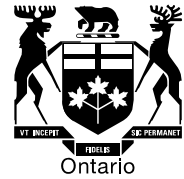


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BY EMAIL

July 28, 2015

Ontario Energy Board
P.O. Box 2319
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2300 Yonge Street
Toronto ON M4P 1E4
Kirsten.Walli@ontarioenergyboard.ca

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: OEB STAFF SUBMISSION
UPPER CANADA TRANSMISSION, INC. FILINGS DATED MAY 15, 2015
AND JUNE 24, 2015**

EB-2015-0216

In accordance with the OEB's Invitation to Comment dated July 9, 2015, please find attached the OEB Staff Submission in the above proceeding.

Yours truly,

Original Signed By

Ronak Mozayyan
Project Advisor, Facilities and Infrastructure



ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

Upper Canada Transmission, Inc. Filings Dated May
15 and June 24, 2015

EB-2015-0216

JULY 28, 2015

INTRODUCTION

These are the submissions of Ontario Energy Board (OEB) staff on filings made by Upper Canada Transmission Inc. (UCT) in response to the OEB's January 22, 2015 Decision and Order in EB-2011-0140.

BACKGROUND

The Ontario Government published its Long Term Energy Plan in November of 2010. The Plan identified five priority transmission projects, one of which was the expansion of the East-West Tie, an electricity transmission line running between Thunder Bay and Wawa, Ontario. On March 29, 2011, the Minister of Energy wrote to the OEB to express the government's interest in the OEB using its designation policy¹ to select a transmitter to develop this line.

The OEB initiated the EB-2011-0140 proceeding as a competitive process to designate a transmitter for the East-West Tie project. The successful transmitter would be given an economic incentive to develop the transmission line: it could recover development costs up to the approved budgeted amount, even if the line was found to be unnecessary, provided that there was no fault on the part of the transmitter. The designation process used an in-service date for the line of late 2017 or 2018, based on the information available at that time.

In its decision dated August 7, 2013, the OEB named UCT as the designated transmitter and found the development costs of \$22.4 million budgeted by UCT to be reasonable (OEB-Approved costs). In a further decision and order dated September 26, 2013, the OEB approved UCT's proposed development schedule and a Development Cost Deferral Account (DCDA) in which UCT was to record the actual costs of development.

On September 30, 2014, the Ontario Power Authority (OPA) wrote to the OEB to recommend that the in-service date be extended to 2020, and that the development schedule be reconsidered recognizing that the pace of development of mining and other infrastructure in Northwestern Ontario had slowed. The OPA recommended that UCT consider a possible route through Pukaskwa National Park and also recommended the environmental assessment (EA) and leave to construct (LTC) applications be filed for approval sequentially, rather than in parallel. In a letter dated October 29, 2014, the OEB directed UCT to work with the OPA to produce revised development and reporting

¹EB-2010-0059 Issued August 26, 2010

schedules and UCT was also asked to consider the impact on costs of the revised development schedule.

UCT provided revised development and reporting schedules and cost impacts by letter dated December 19, 2014. In a decision dated January 22, 2015, the OEB relieved UCT of the obligation to comply with three milestones in the existing schedule and reduced the frequency of reporting from monthly to quarterly. The OEB did not approve the development schedule due to the uncertainty of the routing of the East-West Tie line through the national park, and required UCT to answer questions as part of the update UCT proposed to file in May 2015. The OEB also required the Independent Electricity System Operator (IESO)² to provide updates on the need for the East-West Tie on December 15 of 2015 and 2016, and at other times as required by the OEB.

UCT'S FILING

UCT responded to the OEB's January 2015 Order with a filing dated May 15, 2015 and updated on June 24, 2015.

In the May 15, 2015 filing, UCT asked the OEB to approve:

- a) A revised schedule for the development of the East-West Tie line consistent with a new in-service date of 2020, which is supported by the IESO; and
- b) Development costs of approximately \$23.2 million in addition to the OEB-Approved costs of \$22.4 million.

On June 1, 2015, UCT was notified by Parks Canada that access to the national park would not be allowed. Based on this information, UCT ceased all efforts to pursue a route through the park and removed the park study costs, amounting to \$2.9 million from the proposed development budget. As a result, UCT submitted an updated development schedule and development costs amounting to \$20.37 million in its June 24, 2015 update.

The additional costs put forward by UCT fall into the following categories:

- 1) Extension Costs (keeping resources and processes "at the ready" during a longer development period) amounting to \$8.80 million;

² The OPA merged and amalgamated with the IESO on January 1, 2015.

- 2) Budget Variance and Scope Change Costs (processes and activities that were unforeseen or turned out to be more complex than originally thought) amounting to \$8.61 million;
- 3) Time Phase Difference Costs (processes involving the EA and land matters that would have occurred during the construction phase that are now proposed for the development phase) amounting to \$1.0 million; and
- 4) Contingency Costs (for known risks such as variability in land acquisition; additional stakeholdering, administrative and management; studies related to species at risk and unknown risks allocated to each work stream) amounting to \$1.96 million.

UCT has requested that these additional development costs be recoverable on the same basis as the OEB-Approved costs, that is, recoverable from ratepayers whether or not the line is actually needed (in the absence of fault on the part of UCT).

UCT has, in accordance with the OEB's September 26, 2013 Order, recorded the actual costs of development in the DCDA. The costs of development currently recorded in the DCDA include both the OEB-Approved costs and unbudgeted costs amounting to \$1.6 million largely comprised of costs for First Nations and Metis participation and land acquisition. The unbudgeted costs are not recoverable on the same basis as the OEB-Approved costs, as the OEB has not yet ruled on their prudence³.

SUBMISSION

Revised Development Schedule

OEB staff has reviewed the extended development schedule proposed by UCT and submits that the schedule appears reasonable. The schedule is supported by the IESO, which recommended that development work continue in order to maintain the viability of the East-West Tie expansion project. Staff has no changes to propose to the schedule, but recommends that there be continued consultation with the IESO as UCT moves forward with development of the line.

The need for approval of the development schedule by the OEB may depend on whether it approves any further development costs for recovery at this time. If the OEB finds that some or all of the additional costs sought by UCT should be recoverable on

³ Ontario Energy Board, East-West Tie Line Designation Decision and Order Regarding Reporting by Designated Transmitter, September 26, 2013, page 3.

the same basis as the OEB-Approved costs, the OEB should approve the development activities consistent with such costs. If, however, the OEB determines that no further development costs are to be recoverable on the same basis as the OEB-Approved costs, staff submits that approval of the revised development schedule is unnecessary.

It is OEB staff's understanding that the OEB will still rely on the IESO to provide an update on the need for the line on December 15 of 2015 and 2016, and at other times as may be required, as set out in the OEB order of January 22, 2015.

Additional Development Costs

OEB staff has reviewed the additional development budget proposed by UCT. OEB staff submits that the OEB should not approve any further development costs for recovery on the same basis as the OEB-Approved costs

This submission is based on a consideration of what economic incentive is reasonable for this project. As part of a competitive process, the OEB found UCT's original development budget to be a reasonable level of incentive for the development of the line. OEB staff submits that while the IESO has indicated that the line will be needed if demand develops as forecast, there is always uncertainty with forecasts that could affect the timing of need for the line. The OEB should not commit further ratepayers funds at this time to the development of the line.

Staff does not submit that UCT failed to meet its obligations as the designated transmitter. UCT's reports to the OEB indicated that prescribed development activities were completed up until the time that the OPA recommended a delay to the in-service date for the line. Nevertheless, OEB staff submits that the original amount of the economic incentive, UCT's approved development budget, was found to be a reasonable incentive for the project, and that no further ratepayer money should be approved as recoverable on the same basis as this amount.

A denial of further costs for recovery as part of the economic incentive would not prevent UCT from recovering from ratepayers costs beyond the original development budget. The DCDA remains available for UCT to record actual development costs, including costs incurred in excess of the OEB-Approved costs. UCT will need to apply to recover the costs in the DCDA and demonstrate that any costs above the approved budget were prudently incurred, as any regulated utility must do.

In the alternative, if the OEB finds that further development costs should be recoverable by UCT (in the absence of fault) whether or not the line is eventually needed, OEB staff

submits that only a portion of the proposed additional costs should be recoverable on that basis.

UCT has submitted that additional costs must be spent to continue development of the line. However, it appears to staff that some of the costs proposed to be approved now for recovery are overages for activities listed in the original schedule and budget. Staff submits that UCT bears the risk for its estimates of the cost of development activities, and that no additional development costs that are not clearly related to the extension of the in-service date to 2020 should be approved for recovery on the same basis as the original development budget.

In staff's view, not all categories of proposed additional costs are driven by the delay to the in-service date. OEB staff submits that the Extension Costs and Time Phase Difference Costs (Categories 1 and 3) are reasonably related to the in-service date delay, but Budget Variance and Scope Change and Contingency Costs (Categories 2 and 4) are not related to the proposed schedule extension.

The Extension Costs (Category 1 – \$8.8 million) proposed by UCT include efforts to achieve a satisfactory resolution of the national park access issue and maintain development work such as continuing stakeholder consultation with landowners, municipalities and communities as well as costs to rent office space, provide project management office salaries, prepare and maintain financial statements and complete required reporting. The cost category also includes UCT's efforts to produce a revised schedule and budget that reflected the new in-service date in response to the OEB's October 29, 2014 Order. The Extension Costs appear to be related to the in-service date delay and the OPA's recommendations that UCT consider a possible route through Pukaskwa National Park and continue development work on the East-West Tie project.

The OEB designation policy states that development costs begin when a transmitter is designated and end when the LTC application is submitted⁴. The Time Phase Difference Costs (Category 3 – \$1.0 million) proposed by UCT include costs for EA review activity and early engagement for land optioning to obtain consent from interest holders during the development period. On the basis of the OPA's recommendation, UCT will now submit its EA application approximately seven months in advance of the 2018 LTC application, shifting the EA review activity costs into the development period. Staff recognizes that all costs associated with the EA review activity were not included in the original development budget as UCT anticipated it would submit the EA application in parallel with the LTC. However, the EA review costs will now occur during the development period and are directly related to the OPA's recommendation to decouple the EA and LTC applications.

⁴ EB-2010-0059 Issued August 26, 2010, page 15.

With respect to beginning the land optioning activity in the development phase, staff submits that this shift should provide additional time for UCT to conduct negotiations with the interest holders, which may reduce or avoid costs associated with expropriation.

If the OEB finds that development costs related to the delay of the in-service date should be recoverable on the same basis as the OEB-Approved costs, the Category 1 and 3 costs could reasonably be considered to be related to the in-service delay and provide a benefit of greater cost certainty, and potentially lower costs, to ratepayers. However, staff notes that these proposed costs have not been subject to a competitive process nor tested through written or oral questions. If the OEB is considering approving these costs, staff recommends that the OEB provide for a further process in which the costs can be tested.

UCT stated that Budget Variance and Scope Change Costs (Category 2 – \$8.6 million) result from cost reassessment undertaken during a re-budgeting exercise. For example, UCT has added an incremental cost of \$1.2 million for additional archeological work based on better information made available from its initial archeological assessment. Similarly, UCT had anticipated a low level of objections from land owners or land right holders, but received a heightened level of objections and has added costs to deal with the objections. UCT has also included costs related to instructions from the Ontario Ministry of Natural Resources and Forestry to complete, among other things, a more expansive assessment of route alternatives, which are not related to the Pukaskwa National Park route assessment.

It is staff's view that these Budget Variance and Scope Change Costs are not necessarily driven by the in-service date delay, and while they may be prudent, such cost variances are incurred at UCT's own risk. Staff submits that such costs should be recorded in the DCDA for future review.

Similar to the Budget Variance and Scope Change Costs, it is staff's view that Contingency Costs (Category 4 – \$1.96 million) should be recorded in the DCDA if incurred. If UCT underestimated its need for contingency amounts in its original development budget, overages in this category are assumed at UCT's risk.

Reporting

If the OEB finds that no further development costs should be recoverable on the same basis as the OEB-Approved costs, staff submits that there is no further need for reporting on the progress of development to the OEB. Staff submits that the OEB can rely on UCT and the IESO to proceed with the development of the line as the need for

the line and other circumstances dictate. In the alternative, if the OEB approves additional development costs for recovery on the same basis as the OEB-Approved costs, staff submits that UCT should be required to continue reporting on a quarterly basis on the progress of development activities and the actual costs spent on those activities.

All of which is respectfully submitted