



Michipicoten First Nation

025-18

May 28, 2018

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

Attention Ms. Kirsten Walli, Board Secretary

Via email to Registrar@oeb.ca

**RE: HYDRO ONE'S APPLICATION FOR LEAVE TO CONSTRUCT WAWA TS
EB-2017-0194**

I am writing this Letter of Comment as Chief of Michipicoten First Nation, a signatory of the 1850 Robinson-Superior Treaty and an Aboriginal People within the meaning of s. 35 of the *Constitution Act, 1982*. Michipicoten First Nation ("MFN") asserts Aboriginal, Traditional and Treaty rights over the lands where Hydro One proposes to expand its Wawa Transformer Station.

The fact that MFN is delayed in providing this Letter of Comment highlights the very reason for it; i.e. that Hydro One did not engage in meaningful, early consultation which would have sufficiently informed us of the Project, its impacts, the application process, deadlines for engagement, etc.

As of today's date, we have not been able to conclude a consultation agreement with Hydro One. MFN feel that we have been deflected by Hydro One and offered, at first instances, drafts of consultation agreements that were inconsistent with the Ontario Draft Guidelines for Proper Consultation and Appropriate Accommodation. In our opinion, they were not responsive, meaningful or iterative, and were confined to archaeology. We took umbrage to this, as Hydro One's suggested approach did not carefully consider our perspectives in how to be consulted; provide sufficient information on the proposed project; obtain information

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from us on our potentially affected rights; or provide for the addressing of concerns raised or the minimizing of adverse impacts on Aboriginal and Treaty rights.

In fact, at one point they provided an Umbrella Consultation Agreement applicable to all Hydro One projects subject to regulatory approvals in our Traditional Territory. In other words, they were suggesting that a facile, non-substantive consultation agreement cover consultation with us for the East West Tie as well.

In addition, we have yet to receive an answer from Hydro One on how they were delegated the procedural aspects of the duty to consult. This is relevant to us because we want to ensure we are consulting with the right party. It is also relevant to us (and perhaps should be relevant to the OEB) because when a proponent fails to carry out the delegated procedural aspects adequately, and/or when the proponent-First Nation relationship breaks down, the Crown should exercise its ability to supervise, intervene or re-assume the procedural aspects of the duty.

Accordingly, we are asking the OEB to make proper, meaningful consultation and appropriate accommodation, with capacity funding to facilitate this, a condition of any Leave to Construct approval given to Hydro One for the Wawa TS upgrade, with OEB oversight in monitoring and supervising this to ensure it is done correctly.

Sincerely,

Gimaa Kwe Pat Tangle
Chief Michipicoten First Nation

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