with the Board and copied to all parties in Phase 1, by **April 6, 2015**.

Phase 2 of the Proceeding (Cost Allocation):

8. Any party that is not already an intervenor in Phase 1 of this proceeding and that wishes to request intervenor status for Phase 2 of the proceeding shall apply to the Board, and copy Hydro One by **March 4, 2015**. Applicants for intervenor status shall include any request for cost eligibility and shall provide any submissions regarding whether an oral hearing is needed for Phase 2 of the proceeding. The Board encourages efforts to combine interventions with one or more similarly interested parties.
9. Any rate-regulated licensed electricity transmitter or rate-regulated licensed distributor may file an objection to one or more of the requests for intervenor status or cost award eligibility with the Board and copy the party that is the subject of the objection by **March 14, 2015**.
10. Board staff and intervenors in Phase 2 who wish information and material from Hydro One that is in addition to the (updated) pre-filed evidence and that is relevant to the Phase 2 issues of the hearing, shall request it by written interrogatories filed with the Board and copied to the applicant by **March 20, 2015**. Where possible, the interrogatories should specifically reference the pre-filed original or revised evidence.
11. Hydro One shall file with the Board complete responses to each of the interrogatories and copy all parties in Phase 2 by **April 3, 2015**.
12. Board staff and intervenors in Phase 2 shall, by **April 7, 2015** indicate whether they intend to file evidence.

All filings to the Board must quote the file number, EB-2013-0421, be made electronically in searchable / unrestricted PDF format through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed. 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.

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.

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DATED at Toronto, January 28, 2015

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Phase 1

Hydro One Networks Inc.

Leave to Construct Application

Board File No. EB-2013-0421

APPLICANT & LIST OF INTERVENORS

Dated: January 28, 2015

**Hydro One Networks Inc.
EB-2013-0421**

APPLICANT & LIST OF INTERVENORS

January 28, 2015

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**Hydro One Networks Inc.
EB-2013-0421**

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January 28, 2015

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**Hydro One Networks Inc.
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Phase 2

Hydro One Networks Inc.

Leave to Construct Application (Cost Allocation)

PARTIES and INVITEES

Dated: January 28, 2015

All Licensed Transmitters

All Licensed Distributors

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Participants from EB-2011-0043

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**Ontario Energy Board
EB-2011-0043**

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EB-2011-0043**

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**Ontario Energy Board
EB-2011-0043**

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January 28, 2015

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**Ontario Energy Board
EB-2011-0043**

APPLICANT & LIST OF PARTICIPANTS

January 28, 2015

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**Ontario Energy Board
EB-2011-0043**

APPLICANT & LIST OF PARTICIPANTS

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EB-2011-0043**

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