



**EB-2017-0364**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*;

**AND IN THE MATTER OF** an Application by Hydro One Networks Inc. pursuant to s. 92 of the *OEB Act* for an Order or Orders granting leave to construct new transmission facilities ("Lake Superior Link") in northwestern Ontario;

**AND IN THE MATTER OF** an Application by Hydro One Networks Inc. pursuant to s. 97 of the *OEB Act* for an Order granting approval of the forms of the agreement offered or to be offered to affected landowners.

### **NOTICE of HEARING of MOTION**

**April 6, 2018**

On February 15, 2018, Hydro One Networks Inc. (Hydro One) filed with the Ontario Energy Board (OEB) an application for leave to construct a 230 kV transmission line running between Wawa and Thunder Bay, which it refers to as the Lake Superior Link. The OEB has not yet issued notice of Hydro One's application, but has assigned file number EB-2017-0364 to that application.

The OEB also has before it, and is currently hearing, an application by Upper Canada Transmission Inc., operating as NextBridge Infrastructure (NextBridge), for leave to construct a 230 kV transmission line running between Wawa and Thunder Bay referred to as the East-West Tie line. That application was filed on July 31, 2017, subsequent to NextBridge being designated by the OEB in August 2013 to complete the development work for the East-West Tie line. The OEB file number for the NextBridge leave to

construct application is EB-2017-0182<sup>1</sup> and the OEB file numbers relating to the designation process for the East-West Tie line are EB-2011-0140 and EB-2015-0216.

Both the Hydro One and NextBridge applications propose to upgrade the electricity transmission line capacity between the Lakehead Transmission Station in Thunder Bay and the Wawa Transmission Station in the District of Algoma.

The expansion or reinforcement of the electricity transmission network in the area between Wawa and Thunder Bay was declared by Order-in-Council 326/2016 dated March 2, 2016 (Priority Project OIC) to be needed as a priority project under section 96.1 of the *Ontario Energy Board Act, 1998 (OEB Act)*.

As set out in section 96 of the *OEB Act*, on an application for leave to construct an electricity transmission line the OEB must determine whether construction of the proposed line is in the public interest. In doing so, the OEB must consider the interests of consumers with respect to prices and the reliability and quality of electricity service and, where applicable, the promotion of the use of renewable energy sources.

### **The NextBridge Motion**

NextBridge filed a notice of motion on February 27, 2018 seeking the following relief:

- i. an order dismissing Hydro One's Lake Superior Link application;
- ii. in the alternative, a decision or order determining that the Lake Superior Link application will not be processed because it is incomplete; or
- iii. in the further alternative, a decision or order determining that the Lake Superior Link application does not comply with the OEB's *Filing Requirements for Electricity Transmission Applications* and suspending that application until Hydro One has complied with those *Filing Requirements*.

Hydro One filed a written response to that motion on March 6, 2018, arguing that the NextBridge motion is without merit and should not be heard. Hydro One further indicated that if the OEB determines that the NextBridge motion will be heard, Hydro One will respond to the motion with evidence and submissions.

The OEB has determined that it will proceed to hear the NextBridge motion.

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<sup>1</sup> Hydro One has also filed a related application for leave to construct the facilities necessary to upgrade existing transmission stations associated with the East-West Tie line project. That application has been assigned OEB File No. EB-2017-0194.

According to Hydro One's application, the Lake Superior Link project will substantially satisfy the needs identified by the Priority Project OIC, and will do so at a lower cost. In keeping with the OEB's mandate in respect of leave to construct transmission facilities, the OEB considers it appropriate and expedient in the circumstances to explore, in the context of the hearing of NextBridge's motion, certain questions relating to factors that have a particular bearing on the proposed timelines and costs identified in Hydro One's application.

## Routing

Hydro One's application estimates the development and construction costs for the Lake Superior Link to be \$100 million less than the construction cost proposed by NextBridge in its East-West Tie line application. The construction cost savings appear to result largely from Hydro One's proposal to reinforce its existing transmission infrastructure running through Pukaskwa National Park, thereby avoiding a longer route for the line. In written correspondence filed as part of Hydro One's application, Parks Canada indicated that it is not opposed "in principle" to the proposal to reinforce Hydro One's existing transmission infrastructure. Parks Canada further indicated that it is prepared to continue to consider the Hydro One proposal in accordance with the License of Occupation, applicable laws and policies, and Indigenous consultation obligations. Parks Canada previously denied NextBridge the opportunity to run a new transmission line through Pukaskwa National Park.

The OEB requires that Hydro One provide evidence on the following questions:

- Please provide copies of all Hydro One existing arrangement(s) with Parks Canada that pertain to the use of the corridor for Hydro One's existing transmission line in Pukaskwa National Park.
- What is the status of discussions between Hydro One and Parks Canada regarding permission for Hydro One to reinforce its existing transmission towers in Pukaskwa National Park?
- When is a final decision expected from Parks Canada?
- How would cost estimates and the proposed in-service date for the Lake Superior Link change if Parks Canada were to refuse to permit Hydro One to reinforce its existing line through Pukaskwa National Park?
- What reliability impacts to transmission service might arise from the reinforcement of the existing transmission towers in Pukaskwa National Park, both during construction and in the long-term operation of the line?

The OEB is inviting parties to make submissions on the following issue at the oral hearing of this motion:

- Hydro One's transmission licence allows the OEB to order it to expand or reinforce its transmission system in order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity. What legal or other issues may arise if the OEB were to require Hydro One to reinforce the section of its transmission system that runs through the Pukaskwa National Park and to connect with the proposed NextBridge transmission line at both borders of the Park?

### **In-Service Date**

The Priority Project OIC includes the following in the recitals:

AND WHEREAS Ontario considers the expansion or reinforcement of the electricity transmission network in the area between Wawa and Thunder Bay composed of the high voltage circuits connecting Wawa TS with Lakehead TS (the "East-West Tie Line Project"), with an in service date of 2020, to be a priority;

By letter dated August 4, 2017, the Minister of Energy asked the Independent Electricity System Operator (IESO) to prepare an updated need assessment for the project. By report dated December 1, 2017, the IESO confirmed that the project continues to be the recommended option to maintain a reliable and cost-effective supply of electricity to the Northwest for the long term, and continued to recommend an in-service date of 2020. The Minister, in a letter to the IESO dated December 4, 2017, acknowledged that the IESO's updated needs assessment "clearly explains the need to pursue the completion of the EWT with a 2020 in-service date".

Hydro One proposes an in-service date of 2021 for the Lake Superior Link.

The OEB is inviting parties to make submissions on the following issues at the oral hearing of this motion:

- What are the implications of Hydro One's proposed in-service date of 2021 in the context of the Priority Project OIC and subsequent correspondence and reports?
- Should the IESO be asked to provide any updated information regarding the in-service date necessary to serve the need and any impacts of a delay to the in-service date to 2021 or beyond?

### Environmental Assessment Work

Hydro One has stated in its application that it would be necessary for it and the Ministry of Environment and Climate Change to work collaboratively with it to implement a regulatory measure such as a Cabinet exemption for typical environmental assessment requirements for its project to proceed on the timelines that it proposes. Hydro One also proposes that the work performed by NextBridge for the environmental assessment for the East-West Tie line project be provided to Hydro One.

The OEB requires that Hydro One provide evidence on the following questions:

- What is the status of discussions between Hydro One and the Ministry of Environment and Climate Change regarding any exemption to *Environmental Assessment Act* requirements?
- What are the implications for Hydro One's proposed project if no exemption is forthcoming or if it cannot avail itself of the environmental assessment work performed by NextBridge?

The OEB is inviting parties to make submissions on the following issue at the oral hearing of this motion:

- Can NextBridge's environmental assessment work for the East-West Tie line project be used by Hydro One for the purpose of complying with *Environmental Assessment Act* requirements?

### Indigenous Consultation

Hydro One states in its application that affected Indigenous Communities will be able to review, consider and raise issues, concerns and questions about the Lake Superior Link project through Hydro One's Indigenous engagement process. In addition, Hydro One requests a minimum of 45 days to negotiate any necessary agreements with Indigenous Communities upon approval of its application.

The OEB requires that Hydro One provide evidence on the following questions:

- What Indigenous consultation obligations arise from Hydro One's proposal to build the Lake Superior Link, and specifically, from the proposed reinforcement of transmission towers in Pukaskwa National Park? How will such obligations be satisfied within the proposed project timelines?
- NextBridge was delegated by the Crown to carry out the procedural aspects of Indigenous consultation for the East-West Tie line project in November 2013.

Has Hydro One received a similar delegation for its proposed Lake Superior Link project?

For convenience of reference, the evidence to be provided by Hydro One and the issues on which the OEB is inviting submissions are listed in Schedule A.

The OEB takes this opportunity to confirm that while this motion is proceeding the OEB will continue its adjudication of the NextBridge application for leave to construct.

### **Parties to the Motion**

The OEB deems the parties granted intervenor status in the proceeding to consider the NextBridge application for leave to construct the East-West Tie line (EB-2017-0182) as intervenors for the purposes of this motion. Those parties that were granted cost eligibility status in the EB-2017-0182 proceeding are eligible for an award of costs for their participation in this motion.

The OEB will consider intervention and cost eligibility requests from any other interested parties in accordance with the timeline set out below. The responsibility for costs of this motion will be determined by the OEB at a later date.

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

1. Any other person wishing to intervene in this motion shall file an intervention request with the OEB by April 16, 2018.
2. If a party wishes to object to an intervention request, it shall file its written submission with the OEB and serve it on the person applying for intervenor status by April 23, 2018.
3. If the person applying for intervenor status wishes to respond to the objection, that person shall file its response with the OEB and serve it on the objecting party by April 30, 2018.
4. NextBridge may file any additional material that it intends to rely on at the hearing of this motion by April 30, 2018.
5. Hydro One shall file the evidence required by the OEB as set out in this Notice and may file any additional material that it intends to rely on at the hearing of this motion by May 7, 2018.

6. A transcribed technical conference will take place on May 15, 2018 beginning at 9:30 am to provide parties the opportunity to ask questions arising from the evidence or materials filed by NextBridge, if any, and by Hydro One on the motion.
7. An oral hearing of the motion will begin on May 24, 2018 at 9:30 am in the OEB's hearing room at 2300 Yonge Street, 25th Floor, Toronto. The oral hearing will continue on May 25, 2018 if necessary.

All filings to the OEB must quote the file number **EB-2017-0364**, 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, Zora Crnojacki at [zora.crnojacki@oeb.ca](mailto:zora.crnojacki@oeb.ca) and OEB Counsel, Lawren Murray at [lawren.murray@oeb.ca](mailto:lawren.murray@oeb.ca).

**ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Registrar

E-mail: [boardsec@oeb.ca](mailto:boardsec@oeb.ca)  
Tel: 1-888-632-6273 (Toll free)  
Fax: 416-440-7656

**DATED** at Toronto, April 6, 2018

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary



**SCHEDULE A**

**EB-2017-0364**

**DATED: April 6, 2018**

**Issues for the Motion**

## **Schedule A**

### Issues for the Motion

1. Hydro One shall file evidence addressing the following matters:

#### Routing

- a. Please provide copies of all Hydro One existing arrangement(s) with Parks Canada that pertain to the use of the corridor for Hydro One's existing transmission line in Pukaskwa National Park.
- b. What is the status of discussions between Hydro One and Parks Canada regarding permission for Hydro One to reinforce its existing transmission towers in Pukaskwa National Park?
- c. When is a final decision expected from Parks Canada?
- d. How would cost estimates and the proposed in-service date for the Lake Superior Link change if Parks Canada were to refuse to permit Hydro One to reinforce its existing line through Pukaskwa National Park?
- e. What reliability impacts to transmission service might arise from the reinforcement of the existing transmission towers in Pukaskwa National Park, both during construction and in the long-term operation of the line?

#### Environmental Assessment Work

- f. What is the status of discussions between Hydro One and the Ministry of Environment and Climate Change regarding any exemption to *Environmental Assessment Act* requirements?
- g. What are the implications for Hydro One's proposed project if no exemption is forthcoming or if it cannot avail itself of the environmental assessment work performed by NextBridge?

#### Indigenous Consultation

- h. What Indigenous consultation obligations arise from Hydro One's proposal to build the Lake Superior Link, and specifically, from the proposed reinforcement of transmission towers in Pukaskwa National Park? How will such obligations be satisfied within the proposed project timelines?
- i. NextBridge was delegated by the Crown to carry out the procedural aspects of Indigenous consultation for the East-West Tie line project in November 2013. Has Hydro One received a similar delegation for its proposed Lake Superior Link project?

2. The OEB invites parties to address the following questions:

*Relief requested by NextBridge*

- a. Should the OEB grant an order dismissing Hydro One's Lake Superior Link application?
- b. Should the OEB issue a decision or order determining that the Lake Superior Link application will not be processed because it is incomplete?
- c. Should the OEB issue a decision or order determining that the Lake Superior Link application does not comply with the OEB's *Filing Requirements for Electricity Transmission Applications* and suspending that application until Hydro One has complied with those *Filing Requirements*?

*Routing*

- d. Hydro One's transmission licence allows the OEB to order it to expand or reinforce its transmission system in order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity. What legal or other issues may arise if the OEB were to require Hydro One to reinforce the section of its transmission system that runs through the Pukaskwa National Park and to connect with the proposed NextBridge transmission line at both borders of the Park?

*In-Service Date*

- e. What are the implications of Hydro One's proposed in-service date of 2021 in the context of the Priority Project OIC and subsequent correspondence and reports?
- f. Should the IESO be asked to provide any updated information regarding the in-service date necessary to serve the need and any impacts of a delay to the in-service date to 2021 or beyond?

*Environmental Assessment Work*

- g. Can NextBridge's environmental assessment work for the East-West Tie line project be used by Hydro One for the purpose of complying with *Environmental Assessment Act* requirements?