



## **OEB Staff Submission**

**Application by Hydro One Networks Inc.**

**For leave to upgrade a transmission line and associated  
station facilities between Spruce Falls Junction and  
Carmichael Falls Junction in the Kapuskasing area**

**EB-2018-0098**

**July 17, 2018**

**BACKGROUND**

On February 5, 2018 Hydro One Networks Inc. (Hydro One) applied to the Ontario Energy Board (OEB) under section 92 of the *Ontario Energy Board Act, 1998* (Act), for approval to upgrade its existing transmission line and associated station facilities between Spruce Falls Junction (JCT) and Carmichael Falls JCT in the Kapuskasing area of Ontario. The proposed transmission facilities are collectively referred to in this submission as the “Project” or “Transmission Facilities”. They consist of:

- Upgrading a 32 km section of circuit H9K, a 115 kV transmission line, between Carmichael Falls JCT and Spruce Falls JCT to increase the rating to at least 310 amps; and,
- Installing of a 10 MVar capacitor and a 10 MVar reactor at Kapuskasing Transformer Station (TS).

Hydro One anticipates that the Project will be completed entirely within Hydro One’s existing corridor. However, in the event that property rights will need to be negotiated, Hydro One also seeks approval for the forms of the agreement offered or to be offered to affected landowners, pursuant to section 97 of the Act.

Hydro One submits that the Transmission Facilities are required to supply Kapuskasing area loads during times of high hydroelectric generation, and as a result of the inability to rely on local generation facilities as a firm generation source following the expiry of the local generation facilities’ contracts. Hydro One submits that the total cost of the Project will be \$21.07 M, of which \$4 M is associated with installing a 10 MVar reactor bank at Kapuskasing TS which is required regardless of the alternative selected for meeting the reliability needs.

The need for the Project was established by the Independent Electricity System Operator (IESO). Evidence provided by the IESO in Hydro One’s application states that based on technical and economic analysis performed by the IESO, the proposed Transmission Facilities is the least-cost option for providing required reliability.

The IESO studied two other alternatives when arriving at its recommendation:

- 1) Installation of a new 10 MW generator in the Kapuskasing area for 10 to 15 years, followed by an installation of a capacitor bank to address voltage needs at the end of the contract term and aligned with the end-of-life upgrade of circuit H9K; and

- 2) Execution of a new supply contract at an existing generation facility for at least 10 MW of supply until circuit H9K reaches end-of-life, followed by an installation of a capacitor bank to address voltage and the end-of-life upgrade of circuit H9K.

Atlantic Power Limited Partnership (Atlantic Power), the owner and operator of two generation facilities in the area (Calstock Generation Facility and Kapuskasing Generation Facility), submits that the IESO substantially overstates the costs of utilizing Atlantic Power's existing facilities to meet the local system needs in the IESO's alternative analysis, and that "a more fulsome consideration of all of the alternatives / options"<sup>1</sup> should be pursued. In its evidence, Atlantic Power notes that it would be willing to entertain "a mutually agreeable short-term contract" past June 2020 to alleviate schedule pressure and ensure that system needs continue to be met. In Atlantic Power's view, "a fair and objective analysis of whether either or both plants could operate in the future in a manner which would ...have the effect of eliminating the need for the transmission upgrade project proposed by Hydro One"<sup>2</sup> has not been undertaken to date. Atlantic Power requests that:

the OEB deny the requested leave to construct pending the completion of evidence that Hydro One and the IESO engaged in a transparent, iterative and fair cycle of discussions with Atlantic Power to identify technical system needs, to identify options to utilize existing facilities to meet those needs, and finally to properly cost those options and compare them to the proposed facility upgrades on an apples-to-apples basis.<sup>3</sup>

Through responses to interrogatories, Atlantic Power developed an illustrative cost estimate using publicly-available assumptions that amounts to \$19.191 M for a 5-year contract of its Calstock Generation Facility (Atlantic Power indicates that the 40 MW Kapuskasing Generation Facility is currently not operational). Atlantic Power states that "ratepayers breakeven if the annual contract price with Calstock is equal to \$19.191 M...to the extent the annual payments to Calstock are less than the breakeven point, ratepayers are better off over the 5-year period."<sup>4</sup>

A number of entities also filed letters of comment with the OEB, including the Municipality of Mattice-Val Côté; the Corporation of the Town of Hearst; the Power Workers' Union; Lecours Lumber, a local sawmill on Constance Lake First Nation land, which provides woodwaste to the Calstock Generation Facility; and Hearst Forest

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<sup>1</sup> Atlantic Power Evidence (Exhibit J), page 4.

<sup>2</sup> Atlantic Power Evidence (Exhibit J), page 2.

<sup>3</sup> Atlantic Power Evidence (Exhibit J), page 2 and 3.

<sup>4</sup> Atlantic Power Interrogatory Responses, staff-2, page 7.

Management Inc., which holds the timber licence on the nearby Hearst Forest. These letters of comment discuss the economic, social and environmental benefits that the Calstock Generation Facility purportedly offers to the region. The letters of comment also note that the Calstock Generation Facility is a renewable generation resource utilizing renewable biomass and waste heat<sup>5</sup>, which the OEB must take into consideration as per section 96(2) of the Act.

Hydro One has stated, in its argument-in-chief, that it has considered each of the letters of comment and reiterates that:

The KAR Project that is the subject of this proceeding is not forcing or mandating the closure of any generation site. The IESO Need Assessment articulates that this Project is required to address capacity and voltage performance needs that emerge due to the expiry of local generation facilities contracts. There is no explicit or even implicit requirement that the facilities close, nor does this Project automatically result in the closure of these facilities. In fact, the record states that it is possible that one or both of the NUGs would clear the incremental capacity auction that the IESO is presently designing. The need identified by the IESO that drives this Project is that once the contracts do expire, these generation facilities can no longer be relied on to meet local needs.<sup>6</sup>

Hydro One has indicated in its interrogatory responses and argument-in-chief that a Class Environmental Assessment (EA) was completed for the Project under the *Class EA for Minor Transmission Facilities* and that temporary land rights and water, road and rail crossing permits are required for access during construction and laydown areas. In addition, Hydro One submits that the Class EA for the Project followed the requisite screening process and was completed in November 2017. Hydro One further states that land rights and permits are expected to be completed by end of August 2018.<sup>7</sup>

## **STAFF SUBMISSIONS**

The OEB's jurisdiction to consider electricity leave to construct applications is framed by section 96(2) of the Act, which states:

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<sup>5</sup> Municipality of Mattice-Val Côté's Letter of Comment, page 1.

<sup>6</sup> Hydro One's argument-in-chief, dated June 5, 2018, pages 3-4.

<sup>7</sup> Hydro One's response to Atlantic Power Interrogatory # 9 (a) and (b).

In an application under section 92, the Board shall only consider the following when, under subsection (1), it considers whether the construction, expansion or reinforcement of the electricity transmission line or electricity distribution line, or the making of the interconnection, is in the public interest:

1. The interests of consumers with respect to prices and the reliability and quality of electricity service.
2. Where applicable and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy sources.

OEB staff appreciates the positions of those that filed letters of comment. In reviewing the letters of comment filed in this proceeding, OEB staff is aware of the concerns raised therein and considered whether these concerns fall within the scope of the OEB's review in an electricity leave to construct proceeding. However, in OEB staff's view, the regional economic, social and environmental benefits raised in the letters of comment for consideration by the OEB fall outside the OEB's scope of review in section 92 applications. The scope of the Act does not allow the OEB to consider matters such as the contribution of electricity facilities to the local economy, the creation of jobs, or the impact on various Indigenous communities in determining whether or not to grant leave to construct under section 92 of the Act. OEB staff notes that Ontario Regulation 116/01 under the *Environmental Assessment Act* includes consideration of "the social, economic and cultural conditions that influence the life of man or a community" in the definition of 'environment'<sup>8</sup>. It would therefore appear to OEB staff that issues raised in the letters of comment not related to price, quality and reliability of service, and the promotion of renewable energy sources in a manner consistent with the policies of the Government of Ontario, are more appropriately considered as part of the EA process, including any Duty to Consult.

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<sup>8</sup> Environment means:

- a. air, land or water;
- b. plant and animal life, including man;
- c. the social, economic and cultural conditions that influence the life of man or a community;
- d. any building, structure, machine or other device or thing made by man;
- e. any solid, liquid, gas, odour, heat, vibration or radiation resulting directly or indirectly from the activities of man, or;
- f. any part of combination of the foregoing and the interrelationships between any two or more of them.

With respect to the scope of the OEB's jurisdiction for applications under section 92 of the Act, OEB staff is guided by the OEB's decision in the Yellow Falls Limited Partnership leave to construct proceeding, wherein the OEB stated:

With respect to applications under section 92 the Board does not make, and is not empowered to make, any decisions with respect to Crown land rights of way, environmental protection and assessment, protection of species, community or worker safety, socio-economic effects, or any one of a significant number of approvals and permits required by the proponent with respect to such projects. Board approval is but one milestone on the path to project completion...section 96(2) operates to expressly constrain the Board's discretion, and limits its jurisdiction to the determination of matters of law arising exclusively in connection with the prescribed criteria, namely price, quality, reliability, and the government's policies with respect to renewable energy projects. The Board finds that the Legislature's unequivocal intention was to limit the scope of such proceedings to the enumerated criteria, and to preclude any other considerations of whatever kind, from influencing its determination of the public interest. The Board's authority to determine questions of law is not open-ended, but rather has been strictly prescribed by section 96(2).<sup>9</sup>

Having reviewed the evidence on the record, and in the light of the OEB's authority under section 92 of the Act with respect to price, quality and reliability of service, and the promotion of renewable energy sources in a manner consistent with the policies of the Government of Ontario, OEB staff does not oppose Hydro One's application. On balance, the proposed Transmission Facilities appear to represent the most viable solution for providing the required reliability.

## Price

In OEB staff's view, the proposed Transmission Facilities are preferable to proceeding with a contract with Atlantic Power to defer the need for the Project. Atlantic Power's illustrative example of costs for a 5-year contract, which amounts to \$19.191M and is a 'breakeven point' in their view, fails to recognize that the proposed Transmission Facilities address the needs for the foreseeable future, whereas at the conclusion of a 5-year contract with Atlantic Power, additional investments will be required to maintain reliability. In other words, one must compare the costs of the proposed Transmission

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<sup>9</sup> Decision and Order, EB-2009-0120, pages 9,11.

Facilities against Atlantic Power's proposed 5-year contract *plus* the costs of later upgrading the line which includes installing a capacitor bank (or a further generation contract) in order to compare alternatives that meet reliability needs over the long-term. On this basis, it is OEB staff's view that the Project is the most efficient solution from a cost perspective for addressing reliability needs.

OEB staff notes that Atlantic Power was provided an opportunity to file more specific estimates of the costs to contract one of their generation facilities on a confidential basis but did not do so. As such, there is a lack of evidence on the record to support Atlantic Power's assertion that the IESO has substantially overstated the costs of utilizing Atlantic Power's existing facilities to meet the local system needs in their alternative analysis.

OEB staff also submits that Atlantic Power's proposal with respect to a 5-year contract could be competitive with Hydro One's application if there was evidence that, at the end of the 5-year term, the need to reconductor the circuit H9K may no longer exist (for example, due to reduction in demand, new generation supply, etc.). However, there is no evidence to indicate that this may be the case.

### **Reliability and Quality of Service**

The IESO completed a System Impact Assessment (SIA) for the connection of the Transmission Facilities on April 6, 2016, in which it concluded that the proposed connection of the Transmission Facilities will not result in a material adverse impact on the reliability of the integrated power system, provided the requirements in the SIA are met. Hydro One also received a Notification of Conditional Approval of Connection Proposal from the IESO on April 6, 2016.

Hydro One completed a final Customer Impact Assessment (CIA) Report for the connection of Transmission Facilities on October 16, 2017. Hydro One advised that the upgrade to the section of circuit H9K from Spruce Falls JCT to Carmichael Falls JCT will not have any impact on area customers.

Based on the evidence submitted by Hydro One in respect of the SIA and CIA, OEB staff submits that there are no concerns with respect to reliability and quality of electricity service. OEB staff further notes that in keeping with the OEB's general practice, approval of the leave to construct application should be conditional on Hydro One complying with all the requirements of the IESO and Hydro One as outlined in the SIA and CIA, respectively.

## Promotion of Renewable Energy Sources

Both the letters of comment and Atlantic Power noted that the Calstock Generation Facility is a renewable generation resource utilizing renewable biomass and waste heat, which the OEB must take into consideration as per section 96(2) of the Act. A specific concern was raised by Atlantic Power that the Project does not meet the second part of the test for a leave to construct, as set out in section 96(2) of the Act. Atlantic Power seems to indicate that a project that could negatively impact a renewable generation facility would conflict with the OEB's legislative mandate to promote the use of renewable generation.

OEB staff submits that, when reviewing a section 92 application, section 96(2) requires the OEB to balance the interests of consumers with respect to prices and the reliability and quality of electricity service and, where applicable, the promotion of renewable energy sources in a manner consistent with the policies of the Government of Ontario.

OEB staff notes that no Government of Ontario policy has been put on the record of this proceeding that requires the contracting of biomass facilities. The Directives provided to the IESO by the Minister of Energy on December 14, 2015, and on December 16, 2016<sup>10</sup> regarding Non-Utility Generators (among other things), and as discussed on the record<sup>11</sup>, provide the IESO with flexibility to consider re-contracting a NUG if there are regional reliability needs. It appears from the record of this proceeding that the IESO has considered whether re-contracting local generation is a viable alternative for meeting needs in the Kapuskasing area, and has concluded that it is not the preferred option.

OEB staff therefore suggests that the promotion of renewable energy sources has been appropriately considered in this case.

## Land Matters

According to section 97 of the Act, in an application under "section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or

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<sup>10</sup> See: Ministerial Directive to the IESO, issued December 14, 2015 (Direction 1, page 5): <http://ieso.ca/-/media/files/ieso/document-library/ministerial-directives/2015/directive-nug-chpsop-20151214.pdf>; and Ministerial Directive to the IESO, issued December 16, 2016 (Direction 1, page 3): <http://ieso.ca/-/media/files/ieso/document-library/ministerial-directives/2016/directive-nug-20161216.pdf>

<sup>11</sup> See: Hydro One's evidence, Exhibit I, Tab 1, Schedule 6; Atlantic Power's evidence (Exhibit J), page 4; and Hydro One's Argument-in-Chief, pages 2-3.



will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.” Hydro One indicates it will be utilizing its existing land rights for the Project. To the extent that any temporary, off-corridor, access or construction requirements will be required, Hydro One seeks approval for the forms of the agreement offered or to be offered to affected landowners.

OEB staff has no issues or concerns with Hydro One’s proposed form of land agreements as Hydro One indicates they are consistent with agreements previously approved by the OEB in Hydro One leave to construct applications.

**All of which is respectfully submitted.**