

EB-2017-0182
EB-2017-0194
EB-2017-0364

ONTARIO ENERGY BOARD

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.

**NEXTBRIDGE COMPENDIUM FOR CROSS-EXAMINATION OF
HYDRO ONE**

VOLUME 2

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29.	December 8, 2017 presentation to HONI Board of Directors
30.	HONI Lake Superior Link Risk Register
31.	HONI response to Staff 5: requested LTC decision date

33832339.2

TAB 1

Purpose:

Response by Parks Canada Realty (Jason Crockett) to Hydro One Real Estate (Aaron Fair) to May 5, 2018 email correspondence.

Result:

Parks Canada clarifies that license agreement drafted terms will hinge on the results of the site specific EA requirement of Hydro One's occupation within Pukaskwa National Park as well as its pending Leave to Construct application specific to the Lake Superior Link project and resulting tower replacement.

May 30, 2018 – Email Correspondence between Hydro One Real Estate (Aaron Fair) and Parks Canada Realty (Jason Crockett)

TAB 2

- 1 c) Parks Canada is prepared to proceed with the renewal pending the results of Hydro One's
2 LSL application.
3
- 4 d) Hydro One has not yet determined the finalized business arrangement for the ownership
5 and/or operation of LSL. Therefore, there is no reason at this time to believe that the
6 arrangement will be contrary to the terms of the licence from Parks Canada which, in any
7 event, contains a provision for the licensee to obtain consent to a change of the licensee itself
8 or a change to the ownership of the licensee.

TAB 3

Minutes No.:		Project #:	652996	
Project Name:	Lake Superior Link			
Prepared by:	L. Medved	Meeting Date:	August 23, 2018	
		Meeting Time:	9:00 am – 11:00 am	
		Location: 195, TWM, Toronto Boardroom #E&W		
Attendees:	Christine Drake (CD)	PC	Bruce Hopper (BH)	HONI
	Sharon Hayes (SH)	PC	Devi Shantilal (DS)	HONI
	Courtney Irvine (CI)	PC	Tausha Esquega (TE)	HONI
	Lynn Lefort (LL)	PC	Christine Goulais (CG)	HONI
	Marie Claude (MC)	PC	Melissa Fast (MF)	HONI
			Craig Wallace (CW)	SLI
			Alain Delisle (AD)	SLI
			Luka Medved (LM)	SLI

Minutes

Item #	Description	Action by	Date
LSL Project			
1	Introductions		
1.1	Those in attendance briefly introduced themselves before starting the meeting.	Info	
2	Project Update (BH/CW/CG)		
	<ul style="list-style-type: none"> OEB dismissal of motion to dismiss Revised Draft ToR Environmental Studies (past, present and future) Consultation activities 		
2.1	BH provided an update on the OEB process. BH confirmed that the NextBridge motion to dismiss Hydro One's LSL project was dismissed by the OEB. As a result, both NextBridge and Hydro One will submit competing Section 92 Leave to Construct applications to build the east-west tie. BH noted that as per a recent procedural order issued the OEB will now hear the NextBridge and Hydro One applications simultaneously. The joint hearings for the applications are scheduled to begin in October 2018. BH noted no decision on either of the applications was likely to be received until early 2019 (January at the earliest).	Info	
2.2	Parks Canada inquired about the recent OEB notice received on August 22. BH explained that the notice provided information on the upcoming joint hearings and provided stakeholders information on how to file letters or become an	Info	

Item #	Description	Action by	Date
	intervenor.		
2.3	BH thanked Parks Canada for the comments provided on the draft ToR. BH explained that the decision to issue a revised ToR came following comments received by MECP. BH noted the revised draft ToR identified responses to comments received and where changes to the draft ToR were made. BH noted the comment period of the revised draft ToR would close on August 27, 2018. BH confirmed the Proposed ToR would be submitted to MECP on August 31, 2018, with the formal 30 day review period beginning on September 7, 2018.	Info	
2.4	Parks Canada noted that their review of the Individual EA ToR was focused only on Pukaskwa National Park (PNP) rather than the project as a whole.	Info	
2.5	BH confirmed that the initial series of field studies conducted in June-July were completed. These surveys focused on migratory birds, species at risk, vegetation and fish (aquatic). CW confirmed the next round of field surveys were set to begin in early September and would focus on vegetation and aquatic surveys. CW explained that the field program focus has been mainly on the Lakehead to Dorion and Marathon to Wawa corridors. CW also noted in addition to the corridors being assessed, areas such as PNP, access roads, fly yards, laydown yards and other ancillary infrastructure were being assessed.	Info	
2.6	BH confirmed Stage 1 and 2 archaeology work has begun going from west (Thunder Bay) to east (Wawa). BH noted that each of the Indigenous communities was invited to participate in the archaeology work.	Info	
2.7	CW offered to share mapping identifying proposed survey locations for the upcoming field surveys to be held in September. Parks Canada noted at this time a copy of such mapping did not need to be shared.	Info	
2.8	BH provided a brief overview of recent Indigenous engagement activities. BH noted meetings with several First Nation and Métis communities have occurred and additional meetings have been scheduled.	Info	
2.9	BH noted Hydro One continues to engage both Pic River and Pic Mobert on the LSL project. BH confirmed HONI is close to signing a CFA agreement with Pic River and that a follow-up meeting with the community has been scheduled for August 27.	Info	
2.10	CG noted Michipicoten FN has expressed interest in the studies proposed to occur in PNP. CG confirmed Hydro One has shared a CFA with the community to review and is in the process of signing a letter of agreement.	Info	
2.11	Parks Canada inquired if Pic River, Pic Mobert and Michipicoten FN have been engaged on the field work plans. BH confirmed that work plans have been shared with each of the communities. BH noted Michipicoten has been engaged	Info	



Item #	Description	Action by	Date
	on the archaeology work and that Hydro One continues to try and arrange meetings with Pic Moberg to discuss the field program. BH confirmed that notices to each of the communities were sent regarding the upcoming field work. BH noted Pic River has expressed interest in participating in the September field surveys.		
3	Permitting <ul style="list-style-type: none"> Natural environment studies, archaeology (CW/BH) 		
3.1	BH inquired about the level of input required from the three Indigenous communities before the research permit for PNP can be issued. Parks Canada noted PNP staff has never completed a Detail Impact Assessment (DIA) under CEAA 2012 and that typically permits are not issued until the DIA ToR has been finalized or is near completion. Parks Canada noted it does not want any work to occur within the park until the entire scope of work is known.	Info	
3.2	CW noted the permit application outlined all of the proposed studies and when they would occur. CW explained as the late spring/early summer window has been missed further biological surveys will be required in 2019. CW inquired whether multiple permits would be required to complete the work in 2018 and 2019. Parks Canada noted that a multi-year permit could be issued to cover multiple years of work.	Info	
3.3	Parks Canada stated it would require a DIA ToR focused only on the proposed work in PNP before a research permit could be issued. CG inquired if letters of support from the three Indigenous communities would also be required for issuance of the research permit. Parks Canada noted it would consult internally to determine if letters of support would be required for permit issuance.	Info	
3.4	BH inquired whether a guide was available for the DIA process. CD noted a guide was sent previously to Hydro One and is available. CW and BH to follow-up to confirm that Hydro One has document previously sent by Park Canada..	BH	
3.5	AD inquired about the permitting requirements for construction. Parks Canada noted a license of occupation would be required to allow construction work to occur and that building permits may also be required for the towers. Parks Canada noted it would outline permitting requirements through the DIA process under CEAA.	Info	
3.6	Parks Canada inquired when construction work was scheduled to begin within PNP. AD noted the outage for tower work was planned for August 2020, but that other work (e.g. foundations) would be required in advance.	Info	
4	Technical Design Details (AD)		

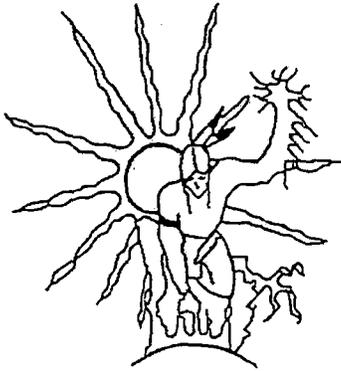
Item #	Description	Action by	Date
4.1	AD provided an overview of early survey results for foundation inspection work completed in PNP. AD discussed the two tower design options proposed in PNP and provided an overview of the design details. AD noted all tower work proposed in PNP would be completed by helicopters and that all fly yards would be established outside the park. A copy of the confidential presentation was provided to Parks Canada staff for review.	Info	
4.2	Parks Canada inquired if local communities would lose power during the planned outage in 2020. AD confirmed no local communities would lose power as a result of the outage.	Info	
4.3	Parks Canada inquired about general schedule for foundations and tower erection relative to the 2 week power outage planned in August 2020. AD confirmed that prior to outage the foundation for towers is to be constructed, which is tentatively scheduled for February 2020.	Info	
4.4	MC noted Hydro One should be aware of upcoming legislation changes to CEAA 2012 and the Fisheries Act.	Info	
4.5	BH inquired whether Parks Canada would be comfortable in allowing staff to utilize ATVs and tracked equipment within the ROW or whether it would be preferred that all transport between towers be completed via helicopter. Parks Canada noted so long as all required permits (e.g., Fisheries Act) were obtained and there were no significant adverse effects, ATVs and tracked equipment would be allowed within the ROW during construction.	Info	
4.6	Parks Canada inquired what the tower height range in the park was. AD noted that this information would be identified and shared with Parks Canada to fully understand the existing height of towers versus that proposed by Hydro One.	AD	
4.7	Parks Canada inquired why the PNP construction approach (quad circuit) could not be applied throughout the entire project. BH/AD explained that cost and technical feasibility prevent the quad circuit option from being applied throughout the entire project (i.e. all 400 km).	Info	
4.8	Parks Canada inquired whether the existing transmission line could be removed if Hydro One does complete the east-west tie project. BH noted that there are no plans to remove the existing line if the LSL application is unsuccessful.	Info	
4.9	MC noted Parks Canada will need to confirm whether construction of new foundations would be allowed in PNP, as the initial proposal only identified the upgrading of existing tower foundations as an option.	MC	
4.10	Parks Canada inquired if the planned outage was missed, would another outage be required to complete the proposed work. AD confirmed if an outage was missed or if the proposed work was not completed within the planned	Info	



Item #	Description	Action by	Date
	outage, that an additional outage would be required.		
4.11	MC inquired whether upgrade work to the existing transmission line would be required regardless of the east-west tie project. BH confirmed that work on the existing towers (60 years old) would likely be required within the next decade. BH explained that by completing the LSL project no work within the park would be required for decades.	Info	
5	Other		
5.1	No additional items of discussion were identified.	Info	

The above is considered to be a true and accurate record of discussions at the meeting. Please advise the writer of any discrepancy noted within 3 business days of issue so that any suggested corrections may be addressed prior to approval of minutes at the next scheduled meeting.

TAB 4



BIIGTIGONG NISHNAABEG

June 22, 2018
VIA EMAIL

Hydro One Networks Inc.
Bruce Hopper, Environmental Planner
483 Bay Street
Toronto, ON
M5G 1P5
Community.relations@hydronone.com

Re: Biigtigong Nishnaabeg Consultation with HONI

Dear Mr. Hopper;

We attach to this letter for our requested amendments to the consultation process agreement. What you had sent us was not adequate to facilitate meeting the Duty to Consult and Accommodate, which Duty must always be carried out in good faith with the intent of substantially addressing all of the First Nation's concerns about the Project.

As you know, our First Nation has many serious concerns. We have asserted aboriginal title to lands on which your project would be situated and would impact. Much of those lands are not the same as the lands for the EWT project, and we are deeply concerned about impacts to national park (which is in our title area). We set out the nature of our concerns in our submissions in the Nextbridge motion to strike out HONI's leave to construct application.

But neither HONI nor BN have undertaken the necessary studies to ascertain in detail the extent, timing, location or elements of the impacts on our asserted title lands, especially in the park. These studies are of critical importance to understanding such impacts and BN concerns with them. And such understanding is critical to determining if and how such concerns can be substantially addressed through accommodation measures. In other words, these studies are the foundation on which the duty will be met or breached. They cannot be rushed or taken lightly. Nor is BN prepared to simply give HONI our consent to proceed with them in a rushed manner and without much of our considered involvement.

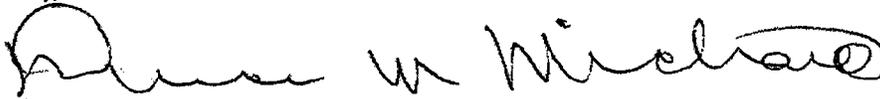
While we appreciate that HONI wants to get the consultation and accommodation of BN undertaken and completed quickly, it is HONI that has itself created the cause of this timeframe. HONI is the author of its own misfortune here. HONI cannot short circuit the duty to consult and accommodate, which is a constitutional duty, and cannot short circuit BN rights in the process.

BIIGTIGONG NISHNAABEG - OJIBWAYS OF THE PIC RIVER FIRST NATION

We will consent to HONI undertaking studies of impacts in our traditional and title lands, only when we have concluded the consultation process agreement and sufficient funding and protocol protections are in place through this agreement for us to participate in these studies and the rest of the engagement in an informed and meaningful way. Note that the version of the agreement you sent us was seriously deficient in the funding provisions and budget – both in amounts and in unfettered discretion that HONI would have in determining whether and if so how much funding would be allocated. This is unacceptable and our edits have addressed these deficiencies.

We thus strongly suggest you get back to us as soon as possible on your comments to our edits to this agreement, and that you make best efforts to conclude and execute this agreement in the next few days.

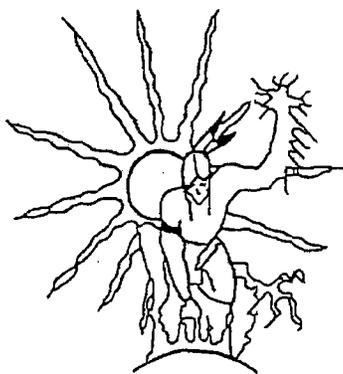
Sincerely,

A handwritten signature in black ink, appearing to read "Duncan W. Michano". The signature is fluid and cursive, with a large initial 'D' and a circled 'o' at the end.

Chief Duncan Michano
Biigtigong Nishnaabeg

Cc. Stephan Lindley - VP Aboriginal and Northern Affairs, SNS Lavalin
Tausha Esquega - Indigenous Relations, Hydro One Networks Inc.
Juanita Starr, Director – Sustainable Development, Biigtigong Nishnaabeg
Kate Kempton - Olthius Kleer Townshend LLP

TAB 5



**BIIGTIGONG
NISHNAABEG**

July 4, 2018
VIA EMAIL

Victoria Cafik
Archaeological Research Associates Ltd
900 Guelph St
Kitchener, ON N2H 5Z6
vcafik@arch-research.com

Re: Lake Superior Link Stage 1 and 2 Archaeological Assessments, Project Introduction and Invitation to Participate - Ojibways of the Pic River First Nation

Dear Ms. Cafik;

We have reviewed your letter and had our lawyer review it as well. First, we are unable to respond to you by the deadline you imposed (July 13) , unless and until we have reached an agreement with HONI on the consultation and accommodation process and its related agreement and workplan and budget. We submitted edits to HONI's draft consultation agreement and budget, over a week ago, and are awaiting a response. We informed HONI that the agreement and workplan and budget it had provided to us, was wholly inadequate to meet the constitutional duty to consult and accommodate, and that we would not allow shortcuts and inadequate measures to be taken just because HONI has created for itself a tight timeline. That is HONI's fault and problem, and it cannot impose the burden of it on us.

In our edits to the consultation agreement and budget, we provided for more work and funding for traditional use studies and for archaeological peer review and monitoring. Your company is not working for us, and this makes us uncomfortable since it our cultural heritage at stake, and not HONI's. Too much ash been taken from us already. As such, it is imperative that we have both the time and the funds required for an archaeologist or other qualified consultant of our choosing, to review, monitor and comment on what you intend to do, at all stages of your work.

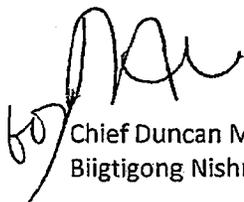
We have some serious concerns already about the scope of your work. You intend to do very little in Pukaskwa National Park, on the premise that the new towers would be built on the current right of way. To assume that surrounding land would not be impacted is not in keeping with best practices – we believe it will be. Also, you seem to be assuming that our heritage will have already been destroyed in the current right of way and need not be investigated and protected now. That is also not in keeping with best practices, and this assumption has been proved wrong in other contexts. To compound an original wrong with another is not sufficient. Further, it appears that you do not have plans to conduct

BIIGTIGONG NISHNAABEG - OJIBWAYS OF THE PIC RIVER FIRST NATION

interviews of our knowledge holders, and instead would rely on whatever TLUS or related studies exist to date. Such studies do not exist for areas of the HONI project that are not the same as the EWT project. Such studies would have to be done before you commenced any stage two fieldwork or concluded any stage one report. Again, we have identified to HONI that more funding is required for this, in the budget attached to the draft consultation agreement.

Your company seems to have been told by HONI to hurry things along. It seems as if HONI's clock is taking precedence over everything else, including our cultural heritage and our rights. The entire HONI LSL project is within Biigtigong asserted title lands. Steamrolling across our rights and claims is something we cannot allow.

Respectfully,

A handwritten signature in black ink, appearing to be 'DM' with a flourish, positioned above the printed name.

Chief Duncan Michano
Biigtigong Nishnaabeg

Cc. Bruce Hopper, Hydro One Networks Ltd
Juanita Starr, Biigtigong Nishnaabeg
Kate Kempton, OKT Law

TAB 6



August 21, 2018

Paul Dobson, Acting President and Chief Executive Officer and Chief Financial Officer
Hydro One Networks Inc.
483 Bay Street
South Tower, 6th Floor
Toronto, Ontario, M5G 2P5

Via email: Paul.Dobson@HydroOne.com

Dear Mr. Dobson,

RE: Rejecting any renewed or replaced transmission within Pukaskwa National Park

CPAWS Wildlands League is writing to urgently request that you avoid Pukaskwa National Park in the proposed Lake Superior Link Transmission Project. This Hydro One project is currently undergoing consultation on its revised draft Terms of Reference for an independent environmental assessment under the province's *Environmental Assessment Act* and its preferred route would extend through the National Park.

Wildlands League does not support renewing or replacing existing transmission through Pukaskwa National Park because it is inconsistent with the maintenance and restoration of ecological integrity (the first priority in managing all aspects of the Park). We urgently advise Hydro One to use an alternative around the Park called the Reference Route Alternative.

Hydro One's preferred route through the Park would delay restoration of the Park's ecological integrity and ultimately lead to more fragmentation and disturbance within the Park. This is not in the public interest and not consistent with the first priority of maintaining and restoring ecological integrity. A line through the Park, including a proposal to renew or replace existing transmission, must be rejected because it would be moving park management in the wrong direction on the ecological integrity continuum. Hydro One must avoid Pukaskwa National Park and phase out the existing transmission line so the Park's ecological integrity can be restored, allowing the Park to fulfill its proper role in helping to preserve the nation's biodiversity.

In May of this year, the Honourable Catherine McKenna, Minister of Environment and Climate Change, and Minister responsible for Parks Canada issued a formal declaration¹ reaffirming that "ecological integrity is the first priority in considering all aspects of management of national parks – through focused investments, limiting development, and by working with Indigenous peoples, provinces and territories." We welcome and support this statement as it reflects our long standing position too.

¹ See <https://www.newswire.ca/news-releases/minister-mckenna-affirms-ecological-integrity-is-the-first-priority-in-the-management-of-parks-canada-681944261.html>



WILDLANDS LEAGUE

A chapter of the Canadian Parks and Wilderness Society

Wildlands League has been following the planning for East-West Tie Expansion Project. We shared our view over five years ago directly with proponent NextBridge Infrastructure that any proposed transmission line must avoid Pukaskwa National Park in order to maintain and restore the ecological integrity of the Park. We were pleased to see that proponent's preferred route avoid the National Park. This is also consistent with Parks Canada's direction in 2014 to not allow a study of a route through the Park by then Acting Field Superintendent R. Lessard. This was and still is the correct course of action. Limiting development in the Park is what's needed at this time.

As you may know, Canada is not immune to the biodiversity crisis gripping the planet. Our national parks are key anchors in our country's protected areas network and we cannot allow them to continue to be degraded. We need them and other new protected areas if we are going to reverse the decline of biodiversity and meet our obligations under the Convention for Biological Diversity. Wildlands League strongly urges Hydro One to avoid Pukaskwa National Park in order to limit development within the Park, to demonstrate support for affirming maintenance and restoration of ecological integrity as the first priority for Park management, and to support the phase out of the existing transmission line so that the corridor and Park's ecological integrity can be restored.

We understand that Hydro One is committed to the communities it serves, and has been rated highly in Canada for its corporate citizenship, sustainability, and diversity initiatives. In order to maintain your reputation as a top utility in Canada for sustainability, we strongly advise you to avoid Pukaskwa National Park.

Please feel free to call me if you have any questions or comments.

Sincerely,

Anna Baggio
Director Conservation Planning

Cc: Steven Mantifel, Special Manager, Community Relations, Hydro One
Community.Relations@HydroOne.com and regulatory@HydroOne.com

TAB 7

1 **NextBridge Interrogatory # 20**

2
3 **Reference:**

4 EB-2017-0364 - February 15, 2018 HONI Lake Superior Link Application, EXHIBIT B, TAB 1,
5 SCHEDULE 1, page 7, lines 12-13.

6
7 **Interrogatory:**

- 8 a) Explain in detail the status of obtaining the land rights for the “57 km greenfield bypass
9 around the communities of Loon Lake and Dorion.”
- 10
- 11 b) Explain in detail why HONI intends to bypass Loon Lake.
- 12
- 13 c) Explain in detail why HONI intends to bypass Dorion.
- 14
- 15 d) Provide copies of all correspondence from a landowner, Indigenous Community, and
16 governmental agency that have expressed a concern or opposition to HONI’s routes to bypass
17 Loon Lake and/or Dorion.

18
19 **Response:**

- 20 a) The status of obtaining the land rights for the 57 km greenfield bypass is as follows:
- 21 • Hydro One has conducted title searches of all impacted patented properties (IPP);
- 22 • Hydro One has contacted all IPP owners and apprised them of its requirements for
- 23 its LSL project and its associated land acquisition process;
- 24 • Hydro One has apprised MNRF of its Lake Superior Link project and advised the
- 25 MNRF of its intent to secure rights through the Memorandum of
- 26 Understanding/Master Land Use Permit for its occupation within Provincial
- 27 Crown Lands; and
- 28 • Hydro One has completed approximately 90% of agreements for early access with
- 29 the 20 IPP owners and completed associated property appraisal inspections; this
- 30 represents 56.5 of 57 kilometres of early access requirements
- 31
- 32 b) Hydro One recognizes that consultation has been undertaken for other similar projects in the
- 33 region. Hydro One has utilized existing public records of consultation to inform its own
- 34 consultation processes and to identify and mitigate previously raised concerns. Using
- 35 publicly available documentation, Hydro One recognizes the level of consultation that
- 36 community members on Loon Lake have undergone to determine the preferred route. Hydro

- 1 One respects consultation and our preferred route remains around the Dorion/Loon Lake
2 area.
- 3
- 4 c) Hydro One recognizes that consultation has been undertaken for other similar projects in the
5 region. Hydro One has utilized existing public records of consultation to inform its own
6 consultation processes and to identify and mitigate previously raised concerns. Using
7 publicly available documentation, Hydro One recognizes the level of consultation that
8 community members in Dorion have undergone to determine the preferred route. Hydro One
9 respects consultation and our preferred route remains around the Dorion/Loon Lake area.
- 10
- 11 d) No opposition to the proposed reference route around Dorion/Loon Lake has been received
12 to date.

TAB 8

1 *NextBridge Interrogatory # 23*

2
3 *Reference:*

4 EB-2017-0364 - February 15, 2018 HONI Lake Superior Link Application, EXHIBIT B, TAB 1,
5 SCHEDULE 1, page 8, line 2-3:
6

7 *Interrogatory:*

8 Preamble: "Hydro One will install a new 230 kV double-circuit transmission line, 133 km in
9 total, on a new Right-Of-Way..."
10

11 a) Provide the status of obtaining the land rights for this 133 km.
12

13 *Response:*

14 a) Hydro One's land rights acquisition process has commenced as follows:

- 15 • Hydro One has conducted title searches of all impacted patented properties (IPP)
- 16 • Hydro One has contacted all IPP owners and apprised them of its requirements for its
17 LSL project and its associated land acquisition process;
- 18 • Hydro One has apprised MNRF of its Lake Superior Link project and advised the
19 MNRF of its intent to secure rights with Memorandum of Understanding/Master
20 Land Use Permit for its occupation within Provincial Crown Lands;
- 21 • Hydro One has apprised the First Nation of Michipicoten of the LSL project and
22 requisite land requirements of Reserve and non-Reserve lands;
- 23 • Hydro One has completed approximately 75% agreements for early access with the
24 17 IPP owners and completed associated property appraisal inspections; this
25 represents 131.5 of 133 kilometres of early access requirements on IPP

TAB 9



June 29, 2018

Bingwi Neyaashi Anishinaabek
146 Court Street South
Thunder Bay, ON P7B 2X6
Tel: (807) 623-2724
jladouceur@bnafn.ca

RE: Lake Superior Link Stage 1 and 2 Archaeological Assessments, Project Introduction and Invitation to Participate.

Dear Chief Joseph Ladouceur,

Archaeological Research Associates Ltd. (ARA) appreciates the opportunity to introduce ourselves and the Stage 1 and 2 archaeological assessments of the proposed Lake Superior Link (LSL) project. The project extends from the municipality of Shuniah east of Thunder Bay to east of the Municipality of Wawa in the Districts of Thunder Bay and Algoma.

ARA has been contracted by Hydro One Networks Inc. to conduct the archaeological assessments required for the proposed (LSL) project. We would like to take this time to invite your community to participate in the archaeological assessments by providing (at your discretion) information regarding sacred or spiritual sites, undocumented archaeological sites, sites of value to the community or historical background information of the study area for inclusion in the Stage 1 report and/or by sending a representative to participate in the Stage 2 fieldwork surveys within your Treaty and Traditional Territory. We would also like to welcome your community to perform any ceremonies that might be required prior to, during or at the completion of the study.

1.0 PROJECT BACKGROUND

The project was initiated in 2013 when the Ontario Energy Board (OEB) awarded the role of “Designated Transmitter” for the development phase of the East-West Tie (EWT) to Upper Canada Transmission Ltd. (NextBridge). NextBridge recently completed an Individual Environmental Assessment (EA) for their preferred route for the EWT Transmission Line.

Hydro One is competing for the next phase (Leave to Construct) of the project to design, build and operate the approximately 400 km in length transmission line (230 kV) along the north shore of Lake Superior. Hydro One will be undertaking engagement and studies for the alternative LSL

route, including the archaeological assessment of previously unassessed lands to meet the requirements of the Environmental Assessment Act.

A large portion of the proposed LSL route has been subject to previous archaeological assessment. Specifically, in 2014 Scarlett Janusas Archaeology Inc. (SJA) completed a Stage 1 archaeological assessment for the New East-West Tie Transmission Line. The results of this assessment are documented in, “Stage 1 Archaeological Assessment, New East-West Tie Transmission Line, Multiple Lots and Concessions, District of Thunder Bay and Algoma”, PIF #P027-0245-2014. This assessment, carried out on behalf of NextBridge, considered the 400 km reference route (following the existing Hydro One corridor for the purposes of twinning the corridors) and two alternate routes around Pays Plat and Michipicoten First Nation Reserves. In 2016, SJA completed a second assessment, “Stage 1 Archaeological Assessment, New East-West Tie Transmission Line White River Preliminary Preferred Route”, PIF #P027-0282-2016. The White River preferred route considered a 56 km transmission line that diverts from the original proposed transmission line to avoid Pukaskwa National Park (PNP). In 2016, Golder Associates Ltd. (Golder) was retained by NextBridge to undertake, “Stage 1 Archaeological Assessment, EWT Access Roads, Construction Camps, Laydown Yards and Loon Lake Route Refinement, Districts of Thunder Bay and Algoma, Ontario”, PIF#1056-0074-2016. This assessment identified the proposed 64 m wide project footprint and associated infrastructure. In 2017, Stantec Consulting Ltd. (Stantec) was contracted to undertake three (3) Stage 1 assessments for additional lands within Segment 1, Segment 2, and Segment 3, under PIF#'s P1084-0042-2017, P1084-0040-2017, and P1084-0041-2017 respectively. Stantec also conducted the Stage 2 archaeological assessment of the preferred NextBridge EWT Transmission Line route under PIF #P1084-0037-2017.

The Hydro One route that is the subject of ARA's Stage 1 and 2 archaeological assessments represents a modification to the NextBridge preferred route. This proposal considers the Stage 2 archaeological assessment of areas of archaeological potential that have not been subject to previous Stage 2 assessment and that will be affected by development (i.e., tower bases/structure locations, laydown areas, staging areas, access roads, and related infrastructure). As requested by Hydro One, the LSL alternative route has been considered in three distinct parts (See attached Map):

1. Dorion By-Pass – A 57.11 km length of corridor, 46 m in width, through greenfield around the Dorion, Ouimet Canyon and Loon Lake area. Hydro One's and Next Bridge's routes each follow the general alignment; however, their paths, tower locations, and access do not overlap, except at one tower location.
2. Pukaskwa National Park – An approximately 35 km length of corridor through Pukaskwa National Park (PNP). Hydro One currently owns and operates the existing transmission

line through PNP. The existing towers will be modified to accommodate additional circuits. No widening of the corridor will be required, and access will be done using helicopters. The only potential impacts will result from the drilling of four guy wire rock anchors at the base of each structure. In areas of archaeological potential, ARA has assumed a Stage 2 assessment area of 25 x 25 m, centred on the existing tower.

3. Twinning of the Existing EWT Corridor – Hydro One will be twinning the existing EWT corridor, similar to what was proposed in NextBridge’s EA, with the exception of the two previously mentioned areas. Hydro One’s corridor will be 37 m in width, whereas NextBridge’s corridor was 64 m in width. This part considers any areas where tower and access locations differ from the areas assessed in NextBridge’s EA, resulting in additional Stage 1 and 2 assessment requirements.

2.0 COMPANY PROFILE

Established in 1972, ARA is Ontario’s oldest archaeological and heritage consulting firm. Our longevity flows from the experience of our staff and our ongoing commitment to excellence and customer service. Over the past 45 years, ARA has completed hundreds of contracts for clients in the public, private, and not-for-profit sectors across Ontario. Our founder, Dr. Dean Knight, serves as both a Principal of ARA and a Professor Emeritus of Archaeology at Wilfrid Laurier University (WLU), Ontario’s premier venue for postsecondary education in archaeology. The close relationship between ARA and WLU has meant that ARA has consistently been staffed with the best and brightest archaeologists and heritage specialists in Ontario.

ARA’s head office is in the City of Kitchener where it maintains a full-time staff of 27 researchers, technical writers, GIS technicians, laboratory technicians, field archaeologists and heritage specialists. An additional 65 interns, consisting of R-licenced Field Directors, university graduates with degrees in Archaeology, and other highly trained individuals are seasonally employed (usually from April to November) on field projects. Smaller satellite offices are also maintained in the Cities of Brantford, Burlington and Hamilton. ARA values cross training of individuals, affording everyone the opportunity and means to step into different roles and takeover seamlessly should unforeseen events arise.

ARA is one of the few firms in Ontario that offers both archaeological and heritage services. Where possible, these assessments are conducted in parallel to provide a holistic approach to examining cultural heritage value above and below the ground. Combining archaeology and heritage also creates efficiencies, allowing background research to be completed in a timely and more cost-effective manner.

ARA has also taken a leading role among archaeological consulting firms in training Indigenous peoples as both field staff and archaeological monitors. It is a core value of ARA that no one could have greater respect for First Nations archaeology than an Indigenous person. Having Indigenous input and perspective provide insight into the project that is unparalleled.

Our Archaeology Department offers a variety of services including: Stage 1-4 Archaeological Assessments, Archaeological Construction Monitoring, Archaeological Management Plans, Cemetery Investigations, Burial Recovery and Relocation, Collections Management, Geomatics and GIS Services, Remote Sensing, and Preservation/Conservation Services. In the course of doing business, ARA has amassed considerable experience working with private landowners, proponents, developers, municipalities, crown corporations, and both federal and provincial clients. The resultant contracts were carried out for public, private, and not-for-profit sectors in accordance with a number of legislative frameworks. These include the Aggregate Resources Act, the Environmental Assessment Act (e.g., Class Environmental Assessments), the Funeral, Burial and Cremations Services Act, the Green Energy Act (e.g., Renewable Energy Approvals), the Planning Act, the Ontario Energy Board Act and the Ontario Heritage Act. ARA is registered with RAQS (MTO) under the *Environmental – Archaeology/Heritage* specialty and is currently a Vendor of Record for Hydro One Networks Inc., Infrastructure Ontario, Metrolinx and the Ministry of Transportation (MTO).

3.0 SCOPE OF WORK

3.1 Methodology

ARA will provide its services to undertake an archaeological investigation in accordance with the Ministry of Tourism, Culture and Sport's current *Standards and Guidelines for Consultant Archaeologists* (2011). The methods used for archaeological assessments in Ontario are laid out in a series of increasingly involved stages, including background study (Stage 1), property assessment (Stage 2), site-specific assessment (Stage 3) and mitigation of development impacts (Stage 4). For the proposed project, the archaeological investigation will comprise Stage 1 and 2 archaeological assessments.

3.1.1 Stage 1 Archaeological Assessment

The Stage 1 assessment will consist of comprehensive background research into all previously unassessed lands within the project footprint. This is accomplished through an examination of the



Artifacts that may indicate the presence of significant cultural deposits include bone, charcoal, lithics (stone tools and refuse generated by their production and use), ceramics, glass and metal. If found, with authorization from the affected First Nation, these artifacts will be retained and subject to detailed laboratory analysis. Following analysis, a recommendation will be made as to the cultural heritage value or interest (CHVI) of any identified sites. Further work (i.e., Stage 3 site-specific assessment) or avoidance and protection may be recommended. If no archaeological resources are identified during the assessment, a recommendation of no further work will be made to the MTCS.

In reviewing the proposed routing for this project, ARA has determined that there are six areas where the proposed Lake Superior Link project diverges from the preferred EWT corridor. ARA has divided the project into three (3) distinct parts: 1) Dorion By-Pass, 2) Pukaskwa National Park, and 3) Twinning of the Existing EWT Corridor. A preliminary breakdown of the proposed part locations, the area/corridor width, associated structure numbers, total amount of archaeological potential identified within each part and number of structure numbers in areas of archaeological potential is provided in Table 1 below.

Table 1: Proposed Corridor Division and Areas of Potential

Part #	Location	Area	Structure Numbers	Total Archaeological Potential in the Proposed Corridor	# of Structures within Areas of Potential
Part 1	Dorion By-Pass	Corridor Width – 46 m	T1054 – T893 (162)	57.3 ha (141.6 ac)	31
Part 2	Pukaskwa National Park (PNP)	Tower Bases – 25 x25 m	T343 – T258 (87)	1.6 ha (4.0 ac)	17
Part 3	Lakehead TS to T1096	Corridor Width – 37 m	T1099 – T1096 (4)	2.2 ha (5.5 ac)	2
Part 3	North of Marathon	Corridor Width – 37 m	T465 – T458 (6)	4.6 ha (11.3 ac)	2
Part 3	East of Marathon to West of PNP	Corridor Width – 37 m	T437 – T344 (94)	24.8 ha (61.3 ac)	11
Part 3	East of PNP – Wawa TS	Corridor Width – 37 m	T256 – T208 (49)	10.3 ha (25.4 ac)	2
				100.8 ha (249.1 ac)	65

ARA has estimated that an average crew can assess approximately 1.4 ha/day, **depending on access**. In keeping with the previous EA, this is based on the assumption that all areas of archaeological potential within the Lake Superior Link corridor where it diverges from the preferred EWT corridor will require assessment. The exception is on lands through Pukaskwa National Park where there will be no widening of the existing Hydro One corridor. Proposed work

would be limited to the renewal/modification of the existing structures (87) for the addition of guy wire and anchor supports. For the purposes of this proposal, ARA has assumed that Stage 2 assessment will be required for the specific work areas (i.e., 25 m x 25 m) around the 17 existing structures that are located in areas of archaeological potential. ARA has not considered additional assessment for access roads or related infrastructure through the PNP. MTCS consultation would be required to confirm this assessment strategy. For this proposal, ARA has estimated that a total area of 100.8 ha (249.1 ac), will require assessment for the twinning of the EWT corridor Parts 1– 3.

Based on the recent mapping provided, the total length of new or upgraded access roads as part of the Lake Superior Link project is 181.3 km. ARA has identified approximately 6.0 km of new or upgraded access roads within the previous Stage 1 limits that requires Stage 2 assessment for the project. It is estimated that once the detailed desktop gap analysis for previously completed Stage 1 and Stage 2 AA studies is complete up to 15 km of access roads could require assessment. In keeping with the previous EA, ARA has assumed access roads will be 20 m in width amounting to a total area of 30.0 ha (74.1 ac).

In reviewing the provided project mapping, ARA has also identified a total of 7 Pull Sites and Fly Yards in areas of archaeological potential. Identified areas of archaeological potential at these sites comprise a total of 13.3 ha (32.0 ac).

Table 2: Total Area Requiring Assessment

Infrastructure	Total Archaeological Potential
Corridor - Parts 1-3	100.8 ha (249.1 ac)
Access Roads	30.0 ha (74.1 ac)
Pull Sites/Fly Yards	13.3 ha (32.0 ac)
Total	144.1 ha (355.2 ac)

Overall, ARA has assumed that a total of 144.1 ha (355.2 ac) of land will require assessment for this project. These lands will be subject to assessment in accordance with Sections 2.1.5 and 2.1.6 of the MTCS' *Standards and Guidelines for Consultant Archaeologists* as outlined in Section 3.1 and the previous assumptions and calculations have been used to determine the fieldwork schedule.

Based on ARA's project assumptions, it has been determined that a single crew could assess Part 1 (the Dorion By-Pass) in 41 days, Part 2 (the PNP) in 6 days (Heli only), Part 3 (the twinning of the EWT) in 27 days (5 accessible and 22 Heli only), the access roads in 22 days and the Pull Sites/Fly Yards in 10 days. This is a total of 106 field days in optimal conditions.



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Due to the project timelines, ARA has decided to dedicate 2 field crews of 6 people (1 Field Director and 5 Field Technicians) and 1 field crew of 3 people (1 Field Director and 2 Field Technicians) to complete the assessment over the course of 2 months. Fieldwork would be completed on a regular work week schedule with 10 hour days. In order to meet project timelines a six-day week is currently being considered. ARA anticipates that the fieldwork portion of this project will begin on July 23, 2018.

Thank you for taking the time to review the background information and the proposed workplan for the archaeological component of the Lake Superior Link project. At this time ARA would like to formally invite your community to participate in the project by providing historical information for our consideration and/or by sending a representative from your community to participate in the Stage 2 Field Surveys taking place within your Treaty and Traditional Lands. Fieldwork for the overall project is tentatively scheduled to begin on July 23, 2018 and will continue through to end of September 2018.

Please note that fieldwork will include long days in rough terrain. Representatives will be required to bring and wear appropriate PPE including hi-vis safety vest, high ankle steel toed boots, safety glasses and work gloves. Helmets will also be required when riding on UTVs and life jackets will be required any time boat access is required. Fire retardant clothing may be required when working in proximity to existing hydro towers but will be supplied by ARA if required. Additionally, the representative must be willing to travel in helicopters (sometimes being required to jump a short distance from the helicopter to land), UTV and boat/canoe where required.

Representatives should be prepared to follow ARA's Health and Safety Program or provide ARA with a copy of their own Health and Safety program that meets or exceeds that of ARA. The community will also need to provide ARA with a current copy of their WSIB certificate and general insurance certificate no later than July 13, 2018 if your representative wishes to begin on the first day of deployment.

If your community is interested in participating in the archaeological portion of this project please confirm your interest with Victoria Cafik by email (vcafik@arch-research.com) or by phone (519-212-5172) no later than **July 13, 2018**. Additional deployment details including specifics regarding scheduling, meeting locations, and crew contact info will be provided in late July after confirmation of your interest and in advance of the Stage 2 Field Surveys. Upon confirmation, please provide the following: 1) Contact info for the preferred community point of contact 2) WSIB certificate and Insurance certificates and 3) Specification of how your community would like to participate (by providing historical information and/or providing a representative to participate in the fieldwork, and/or performing any required ceremonies)

TAB 10

OEB Staff Interrogatory # 10

Reference:

EB-2017-0364 Evidence, Hydro One Undertaking Response JT2.21
Hydro One's Construction Cost Estimates

In response to undertaking JT2.21 filed on May 25, 2018, Hydro One provided construction cost estimates for the route using the same cost categories as in Table 2 of NextBridge's response to CCC #8. In its undertaking response, Hydro One provided explanations for cost variances where in Hydro One's view the variances were substantial.

Interrogatory:

- a) With respect to costs of materials and equipment, Hydro One's estimate is approximately 34% lower than NextBridge's. Please specify and explain the cost reduction driven by each of the following factors:
- i. Optimized tower design
 - ii. Shorter length of the line
 - iii. Global purchasing power
 - iv. Any other factors
- b) Please advise as to how Hydro One calculated the materials and equipment cost of approximately \$58 million and any assumptions on which that calculation was based?
- i. Is any portion of the \$58 million amount part of the proposed fixed price EPC contract with SNC-Lavalin? If so, how much?
- c) With respect to the "Land Rights" cost category, Hydro One's estimate is significantly lower than that of NextBridge. Please explain:
- i. In detail how Hydro One calculated a land rights cost that is only 41% of the estimate provided by NextBridge?
 - ii. Why the estimated costs of the Land Rights do not vary whether Hydro One goes through or around Puskaskwa National Park? Are there not additional land rights costs that would be incurred if Hydro One has to go around the Park?
 - iii. What are the "instruments" that Hydro One is considering in acquiring land rights? What are the cost associated with each of these instruments?
 - iv. What is the basis for Hydro One's belief that it will reach "voluntary settlements" with the vast majority of property owners?
 - v. What are the total estimated costs associated with voluntary settlements?

- 1 vi. What are the total estimated land rights acquisition costs for the properties where
2 voluntary agreements could not be reached?
- 3 vii. What is Hydro One's timing in acquiring land rights?
4
- 5 d) Hydro One allocated over \$18 million to the First Nation and Métis Participation cost
6 category. Hydro One noted that this funding was accounted for in the Site Clearing,
7 Preparation & Site Remediation cost category in Exhibit B, Tab 7, Schedule 1, Table 3 and
8 that the funds have been redistributed for the purpose of comparison in response to JT2.21.
- 9 i. Please identify and define categories of economic participation included in First
10 Nation and Métis Participation and dis-aggregate and itemize the total estimated cost
11 of \$18,450,000 shown in response to JT.2.21.
- 12 ii. Please explain the rationale for accounting for the First Nation and Métis
13 Participation costs in the Site Clearing, Preparation and Remediation cost category in
14 Exhibit B, Tab 7, Schedule 1, Table 3.
- 15 iii. Are there any potential participation costs that are not included in the \$18 million
16 amount? If so, please explain what they are?
17
- 18 e) Hydro One's estimated costs for Site Clearing and Access are 38% lower than NextBridge's.
19 Hydro One noted that the variance is due to a much smaller environmental footprint.
- 20 i. Please explain why this is the case and how Hydro One's estimates were calculated.
- 21 ii. Please explain why the site clearing costs are substantially lower than NextBridge's
22 even for the HONI-NextBridge "Bypass" Route?
23
- 24 f) Hydro One's contingency is about \$10.8 million and is exclusive of \$54 million of risk and
25 contingency in the fixed-price EPC contract.
- 26 i. What are the risks categories covered by the \$10.8 million contingency?
- 27 ii. What are the risks categories covered by the \$54 million contingency in the EPC
28 contract?
- 29 iii. What are the risks that are not covered by the \$10.8 million contingency?
- 30 iv. What are the risks that are not covered by the \$54 million contingency?
31

32 **Response:**

- 33 a) As explained in Exhibit JT2.21, Hydro One does not have detailed information on the
34 NextBridge costs which served as inputs to Table 2. Hydro One's response therefore can
35 provide only Hydro One's beliefs about the variance from NextBridge's costs.

1 Hydro One's response is based on material only, including tower steel, foundation steel,
2 conductor, wire, hardware and anchors. Equipment used in the construction is included in
3 the separate Construction and Site Clearing, Access categories.

- 4 i. Hydro One's tower designs differ greatly from NextBridge's, particularly in the
5 guyed tangent towers, which account for 80% of the towers used in the LSL line:
6 Hydro One's towers were optimized for weight to enable them to be lifted by an
7 erecting helicopter in a single lift. Compared to NextBridge's Y-guyed tangent
8 structures, Hydro One's design keeps the conductors closer to the centreline, enabling
9 a lighter structure and a narrower right-of-way. This design is also optimized for
10 helicopter stringing.
- 11 ii. The Hydro One preferred routing is approximately 10% shorter than the NextBridge
12 route, resulting in the use of less material, e.g. number of towers and foundations,
13 length of conductor, OPGW and steel wire.
- 14 iii. SNC-Lavalin has developed projects around the world and in so doing has experience
15 in sourcing materials from various countries, enabling preferred pricing due to the
16 volumes and purchasing power from repeated project development.
- 17 iv. Given the lack of detailed information on the NextBridge costs, Hydro One is
18 unaware at this time of any other factors.
- 19
- 20 b) The approximately \$58M in materials was estimated through competitive market price RFPs
21 for the materials proposed for the entire project. The quantities were derived from bills of
22 material for the preferred LSL route.
- 23 i. All of the \$58M amount is part of the fixed price EPC contract with SNC-Lavalin.
24
- 25 c) Hydro One has no knowledge as to how NextBridge developed its estimate. Therefore,
26 Hydro One cannot explain why NextBridge's estimate is much higher. What Hydro One can
27 do is to provide the following information.
- 28
- 29 i. Hydro One's land rights cost estimate is based on the following components:
- 30 • 113 patented properties wherein Hydro One would acquire fee simple or easement
31 rights, representing less than 30% of the land rights area required. These land
32 rights were estimated using market and injurious affections studies specific to the
33 LSL project and land use types affected. Included in the market value payment
34 are incentive payments set through Hydro One's Land Acquisition Compensation
35 Principles (LACP);
 - 36 • The remaining land area requirements, which are greater than 70% of the land
37 rights area required, are to be secured through licences and leases entailing

- 1 recurring payments. These payments are in accordance with prevailing rent
2 schedules with MNRF and Parks Canada;
- 3 • Business loss/disruption estimate based on an overview of the line and the
4 frequency of occurrence on past projects;
 - 5 • Land rights within First Nation reserves, which are less than 3% of the land rights
6 area required, are to be secured through permit with annual payments based on
7 market value and payments in lieu of taxes, similar to the existing transmission
8 occupations;
 - 9 • In support of the land rights acquisitions, the cost estimate includes studies,
10 capacity funding, agent and legal fees, and surveys;
 - 11 • Temporary rights for off-corridor access and facilities, including storage yards, fly
12 yards and camps.
- 13 ii. The route around Pukaskwa National Park would result in approximately 14%
14 additional Crown land area and two fewer impacted parcels. The cost difference is
15 largely for the annual rights payment to the MNRF, which would increase by the
16 equivalent 14% (approximately \$10K annually).
- 17 iii. Hydro One will be acquiring the following rights (stated costs exclude incentives,
18 capacity funding, agent, legal and surveys):
- 19 • Permanent Land Rights lump sum payment (i.e. easements, fees simple, railway
20 crossings and MTO encroachments) - \$1,763K
 - 21 • Permanent Land Rights recurring payments (i.e. MNRF land use permit, Parks
22 Canada licence and First Nation transmission permits)
- 23 iv. The acquisition of land rights is based on market and injurious affection studies
24 specific to the LSL project setting and impacted land use types. Included in market
25 value payments are incentive payments from Hydro One's LACP, which provides a
26 significantly greater payment than market, being greater than three times market for
27 the median property. These incentives would be lost to the property owner if
28 expropriation were to occur. Therefore, Hydro One has a high success rate in
29 achieving voluntary settlements: approximately 90% on Bruce to Milton and 100%
30 on both Supply to Essex County Transmission Reinforcement and Barrie Area
31 Transmission Upgrade, which were Hydro One's three most recent major transmission
32 projects.
- 33 v. Hydro One has assumed 100% voluntary settlement based on the response to part c)
34 iv) above. The total cost for voluntary settlements is \$10,978K.
- 35 vi. In its risk assessment, it identified expropriation which was assessed as a low
36 probability. Expropriation has been identified in the Risk Registry and costs have not
37 been included in the Real Estate estimate. The results of Bruce to Milton were

1 considered and adjusted downwards to a total of 10%, or 8 of the impacted patented
2 properties (“IPP”), wherein Hydro One has the ability to expropriate. The cost of
3 expropriation of these properties has been estimated at \$2,400K.

4 vii. based on a construction start of Q3 2019, Hydro One is seeking to achieve all
5 voluntary settlements by May 2019.

6 d)

7 i. The cost for Indigenous businesses to execute Site Clearing, Preparation and Site
8 Remediation services has not been disaggregated. This estimate represents a genuine
9 pre-estimate from previous projects and an assessment of capacity for this project. Hydro
10 One will continue to strive to maximize the utilization of Indigenous labour within the
11 construction of the works and does not envisage any material impact on the overall
12 construction price.

13 ii. Through previous project experience it is understood that Site Clearing, Prep, and
14 Remediation contract opportunities would typically be executed by Indigenous
15 businesses, either on their own or in partnership with other Indigenous or non-Indigenous
16 businesses, which is why the First Nation and Metis participation was accounted for in
17 this category.

18 iii. No.

19
20 e)

21 i. The difference is due to the ROW space required due to (1) the design and (2) the
22 location when paralleling the existing EWT, as well as (3) the reduction in linear length
23 due to going through Pukaskwa National Park. When comparing designs, the need for
24 ROW width for Hydro One is 150’ compared to the 210’ width that NextBridge says it
25 requires. Hydro One then takes into account the proximity to Hydro One’s existing EWT
26 line, which reduces Hydro One’s 150’ requirement to 120’. Additionally, the Park route
27 reduces the length by 40km.

28 ii. The site clearing costs are substantially lower even with the bypass route because the
29 Hydro One corridor width is smaller than that of NextBridge, resulting in a difference of
30 approximately 450 hectares difference in clearing area.

31
32 f)

33 i. Refer to current Risk Registry, provided at Exhibit I, Tab 5, Schedule 15.

34
35 ii. The EPC Contract with SNC-Lavalin covers an extensive scope of EPC work associated
36 with this project, which is detailed in JT2.22 – Appendix A – Scope of Work - Division
37 of Responsibility, however at a high level is outlined for ease below:

TAB 11

NextBridge Interrogatory # 60

Reference:

EB-2017-0364 - February 15, 2018 HONI Lake Superior Link Application EXHIBIT E, TAB 1, SCHEDULE 1, pages 6-7 and Attachment 1:

Interrogatory:

Preamble: "Hydro One is in the process of contracting an external appraisal service provider to complete independent appraisal reports which will be completed through the spring and summer of 2018."

- a) Will the appraisal reports and any injurious affection determinations consider the existing EWT corridor?
- b) In the absence of these reports, how has HONI accurately estimated the cost of acquiring new land rights required for the line?
- c) HONI declares that its Land Acquisition Compensation Principles will not be applied to MNRF and/or interest holders, but rather that HONI will follow MNRF's policy and process in these matters. Please explain in more detail what this means.
- d) How has HONI considered compensation requirements for affected Crown interest holders in its estimation of real estate costs to acquire the required land rights for the line?
- e) Are benefits (for example, such as the potential for a severance) used to offset any part of the compensation payment made to property owners?
- f) In relation to property buyout, please describe
 - i. what the 15% disturbance allowance covers, and
 - ii. in assessing relocation costs, does HONI assume that the relocation of buildings will occur on the property or on another purchased property? Has HONI identified any such properties and if so, has this cost been included in Tables 2 and 3? Please indicate where and in what amounts

1 **Response:**

- 2 a) No the appraisal report and injurious affection determinations will not consider the existing
3 EWT corridor, the properties have been considered greenfield;
4
- 5 b) Hydro One estimated the cost of acquiring new land rights with the use of a completed land
6 valuation study of the entire corridor, and preliminary results of the ongoing injurious
7 affection study;
8
- 9 c) Hydro One has a Memorandum of Understanding with the MNRF that defines the working
10 arrangement of its occupation of Crown Lands, including a master Land Use Permit which
11 prescribes the fees payable. Hydro One acknowledges previous interest holders, which in
12 consultation with the MNRF will be considered in its planning and execution of the LSL
13 project. Such considerations may include but are not limited to adjustments to the routing,
14 improvements and/or compensations as necessary.
15
- 16 d) Hydro One had limited understanding of these interest holders and did not specifically
17 budget for these interests. In preparing the estimate Hydro One was aware of interests such as
18 trapping and recreational camps and did not envisage significant costs. However, Hydro One
19 anticipated such interest to materialize and carried a modest budget item for these situations,
20 which in part recognize these interest holders held in some cases non-exclusive rights. These
21 interest holders were identified in Hydro One's risk registry has a moderate consequence in
22 determining its project contingency.
23
- 24 e) No, the value of a severance is not considered in the compensation payment. Under Hydro
25 One's LACP, IPP are given the choice of easement or fee simple taking, and in exercising a
26 fee simple choice, create for their sole benefit, the resulting value of a severance.
27
- 28 f)
- 29 i. Under Hydro One's LACP, the 15% disturbance buy out payment is a simplified
30 method of compensating IPP owners for the expected inconvenience, effort and
31 hardship to relocate from its existing to an alternate occupation.
- 32 ii. Hydro One has confirmed a minimum of one property that will be subject to a buyout
33 and has budgeted \$500K to account for this and other potential buyouts and/or
34 relocations. In accordance with Hydro One's LACP, the option of relocating the
35 impacted building(s) will be considered. These costs have been included in Table 3,
36 Real Estate.
37

TAB 12

1 **OEB Staff Interrogatory # 11**

2
3 **Reference:**

4 EB-2017-0364 Evidence, Hydro One's Application filed on February 15, 2018, Exhibit B, Tab 7,
5 Schedule 1, Page 1 and 3

6 Hydro One's Development Cost Estimates

7
8 Hydro One stated that the development costs are estimated at approximately \$12.2 million and
9 that the forecast is based on an October 2018 approval date.

10
11 **Interrogatory:**

12 a) Please provide an updated development cost estimate in the event that OEB approval is
13 received by end of November, or December 2018, respectively.

14
15 b) Please elaborate how the response in part (a) would change Hydro One's overall project
16 budget and completion date.

17
18 c) Does Hydro One have monthly or quarterly development cost estimates including major
19 components? If so, please provide those current estimates.

20
21 **Response:**

22 Prior to responding to these interrogatories, Hydro One would like to inform the OEB that the
23 Project cost estimate has been updated to reflect current information. Please also note that Hydro
24 One's updated development costs include costs up to the OEB's decision on Hydro One's Leave
25 to Construct application projected for January 2019, whereas in the original application in
26 February, there was a projection of an October 2018 decision on the application.

1 **DEVELOPMENT COSTS**

2
3 The Project development costs provided at Exhibit B, Tab 7, Schedule 1, have been amended in
4 as follows in Table 1 below:

5

Table 1 – Development Cost (\$ thousand)		
	February 2018	September Update
Real Estate	\$3,813	\$3,442
Engineering & Design	\$2,034	\$4,317
Environmental Approvals	\$1,949	\$4,328
Regulatory & Legal	\$1,782	\$528
First Nations & Métis Consultation	\$983	\$1,990
Project Management	\$138	\$264
Other Consultations	\$217	\$423
Interest	\$100	\$195
Overhead	\$1,200	\$1,485
Total Development	\$12,215	\$16,972

6
7 These development cost have been updated to account for various changes that have occurred
8 since Hydro One filed its leave to construct application in February of 2018.

9
10 *Real Estate Costs – Development Phase*

11
12 Real Estate activities have been progressing favourably, generally in accordance with plan, but
13 slightly behind schedule. The development costs have decreased by (\$0.37 million). At the
14 outset, there was an approximate 8 week delay in contracting for field property agent services.
15 In addition there was an approximate 4 week delay in establishing meaningful property owner
16 contacts to launch direct field activities. These delays have contributed to the under expenditures
17 to plan through a delayed offer process.

18
19 *Engineering & Design Costs – Development Phase*

20
21 Engineering and Design Development cost have increased by \$2.30M due to the Development
22 phase being shifted from previously assumed LTC approval dated October 2018 to the now
23 assumed approval in January 2019. The total Engineering and Design cost, including both
24 Development and Construction phase costs, has increased by (\$0.75M) Consequently
25 Construction Management, Engineering, Design and Procurement costs have been decreased in
26 the Construction phase.

1
2 The extra work to be done in Development phase encompasses:

- 3 • Engineering survey of tower and foundation in Pukaskwa Nation Park
4 • Engineering work required to initiate geotechnical work in the field
5 • Engineering work required to define extent of construction permits
6 • Engineering work required so that firm offers can be obtained for fabrication and testing
7 of tower prototypes.

8
9 *Environmental Approvals Costs – Development Phase*

10
11 The increase in Environmental Approvals development costs of approximately \$2.4M can be
12 attributed predominately to the following:

- 13 • inclusion of some contingency costs in the updated cost, as the risk has been realized,
14 (\$150K); and,
15 • increases in approach to environmental approvals and scope of studies and consultation
16 (\$2.2 million).

17
18 Contingency costs realized of \$150K in the updated cost included additional activities identified
19 as potentially being required based on a very narrow scope of an EA amendment.

20
21 Additional costs attributed to changes in approach to environmental approvals and scope of
22 studies and consultation include:

- 23 • additional Stage 2 archaeology costs as differences in tower locations between
24 NextBridge and Hydro One designs became evident after additional studies were
25 completed along the route for tower siting
26 • a portion of the cost of the Parks Canada Detail Impact Assessment. Although either a
27 basic or detailed impact assessment is expected under CEAA, no additional cost was
28 originally included in the budget for this, as Parks Canada indicated they would allow use
29 of Hydro One's provincial EA documentation for review. However, this is now not the
30 case (as conveyed in July 2018 communication letter provided in Exhibit I, Tab 1,
31 Schedule 14) due to the more complicated scope and the addition of the Dorion route in
32 the Hydro One IEA, as outlined in the ToR
33 • a portion of the cost of the Dorion Route Alternatives. There were changes in the scope
34 of the Declaration Order/EA that resulted from the addition of the Dorion route
35 alternative. This increased costs for consulting, additional meetings, stakeholder
36 consultation, reporting, travel, and various studies (eg., additional visual assessment and

1 simulation around Dorion, biological, human health, cultural heritage, socio economic
2 etc.)

- 3 • a portion of about the cost of conducting an Individual EA Process concurrently with the
4 Declaration Order approach. Based on MECP feedback, the Individual IEA Process has
5 been undertaken in parallel with the Declaration order process. This results in additional
6 costs to cover the IEA process, the ToR, the increased scope and study area and different
7 processes. These cost include additional labour, consulting costs (studies for biological,
8 human health, cultural heritage, socio-economic etc.), disbursements for meetings,
9 consultations, documentation, reporting, travel.

10
11 *Regulatory & Legal Costs – Development Phase*

12
13 Regulatory and legal costs have decreased (-\$1.3M) as the original budget was based on the
14 assumption that the OEB hearings were going to be held in Thunder Bay, increasing both
15 internal, regulator, and intervenor funding costs. Additionally, with the combined hearing,
16 Hydro One now assumes that the OEB will follow a similar cost sharing approach that was
17 utilized in the NextBridge Motion to Dismiss Hearing where both transmitters will be
18 responsible for funding the procedural costs of the hearing.

19
20 *Indigenous Consultation Costs – Development Phase*

21
22 The Indigenous consultation estimate has increased by (\$1 million), which is a function of
23 increased consultation given the Environmental Assessment scope has changed from the
24 Declaration order to an Individual EA, as well as risks that have materialized and hence been
25 removed from project contingency. Although the preferred option remains the Declaration order,
26 the additional studies and resources required for an Individual EA have led to an increase in the
27 Indigenous Consultation budget to allow for the Indigenous communities to be meaningfully
28 consulted on the Project, including the EA. Also related to the change in the EA scope, Hydro
29 One is required to meet with 18 Indigenous communities and the Métis on a more frequent basis
30 than originally budgeted for. In addition, the following four Indigenous communities have
31 expressed an interest in the project and Hydro One has engaged them. Métis Nation of Ontario -
32 North Channel Métis Council, Métis Nation of Ontario – Historic Sault St. Marie Council,
33 Jackfish Métis Association, and the Ontario Coalition of Indigenous Peoples. Hydro One is
34 required to consult with any Indigenous community that expresses an interest on the Project,
35 hence the need for additional resources to accommodate the interest of these additional four
36 communities.

1 Additional costs are also associated with the need for further consultation with two of the First
2 Nations who have a real estate permit interest in the Project. Pays Plat and Michipicoten First
3 Nation have existing on reserve real estate permits that require negotiations which leads to
4 additional costs.

5
6 Hydro One's Indigenous Consultation project costs were developed in absence of the delegation
7 letter from the Crown (Hydro One requested it in November 2017 but did not receive until
8 March 2018) with regards to consultation and therefore had to be amended to reflect delegation
9 from the Crown. Hydro One anticipated that the Ministry of Energy would identify the depth of
10 consultation required for each of the 18 Indigenous communities and assumed that the 6 BLP
11 communities would be identified as requiring deeper consultation. Although this is something
12 the Ministry of Energy is required to provide as part of its MOU with Hydro One regarding
13 consultation on projects, the March 2, 2018 delegation letter identified all 18 Indigenous
14 communities as "rights-based" and therefore Hydro One was not provided with depth of
15 consultation required for each community but instead was directed to consult with all Indigenous
16 communities equally. This leads to additional time and costs than what was included in the
17 original Indigenous Consultation estimate.

18
19 *Project Management Costs – Development Phase*

20
21 Project Management cost have increased (\$0.1M) due to Development phase being shifted from
22 previously assumed LTC approval in October of 2018 to now assumed approval in January of
23 2019.

24
25 *Other Consultation Costs – Development Phase*

26
27 Other consultation costs have increased by \$0.2M due to the requirement to consult on the
28 Dorion Route alternative.

29
30 *Interest During Construction & Overhead Capitalization – Development Phase*

31
32 Interest during construction and overhead capitalization costs were initially budgeted and spread
33 among the various cost items provided in Table 2 of Exhibit B, Tab 7, Schedule 1. Hydro One
34 has a standard methodology for allocation of interest and applies an overhead capitalization rate
35 to all its projects to account for non-direct staff's time working on capital projects. This
36 overhead rate is determined by spreading a portion of overhead staff across budgeted capital
37 projects. In this update, we have shown both of these numbers as separate line items. The

TAB 13

1 **NextBridge Interrogatory # 17**

2
3 **Reference:**

4 EB-2017-0364 - February 15, 2018 HONI Lake Superior Link Application, EXHIBIT B, TAB 1,
5 SCHEDULE 1, page 7, lines 10-11; EXHIBIT B, TAB 7, SCHEDULE 1, page 8, Table 4 and
6 EXHIBIT E, TAB 1, SCHEDULE 1, pages 1-9.

7
8 **Interrogatory:**

- 9 a) Explain in detail the status of obtaining the land rights for the “new right-of-way (ROW)”.
10 Has HONI initiated land acquisition for the Lake Superior Link Project? If so, please
11 describe what land rights have been acquired to date.
- 12
13 b) Identify how many parcels have been identified as needed to be expropriated?
- 14
15 c) Explain in detail what is meant by the phrase “accelerated land acquisition program”.
- 16
17 d) How many parcels is HONI estimating will be acquired and/or expropriated through this
18 “accelerated land acquisition program”?

19
20 **Response:**

- 21 a) Hydro One has initiated land acquisition activities. Activities and progress to date are
22 outlined in the list below:
- 23 • Hydro One has conducted title searches of all impacted patented properties (IPP)
 - 24 • Hydro One has made contact with all IPP owners, explaining Hydro One
25 requirements and its land acquisition process.
 - 26 • Hydro One has completed early access agreements for 90% of IPP
 - 27 • Hydro One has completed property valuation inspections of all IPP’s with early
28 access agreements
 - 29 • Hydro One has completed 25% of property valuation appraisals and is now
30 proceeding with presentation of offers for Option Agreements.
 - 31 • Hydro One has apprised MNRF of its Lake Superior Link project
 - 32 • Hydro One has advised MNRF of its intent to secure rights through Memorandum of
33 Understanding/Master Land Use Permit for its occupation within Provincial Crown
34 Lands
 - 35 • Hydro One has commenced identifying and contacting underlying interests within
36 Provincial Crown Lands impacted by the LSL project

1 b) To date, no discussions with IPP owners have suggested the need to expropriate.

2
3 c) Accelerated land acquisition by Hydro One entails the following:

- 4 • Early engagement of experienced service providers through approved vendors list and
5 single source approval;
- 6 • Upon Section 92 application submission, Hydro One initiated early contact in writing
7 to IPP owners of its project, the direct impact on their properties, the Land
8 Acquisition Compensation Principles (LACP) to be employed by Hydro One and its
9 acquisition process;
- 10 • Early direct engagement with IPPs through meetings to explain Hydro One's LACP,
11 which sought early acceptance with the aim to secure timely voluntary property
12 settlements through flexibility and choice of terms and payments;
- 13 • LACP is constructed on recent and successful transmission projects with a high
14 owner acceptance rate of early voluntary settlement ;
- 15 • Service Providers engaged in the Project have the capacity to apply the requisite
16 resources to meet accelerate timelines (if required);

17
18 d) Please refer to Exhibit I, Tab 1, Schedule 10.

TAB 14

1 *NextBridge Interrogatory # 29*

2
3 *Reference:*

4 EB-2017-0364 - February 15, 2018 HONI Lake Superior Link Application, EXHIBIT B, TAB 1,
5 SCHEDULE 1, page 9, lines 6-17.

6
7 *Interrogatory:*

- 8 a) Provide the status of HONI's acquiring of land rights outside of Pukaskwa National Park to
9 support the Lake Superior Link, including rights for construction easements, access roads,
10 and laydown yards.
11
12 b) Provide the status of HONI's acquiring of land rights if it must route around Pukaskwa
13 National Park to support the Lake Superior Link, including rights for construction easements,
14 access roads, and laydown yards.

15
16 *Response:*

- 17 a) Please refer to Exhibit I, Tab 2, Schedule 17; in addition, Hydro One has arranged with
18 property owners for on-site review of off corridor temporary access for approximately 95%
19 of the required properties.
20
21 b) The route around Pukaskwa National Park is not Hydro One's preferred route and has not
22 been the focus of the LSL land rights acquisition process. Hydro One has investigated the
23 route which is primarily located within Crown Land, approximately 95%, with only 5 IPP's.

TAB 15

- 1 e) If an affiliate relationship is created please confirm that LSL would be subject to the
2 requirements of section 2.3.3 of the Affiliate Relationships Code for Electricity Distributors
3 and Transmitters. If Hydro One believes that the affiliate relationship will be subject to
4 section 2.3.4 of the Code please explain why.
5
- 6 f) If, as indicated in the above response, that an affiliate company will be created please explain
7 how "*Hydro One's existing maintenance programs will be leveraged to perform maintenance*
8 *on the new Lake Superior Link transmission line*" while adhering to the requirements of the
9 affiliate relationship code.
10
- 11 g) Does Hydro One presently offer any transmission or distribution services to other Ontario
12 utilities?
13

14 **Response:**

- 15 a) Confirmed, as noted in the reference, Hydro One expects to form a partnership which will
16 own the newly constructed Lake Superior Link.
17
- 18 b) These details have not been discussed with any potential partners as Hydro One has been
19 unable to discuss equity participation levels due to exclusivity agreements that NextBridge
20 entered into. Consequently, Hydro One cannot provide any specifics regarding the requested
21 information at this time.
22
- 23 c) The existing EWT Line and the new LSL Line will both share facilities through PNP (i.e.,
24 the existing east-west tie line that is currently owned by Hydro One Networks Inc., and the
25 Lake Superior Link line that is intended to be owned by a Newco or partnership). Although
26 the specifics of the partnership have not been established, one potential scenario would be for
27 Hydro One Networks Inc. to be the Licensee and the Lake Superior Link owners would have
28 a business arrangement to occupy Hydro One's transmission structures.
29
- 30 d) The deferral account request is in the event that Hydro One is unable to execute a partnership
31 agreement as contemplated in the leave to construct application and effectively maintain
32 100% ownership of the newly construct Lake Superior Link.
33
- 34 e) Hydro One, at this time, believes section 2.3.4. of the Affiliate Relationship Code would
35 apply to this situation. This would be similar to Hydro One's arrangement with B2M LP.
36 Regardless, any transfer of asset and subsequent revenue requirement would be subject to
37 OEB approval.

- 1 f) This will be done through a service level agreement.
2
3 g) Hydro One, as a transmitter, serves 98% of the province of Ontario and therefore, provides
4 transmission services to many Ontario utilities. If VECC is inquiring about similar affiliate
5 services that are provided, Hydro One cites existing affiliate agreements that exist between
6 Hydro One Networks Inc., B2M LP and/or Hydro One SSM.

TAB 16

NextBridge Interrogatory # 34

Reference:

EB-2017-0364 - February 15, 2018 HONI Lake Superior Link Application, EXHIBIT B, TAB 1, SCHEDULE 1, pages 11-12.

Interrogatory:

- a) Identify the Indigenous Communities that HONI will or has approached to consult in relation to the Lake Superior Link project.
- b) For each identified Indigenous Community, explain in detail the current status of HONI's consultation.
- c) Confirm that unless HONI is able to enter into consultation agreements with each of the identified Indigenous Communities, it will not proceed with the Lake Superior Link project. If not confirmed, explain your answer in detail how HONI would proceed to construction with the Lake Superior Link project without some or all consultation agreements in place.

Response:

- a)
 1. Animbiigoo Zaagi'igan Anishinabek First Nation (Lake Nipigon Ojibway)
 2. Biinjitiwaabik Zaaging Anishinabek First Nation (Rocky Bay)
 3. Biigtong Nishnaabeg
 4. Bingwi Neyaashi Anishinabek (Sand Point First Nation)
 5. Fort William First Nation
 6. Ginoogaming First Nation
 7. Long Lake #58 First Nation
 8. Michipicoten First Nation
 9. Missanabie Cree First Nation
 10. Ojibways of Batchewana
 11. Ojibways of Garden River
 12. Pays Plat First Nation
 13. Pic Mobert First Nation
 14. Red Rock Indian Band (Lake Helen)
 15. MNO Greenstone Métis Council
 16. Red Sky Independent Métis Nation
 17. MNO Superior North Shore Métis Council

1 18. MNO Thunder Bay Métis Council

2 19. Métis Nation of Ontario

3
4 In addition, the following Indigenous communities have expressed an interest in the project and
5 Hydro One has engaged them.

6 1. Métis Nation of Ontario - North Channel Metis Council

7 2. Métis Nation of Ontario – Historic Sault St. Marie Council

8 3. Jackfish Métis Association

9 4. Ontario Coalition of Indigenous Peoples

10
11 b) Please refer to Exhibit I, Tab 1, Schedule 15.

12
13 c) Reaching consultation agreements with each Indigenous community is not required for
14 Hydro One to proceed with construction of the project. Hydro One has and will continue to
15 make best efforts to reach consultation agreements with all Indigenous communities who
16 wish to enter into consultation agreements. Not all Indigenous communities are interested in
17 signing consultation agreements, however wish to be kept informed of project status.

TAB 17

1 *NextBridge Interrogatory # 35*

2
3 *Reference:*

4 EB-2017-0364 - February 15, 2018 HONI Lake Superior Link Application, EXHIBIT B, TAB 1,
5 SCHEDULE 1, pages 11-12.

6
7 *Interrogatory:*

- 8 a) Identify the Indigenous Communities that HONI will or has approached to participate
9 economically in the Lake Superior Link project.
- 10
11 b) For each identified Indigenous Community, explain in detail the current status of reaching an
12 agreement on participation.
- 13
14 c) Provide copies of all correspondence and documents related to seeking or agreement with an
15 Indigenous Community on participation.
- 16
17 d) Confirm that unless HONI is able to enter into participation agreements with each of the
18 identified Indigenous Communities, it will not proceed to construction with the Lake
19 Superior Link project. If not confirmed, explain your answer in detail how HONI would
20 proceed to construction with the Lake Superior Link project without some or all participation
21 agreements in place.

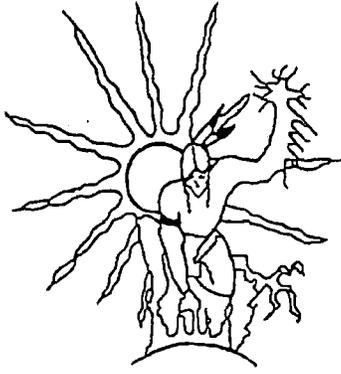
22
23 *Response:*

- 24 a) Hydro One has, to date, approached six First Nation partners in Bamkushwada Limited
25 Partnership (BLP) which includes: Pays Plat First Nation, Fort William First Nation, Red
26 Rock Indian Band, Pic Moberg First Nation, Biigtigong Nishnaabeg, and Michipicoten.¹
- 27
28 b) Although Hydro One has been sharing project related information and meeting with the BLP
29 communities, Hydro One has been instructed by BLP legal counsel to not discuss economic
30 accommodations and/or participation with these six First Nations. Please refer to Exhibit I,
31 Tab 1, Schedule 15.

¹ EB-2017-0364 – Hydro One Additional Evidence (May 7, 2018) page 12-13 and April 12 letter to BLP (Attachment 12 in additional evidence)

- 1 c) Specifically regarding equity participation, and for reasons outlined in a) and b) above, there
2 is no additional correspondence than already provided as evidence in this proceeding.
3
- 4 d) Following OEB approval of Hydro One's Application to construct the LSL, Hydro One will
5 make best efforts to work with BLP to establish mutually agreeable terms with regards to a
6 limited partnership that will own the Lake Superior Link Assets. Hydro One remains
7 committed to reaching agreeable terms in principle within 45 days following OEB approval.
8 Given the date of OEB approval is undefined, Hydro One cannot answer the question as to
9 whether or not the status of equity participation discussions or agreements will impact the
10 construction schedule.

TAB 18



BIIGTIGONG NISHNAABEG

July 9, 2018
VIA EMAIL

Steve Mantifel
Manager, Special Projects, Community Relations
Hydro One Networks Inc.
483 Bay St
South Tower, 6th Floor
Toronto, ON M5G 2P5

Re: Biigtigong Nishanaabeg's Review of the Lake Superior Link Environmental Assessment Draft Terms of Reference

Dear Steve,

In response to the Hydro One Networks Inc. (HONI) Notice of Commencement of the Draft Terms of Reference (Draft ToR) for the Lake Superior Link (LSL) Environmental Assessment, we are sending this letter and accompanying report to you.

The Draft ToR does not address many of the concerns of the Biigtigong Nishanaabeg (BN) community. We have numerous concerns that must be addressed through a revised Draft ToR. As the First Nation government with jurisdictional regulatory authority over our territory, we provide BN's requirements for a revised Draft ToR below.

Project Alternatives

BN Requirement 1a.

Biigtigong Nishnaabeg requires HONI to thoroughly review a "do nothing" alternative within the EA. Using a "do nothing" alternative is a normal and accepted methodology in Ontario EAs. In this case, the "do nothing" alternative would likely include the existing OEB designated NextBridge EWT project proceeding to construction and operation. The existing OEB designated NextBridge EWT project is a reasonably foreseeable project that is likely to proceed. As such, the "do nothing" alternative is a reasonable and practical component for the HONI EA.

BN Requirement 1b.

Biigtigong Nishnaabeg requires HONI to conduct an updated needs assessment for the LSL project EA, with more recent economic growth data for Northwestern Ontario, more recent

BIIGTIGONG NISHNAABEG - OJIBWAYS OF THE PIC RIVER FIRST NATION

data on the electricity needs of the mining sector in Northwestern Ontario, and transmission and generation options that include advances in distributed energy resources, and the use of such systems for providing reliable electricity to the mining sector.

Reference Route and Alternative

BN Requirement 2a.

HONI must provide First Nations including BN with a seat at the decision-making table to have meaningful input and allow for a full and complete assessment of the implications of the Project alternatives.

BN Requirement 2b.

HONI must include detailed plans on the assessment of their preferred route and how they will protect traditionally important areas to BN.

Project timelines and targeted In-service date

BN Requirement 3a.

HONI must commit in the ToR to provide a comprehensive Environmental Assessment study, while following regulatory guidelines and having sufficient time for meaningful consultation with BN and other First Nations. HONI must demonstrate how they will achieve both these goals in the tight timelines without compromising on either.

Reliability of Electricity Lines

BN Requirement 4a.

HONI must commit in the ToR to provide detailed plans on how they will ensure that existing electrical customers on the EWT line have reliability of supply during construction and maintenance of the LSL. HONI must provide proof that a twinned line will have better reliability of supply than a line on a separate corridor.

BN Requirement 4b.

HONI must commit in the ToR to provide detailed contingency plans for accidents and malfunctions and how they will limit the duration and frequency of power outages for customers on the existing EWT line.

Existing Transmission Towers

BN Requirement 5.

HONI must commit in the ToR to assessing all existing towers to ensure that they meet current and future standards for reliability and structural stability in our changing climate. HONI must provide rationale for maintaining existing structures, upgrading towers or tower replacement.

Water Body Crossings

BN Requirement 6.

HONI must perform detailed assessments of water quality at each water body crossing during baseline conditions. All waterbody crossings must have at minimum an assessment of the baseline conditions for water quality including temperature, dissolved oxygen, total suspended sediments, conductivity, nutrients and metals. This data should then be used during construction monitoring to determine exceedances to baseline water quality and when to implement contingency measures.

Water Quantity Maintenance (flows)

BN Requirement 7a.

HONI needs to complete sufficient baseline studies of all potential water body crossings along the reference route to give BN assurance that indicators of impacts will be detected during construction or that existing exceedance can be mitigated for.

BN Requirement 7b.

An assessment of the flow regime including mean annual flow must also be completed at each watercourse crossing.

Water Courses

BN Requirement 8a.

HONI must commit in the ToR to provide a good characterization and understanding of the fish and fish habitat along the Project Footprint to ensure that important fish species to BN are protected and their habitat is not compromised. Fish surveys are needed to locate critical fish habitat as well as fish presence and assemblages This is especially important within the Pukaskwa National Park where no recent surveying has been completed.

BN Requirement 8b.

HONI must commit in the ToR to complete fish habitat surveys to determine fish presence in and around (upstream and downstream) of crossings and using the information to determine the crossing structures and potential mitigation measures.

BN Requirement 8c.

HONI must commit in the ToR to an Environmental Protection Plan that integrates the fish habitat survey results and mitigation measures being added to the Plan based on the field surveys.

Tower Locations in Environmentally Significant Areas

BN Requirement 9.

HONI must commit in the ToR to avoid placing transmission towers in PSWs, ANSIs, ESAs and in areas of traditional importance to BN.

Riparian Buffers

BN Requirement 10a.

HONI must commit in the ToR to using guidelines for riparian buffers based on slope, such as the MNRF Guide for Conserving Biodiversity at the Stand and Site Scales to protect adjacent waterbodies, at a minimum.

BN Requirement 10b.

HONI must commit in the ToR to limit removal of existing riparian buffers along the Project Footprint.

BN Requirement 10c.

HONI must commit in the ToR to restore disturbed riparian buffers as soon as possible and look for opportunities to improve marginal riparian buffers where possible along the Project Footprint.

Water Body Crossings Structures

BN Requirement 11.

HONI must commit in the ToR to providing detailed analysis on the crossing structures and flow needs of each water body crossing to determine how flow hydraulics and connectivity will be maintained.

Completion of Baseline Studies

BN Requirement 12a.

HONI must commit in the ToR to complete all necessary baseline studies for the entire study area to show their due diligence and gain a full understanding of both the existing environmental conditions and the resulting potential effects. This will ensure that HONI is taking responsibility of the Project and its effects by ensuring that baseline data is sufficient, reliable, scientifically sound, and protective of the environment. These studies need to be thorough and multi-seasonal to account for natural temporal variability in species presence and identifiability.

BN Requirement 12b.

HONI must commit in the ToR to completing any mammal surveys beyond winter aerial surveys, and define which species the intended aerial surveys will be evaluating.

BN Requirement 12c.

HONI must commit in the ToR to incorporating traditional knowledge and traditional ecological knowledge in their baseline studies in order to determine the full extent of Project effects.

BN Requirement 12d.

HONI must commit in the ToR to involving First Nations communities in the execution of environmental baseline studies and fieldwork.

Access to Remote Areas

BN Requirement 13a.

HONI must identify if new helipads will need to be created to accommodate this work, or if existing infrastructure can be used. In either case, HONI must complete thorough baseline studies in and around the areas for identified aerial works to ensure that no species of significance (both vegetative and wildlife), significant wetlands, or sensitive habitat areas will be disturbed. Appropriate setback distances and timing restrictions will need to be applied.

BN Requirement 13b.

If helicopter work is to occur as part of the Project's ongoing operation and maintenance, HONI must commit to ensuring that no fuelling or mechanical maintenance activities will occur in or around the helipads located in Pukaskwa National Park.

BN Requirement 13c.

HONI will need to undertake vegetation management practices in order to maintain helipads for safe operations. HONI must identify, through a full Vegetation Management Program, how they intend to manage vegetation growth in these remote areas.

Vegetation Management

BN Requirement 14a.

HONI must commit in the ToR to indicating the anticipated spatial extent of vegetation clearing for construction, and if it is in excess of the proposed 37-46m wide ROW. They must also indicate the extent that such site preparation is expected to occur within Pukaskwa National Park.

BN Requirement 14b.

HONI must commit in the ToR to completing baseline field surveys to ensure that vegetation clearing and site preparation activities will not negatively impact any ecological sensitive areas, wildlife and wildlife habitat, and species-at-risk.

BN Requirement 14c.

HONI indicates that some construction activities will be staged to minimize potential environmental effects, such as avoiding clearing of vegetation during migratory bird nesting season. HONI must commit in the ToR to avoiding clearing of vegetation during bat hibernation and maternity roosting period, amphibian breeding and hibernation periods, and turtle nesting periods.

BN Requirement 14d.

HONI must commit in the ToR to explore alternative vegetation management practices, as part of the "alternative method" section of the ToR, to implement during all project phases to avoid the use of herbicides. HONI must also commit in the ToR to no aerial spraying herbicides on or off the ROW.

Environmentally Significant Areas

BN Requirement 15.

HONI must commit in the ToR to identify if there are any provincially significant wetlands or environmentally sensitive areas within the Project area and identify appropriate mitigation measures and monitoring programs to ensure that these significant areas are appropriately protected. Wetlands in and around the proposed transmission route should be delineated and evaluated using the Ontario Wetland Evaluation System.

Species at Risk

BN Requirement 16a.

HONI must commit in the ToR to indicating how they intend on collecting and verifying unpublished information and personal communications that will be used to compile known incidences of species at risk.

BN Requirement 16b.

Desktop studies are not sufficient for determining the presence of species at risk in the Project area, and as such HONI must commit in the ToR to including species at risk surveys as part of their baseline field studies.

BN Requirement 16c.

HONI must commit in the ToR to indicating their proposed process for screening locations based on presence/absence of species at risk within the study area that could be directly affected by construction activities.

Acoustic Disturbances

BN Requirement 17a.

HONI must commit in the ToR to conducting baseline noise surveys in ecologically sensitive and remote areas (including Pukaskwa National Park and known habitat for sensitive birds and wildlife) that will be near construction and maintenance activities.

BN Requirement 17b.

HONI must commit in the ToR to restricting noise activities near identified habitat areas during active bat maternity roosting periods, migratory bird nesting periods, amphibian breeding periods, turtle nesting periods, and ungulate calving periods.

Human Health and Environmental Risk Assessment

BN Requirement 18a.

HONI must commit in the ToR to avoiding the use of aerial spraying of pesticides and herbicides during construction and line maintenance.

BN Requirement 18b.

HONI must commit in the ToR to include a country foods assessment and human health risk assessment in their EA studies and include input from First Nations, including BN.

Environmental Monitoring and Employment Opportunities

BN Requirement 19a.

HONI must commit in the ToR to consider preferential hiring of First Nations members for positions as Environmental Monitors or 'Guardians', to ensure that BN's traditional territories and traditional environmental values are being monitored.

BN Requirement 19b.

HONI must commit in the ToR to establishing a bi-lateral agreement to provide support, capacity and training for BN to be involved in the environmental aspects of the EA, and the Project, at all phases.

BN Requirement 19c.

HONI must commit in the ToR establish and provide capacity for a First Nation Environmental Management Committee with BN and other First Nations, as soon as possible in the EA process, and certainly by the next version of the Draft ToR. This Committee would ensure First Nation oversight for all environmental issues, would have direct access to review and comment on any environmental reports and regulatory applications and approvals, and would have decision-making authority with respect to the environmental practices of HONI throughout the life of the project.

Field Monitoring Studies

BN Requirement 20a.

HONI must commit in the ToR to performing field monitoring studies throughout all Project phases, including during the EA, to ensure that all ecologically sensitive and significant features are identified, protected, and if necessary, remediated. These studies need to be performed directly by HONI, in collaboration with BN, for *all* Project areas, not just in areas that haven't been previously investigated by other proponents. These studies must be field based for all indicators to collect the most up to date and accurate information and subsequently develop the most appropriate mitigation measures and monitoring programs.

BN Requirement 20b.

HONI must commit in the ToR that it will provide funding and support for members of Indigenous communities must be part of the field monitoring teams, as third-party monitoring technicians or "Environmental Guardians", during the EA and for all other project monitoring activities, to provide important cultural insight to the monitoring activities, to ensure that significant environmental features are being considered and adequately protected, and to act as a third party environmental compliance body.

Construction Monitoring Plans

BN Requirement 21a.

Monitoring prior to, during and post- construction are necessary to determine the effects of the Project in the local and regional area. HONI must commit in the ToR to doing environmental monitoring during all phases of the Project to understand impacts of the Project on the environment, and develop and implement appropriate mitigation measures and contingency plans.

BN Requirement 21b.

Once baseline conditions have been studied, monitoring construction must be completed to ensure that mitigation measures are working properly and the water bodies are not being negatively impacted by the construction. HONI must commit in the ToR for that construction monitoring activities must include Biigtigong Nishnaabeg member involvement as Environmental Monitors or Guardians.

BN Requirement 21c.

HONI must commit in the ToR for Biigtigong Nishnaabeg member involvement third-party monitoring technicians, sometimes referred to as "Environmental Guardians", and provided training and capacity from the Proponent for involvement during the EA and all project phases.

First Nation Lands and Federal Lands

BN Requirement 22a.

HONI must commit in the ToR to engaging Biigtigong Nishnaabeg in all its meetings with Parks Canada with regard to the renewal process for HONI's License of Occupation in relation to BN's assertion of Aboriginal Title and its comprehensive land claim over its traditional territory.

BN Requirement 22b.

HONI must commit in the ToR to engaging Biigtigong Nishnaabeg in all meetings with Parks Canada with respect to HONI's apparent assertion that the LSL project is limited to "upgrades to infrastructure" within Pukaskwa National Park that are "not considered new development" under the existing HONI License of Occupation, or any future License of Occupation.

Socio Economic and Cultural Environment

BN Requirements 23a.

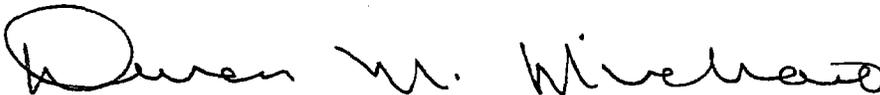
Biigtigong Nishnaabeg has requested a thorough archeology assessment and traditional knowledge study be completed prior to any work to be done on the existing infrastructure through Pukaskwa Park. This assessment was never meaningfully done on the original line and given BN's historic ties to the land within and around Pukaskwa, we feel this is necessary. BN would also like to utilize an archaeologist of their choosing.

BN Requirements 23b.

Biigtigong Nishnaabeg have asserted aboriginal title on the traditional lands for which the Lake Superior Link Transmission Line is proposed. Because of this fact, HONI should acknowledge that the relationship between HONI and BN is unique and that the development of a Consultation Agreement is necessary for meaningful consultation.

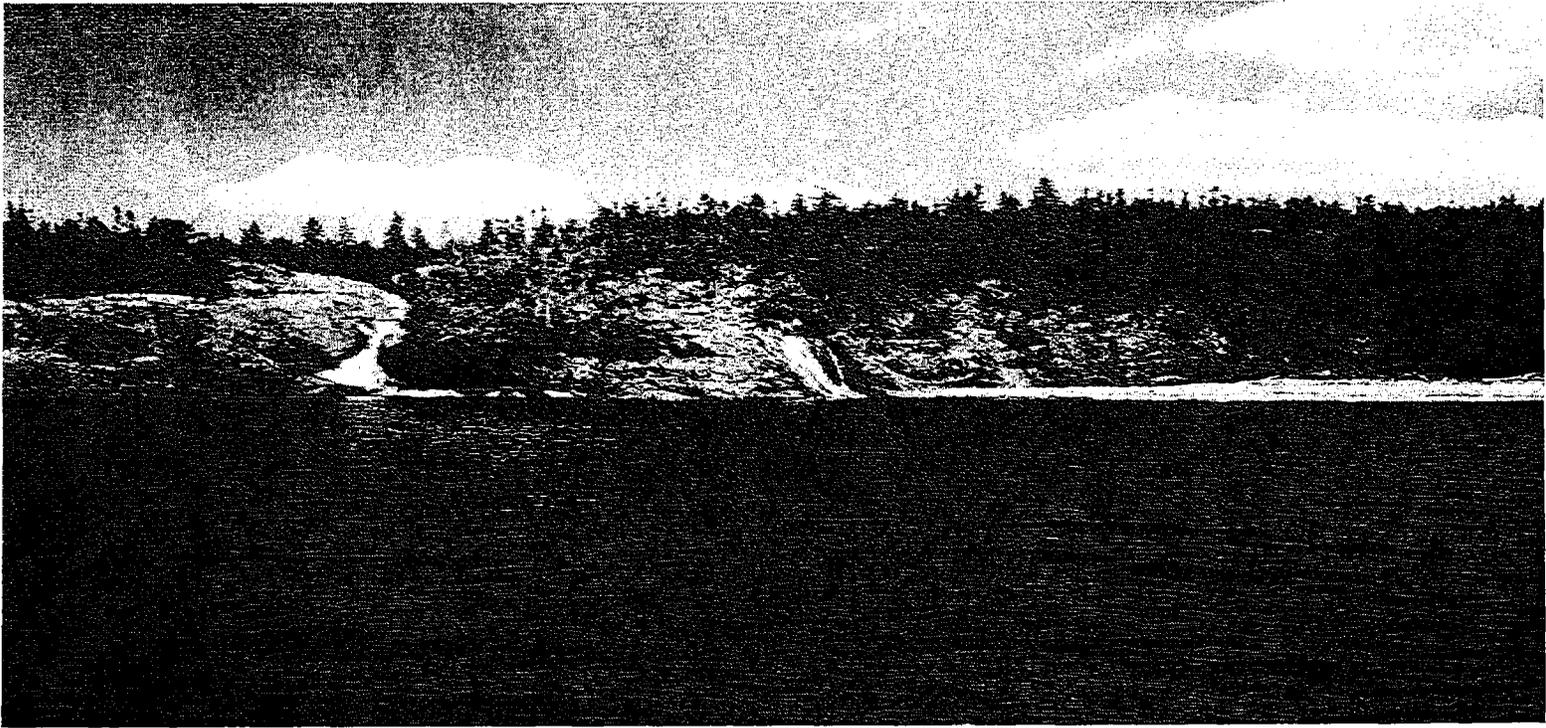
As the LSL is in the early stages of the Ontario Environmental Assessment process, it is important that HONI provide BN with an understanding and commitment to ensuring the Project will be properly scoped, planned, monitored, fiscally responsible and that BN will be properly consulted and accommodated through the life of the line. The above BN requirements will provide some measure of assurance to our First Nation that this will be the case.

Sincerely,



Chief Duncan Michano

Cc. Antonia Testa, Special Project Officer, Ministry of the Environment, Conservation and Parks
Bruce Hopper, Environmental Planner, Hydro One Networks Inc
Vicky Woodbeck, Aboriginal Liaison, Hydro One Networks Inc
Juanita Starr, Director of Sustainable Development



Hydro One Lake Superior Link Transmission Project

Environmental Technical Review of the *Draft Terms of
Reference for an Environmental Assessment*

Prepared for:
Biigtigong Nishanaabeg

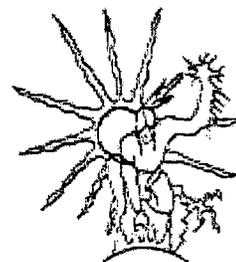
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Juanita Starr
Director of Sustainable Development
Biigtigong Nishnaabeg
Ojibways of the Pic River First Nation
Heron Bay, ON
POT 1R0
juanita@picriver.com

July 5, 2018

Dear Juanita:

It is our pleasure to provide you with our environmental technical review report on the Environmental Assessment Draft Terms of Reference for Hydro One's proposed Lake Superior Link Project. This review was completed by myself, Amanda Wong, M.Sc, M.Eng and Alison Gamble, MES, C.Chem, of Shared Value Solutions. We look forward to continuing to serve the rights and interests of Biigtigong Nishnaabeg in future consultation with Hydro One and the Ontario Ministry of Environment and Climate Change. Please do not hesitate to get in touch with us if you have any questions or concerns with the enclosed report.

With best regards,

Don Richardson, Ph.D.
Managing Partner, Shared Value Solutions Ltd



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1.0 Introduction

Shared Value Solutions (SVS) has been retained by Biigtigong Nishnaabeg (BN) to undertake a high-level environmental technical review of the Environmental Assessment (EA) Draft Terms of Reference (Draft ToR) for the Lake Superior Link Project (LSL, or the Project) being proposed by Hydro One Networks Inc. (HONI, or the Proponent). The purpose of this report is to inform BN about the proposed Project and identify potential environmental issues and concerns regarding the plans for the Project, measures to address such issues, and to support BN in the pre-consultation process. This report also aims to provide comments about the Draft ToR to both HONI and the Ontario Ministry of Environment, Conservation and Parks (MOECP) on ways in which BN's rights and interests may be impacted, considered, and accommodated in the process. Specifically, this review was scoped to examine the impacts of the project on the environmental components only of importance to BN, including:

- Water Resources
- Fish & Fish Habitat;
- Vegetation & Wetlands;
- Wildlife & Wildlife Habitat;
- Human Health and Ecological Risk Assessment.
- Environmental Monitoring;
- First Nation Lands and Federal Lands

The SVS review team for the Lake Superior Link Project Transmission Project Draft ToR environmental technical review work consists of:

- Don Richardson, PhD. – Managing Partner, Project Director
- Amanda Wong, MSc, MEng – Project Manager, Water Resources Specialist
- Alison Gamble, MES, C.Chem. – Environmental Scientist

In addition to completing this initial review, SVS had previously provided a memo, dated June 22, 2018, with a list of 6 issues regarding the Draft ToR and 20 questions to be brought to HONI during an open house meeting on June 25, 2018, under separate cover.

As of the date of this report, there has been no correspondence in reply from HONI on these concerns.

1.1 Review Objectives and Approach

This environmental technical review of the Draft ToR will focus on the impact to BN's rights and interests and pending aboriginal title claim regarding BN's asserted and practiced rights in their traditional territory. The Statement of Claim for BN was filed to the Ontario Superior Court of Justice on January 7, 2003 and is still actively being negotiated.

The objectives of this review are as follows:

- Provide a plain language summary of the proposed Project

- Clearly identify how the Project may impact BN's rights and interests
- Identify outstanding gaps in the Draft ToR from a technical and scientific viewpoint and provide recommendations on how they can better accommodate BN's rights and interests.

1.2 Review Scope

SVS reviewed the following HONI Draft ToR chapters:

- Section 1: Introduction
- Section 2: Regulatory Framework
- Section 3: Overview of the EA Process and Requirements for the Proposed Project
- Section 4: Description of the Undertaking and Evaluation of Alternative Methods
- Section 6.1: Existing Environmental Conditions in the Study Area – Natural Environment
- Section 6.2.6: Human Health
- Section 7: Effects Evaluation and Mitigation Measures
- Section 8: Commitments and Monitoring

2.0 The Regulatory Process and Project Description

2.1 The Regulatory Process and Background of the Project

While the Government of Ontario and the Ministry of Energy set the policies for the energy sector, it is the Ontario Energy Board (OEB), that regulates the sector. The OEB is an independent government agency, that ensures that priority projects as directed by the Minister of Energy get completed in a sustainable manner that customers receive reliable energy.

In March 2011, the Government of Ontario, as part of the 2013 Long-Term Energy Plan, declared that a new, expanded or reinforced transmission line was needed to provide an adequate, safe, reliable and affordable supply of power to enable future growth and development in Northwestern Ontario. The Independent Electricity System Operator (IESO, formerly Ontario Power Authority) recommended the expansion of the existing East-West Tie (EWT) as the best alternative to maintaining reliable and cost-effective supply of electricity to northwestern Ontario. The EWT Expansion project was conceived as a way to increase the electricity transfer capability into Northwestern Ontario by adding a new transmission line roughly parallel to the existing HONI operated EWT transmission line, which extends between Wawa and Thunder Bay.

The Minister of Energy then provided a directive to the Ontario Energy Board to begin the process of selecting a proponent to carry out the EWT Expansion Project along the East-West Transmission (EWT) line corridor.

In August 2013, after a competitive designation process, NextBridge Infrastructure (legally known as Upper Canada Transmission, Inc. or UTC) was selected to develop the EWT Expansion project. In 2016,

the EWT was declared a Priority Project by the Lieutenant Governor in Council, and NextBridge then filed a 'Leave to Construct' with the OEB to begin the Project on July 31, 2017.

However, on August 4, 2017, due to increasing costs above the proposed NextBridge budget of \$777M from the bid cost of \$419M, the Minister of Energy requested that the Independent Electricity System Operator (IESO) update the needs assessment for the EWT Expansion project. On December 1, 2017, the IESO submitted to the Minister of Energy an updated need assessment for the EWT Expansion project. The IESO's report confirms the rationale for the project based on updated information and study results. The EWT Expansion project continues to be the IESO's recommended option to maintain a reliable and cost-effective supply of electricity to the Northwest for the long term.

Subsequently, HONI submitted a competing EWT Expansion project "Leave to Construct" application on February 15, 2018, calling the project the Lake Superior Link (LSL). "Leave to Construct" approval for the project is required under Section 92 of the OEB Act. The OEB review of Hydro One's application for Leave to Construct approval will examine technical aspects, consumer protection, and also includes provisions for engagement/consultation.

HONI estimates their project will cost \$636M - \$141M less than the NextBridge budget - and will have operating, maintenance and administrative cost savings of \$3M annually in comparison to the NextBridge estimate. Much of the cost savings likely stems from the proposed HONI preferred 'reference route' being 50km shorter, following the existing right-of-way (ROW) that cuts through Pukaskwa National Park.

This process initiated by HONI is running in parallel to the NextBridge EWT project; both have applied for Leave to Construct, however NextBridge has completed their Environmental Assessment, which is undergoing review by the MOECP, while HONI is at the early stage of drafting their Terms of Reference for their EA. NextBridge, on February 27, 2018, filed an notice of motion to the OEB seeking one of the following 3 options: an order dismissing HONI's LSL application; a decision to not process the LSL application due to incompleteness; or suspending the application until HONI can compile all the Filing Requirements. The OEB decided to proceed with a Hearing on these motions on April 6, 2018. The hearing is still awaiting a decision at the date of this report.

As part of the Project development, an Individual Environmental Assessment is needed under the Ontario *Environmental Assessment Act* and Ontario Regulation 116/01. The EA process for transmission projects in Ontario is overseen by the Ontario Ministry of the Environment and Climate Change (MOECC). HONI prepared a draft Terms of Reference as the first step in the process for their Environmental Assessment in June 2018 to the MOECC for review, including a public consultation process with Indigenous communities and other interested persons. The EA should discuss the major components of an environmental assessment and their approach to fulfilling the guidelines and requirements for EAs in Ontario.

2.2 Project Description

HONI is proposing to construct, own, and maintain the Lake Superior Link Project, an additional, approximately 400-kilometre (km) long double-circuit 230-kilovolt (kV) transmission line from Thunder Bay to Wawa along the north shore of Lake Superior. The new LSL preferred 'reference route' line would parallel the existing transmission infrastructure along the length, including cutting through Pukaskwa National Park. The transmission line will consist of 2 segments, the first of which connects the Lakehead Transformer Station (TS, in Shuniah, Ontario, near Thunder Bay) to the Marathon Transformer Station (in Marathon, Ontario), and the second from Marathon to the Wawa Transformer Station (east of Wawa, Ontario), as illustrated in Figure 1. The HONI 'reference route alternative' would avoid Pukaskwa National Park and would need to construct a new corridor for the transmission line for 50km along Highway 17 to White River, and then down to the existing corridor onwards to the Wawa TS. The proposed transmission line right-of-way (ROW) clearing is expected to be between 37 to 46 meters in width, depending on tower structure and foundation (Figure 2).

The transformer stations were not considered in this Draft Terms of Reference but will require upgrades to infrastructure to accommodate the additional transmission lines.

The target in-service date proposed is 2021.

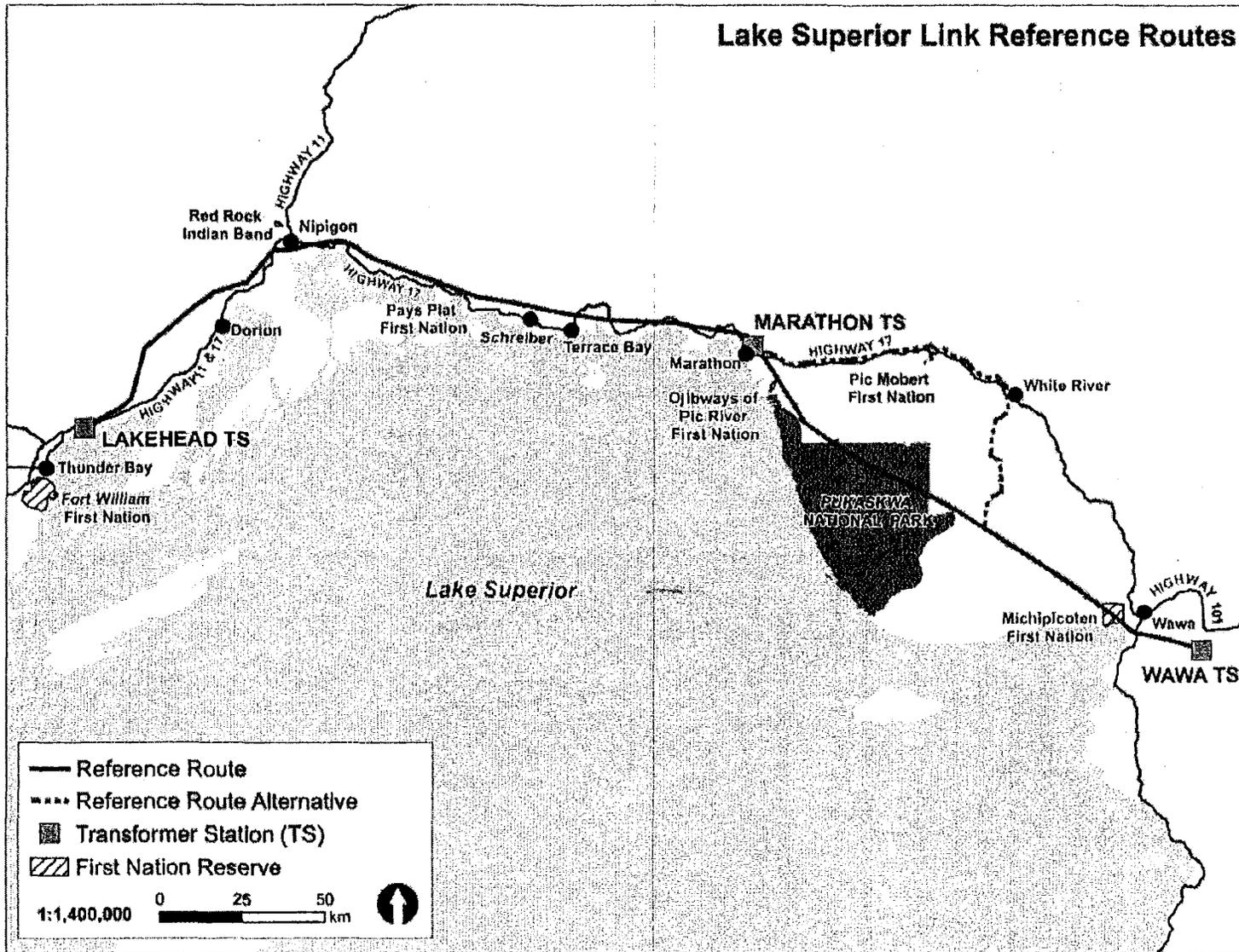


Figure 1. Map of preferred and alternate reference route for LSL and transformer stations

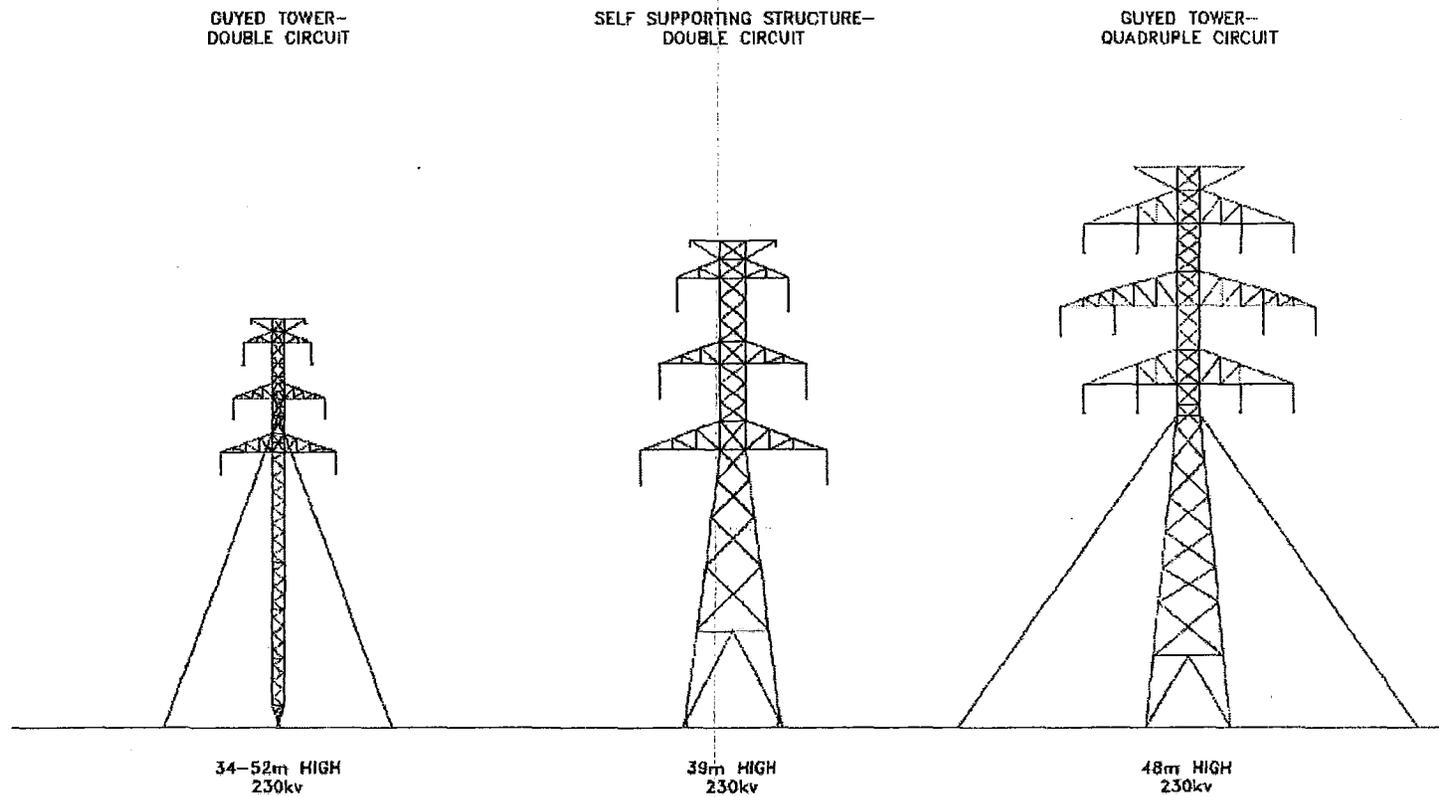


Figure 2. Proposed typical structure types and heights; (L-R) Guyed-Y Double-Circuit (34-52m), Self-Supporting Structure - Double Circuit (39m), Guyed Tower – Quadruple Circuit (48m).

3.0 Draft ToR Review Assessment

The following sections summarize the key concerns and recommendation regarding the LSL Project based on our review of the Draft ToR.

3.1 Project Description and Alternatives

Comment 1. Project Alternatives

HONI's Draft ToR presents two route alternatives for carrying out the undertaking. The Draft ToR provides a rationale for a "focused" EA that does not consider a common EA component called a "do nothing" alternative, nor does the ToR consider other alternatives to the undertaking.

The *Environmental Assessment Act* requires proponents under Section 6.1 (2) to conduct an alternatives assessment to demonstrate the advantages and disadvantages of the preferred alternative in comparison to other alternatives considered. To advance a "focused" EA, HONI relies on alternatives assessment process previously performed by the OEB and the IESO and outlined in Ontario Long-Term Energy Plan (LTEP) documents (OEB, 2010, IESO 2013, 2017) that review specific energy projects and other initiatives. The foundation of the previous assessment of alternatives is the IESO's forecast of a need for new supply to meet future demand in Northwestern Ontario tied to the IESO's perspective of growth in industrial activities in Northwestern Ontario, particularly in the mining sector.

HONI does not provide an economic update on potential growth in industrial activities in Northwestern Ontario to demonstrate the need for the LSL project. Furthermore, HONI relies on the IESO's 2011 analysis of how potential demand growth can be met with additional transmission and/or generation, and does not consider recent advances in "distributed energy resources" (DERs) that could be deployed in combination with additional transmission and/or generation. HONI simply accepts the IESO's 2011 assessment of alternatives and recommendation for the expansion of the existing 230 kilovolt (kV) East-West Tie to ensure the long-term reliability of the electricity supply in Northwestern Ontario (OPA, 2011).

HONI's Draft ToR seeks to proceed with a focused EA and assessment of alternatives and approach that assumes the IESO's recommendations are correct. As such, the proposed EA will not contain an assessment of alternatives to the undertaking. Instead, the evaluation of alternatives will focus on the assessment of alternative methods for carrying out the undertaking, in the form of routing alternatives. A reference route will be evaluated against an alternative route to compare the advantages and disadvantages of each option in the context of the natural environment, socio-economic environment and technical-administrative and cost considerations. HONI does not include a "do nothing" alternative, which could include the existing OEB designated NextBridge EWT project proceeding to construction and operation.

Recommendation 1a. Biigtigong Nishnaabeg may wish to require HONI to thoroughly review a "do nothing" alternative within the EA. Using a "do nothing" alternative is a normal and accepted methodology in Ontario EAs. In this case, the "do nothing" alternative would likely include the existing OEB designated NextBridge EWT project proceeding to construction and operation. The existing OEB designated NextBridge EWT project is a reasonably foreseeable

project that is likely to proceed. As such, the “do nothing” alternative is a reasonable and practical component for the HONI EA.

Recommendation 1b. Biigtigong Nishnaabeg may wish to require HONI to conduct an updated needs assessment for the LSL project EA, with more recent economic growth data for Northwestern Ontario, more recent data on the electricity needs of the mining sector in Northwestern Ontario, and transmission and generation options that include advances in distributed energy resources, and the use of such systems for providing reliable electricity to the mining sector.

Comment 2. Reference Route and Alternative

The Reference Route proposed by HONI as the preferred right of way (ROW) for the project goes through Pukaskwa National Park. BN has many concerns with this transmission line route through their traditional territory and through designated protected areas such as the National Park. Some of the concerns include the disturbances and impacts that construction and maintenance of the LSL will have on of BN’s traditionally important areas, such as cultural and spiritual sites.

Recommendation 2a. HONI must provide First Nations including BN with a seat at the decision-making table to have meaningful input and allow for a full and complete assessment of the implications of the Project alternatives.

Recommendation 2b. HONI must include detailed plans on the assessment of their preferred route and how they will protect traditionally important areas to BN.

Comment 3. Project timelines and targeted In-service date

The targeted in-service date for the LSL is one year later than the OEB’s preferred in-service date of 2020, which had originally been pushed back from 2018. HONI prepared their application for a Leave to Construct in February 2018, however did not provide a Draft Terms of Reference for comment until June 2018. These delays and the tight timelines to provide a meaningful, fulsome consultation on the Draft Terms of Reference, lead BN to believe that the in-service date will be very difficult to achieve. BN is concerned that HONI will not have sufficient time to perform the necessary baseline studies, provide time for meaningful consultation with First Nations, and deliver a Project that is protective of the environment.

However, the one-year delay for the in-service date is also a concern, as the project has been listed as a priority Project by the Government of Ontario’s 2013 Long-Term Energy Plan. It is unclear how HONI will address these timeline issues while still maintaining the Duty to Consult and accommodate.

Recommendation 3. HONI must provide a comprehensive Environmental Assessment study, while following regulatory guidelines and having sufficient time for meaningful consultation with BN and other First Nations. HONI must demonstrate how they will achieve both these goals in the tight timelines without compromising on either.

Comment 4. Reliability of Electrical Supply

The LSL proposal of twinning the line on the existing East West Tie transmission corridor may reduce the reliability of the electricity supply to northern Ontario. It is unclear how HONI will maintain electricity supply during construction, upgrades to existing towers and maintenance of the line. A separate line and

ROW could provide more reliability should there be problems along the existing line, such as extreme weather events or accidents and malfunctions.

Recommendation 4a. HONI must provide detailed plans on how they will ensure that existing electrical customers on the EWT line have reliability of supply during construction and maintenance of the LSL. HONI must provide proof that a twinned line will have better reliability of supply than a line on a separate corridor.

Recommendation 4b. HONI must provide detailed contingency plans for accidents and malfunctions and how they will limit the duration and frequency of power outages for customers on the existing EWT line.

Comment 5. Existing Transmission Towers

The existing towers of the East West Tie were originally built in the 1960's. The current and future climate and frequency of extreme events poses many more risks to these towers which will be 60 years old by the time of the proposed in-service date of the LSL. It is unclear how the existing towers are being assessed for the future reality of greater and more extreme weather and how many towers will need to be upgraded.

Recommendation 5. HONI must assess all existing towers to ensure that they meet current and future standards for reliability and structural stability in our changing climate. HONI must provide rationale for maintaining existing structures, upgrading towers or tower replacement.

3.2 Water Resources and Aquatic Environment

Comment 6. Water Body Crossings

The Lake Superior Link project will cross many water bodies, including watercourses, to accommodate the construction and installation of the transmission line. Most crossings are likely to be one of two types:

- Overhead crossing: stringing of the cable between towers, with generally minimal contact with the water body
- Road Crossings: existing, temporary or permanent access roads that cross water bodies may alter bed and banks with culverts, bridges or other structures.

Construction in and around water bodies can alter both the water quality and water quantity and could be detrimental to fish and fish habitat. In terms of water quality, construction activities can alter the riparian area, remove riparian vegetation and introduce sediment, contaminants or pollutants, fuel, oil into the water body, changing the water quality. This change in water quality may have impacts to fish and fish habitat such as choking, reduced visibility, toxic or inhabitable conditions that could cause fish avoidance or even fish kills.

HONI stated in the ToR that the description does not include fieldwork for water quality characterization of streams or water bodies. Hydrological data will only be provided in the post-EA applications for the watercourse crossing permits.

Recommendation 6. HONI must perform detailed assessments of water quality at each water body crossing during baseline conditions. All waterbody crossings should have at minimum an assessment of the baseline conditions for water quality including temperature, dissolved oxygen, total suspended sediments, conductivity, nutrients and metals. This data should then be used during construction monitoring to determine exceedances to baseline water quality and when to implement contingency measures.

Comment 7. Water Quantity Maintenance (flows)

Water quantity may also be affected during the Project phases, through water takings or diversions, changes in flow patterns due to construction, changes in flood risk due to new structures (culverts, bridge infrastructure) or changes in the ability for water to reach the creek (surface or groundwater obstructions and impervious areas such as roads on the landscape). Other water quantity obstructions may occur due to construction of tower foundations in wetlands or large ponds/lakes that could alter the water body. Fish may not be able to migrate due to these impacts, and downstream areas could be affected by changes in flow patterns. Canoe routes could also be affected if the crossing infrastructure reduces clearance for paddlers and boats.

HONI stated in the ToR that the description does not include fieldwork for flow characterization of streams or water bodies. Hydrological data will only be provided in the post-EA applications for the watercourse crossing permits.

Recommendation 7a. HONI needs to complete sufficient baseline studies of all potential water body crossings along the reference route to give BN assurance that indicators of impacts will be detected during construction or that existing exceedance can be mitigated for.

Recommendation 7b. An assessment of the flow regime including mean annual flow should also be completed at each watercourse crossing.

Comment 8. These water courses provide a range of fish and fish habitat along the ROW and access roads. The large waterbodies could provide year-round fish habitat for a variety of species during all life stages, including spawning, rearing, feeding and overwintering habitat. The waterbodies in the local area likely provide habitat to a number species important to BN large sport fish, baitfish and other small-bodied fish and provide important habitat to other commercial, recreational, and aboriginal fisheries.

HONI has stated that they will not do fieldwork for fisheries except where “fisheries surveys of watercourses designated as potential temporary crossings be required”. This is insufficient as many water body crossings have potential to alter fish habitat and affect fish that are important traditional species for BN. If HONI doesn’t perform fisheries surveys, it is unclear how the Proponent will have a good characterization of the impacts to these important fish species and their habitat during construction and operations.

Recommendation 8a. HONI must provide a good characterization and understanding of the fish and fish habitat along the Project Footprint to ensure that important fish species to BN are protected and their habitat is not compromised. Fish surveys are needed to locate critical fish habitat as well as fish presence and assemblages This is especially important within the Pukaskwa National Park where no recent surveying has been completed.

Recommendation 8b. HONI must complete fish habitat surveys to determine fish presence in and around (upstream and downstream) of crossings and using the information to determine the crossing structures and potential mitigation measures.

Recommendation 8c. The Environmental Protection Plan (EPP) should integrate the fish habitat survey results and mitigation measures added based on the field surveys.

Comment 9. Tower locations in environmental significant areas

The ToR states that the proposed transmission corridor may cross provincially significant wetlands (PSWs), Areas of Natural and Scientific Interest (ANSIs) and Regional Environmentally Sensitive Areas (ESAs). The corridor may also cross traditionally important sites of cultural, spiritual or environmental importance to BH. Existing or new transmission towers placed in these sensitive areas have high potential to cause disruption to important habitat for aquatic and terrestrial species, including those that are important to BN. The ToR does not provide enough information to determine whether HONI is planning to avoid tower placement in these environmentally significant areas or areas of traditional importance.

Recommendation 9. HONI should avoid placing transmission towers in PSWs, ANSIs, ESAs and in areas of traditional importance to BN, or provide rationale for why towers cannot avoid these areas.

Comment 10. Riparian Buffers

As the transmission corridor will cross many water bodies and require removal of vegetation along the route, BN is concerned that riparian buffers will be lost or compromised. The loss of riparian buffers will put water bodies at greater risk for water quality impacts, sedimentation and erosion of the banks and compromise fish and fish habitat. It is unclear how HONI will maintain riparian buffers during construction, operation and maintenance of the transmission line. Hydro One has only mentioned opportunities for habitat improvement to streamside buffers and setbacks during construction but does not provide enough detail to determine whether this is protective of aquatic habitats.

Recommendation 10a. HONI should commit to using guidelines for riparian buffers based on slope, such as the MNRF Guide for Conserving Biodiversity at the Stand and Site Scales to protect adjacent waterbodies, at a minimum.

Recommendation 10b. HONI should limit removal of existing riparian buffers along the Project Footprint.

Recommendation 10c. HONI should restore disturbed riparian buffers as soon as possible and look for opportunities to improve marginal riparian buffers where possible along the Project Footprint.

Comment 11. The water body crossings structures have the potential to affect the flow and channel hydraulics of the watercourses below. Some of the watercourses are used as transportation and navigation routes by BN members. Additionally, fish migration could be affected by these crossing structures which could impede or prevent fish from migrating upstream and downstream.

Recommendation 11. The Proponent should have detailed analysis on the crossing structures and flow needs of each water body crossing to determine how flow hydraulics and connectivity will be maintained.

3.3 Terrestrial Resources

Comment 12. Completion of Baseline Studies

HONI has indicated that another proponent, NextBridge, has completed studies along the reference route alternative and much of the reference route, which has included gathering environmental information for all aspects of the existing environment. HONI intends to use the information from publicly accessible EA documents to determine the existing environmental conditions in the study area.

Relying on another proponent's EA is not sufficient for determining existing environmental conditions and will result in HONI lacking insightful information that can only be derived by being the primary researcher. In addition, it has been identified through reviews of the EWT Amended EA that gaps and issues exist in the baseline environmental data prepared by NextBridge, resulting in insufficient data to provide a level of certainty that all environmental risks will be mitigated. Not only is HONI intending to rely on an insufficient data source to inform their EA process, but relying heavily on publicly available documents poses a risk of not having important information crucial to the EA, such as confidential information gathered through Traditional Knowledge studies.

HONI has indicated that they will undertake wildlife surveys, including a winter aerial survey, breeding bird point count surveys, crepuscular bird surveys, marsh bird surveys, amphibian call counts, bat habitat assessment, and bat acoustic surveys. HONI will characterize vegetation communities within portions of the study area, however HONI does not identify the portions of the project area locations targeted for these studies.

It is important that all baseline field studies are completed for the entire study area (not just for areas not covered in another proponent's studies), and that sufficient time is given to allow for multi-seasonal studies. Given that HONI is expecting an in-service date of 2021, and construction is expected to span 30 months post permitting and approvals, it is unclear how HONI will maintain proposed in-service timelines while ensuring that all environmental baseline studies are completed in a thorough and comprehensive manner, including consultation with BN and other First Nations, undertaking traditional knowledge and land use studies, and attending to detailed information about First Nation rights and interests as part of the impact assessment process.

Recommendation 12a. HONI must complete all necessary baseline studies for the entire study area to show their due diligence and gain a full understanding of both the existing environmental conditions and the resulting potential effects. This will ensure that HONI is taking responsibility of the Project and its effects by ensuring that baseline data is sufficient, reliable, scientifically sound, and protective of the environment. These studies need to be thorough and multi-seasonal to account for natural temporal variability in species presence and identifiability.

Recommendation 12b. HONI must indicate if they are intending on doing any mammal surveys beyond winter aerial surveys, and define which species the intended aerial surveys will be evaluating (i.e. will they just be observing certain ungulates?).

Recommendation 12c. HONI must commit to incorporating traditional knowledge and traditional ecological knowledge in their baseline studies in order to determine the full extent of Project effects.

Recommendation 12d. HONI should involve First Nations communities in the execution of environmental baseline studies and fieldwork.

Comment 13. Access to Remote Areas

The Lake Superior Link project will require access to remote locations during the construction and installation of the transmission line, as well as during the ongoing operation and maintenance of the line. HONI has indicated that proposed tower locations within Pukaskwa National Park (PNP) are not accessible by ground vehicle, and that helicopters will likely be required to transport materials to structure locations.

The use of aircraft in and around remote areas has potential to be disruptive to wildlife and wildlife habitat, especially during breeding periods. The excessive noise, sensory disturbances, traffic, and physical disturbance to vegetation can all have negative impacts to a variety of species.

Recommendation 13a. HONI must identify if new helipads will need to be created to accommodate this work, or if existing infrastructure can be used. In either case, HONI must complete thorough baseline studies in and around the areas for identified aerial works to ensure that no species of significance (both vegetative and wildlife), significant wetlands, or sensitive habitat areas will be disturbed. Appropriate setback distances and timing restrictions will need to be applied.

Recommendation 13b. If helicopter work is to occur as part of the Project's ongoing operation and maintenance, HONI must commit to ensuring that no fuelling or mechanical maintenance activities will occur in or around the helipads located in Pukaskwa National Park.

Recommendation 13c. HONI will need to undertake vegetation management practices in order to maintain helipads for safe operations. HONI must identify, through a full Vegetation Management Program, how they intend to manage vegetation growth in these remote areas.

Comment 14. Vegetation Management

The Lake Superior Link Project will involve some initial vegetation clearing, as the Proponent has indicated that Project activities will include "site preparation, including clearing of vegetation for construction access along the ROW". During the operational phases of the Project, vegetation management activities both on and off the ROW will be required to manage and mitigate safety and reliability risks. The EA ToR indicates that permits will be required for the application of pesticides for vegetation management during the operation phase, but does not indicate the intended extent and mode of application.

The use of chemical vegetation management is a concern for Indigenous peoples who gather and consume plant species that may have come into contact with herbicide chemicals. There are many concerns about the potential long-term human health risks associated with regular consumption of plants that have been contaminated by herbicide use. There are also ecological concerns for wildlife that ingest herbicide-contaminated plants while browsing, such as moose and white-tailed deer.

Recommendation 14a. HONI must indicate the anticipated spatial extent of vegetation clearing for construction, and if it is in excess of the proposed 37-46m wide ROW. They must also indicate the extent that such site preparation is expected to occur within Pukaskwa National Park.

Recommendation 14b. HONI must complete baseline field surveys to ensure that vegetation clearing and site preparation activities will not negatively impact any ecological sensitive areas, wildlife and wildlife habitat, and species-at-risk.

Recommendation 14c. HONI indicates that some construction activities will be staged to minimize potential environmental effects, such as avoiding clearing of vegetation during migratory bird nesting season. HONI must also commit to avoid clearing of vegetation during bat hibernation and maternity roosting period, amphibian breeding and hibernation periods, and turtle nesting periods.

Recommendation 14d. HONI should explore alternative vegetation management practices to implement during all project phases to avoid the use of herbicides. HONI must commit to no aerial spraying herbicides on or off the ROW; if herbicide use is deemed absolutely necessary, it should be applied on the ground through spot application techniques (using backpack, pump sprayer or squirt bottle). Herbicides should not be used in sensitive areas, including reserve lands, provincial and national parks, significant wetlands, or areas of ecological significance. Herbicides should also not be used within 30 m of waterbodies or edible and medicinal plant harvesting areas. Herbicides should not be used within 30 m of significant wildlife feeding areas (i.e. moose aquatic feeding areas).

Comment 15. Environmentally Significant Areas

HONI has indicated that the proposed transmission corridor may pass through provincially significant wetlands, areas of natural and scientific interest, regional environmentally sensitive areas, and national and provincial parks. HONI has identified and listed the parks, nature reserves, and areas of natural and scientific interest, but has not identified any provincially significant wetlands or sensitive areas that the Project may cross. These environmentally significant areas are of high ecological importance and provide sensitive and vital ecological functions for wildlife and vegetative communities. It is important to identify and delineate environmentally significant areas to ensure that proper protection and mitigation measures are in place to protect sensitive species.

Recommendation 15. HONI must identify if there are any provincially significant wetlands or environmentally sensitive areas within the Project area and identify appropriate mitigation measures and monitoring programs to ensure that these significant areas are appropriately protected. Wetlands in and around the proposed transmission route should be delineated and evaluated using the Ontario Wetland Evaluation System.

Comment 16. Species at Risk

HONI has indicated that they will use MNRFs "Species at Risk in Ontario List", Committee on the Status of Endangered Wildlife in Canada list, Environment Canada species at risk search tool, Environment Canada, CWS, and NHIC databases, and published and unpublished information and personal communications to determine known incidences of species at risk. They are also proposing that all

general locations within the study area directly affected by construction activities will be screened for species at risk presence/absence. However, it is unclear on how they will screen these locations.

Recommendation 16a. HONI must indicate how they intend on collecting and verifying unpublished information and personal communications that will be used to compile known incidences of species at risk.

Recommendation 16b. Desktop studies are not sufficient for determining the presence of species at risk in the Project area, and as such HONI must commit to including species at risk surveys as part of their baseline field studies.

Recommendation 16c. HONI must indicate their proposed process for screening locations based on presence/absence of species at risk within the study area that could be directly affected by construction activities.

Comment 17. Acoustic Disturbances

HONI states that major sources of noise in rural environments are road traffic and the resource industry, including forestry, mining, and associated support industries, however they fail to acknowledge that there is likely very low to no acoustic impacts in more remote areas, such as in Pukaskwa National Park. Therefore, it is likely that the proposed Project activities, both in the construction and operational phases, will have larger impacts to the acoustic environment in remote areas than elsewhere in the project area. Proposed construction activities, the use of aircraft to support construction and maintenance operations, and increased traffic and activity will all act as temporary sensory disturbance to wildlife, which may cause displacement from existing habitat areas.

HONI has indicated that they will characterize baseline noise conditions based on published information or noise surveys, as required, and will identify sensitive receptors to noise emissions, including recreation areas and communities, however they make no mention of the effects on wildlife.

Recommendation 17a. HONI must commit to conducting baseline noise surveys in ecologically sensitive and remote areas (including Pukaskwa National Park and known habitat for sensitive birds and wildlife) that will be near construction and maintenance activities.

Recommendation 17b. HONI must commit to restricting noise activities near identified habitat areas during active bat maternity roosting periods, migratory bird nesting periods, amphibian breeding periods, turtle nesting periods, and ungulate calving periods.

3.4 Human Health and Environmental Risk Assessment

Comment 18. The use of pesticides is a major concern of BN in terms of exposure to harmful chemicals, and potential carcinogens. Many BN community members reside very close to the Project Footprint and will be first to experience the impacts of exposure to these harmful chemicals through direct inhalation, direct contact with affected vegetation, and through harvesting and ingestion of traditional plant and animal species also exposed to the pesticides. The human health implications of chronic exposure to these chemicals as well as the acute effects are one of the top concerns for members of BN associated with the HONI LSL proposal.

Recommendation 18a. HONI must avoid the use of aerial spraying of pesticides and herbicides during construction and line maintenance.

Recommendation 18b. HONI should include a country foods assessment and human health risk assessment in their EIS studies and include input from First Nations, including BN.

3.5 Environmental Monitoring and Employment Opportunities

Comment 19. Environmental Monitoring and Employment Opportunities

Environmental monitoring for large projects such as the LSL should include baseline monitoring to understand the current (pre-construction) environment, during construction monitoring, and post-construction monitoring. In addition, many contracts will be needed that provide direct and in-direct services during the project phases of construction, operations and maintenance. These necessary activities can provide an opportunity for First Nations employment, contracts, training and capacity.

Recommendation 19a. HONI should consider preferential hiring of First Nations members for positions as Environmental Monitors or 'Guardians', to ensure that BN's traditional territories and traditional environmental values are being monitored.

Recommendation 19b. It is recommended that HONI and BN have a bi-lateral agreement to provide support, capacity and training for BN to be involved in the environmental aspects of the Project at all phases.

Recommendation 19c. It is recommended that HONI establish and provide capacity for a First Nation Environmental Management Committee, as soon as possible in the EA process. This Committee would ensure First Nation oversight for all environmental issues, would have direct access to review and comment on any environmental reports and regulatory applications and approvals, and would have decision-making authority with respect to the environmental practices of HONI throughout the life of the project.

Comment 20. Field Monitoring Studies

HONI has indicated that they will be conducting field studies in areas that have not yet been investigated by other proponent's EA processes. In addition, the indicators that have been selected for the natural environment will be identified primarily through desktop studies, with "field studies if required". This is not sufficient, as all indicators should be fully identified and investigated through field monitoring studies in order to appropriately and accurately develop mitigation measures and corresponding monitoring programs for proper protection of valued components.

Recommendation 20a. Field monitoring studies need to be performed throughout all Project phases to ensure that all ecologically sensitive and significant features are identified, protected, and if necessary, remediated. These studies need to be performed directly by HONI for all Project areas, not just in areas that haven't been previously investigated by other proponents. These studies should be field based for all indicators to collect the most up to date and accurate information and subsequently develop the most appropriate mitigation measures and monitoring programs.

Recommendation 20b. Members of Indigenous communities should be part of the field monitoring teams, as third-party monitoring technicians or “Environmental Guardians”, to provide important cultural insight to the monitoring activities, to ensure that significant environmental features are being considered and adequately protected, and to act as a third party environmental compliance body.

Comment 21. Construction Monitoring Plans

Construction monitoring is necessary as considerable alteration to the environment is occurring during the development of the infrastructure of the project and the Proponent must ensure that construction activities are not causing further damage to the surrounding environment. The construction and post-construction monitoring plans has not been provided in detail in the Draft Terms of Reference.

Recommendation 21a. Monitoring prior to, during and post- construction are necessary to determine the effects of the Project in the local and regional area. HONI must commit to doing environmental monitoring during all phases of the Project to understand impacts of the Project on the environment, and develop and implement appropriate mitigation measures and contingency plans.

Recommendation 21b. Once baseline conditions have been studied, monitoring construction should be completed to ensure that mitigation measures are working properly and the water bodies are not being negatively impacted by the construction. These monitoring activities should include Biigtigong Nishnaabeg member involvement as Environmental Monitors or Guardians.

Recommendation 21c. Biigtigong Nishnaabeg members should also be involved as third-party monitoring technicians, sometimes referred to as “Environmental Guardians”, and provided training and capacity from the Proponent.

3.6 First Nation Lands and Federal Lands

Comment 22. First Nation Lands and Federal Lands

The LSL Project will likely require federal approvals or authorizations where the transmission route crosses lands claimed to be under federal government jurisdiction. The lands in question include Michipicoten First Nation Reserve, Pays Plat First Nation, and Pukaskwa National Park.

Authorization for works within Pukaskwa National Park will be required from Parks Canada. The usage of First Nation reserve land would require Indigenous Services Canada (ISC) authorization. Biigtigong Nishnaabeg’s asserted Aboriginal/Treaty Rights area includes approximately two-thirds of Pukaskwa National Park. Biigtigong Nishnaabeg has asserted Aboriginal Title and has filed a comprehensive land claim in the Ontario Superior Court for Aboriginal title over its traditional territory.

Biigtigong Nishnaabeg’s asserted Aboriginal/Treaty Rights, and the related comprehensive land claim, raise serious questions about claimed federal jurisdiction over Pukaskwa National Park. The federal government has issued HONI a License of Occupation for HONI’s existing infrastructure, and this license is currently being renewed, remaining in effect until the renewal is complete. Upgrades to infrastructure within the Park are allowable within the existing HONI license agreement as they are not considered new development. HONI says that Parks Canada has confirmed in a November 27, 2017 letter to HONI

that Parks Canada is prepared to continue to consider HONI's request in accordance with the License of Occupation, applicable laws and policies, and Indigenous consultation obligations. However, it is possible that Parks Canada may not consider the components of the LSL project to be simple upgrades to existing infrastructure.

Recommendation 22a. Biigtigong Nishnaabeg may wish to intervene in the Parks Canada renewal process for HONI's License of Occupation in relation to its assertion of Aboriginal Title and its comprehensive land claim over its traditional territory.

Recommendation 22b. Biigtigong Nishnaabeg may wish to intervene in the Parks Canada renewal process for HONI's License of Occupation to contest HONI's apparent assertion that the LSL project is limited to "upgrades to infrastructure" that are "not considered new development" within Pukaskwa National Park under the existing HONI License of Occupation, or any future License of Occupation.

4.0 Summary and Conclusions

The LSL project proposed by HONI through their Draft Terms of Reference is a very brief and limited overview of the Project and does not address many of the concerns of the Biigtigong Nishanaabeg community.

We have identified 22 issues of technical and environmental relevance and several recommendations that Biigtigong Nishanaabeg may wish to include in a response letter to HONI's Draft ToR on or before July 10, 2018. The main concerns include:

- Preferred reference route through Pukaskwa National Park and other environmentally and traditionally important areas
- Biigtigong Nishnaabeg's jurisdictional authority with respect to Aboriginal/Treaty Rights, and the related comprehensive land claim, in relation to claimed federal jurisdiction over Pukaskwa National Park
- The advantage of a more thorough assessment of alternatives to the LSL project, including a "do nothing" alternative that would compel consideration of the likelihood of the NextBridge EWT Expansion project proceeding
- Lack of information on application and use of herbicides
- Involvement of First Nations including BN in the decision-making process
- Collection of baseline environmental data
- Opportunities for First Nation involvement as environmental guardians, and for employment and contracts during construction, operations and maintenance

As the LSL is in the early stages of the Ontario Environmental Assessment process, it is important that HONI provide BN with an understanding and commitment to ensuring the Project will be properly scoped, planned, monitored, fiscally responsible and that BN will be properly consulted and accommodated through the life of the line.

5.0 References

- IESO. 2013. "Achieving Balance Ontario's Long-Term Energy Plan."
www.energy.gov.on.ca/fr/files/2014/10/LTEP_2013_English_WEB.pdf.
- IESO. 2017. "Ontario's Long-Term Energy Plan 2017." 2017.
https://files.ontario.ca/books/ltep2017_0.pdf.
- OEB. 2010. "Framework for Transmission Project Development Plans." August 26, 2010.
https://www.oeb.ca/oeb/_Documents/EB-2010-0059/Framework_Transmission_Project_Dev_Plans_20100826.pdf.
- OPA. 2011. "Long Term Electricity Outlook for the Northwest and Context for the East-West Tie Expansion." https://www.oeb.ca/OEB/_Documents/.../EWT_OPA%20_Report_20110630.pdf.

TAB 19



Métis Nation of Ontario
Office of the President

May 14, 2018

Hydro One Networks Inc.
483 Bay Street
South Tower – 6th Floor
Toronto, Ontario M5G 2P5

Attn: David F. Denison, Chairman of the Board of Directors, Hydro One Networks Inc.
Mayo Schmidt, President and CEO, Hydro One Networks Inc.

Dear Mr. Denison & Mr. Schmidt:

RE: Request for Meeting in Relation to Hydro One's Lake Superior Link Project

I am writing as the President of the Métis Nation of Ontario ("MNO"). I am requesting a meeting with Hydro One Networks Inc. ("Hydro One") on an urgent basis to discuss the corporation's troubling conduct and failings in relation to the proposed Lake Superior Link Project (the "LSL").

For over a decade now, the MNO has strived to build a positive working relationship with Hydro One. This has included cooperation on projects such as the Bruce to Milton Transmission Line ("B2M"), amongst others. Notably, flowing from B2M, the MNO entered into both a consultation as well as an accommodation agreement with Hydro One. With Hydro One's previous Indigenous Relations staff, such as Leanne Cameron, we believed there was a respectful relationship built in part on the understanding that Ontario Métis and our rights would not be treated as "less than" other Indigenous communities.

Given this history, the MNO is shocked and insulted by Hydro One's recent actions regarding the LSL. Hydro One has unilaterally pre-determined and dismissed the rights and interests of the two rights-bearing Métis communities represented by the MNO that will be impacted by the LSL: the Northern Lake Superior Métis community and the Sault Ste. Marie Métis community.¹ A map of these Métis communities in relation to the LSL is attached to this letter.

Not only has Hydro One disrespected and disregarded the need for deep consultation with these Métis communities, it has ignored explicit direction both from Ontario and the Ontario Energy Board (the "Board") regarding the importance of economic participation of **both** First Nations **and** the Métis in new transmission projects in the province. Hydro One has decided—without any advance discussions or recognition of our interests—to exclude the MNO from potential equity in the LSL. This demonstrates

¹ More information on these Métis communities can be found in the MNO Written Evidence, EB-2017-0364, LSL Motion ("MNO Evidence"). The MNO's evidence also outlines the rights, interests, and concerns of the Métis Communities which require deep consultation.

a complete disregard for the Crown's longstanding commitments and direction in repeated Long-Term Energy Plans ("LTEPs").²

Prior to detailing Hydro One's disrespectful conduct and failings in relation to the LSL, the MNO wants to make clear that consultation and economic participation are distinct in relation to new transmission projects in Ontario. Ontario's LTEPs set out the clear expectation that transmitters will fulfill consultation obligations **and** explore economic participation with **both** First Nation **and** Métis communities.³ This distinction was repeatedly recognized by the Board and incorporated into its Phase 2 Decision and Order on the East-West Tie ("EWT"), wherein the Board separately evaluated First Nations and Métis Consultation, and First Nations and Métis Participation, as two of its nine criteria used to evaluate competing bids to be designated as the transmitter for the EWT.⁴

In 2013, Hydro One and its partners' attempt to be designated for the EWT failed in part because of its problematic approach to Métis consultation and its exclusion of meaningful opportunities for Métis economic participation. It is appalling that—five years later—Hydro One is now trying to revive this failed approach through the backdoor in a flawed, costly and eleventh-hour leave to construct application; an application which does not even include its original First Nation partners anymore. Let me be clear: the MNO will not allow Métis rights and interests, nor Métis participation in any new transmission line based on longstanding Crown commitments, to be sacrificed through Hydro One's ill-conceived LSL.

If Hydro One's LSL application is allowed to proceed further, we will likely end up in the courts. The costs of this misadventure will ultimately be borne by your shareholders and Ontario ratepayers.

The MNO has diligently participated in and relied on the Crown's commitments and the Board's decisions in relation to the EWT, for going on eight years. Through this process, we have achieved meaningful consultation as well as participation in relation to the EWT. This has been achieved because NextBridge (the designated transmitter for the EWT) has followed through on the commitments made in their designation bid, and has taken seriously the LTEP's commitments and the Board's previous decisions.

We will not allow Hydro One's LSL application—that disrespects and excludes Métis on its face—to proceed. While Hydro One may be able to try to play "fast and loose" with the spirit and intent of Ontario's legislation and policies, the

² Province of Ontario, *Achieving Balance: Ontario's Long-Term Energy Plan 2013* at 73, ("2013 LTEP"). <https://www.ontario.ca/document/2013-long-term-energy-plan>. Province of Ontario, *Ontario's Long-Term Energy Plan 2017: Delivering Fairness and Choice* at 134, https://files.ontario.ca/books/ltep2017_0.pdf ("2017 LTEP").

³ 2013 LTEP at 73.

⁴ Ontario Energy Board, Phase 2 Decision and Order in EB-2011-0140, August 7, 2013 at 14–15. https://www.oeb.ca/oeb/Documents/EB-2011-0140/Dec_Order_Phase2_East-WestTie_20130807.pdf ("Phase 2 Decision").

Crown—which has constitutional duties and obligations owing to the Métis—cannot. The honour of the Crown demands that these commitments be upheld. Hydro One’s LSL application and conduct undermines and makes a mockery of these same commitments.

The remainder of this letter details just some of the ways in which Hydro One’s LSL approach and application are flawed. Clearly, the consultants and advisors driving this misadventure to date are not acting in the best interests of the corporation, Ontario ratepayers or reconciliation.

1. Hydro One has Pre-Judged and Disrespected Métis Rights, Interests and Claims in its Approach to Consultation

The MNO received its first correspondence from Hydro One about the LSL on April 30, 2018. This letter stated that Hydro One wanted to begin consultation with the MNO “immediately.”⁵

Unbeknownst to the MNO, Hydro One had already determined—prior to sending the April 30 letter—that the rights, interests and claims of Métis communities were inferior to those of six First Nations.⁶ This is evidenced by a letter from Hydro One Vice President of Indigenous Relations Derek Chum to Kate Kempton, counsel to the six First Nations, dated two weeks before any contact was made with the MNO:

At the same time, we will also be engaging with the First Nations and Métis communities that are less directly affected including the Métis Nation of Ontario. Although the frequency of meetings will be less than with the BLP communities, their input is valuable and informative.⁷ [emphasis added]

This statement is inaccurate, ill-informed, and offensive. It demonstrates that Hydro One is not committed to meaningful consultation with the Métis and that it likely cannot effectively discharge its consultation obligations with respect to the LSL for three reasons:

- a. **Hydro One made a determination about the level of consultation and impacts without any direction from the Crown—or even one discussion with the MNO—about Métis rights, interests, and claims in the area.⁸ Meaningful and**

⁵ MNO Evidence, Appendix P.

⁶ These First Nations include: Pays Plat First Nation, Fort William First Nation, Red Rock Indian Band, Pic Mobert First Nation, Michipicoten First Nation and Biigtigong Nishnaabeg First Nation.

⁷ Written Evidence of Hydro One, EB-2017-0364, LSL Motion, Attachment 12, at 2 (“Hydro One Evidence”).

⁸ The MNO would note that in November of 2017, Hydro One requested that Ontario delegate procedural aspects of consultation to it and further requested that Ontario provide a list of First Nations and Métis communities with Ontario’s strength of claim analysis. Ontario provided such a list after Hydro One has filed its Leave to Construct Application on February 15, 2018. This list from Ontario includes three MNO Community Councils and the MNO itself. This list is not triaged in any way. Ontario has not directed Hydro One to conduct differing levels of consultation with the Métis versus First Nations.

honourable consultation must be informed by discussions, facts and evidence, not by playing one Indigenous group against another (*i.e.*, diminishing the rights and interests of one group in order to potentially curry favour with another). Through these actions, Hydro One has demonstrated that Hydro One is not able to discharge procedural aspects of the Crown's consultation obligations owing to the Métis in relation to the LSL.

- b. **Hydro One has pre-judged consultation outcomes.** Simply put, how can Hydro One make statements about effects on Indigenous peoples when the consultation process on the LSL has not even begun? Clearly, Hydro One is not committed to assessing LSL's effects on Métis rights and interests with an open mind, since it has already pre-determined a certain outcome. This is the antithesis of consultation. The MNO cannot imagine that this conduct is in keeping with the Memorandum of Understanding Hydro One signed with Ontario on consultation in relation to the LSL—however, this agreement has not been shared with the MNO to date. The fact that the MNO has been kept in the dark about the consultation process is itself inconsistent with the Supreme Court of Canada's recent statements that “[g]uidance about the form of the consultation process should be provided so that Indigenous peoples know how consultation will be carried out to allow for their effective participation.”⁹
- c. **By disrespecting and dismissing the Métis communities that live, use, and rely on the territory through which the LSL will pass, Hydro One has effectively “poisoned the well” for consultation on the LSL.** Positive relationships, which are required to discharge delegated consultation obligations, cannot be built on pre-judged, biased and prejudiced foundations. As the Supreme Court of Canada has recognized, consultation is about an “ethic of ongoing relationships.”¹⁰ Why would our communities engage in a pre-determined consultation process with a proponent that has a closed mind? How can they trust Hydro One to even listen when it has already determined consultation outcomes?

Taken together, in the MNO's opinion, these factors demonstrate that Hydro One is not up to or sincerely committed to meaningful Métis consultation on the LSL.

(2) Hydro One Has Excluded Métis from Meaningful Economic Participation

Consultation and economic participation are not synonymous. Economic participation does not replace consultation and accommodation, or vice versa. As was stated in the Board's Phase 2 Decision and Order for the EWT:

⁹ *Clyde River (Hamlet) v Petroleum Geo-Services Inc.*, 2017 SCC 40 at para 23.

¹⁰ *Rio Tinto Alcan Inc. v Carrier Sekani Tribal Council*, 2010 SCC 43 at para 38.

There is a distinction between this criterion (First Nations and Métis Participation) and the criterion addressed later in this decision (First Nations and Métis Consultation). The former arises from Ontario socio-economic policy and the latter is related to a constitutional obligation. Ontario's Long Term Energy Plan states:

Where new transmission lines are proposed, Ontario is committed to meeting its duty to consult First Nations and Métis communities in respect of their aboriginal and treaty rights and accommodate where those rights have the potential to be adversely impacted. **Ontario also recognizes that Aboriginal communities have an interest in economic benefits from future transmission projects crossing through their traditional territories and that the nature of this interest may vary between communities.**¹¹ [emphasis added]

Contrary to what Hydro One appears to think, Ontario's economic participation commitments are not—in and of themselves—“accommodation.”¹² Accommodation flows from the constitutional duty to consult and may require, for instance, a change to a project, licensing conditions, joint monitoring, compensation or even denial of a sought approval. On the other hand, Ontario's LTEPs make clear that transmitters must consult (and necessarily accommodate if the situation requires it) **as well as** explore economic participation with proximate First Nations **and** Métis communities where there is an interest.¹³

Given the MNO's almost eight years of active participation regarding the EWT,¹⁴ Hydro One is well aware that the MNO has an interest in economic participation in any transmission line in this area. If Hydro One had bothered to speak with the MNO, read previous Board decisions in relation to the EWT or thought back to some of the factors that contributed to its failure to be designated to build the EWT in the first place,¹⁵ this would have been clear.

Despite this, Hydro One made the decision to—once again—only contemplate equity participation for six First Nations. This decision was made before Hydro One had made any contact with the MNO (and this contact was to discuss consultation, not economic

¹¹ Phase 2 Decision at 14-15.

¹² Hydro One Evidence, Attachment 12 at 2. BLP asked Hydro One for details on its approach to accommodation (specifically referring to economic participation), and Hydro One's response clearly accepts the premise that economic participation is accommodation.

¹³ 2013 LTEP at 73; 2017 LTEP at 134.

¹⁴ The MNO has been involved in the EWT process since 2012, when it made submissions to ensure that First Nations and Métis Participation was included as a designation criterion for the EWT.

¹⁵ In its failed designation bid for the EWT, the Board commented Hydro One's proposal for First Nations and Métis participation included “more limited opportunity for other affected First Nations and Métis communities to participate in the various aspects of the project and no opportunity for equity participation.” Phase 2 Decision at 39.

participation). Mr. Chum's April 12, 2018 letter (recall that Hydro One did not contact the MNO until April 30, 2018) to Ms. Kempton states that:

Should the OEB award Hydro One leave to construct the Lake Superior Link Project, we are committed to offering BLP an opportunity to own 34% in a limited partnership ...¹⁶ [emphasis added]

Hydro One's evidence demonstrates that it has no intention of opening further equity for the Métis:

In Hydro One's s. 92 application for the LSL, Hydro One references achieving agreements with Indigenous communities within 45 days from receipt of OEB approval of its Application. **This 45-day timeframe is in relation to finalizing any terms and conditions that may be agreed upon between Hydro One and the First Nations partners in Bamkushwada Limited Partnership (BLP) to establish mutually agreeable terms with regards to a limited partnership that will own the Lake Superior Link assets.¹⁷ [emphasis added]**

It is obvious that Hydro One has not learned from its previous failed EWT designation application. First Nations and Métis participation was a filing requirement for the EWT.¹⁸ All Hydro One has addressed in its LSL application is potential First Nation participation. Instead of remedying its past failings, Hydro One has decided to compound its previous insult to the Métis by effectively seeking to resurrect its unsuccessful EWT bid, and in doing so, perpetuating its exclusionary and discriminatory attitude towards the Métis. This attitude ignores Hydro One's obligations as a proponent with delegated consultation obligations, as well as the current state of the law and policy in Ontario. It appears that the "new" Hydro One is even worse the old one when it comes to respectfully dealing with the MNO and the Métis.

As discussed above, for the Board to grant, or for Ontario to allow, Hydro One's LSL application to move forward based on its same failed model from the EWT designation process would be unconscionable. It would also be a breach of the honour of the Crown based on the commitments made to the Métis in repeated LTEPs, the MNO's reliance on those commitments, and the fact that the MNO has an economic participation arrangement with NextBridge. Hydro One's current approach makes a mockery of these commitments by Ontario as well as the designation process for the EWT through its disregard for the Board's determinations in that process. **The MNO will ensure the Crown's honour is upheld, through the courts if necessary.**

The MNO is requesting an urgent meeting with Hydro One on these issues. Given Hydro One's apparent indifference towards its relationship with the Métis and its exclusionary

¹⁶ Hydro One Evidence at 12.

¹⁷ Hydro One Evidence at 41.

¹⁸ Ontario Energy Board, Phase 1 Decision and Order in EB-2011-0140, July 12, 2012 at 4.

[file:///C:/Users/mstrachan/Downloads/Dec_Order_Phase1_EWT_20120712%20\(1\).PDF](file:///C:/Users/mstrachan/Downloads/Dec_Order_Phase1_EWT_20120712%20(1).PDF)

strategy in relation to the LSL to date, we expect this request to be ignored. Until these fundamental issues are resolved, our Community Councils and regional leadership will not be meeting or responding to further meeting requests in relation to the LSL. While we recognize that we have reciprocal obligations in relation to consultation, the MNO will not engage with a proponent that has so flagrantly disregarded its delegated obligations from the Crown.

We look forward to hearing from you in relation to the MNO's request.

Yours very truly,



Margaret Froh
President

c.c. MNO Lakehead/Nipigon/Michipicoten Regional Consultation Committee,
including the Thunder Bay Métis Council, the Greenstone Métis Council, and the
Superior Northshore Métis Council
MNO Historic Sault Ste. Marie Regional Consultation Committee, including the
Historic Sault Ste. Marie Métis Council and the North Channel Métis Council
Roberta Jamieson, Board of Director, Hydro One Networks Inc.
Honourable Glenn Thibeault, Minister of Energy
Jason Madden and Colin Salter, Pape Salter Teillet LLP

TAB 20

OEB Staff Interrogatory # 15

Reference:

EB-2017-0364 Evidence, Hydro One's Application filed on February 15, 2018, Exhibit B, Tab 1, Schedule 1 and Exhibit H, Tab 1, Schedule 1
Status of Indigenous Consultation and Participation

In Exhibit B, Tab 1, Schedule 1 of its application Hydro One requests that upon approval of its application, the OEB allow Hydro One a minimum of 45 days to negotiate any necessary agreements with Indigenous communities.

Interrogatory:

- a) Please provide a status update on all Indigenous consultation and participation efforts Hydro One has been involved with to date (related to the Lake Superior Link project) and provide any documents pertaining to discussions with participating parties, including minutes of meetings.
- b) Has Hydro One already commenced consultation now with all identified Indigenous communities? If not, when does it intend to carry out these consultations?
- c) How did Hydro One determine that 45 days was a reasonable length of time to negotiate agreements with Indigenous communities?
- d) Please explain in detail Hydro One's plans for consultation with Indigenous communities to ensure that duty to consult requirements are met?
- e) On page 13 of Hydro One's May 4, 2018 Additional Evidence, Hydro One states that it will offer a 34% equity ownership to BLP First Nations. Does Hydro One intend to provide participation opportunities to all affected First Nations and Métis communities? If not, why not?
- f) Is Hydro One in receipt of any letters of support from Indigenous communities with respect to the Lake Superior Link project? If yes, please provide those letters.
- g) Is Hydro One aware of any other Indigenous communities (other than the ones who intervened in the Motion proceeding) who oppose Hydro One's Lake Superior Link project? If yes, please provide details.

1 h) Has Hydro One reached agreements with any Indigenous communities yet? If yes, is Hydro
2 One prepared to file copies of those agreements? If not, what is Hydro One's timeline to
3 reach agreements?
4

5 i) In Exhibit H, Tab 1, Schedule 1, Hydro One states that:
6

7 By a letter dated November 7, 2017, Hydro One sought direction from the Crown (Ministry
8 of Energy) regarding the scope of Indigenous consultation on the Lake Superior Link Project.
9 Hydro One has not yet received a response from the Ministry of Energy.
10

11 i. Has Hydro One received a response from the Ministry of Energy?

12 ii. Has there been any other correspondence with the Ministry of Energy or any other
13 government ministry (or federal government department) regarding Indigenous
14 consultations?

15 iii. Please file all correspondence between Hydro One and provincial government
16 ministries or federal government departments regarding Indigenous consultation
17 related to Hydro One's Lake Superior Link project.
18

19 j) Has the 2016 Memorandum of Understanding between Hydro One and the Ministry of
20 Energy (regarding the delegation of the duty to consult) been amended to include Hydro
21 One's Lake Superior Link project? If yes, when and if not, why not?
22

23 k) Hydro One, in Exhibit H, Tab 1, Schedule 1, Page 4 of 5, states that:
24

25 Hydro One will be hosting its second First Nations engagement session on February 21, 2018
26 in Chippewas of Rama First Nation and has invited elected officials from the 88 First Nation
27 communities Hydro One serves.
28

29 i. Please elaborate on Hydro One's achievements as a result of this meeting and advise
30 how this can help meet the duty to consult Indigenous communities in this particular
31 case.

32 ii. What are Hydro One's Indigenous participation plans (both economic and non-
33 economic)? How does Hydro One plan to execute these plans? Please thoroughly
34 explain.

1 l) The First Nations and Métis consultation costs included in the Lake Superior Link project
2 application (\$1.133 million in construction plus \$1.101 million in development phase) are
3 significantly less than the First Nations and Métis consultation costs of NextBridge.

4
5 i. Can you please explain why Hydro One believes these estimates are reasonable?
6 Please explain why Hydro One believe it can complete First Nations and Métis
7 consultation for so much less costs.

8
9 **Response:**

10 a) Hydro One has shared Project information with the 18 Indigenous communities and the
11 MNO as identified by the Provincial Crown via the Ministry of Energy. Hydro One has also
12 offered each community an opportunity to meet regarding the Project. To date, Hydro One
13 has met with 15 of the 18 Indigenous communities, some more than once, and has entered
14 into Capacity Funding Agreements with 4 Indigenous communities.

15
16 Information shared to date includes: information on the Environmental Assessment (EA)
17 process, field studies, notice of commencement regarding the EA Terms of Reference (ToR),
18 and draft ToR, the revised draft ToR, and a Capacity Funding Agreement to assist with
19 participation on consultation. Hydro One is making best efforts to hear and address concerns
20 from Indigenous communities and will do so at all stages of the Project. For further details
21 regarding Hydro One's Indigenous Consultation please refer to Attachment 1 and 2 of this
22 Interrogatory Response.

23
24 b) Yes, consultation has commenced with all Indigenous communities.

25
26 c) The first clarification Hydro One would like to make, in accordance with Exhibit H, Tab 1,
27 Schedule 1, is that the 45 day timeline is a minimum amount of time requested from the date
28 of approval of the leave to construct application to negotiate in principle an agreement that
29 would ensconce mutually agreeable terms. Once these terms have been agreed upon, there
30 still may be additional time required to execute the contract sub-agreements. The execution
31 of said agreements does not need to be completed prior to the commencement of construction
32 and thus approval should not be contingent on these agreements being finalized.

33
34 d) Hydro One recognizes the importance of consultation with Indigenous communities in
35 connection with the Lake Superior Link Project. Hydro One's Indigenous consultation
36 process is designed to provide relevant Project information to Indigenous communities
37 proximate to the Project in a timely manner. The process enables affected Indigenous

1 communities to review, consider and raise issues, concerns and questions they may have
2 about the Project. The process also allows Hydro One to respond to any concerns or
3 questions raised in a clear and transparent manner. Hydro One's Indigenous consultation
4 approach includes sharing project related information, meeting regularly, receiving and
5 responding to input on all aspects of the project, and providing opportunities to meaningfully
6 participate in the project via consultation agreements and capacity funding arrangements.
7 Further details regarding Hydro One's consultation approach can be found in Hydro One's
8 additional evidence filed on May 7, specifically from pages 10 to 11 and in Exhibit H, Tab 1,
9 Schedule 1 of Hydro One's prefiled evidence.

10
11 e) Hydro One is offering up to 34% equity on this project to BLP. This is consistent with the
12 equity participation approach contemplated in the Hydro One Leave to Construct for the
13 East-West tie and designation proceedings, and we understand it is favourable vs.
14 NextBridge's current offered equity participation proposal to BLP. The participation of
15 impacted Communities is not only a financial matter for us, it is about promoting long-term
16 sustained benefits for BLP communities. We have engaged in discussions with the Metis
17 and will first need to understand their expectations in terms of procurement and other
18 contract benefits. The Metis Nations of Ontario should not be at a disadvantage or lose on
19 already negotiated benefits, when measured on a global scale, if Hydro One is retained to
20 build the Lake Superior Link Project. Hydro One is committed to discussing benefits,
21 including economic options as part of the consultation process. Hydro One has been advised
22 by the Metis Nation of Ontario legal counsel that they currently cannot enter into discussions
23 regarding accommodation measures including economic participation given exclusivity
24 agreements they have with NextBridge.

25
26 f) No.

27
28 g) No.

29
30 h) Yes. Hydro One has reached capacity funding agreements with 4 of the Indigenous
31 communities.

32
33 Given the commercial sensitivity of the document Hydro One is unwilling to file any of these
34 agreements at this time. Any and all costs associated with the agreements are already
35 captured in Hydro One's costs to complete the Project as provided in Exhibit I, Tab 1,
36 Schedule 11. The specifics associated with the terms and conditions of the agreements will

1 have no bearing on whether the LSL Project is in the best interest of customers with respect
2 to price, adequacy, reliability and quality of electricity service.

3
4 i)

5 i. Yes, by letter dated March 2, 2018, provided as Attachment 9 of the additional evidence
6 (May 7 2018), the Ministry of Energy determined that Hydro One's proposed Lake
7 Superior Link Project may have the potential to affect First Nation and Métis
8 communities who hold or claim protected aboriginal or treaty rights. The Crown listed
9 the following Aboriginal communities that should be consulted on the basis that they
10 have or may have constitutionally protected Aboriginal or treaty rights that may be
11 adversely affected by the project:

- 12
- 13 1. Animbiigoo Zaagi'igan Anishinabek First Nation (Lake Nipigon Ojibway)
- 14 2. Biinjitiwaabik Zaaging Anishinabek First Nation (Rocky Bay)
- 15 3. Biigtong Nishnaabeg
- 16 4. Bingwi Neyaashi Anishinabek (Sand Point First Nation)
- 17 5. Fort William First Nation
- 18 6. Ginoogaming First Nation
- 19 7. Long Lake #58 First Nation
- 20 8. Michipicoten First Nation
- 21 9. Missanabie Cree First Nation
- 22 10. Ojibways of Batchewana
- 23 11. Ojibways of Garden River
- 24 12. Pays Plat First Nation
- 25 13. Pic Mobert First Nation
- 26 14. Red Rock Indian Band (Lake Helen)
- 27 15. MNO Greenstone Métis Council
- 28 16. Red Sky Independent Métis Nation
- 29 17. MNO Superior North Shore Métis Council
- 30 18. MNO Thunder Bay Métis Council
- 31 19. Métis Nation of Ontario

32
33 ii. Yes, please see part iii.) below for copies of the correspondence

34
35 iii. Please refer to the Additional Evidence filed by Hydro One in May of 2018 for all
36 correspondence on the matter up until the technical conference on the NextBridge Motion
37 to Dismiss. Additional correspondence for MECP, ECCC, and Parks Canada is provided

1 at Exhibit I, Tab 14, Attachments 2, 3, 4, 5, and 6 and for MNRF at Attachment 3 of this
2 response and for MNDM at Attachment 4 of this response. There is nothing additional
3 from MoE since May, 2018.

4
5 j) No, the 2016 MOU has not been amended yet but discussions with the Ministry of Energy
6 Northern Development and Mines have been initiated to complete the necessary amendment.

7
8 k)

9 i. Hydro One hosted its second annual First Nations Engagement Session on February 21,
10 2018 at the Chippewas of Rama First Nation. The purpose of the engagement session was
11 to strengthen Hydro One's relationships with the 88 First Nation communities Hydro One
12 serves, listen to key energy transmission and distribution concerns they may have, and
13 together find solutions moving forward. A total of 61 First Nations out of the 88 invited
14 attended the Chippewas of Rama First Nation session. The engagement session focused
15 on: Customer Service & Affordability; Procurement & Business Partnerships;
16 Employment and Training; and Transmission & Distribution Planning & Reliability
17 Performance.

18
19 The First Nations Engagement Session was not related to Consultation. However, the
20 session is most certainly helpful in strengthening Hydro One's relationships with all First
21 Nation's it serves which was the intent of the session. The session is an example of
22 Hydro One's commitment to listen to First Nation communities and work together, not
23 just on this Project, but across all Hydro One work.

24
25 ii. Please refer to response e.) for Hydro One's participation plans. Hydro One intends to
26 have an open dialogue with Indigenous communities to execute these plans but has been
27 restricted from doing so due to various exclusivity agreements that have been entered into
28 by NextBridge with the Indigenous communities.

29
30 iii. For example, although Hydro One has been sharing project related information and
31 meeting with the BLP communities, Hydro One has been instructed by BLP legal counsel
32 to not discuss economic accommodations and/or participation with these six First
33 Nations¹.

34
35 l) Please refer to Exhibit I, Tab 1, Schedule 11.

¹ BLP evidence - May 7 2018 – March 5, 2018 Letter from BLP lawyers to Hydro One.

TAB 21

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;

AND IN THE MATTER OF a motion by NextBridge Infrastructure for an order dismissing Hydro One Networks Inc.'s application for leave to construct.

EVIDENCE OF THE INTERVENOR
MINISTRY OF THE ENVIRONMENT AND CLIMATE CHANGE ("MOECC")

MOECC takes no position on this motion or on Hydro One's application.

MOECC has intervened in this motion to provide assistance to the Board on two issues which the Board raised in the notice of hearing for the motion:

- **Issue 1f:** What is the status of discussions between Hydro One and the Ministry of the Environment and Climate Change regarding any exemption to *Environmental Assessment Act* ("EAA") requirements?
- **Issue 2g:** Can NextBridge's environmental assessment work on the East-West Tie line project be used by Hydro One for the purposes of complying with EAA requirements?

MOECC's evidence regarding these two issues has been prepared by Annamaria Cross and Andrew Evers, with the assistance of relevant MOECC staff. Ms. Cross and Mr. Evers will both be available to answer questions at the technical conference on May 16-17.

Ms. Cross has been Manager of MOECC's Environmental Assessment Services Section of the Environmental Assessment Permissions Branch since November 2012. She manages a team that works on environmental assessment projects including class

environmental assessments and individual environmental assessments. As manager, one of her duties is to hold pre-submission meetings with proponents. The purpose of these meetings is to gain an understanding of the proposed project so that she and her team can advise potential proponents of *EAA* requirements.

Mr. Evers is a Supervisor with the Environmental Assessment Services Section, Environmental Assessment and Permissions Branch. Mr. Evers joined the MOECC in March 2014. He manages a team that leads the review of individual environmental assessments and provides regulatory guidance to proponents based on the requirements of the *EAA* and its regulations. He is currently the Supervisor for the staff person assigned to NextBridge's proposed East-West Tie project (since September 2017) and Hydro One's proposed Lake Superior Link project (since discussions began in October 2017).

ISSUE 1F

What is the status of discussions between Hydro One and MOECC regarding any exemption to *EAA* requirements?

On November 14, 2017, MOECC advised Hydro One that the proposed Lake Superior Link project is likely a new undertaking for the purpose of the *EAA*. This is because of the extent of the difference in route alignment between NextBridge's preferred route for the East-West Tie line and the route alignment proposed by Hydro One. As such, the *EAA* requires Hydro One to conduct an individual environmental assessment for the Lake Superior Link.

Hydro One also has the option of pursuing an alternative to an individual environmental assessment, either a declaration order or an exempting regulation. The power to issue a declaration order lies with the Minister of Environment and Climate Change, with the approval of the Lieutenant Governor in Council ("LGIC"). The power to issue an exempting regulation lies with the LGIC.

To initiate the individual environmental assessment process for the Lake Superior Link, Hydro One is required to submit a Notice of Commencement of Terms of Reference to the Director of the Environmental Assessment and Permissions Branch. Hydro One submitted a draft Notice of Commencement of Terms of Reference for the Lake Superior Link on May 2, 2018.

MOECC has referred Hydro One to information relating to declaration orders in the event that Hydro One were to choose to pursue an alternative regulatory mechanism, instead of an individual environmental assessment. Hydro One has had discussions with MOECC regarding the possibility of Hydro One pursuing a declaration order, but, to date, Hydro One has not made a request for a declaration order.

Copies of the following MOECC documents relating to environmental assessments are attached:

Attachment number	Document
1.	Environmental Assessment Process Timelines
2.	<i>Code of Practice: Preparing and Reviewing Environmental Assessments in Ontario, January 2014</i>
3.	<i>Code of Practice: Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario, January 2014</i>

We have included below, as an appendix, a summary of selected key correspondence and discussions between Hydro One and MOECC regarding the Lake Superior Link. We have also attached copies of key correspondence and meeting minutes.

ISSUE 2G

Can NextBridge's environmental assessment work on the East-West Tie line project be used by Hydro One for the purposes of complying with *Environmental Assessment Act* requirements?

As a preliminary point, we note that we are not offering any opinion whether intellectual property issues might prevent Hydro One from making use of the environmental assessment work conducted by NextBridge. Intellectual property issues are beyond our remit, and we will restrict our evidence to compliance with the *EAA*.

As noted above, because of the extent of the difference in route alignment between NextBridge's preferred route for the East-West Tie line and the route alignment proposed by Hydro One, Hydro One's proposed Lake Superior Link project is a new undertaking for the purpose of the *EAA*. As such, the *EAA* requires Hydro One to conduct an individual environmental assessment for the Lake Superior Link. As an alternative, Hydro One can pursue an alternative regulatory measure, either a declaration order or an exempting regulation.

Alternative regulatory measures

Section 3.2 of the *EAA* allows the Minister of the Environment and Climate Change, with the approval of the LGIC, to issue a declaration order exempting a proponent or undertaking or class of proponents or undertakings from all or certain requirements of the *EAA*. Section 3.2 provides that the power to issue a declaration order may be exercised "if the Minister considers that it is in the public interest to do so having regard to the purpose of this Act and weighing it against the injury, damage or interference that might be caused to any person or property by the application of this Act to the undertaking or

class.” A request for a declaration order can be made to the Director of the Environmental Assessment and Permissions Branch.

Paragraph 39(f) of the *EAA* also allows the LGIC to make a regulation “exempting any person, class of persons, undertaking or class of undertakings from this Act or the regulations or a section or portion of a section thereof and imposing conditions with respect to the exemption”.

Both declaration orders and exempting regulations can impose conditions on the exemption. Conditions can vary from simple conditions to an entirely new process.

Proposed declaration orders and exempting regulations need to be posted for comment on the Environmental Registry. Depending on the circumstances, further public and Indigenous consultation may be conducted before a decision is made to issue a declaration order or proceed with an exempting regulation.

At this time, it is premature to assess whether there are grounds to support the development of a declaration order or an exempting regulation for the Lake Superior Link project.

Status of NextBridge’s environmental assessment

NextBridge’s environmental assessment report for the East-West Tie project has not yet been reviewed or assessed by MOECC. As such, it is difficult to assess whether and to what extent NextBridge’s environmental assessment work could be used by Hydro One for the purposes of complying with *EAA* requirements, either as part of an individual environmental assessment for Hydro One’s proposed Lake Superior Link, or as part of the basis for an alternative regulatory measure.

On August 28, 2014, the Minister of Environment and Climate Change approved NextBridge’s terms of reference for the preparation of an environmental assessment for the East-West Tie line.

On February 16, 2018, NextBridge submitted an amended environmental assessment report for the East-West Tie project to MOECC. As part of the submission, there was a 30-day comment period. This comment period concluded on March 29, 2018.

MOECC staff are currently reviewing the environmental assessment report for NextBridge’s East-West Tie project. Once the Ministry has reviewed the environmental assessment, the next step in the process is to publish an MOECC review report. The publication will be followed by a five week public comment period. MOECC anticipates that it will publish the review report in the summer of 2018.

Once the MOECC review and consultation is completed, MOECC staff prepare a decision package for the Minister of the Environment and Climate Change. It is anticipated that a

decision package for NextBridge's East-West Tie project would be prepared for the Minister in late fall 2018. At that point, the Minister makes a decision on the environmental assessment and, with the approval of the Lieutenant Governor in Council, the Minister may give approval to NextBridge to proceed with the undertaking, give approval subject to conditions, or refuse to give approval.

APPENDIX

Summary of selected key correspondence and discussions between Hydro One and MOECC regarding the Lake Superior Link

Attachment number	Date	Document/ Event	Summary
4.	October 31, 2017	Letter from Hydro One to MOECC	Hydro One writes to MOECC to advise of its intention to build and operate the East-West Tie Transmission Line, but with an alignment different from NextBridge's proposal. Hydro One indicated that it is of the view that preparing a new environmental assessment is not necessary because of the similarity to NextBridge's proposal. Hydro One seeks input from MOECC regarding whether Hydro One could "adopt" NextBridge's environmental assessment.
5.	November 14, 2017	Letter from MOECC to Hydro One	MOECC indicates that it is unlikely that Hydro One would be able to use NextBridge's environment assessment and that Hydro One's proposed project would likely be considered a new undertaking for the purpose of the EAA.
No attachment	February 2, 2018	Meeting of Hydro One, Energy, MNRF, and MOECC staff	Hydro One outlines the proposed project, indicating that it would consist of a new 398 kilometre, 230 kilovolt double-circuit transmission line that would parallel the existing Hydro One tie between Lakehead Transmission Station and the Wawa Transmission Station, going through Puskwaka Park.
6.	February 16, 2018	Letter from Hydro One to MOECC	Hydro One provides project-related details regarding the proposed project, outlines the benefits, and indicates that Hydro One is planning to host a series of public information drop-in sessions in March 2018 in the project area.
7.	March 14, 2018	Letter from Hydro One	Hydro One indicates that "Hydro One is currently working with the Ministries of

Attachment number	Date	Document/ Event	Summary
		to Common Voice Northwest and copied to other stakeholders	Energy and Environment and Climate Change to finalize a regulatory measure allowing the use of relevant portions of the completed Environmental Assessment work".
8.	March 16, 2018	Letter from MOECC to Hydro One	MOECC requests that Hydro One send a letter of clarification to the recipients of Hydro One's letter of March 14, 2018, indicating that MOECC is not currently working with Hydro One to finalize a regulatory measure to allow the use of the current unapproved NextBridge environmental assessment.
9.	March 26, 2018	Meeting of Hydro One, Energy, and MOECC staff	<p>MOECC advises that based on the information provided to date, the Lake Superior Link Project would be considered a new undertaking and asks if Hydro One intends to submit a Notice of Commencement for a Terms of Reference. Hydro One notes that it does not intend to complete the individual environmental assessment process, and would be looking for a regulatory mechanism, including use of NextBridge's environmental assessment, to supplement environmental assessment requirements.</p> <p>MOECC notes that the NextBridge EA is currently in the issues-resolution phase and, as such, no decision has been made. Consequently, MOECC cannot comment if a regulatory mechanism could be pursued until a decision is made on the current amended environmental assessment for the NextBridge project.</p> <p>The declaration order process is discussed at a high level, including examples of recent projects that have gone through the process</p>

Attachment number	Date	Document/ Event	Summary
			on the basis that emergency circumstances required a declaration order.
10.	April 10, 2018	Letter from MOECC to Hydro One	MOECC provides revisions to the March 26, 2018 meeting minutes prepared by Hydro One and re-iterates that, based on information provided to date by Hydro One, Hydro One would not be able to use NextBridge's environment assessment for its project and that the project would be considered a new undertaking for the purpose of the EAA. MOECC provides details regarding the process to initiate terms of reference for an environmental assessment of the undertaking, and also refers Hydro One to information relating to declaration orders in the event that Hydro One were to choose to pursue an alternative regulatory mechanism, instead of an individual environmental assessment.
11.	April 19, 2018	Letter from Hydro One to Common Voice Northwest, copied to other stakeholders	Hydro One sends a letter clarifying its March 14, 2018 letter.
12.	April 20, 2018	Letter from MOECC to Hydro One, copied to Common Voice Northwest and other stakeholders	MOECC confirms that it is not working with Hydro One to finalize a regulatory measure allowing the use of relevant portions of the environmental assessment work undertaken by NextBridge and emphasizes that Hydro One's proposed Lake Superior Link project is considered a new undertaking for the purpose of the EAA. As such, to initiate the individual environmental assessment process, Hydro One is required to submit a Notice of Commencement for Terms of Reference to the Director of the

Attachment number	Date	Document/ Event	Summary
			Environmental Assessment and Permissions Branch.
13.	April 25, 2018	Letter from Hydro One to MOECC	<p>Hydro One indicates that it agrees that it is not in a position to finalize a regulatory mechanism for the project, but emphasizes that it has had discussions with MOECC on the option of a declaration order.</p> <p>Hydro One indicates its view that that the project is a strong candidate for a declaration order given the cost savings for the project, the potential environmental effects are expected to be minimal, and that the NextBridge EA would address the majority of the potential effects along the proposed line outside of the park.</p>
14.	May 2, 2018	Email from Hydro One to MOECC	Hydro One sends email attaching a draft Notice of Commencement of Terms of Reference for Hydro One's Lake Superior Link project.

TAB 22

School Energy Coalition Interrogatory # 5

Reference:

N/A

Interrogatory:

Please provide a similar schedule as requested in SEC-HONI-4, which includes a decision by Parks Canada that Hydro One cannot go through Pukaskwa National Park.

Response:

The current schedule is provided in the Table below:

TASK	START	FINISH
Submit Section 92 Application to OEB		February 2018
Projected Section 92 Approval	February 2018	January 2019
Execute EPC Contract with SNCL		January 2019
Environment Assessment and Consultation		
Obtain EA Approval from MOECC	January 2018	August 2019 ¹
Ongoing First Nations & Métis Consultation and Consultation with Stakeholders	February 2018	December 2021
Lines Construction Work		
Real Estate Land Acquisition	March 2018	May 2020
Detailed Engineering	March 2018	Oct 2019
Tender and Award Procurement	January 2019	July 2020
Construction	September 2019	November 2021
Commissioning	September 2021	December 2021
In Service		December 2021

¹ Assumption: Declaration Order approved by MECP Minister

Please refer to Attachment 1 for Gantt chart

TAB 23

School Energy Coalition Interrogatory # 27

Reference:

[Hydro One Letter to the Board, June 27 2018, Attachment]

Interrogatory:

With respect to the Hydro One Stations Application:

- a) Please provide a copy of the email referenced in the June 27th letter to Ms. Majerovich (MOECC).
- b) Please provide copies of all written communications and summaries of any verbal communications, between Hydro One, MOECC/MECP, and any other government ministry or agency regarding the environmental assessment process of the Marathon Transformer Station Expansion, since June 27th.
- c) Please explain the implications of the position taken by MOECC/MECP as quoted in Hydro One's July 27, 2018 letter with respect to the construction schedule for the Marathon Transformer Station Expansion, on i) the in-service date of both the Nextbridge's East-West Tie Line, ii) the in-service date of the Hydro One's Lake Superior Lake project, iii) cost of the project.
- d) Please provide the full development and construction schedule for the Marathon Transformer Station Expansion as originally contemplated in the Hydro One Stations Application.
- e) Please provide a revised development and construction schedule for the Marathon Transformer Station Expansion based information provided by MOECC/MECP.
- f) What is the latest date that Hydro One requires the necessary environmental assessment approval(s) to bring the Marathon Transformer Station Expansion in-service to allow the Nextbridge East-West Tie Line to be in-service by its forecast in-service date.
- g) What is the latest date that Hydro One requires the necessary environmental assessment approval(s) to bring the Marathon Transformer Station Expansion in-service to allow the Hydro One Lake Superior Link project to be in-service by its forecast in-service date.

1 h) Please discuss any incremental costs related to a delay in necessary environmental
2 assessment approval(s) for the Marathon Transformer Station Expansion on the ability in
3 meeting the forecast in-service date of both the Nextbridge East-West Tie Line and Hydro
4 One Hydro One Lake Superior Link project.

5
6 **Response:**

7 a) The Hydro One June 27, 2018 letter to the Board and the May 15, 2018 email from Ms.
8 Majerovich are included in Exhibit I, Tab 1, Schedule 14, Attachment 3.

9
10 b) Please refer to Exhibit I, Tab 1, Schedule 14, Attachment 3. Note that Hydro One and
11 NextBridge have been working collaboratively with MECP in requesting them to reconsider
12 their position of linking the further permits and approvals for the station expansion class EA
13 with the East-West Tie line individual EA and further discussions are intended.

14
15 c)

16 i) In order to meet the December 2020 in-service date of NextBridge's East-West Tie Line,
17 construction work at Marathon Station was to have commenced in July 2018. Assuming
18 the NextBridge Individual EA is approved by or before January 2019, an in-service date of
19 December 2021 can be achieved for the East-West Tie Line.

20
21 ii) Assuming the NextBridge Individual EA is approved by December 2018, an in-service date
22 of December 2021 can be achieved for the Lake Superior Link.

23
24 iii) With respect to the delays described above, the cost of the station expansion project will
25 increase. The incremental costs are dependent on the length of the delay in proceeding
26 with activities approved under the station Class EA, which MECP has suggested would be
27 contingent on the East-West Tie Line Individual EA approval.

28
29 d) Please see Attachment 1 to this interrogatory, which outlines the original schedule with a
30 July 2018 start and a December 2020 ISD.

31
32 e) Assuming approval of all required EAs by December 2018, Hydro One will be able to
33 complete the Marathon TS Expansion to connect and in-service the EWT line or the LSL by
34 December 2021. Please refer to Attachment 2 of this interrogatory for the associated
35 schedule.

- 1 f) The Class EA process completion date of July 4, 2018, would have allowed Hydro One to
2 bring the Marathon TS Expansion in-service by its forecast in-service date. As a result of the
3 current delays, Hydro One will not be able to bring Marathon TS Expansion in-service by
4 December 2020 to allow the NextBridge EWT Line to be in-service by its previously forecast
5 in-service date. All required EA approvals would have had to be in place by August 15,
6 2018 to meet the December 2020 in-service date.
- 7
- 8 g) The approval of all required EAs by January, 2019, is required to allow Hydro One to bring
9 the Marathon TS Expansion in-service by its forecast in-service date of December 2021,
10 Attachment 2. Any further compression of this schedule would result in additional cost and
11 would require further study to quantify impacts.
- 12
- 13 h) Please refer to answer to question c) iii) above.

TAB 24

NextBridge Interrogatory # 12

Reference:

EB-2017-0364 - February 15, 2018 HONI Lake Superior Link Application, EXHIBIT B, TAB 1, SCHEDULE 1, page 2, lines 11-12; EXHIBIT B, TAB 7, SCHEDULE 1, page 3, note 8; Exhibit B, TAB 7, Schedule 1 at pages 6-7.

Interrogatory:

- a) Do each of the four assumptions identified in Reference 3 remain critical to the completion of the Project, both with respect to schedule and overall costs? If yes, explain how each impacts schedule and how each impacts costs. If not, please explain why not.
- b) Identify the costs that HONI estimates it would incur if it is not allowed to use any component of NextBridge's EA filings.
- c) Identify the costs HONI would incur if it is allowed to only use the public portion of NextBridge's EA.
- d) Explain HONI's current position whether it intends to rely on all or a portion of NextBridge's EA. To date, has HONI used any portion of the NextBridge EA-specific development work in relation to Lake Superior Link project development? If so, please identify the materials used
- e) Identify the impact to the Lake Superior Link's projected in-service date if HONI is required (1) to file its own EA, without reliance on any component of NextBridge's EA or (2) to only use the public portion of NextBridge's EA. Provide a response that considers both of the following scenarios: (1) the Lake Superior Link routes through Pukaskwa National Park and (2) Lake Superior Link around Pukaskwa National Park.
- f) Identify any other (non-EA related) NextBridge activity(ies) and/or work product that HONI plans to use or leverage, so it does not need to conduct the same activity or produce the same work product.
- i. Identify the costs that HONI would incur if it was required to conduct the identified activity and produce the work product without any use or leveraging of NextBridge's activities and work product.
 - ii. Identify the impact to the Lake Superior Link's projected in-service date if HONI is not able to use or leverage the identified activity or work product for both of the

1 following scenarios: (1) the Lake Superior Link routes through Pukaskwa National
2 Park and (2) Lake Superior Link around Pukaskwa National Park.

3
4 **Response:**

5 a) The criticality of the four assumptions in Reference 3 remain as follows:

6
7 Assumption i – Co-Operation with MECP

8
9 In order to meet the updated schedule provided at Exhibit I, Tab 1, Schedule 14 Attachment 1
10 and achieve an end of 2021 in-service date it remains a requirement that a Declaration Order
11 or an Individual EA is received prior to October 2019, which also allows Hydro One to
12 achieve the end 2021 in-service date. If this approval is not received then cost and schedule
13 delays to the overall project will result (refer to EA Approval Date Scenario Analysis
14 provided at Exhibit I, Tab 1, Schedule 7

15
16 Assumption ii – Utilization of Existing EA

17
18 This assumption remains a requirement to achieve an end of 2021 in-service date. Refer to
19 Exhibit I, Tab 1, Schedule 14 regarding Hydro One's position on use of this information and
20 possible schedule and cost implications of the unlikely scenario where Hydro One cannot
21 avail itself of this information.

22
23 Assumption iii – Disclosure of the NextBridge EA

24
25 The NextBridge amended EA has been completed and was available to Hydro One prior to the
26 end of Q3 2018, therefore this is no longer a risk as Hydro One is aware of any changes to the
27 NextBridge EA scope. However, NextBridge does not yet have an approved EA and the end
28 of Q3 2018 is approaching. Please refer to Exhibit I, Tab 1, Schedule 14 for the details
29 regarding the reason for the Q3 completion date assumption, and the implication of
30 NextBridge not achieving this expected date to the Hydro One project schedule and cost.
31 Based on the delay to NextBridge's EA approval, the anticipated Hydro One EA approval
32 date to meet the in-service date of end 2021 is now August 15, 2019, per the updated schedule
33 in Exhibit I, Tab 1, Schedule 14 Attachment 1. Refer to response relating to Assumption i) of
34 this Interrogatory for the impact on schedule and cost.

1 Assumption iv – Agreement with Impacted Indigenous Communities

2
3 Yes, assumption iv. remains critical to the completion of the project. With respect to schedule,
4 Hydro One remains committed to reaching agreeable finalized terms within 45 days following
5 OEB approval. With respect to costs, Hydro One does not anticipate any additional costs
6 associated with achieving these agreements.

7
8 b) Please refer to Exhibit I, Tab 1, 14.

9
10 c) Please refer to Exhibit I, Tab 1, Schedule 14. To date, Hydro One has reviewed all publicly
11 available portions of the NextBridge EA and utilized relevant portions in its development
12 work. Exact references will not be available until the Hydro One EA is finalized.

13
14 d) Please refer to Exhibit I, Tab 1, Schedule 14.

15
16 e) Please refer to Exhibit I, Tab 1, Schedules 7 and 14. Additionally, for both the Reference
17 and Alternative route around PNP the internal development cost, including the EA costs, will
18 be the same. Details of the impact on the proposed in-service date are provided as EA
19 Approval Date Scenario Analysis provided at Exhibit I, Tab 1, Schedule 7

20
21 f) There are no other (non-EA related) NextBridge activities that Hydro One plans to use or
22 leverage.

23 i. Please refer to part e) above.

24 ii. Please refer to part e) above.

TAB 25

OEB Staff Interrogatory # 14

Reference:

EB-2017-0364 Evidence, Hydro One's Application filed on February 15, 2018, Exhibit C, Tab 1, Schedule 2

Status of Environmental Assessment and Parks Canada Approval

Hydro One states that the Lake Superior Link project is subject to an Individual Environmental Assessment (EA) under Part II of the *Environmental Assessment Act*.

Hydro One also states that it has engaged in preliminary discussions regarding the Lake Superior Link route with Parks Canada, who in Hydro One's view, currently have no objections to Hydro One's proposed route through the Pukaskwa National Park, and have agreed to work with Hydro One on environmental impact mitigation and approvals moving forward.

Interrogatory:

- a) What is the current status of Hydro One's EA approval? Please thoroughly explain.
- b) Has Hydro One's plans with respect to its EA approval changed since the filing of the Lake Superior Link application? If so, please explain.
- c) With respect to its EA approval,
 - i. Is Hydro One still pursuing a declaratory order or an exemption regulation from the Ministry of Environment, Conservation and Parks (formerly, Ministry of Environment and Climate Change)?
 - ii. What happens if Hydro One fails to get either a declaratory order or an exemption regulation? In that case, what happens to Hydro One's Lake Superior Link project's in-service date?
 - iii. Does Hydro One require the disclosure of NextBridge's non-public EA documents in order to pursue these options?
- d) Please provide all correspondence Hydro One has had with the Ministry of Environment, Conservation and Parks (formerly, Ministry of Environment and Climate Change) since May 2018.
- e) With respect to Hydro One's letter to the Ministry of Environment, Conservation and Parks (formerly, Ministry of Environment and Climate Change), dated June 27, 2018:

- 1 i. Please advise whether Hydro One has received a response or had further discussion
2 with the Ministry.
- 3 ii. Please advise if the issues raised in that letter is expected to have any impact on the
4 timelines or budget for either
- 5 • Hydro One's stations upgrade application (i.e. EB-2017-0194), or
 - 6 • Hydro One's Lake Superior Link line application (i.e. EB-2017-0364)
- 7
- 8 f) When does Hydro One anticipate to meet its obligations under the EA Act and receive EA
9 approval from the Ministry of Environment, Conservation and Parks?
- 10
- 11 g) What are the risks involved in Hydro One's EA approval process, given Hydro One's
12 approach in relying upon NextBridge's EA approval. Please explain how Hydro One intends
13 to mitigate these risks.
- 14
- 15 h) Please provide the best and the worst possible scenarios with respect to Hydro One's EA
16 approval process and provide timelines and costs associated with each scenario.
- 17
- 18 i) If Hydro One is unable to use any of NextBridge's EA work or get a declaratory order or an
19 exemption regulation,
- 20 i. Please explain the impacts on the Lake Superior Link project in terms of budget and any
21 delay of the in-service date.
- 22 ii. Would Hydro One seek to have ratepayers cover these costs?
- 23
- 24 j) How does any delay in NextBridge's EA process affect Hydro One's EA process?
- 25
- 26 k) Has Hydro One's budgeted cost for its EA process changed since February 2018? If so,
27 please provide new estimates and the rationale for the increase (or decrease).
- 28
- 29 l) Which approval is more critical to Hydro One's overall project schedule; the OEB's Leave to
30 Construct (LTC) or the Ministry of Environment, Conservation and Parks' EA approval?
- 31
- 32 m) What percentage of total project budget has Hydro One spent to date on its EA approval
33 process?
- 34
- 35 n) Can Hydro One confirm that it only plans to rely upon publicly filed documents related to
36 NextBridge's EA and does not require NextBridge to provide to it further EA-related
37 documents or studies that are not publicly available?

- 1 o) How has Hydro One satisfied itself that there are no legal impediments to relying upon
2 NextBridge's publicly filed EA documents as part of Hydro One's EA approval?
3
4 p) What is the current status of Hydro One's Parks Canada approval? Please thoroughly explain
5 with reference to the Parks Canada schedule that was filed as part of NextBridge's Motion
6 proceeding (Response to Undertaking JT 2.5).
7
8 q) Please provide any further correspondence/minutes related to discussions between Parks
9 Canada (or any other federal government department) and Hydro One about the route
10 through Pukaskwa National Park that have not already been filed on the record in this
11 proceeding.
12

13 **Response:**

- 14 a) The current status of Hydro One's EA approval schedule is shown in Attachment 1 of this
15 interrogatory response. Hydro One continues to complete studies and consultation per this
16 schedule and has already submitted the final Terms of Reference (ToR) for Ministry of
17 Environment, Conservation and Parks (MECP) review. Schedule items are currently on
18 track for past and future completion dates.
19
20 b) At the time of filing of the LSL LTC application, Hydro One intended to seek a regulatory
21 measure, such as a Cabinet exemption, rather than pursue an individual EA. Hydro One still
22 intends to seek a Declaration Order to meet its EA obligations. However, in order to mitigate
23 risk in the event that the Minister of Environment, Conservation and Parks does not grant the
24 Declaration Order, Hydro One is concurrently pursuing an Individual EA for the project.
25 This Individual EA option was not contemplated at the time of filing but was considered
26 prudent based on MECP correspondence subsequently received¹.
27
28 c)
29 i. Please refer to part b) above.
30 ii. Please refer to part a) and b) above for comments regarding risk mitigation regarding a
31 Declaration Order. Based on publicly available information at the time of filing of the
32 Hydro One Leave to Construct Application, Hydro One assumed in the schedule that
33 approval of NextBridges's EA must be received from MECP by the end of the third
34 quarter of 2018². Based on information provided in the LSL Technical Conference³,

¹ See MECP letter to Hydro One, April 20, 2018, EB-2017-0364, Exhibit JT 2.2, attachment 14

² EB-2017-0364 – Exhibit C, Tab 1, Schedule 2, page 2

³ Technical Conference Transcripts - May 16, 2018 - page 186 and following pages

1 MECP staff stated that a decision package on NextBridge's EA would not be prepared for
2 the Minister until "late Fall 2018" and, during further questioning, clarified this to mean
3 November or December 2018. Based on this, Hydro One has now assumed approval of
4 the NextBridge Individual EA by end of Q4 2018. The Hydro One assumptions, cost and
5 schedule have been updated accordingly. Therefore, based on this new assumed date of
6 approval of the NextBridge EA there are some implications to the overall project
7 schedule and in-service dates as documented in Exhibit I, Tab 1, Schedule 3. Assuming a
8 Declaration Order process is followed, Hydro One will meet the in-service date of end
9 2021.

10 iii. Hydro One does not require the disclosures of NextBridge's non-public EA documents;
11 however, Hydro One has requested non-public supporting EA studies from MECP and is
12 awaiting response. In the event these studies are not made available, Hydro One will
13 complete these studies where required. Possible delays relating to completion of these
14 studies are outlined in Exhibit I, Tab 1, Schedule 7.

15
16 d) Attachment 2 of this interrogatory response addresses material MECP correspondence since
17 May 2018. Please also refer to part e) below for additional correspondence with MECP
18 regarding a separate matter, the station work required at Marathon Transformer Station.

19
20 e) i) Hydro One received correspondence from MECP and engaged in discussions with MECP
21 as provided in Attachment 3. Also included in Attachment 3b is a copy of the June 27, 2018
22 correspondence from Hydro One to MECP and the original May 15, 2018 correspondence
23 from MECP which prompted the Hydro One response.

24
25 ii) The stations upgrades were expected to commence in July 2018 in order to complete the
26 station work concurrently with NextBridge's EWT in-service date of end 2020. As a result
27 of the decision to delay formal approval of the Marathon Station EA until approval of the
28 line EA, the baseline schedule in the Station Upgrade is affected. Assuming a NextBridge
29 EA approval by or before January 2019, the in-service date of the Station work would be
30 December 2021.

31
32 f) Please see part a) above.

33
34 g) In the event that Hydro One cannot rely on NextBridge's Individual EA approval to pursue a
35 Declaration Order, Hydro One is pursuing an Individual EA process of our own in parallel.

- 1 h) The schedule information referenced in part a) represents a reasonable “best-case” scenario
2 for the EA schedule. The cost to complete the studies, consultation and documentation for
3 either the Declaration Order or the Individual EA are both included in Exhibit I, Tab 1,
4 Schedule 11. However, the result on the overall project schedule for the completion of the
5 Declaration Order (August 15 2019) as compared to the Individual EA (October 2019) has an
6 impact on the overall project schedule and therefore overall project cost. Worst-case
7 scenarios are difficult to quantify as they would be based on unforeseen events and delays.
8 However, overall LSL project cost implications, including specific cost implications of a
9 delay in EA approval date, of several schedule delay scenarios are included as Exhibit I, Tab
10 1, Schedule 7.
11
- 12 i) i) Please refer to part b and g above outlining Hydro One’s position with respect to use of
13 NextBridge’s EA work and risk mitigation through parallel pursuit of an Individual EA. For
14 budget information regarding the implication of not obtaining an EA approval by August
15 2019, please refer to the EA Approval Date Scenario Analysis in Exhibit I, Tab 1, Schedule
16 7. In the improbable event that Hydro One is not permitted to use any information, and there
17 is no basis to presume that Hydro One would be precluded from doing so, reproduction of all
18 studies and consultation already completed for the LSL project would be required. The
19 estimated order of magnitude impact on cost and schedule would be approximately \$20M in
20 reproducing EA studies and consultation and at least two additional years added to the
21 schedule, resulting in EA approval in summer 2021 and an in-service date of end 2023.
22
- 23 ii) Yes, however this is an unlikely scenario as outlined in i) i) above.
24
- 25 j) It is our current assumption that NextBridge will have EA approval by end of Q4 2018
26 allowing Hydro One to reference a completed EA in our document submissions for either a
27 Declaration Order or Individual EA. If that approval is delayed, further EA cost implications
28 are included in Exhibit I, Tab 1, Schedule 7.
29
- 30 k) Hydro One cost estimates have changed since the LTC submission in February 2018.
31 Current estimates for meeting EA obligations are provided in Exhibit I, Tab 1, Schedule 11.
32
- 33 l) It is currently anticipated that the LTC approval will be provided in January 2019. Please
34 refer to Exhibit I, Tab 8, Schedule 1 for information regarding critical path of LTC
35 deliverables. Hydro One is able to benefit from construction and scheduling benefits if
36 earlier regulatory approvals are obtained. This will allow for economical solutions to be
37 achieved - ultimately to the benefit of ratepayers.

- 1 m) To date (August 31, 2018) 13% of the overall EA budget has been spent. Please refer to
2 Exhibit I, Tab 1, Schedule 11 for more information.
3
- 4 n) Please refer to part c).
5
- 6 o) Please refer to part g).
7
- 8 p) The current status of Hydro One's EA approval is shown in Attachment 1 – Federal EA
9 Approval Schedule. This is followed by an update to JT2.5 in the same format for
10 comparison. Hydro One continues to complete studies and consultation per this schedule.
11
- 12 q) Attachment 4 of this interrogatory response provides all material Parks Canada
13 correspondence since May 2018 about the route through Pukaskwa Park. Note that
14 correspondence with Parks Canada regarding the License Agreement renewal is included in
15 Attachment 5. Attachment 6 also includes correspondence from ECCC which includes
16 reference to the Park route. No other material discussions between Hydro one and any other
17 federal government department regarding the Park route have taken place.
-

HYDRO ONE EA SCHEDULE	
Terms of Reference (TOR)	
Submit Notice of Commencement of Preparation TOR to MECP	May 2018
Community Information Centre #1	Week of June 11, 2018
Draft ToR submitted to MECP	June 11, 2018
Revised Draft ToR submitted to MECP	August 3, 2018
Submit ToR to MECP	August 31, 2018
ToR formal review period and Minister's decision	September 7 to November 30, 2018
Declaration Order (DO)	
Environmental Studies	March - October, 2018
Community Information Centre #2	Week of December 10, 2018
Submission of Declaration Order to MECP	January 31, 2019 ¹
Minister's Decision	August 15, 2019
Individual Environmental Assessment (EA)	
Environmental Studies	March - October, 2018
Submit Notice of Commencement of Initiation of EA to MECP	November 16, 2018
Community Information Centre #2	Week of December 10, 2018
Draft EA review, revise	January 31, 2019 ¹
Submission of EA to MECP	March 8, 2019
Minister's Decision and EA Approval	October 7, 2019
Federal Detailed Impact Assessment (DIA)	
Draft Environmental Evaluations Report Updated	January, 2018
Construction Execution Plan	February, 2018
PNP review of draft ToR of Environmental Assessment	August, 2018
Draft ToR of Detailed Impact Assessment	September 2018
Final ToR of Detailed Impact Assessment	October 2018

¹ Assumes NextBridge EA Approval December 2018; this Draft submission date has been revised as NextBridge EA approval was originally expected to be end of Q3, early Q4 and this is no longer the case

Draft Detailed Impact Assessment	January 2019 ¹
Final Detailed Impact Assessment	February, 2019
Detailed Impact Assessment Approval	August 15, 2019
PNP Approval	August 15, 2019

TAB 26



Minutes No.:		Project #:	652996	
Project Name:	Lake Superior Link			
Prepared by:	L. Medved	Meeting Date:	August 21, 2018	
		Meeting Time:	10:00 am – 11:00 am	
		Location: MECP Office, 135 St. Clair Ave W, Toronto. 7 th Floor Boardroom		
Attendees:	Antonia Testa (AT) Andrew Evers (AE) Alexandra Post (AP)	MECP MECP MECP	Bruce Hopper (BH) Adam Haulena (AH) Patricia Staite (PS) Christine Goulais (CG) Melissa Fast (MF) Craig Wallace (CW) Luka Medved (LM)	HONI HONI HONI HONI HONI SLI SLI

Minutes

Item #	Description	Action by	Date
1	Introductions <ul style="list-style-type: none"> Brief Team Introduction Outstanding Items from Past Meeting Minutes 		
1.1	Those in attendance briefly introduced themselves before starting the meeting.	Info	
1.2	BH began the meeting by addressing two outstanding items from the July 12, 2018 meeting. The first outstanding item pertained to the issuance of MNRFP permits. MECP inquired what MNRFP permits were requested and for what purpose. BH confirmed Scientific Collector's Permits were obtained from MNRFP to help facilitate aquatic (fish) studies completed in July 2018. The second outstanding item pertained to the Marathon TS Class EA approval. AE clarified that the Class EA process for Marathon TS has been completed. AE noted that permits and/or authorizations (e.g. MNRFP work permits) for the Marathon TS project however cannot be issued until the NextBridge/Hydro One EA approval for the east-west tie project is secured as they are considered co-dependent/linked undertakings.	Info	
Indigenous Engagement Program			
2	Update on Indigenous Consultation (BH/AH/CW) <ul style="list-style-type: none"> Meetings, CICs Path Forward 		



Item #	Description	Action by	Date
2.1	<p>BH provided a brief overview of recent Indigenous engagement activities. BH noted meetings with several First Nation and Métis communities have occurred and additional meetings have been scheduled. BH confirmed a meeting with MNO has been arranged for August 23, 2018. This meeting will include both the broad consultation group and local representatives from the communities affected by the LSL project (e.g. Superior North Shore Métis Council). BH confirmed a CIC with Fort William FN has been arranged for September 6. BH noted meetings with Long Lake 58 FN and Ginoogaming FN were being arranged. BH also explained Hydro One met with Red Rock Indian Band's trapper council to discuss the LSL project. BH noted Hydro One will continue to engage communities and arrange meetings with each community as the project moves forward.</p>	Info	
2.2	<p>BH confirmed Capacity Funding Agreements (CFAs) have been shared with each of the eighteen (18) communities. BH noted to date Red Sky Métis Independent Nation has signed a CFA and Biigtigong Nishnaabeg (Ojibways of the Pic River First Nation) is expected to sign a CFA soon. BH noted Hydro One continues to engage communities.</p>	Info	
2.3	<p>AE inquired whether additional CICs would be planned with those communities who had not hosted one to date. BH noted Hydro One continues to engage communities in attempts to arrange CICs and meetings.</p>	Info	
2.4	<p>AT inquired which Indigenous Communities have provided comments on the draft ToR to date and what types of comments have been received. Hydro One confirmed comments have been received from Biigtigong Nishnaabeg (Ojibways of the Pic River First Nation), Red Sky Métis Independent Nation, Red Rock Indian Band and Michipicoten First Nation. AH noted comments have mainly been focused on the EA effects assessment, mitigation measures, species at risk and consultation. AE asked if communities were working through consultants or SVS. CW responded that most communities are working independently, however Pic River First Nation is working with SVS and Michipicoten is working with John Kim Bell. AT noted that the Record of Consultation for the ToR must be updated to include all consultation activities conducted and the results of this consultation up to the point of final ToR submission.</p>	Info	
2.5	<p>CG explained following the OEB decision to dismiss NextBridge's motion, the tone and willingness of Indigenous communities to engage Hydro One has changed. CG noted that select communities are likely to participate in the Leave to Construct process (Section 92), which has been demonstrated by recent meetings held with multiple communities.</p>	Info	



Item #	Description	Action by	Date
2.6	PS noted archaeology work has begun and that each of the Indigenous communities was invited to participate in the work. PS confirmed that there has been interest by Indigenous communities to participate in the archaeology work. PS confirmed Hydro One has retained Indigenous monitors from communities to take part in the field work.	Info	
2.7	BH also provided an update on the OEB process. BH confirmed that the NextBridge motion to dismiss Hydro One's application was denied by the OEB. As a result, both NextBridge and Hydro One's Section 92 Leave to Construct applications will be heard by the OEB. BH noted in a recent procedural order issued the OEB to hear both the NextBridge and Hydro One applications simultaneously. Joint hearings for the applications are scheduled to begin in October 2018. PS noted no decision on either of the applications was likely to be received until early 2019 (January at the earliest).	Info	
2.8	AE sought clarification on recent hearings held regarding the NextBridge application. PS clarified that recent NextBridge hearings held pertained to the proponent's development costs (i.e. increased costs).	Info	
Baseline and Impact Assessment			
3	Update on Field Study Program <ul style="list-style-type: none"> • Discussion on studies that have been completed • Proposed Studies • Involvement of Indigenous Communities 		
3.1	BH confirmed that the initial series of field studies conducted in June-July were completed. These surveys focused on migratory birds, species at risk, vegetation and fish (aquatic). CW confirmed the next round of field surveys were set to begin in early September and would focus on vegetation and aquatic surveys. CW explained that the field program focus has been mainly on the Lakehead to Dorion and Marathon to Wawa corridors. CW also noted in addition to the corridors being assessed, areas such as PNP, access roads, laydown yards, fly yards and other ancillary infrastructure were being assessed.	Info	
3.2	BH shared a map identifying proposed survey locations for the upcoming field surveys to be held in September 2018 and confirmed that the map would be shared with Indigenous communities in advance of the field work occurring. AE inquired if there was any participation of Indigenous communities to date. BH confirmed that a monitor from Red Rock Indian Band has participated in field work and that other communities have expressed interest in participating. BH noted all communities have and will continue to be invited to participate in the field program.	Info	



Item #	Description	Action by	Date
3.3	AE inquired whether MNRF has been engaged on any of the field work and whether MNRF provided any comments on the draft ToR. BH noted MNRF has been engaged on the field program and were provided copies of the field program work plans in advance of the work occurring. CW confirmed a letter from MNRF providing high level comments was received, but that MRNE deferred providing detailed comments to the formal review period. AE noted there may be a risk to the project schedule if MNRF requests additional studies be completed to support the EA (out of season).	Info	
3.4	BH confirmed Stage 1 and 2 archaeology work has started from west (Thunder Bay) to east (Wawa). AE inquired whether it was anticipated archaeology work would be completed this year and up to what month could work occur. BH noted it was anticipated all Stage 1 and 2 work would be completed this year. AH noted depending on weather and ground conditions, work could go up to November.	Info	
3.5	AE noted for the EA that Hydro One should provide site specific mitigation measures. AE explained that based on past projects MNRF often sees high level mitigation measures as inadequate, and thus resulting in requests for additional information or analysis.	Info	
3.6	BH stated that Hydro One will provide a digital copy of the field study (hard copy was provided during the meeting) update to AT, Hydro One has also provided this document to other Indigenous groups. AE asked if Hydro One received interest from communities on participating in field studies. BH stated that Red Rock Indian Band was involved through environmental monitoring in the Dorian area. They won't be involved as the field work moves eastward but Hydro One has seen interest pick up in eastern communities. CW notes that the field study document is a living document and survey points and additional information will be changing in the future.		
Evaluation of Alternatives and Visual Assessment			
4	Dorion/Loon Lake Area <ul style="list-style-type: none"> • Consultation, CIC August 30, 2018 • Visual Assessment 		
4.1	BH confirmed the addition of an alternate route to be studied through the Dorion/Loon Lake area and has been included within the revised draft ToR following comments received and discussion with MNRF. BH noted that a CIC has been scheduled for August 30, 2018 in Dorion to discuss the visual impacts of the new alternative route with local residents. BH also confirmed that Hydro One met with Dorion council on August 14, 2018 to discuss the new alternative	Info	



Item #	Description	Action by	Date
	route.		
4.2	AE asked which alternatives were being carried forward to the EA. BH confirmed the twinning of the corridor through the Dorion/Loon Lake area and the loop around PNP were being carried forward into the EA assessment.	Info	
4.3	BH noted issues and concerns in the Dorion area primarily relate to recreational land use and property owners. To date, comments received have asked why Hydro One is considering the Dorion route when consultation on routing in the area has already been completed by NextBridge.	Info	
4.4	BH noted Dillon has been retained to conduct a visual assessment. The visual assessment will assess both the preferred and alternative routes in the Dorion/Loon Lake area, as well as the Nipigon area.	Info	
4.5	BH inquired whether the draft NextBridge EA could be shared with Hydro One, as it is no longer available on the NextBridge website. MECP noted they would take the request back and inform Hydro One whether a copy may be available for viewing.	MECP	
MOECC EA Process			
5	Record of Consultation (RoC) (CW/LM) <ul style="list-style-type: none"> Update For Submission of Proposed ToR 		
5.1	BH inquired when comments on the revised draft ToR would be provided by MECP. AT noted comments on the draft ToR would be provided on August 27, 2018. BH followed-up to ask whether there were any significant concerns identified during the initial review. AT noted no significant concerns were identified in the initial review.	Info	
5.2	AT noted the Record of Consultation should contain an outstanding items section identifying any concerns or issues which were not addressed. The RoC needs to include all of the consultation performed with the communities up until the day of submission. AE stated that it is important that Hydro One be transparent of where the ToR addresses comments, use feedback provided by Peter Brown and Antonia Testa to ensure necessary details and documents are included in the ToR and RoC.	Info	
5.3	CW noted a needs assessment planning document would be prepared as per comments received on the draft ToR. These tables will include responses and where Hydro One has made changes to the ToR to address comments that have been received. AT noted that a clear high level summary of where	Info	



Item #	Description	Action by	Date
	concerns remain is required by MECP, in addition to the comment response tables. AT asked that summaries of the supporting documents be prepared to provide readers a high level overview Hydro One confirmed a summary document would be prepared and included in the Proposed ToR. AT also noted that a table of contents is required for the ToR to aid in the documents readability.		
5.4	BH noted documents required to be submitted two weeks in advance of formal ToR submission, as outlined in the August 14 MECP letter, were provided to AT on August 17. AT confirmed receipt of the documents and noted comments would be provided within the next week, including cover letters.	Info	
5.5	There was confusion over the submission date and start date of the formal review period for the ToR. Hydro One was under the impression these two dates were different (i.e submission date Aug 31, 2018 and start of the formal review period September 7, 2018). MECP clarified that submission date and review period start date are considered the same. As such, BH confirmed the Proposed ToR review period would start September 7, 2018.		
5.6	BH inquired if the Proposed ToR needed to be provided to stakeholders two (2) days before submission of the document rather than the start of the formal review period (September 7th). MECP confirmed that the documents could be submitted to stakeholders two (2) days (Sept 5 th) before the start of the formal review period September 7th.	Info	
5.7	PS inquired if government agencies could be sent only electronic copies of the Proposed ToR to minimize printing. AT noted government agencies should be contacted to confirm how they would prefer to receive the document. AT confirmed that the MECP would require at least three (3) copies of the Proposed ToR, RoC and all supporting documentation.	Info	
5.8	BH confirmed notifications and advertisements for the formal review period would go out the week of September 3. BH also informed MECP staff that Melissa Fast has replaced Stephanie Hodsoll as the Corporate Communications Officer for the project.	Info	
5.9	BH inquired whether hard copies of the Proposed ToR could be placed in municipal offices, not libraries, as municipal offices often have longer business hours and are located in close proximity to municipal libraries. AT noted there was no issue in this approach, so long as the Notice of Submission identified municipal office addresses and business hours.	Info	
5.10	BH informed MECP that meetings with Parks Canada and MNR were scheduled for August 23. BH explained that the meeting with Parks Canada	Info	



Item #	Description	Action by	Date
	was to provide an update on the project and discuss the technical design. Similarly, the meeting with MNRF would provide an update on the Project and discuss the Proposed ToR.		
NoC Environmental Assessment			
6	NoC Environmental Assessment (BH/PS)		
6.1	BH inquired if the Notice of Commencement of the Individual EA could be submitted in advance of ToR approval. MECP advised against this approach until the ToR was approved. PS identified that NextBridge submitted their Notice of Commencement in advance of ToR approval. MECP noted they did not recall whether NextBridge took such an approach and noted there would be risks in proceeding without an approved work plan. MECP confirmed they would take this request back and advise Hydro One on available options.	MECP	
Administrative			
7	Other Business		
7.1	No additional items were identified. The meeting concluded at approximately 11:00 am.	Info	
8	Next Meeting		
8.1	BH and AT will discuss when another meeting may be appropriate.	Info	

The above is considered to be a true and accurate record of discussions at the meeting. Please advise the writer of any discrepancy noted within 3 business days of issue so that any suggested corrections may be addressed prior to approval of minutes at the next scheduled meeting.

TAB 27

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement, de
la Protection de la nature et des
Parcs



Environmental Assessment and
Permissions Branch

Direction des évaluations et des
permissions environnementales

135 St. Clair Avenue West
1st Floor
Toronto ON M4V 1P5
Tel.: 416 314-8001
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135, avenue St. Clair Ouest
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Télééc. : 416 314-8452

July 26, 2018

MEMORANDUM

TO: Mr. Bruce Hopper
Environmental Planner
Environmental Services
Hydro One Networks Inc.

FROM: Mrs. Antonia Testa
Special Project Officer
Environmental Assessment and Permissions Branch
Ministry of the Environment, Conservation and Parks

RE: Drafts Terms of Reference for Hydro One's Lake Superior Link Transmission
Project Environmental Assessment

The Ministry of the Environment, Conservation and Parks (MECP) has completed its review of the draft Terms of Reference for the Lake Superior Link Transmission Project Environmental Assessment. The review was carried out to determine whether the document meets the requirements of the Environmental Assessment Act and the expectations set out in the ministry's Code of Practice: Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario (Code of Practice). In addition, the review also assessed the clarity and detail of the draft Terms of Reference documentation in order to ensure that the Minister of the Environment, Conservation and Parks will be able to fully understand all the information in the document when making a decision about the Terms of Reference.

As such, the MECP offers the following comments in the attached documents for your consideration. As per Hydro One's July 17, 2018 letter to MECP, it is the ministry's expectation that a revised draft Terms of Reference will be submitted for the ministry's review.

It is also advised that consideration be given to circulating the revised draft Terms of Reference and/or notifying government agencies and Indigenous communities that the original draft document has been substantially revised. Government agencies and Indigenous communities should also be provided with an opportunity to review and provide comments on the changes that have been made.

Should you have any questions, please contact me at 416-325-5500 or by e-mail at antonia.testa@ontario.ca. If you feel a meeting would be beneficial, I can schedule a teleconference between MECP staff and Hydro One to discuss the ministry's comments on the draft Terms of Reference.

Sincerely,

A handwritten signature in black ink, appearing to read 'Antonia Testa', written in a cursive style.

Antonia Testa

Attachments – 8 PDF documents

TAB 28

Comment #	Reference to ToR Report	Comments & Rationale	Proposed Action/Solution
		Practitioners' Guide".	
6.	Section 1, page 10	To improve clarity, consider the following revision to the first paragraph: "The first key step of the EA process is the preparation of a ToR" "Hydro One will prepare the EA in accordance with the framework laid out in the ToR document and in accordance with..."	Revised text accordingly.
7.	Section 1.1, page 10	What are the three separate entities (i.e. Ontario Power Generation, Hydro One, and the IESO) responsible for and/or what are their mandates?	Revise the text accordingly. Please provide the additional information in this section of the ToR.
8.	Section 1.1, page 10	The three bullets points are confusing. Why is the bullet format used for these points? Need more context with these bullets in order to provide more clarity. For instance: Does the IPSP refer to the 20 year energy plan? Clarify how they are related? Who and/or how was the government given discretion to determine further supply mix? What does "supply mix" mean? Define the term OEB. What is their responsibility and/or mandate? How do they fit into the overall project/process?	Revise the text accordingly. Please provide the additional information in this section of the ToR.
9.	Section 1.1, page 11	Provide more information on the IPSP and/or 20 year energy plan (2007). What was its focus, goals, targets etc.?	Revise the text accordingly. Please provide the additional information in this section of the ToR.

Comment #	Reference to ToR Report	Comments & Rationale	Proposed Action/Solution
10.	Section 1.1, page 11	What does the Framework for Transmission Project Development Plans discuss in regards to the development and/or planning of transmission projects?	Revise the text accordingly. Please provide the additional information in this section of the ToR.
11.	Section 1.2, page 11	<p>Please clarify what activities/processes have been completed regarding upgrades to the associated transformer station infrastructure.</p> <p>Why were these upgrades not included as part of this environmental assessment project?</p> <p>The discussion regarding the upgrades to the associated transformer station infrastructure should be provided in Section 4 of this ToR document.</p>	Revise text accordingly. Please include a description of the work done regarding the transmission stations and justification and rationale for conducting this work independently of this environmental assessment project.
12.	Section 1.2, general	<p>Please avoid any direct references to NextBridge or the NextBridge EA project. If necessary, NextBridge should be referred to as the "designated electricity transmitter".</p> <p>Please avoid direct comparisons to the NextBridge EA project. For example: "as compared to the NextBridge proposal... Lake Superior Link project... has a lower estimated cost, a smaller environmental footprint..."</p> <p>Also avoid any subjective comments regarding the NextBridge EA project. For instance: "In response to the concerns... Hydro One is proposing its East-West Tie</p>	Revise text accordingly. Please remove references to NextBridge or the NextBridge EA project. Please remove any comparisons or subjective comments regarding the NextBridge EA project.

Comment #	Reference to ToR Report	Comments & Rationale	Proposed Action/Solution
		Line project, called "Lake Superior Link", to protect the interests of the public and ratepayers."	
13.	Section 1.2, general	Provide more information on the current/ existing East-West Tie transmission corridor. What does it currently consist of? How old is the infrastructure? etc.	Revise the text accordingly. Please provide the additional information in this section of the ToR.
14.	Section 1.2, general	<p>A better summary of the past provincial analysis and decision regarding the need and/or justification for the project is required.</p> <p>The description of the historical events related to the proposed expansion of the East-West Tie corridor is confusing and too vague. This information should be presented in a clear and comprehensive chronological summary of events.</p> <p>More information, detail and context are needed in order to fully understand and to justify the need for the project. For instance, provide more detail and context regarding the LTEP. What is the LTEP? Why was it updated? What is its focus, goals, key elements etc.?</p> <p>Also, provide more information for each of the bullet points on page 12. For instance, for bullet number 2, what does it mean to be the "designated electricity transmitter"? How does OEB decide who is designated and who is not? Can more than one proponent</p>	<p>Revise the text accordingly. Please provide the additional information in this section of the ToR.</p> <p>Please provide supporting documentation to confirm and validate the information provided in the bullet points (See Comment #1).</p> <p>Supporting documentation (i.e. letters, assessment, reports etc.) should establish the need for:</p> <ul style="list-style-type: none"> • Electricity transmission. For instance, summarize documents that established the need specifically in northern Ontario • The project. For instance, summarize in detail the analysis and reporting that has been undertaken (to date) regarding the need for the project in northern Ontario.

Comment #	Reference to ToR Report	Comments & Rationale	Proposed Action/Solution
		<p>be designated?</p> <p>Lastly referring to a summary of the "East-West Tie project" is confusing because there is currently another EA project with the same name. It would be better to frame it as the summary of the proposed expansion of the East-West Tie corridor.</p>	
15.	Section 1.4, general	<p>This section must clearly state what the purpose is for the study and for the undertaking.</p> <p>What does Hydro One wish to achieve by engaging in the environmental assessment process? Why does Hydro One need to do this particular undertaking? What is the particular problem to be solved or alleviated? What is the opportunity which is to be pursued?</p> <p>If the need for the project has been satisfied and established by a defined planning process, then that needs to be clearly presented in the ToR and the associated supporting documentation must be provided (See Comments #1 and #14)</p>	Revise text accordingly. Please provide supporting documentation to confirm and validate the information provided (See Comment #1 and #14).
16.	Section 1.5, general	<p>To improve clarity and flow of the ToR document, the following organizational changes to the ToR document are recommended:</p> <p>"Taken together, The ToR document is</p>	Revise ToR document accordingly.

TAB 29

Hydro One Limited/ Hydro One Inc.
Submission to the Board of Directors



Date: December 8, 2017

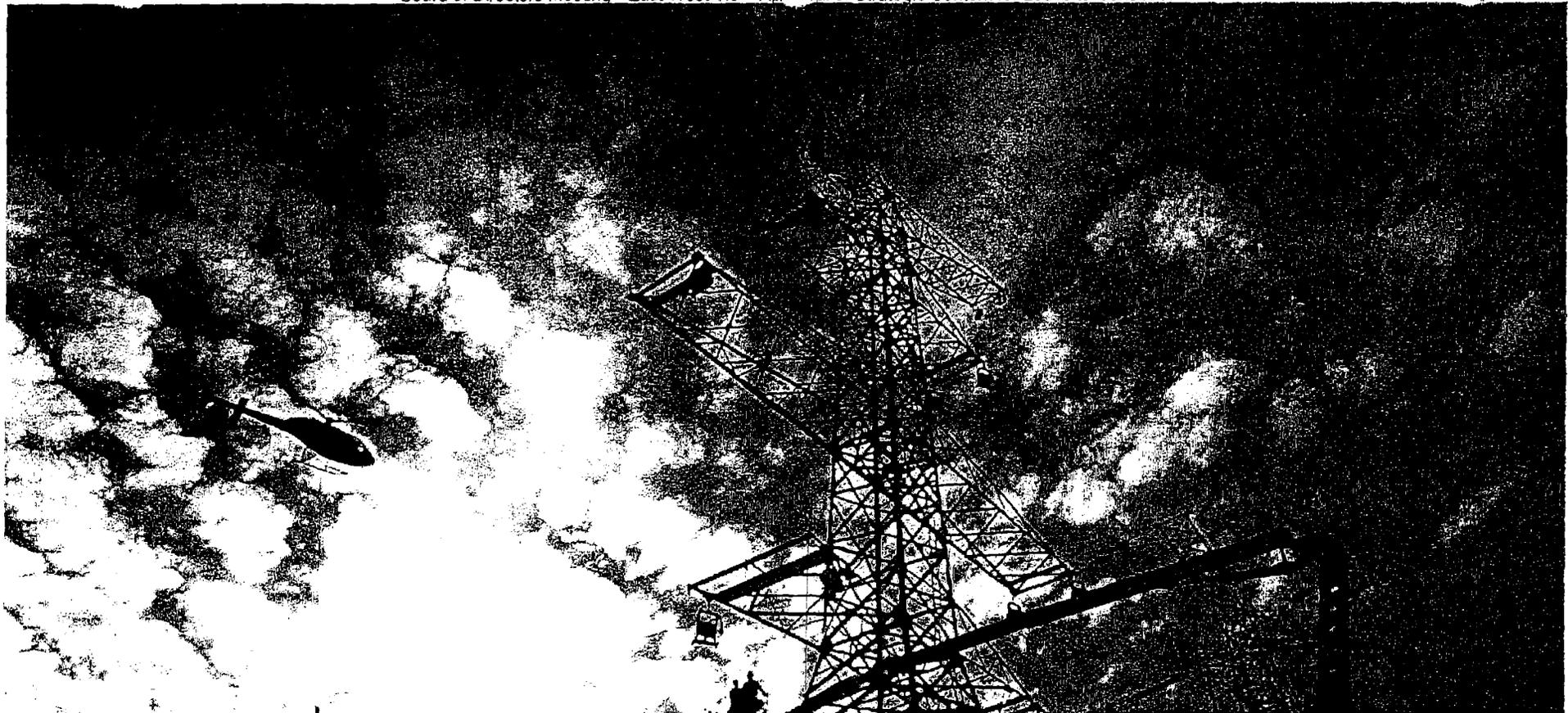
Re: East West Tie - Board Approval to Submit Leave to Construct

Attached please find the presentation of the East West Tie project. We are requesting Board approval on Leave to Construct.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Greg Kiraly".

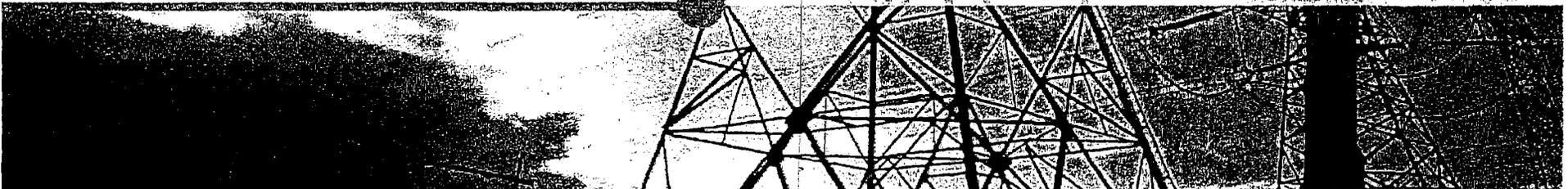
Gregory Kiraly
Chief Operating Officer



East West Tie – Board Approval to Submit Leave to Construct

hydroOne

December 8, 2017



Appendix F: Project Risks and Mitigation (1 of 3)

Risk	Additional Info	Likelihood of Risk	Project Impact	Mitigation	Party Carrying Risk
<p>Inability to use EA work done by NextBridge</p>	<p>NextBridge has spent roughly 2.5 years on EA activities, and submitted to MOECC for review in July 2017. No clear ability to transfer proponency from NextBridge to Hydro One. No clear precedent for MOECC or OEB to follow.</p>	<p>Medium to High (50% - 75%)</p>	<p>Catastrophic. Would require Hydro One to start fresh on EA work, 2.5-3 year delay and approx. \$30 million of cost to be incurred without assurance of recovery, or alternatively not proceed with project. Reputational risks with stakeholders and communities.</p>	<p>Continue discussions with MOECC on benefits of Hydro One proposal and potential alternatives for consideration.</p>	<p>Hydro One. Only mitigated once received clarity from MOECC on mechanisms, which does not have defined timeline.</p>
<p>Inability to amend NextBridge EA to account for changes, including Pukaskwa National Park Route</p>	<p>Hydro One proposal is substantially less impactful to environment (i.e. reduced corridor clearing), but all changes to submitted EA by NextBridge require approval of changes by MOECC</p>	<p>Medium to High (50% - 75%)</p>	<p>Very High. Cost & Schedule: Would have to design & build to NextBridge EA, with longer route, more expensive tower design</p>	<p>Have received support in principle from Parks Canada. Continue discussions with MOECC on benefits of Hydro One proposal and potential alternatives for consideration.</p>	<p>Hydro One. Only mitigated once received clarity from MOECC on mechanisms, which does not have defined timeline.</p>



Appendix F: Project Risks and Mitigation (2 of 3)

Risk	Additional Info	Likelihood of Risk	Impact	Mitigation	Party Carrying Risk
<p>Inability to amend NextBridge EA to account for changes, including elimination of Loon Lake by-pass west of Nipigon</p>	<p>Hydro One proposal is substantially less impactive to environment (i.e. reduced corridor clearing), and addresses concerns raised by MNRF on NextBridge's EA, however is a change from the modified route committed to local communities concerned about nearby infrastructure expansion. All changes require MOECC approval.</p>	<p>High (75%)</p>	<p>High.</p> <p>Cost & Schedule: Would have to design & build to NextBridge EA, with longer route, specifically clearing 53km of additional corridor.</p> <p>Reputational: Challenging conversations with local landowner associations.</p>	<p>Plan to engage with MNRF and MOECC regarding lesser environmental impacts, as well as consult with communities regarding potential mitigating measures to eliminate corridor clearing around Look Lake. \$4 million within contingency.</p>	<p>Hydro One</p> <p>Only mitigated once received clarity from MOECC on mechanisms, which does not have defined timeline AND consultation with communities (Q2-Q3 2018)</p>
<p>EPC Partner unable to deliver against committed Construction Budget and Schedule</p>	<p>Project overruns and delays due to a number of modelled risks associated with land clearing and transmission line construction.</p>	<p>Low to Medium (25-50 %)</p>	<p>Medium.</p> <p>Cost & Schedule: Would be subject to penalties and litigation for failing to fulfil contractual obligations.</p> <p>Reputational: Damage impacting relations with Hydro One and Canadian T&D sector</p>	<p>Substantial engineering work completed to clearly understand project risks.</p> <p>Probabilistic risk assessment utilized to define project contingency.</p>	<p>SNC-Lavalin</p> <p>Hydro One risks guarded by EPC Contract financial security (bonding, liquidated damages up 180 days/\$53 million, parental guarantee</p>



Appendix F: Project Risks and Mitigation (3 of 3)

Risk	Additional Info	Likelihood of Risk	Impact	Mitigation	Party Carrying Risk
<p>EPC Partner unable to deliver against committed Construction Budget and Schedule</p>	<p>Project overruns and delays due to a number of modelled risks associated with land clearing and transmission line construction.</p>	<p>Low to Medium (25-50 %)</p>	<p>Medium.</p> <p>Cost: Would not have ability to seek rate recovery on cost overruns, given not-to-exceed price.</p>	<p>Substantial work completed with SNC-Lavalin to understand project risks. Probabilistic assessment utilized to define project contingency.</p> <p>Instruments with EPC Contract to guard against cost and schedule overruns. Bonding for 100% of contract and Liquidated Damages of up to \$53 million.</p>	<p>Hydro One</p>
<p>Delays to construction start due to inability to obtain real estate rights</p>	<p>Hydro One accountable for obtaining real estate rights for widening of existing corridors. Standby charges of \$300 thousand/month once EPC contract is signed after LTC approval.</p>	<p>Medium (50%)</p>	<p>Medium</p> <p>Cost & Schedule: Standby charges of \$300 thousand/month once EPC contract is signed after LTC approval.</p>	<p>Begin community meetings and discussions early 2018. Modelled and allocated contingency.</p>	<p>Hydro One</p>



TAB 30

Risk Counter	Risk Title	Risk Status	Probability Ranking	Cost Impact Estimate	Schedule Impact	Additional Comments on Cost and Schedule
1	Because this EA Amendment procedure is unprecedented with the MOECC it is unclear at this time if it will be accepted by the MOECC. MOECC may require HONI to begin at a different stage gate in the IEA process (ie new TOR, or new EA). A condition required to proceed; Note risk updated in September 2018 to reduce probability ranking as more clarity around process is now available	ACTIVE	UNLIKELY 25% - 49%		Order of magnitude 2+ years for EA approval	Cost Impact initially not carried as would greatly alter working assumptions; now additional cost included in LSL cost update, based on current knowledge of regulatory approval process - assuming Declaration Order or Individual EA using publicly available work from NextBridge; if NextBridge approval/work cannot be referenced then order of magnitude cost is increased by approximately \$20M
2	Additional studies, reports and/or consultation, including open houses. September 2018 update: Initially intended for EA Amendment scope. This contingency is now included in the cost, however, approach of Declaration Order and IEA for entire route add additional scope and cost which is now also included in the updated cost.	CLOSED	LIKELY 75% - 94%			Cost incorporated into updated base cost for Environmental Approvals
3	Construction delays due to above risk #2; cost included in EPC cost impact due to delays	ACTIVE	LIKELY 75% - 94%			If EA Approval granted later than Aug 2019; need to re-base schedule and cost
4	Additional cost to explore other routing alternatives for Park section. September 2018 update: Initially intended for EA Amendment scope. This contingency is now included in the cost, however, approach of Declaration Order and IEA for entire route add additional scope and cost which is now also included in the updated cost.	CLOSED	VERY LIKELY 95% - 100%			Cost incorporated into updated base cost for Environmental Approvals
5	EPC Contractor has to use four circuit towers around Loon Lake / Dorion, refer to above risk #4	Inactive	REMOTE 0% - 24%			
6	EPC Contractor has to make a bypass around Loon Lake / Dorion, refer to above risk #4	CLOSED	VERY LIKELY 95% - 100%			
7	If there is a separate commercial entity (including Hydro One as well as other entities) which will be the owner of the infrastructure within PNP will this affect the license agreement and the ability to consider this as existing infrastructure (ie not a new development)?	ACTIVE	REMOTE 0% - 24%			Potential delays to agreements; not likely cost implications; refer to schedule delay scenarios
8	A large portion of the EA document needs to be rewritten to reflect the design, construction, maintenance and operation practices of Hydro One.	CLOSED	VERY LIKELY 95% - 100%		Incorporated into updated Sept 2018 schedule	Cost incorporated into updated base cost for Environmental Approvals
9	Nextbridge IEA was intended to meet the MNRF Class EA requirements for both the disposition of Crown land and works in Provincial Parks. We will need to follow up with the MNRF to confirm that this EA and the subsequent Amendment meet their Class EA requirements. MNRF may require further information or time to conduct further Class EA work of their own.	ACTIVE	EVEN ODDS 50% - 74%		2-3 months delay to start of construction	Risk cost impact combined with risk 10
10	Nextbridge IEA was intended to meet the Ministry of Infrastructures Class EA requirements for the disposition or modification of IO/ORC lands. Nextbridge was to submit additional information to MOI under a separate cover that is not currently in the public realm. There may be no trigger for the Class EA or if there is the MOI may deem the current IEA and additional information provided by Nextbridge inadequate to meet their Class EA requirements.	ACTIVE	LIKELY 75% - 94%	\$ 1,000,000	2-3 months delay to start of construction	
11	Schedule impact due to delays under S. 35. (expropriation delaying construction)	ACTIVE	UNLIKELY 25% - 49%	\$ 1,000,000	6 month delay	
12	A written plan for construction will need to be submitted per article 8.01 of the current licence agreement. Parks Canada will not approve the modification of the route. A condition required to proceed with base scenario.	ACTIVE	REMOTE 0% - 24%			Risk would result in route around Pukaskwa National Park; development costs same
13	Parks Canada Detail Impact Assessment; September 2018 update: Although basic or detailed impact assessment expected under CEAA - no additional cost originally included in budget as Parks Canada indicated they would allow use of existing IEA document. This is not the case, as conveyed in July 2018, due to the more complicated scope and addition of Dorion route in IEA ToR.	CLOSED	LIKELY 75% - 94%		Not a Risk	Cost incorporated into updated base cost for Environmental Approvals
14	Analyses, Studies and reports within the EA will need to be amended to reflect the changes in routing and construction practices (such as ROW width, access). Many of these studies are time sensitive and seasons specific. We may need 4 seasons to complete all of the necessary studies. There is also the risk that early access agreements will not be in place to allow for conducting the studies at the appropriate time.	ACTIVE	UNLIKELY 25% - 49%		6 month delay to start of construction	Cost captured in Risk 20
15	Delay in coordinating Indigenous monitors which may be required for various studies including Archaeology and Natural Heritage.	ACTIVE	UNLIKELY 25% - 49%		6 months delay to construction start	Not likely a significant additional cost, only affects schedule and any resulting costs from schedule delay

Risk Counter	Risk Title	Risk Status	Probability Ranking	Cost Impact Estimate	Schedule Impact	Additional Comments on Cost and Schedule
16	The reaction by Indigenous communities to additional consultation from Hydro One is uncertain. Indigenous communities may be limited in the extent they can share information with Hydro One given existing agreements with Nx. (Cost Incorporates risks 26-29)	ACTIVE	EVEN ODDS 50% - 74%	\$ 1,000,000	6-12 month delay to construction start	
17	If leave to construct is awarded to Hydro One and Nx EA is not complete there is a risk of Nx not completing the EA.	ACTIVE	EVEN ODDS 50% - 74%		6 months delay to construction start	Cost implications difficult to determine, as it is not clear if portions of NextBridge work may be utilized by Hydro One; refer to Risk 1
18	Indigenous monitors may need to be present for Geotechnical studies.	ACTIVE	VERY LIKELY 95% - 100%		3-6 month delay to construction start	Cost risk captured in Risk 15
19	Permits for such things as water crossings, roads, tree clearing etc. may run into delays or added costs depending on availability and requirements of Regulatory staff and other stakeholders (ie Sustainable Forest Licences).	ACTIVE	EVEN ODDS 50% - 74%	\$ 1,200,000	(3-6 month delay)	
20	There is a risk that various environmental features may delay, post-pone or constrain construction activities by imposing timing restrictions. Eg. Species at Risk, nesting birds, water crossings, wet terrain. May also result in unplanned studies or mitigation.	ACTIVE	LIKELY 75% - 94%		SNCL Risk	
21	Stage 2 Archaeology, Cultural Heritage Evaluation Report and Heritage Impact Assessment may have findings that could result in additional studies (such as Stage 3 or 4 archaeological investigations) if mitigation or avoidance is not possible.	ACTIVE	EVEN ODDS 50% - 74%		Exclude from risk model and capture in S92 conditions	
22	Archaeological findings may cause delays to construction and modification to construction access routes or structure locations. Archaeology may not be fully complete before construction begins and may result in the adjustment to construction staging. May cause delays which may result in CCN's.	ACTIVE	EVEN ODDS 50% - 74%		Exclude from risk model and capture in S92 conditions	
23	Requirement for clearance letters from MTCS can cause delays by slow turn around.	ACTIVE	REMOTE 0% - 24%	\$ 600,000	1-2 month delay in construction start	
24	Environmental Monitoring commitments made in the IEA and required by Regulator Permits may result in added analysis, studies and reports (ie Turbidity and Total Suspended Solids at water crossings).	ACTIVE	LIKELY 75% - 94%		SNCL to take on risk of construction delays	
25	POST EA Work During and Post Construction may be higher than anticipated	CLOSED	VERY LIKELY 95% - 100%			Cost incorporated into updated base cost for Environmental Approvals
26	Indigenous communities may decide to remove themselves from the consultation process, which can affect the consultation budget.	ACTIVE	REMOTE 0% - 24%		combine with 15	Risk cost captured in Risk 15
27	Indigenous communities may request additional meetings in order to conclude the consultation process which can delay necessary approvals and affect the consultation budget	ACTIVE	REMOTE 0% - 24%		combine with 15	Risk cost captured in Risk 15
28	Indigenous communities may raise issues that Hydro One cannot respond to and must be addressed by the Crown, which can delay necessary approvals and affect the consultation budget.	ACTIVE	REMOTE 0% - 24%		combine with 15	Risk cost captured in Risk 15
29	Additional Indigenous communities may assert rights in the Project area and request to be consulted which can delay necessary approvals and affect the consultation budget.	ACTIVE	REMOTE 0% - 24%		combine with 15	Risk cost captured in Risk 15
30	The risk of the regulatory approval taking longer than anticipated and not having visibility on when the EA approval will be received	ACTIVE	LIKELY 75% - 94%			If EA Approval granted later than Aug 2019; need to re-base schedule and cost
31	Land Value Study results lower than individual full narrative property appraisals.	CLOSED	UNLIKELY 25% - 49%			Risk materialized; cost impact (\$500K) reflected in revised base budget
32	Property owner delayed authorisation or refusal to grant access for studies and assessments prior to s.92 approval.	ACTIVE	REMOTE 0% - 24%		minimal schedule impact	
33	Refusal to grant option for permanent lands rights, necessitating e	ACTIVE	EVEN ODDS 50% - 74%	\$ 2,400,000	nil	Construction can be managed around the 14-18 months expropriation process, without impacting I/S
34	Compensation for Business Disruption/Loss associated in the grant of permanent land rights.	ACTIVE	UNLIKELY 25% - 49%	\$ 800,000		

Risk Counter	Risk Title	Risk Status	Probability Ranking	Cost Impact Estimate	Schedule Impact	Additional Comments on Cost and Schedule
35	Underlying rights within Provincial Crown lands, e.g. minerals (consent approval).	ACTIVE	EVEN ODDS 50% - 74%	\$ 500,000		
36	Project requirements for route result in impact to primary residence or major out building (Buyout/Relocation).	CLOSED	UNLIKELY 25% - 49%			Risk materialized; cost impact reflected in revised base budget
37	Obtaining agreement and associated permits from FN (Pays Platt and Michipicoten) to accept current rental formula with other FN (annual amount).	ACTIVE	LIKELY 75% - 94%			Cost impact, if materialized is on OM&A
38	Undefined access road for temporary requirements (relying on preliminary information).	ACTIVE	LIKELY 75% - 94%	\$ 525,000		
39	Unable to procure necessary Land Agent resources in a timely manner (substitute with internal staff).	ACTIVE	REMOTE 0% - 24%	\$ 260,000		
40	Real Estate Buyouts found in the last moment (already addressed within Risk 36).	CLOSED	VERY LIKELY 95% - 100%			Risk materialized; cost impact reflected in revised base budget
41	IESO may reject the 15 days double circuit outage as it does not consider it as a valid plan	CLOSED	REMOTE 0% - 24%			
42	15 days double circuit outage cancelled two weeks before scheduled start date. New start date moved to following year.	ACTIVE	REMOTE 0% - 24%	\$ 5,000,000		
43	15 days double circuit outage delayed for one week, 1 day before original scheduled start date.	ACTIVE	REMOTE 0% - 24%			
44	Single circuit outage(s) start delayed four hours in the morning of starting daily outage (\$100k per instance)	ACTIVE	EVEN ODDS 50% - 74%	\$ 600,000		
45	Communication cost due to POST EA Work During and Post Construction may be higher than anticipated	ACTIVE	VERY LIKELY 95% - 100%	\$ 300,000		
46	Risk that Indigenous Communities request more than industry-typical study scopes	ACTIVE	EVEN ODDS 50% - 74%			Cost risk captured in Risk 15
47	MECP does not approve Nx8 EA by end of Q4 2018 as anticipated	ACTIVE	VERY LIKELY 95% - 100%			Result is delay and associated cost as described in Risk 30
48	MECP does not approve Nx8 at all and transfers all issues to H1	ACTIVE	EVEN ODDS 50% - 74%			Similar implications to Risk 17; Cost Implications difficult to determine, as it is not clear if portions of NextBridge work may be utilized by Hydro One; refer to Risk 1
49	HONI is not granted Dec order, CEAA approval by August 15/19	ACTIVE	EVEN ODDS 50% - 74%			Result is delay and associated cost as described in Risk 30
50	Delay to project due to MECP tying Station EA approval to Dec order/EA approval for LSL	ACTIVE	EVEN ODDS 50% - 74%		Current Jan 2019 EA approval as expected maintains in-service date of Dec 2021	Delay beyond that in assumptions will result in delay and associated cost as described in Risk 30

TAB 31

OEB Staff Interrogatory # 5

Reference:

EB-2017-0364 Evidence, Hydro One's Application filed on February 15, 2018, Exhibit B, Tab 1, Schedule 1, Page 12

Hydro One requests that a decision on this its application be rendered by October 2018.

Interrogatory:

- a) Does Hydro One need a decision by October 2018 to meet its proposed December 2021 in-service date? If not, when does Hydro One need a decision from the OEB? Please explain and identify critical path items in Hydro One's project scheduling and planning.
- b) What requirements (approvals, permits etc.) does Hydro One need to satisfy before it can start construction, if Hydro One is selected to build the new East-West Tie line?

Response:

- a) In order to meet the December 2021 Hydro One will require:
- leave to construct approval no later than January, 2019, to initiate procurement activities associated with long lead time items; and
 - EA approval by August, 2019, so that construction can commence.

See the Table below for an updated construction schedule that assumes Leave to Construct approval in January of 2019. Additionally, a scenario analysis is provided at Exhibit I, Tab 1, Schedule 7, to illustrate the impact to the schedule and cost should an EA approval not be received by August of 2019.