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**BY E-MAIL**

September 19, 2018

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto ON M4P 1E4

Dear Ms. Walli:

**RE: OEB Staff Submission on Development Costs  
Upper Canada Transmission Inc. (on behalf of NextBridge Infrastructure)  
Application for Leave to Construct the East-West Tie Line Project  
OEB File Number No.: EB-2017-0182 (combined with EB-2017-0194 and EB  
2017-0364)**

In accordance with Procedural Order No. 3 on Combined Hearing, dated August 31, 2018, please find attached OEB staff's submission on Upper Canada Transmission Inc.'s development costs in the above combined proceeding. The attached document has been forwarded to the applicant and to all other registered parties to the combined proceeding.

Yours truly,

*Original Signed By*

Zora Crnojacki  
Project Advisor  
Supply & Infrastructure

Attachment

cc: Parties to EB-2017-0182, EB-2017-0194 and EB-2017-0364



## **OEB Staff Submission**

**Upper Canada Transmission Inc.  
(on behalf of NextBridge Infrastructure)**

**Application for Leave to Construct the East-West Tie Line**

**Development Costs Hearing**

**EB-2017-0182  
(Combined with EB-2017-0194 and EB-2017-0364)**

**September 19, 2018**

## 1 INTRODUCTION AND SUMMARY

Upper Canada Transmission Inc. (NextBridge) and Hydro One Networks Inc. (Hydro One) filed applications with the Ontario Energy Board (OEB) on July 31, 2017 under section 92 of the *Ontario Energy Board Act, 1998* (OEB Act).<sup>1</sup>

NextBridge's application seeks an order granting leave to construct a new electricity transmission line between Wawa and Thunder Bay (NextBridge-EWT Application<sup>2</sup>). Hydro One's application seeks an order granting leave to construct the facilities necessary to upgrade existing transmission stations associated with the NextBridge project (Hydro One-Station Upgrades Application<sup>3</sup>).

On March 1, 2018, the OEB acknowledged NextBridge's request to postpone the review of its development costs and construction costs to a future hearing, but stated that the OEB would conduct a detailed review of these costs as part of this proceeding. The OEB directed NextBridge to file the evidence it believed to be necessary to support the development and construction costs for the project. NextBridge filed further evidence addressing its costs on March 14, 2018.

On May 7, 2018, the transcribed technical conference for the NextBridge-EWT Application took place. At the technical conference, OEB staff and intervenors asked questions to a panel of NextBridge representatives, including a number of questions about the development costs that have been sought by NextBridge. At the technical conference, NextBridge provided a number of undertakings to file further evidence. NextBridge filed responses to those undertakings on June 1 and 20, 2018.

On July 5, 2018, the OEB held an oral hearing to review the prudence of NextBridge's development costs. During the hearing, it became evident that further evidence was needed. By way of a series of undertakings, NextBridge agreed to file further evidence and explanation of its development costs. NextBridge filed its undertaking answers on July 23, 2018.

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<sup>1</sup> The OEB combined the NextBridge-EWT and Hydro One-Station Upgrades Applications with a third application that was filed by Hydro One in February 2018 on August 13, 2018. A combined hearing on all matters, except NextBridge's development costs, is scheduled for October 2018.

<sup>2</sup> The NextBridge-EWT Application has been assigned OEB File No. EB-2017-0182.

<sup>3</sup> The Hydro One-Station Upgrades Application has been assigned OEB File No. EB-2017-0194.

The OEB then provided parties an opportunity to ask written interrogatories to NextBridge on the recently filed undertaking answers. NextBridge filed responses to those interrogatories on August 24, 2018.

On August 31, 2018, the OEB set out the schedule for parties to file written arguments on NextBridge's development costs.

On September 10, 2018, NextBridge filed its Argument-in-Chief on the development costs issue. In that submission, NextBridge summarized its ask for recovery of \$40.2 million, almost double its original \$22.4 million estimate for development costs that had been approved by the OEB in the designation proceeding. It argues that the evidence demonstrates that NextBridge prudently incurred all costs. Among other things, NextBridge points to an Ontario Power Authority (OPA) recommendation to delay the in-service date of the transmission line and a major re-route of the transmission line as two of the major causes for cost escalation.

For the reasons that follow, OEB staff submits that NextBridge should recover a total of \$30,654,700 for its development costs. This represents more than \$8 million in addition to the amounts approved as part of the designation proceeding. While OEB staff acknowledges that there may be additional amounts above the \$30 million number that represent reasonable activities conducted by NextBridge, the OEB must make its decision based upon the evidence before it. In this case, NextBridge has not established the prudence of additional costs beyond \$30,654,700.

## **2 DESIGNATION PROCESS**

### **2.1 Background**

In March 2011, the Minister of Energy asked the OEB to create a process for selecting the most qualified and cost-effective transmission company to develop the East-West Tie transmission line that connects Northeast and Northwest Ontario. The OEB initiated a proceeding to designate a transmitter to carry out development work for the East-West Tie transmission line. The OEB used a two-phase process to reach its designation decision. Six transmitters submitted bids to be the designated transmitter.

## **2.2 OEB Decisions in the Designation Process**

On July 12, 2012, the OEB issued its Phase 1 Decision and Order<sup>4</sup>, which established specifics for the proceeding including decision criteria, filing requirements, obligations and consequences arising on designation, the hearing process for Phase 2 and the schedule for the filing of applications for designation. The OEB received six applications for designation, and considered the applications in Phase 2 of the proceeding, with the intent of selecting one of the applicants as the designated transmitter for development of the East-West Tie transmission line.

On August 7, 2013, the OEB issued its Phase 2 Decision and Order<sup>5</sup>, selecting NextBridge as the transmitter to complete the development work for the East-West Tie Line. The designation gave NextBridge an economic incentive to develop the line. A development budget of \$22.4 million was approved to be recovered from ratepayers, even if the line was eventually not needed. The \$22.4 million amount was supposed to cover NextBridge's costs up to the date of filing its Leave to Construct (LTC) application in January 2015. In a further decision and order dated September 26, 2013<sup>6</sup>, the OEB approved the development schedule filed by NextBridge, which presumed that the line needed to be in service by the first half of 2018.

## **2.3 Project Delay and NextBridge's Additional Development Costs**

On September 30, 2014, the OPA wrote to the OEB recommending that the in-service date of 2018 be extended to 2020, and that the development schedule be reconsidered to recognize that the pace of mining and other infrastructure in Northwestern Ontario, which drove the need for the line, had slowed. The OEB directed NextBridge to work with the OPA to create revised development and reporting schedules.

As a result of this recommended delay, NextBridge says it took steps to reduce costs including not undertaking planned environmental field studies and freezing preparation of its section 92 application to the OEB.<sup>7</sup> Despite these steps, by January 2015 NextBridge had almost reached (and in a couple of cases, exceeded) its budget in a number of key cost categories including (i) environmental and regulatory approvals; (ii) other consultation; (iii) regulatory; and (iv) project management.<sup>8</sup>

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<sup>4</sup> EB-2011-0140, Phase 1 Decision and Order, July 12, 2012.

<sup>5</sup> EB-2011-0140, Phase 2 Decision and Order, August 7, 2013.

<sup>6</sup> EB-2011-0140, Decision and Order regarding Reporting by Designated Transmitter, September 26, 2013.

<sup>7</sup> Exhibit B, Tab 16, Schedule 1, p. 7.

<sup>8</sup> NextBridge Report to OEB, January 22, 2015, p. 6.

NextBridge filed a request on May 15, 2015 that was updated on June 24, 2015, asking the OEB to approve a revised schedule for the development of the East-West Tie line consistent with a new in-service date of 2020 and development costs of \$20.37 million in addition to the approved development budget of \$22.4 million. NextBridge asked that the incremental development costs be approved on the same basis as the original development budget and that they be recovered even if the line is not needed.

In a decision dated November 19, 2015, the OEB denied the request for the recovery of additional development costs:

The OEB denies the request for the recovery of additional development costs in the manner proposed by UCT [NextBridge]. The OEB does not consider that any of the costs put forward by UCT [NextBridge] as extended development period costs to be akin to the Board-Approved costs in such a way that would lead to an acceptance of them without further scrutiny of the prudence and reasonableness of these costs.

...

The anticipated costs that UCT [NextBridge] has submitted are not defined within the same development cost elements as the original costs, nor are they subject to any competitive forces. In the OEB's view, prudence has not been determined in either the nature or the quantum of the costs.<sup>9</sup>

The OEB approved the updated development schedule and ordered NextBridge to continue to report to the OEB quarterly on the matters set out in the OEB's Phase 1 decision of January 22, 2015, commencing on January 15, 2016.

## **3 STAFF SUBMISSIONS**

### **3.1 Prudence Review of NextBridge's Additional Development Costs**

#### **3.1.1 What is a Prudence Review?**

The OEB regularly reviews costs that have already been incurred by a utility to determine whether all or some of those costs should be recoverable from ratepayers. These after the fact reviews are sometimes referred to as "prudence reviews". To be prudent, a decision to incur costs must have been reasonable under the circumstances that were known or ought

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<sup>9</sup> EB-2015-0216, Decision and Order, November 19, 2015, p. 7.

to have been known to the utility at the time the decision was made.<sup>10</sup> Prudence in this context has essentially the same meaning as "reasonable".<sup>11</sup>

The burden to establish the prudence of costs lies upon a utility that is seeking cost recovery.<sup>12</sup> In a 2016 decision, the OEB explained that a prudence review requires a review of the facts:

Prudence is not a “fact” that can be sworn to in an affidavit. Prudence (or imprudence) is a conclusion arrived at after reviewing the facts. Clearly a utility (or any party) cannot “prove” prudence simply by stating that it was prudent.<sup>13</sup>

Utilities cannot rely upon a presumption that costs incurred are prudent.<sup>14</sup> Rather they must provide sufficient evidence to establish the prudence of both the activity that was undertaken and also the quantum of costs for that activity.<sup>15</sup> The evidence required to establish prudence can vary depending upon the application and nature of activity/costs for which recovery is sought.

### **3.1.2 NextBridge’s Development Costs Claim**

In this application, OEB staff supports NextBridge’s recovery of \$30,654,700 for its development costs. NextBridge previously advanced a development cost budget of \$22.4 million, which included a contingency of more than \$1.5 million.<sup>16</sup> The OEB has accepted the reasonableness of that budget.<sup>17</sup>

OEB staff submits that this \$22.4 million should be the starting point for consideration of NextBridge’s development costs. OEB staff further agrees, in principle, that NextBridge should recover additional amounts (i) directly attributable to the OPA delay; and (ii) directly arising from the major re-route around Pukaskwa National Park, but only where the quantum of these additional amounts has been demonstrated to be prudent.

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<sup>10</sup> EB-2012-0033, Decision and Order, December 13, 2012, p. 13.

<sup>11</sup> *ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission)*, 2015 SCC 45, para. 35.

<sup>12</sup> *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, para. 79.

<sup>13</sup> EB-2014-0053/EB-2014-0361/EB-2015-0044, Decision and Order, January 14, 2016, p. 24 upheld on appeal in *Natural Resource Gas Limited v. Ontario Energy Board*, 2017 ONSC 1763 (Div. Ct.), para. 12.

<sup>14</sup> *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, para. 104.

<sup>15</sup> *Union Gas Ltd. (Re)*, 2002 LNONOEB 6, para. 123; see also EB-2015-0216, Decision and Order, November 19, 2015, p. 7.

<sup>16</sup> Exhibit B, Tab 16, Schedule 1, Attachment 11, p. 1.

<sup>17</sup> EB-2011-0140, Phase 2 Decision and Order, August 7, 2013, pp. 30-31.

OEB staff does not support the recovery of amounts above \$30,654,700. Although parties, including OEB staff, sought to elicit information from NextBridge through multiple rounds of interrogatories, a technical conference, and an oral hearing, in OEB staff's view, the evidence is not sufficient to establish the prudence of costs above that amount. OEB staff's concerns arise principally from three areas.

First, in a number of instances, NextBridge's evidence does not provide sufficient information about what activities have been included in a particular cost category, and how the costs of those activities differ from the costs of other activities. As a result, OEB staff is unable to confirm that there has been no double counting. For example, NextBridge seeks to recover costs of \$291,000 for *Activity 9: Accounting, back office, internal reporting and procurement support* and \$44,000 for *Activity 39: Regulatory and accounting matters*. When asked about the difference between the two activities, NextBridge stated that Activity 9 was for day-to-day responsibilities and Activity 39 was for one-off or annual regulatory responsibilities. NextBridge did not explain what the one-off or annual regulatory responsibilities were, how the day-to-day accounting activities did or did not contribute to the annual regulatory responsibilities, and whether it was the same internal staff billing for both activities.

Second, for a number of activities, there is insufficient information to establish that the quantum of expenditures was reasonable. For example, NextBridge seeks cost recovery of almost \$1 million related to the 2015 preparation of a revised schedule and budget and submitting the same to the OEB. The amount for these costs is high and there has been little explanation to establish the prudence of these expenses. NextBridge has also not pointed to any similar exercises that would allow the OEB to conclude that the costs are prudent.

Third, for cost overages above NextBridge's original estimate, there is insufficient evidence to find that amounts for additional activities could not have been covered by the originally budgeted amounts if not better managed. For example, NextBridge seeks to recover \$299,000 of costs under *Activity 38: Stakeholder Relations* for "a budget variance to address additional costs to provide the level of engagement necessary compared to the designation budget"<sup>18</sup>. NextBridge has not, however, provided a specific explanation of what drove this increase. Were more people required to attend the open houses than originally budgeted? Were travel expenses higher than planned? What other circumstances arose that caused the escalation of these costs? OEB staff also questions

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<sup>18</sup> See NextBridge's response to OEB Staff Interrogatory # 30 on Development Costs, August 24, 2018.



whether it would be just and reasonable for NextBridge to recover additional costs for activities that were contemplated in the designation process. NextBridge was selected to undertake the development work based upon a competitive process, which included a comparison of its costs to those of other bidders. Absent a change in circumstance, OEB staff questions whether NextBridge should be allowed to recover incremental amounts that resulted from under-budgeting as part of the designation process.

In addition, OEB staff has concerns that NextBridge's evidence on development costs could be inconsistent. In several cases, OEB staff was not able to reconcile amounts in one table to amounts in another. For example, in its most recent evidence filed after the oral hearing, NextBridge provides a project delay total of \$7.6 million in one table<sup>19</sup>, but calculates the project extension costs as \$7.463 million (based on an activity by activity review of its costs) in another table.<sup>20</sup> This discrepancy is further amplified by NextBridge's evidence that the \$7.6 million is intended to include an additional \$1.899 million in "Phase Shift" costs, leading to an unexplained gap of more than \$2 million.<sup>21</sup>

Below, OEB staff sets out a detailed explanation of its submissions on additional development costs incurred by NextBridge above the original \$22.4 million amount. OEB staff has based its submissions on the evidence provided in JD1.2, and the related interrogatory responses, as this was the most detailed explanation of costs and activities provided by NextBridge.<sup>22</sup> Appendix A to this submission summarizes OEB staff's position for each cost.

**(a)**

**Activity #1: Update stakeholder relations consultation plan**

NextBridge's Actual Additional Development Costs: \$10,000

OEB staff's Recommendation to be Allowed: \$2,500

NextBridge states that the changes to the Consultation Plan were required to address changed circumstances arising from the extended development period. However, a closer review of the updated consultation plan shows little connection between the edits and issues arising from the extended development period. For the most part, the edits

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<sup>19</sup> See NextBridge's answer to undertaking JD 1.6, July 23, 2018.

<sup>20</sup> See NextBridge's answer to undertaking JD 1.2, Attachment 1, p. 1, July 23, 2018.

<sup>21</sup> In its answer to SEC Interrogatory #2b, August 24, 2018, NextBridge states that "The Phase Shift category of expenses is in the Project Delay costs line item in Table 1 of NextBridge's Undertaking response found at Exhibit JD1.6".

<sup>22</sup> These individual cost activities are set in the evidence at Exhibit JD 1.2, July 23, 2018, and are summarized in Attachment 1, p. 1.

are formatting or other minor changes that are unrelated to the project delay.<sup>23</sup> OEB staff recommends approval of only 25% of the additional costs in Activity 1.

**(b)**

**Activity #2: One additional round of open houses**

NextBridge's Actual Additional Development Costs: \$216,000

OEB staff's Recommendation to be Allowed: \$216,000

NextBridge has provided specific details of the costs associated with these meetings. OEB staff supports NextBridge's efforts to maintain communication with stakeholders during the project delay period. Further, given that the change in route around Pukaskwa National Park, OEB staff submits that an additional round of open houses was appropriate. As a result, OEB staff supports approval of 100% of the costs incurred in Activity 2.

**(c)**

**Activity #3: Aboriginal capacity funding expenditures**

NextBridge's Actual Additional Development Costs: \$1,310,000

OEB staff's Recommendation to be Allowed: \$1,310,000

**Activity #4: Aboriginal consultation costs**

NextBridge's Actual Additional Development Costs: \$1,020,000

OEB staff's Recommendation to be Allowed: \$1,020,000

**Activity #25: Capacity funding agreement**

NextBridge's Actual Additional Development Costs: \$69,000

OEB staff's Recommendation to be Allowed: \$69,000

The duty to consult is an ongoing duty and NextBridge will have been required to spend additional amounts above the original budget to continue engagement efforts with Indigenous communities during the extended development period.

For the Aboriginal consultation costs (Activity 4), OEB staff notes that some of these activities are described in its quarterly reports that have been filed with the OEB. Based on those descriptions, it is clear that consultation efforts continued throughout the extended development period including meetings with individual communities. Moreover, the amount claimed for 2.5 years of consultation with 18 Indigenous communities seems reasonable. As a result, OEB staff supports the recovery of this amount.

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<sup>23</sup> Other than three additional paragraphs in the introduction section and a reference to an additional open house and newsletter, the changes to the document appear to be largely unrelated to the project delay.

For Activities 3 and 25, NextBridge provided specifics of the number of capacity funding agreements entered into during the extended development period and an explanation of what these agreements covered.<sup>24</sup> The evidence also contains an example of one of these agreements.<sup>25</sup> In addition, OEB staff submits that the amount claimed for 2.5 years of capacity funding for a large number of Indigenous communities seems reasonable. As a result, OEB staff supports the recovery of these amounts.

**(d)**

**Activity #7: Stakeholder engagement program**

NextBridge's Actual Additional Development Costs: \$296,000

OEB staff's Recommendation to be Allowed: \$296,000

**Activity #38: Stakeholder relations activity**

NextBridge's Actual Additional Development Costs: \$299,000

OEB staff's Recommendation to be Allowed: \$0

NextBridge has provided details of the additional costs incurred in Activity 7 and that it received nearly 4,000 records of engagement during the development phase. OEB staff is of the view that NextBridge provided sufficient details of its activities and that the amounts in Activity 7 seem to be reasonable.

OEB staff, however, does not support recovery for Activity 38. NextBridge has not provided sufficient details to explain why additional costs needed to be incurred. The evidentiary record does not explain what circumstances arose that caused the original budget to be inadequate. NextBridge stated: "Activity 38 relates to increased costs to conduct engagement originally planned for completion in the development period."<sup>26</sup>

**(e)**

**Activity #8: Ramp-up of LTC preparation**

NextBridge's Actual Additional Development Costs: \$54,000

OEB staff's Recommendation to be Allowed: \$0

OEB staff submits that this work should be covered by the original budget of \$985,000 (Regulatory Budget), which was to include filing of the LTC application, as no changes were made to the OEB's LTC Filing Requirements between the preparation of the original draft and the actual filing of the LTC application.

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<sup>24</sup> See NextBridge's answer to undertaking JD 1.2, pp. 7-8, July 23, 2018.

<sup>25</sup> See NextBridge's answer to undertaking JT 1.32, June 1, 2018.

<sup>26</sup> See NextBridge's response to OEB Staff Interrogatory # 6e on Development Costs, August 24, 2018.

In its evidence, NextBridge appears to suggest that these costs may have resulted from the need to incorporate information about consultations, including Aboriginal involvement. In response, OEB staff notes that the First Nations and Metis section in NextBridge's LTC application is brief and does not refer to events that occurred in the extended development period.

NextBridge also suggests that landowner lists needed to be updated for the LTC application. In response, OEB staff notes that landowner lists have to be maintained as part of general project management and the land-related cost categories. As a result, any incremental costs associated with incorporating these lists into the LTC application should have been minimal.

**(f)**

**Activity #9: Accounting, back office, internal reporting and procurement support**

NextBridge's Actual Additional Development Costs: \$291,000

OEB staff's Recommendation to be Allowed: \$291,000

While the evidence could have been stronger, the amounts claimed for 2.5 years of accounting, internal reporting and procurement seem reasonable. OEB staff therefore does not oppose these costs.

**(g)**

**Activity #10: Support functions for EWT Line Project work from all work streams**

NextBridge's Actual Additional Development Costs: \$1,241,000

OEB staff's Recommendation to be Allowed: \$0

**Activity #11: EWT Project office salary and overheads**

NextBridge's Actual Additional Development Costs: \$1,467,000

OEB staff's Recommendation to be Allowed: \$1,467,000

**Activities #14: Preparation of revised EWT schedule**

**Activities #15: May 15, 2015 submission costs**

NextBridge's Actual Additional Development Costs: \$952,000

OEB staff's Recommendation to be Allowed: \$238,000

**Activity #31: Compliance tracking and safety coordination & monitoring**

NextBridge's Actual Additional Development Costs: \$39,000

OEB staff's Recommendation to be Allowed: \$0

**Activity #40: Support functions for EWT Line Project development work**

NextBridge's Actual Additional Development Costs: \$84,000

OEB staff's Recommendation to be Allowed: \$0

For Activities 10 and 40, OEB staff is of the view that NextBridge has not specifically quantified or explained what additional workstream review and coordination work was caused by the delay (in terms of Activity 10) or why there were costs incremental to the original budget that should be recovered from ratepayers (in terms of Activity 40). NextBridge also did not explain how these costs were not covered under other categories of costs – for example, Aboriginal Consultation costs, Engineering, Stakeholder Engagement, or Environmental Assessment costs. These costs appear to be outside the additional project office salaries that would be covered by Activity 11. NextBridge did not provide details of meetings and therefore, OEB staff does not know what was discussed by NextBridge staff, how often these meetings were held and how many people attended these meetings. If the incremental costs in Activity 10 mainly cover the costs of biweekly calls as NextBridge has stated, by OEB staff's calculation each call would cost roughly \$19,000 ( $\$1,241,000 / 2.5 \text{ years} = \$496,000 \text{ per year}$ ;  $\$496,000 / 26 \text{ phone calls per year} = \$19,000 \text{ per call}$ ). Given the lack of detailed information on the record about the nature of the costs, OEB staff is unable to conclude that these costs were prudently incurred.

In Activity 11, OEB staff accepts that there would have been additional compensation costs associated with having project office staff required over a longer period of time than originally anticipated. OEB staff does not take the position that these costs should be disallowed. However, OEB staff submits that costs in other categories (e.g. Activities 14, 15 and 31) should be reduced or disallowed, as noted under the specific descriptions, as some of those costs should have been covered by the \$1.467 million amount recorded in Activity 11 for Project Office staff salaries.

For Activities 14 and 15, OEB staff is of the view that Activity 9 should already cover the costs of accounting staff and Activity 11 should already cover the costs of project staff. In fact, NextBridge stated that the Project Manager led the re-budgeting and rescheduling exercise that led to the May 15, 2015 and June 24, 2015 filings to the OEB and for that reason, the position could not have been reduced earlier. OEB staff is of the view that these additional costs in Activities 14 and 15 seem to be high over the 4 months, as there was little regulatory process beyond May 2015, until NextBridge's July 2017 (LTC filing), with the exception of the quarterly reports to the OEB which are budgeted separately. By way of comparison, the cost claim for Activities 14 and 15 is roughly equivalent to the entire original regulatory budget of NextBridge for an 18-month period.<sup>27</sup>

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<sup>27</sup> NextBridge's regulatory budget included in the approved \$22.4 million figure was \$985,000.

It is important to note that NextBridge has not provided specific information as to the nature of the costs (internal/external, time/materials, etc.), number of staff involved in these exercises, number of hours, or other similar information. In addition, OEB staff has concerns that there may be double counting of costs. Specifically, \$285,879 of project management expenses are being sought under Activities 14 and 15 even though project office salaries are already included in Activity 11.<sup>28</sup> While the lack of evidence could lead the OEB to find that no costs should be allowed, OEB staff supports the recovery of 25% of the costs. In the view of OEB staff, \$238,000 represents a reasonable amount of recovery for this activity.

In Activity 31, OEB staff recommends 100% of the costs to be disallowed, as in OEB staff's view, these costs were completely internal and it is unclear why these costs were not covered by the project office staff salaries in Activity 11.

**(h)**

**Activity #13: Supplemental socio-economic assessment**

NextBridge's Actual Additional Development Costs: \$160,000

OEB staff's Recommendation to be Allowed: \$0

NextBridge has confirmed that the Ministry of Environment, Conservation and Parks (formerly Ministry of Environment and Climate Change) did not require NextBridge to conduct this assessment or gather this additional information. There is also no evidence to suggest the Environmental Assessment (EA) requirements changed during this timeframe. Rather, this additional information was required after it was determined that gaps existed in original data collection and supplemental data was needed.<sup>29</sup> Given that NextBridge was overseeing the consultant that it had hired, OEB staff takes the position that these costs should not be recovered from ratepayers.

**(i)**

**Activity #16: Pursuit of authorization to study route through Pukaskwa Park**

NextBridge's Actual Additional Development Costs: \$92,000

OEB staff's Recommendation to be Allowed: \$92,000

The Independent Electricity System Operator asked NextBridge to pursue the route through Pukaskwa National Park option given its potential for cost savings and a lower environmental impact. In light of the quantum of costs claimed and explanations provided by NextBridge, OEB staff submits that these costs should be recovered from ratepayers.

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<sup>28</sup> Exhibit B, Tab 16, Schedule 1, Attachment 9, item (5) project delay.

<sup>29</sup> See NextBridge's response to OEB Staff Interrogatory # 11(c) on Development Costs, August 24, 2018.

(j)

**Activity #17: Proponent information tax returns**

**Activity #18: Annual audit of EWT project financials**

NextBridge's Actual Additional Development Costs: \$153,000

OEB staff's Recommendation to be Allowed: \$153,000

OEB staff notes that NextBridge provided the requested information for Activities 17 and 18. OEB staff is of the view that these amounts are reasonable and that tax returns and audits were done pursuant to a request for proposal (RFP) process, where the lowest cost provider was chosen.

(k)

**Activity #19: OEB quarterly reporting**

NextBridge's Actual Additional Development Costs: \$200,000

OEB staff's Recommendation to be Allowed: \$200,000

OEB staff notes that NextBridge provided the requested information with respect to costs incurred for this activity. OEB staff submits that 10 reports (each with a price tag of approximately \$20,000) in total were submitted to the OEB by NextBridge. OEB staff believes these costs were reasonable.

(l)

**Activity #20: Expanded alternatives assessment**

**Activity #21: Incremental field studies and access route assessment**

**Activity #22: Incremental environmental permits**

**Activity #23: Establish incremental study area and required activities**

**Activity #24: Incremental socio-economic assessment**

NextBridge's Actual Additional Development Costs: \$2,952,000

OEB staff's Recommendation to be Allowed: \$0

**Activity #41: Environmental Assessment review participation**

NextBridge's Actual Additional Development Costs: \$460,000

OEB staff's Recommendation to be Allowed: \$0

It is unclear to OEB staff as to what was included in NextBridge's original budget for Activities 20-24 and what specifically was done using the original budgeted amounts. It is also unclear to OEB staff as to what specifically triggered these additional costs to be incurred. Insufficient information was offered regarding what incremental studies were required and why they were not anticipated in the original budget provided on the record. Therefore, staff recommends disallowing the additional costs incurred in Activities 20-24.

Based on NextBridge's response to IR JD1.2-Staff-18c, it appears that the additional costs associated with Activity 41 were related to not having certain information available within a specific timeline. Given that there is no information to explain what may have impacted NextBridge's ability to provide this information in a timely manner, OEB staff takes the position that none of the additional costs for Activity 41 should be allowed to be recovered from ratepayers.

**(m)**

**Activity #26: Archaeology Stage 2 study**

NextBridge's Actual Additional Development Costs: \$1,012,000

OEB staff's Recommendation to be Allowed: \$0

It is not clear what was included in NextBridge's original budget for Activity 26 and what specifically was done using the original budgeted amounts. It appears that the additional costs were incurred, at least in part, due to insufficient funds being set aside for Activity 26. NextBridge has acknowledged that Archaeology Stage 2 study was always contemplated and this amount represents incremental expenditures above the amount included in its original budget.<sup>30</sup> While NextBridge attributes part of the cost to the major re-routes, NextBridge's evidence does not quantify that amount.<sup>31</sup> As a result, OEB staff takes the position that 100% of the additional costs should be disallowed.

**(n)**

**Activity #27: Timber Valuation**

NextBridge's Actual Additional Development Costs: \$71,000

OEB staff's Recommendation to be Allowed: \$71,000

OEB staff notes that NextBridge provided some information to explain why additional costs were incurred. In addition, it appears that timber valuation work was done pursuant to an RFP process and the lowest bidder was chosen by NextBridge. Therefore, OEB staff takes the position that these costs should be allowed.

**(o)**

**Activity #28: Engineering Review**

NextBridge's Actual Additional Development Costs: \$95,000 (\$69,000 for third party consultant fees and \$26,000 for internal resources related to consultant's work)

OEB staff's Recommendation to be Allowed: \$0

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<sup>30</sup> Transcript July 5, p. 49

<sup>31</sup> See NextBridge's response to OEB Staff Interrogatory # 19e on Development Costs, August 24, 2018



NextBridge has confirmed that these additional costs incurred for Activity 28 are not related to either the major re-routes or the delay of the project. As a result, it is unclear as to why these incremental costs are being sought, given that the original engineering budget should have covered costs associated with ensuring the proposed towers were structurally sound. OEB staff therefore takes the position that the additional costs in Activity 28 should be disallowed.

**(p)**

**Activity #29: Land title review Activity**

NextBridge's Actual Additional Development Costs: \$248,000

OEB staff's Recommendation to be Allowed: \$12,400

OEB staff submits that only 5% of the additional costs in Activity 29 should be allowed, as 95% of costs were incurred due to reasons other than the major re-routes. NextBridge has not adequately explained why the other 95% of costs were incurred or the circumstances that led to the original budget being inadequate.

**(q)**

**Activity #30: Legal support for land activity**

NextBridge's Actual Additional Development Costs: \$96,000

OEB staff's Recommendation to be Allowed: \$4,800

Similar to costs incurred in Activity 29, OEB staff submits that only 5% of the additional costs in Activity 30 should be allowed. While it is unclear how much of the costs in this activity are related to the re-routes and how much were incurred simply because the original budget was under scoped. OEB staff recommended recovery has assumed only 5% of costs in Activity 30 are associated with the re-routes (similar to the split stated by NextBridge for Activity 29).

OEB staff submits that the other 95% of the costs should be disallowed. NextBridge has not adequately explained why the other 95% of costs were incurred or the circumstances that led to the original budget being inadequate.

**(r)**

**Activity #32: Community Investment**

NextBridge's Actual Additional Development Costs: \$7,000

OEB staff's Recommendation to be Allowed: \$0

In response to interrogatories<sup>32</sup>, NextBridge stated that these costs have been mistakenly recorded. Therefore, OEB staff recommends 100% of the costs for Activity 32 should be disallowed.

**(s)**

**Activity #33: Data management/technical figure production**

NextBridge's Actual Additional Development Costs: \$42,000

OEB staff's Recommendation to be Allowed: \$0

It is unclear to OEB staff whether this activity duplicates work associated with preparation of materials for open houses, EA application, LTC application preparation and other cost activities. In addition, OEB staff is of the view that NextBridge has not established as to why these additional costs were needed. NextBridge stated that the additional costs incurred in Activity 33 were not related to the major re-routes and therefore, it is unclear to OEB staff whether NextBridge simply exceeded its own original budget. NextBridge has not provided details as to why the original budget was inadequate. Therefore, OEB staff takes the position the additional costs associated with Activity 33 should not be allowed.

**(t)**

**Activity #34: Land access and optioning activities**

NextBridge's Actual Additional Development Costs: \$1,367,000

OEB staff's Recommendation to be Allowed: \$1,367,000

**Activity #42: Incremental land optioning negotiations**

NextBridge's Actual Additional Development Costs: \$1,439,000

OEB staff's Recommendation to be Allowed: \$1,439,000

OEB staff acknowledges that land negotiation activities are onerous and sometimes multiple meetings with landowners need to occur. OEB staff supports the recovery of costs for both these activities. For Activity 34, OEB staff notes that the evidence indicates that NextBridge has executed over 120 access clearance agreements with landowners to enable engineering due diligence and field studies.

For Activity 42, OEB staff observes that these are additional costs not contemplated by the original budget. These activities, which were originally to be done in the construction phase, were brought forward to ensure that the NextBridge project schedule was

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<sup>32</sup> See NextBridge's response to OEB Staff Interrogatory # 25a on Development Costs, August 24, 2018.

maintained. NextBridge has provided specific details in its evidence including that more than 135 Option Agreements have been executed totaling 73% of the private land impacted by the proposed route.

(u)

**Activity #35: Market valuation**

NextBridge's Actual Additional Development Costs: \$6,000

OEB staff's Recommendation to be Allowed: \$6,000

OEB staff submits that only \$6,000 of the costs associated with the major re-routes are being sought in Activity 35. In OEB staff's view, these costs are directly attributable to the change in route and therefore should be recoverable. OEB staff does not take issue with the amount sought in this activity.

(v)

**Activity #39: Regulatory and accounting matters**

NextBridge's Actual Additional Development Costs: \$44,000

OEB staff's Recommendation to be Allowed: \$0

OEB staff submits that these additional costs should have been part of Activity 9, which covers Accounting support costs. Given a lack of detail on these costs, it is unclear to OEB staff whether the additional costs above the original budget incurred in Activity 39 were spent prudently.

OEB staff is not aware of reports, applications, or evidence that was filed with the OEB under a US GAAP methodology. As a result, OEB staff takes the position that additional costs in Activity 39 have not been sufficiently justified and should be disallowed.

## **3.2 Other Development Costs**

(w)

**3<sup>rd</sup> Party Engineering Costs, Filing of Leave to Construct and Land Permitting and consultation (Crown and Public Entities)**

NextBridge's Actual Additional Development Costs: \$2,953,000

OEB staff's Recommendation to be Allowed: \$0

Given that NextBridge has not provided any details on these specific costs or how they differ from activities in the original budget and costs reported in the extended development

period (such as Activity 34, 39 and 8), OEB staff is not in a position to support their recovery. OEB staff further notes that NextBridge has provided no indication that any of these costs directly relate to either project delay or the major re-routes.

### **3.3 Conclusion**

OEB staff submits that NextBridge should be allowed the recovery of \$30,654,700 for its development costs.

All of which is respectfully submitted.

# **OEB Staff Submission**

## **Appendix A**

**Upper Canada Transmission Inc.  
(on behalf of NextBridge Infrastructure)**

**Application for Leave to Construct the East-West Tie Line**

**Development Costs Hearing**

**EB-2017-0182  
(Combined with EB-2017-0194 and EB-2017-0364)**

**September 19, 2018**

EB-2017-0182 (Combined with EB-2017-0194 and EB-2017-0364)  
Upper Canada Transmission Inc. (on behalf of NextBridge Infrastructure)  
East-West Tie Line Project – Development Costs

Table 1: Activities and corresponding actual incremental costs incurred by NextBridge beyond the original budget<sup>33</sup>

|   | Activity # | Activity Title   | NextBridge's Actual Incremental Cost (\$,000) <sup>34</sup> | OEB Staff's Recommendation to be Allowed (\$,000) |
|---|------------|--|---|---|
| a | 1          | Update stakeholder relations consultation plan                                 | 10  | 2.5<br>(25% to be allowed)                        |
| b | 2          | One additional round of open houses  | 216   | 216<br>(100% to be allowed)                       |
| c | 3          | Aboriginal capacity funding expenditures                                       | 1,310   | 1,310<br>(100% to be allowed)                     |
|   | 4          | Aboriginal consultation costs  | 1,020   | 1,020<br>(100% to be allowed)                     |
|   | 25         | Capacity funding agreement   | 69  | 69<br>(100% to be allowed)                        |
| d | 7          | Stakeholder engagement program   | 296   | 296<br>(100% to be allowed for Activity 7)        |
|   | 38         | Stakeholder relations activity   | 299   | 0<br>(0% to be allowed for Activity 38)           |
| e | 8          | Ramp-up of LTC preparation   | 54  | 0<br>(0% to be allowed)                           |
| f | 9          | Accounting, back office, internal reporting and procurement support            | 291   | 291<br>(100% to be allowed)                       |
| g | 10         | Support functions for EWT Line Project work from all work streams              | 1,241   | 0<br>(0% to be allowed)                           |
|   | 11         | EWT Project office salary and overheads  | 1,467   | 1,467<br>(100% to be allowed)                     |
|   | 14 and 15  | Preparation of revised EWT schedule & budget and May 15, 2015 submission costs | 952   | 238<br>(25% to be allowed)                        |

<sup>33</sup> Table 1 is based on the table provided in Exhibit JD1.2, Attachment 1, Page 1 of NextBridge's undertaking responses.

<sup>34</sup> NextBridge's actual incremental cost beyond its original budget at the time of designation decision.

EB-2017-0182 (Combined with EB-2017-0194 and EB-2017-0364)  
Upper Canada Transmission Inc. (on behalf of NextBridge Infrastructure)  
East-West Tie Line Project – Development Costs

|   |           |   |       |                               |
|---|-----------|---|-------|-------------------------------|
|   | 31        | Compliance tracking and safety coordination & monitoring  | 39    | 0<br>(0% to be allowed)       |
|   | 40        | Support functions for EWT Line Project development work   | 84    | 0<br>(0% to be allowed)       |
| h | 13        | Supplemental socio-economic assessment  | 160   | 0<br>(0% to be allowed)       |
| i | 16        | Pursuit of authorization to study route through Pukaskwa Park   | 92    | 92<br>(100% to be allowed)    |
| j | 17 and 18 | Proponent information tax returns and Annual audit of EWT project financials  | 153   | 153<br>(100% to be allowed)   |
| k | 19        | OEB quarterly reporting   | 200   | 200<br>(100% to be allowed)   |
| l | 20-24     | Expanded alternatives assessment<br>Incremental field studies and access route assessment<br>Incremental environmental permits<br>Establish incremental study area and required activities<br>Incremental socio-economic assessment | 2,952 | 0<br>(0% to be allowed)       |
|   | 41        | Environmental Assessment review participation   | 460   | 0<br>(0% to be allowed)       |
| m | 26        | Archaeology Stage 2 study   | 1,012 | 0<br>(0% to be allowed)       |
| n | 27        | Timber Valuation  | 71    | 71<br>(100% to be allowed)    |
| o | 28        | Engineering Review  | 95    | 0<br>(0% to be allowed)       |
| p | 29        | Land title review Activity  | 248   | 12.4<br>(5% to be allowed)    |
| q | 30        | Legal support for land activity   | 96    | 4.8<br>(5% to be allowed)     |
| r | 32        | Community Investment  | 7     | 0<br>(0% to be allowed)       |
| s | 33        | Data management/technical figure production   | 42    | 0<br>(0% to be allowed)       |
| t | 34        | Land access and optioning activities  | 1,367 | 1,367<br>(100% to be allowed) |
|   | 42        | Incremental land optioning negotiations   | 1,439 | 1,439<br>(100% to be allowed) |
| u | 35        | Market valuation  | 6     | 6<br>(100% to be allowed)     |
| v | 39        | Regulatory and accounting matters   | 44    | 0<br>(0% to be allowed)       |

EB-2017-0182 (Combined with EB-2017-0194 and EB-2017-0364)  
 Upper Canada Transmission Inc. (on behalf of NextBridge Infrastructure)  
 East-West Tie Line Project – Development Costs

|   |       |  |   |  |
|---|-------|--|---|--|
| w   | Other | 3 <sup>rd</sup> Party Engineering Costs<br>Filing of Leave to Construct<br>Land Permitting and consultation (Crown and<br>Public Entities) | 2,953                                       | 0<br>(0% to be allowed)                                |
|   |       |  | <b>Cost<br/>Requested by<br/>NextBridge</b> | <b>Cost Allowance<br/>Recommended by<br/>OEB Staff</b> |
| <b>NextBridge's Additional Development Costs Beyond Original<br/>Development Budget</b> |       |  | 18,745 <sup>35</sup>                        | 8,254.7<br>(44.03% to be allowed)                      |
| <b>NextBridge's Original Development Budget at the Time of<br/>Designation</b>          |       |  | 22,400                                      | 22,400<br>(100% to be allowed)                         |
| <b>Total</b>  |       |  | <b>41,145</b>                               | <b>30,654.7<br/>(74.50% to be allowed)</b>             |

<sup>35</sup> "Total spent by NextBridge from Feb 15-Jul 17" in the table provided in Exhibit JD1.2, Attachment 1, Page 1 of NextBridge's undertaking responses is 18,746, however, the arithmetic sum of amounts for all activities in the table results in a total amount of 18,745. This discrepancy might be due to rounding.