



EB-2017-0335

Anwaatin Inc.

**Notice of Motion to Review and Vary EB-2016-0160 Decision and Order
dated September 28, 2017**

**PROCEDURAL ORDER NO. 1
December 19, 2017**

On October 18, 2017 Anwaatin Inc. (Anwaatin) filed with the Ontario Energy Board (OEB), a Notice of Motion to Review and Vary portions of OEB EB-2016-0160 Decision and Order in accordance with Rules 40 and 42 of the OEB's *Rules of Practice and Procedure*. The OEB has assigned case number EB-2017-0335 to this proceeding.

The EB-2016-0160 Decision and Order, issued on September 28, 2017¹, determined Hydro One's Transmission Revenue Requirement and Charge Determinants for 2017 and 2018, effective January 1, 2017.

Anwaatin's Motion seeks a variance of the OEB's EB-2016-0160 Decision on the basis that the Decision:

- a) Appears to have failed to consider any Anwaatin evidence regarding extremely disparate and inadequate Transmission system reliability in First Nations communities in Northern Ontario, Indigenous community video evidence, and Dr. Richardson's evidence on the significant negative impacts of the very poor transmission reliability on the Anwaatin communities
- b) Appears not to have addressed, and/or provided reasons for, Anwaatin's requested reliability related relief that part of Hydro One's approved capital budget be earmarked to remedy the outdated, outlier transmission assets that are causing the very poor reliability issues in the Anwaatin communities

¹ Revised November 1, 2017

- c) Failed to consider, decide upon and provide any reasons for the Board's Decision on the capital budget relating to the Anwaatin transmission reliability issues and Anwaatin's requested relief that the Board "address and materially improve Transmission reliability in the Anwaatin First Nation Communities by earmarking part of [Hydro One's] approved capital expenditures in the 2017/2018 rates to provide required replacements/investment in the outlier transmission assets serving Anwaatin Communities in a manner that is consistent with the Board's mandate and jurisdiction under the [OEB] Act
- (d) Provided no written reasons or other reasonable basis upon which to conclude that the Board even considered the Anwaatin Reliability Disparity Evidence, the Anwaatin reliability Impact Evidence, and/or the Anwaatin Requested Relief on Reliability and final argument
- (e) Failed to respond to the evidence presented by Anwaatin and meet the standard of "justification, transparency, and intelligibility" for the reasonableness of the Decision as required in law, and the just and reasonable standard for the transmission rates as required by s. 78(3) of the *Ontario Energy Board Act, 1998*
- (f) Failed to protect the interests of disparately impacted Anwaatin Indigenous consumers with respect to prices and the adequacy, reliability, and quality of electricity service in accordance with s.1(1)(1) of the *Ontario Energy Board Act, 1998*
- (g) Breached the Board's procedural fairness duties to Anwaatin to consider the Anwaatin Reliability Disparity Evidence, the Anwaatin Reliability Impact Evidence before the Board in reaching a Decision, to give reasons for the Decision on the Anwaatin Requested Relief on Reliability, and to correspondingly reach a Decision on the capital budget (either within or in addition to the proposed capital envelope) that does not result in unfairness and prejudice to Anwaatin's right to be heard, and negatively impact the Anwaatin Communities' health and well-being
- (h) Failed to reach and/or provide reasons for a Decision on the capital budget related to the Anwaatin reliability issues and Anwaatin Requested Relief on Reliability that falls within the range of possible, acceptable outcomes that are defensible in respect of the facts and law.

The OEB has determined that this Motion to Review and Vary the EB-2016-0160 Decision and Order has met the threshold for review as defined in section 43 of the OEB's *Rules of Practice and Procedure*, and will hear the motion on its merits.

Parties who were granted intervenor status in the EB-2016-0160 proceeding and who wish to participate in the hearing of this motion are required to request such status, explaining the parties' interest in the motion and its effect on the constituents represented by the party. Any requests for cost eligibility should be made in the same correspondence.

The OEB has also determined a schedule (as set out below) for the filing of written argument on the motion, followed by an oral hearing.

IT IS THEREFORE ORDERED THAT:

1. Parties who were granted intervenor status in the EB-2016-0160 proceeding and wish to participate in the motion must file a request for intervenor status no later than **January 4, 2018**. Any request for cost eligibility should be included in the request for intervenor status.
2. Anwaatin or Hydro One may object to request for intervenor status or cost eligibility by filing an objection no later than **January 8, 2018**.
3. Any party that wishes to respond to an objection to its request for intervenor status or cost eligibility must file a response no later than **January 11, 2018**.
4. Anwaatin shall file its argument and motion record with the OEB and send these materials to all intervenors no later than **January 15, 2018**.
5. Parties supporting the motion in whole or in part shall file their arguments with the OEB and copy all parties no later than **January 22, 2018**.
6. Other parties shall file their arguments with the OEB and copy all parties no later than **January 29, 2018**.
7. An oral hearing will begin on **February 13, 2018** at 9:30 am at 2300 Yonge Street, 25th floor, Toronto. At the oral hearing the OEB may ask questions of parties regarding their written submissions, and will expect to receive oral reply argument from Anwaatin.

All filings to the OEB must quote the file number, **EB-2017-0335**, 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.oeb.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@oeb.ca and OEB Counsel, Jennifer Lea at jennifer.lea@oeb.ca.

ADDRESS

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DATED at Toronto, December 19, 2017

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary