



EB-2016-0160

## Hydro One Networks Inc. Transmission

### Application for electricity transmission revenue requirement and related changes to the Uniform Transmission Rates beginning January 1, 2017 and January 1, 2018

#### DECISION and PROCEDURAL ORDER NO. 4 October 28, 2016

Hydro One Networks Inc. (Hydro One) filed a cost of service application with the Ontario Energy Board (OEB) on May 31, 2016 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to its transmission revenue requirement and to the Ontario Uniform Transmission Rates, to be effective January 1, 2017 and January 1, 2108.

On July 27, 2016, the OEB issued Procedural Order No. 1 approving intervenor status for fifteen parties and also approving cost award eligibility for ten of those intervenors. Procedural Order No.1 also established the dates for filing of interrogatories and for Hydro One's reply to those interrogatories.

On August 31, 2016, Hydro One provided responses to the interrogatories and sought confidential treatment for a number of documents attached to eight of its interrogatory responses. On September 8, 2016 the OEB issued Procedural Order No. 2 establishing the process for submissions on Hydro One's request for confidentiality. After the steps outlined in Procedural Order No. 2 were completed, the OEB released its Decision on Confidentiality (Decision) on September 21, 2016.

By email dated September 21, 2016 Hydro One advised the OEB of its intention to seek a review and variance of certain parts of the Decision. The OEB issued an Interim Order preserving the confidentiality of the information until such time as the review and variance request could be considered.

A technical conference was held on September 22 and 23, 2016. Following the technical conference, submissions were received on OEB staff's draft proposed issues list and two additional motions were filed:

1. School Energy Coalition (SEC) motion, dated September 28, 2016, for full and adequate responses to interrogatories and technical conference questions.
2. Environmental Defence (ED) motion, dated September 29, 2016, for full and adequate interrogatory responses.

On September 30, 2016 Hydro One filed its formal Motion to Review and Vary. The relief now requested was narrower in scope than that initially sought. Hydro One is now seeking confidentiality protection for limited redactions of sensitive information from the Inergi Outsourcing Agreement (Inergi Agreement).

On October 12, 2016 the OEB issued its Decision on the Issues List and Procedural Order No. 3. The OEB approved the Issues List for this proceeding, set out the process for the foregoing three Motions and called for advance notice from OEB staff and any cost eligible intervenors proposing to file expert evidence in this proceeding to "...inform the OEB of those plans....and provide estimated costs including the participation of the expert in the proceeding and the incremental time that will be spent by counsel for the proponents of such evidence..... in relation to the opinion testimony."<sup>1</sup> The stated purpose for this material was to enable the OEB "to provide guidance on whether and to what extent any costs associated with the participation of any expert(s) or the preparation of any expert report(s) will be eligible for cost recovery in accordance with the OEB's Practice Direction on Cost Awards.

This Decision and Procedural Order provides the OEB's decision and direction with respect to the three motions noted above and the filing of evidence by the two intervenors who provided evidence outlines in accordance with paragraph 7 of Procedural Order No 3.

## **Motion to Review and Vary Decision on Confidentiality**

In Procedural Order No. 3 the OEB indicated that it had reviewed the limited redactions that Hydro One had made to the copy of the Inergi Agreement now filed on the public record and stated that it was inclined to vary the Decision on Confidentiality to treat these redactions as confidential. However, the OEB did provide for any parties that

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<sup>1</sup> Procedural Order No. 3, October 12, 2016, paragraph 7.

object to this proposal to state their rationale for such objections. OEB staff and SEC filed responses indicating they had no objections to the Hydro One proposal.

### **Finding**

The OEB is satisfied that Hydro One's proposal to limit the redactions in the Inergi Agreement is in accordance with the OEB's Practice Direction on Confidential Filings and grants the relief requested by Hydro One in its formal Motion to Review and Vary dated September 30, 2016. Confidentiality protection is hereby granted for the redactions in the Inergi Agreement now filed on the public record.

## **Cost Award Coverage for Intervenor Evidence Proposals**

### **Intervenor Evidence Proposals**

Two intervenors, ED and Anwaatin, responded to paragraph 7 of Procedural Order No. 3 with letters, dated October 19, 2016, outlining the expert evidence that they wish to provide in this proceeding. These evidence proposals, summarized below, lead to the formulation of the OEB's guidance and directives on the scope of the proposed evidence that will be eligible for cost award coverage under the auspices of the OEB's Practice Direction.

### **ED's Evidence Proposal**

The October 19, 2016 letter filed on behalf of ED (ED Letter) outlines the evidence that it plans to adduce from Travis Lusney, a director of Power Advisory LLC and a Professional engineer with 10 years of experience in the commercial and regulated areas of the electricity sector. The ED Letter indicates that Mr. Lusney was retained as a result of Hydro One's failure to provide full responses to ED's information requests pertaining to its transmission losses and that the focus of his testimony will relate to the topic of these losses. ED's evidence proposal does not identify the particular issues listed for determination in this proceeding to which this topic has relevance.

The evidence will contain "background information" including "examples of how transmission losses are regulated in other jurisdictions and managed by other transmission companies." The evidence will include "recommendations regarding potential procedures and criteria" that the OEB could direct Hydro One to follow "to ensure that transmission losses are adequately addressed in its operational decision – making and investment planning,".

These recommendations will be “high level” and Mr. Lusney “will not delve into the details of Hydro One’s transmission system, recommend that specific capital investments be made or address other similar issues at that level of granularity.”

While Mr. Lusney’s curriculum vitae (CV) indicates that he is an experienced consultant, there appears to be little, if anything, therein to indicate that he has any special expertise related to the monitoring, management and reduction of transmission line losses. It appears that the evidence that he will be preparing is in the nature of a “concepts” presentation derived from information available from third party published sources rather than his own expert opinion evidence on matters relating to transmission losses. The stated purpose for this “concepts” presentation is to assist the OEB in considering the degree and nature of transmission loss management it should require of Hydro One”.

ED provides reasonably detailed time estimates to suggest that, at a rate of \$230 per hour, Mr. Lusney’s involvement in the proceeding will cost up to about \$7,400 and add about \$2,100 of incremental costs for ED counsel, all excluding HST.

### **Anwaatin’s Evidence Proposal**

In its July 25, 2016 Notice of Intervention in this proceeding, Anwaatin states that it is “...an indigenous business corporation that works with indigenous communities in linked energy markets that include Ontario, Quebec, California, and Manitoba”. In the October 19, 2016 letter to the OEB outlining its proposed evidence (Anwaatin Letter), Anwaatin states that it has intervened in these proceedings on the instruction of its First Nations and Indigenous members who are customers of Hydro One Transmission.

The Anwaatin Letter indicates that it plans to adduce evidence from a witness panel consisting of Anwaatin’s CEO, Mr. Larry Sault, up to 3 Chiefs, Band Council members or administrators from Anwaatin members who are customers of Hydro One Transmission, and Dr. Don Richardson (PhD) of Shared Value Solutions Ltd. The plan is for Dr. Richardson to prepare written and video evidence to primarily address the transmission reliability issues and their impacts currently facing Indigenous and Northern customers and matters related to Hydro One’s processes and measures, to ascertain and address matters such as regional planning, system performance, outages, investment planning and transmission rates and charges.

Dr. Richardson’s CV is attached to the Anwaatin Letter. While Dr. Richardson is an experienced consultant, there is little, if anything, in his CV to establish that he has any special expertise related transmission system reliability issues. Like the ED Letter, the

Anwaatin Letter does not identify the specific issues in the list of the OEB approved Issues to be determined in this proceeding to which these topics relate.

Without providing any supporting details, the Anwaatin Letter estimates that the incremental costs associated with the preparation of the written and video evidence will be up to \$25,000. No cost estimates are provided for tasks related to this evidence beyond its preparation. The \$25,000 estimate is substantially greater than ED's incremental cost estimate of up to a total \$9,500 for Mr. Lusney's entire involvement as a witness in this proceeding.

### **OEB's Guidance to ED and Anwaatin**

The OEB is interested in the transmission losses and transmission system reliability issues as well as the processes and measures to ascertain and address these issues on which ED and Anwaatin are planning to adduce evidence; but only to the extent that those topics relate to the particular issues that the OEB has listed for determination in this 2016 and 2017 Hydro One Transmission revenue requirement proceeding.

The OEB views matters related to historic and prospective transmission line losses as a component of productivity improvement which is Issue 11 on the approved Issues List.

To the OEB, evidence concerning historic and prospective transmission system reliability is relevant; provided its focus is limited to matters related to the Scorecard, being Issue 12 on the OEB's approved list.

The customer engagement process and measures that falls within the ambit of Issue 3 on the OEB approved list is limited to the activities in which Hydro One engaged to enable customer preferences and needs be considered in relation to the revenue requirement relief for the 2016 and 2017 test period being requested in this case.

The OEB both cautions and directs ED and Anwaatin to focus on and confine the evidence that they propose to adduce in this proceeding so as to tie the evidence to these particular issues. Time spent with respect to the preparation and presentation of evidence that falls outside the ambit of these particular issues will not be eligible for cost award coverage.

The OEB is not persuaded that the type of information that ED and Anwaatin propose to present lends itself to any particular expertise possessed by Mr. Lusney or Dr. Richardson. The OEB does not accept either of these witnesses as experts in matters related to transmission losses or system reliability. The OEB does recognize that these

witnesses are experienced consultants and allows and directs each of them to prepare and present evidence that identifies all of the third party information on which they rely to support the recommendations that they invite the OEB to consider when determining the productivity improvement, scorecard and customer engagement issues in this case.

Fairness considerations call for this evidence to be available to Hydro One's witnesses before they testify. Hydro One's witnesses should have the opportunity to comment on the recommendations made by the ED and Anwaatin witnesses when they testify. Similarly, Hydro One's counsel should have the opportunity to test these recommendations in cross examination before the OEB determines the productivity, scorecard and customer engagement issues.

As long as their evidence is appropriately focussed on these particular issues, there will be cost award coverage for reasonable costs incurred by ED and Anwaatin for the consulting services provided by Mr. Lusney and Dr. Richardson. Mr. Sault, who is the CEO of Anwaatin, is not eligible for cost award coverage under the auspices of the OEB's Practice Direction.

The OEB will amend the hearing schedule outlined in Procedural Order No. 3 as set out below, to allow for the filing of evidence by ED and Anwaatin in accordance with guidance provided in this procedural order. Any parties wishing to pose interrogatories to ED and Anwaatin on their evidence may do so in accordance with the schedule established below. ED and Anwaatin will respond by the deadline specified in that schedule.

## **SEC and ED Motions**

The OEB will make a determination on these motions separately and will provide its decision in due course.

### **IT IS THEREFORE ORDERED THAT:**

#### **Intervenor Evidence**

1. ED and Anwaatin shall file their evidence no later than November 9, 2016.
2. Hydro One, OEB staff and intervenors may file written questions on the evidence filed with the OEB and served on all parties, no later than November 15, 2016.

3. ED and Anwaatin shall file responses to those interrogatories with the OEB and all parties no later than November 21, 2016.

### Oral Hearing

4. The oral hearing for this proceeding will commence on Thursday, November 24, 2016 and continue on November 25, November 28, November 29, December 1, December 2, December 5, December 6, December 8, December 9 and December 12 (as required).

All filings to the OEB must quote the file number, EB-2016-0160, be made in searchable /unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents 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.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Harold Thiessen at [harold.thiessen@ontarioenergyboard.ca](mailto:harold.thiessen@ontarioenergyboard.ca) and OEB Counsel, Maureen Helt at [maureen.helt@ontarioenergyboard.ca](mailto:maureen.helt@ontarioenergyboard.ca).

### **ADDRESS**

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**DATED** at Toronto, October 28, 2016

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirstin Walli  
Board Secretary