



# **Ontario Energy Board Commission de l'énergie de l'Ontario**

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## **DECISION AND ORDER**

**EB-2017-0161**

### **HYDRO ONE NETWORKS INC.**

**Application for an Order Granting an Exemption from the  
Requirement to Obtain Leave to Upgrade Existing Transmission  
Line Facilities between Leaside and Main TS in the City of Toronto**

**BEFORE: Ken Quesnelle  
Presiding Member**

**Rumina Velshi  
Member**

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**June 1, 2017**

# 1 INTRODUCTION AND SUMMARY

Hydro One Networks Inc. (Hydro One), a subsidiary of Hydro One Inc., an Ontario corporation with its head office in the City of Toronto. Among other things, Hydro One owns and operates electricity transmission facilities within Ontario.

On April 13, 2017 Hydro One applied to the Ontario Energy Board (OEB) under section 95 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (Act) for an order or orders granting an exemption under section 95 of the Act from the requirement to obtain leave under section 92 of the Act to upgrade existing transmission line facilities between Leaside Transformer Station (TS) and Main TS in the City of Toronto (Project).

Hydro One further requested that the OEB grant the exemption without the need for a hearing based on the information provided within its application under subsection 21(4) of the Act.

For the reasons set out below, the OEB will grant an order under section 95 of the Act exempting Hydro One from the requirement to obtain leave to construct for the Project under section 92 without a hearing, subject to the conditions contained in the Order.

## 1.1 Proposed Transmission Facilities

Hydro One's application stated that the Project is required to replace two end-of-life 115 kV Low Pressure Liquid Filled (LPLF) underground cable sections on Hydro One circuits H7L and H11L. These sections of underground cable, totaling 2.3 km, would be replaced with new 230 kV Crosslink Polyethylene (XLPE) cables that would be encased in a concrete duct bank.

The Project facilities would consist of:

- 0.8 km of underground cable between Leaside TS and Todmorden Junction (JCT);
- 4.2 km of overhead line between Todmorden JCT and Lumsden JCT; and
- 1.5 km of underground cable between Lumsden JCT and Main TS

## 2 ANALYSIS OF THE APPLICATION

### 2.1 Section 95 Exemption Request

Subsection 92(1) of the Act, requires, among other things, that any person that plans to construct, expand or reinforce an electricity transmission line first obtain an order of the OEB granting leave to construct, expand or reinforce such line.

On its face, the Project that is the subject of the current application is the construction of a transmission line and would therefore trigger the requirements for leave to construct pursuant to subsection 92(1) of the Act.

It is important, however to consider subsection 92(2) of the Act which states:

92(2) Subsection (1) does not apply to the relocation or reconstruction of an existing electricity transmission line or electricity distribution line or interconnection where no expansion or reinforcement is involved unless the acquisition of additional or authority to use additional land is necessary.

In this case, the Project consists of relocating and reconstructing an existing electricity transmission line, however, the proposed 0.8 km section of high voltage underground cable between Leaside TS and Todmorden Junction (JCT) would require Hydro One to acquire new land rights from three property owners: the City of Toronto, the Toronto Regional Conservation Authority and Metrolinx (Affected Land Owners). It is therefore necessary for Hydro One to acquire additional land and the exception provided subsection 92(2) does not apply.

Hydro One has therefore requested that the OEB consider granting an exemption from the requirement to seek leave to construct pursuant to section 95 of the Act. Section 95 states:

95 The Board may, if in its opinion special circumstances of a particular case so require, exempt any person from the requirements of section 90 or 92 without a hearing.

To qualify for a section 95 exemption, Hydro One must, in its application, show that special circumstances exist that warrant the granting of an exemption from the requirement to obtain a section 92 leave to construct.

Hydro One's application states that its initial plan for to address the needed replacement two end-of-life 115 kV LPLF underground cable sections on Hydro One circuits H7L and H11L was to replace the existing underground cable in the same location. Had Hydro One pursued that plan, the project would have met the requirements of subsection 92(2) of the Act and no leave to construct would be required. During the public consultation process of the Class Environmental Assessment (Class EA), certain landowners raised concerns about the proposed location of the replacement lines. To address these concerns, Hydro One made the decision to relocate 0.8 km of the Leaside TS to Todmorden JCT line. It is the relocation of this portion of the line that triggers the requirement to seek leave to construct under the Act.

The selection of the preferred route, including the relocation of 0.8 km of the Leaside TS to Todmorden JCT line, was formally accepted in November 2016. The public review period for the draft Environmental Study Report (ESR) was completed with no opposition to the Project or to the preferred route. The final ESR was filed with the Ministry of the Environment and Climate Change on March 27, 2017.

The balance of the Project; the 4.2 km of overhead line between Todmorden JCT and Lumsden JCT; and the 1.5 km of underground cable between Lumsden JCT and Main TS - will continue to utilize the existing corridors. No new permanent land acquisition is required for these portions of the line replacement. Temporary construction rights for access or staging areas may be required for construction.

Hydro One states in its evidence that the special circumstances that qualify the Project for an exemption under section 95 of the Act are:

The proposed very short, 0.8 km relocation is a recent outcome of the Environmental Study Report, which was completed after extensive environmental assessment and consultation work with the City, TRCA and the public, and which identified a preference to relocate a section of underground line (Leaside TS x Todmorden TS)...The relocation is at the request of affected landowners, and those affected landowners do not oppose the relocation of the underground line section between Leaside TS and Todmorden JCT.

In its evidence, Hydro One indicates that landowners have been an integral part of the consultation activities, evaluation of route options and selection of the preferred route. Hydro One has included letters from each of the affected landowners in its application. Hydro One is pursuing the acquisition of necessary land rights with the Affected Land Owners. Hydro One's evidence indicates that it anticipates having the necessary land rights with each of the Affected Land Owners by July 2017.

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**OEB Finding**

The OEB is satisfied that the relocation of the 0.8 km of line between Leaside TS to Todmorden JCT has been proposed by Hydro One to accommodate concerns put forth at the request of the Affected Land Owners. Further, the Affected Land Owners have indicated that they intend to enter into the necessary land use agreements with Hydro One. The OEB has determined that the amendment by Hydro One of its original project and routing plan to accommodate the Affected Land Owners are special circumstances that warrant the granting of an exemption pursuant to section 95 of the Act from the requirement to obtain leave to construct pursuant to section 92 of the Act.

The OEB will therefore grant an order exempting the Project from the requirements of section 92 of the Act subject to the condition that Hydro One and each of Affected Land Owners execute the required land use agreements to accommodate the relocation of the 0.8 km of line between Leaside TS to Todmorden JCT.

**2.2 Request to Proceed Without a Hearing**

Hydro One requested that the OEB grant the exemption pursuant to section 95 of the Act without the need for a hearing pursuant to subsection 21(4) of the Act, based upon the evidence provided in its application that no person would be adversely affected in a material way by the outcome of the proceeding.

**OEB Finding**

The OEB notes that section 95 of the Act explicitly give the OEB the power to grant an exemption without holding a hearing. As such, the OEB finds it unnecessary to consider whether the requirements of subsection 21(4)(b) have been met in this case.

### **3 DECISION**

For the reasons provided above, the OEB finds that the particular circumstances of the proposed Project qualify as special circumstances under section 95 of the Act. The Project is therefore exempt and Hydro One is not required to obtain leave to construct for the Project pursuant to section 92 of the Act.

The special circumstances that form the basis of the OEB's exemption order granted in this case arise from the accommodation by Hydro One of specific landowner requests for the relocation of a portion of the transmission line. As such, the OEB is imposing the specific condition on the exemption order that Hydro One obtains all necessary land rights from the Affected Landowners.

The OEB's Decision is subject to conditions set out in the Order below.

## 4 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Hydro One is granted an exemption under Section 95 of the Act from the requirement to obtain leave to construct pursuant to section 92 of the Act in respect of the upgrading of existing transmission line facilities associated with circuits H7L/H11L between Leaside Transformer Station (TS) and Main TS in the City of Toronto as described in Hydro One's Application to the OEB of April 13, 2017.
2. This exemption is subject to the condition that Hydro One obtain the necessary land agreements with the City of Toronto, the Toronto Regional Conservation Authority and Metrolinx prior to commencing construction.
3. Unless otherwise ordered by the OEB, this exemption from a Leave to Construct for the Project shall terminate on May 31, 2018, unless construction has commenced prior to that date.

**DATED** at Toronto June 1, 2017

### ONTARIO ENERGY BOARD

*Original Signed By*

Kirsten Walli  
Board Secretary