



EB-2017-0182  
EB-2017-0194

**Upper Canada Transmission Inc. (on behalf of  
NextBridge Infrastructure) and Hydro One Networks Inc.  
Application for leave to construct an electricity  
transmission line between Thunder Bay and Wawa, Ontario  
- and -**

**Application to upgrade existing transmission station facilities in the Districts of  
Thunder Bay and Algoma, Ontario**

**DECISION ON CONFIDENTIALITY AND PROCEDURAL ORDER NO. 3**

**April 27, 2018**

Upper Canada Transmission Inc. (NextBridge) and Hydro One Networks Inc. (Hydro One) filed applications with the Ontario Energy Board (OEB) on July 31, 2017 under section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B (Act).

NextBridge's application<sup>1</sup> seeks an order granting leave to construct approximately 450 kilometres of new double circuit 230 kilovolt (kV) overhead electricity transmission line in northwest Ontario (the Project). Hydro One's related application<sup>2</sup> seeks an order granting leave to construct the facilities necessary to upgrade existing transmission stations associated with the Project. The OEB decided to hear these two applications in one proceeding.

This Decision on Confidentiality and Procedural Order (Decision and Order) addresses a late intervention request from the Vulnerable Energy Consumers Coalition (VECC), a confidentiality request from NextBridge, and makes provision for a technical conference and an oral hearing in this proceeding.

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<sup>1</sup> EB-2017-0182

<sup>2</sup> EB-2017-0194

## Late Intervention Request

VECC filed a late intervention and cost eligibility request for NextBridge's<sup>3</sup> application on April 12, 2018. VECC filed its request on the grounds that the project may have a significant impact on ratepayers, and especially low income ratepayers in Ontario. In addition, VECC indicated that it was concerned with the regulatory process used in this matter and wanted to understand the reasons for the designated provider's increase in costs.

The OEB grants intervenor status to VECC in this proceeding. VECC is required to accept the record of the proceeding as it stands. The OEB has also determined that VECC is eligible to apply for an award of costs under the OEB's *Practice Direction on Cost Awards*. Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of an OEB order, typically at the end of a proceeding.

The updated list of participants in this proceeding is attached in Schedule A to this Decision and Order.

## Confidentiality Request

On January 25, 2018, NextBridge sought confidential treatment for certain information provided in its interrogatory responses, in particular:

1. Portions of attachments # 2 and # 3 in response to OEB staff interrogatory # 7 - documents provided to parties as part of the Request For Proposal process and parts of the contract with the general contractor
2. Portions of the attachment to CCC interrogatory # 8 - requesting detailed budget information

In accordance with the *OEB's Practice Direction on Confidential Filings*, NextBridge filed with the OEB a CD containing unredacted versions of the proposed confidential information.

In the cover letter dated January 25, 2018, NextBridge stated that the proposed confidential information contains competitive information and that disclosing this information to the public would be detrimental to NextBridge and the general contractor. In addition, NextBridge stated that disclosure of the proposed confidential information

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<sup>3</sup> EB-2017-0182

would: (1) adversely impact its transactions, and costs of doing business, resulting in higher costs to customers, (2) give competitors information useful in making their own marketing decisions, without expending the time and money necessary to gather and develop the data, and (3) allow competitors to profit or otherwise derive benefits at the expense of NextBridge and its customers.

The OEB issued Procedural Order No. 2, requiring NextBridge to provide more specific reasons for its confidentiality request. Procedural Order No. 2 provided parties with the opportunity to file submissions on the confidentiality request.

On March 14, 2018, NextBridge filed further information in support of its confidentiality request. In addition, NextBridge withdrew its confidentiality request over some information contained in the response to CCC interrogatory # 8 and filed an amended interrogatory response for the public record.

No objections to the confidentiality request were received by the OEB.

### **Decision on Confidentiality Request**

The OEB directs some information to be made public. The OEB has reviewed both NextBridge's submissions and the information for which confidential treatment is sought. In considering a request for confidentiality, the OEB seeks to balance the commercial interests of the parties involved and the OEB's objectives of transparency and openness, for the benefit of ratepayers. It is always the OEB's preference to have evidence on the public record where possible.

The OEB finds that some information provided in response to OEB staff interrogatory #7, for which confidentiality is requested, includes standard contractual terms that should be publicly disclosed. The OEB orders that the following information from NextBridge's Engineering Procurement and Construction Contract be placed on the public record:

- I.B.NextBridge.STAFF.7\_Attachment 3, page 13 of 176  
Redacted\_Updated\_20180314, received by OEB on 2018-03-21:  
"Engineering, Procurement and Construction Agreement for Transmission Facilities", Article I: Definitions, Section 1.1: Definitions, Page 6
- I.B.NextBridge.STAFF.7\_Attachment 3, page 26 of 176  
Redacted\_Updated\_20180314, received by OEB on 2018-03-21:  
"Engineering, Procurement and Construction Agreement for Transmission Facilities" Article II: Retention of Contractor; Contractor Responsibilities, Section: 2.6.1, Page 19

- I.B.NextBridge.STAFF.7\_Attachment 3, page 47 of 176 Redacted\_Updated\_20180314, received by OEB on 2018-03-21: “Engineering, Procurement and Construction Agreement for Transmission Facilities”, Article VII: Warranties, Section 7.1.1 (c), Page 40
- I.B.NextBridge.STAFF.7\_Attachment 3, page 57 of 176 Redacted\_Updated\_20180314, received by OEB on 2018-03-21: “Engineering, Procurement and Construction Agreement for Transmission Facilities”, Article XI: Limitations of Liability, Sections 11.2 and 11.3, Page 50

The OEB finds that the Project’s schedule will be a key issue that the OEB will explore in this proceeding. The OEB orders that the project schedule provided in response to OEB staff interrogatory #7 Exhibit C-1 be placed on the public record.

- I.B.NextBridge.STAFF.7\_Attachment 2, page 323 or 406 Redacted\_Updated\_2010314, received by OEB on 2018-03-21: Exhibit C-1- Project Schedule (OEWTl)

The OEB also finds that detail provided in Exhibit C-1 is insufficient for the OEB to assess project risk related to the schedule. The OEB requires NextBridge to file a more detailed project schedule that includes the key activities, key milestones, critical path for the Project and the amount of schedule contingency (detailed Project Schedule). The OEB requires NextBridge to file this detailed Project Schedule on the public record by May 3, 2017 in order for the OEB to proceed with the next procedural steps.

The OEB is continuing to review the remaining information for which NextBridge requests confidential treatment. The OEB will issue a decision in respect of that information at a later stage of the proceeding.

### **Next Procedural Steps**

The OEB has scheduled a transcribed technical conference. The OEB finds a technical conference is an efficient procedural step that will allow parties to further examine interrogatory responses regarding both applications, the additional evidence requested by the OEB in Procedural Order No. 2 regarding NextBridge’s development and construction costs<sup>4</sup> and a detailed Project Schedule required in this Decision and Order.

For questions regarding NextBridge’s evidence for which confidentiality has been claimed (and not ordered to be disclosed in this Decision and Order), a portion of the

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<sup>4</sup> EB-2017-0182, Exhibit B, Tab 15, Schedule 1 and Attachments; Exhibit B, Tab 15, Schedule 1 and Attachments

Technical Conference will be held in camera for parties that have signed the OEB's Declaration and Undertaking.

In addition, the OEB has scheduled the oral hearing related to NextBridge's transmission line application and Hydro One's station application.

It is necessary to make provision for the following matters related to this proceeding. The OEB may issue further procedural orders from time to time.

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. NextBridge shall file with the OEB a detailed Project Schedule on the public record by **May 3, 2018**.
2. NextBridge shall file revised public versions of the pages referenced in this Decision and Order (sections on pages 6, 19, 40 and 50 of STAFF.7\_Attachment 3 and Exhibit C-1 of STAFF.7\_Attachment 2), by **May 3, 2018**. NextBridge shall provide these public versions to all intervenors in Schedule A.
3. A transcribed technical conference will take place on **May 7, 2018** beginning at 9:30 am in the OEB's hearing room at 2300 Yonge Street, 25th Floor, Toronto, to provide parties the opportunity to ask questions arising from evidence filed after the applications were filed with the OEB in this proceeding.
4. An oral hearing will begin on **June 4, 2018** at 9:30 am in the OEB's hearing room at 2300 Yonge Street, 25th Floor, Toronto. The oral hearing will continue on **June 5, June 7, June 8 and June 11, 2018** if necessary.

All filings to the OEB must quote the file numbers, EB-2017-0182/EB-2017-0194 and be made electronically in searchable / unrestricted PDF format 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/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).

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**DATED** at Toronto, April 27, 2018

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**Schedule A**

**Procedural Order No. 3**

**Applicant and Intervenor Lists**

**EB-2017-0182**

**EB-2017-0194**

Upper Canada Transmission, Inc.  
EB-2017-0182

**APPLICANT & LIST OF INTERVENORS**

April 27, 2018

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Hydro One Networks Inc.

EB-2017-0194

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