



EB-2017-0258

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

AND IN THE MATTER OF an appeal under section 7 of the *Ontario Energy Board Act, 1998* of the order of the Registrar dated May 25, 2017 dismissing Sagatay's application for leave to construct a transmission line (EB-2016-0017)

PROCEDURAL ORDER NO. 2

September 18, 2017

On June 9, 2017, Sagatay Transmission LP (Sagatay) filed a Notice of Appeal pursuant to section 7 of the *Ontario Energy Board Act, 1998* (the Act). Sagatay appeals the May 25, 2017 order of the Registrar of the Ontario Energy Board (OEB) dismissing Sagatay's application for leave to construct an electricity transmission line to Pickle Lake (EB-2016-0017). The Registrar's authority to make the order was delegated to the Registrar under section 6 of the Act. Section 7 provides for an appeal to the OEB of a decision under delegated authority.

In the Notice of Hearing and Procedural Order No. 1, issued on September 1, 2017, the OEB named Sagatay, the Registrar and OEB staff as the parties to the appeal. On September 13, 2017, the OEB received a letter from Wataynikaneyap Power GP Inc. on behalf of Wataynikaneyap Power LP (abbreviated in the letter as "Watay") asking to be added as a party. For the following reasons, the OEB grants Watay's request.

Subsection 7(3) of the Act provides that, in addition to the appellant, the applicant (if the order under appeal was made in a proceeding commenced by an application), and the employee who made the order, the OEB may add "[a]ny other person" as a party.

As Watay explains in its letter, it is developing a new transmission line to Pickle Lake

and beyond. Its project was declared to be a “priority project” under section 96.1 of the Act. The OEB, pursuant to a Ministerial Directive, amended Watay’s transmission licence to require Watay to develop and seek approvals for the project.

Section 97.1 of the Act provides that leave to construct shall not be granted where another person’s licence includes an obligation to develop the line.¹ In the decision under appeal, the Registrar determined that this section precluded the OEB from granting Sagatay’s application for leave to construct, and therefore dismissed the application.

Watay argues that it has a substantial interest in the outcome of the appeal, and the OEB agrees. Sagatay and Watay are proponents of competing lines to Pickle Lake. If the OEB were to reverse the Registrar’s decision and proceed with Sagatay’s application, that could have an adverse impact on Watay’s project. Watay says it intends to make submissions only on issues regarding the OEB’s jurisdiction in relation to Sagatay’s appeal and leave to construct application. The OEB considers that such submissions would be of assistance.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Watay is added as a party to the appeal.

All filings to the OEB must quote file number EB-2017-0258 and be made electronically through the OEB’s web portal at <https://www.pes.ontarioenergyboard.ca/eservice/> in searchable/unrestricted PDF format. 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. 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

¹ Section 97.1 reads in full:

No leave if covered by licence

97.1 (1) In an application under section 92, leave shall not be granted to a person if a licence issued under Part V that is held by another person includes an obligation to develop, construct, expand or reinforce the line, or make the interconnection, that is the subject of the application.

Transition

(2) For greater certainty, an application made, but not determined, before the day section 16 of Schedule 2 to the *Energy Statute Law Amendment Act, 2016* comes into force, is subject to subsection (1).

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, Michael Lesychyn at Michael.Lesychyn@oeb.ca and OEB Counsel, Ian Richler at Ian.Richler@oeb.ca. The Registrar may be served by e-mail to Registrar@oeb.ca.

ADDRESS

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ISSUED at Toronto, September 18, 2017

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary