



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.

**PROCEDURAL ORDER NO. 1
HEARING OF MOTION**

April 27, 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.

On February 27, 2018, Upper Canada Transmission Inc., operating as NextBridge Infrastructure (NextBridge), filed a motion (Motion) with the OEB asking that Hydro One's Lake Superior Link application be dismissed, or in the alternative, not be processed because it is not complete or compliant with OEB Filing Requirements. NextBridge currently has a competing application for leave to construct a 230 kV transmission line running between Wawa and Thunder Bay, referred to as the East-West Tie line.¹

¹ The OEB assigned File No. EB-2017-0182 to NextBridge's application for the East-West Tie line project. 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.

On March 6, 2018, Hydro One filed a written response to the Motion, arguing that the NextBridge Motion is without merit and should not be heard. The OEB determined that it will proceed to hear the Motion.

On April 6, 2018, the OEB issued a Notice of Hearing of Motion (Notice) setting out the process for hearing the Motion, as well as other questions that the OEB has asked the parties to address as part of the Motion. In the Notice, the OEB deemed parties granted intervenor status in the East-West Tie line proceeding as intervenors for the purpose of the Motion. Those parties that were granted cost eligibility status in the East-West Tie line proceeding are also eligible for an award of costs for their participation in the Motion. The OEB also set out a timetable for any other parties to seek leave to intervene in the Motion.

Intervention Requests

The OEB received intervenor requests from the following parties:

- Association of Major Power Consumers in Ontario (AMPCO)
- Bamkushwada L.P. and Five First Nations (BLP First Nations)
- Batchewana First Nation of Ojibways (Batchewana First Nation)
- Biinjitiwaabik Zaaging Anishinaabek (BZA)
- Ontario Ministry of the Environment and Climate Change (MOECC)
- Power Workers' Union (PWU)
- Vulnerable Energy Consumers Coalition (VECC)

AMPCO, BLP First Nations, Batchewana First Nation, BZA and VECC also applied for cost award eligibility.

The OEB received no submissions opposing these requests.

The OEB grants intervenor status to all parties listed above. The OEB also finds that AMPCO, BLP First Nations, Batchewana First Nation, BZA and VECC are 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 list of parties for the Motion is attached as Schedule B to this procedural order.

Intervenor Evidence

BLP First Nations, Batchewana First Nation and MOECC have indicated that they wish to file evidence on the Motion.

BLP First Nations indicated that it intends to file evidence with respect to routing through Pukaskwa national park, the in-service date, Indigenous consultation and First Nation rights and jurisdiction.

Batchewana First Nation indicated that it intends to provide additional information about its original reserve and the history of the Batchewana First Nation, including its assertion with respect to its original reserve.

MOECC indicated that it is prepared to provide evidence on the status of discussions between Hydro One and MOECC regarding *Environmental Assessment Act* (EAA) requirements and possible exemptions.

The OEB finds that it can be assisted by the provision of the evidence as proposed by intervenors, provided the evidence is relevant to the issues listed in Schedule A. This is the same Schedule A that was attached to the OEB's Notice in this proceeding issued on April 6, 2018.

Technical Conference

Intervenors who file evidence should be prepared to attend a technical conference in which parties may ask questions of that evidence. Attendance may be in person or by teleconference. The OEB finds that a technical conference is an efficient procedural step which allows parties to understand and test the evidence in preparation for the oral hearing of the motion.

As per the Notice, the OEB had previously scheduled a transcribed technical conference to be held on May 15, 2108 to provide parties with the opportunity to ask questions arising from the evidence or materials filed. However, as intervenor evidence is now expected to be filed, the transcribed technical conference will now take place on May 16, 2018 at 9:30 a.m. and if necessary, will continue on May 17, 2018.

Oral Hearing of the Motion

As indicated in the Notice, the OEB will hear oral submissions on the Motion on May 24 and 25, 2018. There will be no further opportunity at the oral hearing of the Motion for parties to ask questions regarding the evidence filed or the answers provided at the

technical conference. After hearing the oral submissions, the OEB, however, may have questions of clarification regarding the submissions and evidence filed. The hearing schedule for May 24 and 25, 2018 will be made available in advance to all parties.

Procedural Questions about the Motion

On April 16, 2018, Hydro One wrote to the OEB posing a number of questions about the procedure for the Motion regarding:

1. What evidence will be before the OEB on the Motion and, in particular, the status of evidence filed in the NextBridge's East-West Tie application (EB-2017-0182) or Hydro One's Lake Superior Link application (EB-2017-0364).
2. Whether the OEB will provide for written interrogatories and what the scope of the technical conference will be.
3. The oral hearing and whether it would include oral evidence and cross-examination.
4. Whether intervenors would be required to file evidence on the Motion.

In response to these issues, the OEB provides further clarification as follows:

1. The evidence before the OEB in this Motion proceeding will be:
 - a. NextBridge's Motion filed on February 27, 2018 and any additional evidence to be filed by NextBridge by April 30, 2018
 - b. Hydro One's Lake Superior Link application (EB-2017-0364) filed on February 15, 2018
 - c. Hydro One's responses to the OEB's questions in the Notice to be filed by May 7, 2018
 - d. Intervenor evidence to be filed by May 7, 2018
 - e. The transcript of the technical conference scheduled on May 16 and 17, 2018 and any exhibits filed at the technical conference
2. The OEB has provided for two days for the technical conference to enable parties to ask questions and receive answers more expeditiously than if a written interrogatory process was used. The scope of the technical conference is defined by the issues that are listed in Schedule A.
3. The oral hearing on May 24 - 25, 2018 is reserved for legal argument on the Motion and is not intended for oral evidence or cross-examination. The OEB expects the parties to present their legal argument either orally at the hearing on May 24 - 25, 2018 or in writing prior to the hearing on May 24 - 25, 2018.
4. Intervenors are not required to file evidence on the Motion. However, some intervenors have indicated that they intend to file evidence on the Motion. This order provides for a schedule to file that evidence and a process for parties to ask questions about that evidence.

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.

IT IS THEREFORE ORDERED THAT:

1. AMPCO, BLP First Nations, Batchewana First Nation, BZA, MOECC, PWU and VECC are granted intervenor status in the Motion. The parties to the Motion are listed in Schedule B.
2. Intervenors that have already indicated that they intend to file evidence on issues as set out in the Notice, shall file that evidence with the OEB and deliver it to all other parties by **May 7, 2018**.
3. Intervenors who filed evidence shall attend the technical conference in person or by teleconference to provide parties the opportunity to ask questions arising from the evidence or materials filed by intervenors.
4. The transcribed technical conference on the Motion will take place on **May 16, 2018** beginning at **9:30 a.m.** and, will continue on **May 17, 2018** if necessary.
5. Intervenors who wish to submit their legal argument in writing rather than orally, must do so **by 9:30 a.m. on May 24, 2018**.

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/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 and OEB Counsel, Lawren Murray at 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
To
Procedural Order No. 1
EB-2017-0364

**(Exact Reproduction of Schedule A to The Notice of Hearing of Motion,
Titled “Issues for the Motion”, issued on April 6, 2018)**

April 27, 2018

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?

Schedule B

To

Procedural Order No. 1

EB-2017-0364

List of Parties to the Hearing of Motion

April 27, 2018

Hydro One Networks Inc.

EB-2017-0364

APPLICANT & LIST OF INTERVENORS

May 08, 2018

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EB-2017-0364

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- 6 -

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- 7 -

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EB-2017-0364

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- 10 -

May 08, 2018

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