EB-2017-0364

ONTARIO ENERGY BOARD

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.

COMPENDIUM AND AUTHORITIES OF OEB STAFF

(Hearing of NextBridge's Motion)

June 4-5, 2018

TAB	ITEM	REFERENCE
1	EB-2011-0140, OEB Decision and Order, Phase 2 August 7, 2013	Page 4
2	EB-2010-0059, Board Policy: Framework for Transmission Project Development Plans, August 26, 2010	Pages 15-18
3	Hydro One Licence ET-2003-0035	Condition 12.2
4	EB-2005-0315 OEB Decision and Order	
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TAB 1

Ontario Energy Board

Commission de l'énergie de l'Ontario

Ontario

EB-2011-0140

IN THE MATTER OF sections 70 and 78 of the *Ontario Energy Board Act, 1998*, S.O.1998, c.15, (Schedule B);

AND IN THE MATTER OF a Board-initiated proceeding to designate an electricity transmitter to undertake development work for a new electricity transmission line between Northeast and Northwest Ontario: the East-West Tie Line.

BEFORE: Cynthia Chaplin
Presiding Member and Vice-Chair

Emad Elsayed
Member

Cathy Spoel
Member

EAST-WEST TIE LINE DESIGNATION

PHASE 2 DECISION AND ORDER

August 7, 2013

Implications of Designation

Designation does not carry with it an exclusive right to build the line or an exclusive right to apply for leave to construct the line. A transmitter may apply for leave to construct the East-West Tie line, designated or not. In designating a transmitter, the Board is providing an economic incentive: the designated transmitter will recover its development costs up to the budgeted amount (in the absence of fault on the part of the transmitter), even if the line is eventually found to be unnecessary. The designation may be rescinded and costs denied if the designated transmitter fails to meet the performance milestones for development or the reporting requirements imposed by the Board in this decision.

Initiation of Designation for the East-West Tie Line Project

After receiving the Minister's letter, the Board sought and received from the Ontario Power Authority (the "OPA") a preliminary assessment of the need for the East-West Tie line, which provided planning justification to support the implementation of a designation process. The OPA indicated that the primary driver for the East-West Tie line is the need to ensure long-term system reliability in northwestern Ontario. The Board also received a feasibility study of options for meeting the transfer capability requirements for the line from the Independent Electricity System Operator (the "IESO").

A double circuit 230 kV electricity transmission line already exists between Thunder Bay transmission station ("TS") and Wawa TS. The East-West Tie line project involves the construction of a new transmission line which, in conjunction with the existing line, will increase capacity and reliability of electrical transmission between northeast and northwest Ontario. The length of the new line will be approximately 400 kilometres.

The specifications for the East-West Tie line project were defined as follows:

- A new line that, in conjunction with the existing line, will provide total eastbound and westbound capabilities in the East-West corridor in the order of 650 MW, while respecting all NERC (North American Electric Reliability Corporation), NPCC (Northeast Power Coordinating Council), and IESO reliability standards.
- Lifetime of at least 50 years.

TAB 2

Ontario Energy Board

EB-2010-0059

Board Policy:

Framework for Transmission Project Development Plans

August 26, 2010

In fact, the Board emphasizes that the designation hearing is an open, public process. Information that the transmitter considers to be commercially sensitive should be identified as such and confidentiality requested according to the Board's "Practice Direction on Confidential Filings"[16]. The Board will then make a determination of the degree of confidentiality to be provided to balance the competing interests of private intellectual property and commercially sensitive information with the public interest in a transparent process. Potential solutions include redacted evidence, *in camera* proceedings, and undertakings by counsel to maintain confidentiality.

4.5 Implications of Plan Approval

The staff Discussion Paper recommended that the budgeted development costs of the designated transmitter be determined to be recoverable in a future rate proceeding. Most stakeholders supported the recovery of budgeted development costs for the designated transmitter provided that normal Board practices apply, including material overages being at risk until subsequently approved. Some stakeholders requested greater clarity as to what costs are considered "development costs".

The Board accepts the premise that designation should carry with it the assurance of recovery of the budgeted amount for project development. When subsequent analysis by the OPA suggests that a project has ceased to be needed or economically viable (e.g. FIT applications have dropped out of the reserve such that the project falls below the economic threshold), the transmitter is entitled to amounts expended and reasonable wind-up costs. Threshold materiality for amounts beyond the approved budget could be established in the order and would likely be in relation to the total budget.

From the Board's perspective, the objective of the development phase is to bring a project to the point where there is sufficient information for the transmitter to submit a leave to construct application. Therefore development costs begin when a transmitter is designated and end when a leave to construct application is submitted. The Board expects, therefore, the development budget to include route planning, engineering, site/environmental reports and some (but not all) consultation.

Where a leave to construct is not required for a designated project[17], the end point is when costs begin to be capitalized against the project.

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[16] Available on the Board's website at: http://www.oeb.gov.on.ca/documents/practice_direction-confidentiality_161106.pdf

[17] Ontario Regulation 161/99 clause 6.2 lists situations where Subsection 92(1) of the OEB Act does not apply. http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_990161_e.htm

In recent rate cases, Hydro One Networks Inc. (EB-2009-0416)) and Great Lakes Power Transmission LP ("GLPT") (EB-2009-0409) received approval of deferral accounts for IPSP and other long term projects' preliminary planning costs and GEA related planning expenses, respectively.

In its Decision and Order in each case, the Board stated that each company "is cautioned that this approval does not provide any assurance, either explicit or implicit, that the amounts recorded in the account will be recovered from ratepayers. No finding of prudence is being made at this time....A full test of prudence will be undertaken when [the company] applies for disposition of the account[s]."

The staff Discussion Paper also suggested that the Board's order for designation might have conditions such as milestones or reporting requirements. The purpose of establishing the designation process is to promote timely expansion of the transmission system for connection of renewable generation by ensuring that identified projects are being developed. If a designated transmitter is failing to make progress on developing the project and is not making progress toward bringing a leave to construct application, the Board needs the ability to rescind the designation both to limit the exposure of the ratepayer and to allow a different transmitter to be designated. Therefore, the Board order of designation will have conditions such as performance milestones (in particular, a deadline for application for leave to construct) and reporting requirements on progress and spending that, if not met, will result in the designation being rescinded and will put further expenditures at risk. Designated transmitters who are having trouble meeting the milestones for any reason, but intend to carry through with the work may apply to the Board for an amended schedule.

In the Discussion Paper, Board staff asked for comments on the potential of two transmitters being designated to develop the same project. Some stakeholders did not feel that it would ever be appropriate to allow ratepayers to fund development of two projects when only one will need to be constructed. Others felt that there may be extra-ordinary conditions where it might be justified.

The Board agrees with stakeholders that designation of two transmitters should be an exceptional circumstance where the Board is persuaded that:

- Two proposed projects to meet the same need cannot be directly compared since they are so significantly different
    - as to route, or
    - as to technology to be employed; or
- The amount saved on construction cost could be more than the cost added by the funding of a second development project.

The staff Discussion Paper also noted limitations on the Board's ability to guarantee a transmitter the ability to construct and operate a particular project. Many stakeholders expressed concern over this issue and looked for further assurance that the successful transmitter would be able to construct and operate the facilities.

The designation process of the Board is not a procurement process where the end result is a contract. Neither the Board, the OPA, nor the IESO has statutory authority to procure transmission. Under normal circumstances, the Board would expect that the transmitter who is designated would construct and operate the facilities. There are two instances where this might not be the case.

One circumstance is where the designated transmitter makes arrangements to assign the project to another transmitter. A project designation, particularly once a leave to construct has been issued, could have commercial value. The Board would not preclude this option but would have to grant permission to assign the project and be assured that there was no adverse ratepayer impact of the transaction and that the assignee was also licensed and equally qualified to undertake the work.

The other possibility is that another transmitter brings a leave to construct application for a different project that meets the same need in a better way. The Board cannot prevent any person from submitting an application for any matter under its jurisdiction. However, the undesignated transmitter would have undertaken development at its own cost which would not be recoverable from ratepayers. The transmitter would also need to adequately explain why it had not taken part in the designation process. Once a leave to construct is granted, the Board would not grant another transmitter approval for duplicative facilities.

Board Policy regarding implications of plan approval

The transmitter designated for a particular project will be assured of recovery of the budgeted amount for project development. Material overages will be at risk until a future prudence review. Threshold materiality for amounts beyond the approved budget could be established in the designation order and would likely be in relation to the total budget. When subsequent analysis by the OPA suggests that the project has ceased to be needed or is no longer economically viable, the transmitter will be entitled to appropriate wind-up costs.

The Board order of designation will have conditions such as performance milestones based on the project schedules (in particular, a deadline for application for leave to construct) and reporting requirements on progress and spending that, if not met, will result in the designation being rescinded and will put further expenditures at risk.

Under exceptional circumstances, the Board may designate two transmitters to proceed to the development phase where the Board is persuaded that:

- Two proposed projects to meet the same need cannot be directly compared since they are so significantly different
    - as to route, or
    - as to technology to be employed; or
- The amount saved on construction cost could be more than the cost added by the funding of a second development project.

Final project selection will take place after application for leave to construct.

5 Hearing for Leave to Construct

Section 92 of the OEB Act prohibits any person from constructing, expanding or reinforcing a transmission line without an order of the Board granting leave. Clause 92(2) and Ontario Regulation 161/99 provide exceptions to this requirement including relocation or reconstruction of a line without new land requirements; lines that are less than 2 km in length; and interconnections between two adjacent transmission systems. Section 96 specifies the issues that the Board may consider in finding that proposed work is in the public interest. The GEA amended the OEB Act to include as one of those issues the use of energy from renewable resources, where applicable and in a manner consistent with the policies of the Government of Ontario.

A designated transmitter is ensured recovery of development costs with the objective of submitting a leave to construct application. The requirements of a leave to construct application are described in the Board's existing Filing Requirements for Transmission and Distribution Applications[18].

The staff Discussion Paper included an illustrative flow chart of the Board's processes. One stakeholder stated that it did not show the Environmental Assessment approval process. Stakeholders should note that it does not include any stages of a project that are not under the Board's jurisdiction, such as the System Impact Assessment from the IESO that must be filed as part of the leave to construct application or the Connection Impact Assessment that must be completed by any transmitter to which the new project will connect.

The flow chart has been updated to show the Board's policy.

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[18] http://www.oeb.gov.on.ca/documents/minfilingrequirements_report_141106.pdf

TAB 3

Ontario

Electricity Transmission Licence

ET-2003-0035

Hydro One Networks Inc.

Valid Until

December 2, 2023

Original signed by

Peter Fraser
Vice President, Industry Operations and Performance
Ontario Energy Board

Date of Issuance: December 3, 2003
Date of Last Amendment: November 26, 2015

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

Commission de l'énergie de l'Ontario
C.P. 2319
2300, rue Yonge
27e étage
Toronto ON M4P 1E4

11 Separation of Business Activities

11.1 The Licensee shall keep financial records associated with transmitting electricity separate from its financial records associated with distributing electricity or other activities in accordance with the Accounting Procedures Handbook and as otherwise required by the Board.

12 Expansion of Transmission System

12.1 The Licensee shall not construct, expand or reinforce an electricity transmission system or make an interconnection except in accordance with the Act and Regulations, the Transmission System Code and the Market Rules.

12.2 In order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity, the Board may order the Licensee to expand or reinforce its transmission system in accordance with Market Rules and the Transmission System Code, in such a manner as the Board may determine.

12.3 The Licensee shall use its best efforts to expand inter-tie capacity to neighbouring jurisdictions by approximately 2000 MW by May 1, 2005.

12.4 Paragraph 12.3 in no way limits the obligation on the Licensee to obtain all necessary approvals including leave of the Board under Section 92 of the Act, where such leave is required.

12.5 The Licensee shall provide information to the Board as soon as practicable following May 1, 2005 or at an earlier date in order that the Board may determine whether or not, as of the end of such 36 month period, the Licensee has used its best efforts to expand inter-tie capacity to neighbouring jurisdictions by approximately 2000 MW.

13 Provision of Information to the Board

13.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.

13.2 Without limiting the generality of paragraph 13.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) business days past the date upon which such change occurs.

14 Restrictions on Provision of Information

14.1 The Licensee shall not use information regarding a consumer, retailer, wholesaler or generator, obtained for one purpose for any other purpose without the written consent of the consumer, retailer, wholesaler or generator.

14.2 The Licensee shall not disclose information regarding a consumer, retailer, wholesaler or generator to any other party without the written consent of the consumer, retailer, wholesaler or generator, except where such information is required to be disclosed:

TAB 4

Ontario Energy Board

Commission de l'Énergie de l'Ontario

EB-2005-0315

IN THE MATTER OF the *Ontario Energy Board Act, 1998,* S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF the Board's authority under ss. 19(4) of the *Ontario Energy Board Act,* 1998, ss. 12.2 of the Hydro One Networks Electricity Transmission Licence and ss. 13.2 of the Distribution Licences of Newmarket Hydro Ltd., Power Stream Inc., and Hydro One Networks Inc.(Distribution).

BEFORE: Howard Wetston Q.C.
Chair and Presiding Member

DECISION AND ORDER

1. THE WRITTEN PROCEEDING

1.1 Background

Demand for electricity in York Region has grown beyond the capacity of existing electricity infrastructure serving the Region. This has been recognized by the Independent Electricity System Operator ("IESO") in several of its *10 Year Outlooks*. In the 2003 *10 Year Outlook*, the IESO stated that the high rate of load growth in the municipalities of Newmarket, Aurora, Markham, Richmond Hill, and Vaughan requires that "necessary transmission reinforcements be placed in-service as soon as possible beginning no later than April 2005."[1] In its 2004 *10 Year Outlook*, the IESO confirmed that "the ability of the existing transmission facilities to supply the rapidly growing load in the Newmarket and Aurora areas" was still an issue of immediate concern.[2] More recently, the IESO's 2005 *10 Year Outlook* stated that "The rapid increases in the load within the Newmarket – Aurora area that have been experienced are taxing the capability of the existing double-circuit line between Claireville TS and Armitage TS."[3]

The *2004 10 Year Outlook* noted that, in 2003, the York Region LDCs (Newmarket, Aurora, Markham, Richmond Hill, and Vaughan and Hydro One Networks – Distribution) and Hydro One Networks – Transmission, jointly prepared a report entitled the "York Region Supply Study: Adequacy of Transmission Facilities and Transmission Supply Plan, 2003-2013" (the "Joint York Region Study"). The participants in the Joint York Region Study unanimously concluded that the failure to take steps to increase supply "is not acceptable." According to the Joint York Region Study, failing to act "will aggravate the existing overload situation. Equipment loading will continue to increase and supply reliability will be adversely impacted in case of a contingency."[4]

In early 2005, the Board directed the utilities serving York Region – Newmarket Hydro, Aurora Hydro Connections Limited, Power Stream Inc. (Markham, Richmond Hill, and Vaughan), and

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[1] IEMO *10 Year Outlook: An Assessment of the Adequacy of Generation and Transmission Facilities to Meet Future Electricity Needs in Ontario from January 2004 to December 2013*, p. iii.
[2] IEMO *10 Year Outlook: An Assessment of the Adequacy of Generation and Transmission Facilities to Meet Future Electricity Needs in Ontario from January 2005 to December 2014*, p. 25.
[3] IESO *10 Year Outlook: An Assessment of the Adequacy of Generation and Transmission Facilities to Meet Future Electricity Needs in Ontario from January 2006 to December 2015*, p. 25.
[4] York Region Supply Study: Adequacy of Transmission Facilities and Transmission Supply Plan, 2003-2013, p. 22.

Hydro One Networks Inc.(Distribution) – (the "York Region Utilities") and Hydro One Networks Inc.(Transmission) to identify the optimal transmission and/or distribution infrastructure investment to serve York Region. This direction was made in accordance with the York Region Utilities' distribution licences which provide that[5]:

> "In order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity, the Board may order the Licensee to expand or reinforce its distribution system in accordance with the Market Rules and the Distribution System Code, or in such a manner as the Board may determine."

By letters dated April 15 and June 29, 2005 to the Board the York Region Utilities, and Hydro One Networks Inc.(Transmission) identified three potential transmission and distribution options to serve York Region:

1. **The Transmission Proposal** -- Rebuilding the existing above ground transmission facilities between Parkway TS in Markham and Armitage TS in Newmarket.
2. **The Buttonville Proposal** -- Building a 230/44 KV transformer station (TS) at the site of Buttonville TS in the Town of Markham and constructing 44 KV feeders to the Aurora/Newmarket/Stoufville area.
3. **The Holland Junction Proposal** – Building a 230/44kV TS on the Claireville TS to Brown Hill TS right of way at the Holland Marsh Junction.

The York Region Utilities' indicated that the preferred solution is the Holland Junction Proposal. The attached location map in Appendix A depicts the general location of the proposed transformer station.

On July 29, 2005, the Board requested the Ontario Power Authority (the "OPA") to provide evidence on its evaluation of the above proposals. The OPA was brought into existence on January 1, 2005 with the statutory objective, among other things, "to engage in activities in support of the goal of ensuring adequate, reliable and secure electricity supply and resources in Ontario."[6] In addition, the OPA has the ability to enter into contracts for electricity supply, capacity and demand management. As a result, in addition to the three proposals outlined above, the OPA was asked to advise on whether it would be preferable for it to pursue a fourth option, covering either increased generation supply or demand reduction. This can be accomplished by use of a contract between the OPA and a generator for new supply or a consumer for capacity

[5] A similar provision is in ss. 12.2 of the transmission licence of Hydro One Networks Inc.
[6] *Electricity Act*, s. 25.2(1).

or demand reduction, the costs of which will be reviewed by the Board for recovery from electricity consumers.

The OPA conducted a consultation process that consisted of a series of public meetings, five full day sessions with a working group (consisting of municipal government representatives, residents, school board representatives, business community representatives, and public interest group representatives), an elected officials forum (with an open invitation to observe for the general public), and a website for written comments. The OPA also carried out a technical review that involved a review of existing infrastructure and its adequacy in light of demand forecasts. The OPA submitted its report to the Board on September 30, 2005.

The OPA's key conclusion was that the existing infrastructure to serve York Region has not kept up with the growth of the Region. Specifically, the Armitage Transformer Station in Newmarket has a planning limit of 317 MW. It has passed that capacity in 2002 and, since that time, it has been serving beyond its planning limit. According to the OPA, "Because additional transformation capability and feeders have been required since 2002, one new [150 MW] transformer station is required immediately. The actual peak load in the Armitage TS service area was 370 MW. With a transformer planning capacity of 317 MW, this represents an existing shortfall of 53MW."

As an immediate solution to this problem, the OPA recommended that the installation of a new transformer station at the Holland Junction in King Township and associated capacitators and distribution feeders – in other words, the OPA agreed with the York Region Utilities that the Holland Junction Proposal was the preferred solution to relieve the existing capacity shortfall.

At the same time, the OPA indicated that it will be pursuing conservation initiatives in York Region. Specifically, as indicated, the OPA has the authority to contract for conservation and demand management ("CDM"). It has been directed by the government to pursue 250 MW of CDM across Ontario. The OPA's evidence is that it will issue an RFP for 20 MW of CDM in York Region specifically. The OPA stated that the CDM initiatives are in addition to, not as an alternative to the Holland Junction Proposal. The effectiveness of the CDM initiatives will influence the length of time for which the Holland Junction Proposal will be sufficient to serve growing demand in the region.

According to the OPA, the combination of the Holland Junction Proposal and the OPA's demand management initiatives will ensure adequate supply to York Region until approximately 2011, and perhaps longer, depending upon future demand growth and the results of the OPA CDM initiatives.

The OPA stated that, in order to meet the new requirements in 2011, it may bring forward proposals to procure new electrical capacity or supply, or propose the reinforcement of a transmission line serving York Region. It should be noted in this regard that the OPA also has the statutory responsibility to assess the adequacy and reliability of electricity resources and to prepare a 20 year integrated power system plan ("IPSP"). The Board understands that the OPA plans on filing its initial IPSP in 2005. The result is that, by the time it is necessary to address new supply needs in 2011, the OPA may have a number of options and proposals available to it.

1.2 Notice of Written Proceeding

The Board published a Notice of Written Proceeding to determine whether to order Hydro One and the York Region Utilities to take steps to implement the Holland Junction Proposal. That Notice also requested parties to make submissions on the appropriateness of proceeding by a written hearing. See Appendix B listing the various daily and weekly newspapers in which the Notice was published.

The following parties made submissions in this proceeding: the Green Energy Coalition ("GEC"); Pollution Probe; Steven Shrybman representing Stop Transmission Lines Over People ("STOP"); Town of Markham; Newmarket Hydro; Power Stream Inc.; Toronto Hydro Corporation; Mr. Robert Thomas Lipscombe; Mr. J. Gummersall; Town of Aurora; Mr. Brad Robinson; Township of King; the Independent Electricity System Operator (the "IESO"); Ontario Nature – Federation of Ontario Naturalists; Lake Simcoe Region Conservation Authority ("LSRCA"); Ontario Power Authority ("OPA").

2.0 SUBMISSIONS AND FINDINGS

2.1 Issue and Submissions

The Issue in this proceeding is whether the Board should exercise its authority under the York Region Utilities distribution licences to direct these utilities to implement the Holland Junction proposal.

The municipalities of York Region, and their local LDCs requested the Board to require the implementation of the Holland Junction proposal.

The Town of Markham supported the Holland Junction proposal and Town Council passed a resolution to that effect on September 27, 2005. Markham also noted its opposition to the "contingency" transmission solution that the OPA identified as a.possible solution for new supply requirements in 2011.

Newmarket Hydro emphasized the immediate need for the proposed facilities and suggested that any delays in implementing the proposed Holland Junction TS will prolong the overloading of the existing transformer station at Armitage TS.

Power Stream (the distributor serving Markham, Richmond Hill, Vaughan and Aurora)[7] supported the Holland Junction proposal, and advised the Board that certain implementation issues and implications will require resolution prior to implementation.

The Town of Aurora passed a Council Resolution in support of the preferred "integrated solution" as recommended by the OPA report, including the Holland Junction Proposal.

The IESO submitted that the Board should order the York Region Utilities to proceed with the timely development and implementation of a project plan for the Holland Junction Proposal.

The Township of King submitted a letter supporting the Holland Junction proposal, subject to a number of qualifications. The qualifications include mitigation of environmental impacts, ongoing monitoring of the OPA's CDM projects and limiting the size of the proposed transformer station to 150 MW.

Three residents opposed the proposal. Mr. John Gummersall, of the Town of Newmarket, submitted that he has many concerns regarding the proposed Holland Junction proposal regarding environmental impacts including removal of trees to accommodate construction of distribution feeders, electro-magnetic field impacts, visual impacts, noise pollution, and impacts on his property value. He advocates holding a public hearing based on his claim that the local residents did not participate in the OPA process. Mr. Brad Robinson, of of the Town of Newmarket indicated that he raises concerns on behalf of a small community just north of the proposed Holland Junction

[7] Aurora Hydro Connections Limited is now included in Power Stream Inc.

location. The expressed concerns cover electro-magnetic field impacts, increased noise levels, impact on property values, possible interference with satellite reception for televisions. Mr. Robert Thomas Lipscombe, who did not provide a return address, made a submission advocating renewable energy solution as a substitute for the proposed transformer station.

The Holland Junction Proposal was also criticized by Ontario Nature – Federation of Ontario Naturalists. It advised the Board of its property located in the vicinity of Dufferin and Miller Side Road and that this property is operated as the Cawthra Mulock Nature Reserve. Ontario Nature stated that it was not involved in the consultation process through which the OPA developed its recommendation, and that it was not informed directly by the Board in this proceeding. Ontario Nature stated that the installation of a transformer station on Hydro One's right of way may compromise the environmental surroundings of the area.

The Green Energy Coalition ("GEC") indicated that its primary interest is to ensure an optimal level of CDM in York Region. In particular, GEC argued that the Board has authority to require additional CDM efforts of the local distribution companies ("LDCs") and should require the LDCs to take additional steps.

Pollution Probe submitted in that it prefers an Oral Hearing in order to advocate aggressive promotion of CDM to help meet the electricity service needs of York Region.

Stop Transmission Lines Over People (or STOP) requested that the Board consider the OPA's report in its entirety, and not just the Holland Junction proposal. Specifically, STOP argued that the Board should have a hearing on the overall strategy or plan described by the OPA.

In response to GEC, Pollution Probe and STOP, the OPA repeated its view that CDM in York Region is out of scope of the proceedings and indicated that, in any event, it is "moving quickly to procure 20 MW of demand reduction" and that it expects to be executing contracts in February, 2006.

Toronto Hydro requested an observer status in the proceeding, and made no submissions.

The Lake Simcoe Region Conservation Authority advised the Board that it wishes to be involved in this proceeding.

2.2 Board Findings

To reiterate, the York Region Utilities' licences provide:

> "In order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity, the Board may order the Licensee to expand or reinforce its distribution system in accordance with the Market Rules and the Distribution System Code, or in such a manner as the Board may determine."

The issues in this proceeding are therefore (i) whether there is a threat to reliable and adequate capacity and supply of electricity in York Region; (ii) if so, can and should the Board direct the York Region Utilities to reinforce their systems; and (iii), if so, should the Board require the implementation of the Holland Junction proposal along with installation of capacitors on the transmission system of Hydro One Networks Inc. at the proposed Holland Junction site as described in the Phase I of the OPA report.

(i) Is there a Threat to Reliable and Adequate Supply?

As indicated earlier, the inadequacy of energy infrastructure serving York Region has been recognized by studies of the IESO and the York Region Utilities since 2003. The OPA's evidence in this case clearly demonstrates the urgency of this need. York Region is currently served by the Armitrage Transformer Station. According to the OPA:

> "Presently at Armitage TS there is transformation capability of 317 MW and the capacity to serve up to 16 feeder lines. The planning limits for the transformers have been exceeded since 2002, and there is a need for four new feeders and no positions are available. As a result, a new transformer station is required immediately, which will provide 150 MW of new capacity and eight feeder positions."

On the basis of the above, the Board is persuaded that there is a current and definite threat to the reliability and adequacy of supply in York Region.

(ii) Can and should the Board Direct the York Region Utilities to Reinforce their Systems?

The Board's authority in the face of the current and definite threat to the reliability and adequacy of supply is limited by its statutory authority. As is described in greater detail below, the Board (a) has the authority to direct transmitters and distributors to reinforce

their systems; (b) does not have the authority to direct the OPA to construct new generation or engage in conservation activities; and (c) has rate making authority to review the prudence of LDC investments through the authority of rate making. Each of these will be addressed in turn.

(a) Reinforcement of Transmission and Distribution

The York Region Utilities' licence provision excerpted above is expressly authorized by s. 70(1) (j) of the *OEB Act, 1998*, which provides that the Board may include a licence provision "requiring the licensee to expand or reinforce its transmission or distribution system in accordance with the market rules in such a manner as the IMO [now "IESO"] or the Board may determine."

(b) The OPA's Generation and Demand Management Activities

With respect to generation or demand management, the Board's authority is more limited. For example, on the generation side, the Board licences generators, but cannot compel anyone to build generation facilities. The OPA has the statutory power to enter into contracts relating to the "adequacy and reliability of electricity supply", the "procurement of electricity supply and capacity" and the "procurement of reductions in electricity demand and the management of electricity demand".[8]

As a consequence, the OPA has both the mandate to support adequacy, reliability and security of supply and the ability to enter into contracts to support new supply or demand reduction. Where the OPA enters into contracts for electricity procurement, capacity or demand management in accordance with a Board approved procurement process, or under the direction of the Minister of Energy, the OPA may recover the costs of such contracts from ratepayers without Board review. Where the OPA enters into such contracts outside of the procurement process, or in the absence of a Ministerial directive, its expenditures are reviewed by the Board.

In this case, the OPA has received a directive from the government. On June 15, 2005, the Minister directed the OPA to contract for "250 MW or more of demand side management and/or demand response initiatives across the province." In this regard,

[8] *Electricity Act*, s. 25.2(5).

the OPA's evidence states that, in accordance with this directive, it is "pursuing a target of 20 MW of demand response in addition to the aggressive pursuit of as much CDM as is economic." The OPA noted in its evidence that, "In acting under the authority of this directive, no OEB approval of the costs related to such contracts will be required."

(c) LDC Rate Making

The Board's authority respecting LDCs' CDM activities is with respect to rates. Under the Ontario Energy Board Act, 1998, the Board sets LDC rates for distribution and retail supply. The Board's current approach to rate recovery for CDM inistiatives is discussed in greater detail below. For present purposes, the key point is that rate setting authority addresses the prudence of expenditures. It does not extend to ordering LDCs to engage in specific demand management activities.

The parameters of the Board's rate making authority are set out in legislation. As indicated, the Board may direct LDCs to reinforce their distribution systems pursuant to s. 70(2)(j) of the OEB Act, 1998 and their individual licences. There is no similar provision in the Act or in their licences that provides the Board with the authority to direct LDCs to engage in CDM activities.

Instead, LDCs, like the OPA have the specific authority to engage in specific CDM activities on a voluntary basis pursuant to s. 29.1 of the Electricity Act, 1998 and s. 71 of the OEB Act, 1998. These provisions are largely identical. The former provides:

"Subject to section 71 of the Ontario Energy Board Act, 1998 and such limits and criteria as may be prescribed by the regulations, a transmitter, distributor or the OPA may

provide services that would assist the Government of Ontario in achieving its goals in electricity conservation, including services related to,

(a) the promotion of electricity conservation and the efficient use of electricity;
(b) electricity load management; or
(c) the promotion of cleaner energy sources, including alternative energy sources and renewable energy sources" (emphasis added).

As a result, like the OPA, LDCs have the ability to provide a number of CDM services at their discretion. Also like the OPA, LDCs do not require prior Board approval, and the Board does not have the authority to direct them to do so.

The Board does have extensive authority in its review of LDC expenditures for the rate making purposes. Specifically, in considering LDC distribution rates, the Board may address recovery of amounts invested in CDM initiatives. What this means is that the Board reviews CDM expenditures for prudence and cost effectiveness. In carrying out this review, the Board clearly has the legal authority to consider whether alternative CDM programs should be considered - whether they involve higher or lower expenditures than those proposed by an LDC.

For the purposes of setting rates for 2006, the Board has issued a Report that indicates that the Board would not mandate a minimum expenditure target of LDC spending on CDM programs. The Board is holding a generic proceeding to determine whether the Board should order an LDC to spend money on CDM programs in an amount that is different from the amount proposed by an LDC in a test year. This is different from requiring LDCs to engage in specific CDM activities.

In light of this, and with respect to the submissions of those who would like to see a more vigorous approach to CDM in York Region, the Board is not persuaded that an oral hearing into this matter is justified. The OPA is pursuing CDM activities in accordance with governmental direction. Moreover, as indicated above, the Board does not have the authority to order either the OPA or the LDCs to take greater measures. The Board therefore finds that an oral hearing is not required to address any CDM aspects.

In conclusion, the most effective way for the Board to address the shortage of supply in York Region is to order the reinforcement of distribution and transmission systems. As a result, given the urgent need, and given the Board's authority under its Act and the York Region Utilities' licences, the Board is satisfied that it is appropriate to direct the York Region Utilities to reinforce their systems in order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity.

(iii) Should the Board Require the Implementation of the Holland Junction Proposal?

The Board has found that there is a risk to reliability and adequacy of supply of electricity to York Region and that the appropriate response to this is an order to the York Region Utilities to reinforce their systems in accordance with their licences. The final issue is whether the Holland Junction Proposal is the best way to proceed.

The Holland Junction Proposal emerged from the Board's direction to the York Region Utilities and Hydro One Networks Inc. (Transmission) to identify possible solutions to meet the supply shortage in York Region. It was initially put forward by the York Region Utilities and Hydro One Networks Inc. (Transmission) as one of three proposals – the others being the Transmission Option and the Buttonville Option. The Board then requested the OPA to provide evidence that evaluated these three options as well as the option for the OPA to contract for purchase of electricity, capacity or demand management. The OPA's evidence is that the preferred solution is the Holland Junction Proposal. The Holland Junction Proposal will provide a solution to approximately 2011. The time frame for this solution is dependent on load growth, which will be influenced by the effectiveness of the OPA's demand management alternatives.

The OPA identified the advantages and disadvantages of the Holland Junction Proposal as follows:

> "There are several advantages to the Holland Junction TS option. The first is the availability of a site beneath the existing transmission lines allowing the station to be built quickly. The second advantage is the fact that the station would connect to the existing 230 kV Claireville to Minden lines at a point 'upstream' of the eight kilometre line tap to Armitage TS. Connecting to the 230 kV lines at this point avoids using up the capability of the line tap and results in a shorter line length to the station from the main supply point at Claireville TS. This will reduce the effects of voltage drop at the station, therefore lessening the risk of
>
> voltage collapse. The station is centrally located to growing loads and offers reasonable feeder lengths and losses. A final and very important advantage of providing this station is that it enhances the load meeting capability of the existing 230 kV lines by offering an ideal location for new capacitor banks that will support the line voltage.
>
> There are some disadvantages associated with the Holland Junction option. One being that it does not provide a new route for the additional
>
> power to Northern York Region, and therefore does not contribute significantly to diversity of supply. It does, however, offer a degree of diversity by virtue of its strategic location. Depending on switching capability, the station can be independent of the Armitage TS line tap and can be supplied from either the north or south should a major transmission line failure occur."

In addition to the physical advantage identified by the OPA, the cost of the Holland Junction proposal is significantly less than the other proposals. The York Region

Utilities' June 28, 2005 response to the Board's information request indicated that the distribution capital cost of the Holland Junction Proposal is estimated to be $13.7 million. By contrast, distribution capital costs for the Buttonville Proposal was estimated to be in the range of $46.9 to $57.3 million. The cost of the Transmission Proposal was in the range of $50 to $112 million, depending upon whether transmission lines were overhead or buried underground.

The Holland Junction proposal is supported by the municipalities and the distributors serving the region as well as the IESO.

Apart from the issue of limiting the capacity of the transformer station to 150 MW, in the Board's view, all the other concerns expressed by persons that made submissions are largely environmental in nature. As is clear from the Board's legislative mandate, and as has been confirmed by the Board on a number of occasions, the Board does not have the legal authority to review environmental issues in considering the approval of electricity projects. The environmental issues are entirely within the authority of the Ministry of Environment under the *Environmental Assessment Act*. Section 12.2(2) of that *Act* provides that "No person shall issue a document evidencing that an authorization required at law to proceed with the undertaking has been given until the proponent receives approval under this Act to proceed with the undertaking." As a result, any order or direction provided by the Board does not authorize proceeding with an undertaking until all necessary environmental approvals have been obtained.

In response to Ontario Nature's statement that it was not informed directly by the Board of this proceeding, the Board points out that the OPA's public consultation was very extensive and the Notice for this proceeding was published in eight publications covering daily and weekly newspapers including five local publications such as the Citizen which has its distribution in the Township of King and in the City of Vaughan. The Board is satisfied that the Notice and its circulation have been appropriate and sufficient.

THE BOARD THEREFORE ORDERS THAT:

1. The York Region Utilities and Hydro One Networks Inc. (Transmission) proceed, as soon as possible, with the implementation of the Holland Junction transformer station, the installation of distribution feeders as indicated in the submission to the Board dated June 29, 2005 by the York Region Utilities , and the installation

of the static capacitors at this station as set out in the OPA's report - Phase I dated September 30, 2005.

2. Hydro One Networks Inc.(Transmission) and the York Region Utilities submit to the Board, by Tuesday, December 7, 2005 a detailed implementation plan for the Holland Junction transformer station described in paragraph 1. The implementation plan shall provide a description of the scope and estimated cost of the work required by Hydro One Networks Inc.(Transmission) and by each of the York Region Utilities as well as a schedule, showing expected completion dates for key milestones.

Dated at Toronto, November 22, 2005

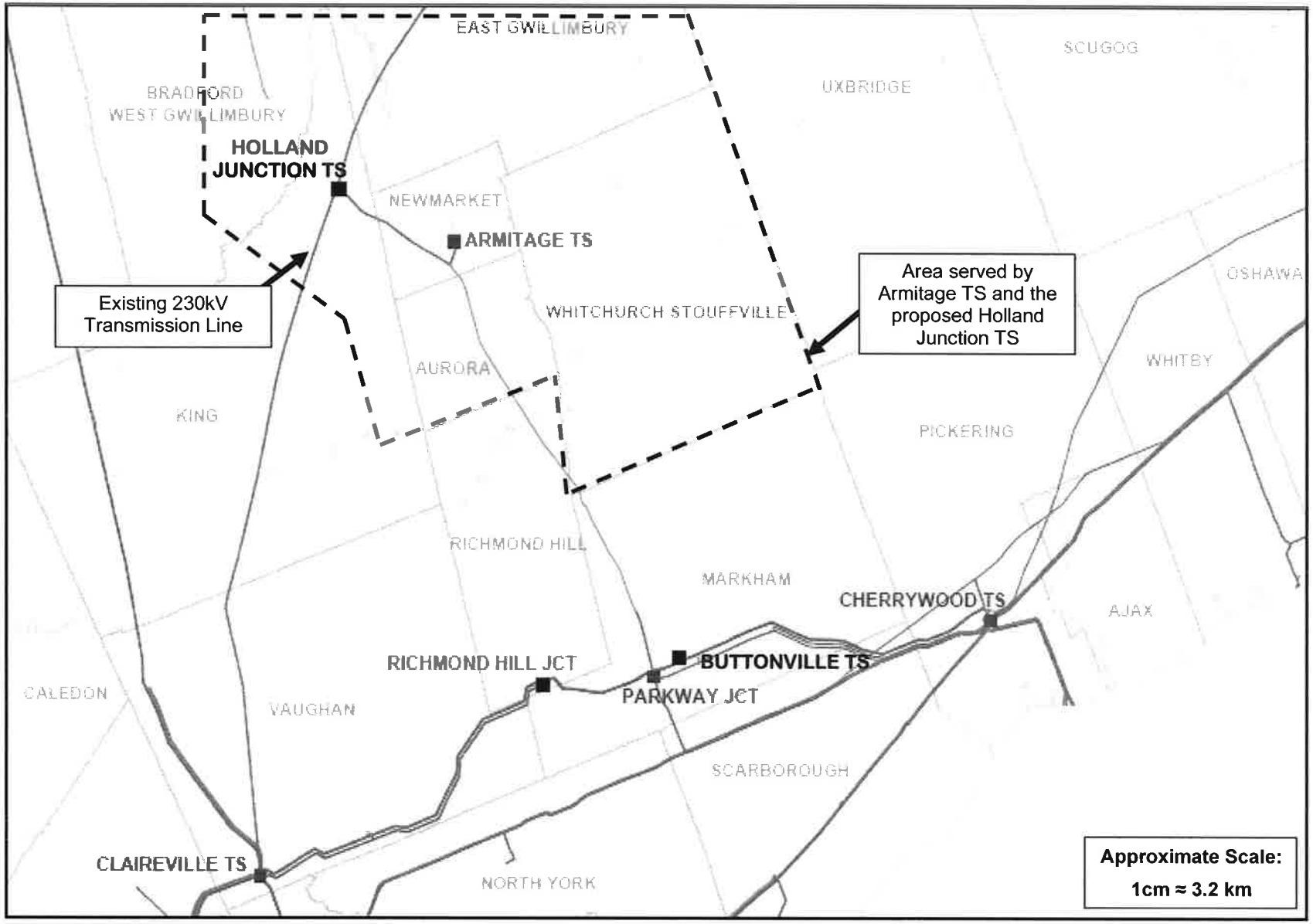
Original Signed By

Howard Wetston Q.C.
Chair and Presiding Member

Appendix A

Location Map
Location of the transformer station at the Holland Junction

Location Map showing the proposed Holland Junction Transformer Station (TS)



Appendix B

Letter to Day Advertising Group for Notice Publication in English and French Newspapers

Ontario Energy Board
P.O. Box 2319
26th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'Énergie de l'Ontario
C.P. 2319
26e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273

Ontario

By E-mail

October 14, 2005

Cynthia Truba
Team Leader
Day Advertising Group
1920 Yonge St. Suite 501
Toronto, ON M4S 3E6

Dear Ms. Truba:

Re: York Region Electricity Supply
Notice of Written Proceeding
Board File No. EB-2005-0315

Please find attached a Notice of Written Proceeding and a Location Map both in English and French for the above noted file.

You are directed:

1. To have the Notice and Map published in the following newspapers as follows:

English Newspapers - daily

Toronto Star	Thursday October 20
Globe and Mail	Thursday October 20

English Newspapers – weekly

Markham -Economist	Thursday October 20
New Market -Era-Banner	Thursday October 20
Richmond Hill -Liberal	Tuesday October 25
Township of King -Vaughan Citizen	Thursday October 20

French Newspaper -daily

Ottawa -Le Droit	Thursday October 20

French Newspaper –weekly

Toronto -L'Express	Tuesday October 25

2. To provide proof copies of the above by e-mail as soon as possible to Giovanna.dragic@oeb.gov.on.ca. and peter.odell@oeb.gov.on.ca

Thank you

Peter H. O'Dell
Assistant Board Secretary

TAB 5

Ontario

ONTARIO ENERGY BOARD

FILE NO.: **EB-2017-0364** **Hydro One Networks Inc.**

Lake Superior Link Project

VOLUME: **Technical Conference**

DATE: **May 17, 2018**

MS. CRNOJACKI: Just a moment, please.

MR. LESYCHYN: Just a couple questions here: Are there any stranded assets as a result of Hydro One's proposed quad towers through the park?

MR. SPENCER: Not to our knowledge, no.

MR. LESYCHYN: So there wouldn't be any kind of incremental cost for that.

MR. SPENCER: There are no -- there will be no stranded -- we don't foresee any stranded assets with the tower replacement.

MR. LESYCHYN: Okay. Hang on, hang on. Within the park, is the construction cost incremental within the park or is it full cost? In other words, you're basically only looking at the cost to basically take the circuits from a double circuit to a quad circuit? Are you basically -- is the entire cost is being fully allocated?

MR. SPENCER: The modifications to the tower -- the towers through the park to enable a quad circuit, those costs in this application are fully burdened.

MR. LESYCHYN: Okay. Is there any stranded value for the towers that you're basically taking out, because those towers are not at end of life. They are 50 years old. I'm not sure of what the value is there, but...

MR. SPENCER: We're not sure on this panel of the details of that, to be honest.

MR. LESYCHYN: Okay.

QUESTIONS BY MR. MURRAY:

MR. MURRAY: So it looks like we're almost at the end.

I just have two final questions. The first question is, I was hoping we could pull up page 17 of the evidence that's been filed by Hydro One for this motion. Page 17. And if we could just -- page 17. I think it might have been up a page, if we could scroll up. No, no, maybe -- scroll down a page, scroll down to the bottom, just at the end of page 17. Perfect. Right there.

So I'm going to be reading from the second paragraph under the heading "derouting", where it's written:

> "From a cost perspective reinforcing the Hydro One line through the park alone without connecting to Hydro One proposed LSL line outside the park would likely not be cheaper than the Hydro One Lake Superior link solution, although it would be cheaper than the NextBridge solution."

So this is talking once again about the proposal that's been raised in the Board's notice of hearing of the motion where NextBridge would build the parts outside the park and Hydro One would build the part of the line inside the park.

Is there any way you could provide an approximate amount, in terms of, if you would just build the part in the park to upgrade it to, like, the four -- the quad circuit, what the cost of that would be?

MR. KARUNAKARAN: If you are referring to the cost to actually just refurbish the 87 towers alone within the park, it would be about $100 million.

MR. MURRAY: Would that be also upgraded to a quad circuit?

MR. KARUNAKARAN: That's correct.

MR. MURRAY: Thank you. And the last question relates to, I believe -- I'm following up on a question I believe that IESO asked at the end, where Mr. Spencer in response at the end of the questioning made reference to a probabilistic analysis that was used to confirm the Lake Superior link schedule, a Monte Carlo analysis; do I have that right?

MR. SPENCER: Yes.

MR. MURRAY: Is that on the record?

MR. SPENCER: It has not been filed in this motion, no.

MR. MURRAY: Can you undertake to file that in this motion?

MR. SPENCER: Yes, we can do that.

MR. MURRAY: Thank you, those are all my questions.

MR. LAVAEE: That would be JT2.30.

UNDERTAKING NO. JT2.30: HYDRO ONE TO FILE THE PROBABILISTIC MONTE CARLO ANALYSIS USED TO CONFIRM THE LAKE SUPERIOR LINK SCHEDULE.

MS. LEA: Thank you, Mr. Murray.

I've had a request from Mr. Rubenstein to ask one more question. I trust he's going to buy us all a beer as well.

[Laughter]

I would ask that he be indulged in this, please.

CONTINUED QUESTIONS BY MR. RUBENSTEIN:

TAB 6

ONTARIO ENERGY BOARD

FILE NO.: **EB-2017-0364** **Hydro One Networks Inc.**
Lake Superior Link Project

VOLUME: **Technical Conference**

DATE: **May 16, 2018**

compress, and I think we just tried to shorten our processes down. I don't know specifically of any real actions that were taken.

I mean, we knew that we were now having a much more compressed timetable. But, you know, we've continued to work diligently to get the information that's necessary to these agencies to ensure that those dates are met.

MR. STEPHENSON: Okay. So we've had -- there has been a discussion about what the potential system consequences are, in the event that completion of this project is pushed out past the end of 2020.

What I want to know is what are the consequences to NextBridge if -- let's assume you get approval, but you are unable to get the project completed by the end of December of 2020. Are you facing any financial or other consequences in the event that occurs?

MR. MAYERS: No.

MR. STEPHENSON: So you don't have penalties and any arrangements that trigger some adverse consequences?

MR. MAYERS: Not that I'm aware of, no.

MR. STEPHENSON: All right. Let me turn to another area, which is one of the items that the Board has specifically identified in conjunction with this motion is the issue about whether the Board can or should potentially order Hydro One to build the section of the line through the park, and then join it up with NextBridge at either end of the park.

You're aware about that issue?

MR. MAYERS: Yes.

MR. STEPHENSON: Okay. I assume that having seen that issue identified, NextBridge has undertaken some examination of what the consequences might be to it, if the Board in fact adopted that approach, correct?

MR. MAYERS: Yes.

MR. STEPHENSON: And can you tell us what are the consequences if the Board chose to go down that route?

MR. MAYERS: I think this is a two part. One, I'll speak from a technical standpoint, and Alyson can speak to an environmental aspect of it.

Technically, it can be done. There are utilities all over the country that have joint use agreements that allow them to basically terminate a line, the same line on a dead-end type structure and jumper over to another termination, and have separate maintenance agreements for each portion of the line, and basically decide who owns the jumper. So from a technical perspective, it could be done.

The concern is that, you know, NextBridge doesn't think it's a good idea simply because we're concerned about the timing of Hydro One's completion of their work. And we're also concerned about the impact of the environmental assessment that would be necessary through the park for them to complete, as well as the completion of their licence and all the other work that they have to do with Parks Canada, so I'll let Alyson speak to the environmental concerns.

MR. STEPHENSON: Just before you get to the

environmental concerns, what about cost? Presumably the aggregate cost to NextBridge for building the two -- the two individual lines is going to be somewhat less than the cost of building one long line. Is that a fair assumption?

MR. MAYERS: Because it is a shorter route in this particular case, in this particular section of the park, yes.

MR. STEPHENSON: Has NextBridge undertaken any examination as to what the incremental savings would be for its work? Leave aside how much it's going to cost Hydro One to build its segment, but what is the difference in price between NextBridge whole line versus this other scenario?

MR. MAYERS: We have not undertaken any estimates to this point, nor have we contracted anyone to look at it, nor have we engineered a design. We basically just looked at, okay, if we were to build up to that point, could it technically be done? Could we have some type of an operational agreement in place? That's -- from my perspective on the engineering side, that's what we've looked at.

MR. STEPHENSON: So let's just clarify here. The Board has specifically identified this as something it's interested in, correct?

MR. MAYERS: They asked it as a question, yes.

MR. STEPHENSON: And you are unable to provide the Board with any assistance whatsoever as to how economically this might be a better or worse alternative than any of the

other alternatives; you are just, you are not able to do that. Is that what you're telling us?

MR. MAYERS: We're able to do it. We have not completed an estimate for it. We've determined what the scope of the work might be, but we have not provided an estimate, no.

MR. STEPHENSON: Are you planning on doing that at any point before the Board decides this case?

MR. STEVENS: NextBridge has filed the evidence that it plans to rely for the motion next week, and there is no expectation of providing an additional cost estimate, as you are indicating.

MR. STEPHENSON: So the answer is no. Okay.

Okay. You were about to tell me something about an environmental issue, and I'm happy to hear that.

MS. BEAL: Sure. So from an environmental assessment perspective, the amended EA for the East-West Tie project that was recently filed earlier this year does not contemplate a kind of a co-proponency (sic) or this alignment in it. So from that point either a revised amended EA would need to be filed with a co-proponent along the line or two separate environmental assessments with Hydro One going through an EA process for the park portion of it and NextBridge amending their assessment to adjust the parks -- connecting to the park, so there would be additional review and assessment and environmental assessment process.

MR. STEPHENSON: Okay. And on the Indigenous

TAB 7

c. When is a final decision expected from Parks Canada?

The Licence requires compliance with applicable environmental law wherein any required environmental assessments will be conducted in accordance with the *Canadian Environmental Assessment Act* (CEAA). The Licence renewal triggers the need for either a Basic or a Detailed Impact Assessment, under section 67 of CEAA.

Hydro One has already commenced some of the required environmental studies, including a caribou study, in cooperation with Parks Canada. A meeting with Parks Canada is scheduled for May 9, 2018, to discuss Environmental Study Workplans. The remaining studies will begin near the end of May 2018 and progress throughout the summer. Final reports are expected at the end of September or early October 2018. It is anticipated that final approvals required from Parks Canada will be received once they have reviewed the studies completed within the Park boundaries and the Impact Assessment is finalized. Based on the current schedule, approval from Parks Canada is anticipated to be in late 2018.

Additionally, the Ministry of Energy wrote in a letter dated March 2, 2018, that Hydro One's proposed Lake Superior Link Project may have the potential to affect First Nation and Métis communities who hold or claim protected aboriginal or treaty rights within the Park or in close proximity thereto. Hydro One recognizes the importance of consultation with Indigenous communities in connection with the Lake Superior Link Project. Hydro One, together with its construction partner, SNC-Lavalin, will undertake consultation on all aspects of the project, including the portion that goes through the Park. In fact, Hydro One and SNC-Lavalin met with the six member First Nations of Bamkushwada Limited Partnership on April 6, 2018 and delivered a presentation describing Hydro One's proposed project, including its consultation principles. Hydro One's Indigenous consultation process is designed to provide relevant project information to Indigenous communities proximate to the Project in a timely manner. The process enables affected Indigenous communities to review, consider and raise issues, concerns and questions they may have with the Project. The process also allows Hydro One to respond clearly and transparently to any concerns or questions raised.

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?

In the unlikely event that Parks Canada were to refuse to permit Hydro One to reinforce its existing line through Pukaskwa National Park, thus restricting Hydro One to follow NextBridge's route as detailed in the currently filed IEA, costs would increase but would still be far below those of NextBridge.

The cost for this route deviation would be in the order of $40.7M, increasing Hydro One's total costs to $676.9 million. Despite this increase, an overall capital savings of approximately $100 million[7] would persist. Additionally, if Hydro One were forced to follow the NextBridge route, OM&A costs would increase by $130k per year. Again, despite the increase, recurring OM&A costs would still be $3 million less than the NextBridge alternative.

The proposed in-service date of December 2021 will not change, provided that all other milestones detailed in Exhibit B, Tab 11, Schedule 1 of the Application are met. Additionally, EA studies

[7] This is relative to the $777,181,000 costs documented by NextBridge in Exhibit B, Tab 9, Schedule 1 of EB-2017-0182 – Filed: July 31, 2017

TAB 8

in-service date, and the evidence that supports that date, has also been filed with the OEB for its consideration. There is no further information required to meet the filing requirements of the OEB for leave to construct applications. Hydro One's application is complete.

b. Should the OEB issue a decision or order determining that the Lake Superior Link application will not be processed because it is incomplete?

No, the application is complete. The only outstanding issue from NextBridge's list of concerns is the in-service date, which is best addressed through a hearing that allows the OEB to fully assess the decision criteria it takes into consideration during the review of any leave to construct application, namely, balancing price, adequacy, reliability and quality of electricity service. This does not mean in any way that the application is incomplete.

There are multiple transmission alternatives to meet the transmission capacity needs of the province (e.g., overhead or underground cables). Hydro One's alternative results in a one-year delay to the recommended in-service date but also results in capital savings in excess of $140M and annual recurring OM&A savings greater than $3M. Despite NextBridge's demand that the OEB dismiss Hydro One's application without a hearing, Hydro One submits that the OEB has a duty to assess whether the huge ratepayer savings offset the one-year delay.

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?

Again, no, the application is complete. The only outstanding issue from NextBridge's list of concerns is the in-service date, which is best addressed through a hearing that allows the OEB to fully assess the decision criteria it takes into consideration during the review of any leave to construct application, namely, balancing price, adequacy, reliability and quality of electricity service. This does not mean in any way that the application is incomplete.

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?

Legal submissions regarding the OEB's authority to require Hydro One to expand or reinforce its transmission line through the Park will be made when the NextBridge motion is argued before the OEB.

From a cost perspective, reinforcing the Hydro One line through the Park alone without connecting to the Hydro One-proposed LSL line outside the Park would likely not be cheaper than the Hydro One Lake Superior Link solution, although it would be cheaper than the NextBridge solution. There would be an increase in Hydro One's cost/km rate relative to the cost/km rate provided to complete the entire LSL undertaking, because of the loss of efficiencies that are normally realized through scale as well as the loss of the mitigated risks achieved through the Engineering, Procurement and Construction contract with SNC-Lavalin. Additionally, efficiencies gained by having the same

transmitter complete the necessary OM&A activities along the entire corridor would be eroded. All of these incremental costs would be to the detriment of ratepayers.

Though Hydro One has little information regarding the Indigenous consultations undertaken by NextBridge, the reduced overall cost to the project will have an impact on the returns that can be expected from the First Nation equity partners, thereby perhaps requiring a renegotiation of terms. A shorter NextBridge line would mean a reduction of the nominal First Nations equity participation in the project unless Nextbridge increases its proposed 20% equity offering to First Nations to maintain their nominal participation as negotiated. In turn, this would also impact ratepayers, because a reduction of the nominal First Nations equity participation given the shorter Nextbridge section would reduce the tax-exempt benefits for the total transaction. (NextBridge and Hydro One are not tax-exempt organizations.) Therefore, the combined tax requirements of Nextbridge and Hydro One to be recovered annually through the OEB would likely translate into greater OEB revenue requirements throughout the life of the assets, for both entities.

Forcing Hydro One to complete only the section through the Park would also impact timing of the recommended in-service date, analogous to, and likely even later than, the Hydro One Lake Superior Link solution in-service date. For instance, if Hydro One completes the section through the Park and NextBridge builds the remainder of the line, the following activities would still need to be completed:

- NextBridge's Individual EA would need to be amended because of the need to deviate on the way to the Park and on the way out of the Park, and the area through the Park would need to be studied, as NextBridge has not done that to date
- The area through the Park, as a consequence of being added to the NextBridge amended EA, may then need to be transferred to Hydro One (which, to date, NextBridge has been unwilling to do), and Hydro One would need to become a co-proponent of the Individual EA, or the proponent of a different, independent Individual EA
- A new SIA and CIA would need to be prepared, submitted to the IESO, and obtain approval, in order to satisfy the change in infrastructure and design
- Transmission Connection Agreements will need to be signed between transmitters to establish responsibilities between transmitters.

The resulting delay would also impact agreed job start dates being marketed by NextBridge, which is a concern for local employees.

Additionally, having two transmitters, in essence owning one continuous line, would create ongoing operating and maintenance issues. For instance:

- The maintenance cycles would need to be coordinated between the two transmitters to minimize interruptions
- In the event of a major storm or unplanned outage tripping one or more circuits, the Ontario Grid Control Centre (OGCC) would have to engage both transmitters' maintenance crews to inspect the three different sections of the line to find the faulty tower, insulator or conductor. In the absence of such an agreement, OM&A costs will increase. Hydro One has local presence in northwestern Ontario that they can dispatch quickly to address any outages, if NextBridge does not have similar capabilities, and the appropriate staffing available, delays in restoration will be incurred.

- Work protection issues must be addressed. Unless there is one Controlling Authority[19] (as per Utility Work Protection Code), the entity owning the exit line from the station would have to issue a supporting guarantee for work downstream. Ideally, one entity maintains the entire line to avoid this duplication and complication in establishing a safe work zone. The supporting guarantee is needed to ensure personnel safety in addition to locally applied grounds and it is standard procedure.

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?

The main reason for the stated in-service date of 2020 is the OIC, dated Mar. 2, 2016, which stated:

> *[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;***

The delay of in-service date from 2018 to 2020 was previously proposed by the IESO (formerly OPA) and NextBridge, and the delay was endorsed by the OEB on November 19, 2015. The OIC stated that the project, and the agreed in-service date of 2020, is a priority.

Based on the OIC and the expectation that the designated and connecting transmitters could be able, at best, to complete the project by the end of 2020 (according to the July 31, 2017, leave to construct applications and their assumptions for approval timelines), the IESO in its 2017 update report[20] recommended an in-service date of 2020 by stating,

> The IESO **continues to recommend** an in-service date of 2020 for the E-W Tie Expansion project. Discussions with the transmitters confirmed their ability to meet this date, dependent on timely regulatory approvals.

In response, the Ministry of Energy, in its Dec. 4, 2017, letter to the IESO, stated,

> Given the IESO's recommended in-service date of 2020, I also expect the OEB will proceed in a timely manner in consideration of its performance standards for processing applications.

Upon review of the above references, and further justifications described later in this response, one can conclude that the 2020 in-service date is not a mandatory or critical requirement and is instead a desired recommended date.

Hydro One states that a delay of up to one year in the recommended in-service date is justifiable, considering the huge cost saving and reduced environmental impact that results from Hydro One's shorter route and smaller right-of-way compared to the NextBridge proposal. Hydro One is

[19] Controlling Authority definition - The person(s) who occupies a position responsible for the control of specific equipment and devices. This includes the responsibility for performing, directing or authorizing changes in the conditions or in the position of the equipment or devices.
[20] IESO Updated Assessment of the Need for the East-West Tie Expansion, December 1, 2017

TAB 9

UNDERTAKING JT1.15

UNDERTAKING

TR 1, page 87

To advise whether the existing consultation and the existing agreements would have to be revised or supplemented in some fashion in order for NextBridge to proceed with the scenario identified by the Board.

RESPONSE

The consultation agreements between NextBridge and Indigenous communities allow for project specific review of the East West Tie Line project. In many cases, these agreements have been concluded and the deliverables met. In the event of a need for additional review of the project, for example a change in routing that would require additional environmental assessment process activity, then new agreements would need to be executed. With respect to agreements that are not yet concluded, such agreements may need to be amended to increase the scope of project specific review activities.

TAB 10

Ontario Energy Board

Commission de l'énergie de l'Ontario

Ontario

EB-2011-0140

IN THE MATTER OF sections 70 and 78 of the *Ontario Energy Board Act 1998*, S.O.1998, c.15, (Schedule B);

AND IN THE MATTER OF a Board-initiated proceeding to designate an electricity transmitter to undertake development work for a new electricity transmission line between Northeast and Northwest Ontario: the East-West Tie Line.

BEFORE: Cynthia Chaplin
Presiding Member and Vice-Chair

Cathy Spoel
Member

PHASE 1 DECISION AND ORDER

July 12, 2012

INTRODUCTION

On February 2, 2012, the Ontario Energy Board issued notice that it was initiating a proceeding to designate an electricity transmitter to undertake development work for a new electricity transmission line between Northeast and Northwest Ontario: the East-West Tie line. The Board assigned File No. EB-2011-0140 to the designation proceeding. Seven transmitters registered their interest in the designation process.

Obligations and Milestones: Issues 9 – 12

Issue 9: ***What reporting obligations should be imposed on the designated transmitter (subject matter and timing)? When should these obligations be determined? When should they be imposed?***

Issue 10: ***What performance obligations should be imposed on the designated transmitter? When should these obligations be determined? When should they be imposed?***

Issue 11: ***What are the performance milestones that the designated transmitter should be required to meet: for both the development period and for the construction period? When should these milestones be determined? When should they be imposed?***

Issue 12: ***What should the consequences be of failure to meet these obligations and milestones? When should these consequences be determined? When should they be imposed?***

The Board will not impose a "performance obligation" in the sense of a performance bond or other financial instrument on the designated transmitter. Those parties who chose to address this issue in their submissions largely agreed with Board staff that a financial performance obligation was not necessary. The Board accepts the submission of EWT LP that the regulatory risk of cost disallowance is a deterrent to a voluntary failure to perform. The Board also agrees with SEC that the Board has the authority to impose conditions through amendments to the designated transmitter's licence if non-financial obligations are necessary.

The Board agrees with Board staff and other parties that it will be necessary to impose performance milestones and reporting obligations on the designated transmitter. The objectives of the milestones and reporting are:

- to ensure that the designated transmitter is moving forward with the work on the East-West Tie line in a timely manner;
- to facilitate early identification of circumstances which may undermine this ability to move forward; and

- to maintain transparency, as the costs of development work are intended to be recovered from ratepayers.

The Board will require, through its filing requirements, applicants for designation to propose performance milestones and reporting obligations that accomplish these objectives. The Board is reluctant to pre-determine the milestones and reporting that the successful applicant must accept, and expects that the experience in major project management that the applicants will bring to the designation process will be of assistance to the Board in setting appropriate conditions.

The proposed milestones and reporting obligations should apply to both the development phase and construction phase of the project, although the Board accepts that the milestones and reporting for the construction phase will be reconsidered and finalized during the Board's consideration of the leave to construct application. The Board will consider construction milestones and reporting only as indicative, and does not intend to impose those obligations at the time of designation.

Potential applicants for designation and other parties should note that the Board is not limited to imposing on a designated transmitter only those performance milestones and reporting obligations that the transmitter proposed in its application. All parties may choose to make submissions concerning the appropriate milestones that should be imposed on any transmitter that may be selected for designation. The Board will not impose novel conditions without providing designation applicants the opportunity to address the appropriateness of such conditions. The Board will establish the reporting requirements and performance milestones through an amendment to the designated transmitter's licence.

The Board finds that is it premature to determine in this Phase 1 decision the consequences for failure to meet the required performance milestones and performance obligations. Applicants for designation must include in their applications their proposals regarding the consequences of failure to meet their proposed performance milestones and reporting obligations.

The Board's policy indicates that the loss of designation and the inability to recover development costs are two potential consequences of failure. The Board is of the view that the severity of the consequences should be proportional to the severity of the

breach, and take into account the designated transmitter's mitigation efforts. In determining how to address any failure the Board will consider:

- the nature and severity of the failure
- the specific circumstances related to the failure
- the consequences of the failure
- the designated transmitter's proposal to address the failure

The Board notes SEC's submission that if a designated transmitter does not bring forth a leave to construct application, it must relinquish ownership of all information and intellectual property that it created or acquired during the development phase. AltaLink and others argued in response that to require delivery of all such information and intellectual property would be punitive, confiscatory and contrary to the public interest. The Board will not determine this issue at this time. However, if failure of the project occurs, and development costs are to be recovered from ratepayers, the Board may wish to consider whether information gathered and even design work completed at ratepayer expense must be made available to a substitute transmitter.

Runner up

Board staff, in its submission, asked parties to comment on the issue of whether one or more "runners-up" for designation should be selected by the Board. Some of the registered transmitters were not in favour of the Board selecting a runner-up, in part because keeping capital and human resources on hold awaiting potential failure of the designated transmitter would not be practical. However, several parties mentioned the potential efficiency to be gained, as if the original designee failed, no new designation process would be required to continue work on the project.

The Board will invite applicants for designation to indicate whether they are willing to be named as a runner-up. If the designated transmitter fails to fulfill its obligations and the line is still needed, the Board could offer the development opportunity to the runner-up. The runner-up would not be under an obligation to take on the project, but would have right of first refusal to undertake the work. Applicants that indicate their willingness to be named runner-up should also provide in their application any conditions that they believe are necessary to enable them to take on this role. The Board will not consider