



Kate Kempton
kkempton@oktlaw.com
416.981.9374
74168

August 30, 2018

Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON
M4P 1E4

Attention: Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Upper Canada Transmission, Inc. ("NextBridge") and
Hydro One Networks Inc. ("HONI")
East-West Tie Line Project and Lake Superior Link Project
Combined Hearing
EB-2017-0182/EB-2017-0194/EB-2017-0364
Bamkushwada Limited Partnership ("BLP") Interrogatories to HONI**

In accordance with Procedural Order No. 1 dated August 13, 2018, please find enclosed BLP's interrogatories to HONI in the above-noted proceedings.

In addition to the interrogatories that follow, BLP adopts Nextbridge's interrogatories to HONI dated August 28, 2018

Yours truly,

Olthuis, Kleer, Townshend LLP

for 

KATE KEMPTON

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

- and –

**Hydro One Networks Inc.
Application to upgrade existing transmission station facilities
in the Districts of Thunder Bay and Algoma, Ontario**

-and-

**Hydro One Networks Inc.
Application for leave to construct an electricity transmission line
between Thunder Bay and Wawa, Ontario**

BLP INTERROGATORIES TO HONI

BLP-1

Reference - EB-2017-0364, Written Submission from BLP First Nations dated June 1, 2018

Preamble - HONI estimates that the in-service date for the Lake Superior Link Project (“LSL”) will be 2021, one year later than the East-West Tie Project (“EWT”). But in order for the Duty to Consult and Accommodate (“Duty”) to be properly met both before and after Leave to Construct (“LTC”) is granted – and in all cases before construction actually starts – significantly more delay would be required. Such delays will impose greater and greater costs on the BLP First Nations that HONI will have to account for and make up.

- a) Provide all plans, including timelines, milestones, assessment and evaluation methodologies, that HONI will carry out to fulfill The Duty with the intent of *substantially addressing* the concerns of affected Indigenous peoples about the LSL.
- b) Describe in detail and provide plans describing how fulfilling the Duty will affect the LSL schedule, include the in-service date.
- c) Justify HONI’s estimate that HONI can fulfill the Duty within 12 to 14 months of receiving LTC.
- d) Describe in detail and provide a budget describing the cost to HONI of fulfilling the Duty, including provision of capacity funding to the BLP First Nations and compensation for the cost to the BLP First Nations of delaying the in-service date until after 2020.

BLP-2

Explain in detail and provide any documents explaining HONI’s understanding of where the Duty with respect to the LSL falls on the spectrum for the BLP First Nations, namely:

- a) Pays Plat First Nation

- b) Fort William First Nation
- c) Red Rock Indian Band
- d) Pic Mobert First Nation
- e) Biigtigong Nishnaabeg, and
- f) Michipicoten First Nation.

BLP-3

Explain in detail and provide any documents explaining HONI's understanding of whether the content of the Duty is different for First Nations with active Aboriginal title claims to parts of the LSL right of way (i.e. Pic Mobert First Nation and Biigtigong Nishnaabeg) and if so, how the content of the Duty is different and why.

BLP-4

Reference – HONI, LSL Environmental Assessment, Revised Draft Terms of Reference dated August 2018 (“EA ToR”), Page 25 – “As the usage of First Nation reserve land would require ISC authorization, requirements to this end may be via Project Description Report and/or through a Land Use Permit such as authorization under Section 28(2) of the Indian Act or equivalent. Consultation with local First Nations is ongoing throughout the lifecycle of the project and will include further determination of approvals for use of reserve land.”

- a) Provide copies of all responses First Nations have provided to HONI's request to engage in federal permitting requirements on-reserve.

BLP-5

Reference - EA ToR, Page 73 – “A list of potential Project effects on the natural environment is listed in Table 7 below: leaching of herbicides”

- a) Confirm that HONI intends to use herbicides during the construction phase of the LSL.
- b) State when HONI will develop a detailed Vegetation Management Plan that describes the use and restrictions on use of herbicides during the construction phase.
- c) Confirm that HONI intends to use herbicides during the operation and maintenance phase of the LSL.
- d) State when HONI will develop a detailed Vegetation Management Plan that describes the use and restrictions on use of herbicides during the operation and maintenance phase.
- e) Confirm that HONI has provided the above information to all 18 Indigenous communities potentially affected by the LSL and provide all records of comments made by those communities.

BLP-6

Reference - EA ToR, Page 78 – “The intent is to allow the additional details developed on the preferred undertaking (i.e. design, operations etc.) to be assessed. It also allows for the

evaluation of impact management measures and net effects within the context of a more comprehensive description for the preferred undertaking.”

- a) Provide copies of the documents HONI has provided and describe any other communications HONI has made to all 18 potentially affected Indigenous communities setting out the details of the design and operation of the LSL, in particular including the use of helicopters and air support during construction
- b) Provide all records of the comments made by Indigenous communities in response to the documents and communications referenced in a) above.
- c) Provide copies of the documents HONI has provided and describe any other communications HONI has made to all 18 potentially affected Indigenous communities setting out the details of the operation and maintenance plans of the LSL, in particular including including the use of herbicides and aerial spray.
- d) Provide all records of the comments made by Indigenous communities in response to the documents and communications referenced in c) above.

BLP-7

Reference - EA ToR, Page 87 – ” Throughout consultation with communities, Indigenous communities have been solicited for comments on the ToR, the Project as a whole, as well as asked to provide specific criteria and indicators important to their communities.”

- a) Provide all records of any capacity funding that HONI has provided to Indigenous communities to participate in consultation, including how much was offered to each Indigenous community and on what terms.

BLP-8

Reference - EA ToR, Page 87 – “A copy of the aggregate consultation record will be provided to regulators as required by the regulator and each Indigenous community will be provided with a copy of the consultation record pertaining to that community concurrent with the submission to regulators.”

- a) Specify what bodies are the “regulators”
- b) Specify which regulators, if any, have requested monthly updates to consultation summaries and logs and provide these monthly updates.

BLP-9

Reference - EA ToR, Page 90 – “Hydro One will advise the relevant Crown representatives/agencies of the results of the ongoing engagement with the Indigenous communities and will work cooperatively with all involved to reach appropriate solutions.”

- a) Specify who or what bodies are “the relevant Crown representative/agencies.”

- b) Describe and provide all documents relating to issues raised by Indigenous communities that required or require HONI to “work cooperatively with all involved to reach appropriate solutions,” including the documents stating the issues and details of any solutions reached.

BLP-10

Reference - EA ToR, Page 90-91 – “The EA consultation plan for Indigenous communities will clearly set out the steps Hydro One intends to take with respect to consultation activities. This document will include, but is not limited to, consideration of the following: How traditional knowledge will be incorporated.”

- a) Specify what Indigenous communities have provided traditional knowledge to HONI and the matters to which this traditional knowledge relates.
- b) Specify if any Indigenous communities have declined to provide traditional knowledge to HONI and why
- c) Provide all plans to incorporate traditional knowledge data into HONI’s application, evidence, and other materials generated for this proceeding, and into the design and operation of all phases of the LSL.

BLP-11

Reference - EA ToR, Page 91 – “Hydro One acknowledges the importance of conducting consultation through a process that is in alignment with community values, culture and protocols and is prepared to work with Indigenous communities to make necessary revisions to this Plan to ensure that it is respectful of community consultation protocols.”

- a) Provide all communications between HONI and Indigenous communities regarding consultation in alignment with community values, culture and protocols, including community consultation protocols.
- b) Explain in detail whether HONI will provide capacity funding to Indigenous communities if they request it or it is required or recommended by an Indigenous community’s values, culture, and protocols, including community consultation protocols.

BLP-12

Reference - EA ToR, Page 92 – “Hydro One will also work with Indigenous communities along the route to explore benefits and opportunities including, but not limited to, capacity building to participate in the engagement process, procurement and sub-contracting opportunities, job training, employment and equity participation;”

- a) Describe and provide all documents relating to opportunities for “capacity building to participate in the engagement process” that HONI offers or is willing to offer, and specifically whether these opportunities include HONI’s provision of capacity funding to participate in engagement or consultation

- b) Describe and provide all documents relating to “procurement and sub-contracting opportunities, job training [and] employment” that HONI offers or is willing to offer
- c) Describe and provide all documents relating to opportunities for equity participation that HONI offers or is willing to offer.