

## **DECISION AND ORDER**

**EB-2018-0190**

### **WATAYNIKANEYAP POWER LP**

**Application for leave to construct transmission lines and  
associated facilities in northwestern Ontario**

**BEFORE:**     **Emad Elsayed**  
                  Presiding Member

**Allison Duff**  
Member

**Cathy Spoel**  
Member

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**April 1, 2019**

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# 1 INTRODUCTION

Wataynikaneyap Power GP Inc., as the general partner on behalf of Wataynikaneyap Power LP (WPLP), filed an application (Application) with the Ontario Energy Board (OEB) on June 8, 2018 (amended October 5, 2018 and January 28, 2019), pursuant to section 92 of the *Ontario Energy Board Act, 1998* (OEB Act) for leave to construct a total of approximately 1,732 km of electricity transmission and interconnection facilities (Project). The Project consists of two parts: a reinforced supply to Pickle Lake (Line to Pickle Lake), and new lines to connect remote First Nation communities in northwestern Ontario north of Pickle Lake and Red Lake (Remote Connection Lines). A map showing the location of the Project is attached as Schedule A to this Decision and Order.

WPLP is a partnership between 24 First Nations and Fortis Inc. The participating First Nations indirectly hold a 51% interest in WPLP and Fortis Inc. indirectly holds the remaining 49% interest.<sup>1</sup> The transmission lines will connect 16 of the 24 participating First Nation communities, and will allow for the future connection of an additional community. At present, these First Nation communities rely on diesel generators to supply electricity.

The participating First Nations have formed a partnership on the basis of their shared interest in developing, owning and operating transmission facilities to connect remote First Nation communities to the provincial electricity grid, so as to provide reliable and accessible power to residents, community infrastructure and businesses. The existing diesel generation has significant limitations as it does not allow new housing to be connected, nor is it adequate to support essential infrastructure improvements. The result is overcrowded and poor living conditions, and unreliable potable water supplies, sewage treatment and heating.

The application notes that nine of the communities to be connected are served by Hydro One Remote Communities Inc. (HORCI) and seven are served by an Independent Power Authority (IPA) which operates its local system.<sup>2</sup> The IPA systems will ultimately be transferred to HORCI. As well as completing the work included in the Project, a number of other activities will need to be completed before the distribution systems can

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<sup>1</sup> WPLP's original application stated there were 22 participating First Nations. On January 28, 2019, WPLP filed an update to its application that, among other things, advised the OEB that Mishkeegogamang and Ojibway Nation of Saugeen have joined the WPLP partnership structure. This brings the total number of First Nations communities who are equal owners in the Project to 24. The update also advised that Algonquin Power & Utilities Corp. had acquired a minority stake in Fortis's ownership of WPLP.

<sup>2</sup> Exhibit C-1-1, pages 6-7

be transferred to HORCI. These include ensuring that the distribution lines are upgraded as needed and that there is backup power and road access. These activities are not within the scope of the Project.

In addition to its request for leave to construct the Project, WPLP also asks for approval under section 78(1) of the OEB Act of a unique cost recovery and rate framework under which:

- The revenue requirement for the Remote Connection Lines would be charged through a service rate to HORCI
- The revenue requirement for the Line to Pickle Lake network facilities would be recovered through the Uniform Transmission Rate (UTR)

In addition, the Application also requests the following:

- Approval, pursuant to section 97 of the OEB Act, of the forms of agreement that WPLP has offered or will offer to landowners directly affected by the proposed transmission facilities
- An order, pursuant to section 101 of the OEB Act, granting authority to construct portions of the proposed transmission facilities upon, under or over a highway, utility line or ditch
- A determination, pursuant to subsection 84(b) of the OEB Act, that the 44 kV and 25 kV segments of the proposed facilities are part of WPLP's transmission system notwithstanding that the voltages of these segments will be less than 50 kV
- A determination, pursuant to section 13.1 and Schedule 1 of WPLP's electricity transmission licence,<sup>3</sup> that the proposed transmission facilities are in accordance with the scope recommended or supported, as applicable, by the Independent Electricity System Operator (IESO)
- An order, pursuant to section 74 of the OEB Act, amending WPLP's electricity transmission licence to reflect the OEB's determination under section 84(b), to update Schedule 1 to reflect the proposed transmission facilities and to approve certain exemptions from the Transmission System Code (TSC) in relation to the Remote Connection Line facilities
- An amendment to WPLP's electricity transmission licence to change the name of its general partner from 2472883 Ontario Limited to Wataynikaneyap Power GP Inc.

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<sup>3</sup> ET-2015-0264

For the reasons set out below, the OEB grants the relief requested in the Application, subject to certain conditions of approval.

## 2 PROCESS

WPLP filed its application on June 8, 2018. The OEB issued a Notice of Hearing on September 14, 2018. The IESO and HORCI were approved as intervenors in the proceeding and OEB staff participated. No one requested an oral hearing.

WPLP filed an updated application on October 5, 2018. The update reflected certain minor refinements to the transmission line routing and facility locations that were contemplated in the initial application, along with other minor changes to reflect development activities carried out during the four months since the initial filing.

Procedural Order 1 established an un-transcribed Presentation Day on November 2, 2018, and the first round of interrogatories. Procedural Order 2 established a supplemental round of interrogatories.

On January 28, 2019, after both rounds of interrogatories, WPLP filed another update to its application to reflect minor amendments to its transmission line routing and to provide information about the recent addition of two new First Nations to the WPLP partnership structure. The OEB issued a letter confirming it would not introduce additional procedural steps because the proposed routing realignments were minor and there were no new impacted landowners.

OEB staff and intervenor submissions were filed on February 1, 2019, and WPLP's reply submission was filed on February 15, 2019.

### 3 LEAVE TO CONSTRUCT

#### 3.1 OEB'S JURISDICTION IN SECTION 92 APPLICATIONS

Section 92 of the OEB Act requires leave of the OEB for the construction, expansion or reinforcement of electricity transmission lines. In considering whether to grant leave, the OEB is restricted to the issues set out in section 96(2):

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

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

The promotion of the use of renewable energy sources is not a relevant consideration in the Application.

#### 3.2 PROJECT NEED

Through an Order-in-Council issued by the Lieutenant Governor in Council on July 20, 2016, the Province of Ontario declared that the Project is a "priority project" pursuant to section 96.1 of the OEB Act, which means that the OEB is required to accept that the construction of the proposed transmission facilities is needed.<sup>4</sup>

In response to a Ministerial Directive issued pursuant to section 28.6.1 of the OEB Act, the OEB amended WPLP's transmission licence on September 1, 2016, to include a requirement that WPLP develop and seek approvals for the Project.

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<sup>4</sup> Section 96.1(2) of the OEB Act provides that, "When it considers an application under section 92 in respect of the construction, expansion or reinforcement of an electricity transmission line specified in an order under subsection (1), the Board shall accept that the construction, expansion or reinforcement is needed when forming its opinion under section 96."

### 3.3 PRICE

#### 3.3.1 PROJECT COSTS AND ALTERNATIVES

WPLP estimated the total capital cost of the Project to be approximately \$1.65 billion.

WPLP asserted that it made a variety of efforts to reduce the costs of the proposed transmission facilities, and that it considered routing alternatives and refinements within the parameters established by the Order-in-Council, the terms of WPLP's transmission licence, and the IESO's recommended or supported scope.

OEB staff submitted that WPLP's cost estimates reflect the input and experience of its partners and others, and that the estimates are based on a well-defined project scope, substantially completed routing, completion of conceptual substation configuration design and equipment ratings, and completion of preliminary plan and profile drawings.

The Project cost estimate includes a 20% contingency, higher than the 5 to 15% contingency WPLP considers to be typical at this stage of a project, but reasonable in its view given the remoteness of this Project and other considerations and risks associated with subsurface conditions and environmental restrictions.<sup>5</sup>

Final engineering, procurement, construction and commissioning of the Project will be completed through a competitively tendered Engineering, Procurement and Construction (EPC) contract. WPLP has retained an Owner's Engineer (a consulting firm) to provide increased granularity and targeted accuracy of the cost estimate in preparation for the EPC tendering, evaluation and selection process. The Owner's Engineer's mandate will include a requirement to refine the contingency.<sup>6</sup>

OEB staff submitted that the OEB should require WPLP to file updated cost details in its first transmission rate application, including a variance analysis of cost, schedule and scope as compared to the original estimates, and the extent to which the Project contingency was utilized.

WPLP submitted this condition is unnecessary as it is something that it would do in any event in accordance with the OEB's filing requirements for transmission rate applications. WPLP added that, after its first rate application, it expects to provide

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<sup>5</sup> D-Staff-25

<sup>6</sup> Exhibit D-3-1, page 4



further variance analyses as construction progresses and would compare actual costs relative to the cost estimates in the first rate application.

### 3.3.2 COSTS OF OTHER ACTIVITIES

OEB staff noted that approval of the Project will trigger costs that are necessary to implement the Project, such as upgrading distribution lines in some or all communities. These costs are not included in WPLP's estimated Project cost as they are for work outside the scope of the Project, nor are they WPLP's responsibility or in its control. OEB staff suggested that the OEB should have information about the entire scope of costs associated with the Project, including costs associated with the construction of certain stations and facilities that may be recovered from Hydro One Networks Inc.'s (HONI's) ratepayers in due course. In OEB staff's view, WPLP must provide a detailed breakdown of all costs that are within its ability to control when it files its inaugural transmission rate case, and suggested it may also be of assistance to the OEB if WPLP makes best efforts to provide information on any other costs that may impact this Project at the time of the transmission rate case.

HORCI noted that activities such as completion of distribution system upgrades are critical to the ultimate success of the Project in connecting First Nations communities to the transmission system.

HORCI pointed out that it will not consider the transfer of any IPAs until the necessary work has been completed, and that it would not pay for it. WPLP agreed that community readiness is critical, and pointed out that there is a process in place that includes Indigenous Services Canada, the relevant First Nations and support from Opiikapawin Services Limited Partnership to create a framework to fund and execute the work required for the transition. WPLP also confirmed that the funding for upgrades will be provided by Indigenous Services Canada and will therefore have no impact on HORCI's rates, HORCI's customers or Ontario ratepayers.<sup>7</sup>

HORCI also raised concerns about service to Wawakapewin First Nation in the absence of reliable, safe and efficient year-round access by air or road. HORCI stated that funding of the construction and maintenance of a road or alternate solution will need to be determined prior to HORCI being able to serve the community.

WPLP acknowledged that there are costs for other activities related to the Project, but stated that these are not required to be included as part of a leave to construct

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<sup>7</sup> Ibid.

application, and that WPLP is not requesting approval of those costs in this Application. WPLP noted that it will include some of these costs in a future application for transmission rates and that other costs would be recovered by HONI through UTRs.

In its reply submission, WPLP also indicated that it is committed to working collaboratively with HORCI to develop solutions that will meet the access requirements of all parties.

### 3.3.3 FUNDING FROM THE GOVERNMENT OF CANADA

On March 12, 2018, WPLP entered into a Memorandum of Understanding (Funding MOU) with the governments of Canada and Ontario. The Funding MOU contemplates a total of \$1.6 billion of federal funding in support of efforts to connect the remote communities. The funding is conditional on the finalization of definitive documentation and on appropriation of the funding by Parliament.

WPLP's proposed cost recovery and rate framework has been designed to work regardless of whether the funding contemplated by the Funding MOU is ultimately received.<sup>8</sup>

Assuming the Government of Canada does appropriate the funds as expected, the funding will be provided in two tranches:

- The first tranche, to be provided upon substantial completion of the transmission project, will be \$770 million less funding provided by Canada for connection of the Pikangikum First Nation<sup>9</sup>
- The second tranche, to be provided upon final completion, will be \$785 million

The requirements for substantial completion and completion under the Funding MOU include that the OEB must have approved all WPLP rate base additions related to the transmission system.<sup>10</sup>

The Government of Canada will fund the Project in part as a capital contribution to WPLP, with the remainder placed in an independent trust (Trust) to offset the increase

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<sup>8</sup> Exhibit B-2-1

<sup>9</sup> WPLP addressed Pikangikum's electricity needs by constructing the first leg of the Red Lake Remote Connection Line to the Pikangikum First Nation Reserve prior to constructing the remainder of the Project. The Government of Canada is providing up to \$60.2 million for this work. Pikangikum First Nation was connected to the grid in December 2018.

<sup>10</sup> WPLP reply submission, page 27

in Rural or Remote Electricity Rate Protection (RRRP) as a result of a transmission rate that WPLP proposes to charge to HORCI. WPLP's understanding is that the recipient of funds from the Trust will be the IESO.

OEB staff noted that O. Reg. 442/01 (Rural or Remote Electricity Rate Protection) was amended effective July 1, 2016 "to allow RRRP to be used to cover a portion of the costs required to build and operate the lines that would connect remote First Nations communities to the transmission grid."<sup>11</sup>

At the Presentation Day of the Application, WPLP advised the OEB that a capital cost of \$1,610 million results in an implied rate base of \$1,550 million and a \$197 million capital contribution from the Government of Canada. The amount allocated to the Trust would be \$1,353 million.<sup>12</sup> WPLP has stated that the Funding MOU has a sliding scale based on approved capital costs, and that WPLP's equity position goes down as approved capital costs go up, provided WPLP's equity does not go below \$400 million.<sup>13</sup>

### 3.3.4 BILL IMPACTS

WPLP provided bill impact evidence at Exhibit J-3-1 of the Application and in response to interrogatories J-Staff-60 and J-Staff-77.

The estimated bill impacts did not account for any Government of Canada funding. If funding from the Government of Canada is appropriated as anticipated, it will mitigate the impacts of the Project on Ontario customers. This funding will reduce WPLP's rate base for the Remote Connection Lines through a capital contribution directly to WPLP with the balance of the funding placed in a Trust. The rate impact for Ontario customers will be mitigated by offsetting the incremental amount of the RRRP attributable to the Remote Connection Lines until the applicable federal funding in the Trust is exhausted.

#### Bill Impact from Line to Pickle Lake

Under WPLP's cost recovery proposal, the revenue requirement related to the line to Pickle Lake will be recovered through the UTR. WPLP estimates that the annual

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<sup>11</sup> Environmental Registry, February 10, 2016

<sup>12</sup> Exhibit KP1 slide 36

<sup>13</sup> J-Staff-46: "The Funding MOU provides a sliding scale based on total OEB approved capital costs (before Federal Government capital contribution). The sliding scale has WPLP's equity position going down as OEB approved capital costs go up, provided WPLP's equity does not go below \$400M. This provides WPLP with the incentive to control project costs since escalating costs will diminish WPLP's equity participation with an increasing capital contribution."

revenue requirement associated with the Line to Pickle Lake in the period 2024-2033 would be \$32 million, and the monthly bill impact for a typical residential customer would be \$0.20 in 2024, declining to \$0.17 by 2033.<sup>14</sup>

### **Bill Impact from Remote Connection Lines**

Under WPLP's cost recovery proposal, the annual revenue requirement associated with the Remote Connection Lines in the period 2024-2033 is estimated to be \$104 million and would be charged to HORCI. The monthly bill for a typical residential customer would increase by \$0.56.<sup>15</sup> In response to an OEB staff interrogatory, a revised bill impact analysis using more recent IESO outlook data for Ontario energy demand indicated that the monthly bill for a typical residential customer would increase by \$0.73 in respect of the Remote Connection Lines in 2024, declining to \$0.65 by 2033.<sup>16</sup>

HORCI submitted that it does not want to have to justify incremental spending of \$104 million in annual revenue requirement associated with the Remote Connection Lines in its future rate filings as they are related to the Project and do not result from decisions made by HORCI.

If the federal funding is appropriated by Parliament, no bill impact on Ontario ratepayers from the Remote Connection Lines is expected from 2024 to 2033, with mitigated, temporary bill impacts from 2021 to 2023.

### **Total Bill Impact**

The estimated total monthly bill impact of the Line to Pickle Lake and Remote Connection Lines for a typical residential customer is \$0.93 in 2024 declining to \$0.82 by 2033.

In its submission, HORCI noted that bill impacts for all Ontario ratepayers will need to be assessed by the OEB as part of its consideration of the public interest in reviewing this Project. HORCI requested that the OEB give due consideration to the rate implications on HORCI's customers, whom HORCI says may be challenged to pay for the costs that will be recovered from HORCI as a result of the Project.<sup>17</sup>

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<sup>14</sup> J-Staff-77

<sup>15</sup> Exhibit J-3-1 pages 3-4. In response to J-Staff-60(b), WPLP provides a table that illustrates the 2024-2033 scenario if Government of Canada funding is appropriated for project completion. RRRP would not increase by 233% in the period 2024-2033 and there would be no resulting bill impact related to the Remote Connection Lines.

<sup>16</sup> J-Staff-77

<sup>17</sup> HORCI submission, page 5

WPLP agreed with HORCI that it is important for the OEB to consider the rate implications on HORCI's customers, who endure many inequities and hardships affecting their ability to pay for the cost of receiving electricity service. WPLP said its understanding is that HORCI has historically adjusted its rates so that the annual inflationary increase prescribed by the RRRP Regulation is considered on a total-bill basis. WPLP said that, provided that the OEB continues to allow this approach following grid connection, there will be no incremental cost or bill impacts for HORCI's ratepayers as a result of the Project.

### Timing of Bill Impacts

The Project is a multi-year project with sections coming into service on a staggered basis as noted in Exhibit C-7-1 and in Table 1 below. Bill impacts will be staggered according to these service milestones.

**Table 1: Service Milestones**

Event		Forecast Timeline
1	Pikangikum Connection	Q4 2018 <sup>18</sup>
2	Line to Pickle Lake in service	Q4 2020
3	First Community Connected	Q1 2021
4	50% of Communities Connected	Q2 2022
5	Construction Complete	Q4 2023

The first bill impact will be related to the UTR impact when the Line to Pickle Lake is in service (line 2 of Table 1). Ratepayers would experience bill impacts through the annual UTR approval. With respect to lines 3 to 5 of Table 1, as communities are connected, WPLP will apply to the OEB for approval of its revenue requirement related to the Remote Connection Lines.

WPLP proposes to charge a transmission rate to HORCI. The expense incurred by HORCI for the WPLP transmission rate would be in HORCI's revenue requirement and form part of the RRRP funding calculation for HORCI.

Ratepayers would experience bill impacts through the annual RRRP approval, and would pay increasingly higher RRRP as communities are connected until the OEB has approved all WPLP rate base additions related to the Project. At that point, RRRP will drop when funds are released from the Trust. WPLP has estimated that the Trust would

<sup>18</sup> Pikangikum connected to the Ontario power grid on December 20, 2018.

offset RRRP to account for the full impact of the revenue requirement for the Remote Connection Lines for approximately 13 years.

OEB staff submitted that the pattern of RRRP (and bill impact) increases, followed by a step decrease, followed by a step increase after 13 years, when the Trust is proposed to be fully utilized, is not ideal. OEB staff noted that the Trust will not be subject to WPLP's control or direction,<sup>19</sup> and therefore it does not appear to be feasible for the OEB to impose conditions in respect of the Trust distributions. OEB staff suggested that the OEB may wish to signal in its Decision and Order that it would be desirable for the managers of the Trust to consider impacts on ratepayers when determining the amount and timing of fund distributions to facilitate more gradual bill impacts.

## FINDINGS

The OEB finds that the impacts of the Project on consumers with respect to price are reasonable.

WPLP has demonstrated that its cost estimates were developed through an appropriate process according to a well-defined scope, and that it is taking steps to find cost efficiency measures and ensure that the costs of the Project are well managed. In addition, the government funding and structure of the Trust provide incentives for WPLP to control construction costs. No party opposed the Project costs.

While OEB Staff and HORCI raised concerns about costs to be borne by other parties and future costs, in a leave to construct application the scope of the OEB's review is limited to the costs of the facilities (lines, stations or other equipment) proposed to be built by the applicant.

The OEB finds that WPLP's approach to the Project, including competitive tendering of the EPC contract and the retention of a third-party Owner's Engineer to assist with procurement and project management processes is a reasonable way to manage the risks associated with the Project costs.

WPLP is required to provide updated Project costs as part of its future transmission rate applications in accordance with the OEB filing requirements. The OEB requires that WPLP's first transmission rate application shall provide details of the updated costs of the Project as defined by the Owner's Engineer (actuals to date and forecasts), variance analysis of Project scope, costs and schedule compared to the original estimates, and

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<sup>19</sup> J-Staff-48 and C-Staff-70

the degree to which the Project contingency has been utilized. WPLP shall also make best efforts to provide information on any other costs that may impact this Project at the time of its inaugural rate case.

Further, the OEB agrees with WPLP that any further variance analysis provided as construction progresses would consider actual or forecast costs compared to the updated cost estimates that are presented in the initial rate application.

The OEB agrees with OEB staff that, to the extent possible, it is desirable for the managers of the Trust to consider impacts on ratepayers when determining the amount and timing of fund distributions to facilitate more gradual bill impacts.

### **3.4 RELIABILITY AND QUALITY OF SERVICE**

In leave to construct applications, the OEB considers the interests of consumers with respect to reliability and quality of service associated with the Project. In this case, the OEB examined the potential impact on the integrated power system, as described in the System Impact Assessment (SIA); the potential impact on the HONI system and customers, as described in the Customer Impact Assessment (CIA); and consistency with the IESO Scope Document.<sup>20</sup> The OEB also considered the need for timely and appropriate backup power supply.

#### **3.4.1 SYSTEM IMPACT ASSESSMENT**

WPLP received two Final SIA reports from the IESO: one for the Line to Pickle Lake and Remote Connection Lines north of Pickle Lake<sup>21</sup> and the other for the Remote Connection Lines north of Red Lake.<sup>22</sup>

The Final SIA reports assess whether the proposed connection with the IESO-controlled grid would have an adverse impact on reliability of the integrated power system and whether the IESO should issue a notice of conditional approval or disapproval of the proposed connection.

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<sup>20</sup> "Recommended Scope for the new Line to Pickle Lake and Supported Scope for the Remote Connection Project"; Exhibit B, Tab 4, Schedule 1, Appendix D

<sup>21</sup> Exhibit G-2-2

<sup>22</sup> Exhibit G-3-2

In each Final SIA report, the IESO concluded that “the proposed connection of the project is expected to have no material adverse impact on the reliability of the integrated power system, provided that all requirements [specified by the IESO in each Final SIA report] are implemented”. The IESO issued corresponding Notifications of Conditional Approval to WPLP.<sup>23</sup>

WPLP confirmed that it will implement the requirements set out in the Final SIA reports for each of the Project components.

### **3.4.2 CUSTOMER IMPACT ASSESSMENT**

WPLP also received two CIA reports from HONI: one for the Line to Pickle Lake and Remote Connection Lines north of Pickle Lake<sup>24</sup> and the other for the Remote Connection Lines north of Red Lake.<sup>25</sup>

The CIA reports assess the potential impacts of the proposed new transmission facilities on existing HONI customers in the relevant areas.

In each Final CIA report, HONI concluded that the proposed Project will not adversely impact existing HONI customers in the relevant areas.

WPLP confirmed that it will implement the requirements set out in the Final CIA reports for each of the Project components.

### **3.4.3 IESO SCOPE DOCUMENT**

The IESO Scope Document sets out the IESO’s recommended scope for the Line to Pickle Lake and its supported scope for the Remote Connection Lines.

WPLP’s transmission licence<sup>26</sup> was amended on September 1, 2016 to reflect the Minister of Energy’s Directive to the OEB to amend the conditions of WPLP’s electricity transmission licence to include a requirement that WPLP proceed to develop and seek approvals for the Line to Pickle Lake, and for the Remote Connection Lines.

The Directive also prescribed that the “development of the line to Pickle Lake shall accord with the scope recommended by the Independent Electricity System Operator”

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<sup>23</sup> Exhibits G-2-1 and G-3-1

<sup>24</sup> Update to Exhibit H-2-1

<sup>25</sup> Update to Exhibit H-3-1

<sup>26</sup> ET-2015-0264



and, with regard to the Remote Connection Lines, the “development of these transmission lines shall accord with the scope supported by the Independent Electricity System Operator.”

In a letter dated June 21, 2018, the IESO wrote to the OEB to confirm that the transmission line design and station configurations of the proposed Line to Pickle Lake and Remote Connection Lines are consistent with the scope recommended and supported by the IESO, and “have been developed with a view to minimizing costs for the facilities, having regard to technical and other factors (i.e. the degree of redundancy built into WPLP’s proposed design is reasonable and the facilities are not built to an unnecessarily high standard).”

In its submission, OEB staff agreed with WPLP’s evidence and the IESO’s confirmation that the proposed Line to Pickle Lake and Remote Connection Lines are consistent with the scope recommended and supported by the IESO.

#### **3.4.4 BACKUP POWER SUPPLY**

Both HORCI and OEB staff commented in their submissions that without adequate backup power supply, communities connected to the Remote Connection Lines would generally experience worse reliability in terms of outage frequency and duration than they do today. The IESO suggested that a combination of transmission and backup power supply may result in similar or better reliability to remote communities than the continued use of diesel generation only.<sup>27</sup>

In its reply submission, WPLP noted that outage frequency and duration are not the only ways to measure transmission system reliability. For example, the Transmission System Code defines “reliability”, in relation to electricity service, as meaning “the ability to deliver electricity in accordance with all applicable reliability standards and in the amount desired”. The IESO’s Market Rules define “reliability” as meaning, in respect of electricity service, “the ability to deliver electricity within reliability standards and in the amount desired and means, in respect of . . . a transmission system, the ability of . . . that transmission system to operate within reliability standards in an adequate and secure manner”.

WPLP argued that the Remote Connection Line components of the Project are designed to contribute most significantly to those aspects of reliability that relate to the

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<sup>27</sup> Draft Technical Report and Business Case for the Connection of Remote First Nation Communities in Northwest Ontario, page 111

ability to operate in an “adequate and secure manner” and to deliver electricity “in the amount desired”. More particularly, the Remote Connection Lines will enable existing capacity restrictions to be lifted and will avoid the need for significant investments in diesel generation assets to avoid new capacity restrictions arising under a continued diesel scenario.

All parties agreed that backup power is an essential component for the Project’s success, that there are multiple actors and diffuse responsibilities and authorities involved in the provision of backup power supply, and that the IESO Scope Document calls for WPLP to facilitate the arrangement of the backup supply.

Both HORCI and OEB staff expressed concerns about the risk that backup supply might not be secured (a) on time; (b) in sufficient and appropriate quantities; and (c) for all connected communities, including current IPAs. OEB staff submitted that any approval of the WPLP’s leave to construct should be conditional on semi-annual reporting by WPLP to the OEB on the progress of backup supply arrangements for connecting communities. OEB staff proposed that the reports should summarize the status and outlook for backup supply arrangements for each community to be connected and provide a sufficient basis for understanding whether the backup supply is likely to be available when it is required, where it is required and in the amount required. Moreover, the updates should provide sufficient basis for understanding whether any additional measures might be required to ensure appropriate backup supply implementation.

WPLP submitted that it has taken appropriate steps to facilitate the arrangement of backup electricity supply resources for the 16 communities that intend to connect, consistent with its obligations under its transmission licence. As examples of its efforts, WPLP noted its involvement in the creation of an assessment of backup power options, a backup power implementation plan, and the development of a funding and operating structure.<sup>28</sup> Notwithstanding its efforts to date, WPLP did not object to OEB staff’s proposed backup power reporting requirement. WPLP requested that this reporting requirement be aligned with the Construction Work in Progress (CWIP) account reporting requirement proposed by OEB staff and addressed later in this Decision and Order. WPLP also suggested that this reporting obligation continue until such time as backup power arrangements have been fully implemented, rather than until completion of the Remote Connection Lines as proposed by OEB staff.

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<sup>28</sup> WPLP reply submission, pages 18-20

## FINDINGS

The Project has received Final SIA approval from the IESO and CIA approval from HONI. The OEB concludes that there will be no adverse impacts on the integrated power system and consumers with respect to the reliability and the quality of electricity service from the Project, provided that the requirements specified in the Final SIAs and CIAs are implemented.

The proposed Line to Pickle Lake and Remote Connection Lines are consistent with the scope recommended and supported by the IESO.

While the OEB agrees with WPLP that outages are only one measure of reliability, in this case backup power is an important component of the long term success of the Project, although not part of the Project scope which is subject to OEB approval in this proceeding. As WPLP has agreed to report to the OEB on the progress of backup power, the OEB will make such reporting a condition of approval. The first report must be submitted to the OEB approximately six months following this Decision and Order, on October 15, 2019, and then every April 15 and October 15 thereafter. The filing of the report will be aligned with the CWIP account reporting requirement, and will no longer be required once backup power arrangements have been fully implemented.

The reports shall summarize the status and outlook for backup supply arrangements for each community to be connected and provide a sufficient basis for understanding whether the backup supply is likely to be available when it is required, where it is required, and in the amount required. More specifically, these reports must include, for each community, the forecast date to connect to the new transmission line and the forecast date to provide sufficient backup supply, including mitigation measures to deal with deviation from plan.

### 3.5 LAND

WPLP indicated that the majority of the required land rights are situated on Crown lands. Additional land rights are required on a number of First Nation reserves and on 43 parcels of privately owned land that are held by 11 distinct landowners. Most of the land rights are required for transmission lines and stations and the balance are required for permanent and temporary access roads and for WPLP's temporary use of construction camps and laydown areas. WPLP has secured land rights over some of the privately owned parcels and is in negotiations for the balance. WPLP is in discussions with provincial and federal authorities, as well as with affected First

Nations, regarding the land rights that are required under legislation and by operation of provincial policy.

In its submission, OEB staff stated that it is satisfied with the routing alternatives that WPLP identified and assessed, and its reasons for selecting the Project as its preferred option. In its reply submission, WPLP noted that no party objected to the proposed routing, locations or design aspects of the Project. WPLP asserted that the routing and locations being proposed in the Application as amended are aligned with those being considered in the environmental assessment process.<sup>29</sup>

In accordance with the OEB's requirements, WPLP served notices on all directly affected landowners and encumbrancers. No landowners or encumbrancers intervened or filed comments in the proceeding. No party expressed concerns with WPLP's land requirements or land rights acquisition process.

### **3.5.1 FORM OF LAND USE AGREEMENTS**

WPLP filed the forms of land use agreements it has or will offer to private landowners should the need arise. OEB staff reviewed the forms of land use agreement relative to the OEB's filing requirements.<sup>30</sup> OEB staff submitted that the proposed forms of land use agreement conform to the OEB's requirements.

### **3.5.2 REQUEST FOR AUTHORITY UNDER SECTION 101**

WPLP requested an order, pursuant to section 101 of the OEB Act, granting authority to construct portions of the proposed transmission facilities upon, under or over a highway, utility line or ditch.

WPLP has committed to entering into crossing agreements or similar arrangements with the owners or persons in control of the highways, utility lines and ditches along or across which the proposed transmission facilities will run.<sup>31</sup> WPLP will have two rail crossings and three highway crossings. WPLP anticipates entering into rail crossing agreements based on the forms of such agreements typically used by the railway companies for this purpose.

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<sup>29</sup> WPLP reply submission, page 22

<sup>30</sup> Appendix A: Draft Form of Lease or Easement Agreement of the of the OEB's *Filing Requirements for Electricity Transmission Applications, Chapter 4 Applications under Section 92 of the Ontario Energy Board Act, July 31, 2014.*

<sup>31</sup> Exhibit F-1-1

WPLP plans to obtain encroachment permits from the Ministry of Transportation in the standard form for each of the highway crossings. WPLP indicated that for bridges and culverts required to cross water on and along access roads, it will obtain short-term approvals through Work Permits and long-term approvals through a Land Use Permit, each of which will be obtained from the Ministry of Natural Resources and Forestry. OEB staff stated in its submission that it has no objections to the OEB granting this request.

## **FINDINGS**

The OEB is satisfied that WPLP's proposed forms of land use agreement conform to the OEB's requirements. The OEB approves WPLP's proposed forms of land use agreements.

The OEB grants WPLP an order pursuant to section 101 of the OEB Act granting authority to construct portions of the proposed transmission facilities upon, under or over a highway, utility line or ditch. The OEB's leave to construct is subject to the necessary crossing agreements, permits and approvals that must be acquired by WPLP.

## 4 LICENCE AMENDMENTS

### 4.1 REQUEST FOR NAME CHANGE ON TRANSMISSION LICENSE

As the name of WPLP's general partner has changed from 2472883 Ontario Limited to Wataynikaneyap Power GP Inc., WPLP asked that its transmission licence be amended to reflect that change.

### 4.2 DESCRIPTION OF TRANSMISSION SYSTEM

WPLP notes that Schedule 1 of its existing licence states that it is to be updated to reflect a more detailed description of the facilities on the date upon which the OEB amends Schedule 1 of the licence to specify with greater precision the facilities to be owned and/or operated by the Licensee. In WPLP's view, upon granting leave to construct, the OEB will be in a position to specify the licensed facilities with greater precision and, as such, this is an appropriate time to amend Schedule 1.

### 4.3 LOW VOLTAGE SEGMENTS DEEMED TRANSMISSION

WPLP stated that, except for the Pikangikum distribution lines for which WPLP will hold a distribution licence on a temporary basis, WPLP will not be in the business of distributing electricity, despite its proposed transmission facilities including line segments that will operate at voltages of less than 50 kV.<sup>32</sup> WPLP further stated that it has right-sized and optimized its design and that the use of distribution-level voltages for certain segments of its transmission facilities and deeming them as transmission facilities is consistent with the IESO's recommended and supported scope for the Project, and that this approach will lessen the construction costs compared to the use of transmission voltages to serve the same need. WPLP asserted that its request in this regard is consistent with past OEB decisions allowing distribution-level voltage facilities, which act functionally as transmission facilities, to be treated as transmission facilities.<sup>33</sup>

OEB staff had no objection to a determination, pursuant to subsection 84(b) of the OEB Act, that the 44 kV and 25 kV segments of the proposed facilities in both the Pickle Lake

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<sup>32</sup> When complete, approximately 113 km of an approximately 117 km line north of Red Lake is currently being constructed to a 115 kV standard from a connection point on HONI's distribution system in Red Lake to a switching station serving the Pikangikum First Nation. This segment will operate on an interim basis, at 44 kV until such time as WPLP changes this line's connection point from HONI's 44 kV distribution system to WPLP's Red Lake Switching Station.

<sup>33</sup> Exhibit C-4-1, pages 1-3

and the Red Lake Remote Connection Lines are part of WPLP's transmission system notwithstanding that the voltages of these segments will be less than 50 kV.

#### **4.4 REQUEST FOR TRANSMISSION SYSTEM CODE (TSC) EXEMPTIONS**

In its Application, WPLP requested a number of exemptions from the TSC.<sup>34</sup> WPLP requested that the exemptions apply to the entire Project. Some are related to cost responsibility provisions in the TSC and others are related to technical and connection requirements. In relation to the former, WPLP also requested exemptions from "all sections relating to cost responsibility". WPLP asserted certain aspects of the TSC are inconsistent or incompatible with the Project given its unique nature. The exemptions have been requested on a temporary basis; specifically, until the date when all the facilities are placed in service, or December 31, 2023, whichever is earlier. WPLP proposed to effect the TSC exemptions by way of an amendment to its transmission licence.<sup>35</sup>

OEB staff did not object to the proposed temporary TSC exemptions. However, OEB staff submitted that, although exemptions from rules of general application such as the TSC may in some cases be warranted, they should be tailored as narrowly as possible to achieve the purpose of the exemption. OEB staff agreed with WPLP that the Line to Pickle Lake should be considered a transmission network facility and OEB staff noted that WPLP had requested cost recovery from the network pool per the normal course. OEB staff submitted that the Line to Pickle Lake is therefore not "unique" in the same sense that the Remote Connection Lines are. For this reason, OEB staff expressed the view that the exemptions should be limited to the Remote Connection Lines and should not apply to the Line to Pickle Lake. OEB staff proposed specific edits to WPLP's proposed licence amendment to restrict the scope of the exemption to the Remote Connection Lines and also tailor the scope to what is actually required in relation to cost responsibility.

Subject to the OEB agreeing that the Line to Pickle Lake is considered to be a network facility, for which exceptional circumstances under section 6.3.5 of the TSC do not exist, WPLP agreed with OEB staff that the requested exemptions are not required in connection with the Line to Pickle Lake portion of the Project and should therefore only apply to the Remote Connection Lines portion of the Project.

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<sup>34</sup> Exhibit C-6-1, pages 4-7

<sup>35</sup> Exhibit J-1-1, page 15

#### 4.4.1 EXEMPTION FROM SECTION 6.3.5 OF THE TSC

Section 6.3.5 of the TSC requires a customer to pay a capital contribution in “exceptional circumstances” in relation to a network facility, e.g., where a specific customer triggers the need for a network investment.

In its submission, OEB staff agreed with WPLP that the Line to Pickle Lake should be considered a transmission network facility (unlike the Remote Connection Lines, which are transmission connection facilities). However, OEB staff expressed the view that section 6.3.5 should apply to the Line to Pickle Lake because if exceptional circumstances arise in the future, for example due to the connection of a large customer (e.g., industrial), an exemption to section 6.3.5 would result in a cost burden to all Ontario ratepayers. In OEB staff’s view, this would not be appropriate.

In its submission, WPLP did not disagree that the Line to Pickle Lake should not be exempt from section 6.3.5 as long as the OEB agrees that the section would not be triggered by its Project because, in this case, there are no exceptional circumstances.

#### 4.4.2 EXEMPTION FROM SECTION 6.5.3 OF THE TSC

OEB staff noted that the cost responsibility provisions related to capital contributions in the TSC include true-ups to ensure the customer pays based on actual consumption – not forecast consumption – and an exemption from requiring a capital contribution should not also be construed to be an exemption from the need to undertake true-ups. As such, OEB staff expressed the view that any rate charged by WPLP would need to be approved by the OEB and there should be true-ups to reflect actual HORCI customer consumption in order to achieve alignment with the OEB’s beneficiary pays principle. Such true-ups would result in rate adjustments to ensure HORCI (and its customers in the remote communities) are not exposed to forecast risk.

WPLP disagreed with OEB staff’s position on true-ups. WPLP suggested that, since the proposed rate to be charged to HORCI would be a fixed monthly transmission rate (and would form part of HORCI’s revenue requirement), it would eliminate load forecast risk from a transmission perspective. The fixed monthly charge would be expected to decrease in future years as WPLP’s rate base decreases through depreciation, but should not be subject to adjustments to account for any true-ups to reflect actual HORCI customer consumption. WPLP further noted that the manner in which HORCI would recover its costs under the proposed cost recovery and rate framework insulates HORCI and its customers in the remote communities from forecast risk because the entire cost to HORCI will be added to its revenue requirement and recovered through



the RRRP. Moreover, if the federal funding is appropriated, then Ontario ratepayers will be protected from volume risk as well through the RRRP offsets provided by the independent Trust.

In its submission, WPLP asked the OEB to clarify in its decision that, under the proposed cost recovery framework and TSC exemptions requested in the Application, there will be no requirement for true-ups to the rates charged by WPLP to HORCI to reflect actual HORCI customer consumption.

## **FINDINGS**

The OEB approves the WPLP's request for administrative amendments to its electricity transmission licence to change the name of its general partner to Wataynikaneyap Power GP Inc. and to update Schedule 1 of the licence to reflect the more detailed description of the facilities.

The OEB deems the 44 kV and 25 kV line segments in both the Pickle Lake and the Red Lake remote connection networks to be transmission facilities.

The OEB approves the TSC exemptions in relation to the Remote Connection Lines portion of the Project.

The OEB agrees that the Line to Pickle Lake is a network facility for which exceptional circumstances under section 6.3.5 of the TSC do not exist at this time. The OEB is also of the view that the requested exemptions are not required in connection with the Line to Pickle Lake portion of the Project and should therefore only apply to the Remote Connection Lines portion of the Project. As such, cost recovery for the Line to Pickle Lake will be through the UTR network charge as per the normal course.

As requested, the exemptions are approved on a temporary basis; specifically, until the date when all the facilities are placed in service, or December 31, 2023, whichever is earlier.

The OEB confirms that there will be no true-ups related to consumption given the cost recovery and rate framework proposed and approved in this Decision and Order. WPLP will recover its approved costs through a fixed monthly charge, unrelated to forecast consumption.

WPLP's amended licence is attached as Schedule C to this Decision and Order.

## 5 COST RECOVERY AND RATE FRAMEWORK

WPLP proposed an alternative cost recovery and rate framework for the Remote Connection Lines portion of the Project which WPLP submitted is necessary to ensure the Project is financially viable (i.e., to ensure it can secure the necessary financing) and also ensure it is compatible with the existing RRRP framework. The proposed cost recovery and rate framework is summarized by WPLP in its submission:

Under the proposed framework, the revenue requirement impacts arising from the Remote Connection Lines (based on direct and indirect capital expenditures and OM&A expenses) would be charged by WPLP through fixed monthly transmission rates applicable to service provided to HORCI from the Remote Connection Lines, which rates would be approved by the Board from time to time in future transmission rate proceedings. The revenue requirement impacts arising from all other in-service capital and OM&A costs would be recovered through the UTR. HORCI would include in its revenue requirement the costs it incurs to pay WPLP's transmission rates. In accordance with section 4(2.1) the RRRP Regulation, the incremental amount in HORCI's revenue requirement attributable to the rates charged by WPLP would be recovered through the RRRP mechanism, while rates applicable to HORCI's customers would be expected to continue to be set based only on inflationary adjustments in accordance with the RRRP Regulation.

As discussed in the previous section, to enable the proposed cost recovery and rate framework, WPLP requested a number of exemptions from the TSC that it asserted are inconsistent or incompatible with the Project given its unique nature. WPLP also proposed that the Line to Pickle Lake be funded through the network charge under the UTR and its costs socialized amongst all Ontario ratepayers. The proposed cost recovery and rate framework has been designed to work regardless of whether the contemplated government funding is ultimately received, and the estimated bill impacts provided by WPLP have been determined accordingly.

WPLP proposes the following rate framework to establish a transmission rate applicable only to the transmission service provided by the Remote Connection Lines:<sup>36</sup>

- WPLP would expend capital in respect of the Remote Connection Lines and, once in service and approved, add that amount to its rate base.

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<sup>36</sup> Exhibit J-1-1, pages 10-11 (quoting verbatim)

- The addition to rate base of the Remote Connection Lines' capital cost would result in a revenue requirement impact that would include, among other things, the cost of capital based on the weighted average cost of capital (at the accepted 60/40 ratio) and the return of capital through the depreciation expense.
- The Remote Connection Lines' capital cost would be recorded and accounted for separately from the line to Pickle Lake. Rate base additions for the Project would be segregated into two pools: (i) the amount for the Remote Connection Lines, and (ii) all other in-service capital costs. The revenue requirement impact would be calculated for each pool per the current regulatory revenue requirement methodology for transmitters.
  - To permit recovery of WPLP's OM&A expense, the expense will be allocated between the Remote Connection Lines and the line to Pickle Lake on the basis of direct cost and indirect costs allocated based on the proportionate asset value in each rate base pool relative to total rate base.
  - The resulting revenue requirement impact arising from the Remote Connection Lines capital and OM&A expense would be charged to HORCI as a direct expense through a rate applicable to service provided from the Remote Connection Lines. The expense incurred by HORCI in respect of this transmission rate would be in HORCI's revenue requirement and as such form part of the RRRP funding calculation and RRRP payable to HORCI.
  - The revenue requirement impact arising from all other in-service capital costs and OM&A costs would be recovered through the UTR.

On the basis of these mechanics, WPLP requested that the OEB approve the foregoing rate framework and direct WPLP to propose rates based on this framework in its first rate application in which such a request is appropriate.

In its submission, OEB staff said it is not opposed to the OEB approving the structure of the transmission revenue requirement in principle, subject to a detailed review of the costs in the forthcoming transmission rate case application. However, OEB staff submitted that the OEB's approval of the previously discussed TSC exemptions together with the July 1, 2016 amendments to O. Reg. 442/01 (*Rural or Remote Electricity Rate Protection*) effectively provide WPLP with the cost recovery and rate framework that it seeks. In OEB staff's view, no further approvals from the OEB are required in this case. Furthermore, OEB staff noted that proceeding with the TSC

exemptions and the cost recovery and rate framework will result in a cost of \$9 million per year in comparison with the scenario set out in the TSC in which capital contributions would be provided by HORCI.<sup>37</sup>

OEB staff expressed concern that there remain a number of uncertainties with WPLP's proposed framework making it difficult to foresee the full impact of an approval. OEB staff also said it was not clear whether WPLP has embedded any other revenue requirement assumptions in its proposal. Given these uncertainties, OEB staff submitted that the specific elements of revenue requirement, including their quanta, should only be approved at the time of a transmission rate application. OEB staff made no submission on whether WPLP's proposal with respect to the details of cost of capital or the allocation of OM&A expense, for example, is appropriate.

In its reply submission, WPLP disagreed with OEB staff that the TSC exemptions and the existing RRRP regulation are sufficient to provide the cost recovery and rate framework that it seeks. WPLP asserted that there are various elements of the framework that would not be reflected through the TSC exemption or the RRRP regulation, including the separate accounting of costs for the Line to Pickle Lake and the Remote Connection Lines, the allocation of OM&A expenses between these project components, the charging of a fixed monthly charge to HORCI for service provided by the Remote Connection Lines, and the overall mechanics of the framework. Furthermore, WPLP asserted that not receiving OEB approval for the cost recovery and rate framework will impact WPLP's ability to raise capital from non-government third parties and possibly cause increased borrowing costs. Approval of the cost recovery and rate framework will also provide certainty for other affected stakeholders, such as the IESO, HORCI, HORCI's customers and Ontario ratepayers.

## 5.1 REQUEST FOR CWIP DEFERRAL ACCOUNT

WPLP requested that the OEB approve the establishment of a CWIP deferral account to record costs relating to the construction of WPLP's Project. WPLP stated that it would transfer the costs recorded in the existing development deferral sub-accounts<sup>38</sup> to their respective CWIP deferral sub-accounts and record capital costs in the new CWIP account from and after the date of OEB's Decision and Order granting leave to construct until the OEB approves the inclusion of the assets in WPLP's rate base.

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<sup>37</sup> J-Staff-58(b)

<sup>38</sup> EB-2016-0262, Decision and Order, issued March 23, 2017. The Decision and Order requires a progress report every January 15 and July 15 covering the following areas: (a) overall project progress; (b) costs and funding; (c) schedule and milestones; (d) risks and issues log.

WPLP proposed that the CWIP deferral account would have three sub-accounts similar to the existing development deferral account.<sup>39</sup>

WPLP also indicated that it would record interest in the CWIP deferral sub-account 2055.003 using the interest rate prescribed by the OEB for CWIP accounts.<sup>40</sup>

In its submission, OEB staff did not take issue with the establishment of a CWIP deferral account as proposed. However, OEB staff was of the view that this approval should be conditional upon establishment of a semi-annual reporting requirement similar to the one prescribed by the OEB in its March 23, 2017 decision and order approving the establishment of a new deferral account for the development of the WPLP's transmission project.<sup>41</sup>

In its reply submission, WPLP confirmed that in a future rate application it will be able to provide a cost breakdown on a similar basis as in the Accounting Order for the Development Costs Deferral Account. WPLP expressed no concerns with the substance of OEB staff's proposed reporting requirement. However, WPLP requested that the reporting requirement be aligned with the backup supply reporting requirement proposed by OEB staff. WPLP requested that the first report be due on October 15, 2019, and then every April 15 and October 15 thereafter until the CWIP Deferral Account is terminated. These reports would be based on December 31 and June 30 cut-offs for financials, and March 31 and September 30 cut-offs for project activities.

## FINDINGS

The OEB finds that the proposed cost recovery and rate framework will enable WPLP to achieve the desired outcome of this designated Project without placing an unreasonable cost burden on Ontario ratepayers.

The OEB approves the proposed cost recovery and rate framework given the unique circumstances of the case and potential funding available for the Project. Specifically, the OEB approves the inclusion of the net capital cost associated with the Remote Connection Lines in WPLP's rate base and a monthly fixed charge applied to HORCI –

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<sup>39</sup> Account 2055.001 - Other Regulatory Assets, sub-account: Wataynikaneyap Transmission Construction (Principal Balance); Account 2055.002 - Other Regulatory Assets, sub-account: All funding directly received by WPLP for construction activities related to the Project (Principal Balance); and, Account 2055.003 - Other Regulatory Assets, sub-account: Carrying Charges on Net Construction Costs.

<sup>40</sup> Exhibit J-2-1, pages 2-3

<sup>41</sup> EB-2016-0262, Decision and Order, Wataynikaneyap Power LP – Application for an accounting order to establish a deferral account, March 23, 2017, pages 12-13

in lieu of a capital contribution – to recover the capital and operating costs related to the Remote Connection Lines.

The amount of the monthly fixed charge will be addressed in WPLP's transmission rate cases involving the Remote Connection Lines, when the specific elements of WPLP's revenue requirement will be approved. In relation to the Line to Pickle Lake, the approved revenue requirement will be determined in WPLP's first transmission rate case involving that part of the Project, for recovery through the network charge component of the UTR.

WPLP is directed to use CWIP Account 2055 to record construction costs, a standard account included in the OEB's Uniform System of Accounts.<sup>42</sup> The OEB does not find it necessary to approve a CWIP deferral account as proposed by WPLP. Construction costs will be accumulated in the standard CWIP account for future disposition. Entries to the CWIP account will be reviewed for approval when WPLP proposes to add the related assets to rate base.

The OEB approves WPLP's request to transfer approximately \$54 million in development costs to a CWIP Account. The transferred development costs will be the opening balance for WPLP's CWIP account 2055 related to this Project. Further accounting guidance for Account 2055 is provided in the OEB's *Accounting Procedures Handbook for Electricity Distributors*.<sup>43</sup>

Article 410 of the OEB's *Accounting Procedures Handbook for Electricity Distributors* requires that where incurred debt is not acquired on an arm's length basis, the actual borrowing cost may be used for rate making, provided that the interest rate is no greater than the OEB's published rates. Otherwise, the OEB's published rates should be used. In this case, the actual interest rate may be lower than the prescribed rate. If so, the OEB directs WPLP to use its actual cost of debt.

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<sup>42</sup> OEB's *Accounting Procedures Handbook for Electricity Distributors* (January 1, 2012), Chapter II: Uniform System of Accounts

<sup>43</sup> The *Accounting Procedures Handbook for Electricity Distributors* has also been applied to electricity transmitters regulated by the OEB.

## 6 CONDITIONS OF APPROVAL

For the reasons provided above, the OEB will attach the following conditions to the leave to construct the Project:

1. WPLP shall provide semi-annual updates to the OEB on its CWIP account
2. At the same time, WPLP shall provide updates to the OEB on the progress of backup supply arrangements for the connecting communities
3. In its inaugural rate case, WPLP shall provide detailed cost information including an analysis of any variances between Project estimates and actual costs to date and information about the extent to which contingency has been utilized

In addition, the OEB will attach the following conditions which are standard for electricity transmission projects:

1. WPLP shall obtain and comply with all other necessary approvals, permits, etc., and shall also comply with the SIA, CIA and this Decision and Order of the OEB
2. Construction must begin within 18 months of this Decision and Order
3. WPLP shall advise the OEB of any proposed material change in the Project

OEB staff suggested in its submission that these three standard conditions be included, and WPLP did not object.

The Conditions of Approval are attached as Schedule B to this Decision and Order.

## 7 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Leave is granted to WPLP pursuant to section 92 of the OEB Act to construct the proposed Project.
2. The proposed forms of land use agreements are approved.
3. WPLP's request for authority under section 101 of the OEB Act to construct portions of the proposed transmission facilities upon, under or over a highway, utility line or ditch, which crossings are identified in Exhibit F-1-1 of the Application, is approved.
4. Pursuant to subsection 84(b) of the OEB Act, the 44 kV and 25 kV segments of the proposed facilities are deemed to be part of the WPLP's transmission system notwithstanding that the voltages of these segments will be less than 50 kV.
5. The amended electricity transmission licence attached as Schedule C to this Decision and Order is approved.
6. The proposed cost recovery and rate framework is approved. WPLP is directed to propose rates based on the approved framework in its first rate application in which such a request is appropriate.
7. WPLP shall transfer the balances from its development deferral account to its CWIP account, in accordance with this Decision and Order. With respect to CWIP interest rates, WPLP shall use the lower of its actual cost of debt and the OEB's published CWIP interest rate.
8. The OEB's approval of WPLP's Application is subject to the Conditions of Approval attached as Schedule B to this Decision and Order.
9. WPLP shall pay the OEB's costs of and incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto April 1, 2019

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

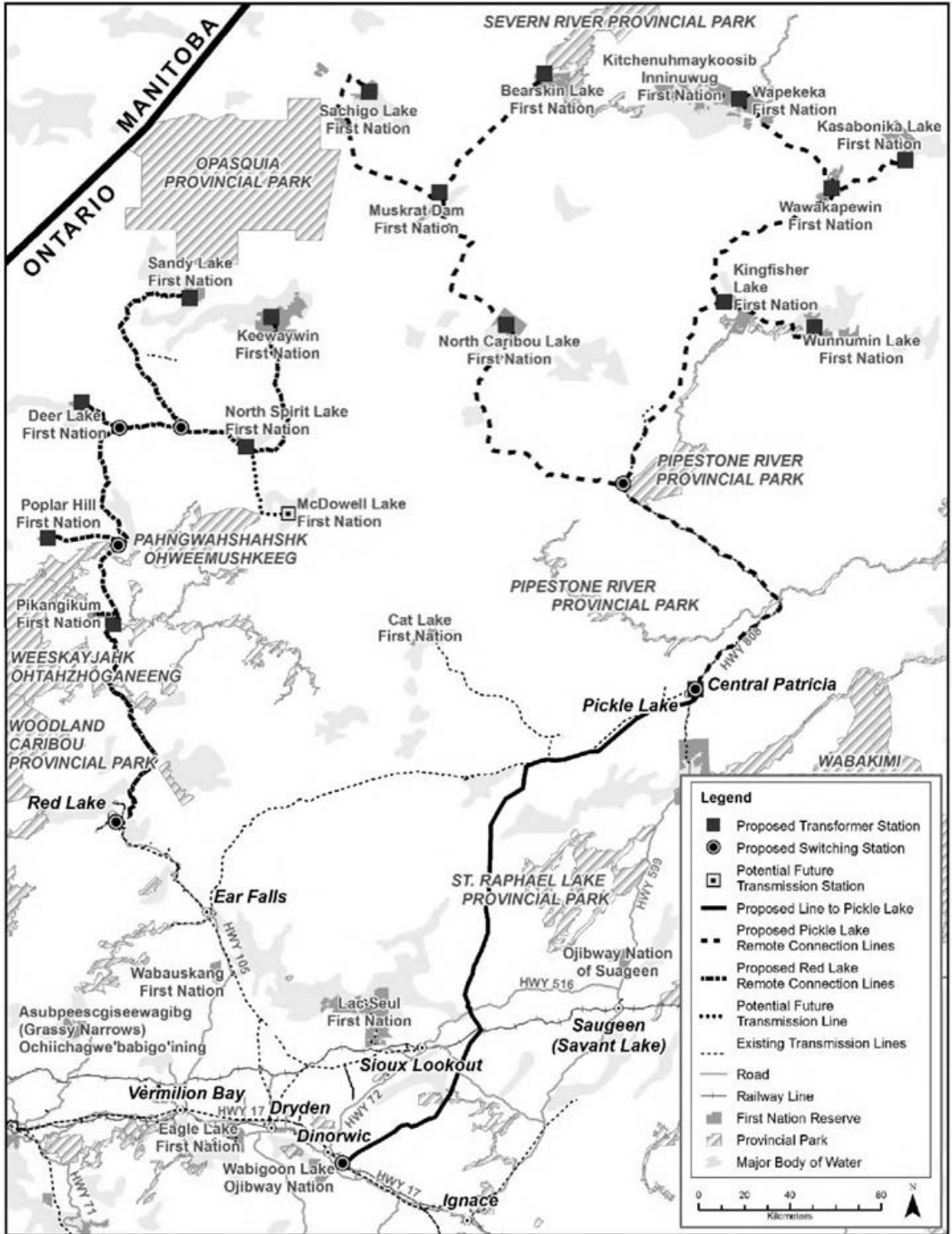


**SCHEDULE A – PROJECT MAP**

Application under Section 92 of the OEB Act

Wataynikaneyap Power LP

EB-2018-0190



**SCHEDULE B – CONDITIONS OF APPROVAL**  
**Application under Section 92 of the OEB Act**  
**Wataynikaneyap Power LP**  
**EB-2018-0190**

1. Leave to construct shall be in accordance with the OEB's Decision and Order in the proceeding and subject to fulfillment of the requirements of the System Impact Assessment and Customer Impact Assessment and all other necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the proposed facilities.
2. Unless otherwise ordered by the OEB, authorization for leave to construct shall terminate 18 months from the date of the Decision and Order, unless construction has commenced prior to that date.
3. WPLP shall advise the OEB of any proposed material change in the Project, including but not limited to changes in: the proposed route, construction schedule and cost, the necessary environmental assessment approvals, and all other approvals, permits, licences, certificates and rights required to construct the proposed facilities.
4. WPLP shall file a semi-annual report regarding its CWIP account and three associated sub-accounts. The first report shall be filed on October 15, 2019. Thereafter the report shall be filed every April 15 and October 15 until the CWIP account is terminated. These reports are to be based on December 31 and June 30 cut-offs for financials, and March 31 and September 30 cut-offs for project activities.
5. On the same dates specified in the previous condition in respect of the semi-annual CWIP report, WPLP shall file a semi-annual update report on the progress of backup supply arrangements for each community to be connected and provide a sufficient basis for understanding whether the backup supply is likely to be available when it is required, where it is required and in the amount required. More specifically, these reports must include, for each community, the forecast date to connect to the new transmission line and the forecast date to provide sufficient backup supply, including mitigation measures to deal with deviation from plan. This reporting requirement shall cease once backup power arrangements have been fully implemented for all connecting communities.

6. In its inaugural rate case, WPLP shall file a detailed breakdown of the updated costs of the Project as defined by the Owner's Engineer (actuals to date and forecasts), variance analysis of Project scope, costs and schedule compared to the original estimates, and the degree to which the Project contingency has been utilized. WPLP shall also make best efforts to provide information on any other costs that may impact this Project at the time of its inaugural rate case.

**SCHEDULE C – TRANSMISSION LICENCE**  
**Application under Section 92 of the OEB Act**  
**Wataynikaneyap Power LP**  
**EB-2018-0190**



# Electricity Transmission Licence

**ET-2015-0264**

**Wataynikaneyap Power GP Inc. on  
behalf of Wataynikaneyap Power LP**

**Valid Until  
August 31, 2036**

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**Kirsten Walli**  
**Board Secretary**  
**Ontario Energy Board**  
**Date of Issuance: November 19, 2015**  
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**LIST OF AMENDMENTS**

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EB-2016-0258	September 1, 2016
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**Wataynikaneyap Power GP Inc. on behalf of Wataynikaneyap Power LP  
Electricity Transmission Licence ET-2015-0264**

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## 1 Definitions

In this Licence:

“**Accounting Procedures Handbook**” means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

“**Act**” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“**Affiliate Relationships Code for Electricity Distributors and Transmitters**” means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

“**Board**” means the Ontario Energy Board;

“**Electricity Act**” means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

“**Licensee**” means Wataynikaneyap Power GP Inc. on behalf of Wataynikaneyap Power LP

“**Market Rules**” means the rules made under section 32 of the Electricity Act;

“**Performance Standards**” means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

“**Rate Order**” means an Order or Orders of the Board establishing rates the Licensee is permitted to charge;

“**transmission services**” means services related to the transmission of electricity and the services the Board has required transmitters to carry out for which a charge or rate has been established in the Rate Order;

“**Transmission System Code**” means the code approved by the Board and in effect at the relevant time, which, among other things, establishes the obligations of a transmitter with respect to the services and terms of service to be offered to customers and provides minimum technical operating standards of transmission systems;

“**wholesaler**” means a person that purchases electricity or ancillary services in the IESO administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IESO-administered markets or directly to another person other than a consumer.

## **2 Interpretation**

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens. Where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

## **3 Authorization**

- 3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence to own and operate a transmission system consisting of the facilities described in Schedule 1 of this Licence, including all associated transmission equipment.

## **4 Obligation to Comply with Legislation, Regulations and Market Rules**

- 4.1 The Licensee shall comply with all applicable provisions of the Act and the Electricity Act and regulations under these Acts, except where the Licensee has been exempted from such compliance by regulation.
- 4.2 The Licensee shall comply with all applicable Market Rules.

## **5 Obligation to Comply with Codes**

- 5.1 The Licensee shall at all times comply with the following Codes (collectively the "Codes") approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board. Any exemptions granted to the Licensee are set out in Schedule 2 of this Licence. The following Codes apply to this Licence:
- a) the Affiliate Relationships Code for Electricity Distributors and Transmitters; and
  - b) the Transmission System Code.
- 5.2 The Licensee shall:
- a) make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and
  - b) provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

## **6 Requirement to Enter into an Operating Agreement**

- 6.1 The Licensee shall enter into an agreement ("Operating Agreement") with the IESO providing for the direction by the IESO of the operation of the Licensee's transmission system. Following a request made by the IESO, the Licensee and the IESO shall enter into an Operating Agreement

within a period of 90 business days, unless extended with leave of the Board. The Operating Agreement shall be filed with the Board within ten (10) business days of its completion.

- 6.2 Where there is a dispute that cannot be resolved between the parties with respect to any of the terms and conditions of the Operating Agreement, the IESO or the Licensee may apply to the Board to determine the matter.

## **7 Obligation to Provide Non-discriminatory Access**

- 7.1 The Licensee shall, upon the request of a consumer, generator, distributor or retailer, provide such consumer, generator, distributor or retailer, as the case may be, with access to the Licensee's transmission system and shall convey electricity on behalf of such consumer, generator, distributor or retailer in accordance with the terms of this Licence, the Transmission System Code and the Market Rules.

## **8 Obligation to Connect**

- 8.1 If a request is made for connection to the Licensee's transmission system or for a change in the capacity of an existing connection, the Licensee shall respond to the request within 30 business days.
- 8.2 The Licensee shall process connection requests in accordance with published connection procedures and participate with the customer in the IESO's Connection Assessment and approval process in accordance with the Market Rules, its Rate Order(s) and the Transmission System Code.
- 8.3 An offer of connection shall be consistent with the terms of this Licence, the Market Rules, the Rate Order, and the Transmission System Code.
- 8.4 The terms of such offer to connect shall be fair and reasonable.
- 8.5 The Licensee shall not refuse to make an offer to connect unless it is permitted to do so by the Act or any Codes, standards or rules to which the Licensee is obligated to comply with as a condition of this Licence.

## **9 Obligation to Maintain System Integrity**

- 9.1 The Licensee shall maintain its transmission system to the standards established in the Transmission System Code and Market Rules, and have regard to any other recognized industry operating or planning standards required by the Board.

## **10 Transmission Rates and Charges**

- 10.1 The Licensee shall not charge for the connection of customers or the transmission of electricity except in accordance with the Licensee's Rate Order(s) as approved by the Board and the Transmission System Code.

## **11 Separation of Business Activities**

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

## **12 Expansion of Transmission System**

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

## **13 Expansion and Upgrading of Transmission System Further to Ministerial Directive**

- 13.1 Effective September 1, 2016, the Licensee shall proceed to do the following related to expansion of the transmission system to connect the Remote Communities to the provincial electricity grid:
- a) Develop and seek approvals for a transmission line, which shall be composed of a new 230 kV line originating at a point between Ignace and Dryden and terminating in Pickle Lake (the "Line to Pickle Lake"). The development of the Line to Pickle Lake shall accord with the scope recommended by the IESO.
  - b) Develop and seek approvals for the transmission lines extending north from Red Lake and Pickle Lake required to connect the Remote Communities to the provincial electricity grid. The development of these transmission lines shall accord with the scope supported by the IESO.
  - c) For the purposes of this paragraph 13.1 and Schedule 1, the Remote Communities are: Sandy Lake, Poplar Hill, Deer Lake, North Spirit Lake, Kee-Way-Win, Kingfisher, Wawakapewin, Kasabonika Lake, Wunnumin, Wapekeka, Kitchenuhmaykoosib Inninuwug, Bearskin Lake, Muskrat Dam Lake, Sachigo Lake, North Caribou Lake, and Pikangikum.

## **14 Provision of Information to the Board**

- 14.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 14.2 Without limiting the generality of paragraph 13.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) business days past the date upon which such change occurs.

## **15 Restrictions on Provision of Information**

- 15.1 The Licensee shall not use information regarding a consumer, retailer, wholesaler or generator, obtained for one purpose for any other purpose without the written consent of the consumer, retailer, wholesaler or generator.
- 15.2 The Licensee shall not disclose information regarding a consumer, retailer, wholesaler or generator to any other party without the written consent of the consumer, retailer, wholesaler or generator, except where such information is required to be disclosed:

- a) to comply with any legislative or regulatory requirements, including the conditions of this Licence;
- b) for billing, settlement or market operations purposes;
- c) for law enforcement purposes; or
- d) to a debt collection agency for the processing of past due accounts of the consumer, retailer, wholesaler or generator.

15.3 Information regarding consumers, retailers, wholesalers or generators may be disclosed where the information has been sufficiently aggregated such that their particular information cannot reasonably be identified.

15.4 The Licensee shall inform consumers, retailers, wholesalers and generators of the conditions under which their information may be released to a third party without their consent.

15.5 If the Licensee discloses information under this section, the Licensee shall ensure that the information is not be used for any other purpose except the purpose for which it was disclosed.

## **16 Term of Licence**

16.1 This Licence shall take effect on September 1, 2016 and expire on August 31, 2036. The term of this Licence may be extended by the Board.

## **17 Transfer of Licence**

17.1 In accordance with subsection 18(2) of the Act, this Licence is not transferable or assignable without leave of the Board.

## **18 Amendment of Licence**

18.1 The Board may amend this Licence in accordance with section 74 of the Act or section 38 of the Electricity Act.

## **19 Fees and Assessments**

19.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

## **20 Communication**

20.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.

20.2 All official communication relating to this Licence shall be in writing.

20.3 All written communication is to be regarded as having been given by the sender and received by the addressee:

- a) when delivered in person to the addressee by hand, by registered mail or by courier;

- b) ten (10) business days after the date of posting if the communication is sent by regular mail; and
- c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

## **21 Copies of the Licence**

21.1 The Licensee shall:

- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
- b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

SCHEDULE 1 Specification of Transmission Facilities

The Licensee's transmission facilities consist of:

- a) a 230 kV line, approximately 303 km in length, from Wataynikaneyap SS (near Dinorwic) to Wataynikaneyap TS (in Pickle Lake), including associated stations and ancillary equipment;
- b) 115 kV, 44 kV and 25 kV lines, approximately 890 km in total length, from Wataynikaneyap TS (in Pickle Lake) north to an eastern branch connected to distribution systems serving customers in (1) Wunnumin Lake First Nation, (2) Kingfisher Lake First Nation, (3) Wawakapewin First Nation, (4) Kasabonika Lake First Nation, (5) Wapekeka First Nation, (6) Kitchenuhmaykoosib Inninuwug First Nation, and to a western branch connected to distribution systems serving customers in (7) North Caribou Lake First Nation, (8) Muskrat Dam First Nation, (9) Bearskin Lake First Nation, and (10) Sachigo Lake First Nation, including associated stations and ancillary equipment; and
- c) 115 kV and 25 kV lines, approximately 531 km in total length, from Red Lake TS (near Red Lake) north to distribution systems serving customers in (1) Pikangikum First Nation, (2) Poplar Hill First Nation, (3) Deer Lake First Nation, (4) Sandy Lake First Nation, (5) North Spirit Lake First Nation, and (6) Keewaywin First Nation, including associated stations and ancillary equipment,

all of which has been determined by the Board in EB-2018-0190 to accord with the scope recommended by the IESO and the scope supported by the IESO, as applicable, pursuant to section 13.1 of this Licence. Notwithstanding that their voltage is below 50 kV, the 44 kV and 25 kV segments of the Licensee's transmission facilities have been deemed to be transmission facilities pursuant to section 84(b) of the *Ontario Energy Board Act, 1998* by an order of the Board in EB-2018-0190.

SCHEDULE 2 List of Code Exemptions

1. The Licensee is exempted from the following sections of the Transmission System Code, but only in relation to the transmission lines extending north from Red Lake and Pickle Lake as described in section 13.1(b) of this Licence:
  - a) All sections relating to connection procedures, including but not limited to 6.1.8, 6.2 and 6.4; and
  - b) All sections relating to customer capital contributions in respect of connection facilities, cost responsibility, including but not limited to 6.1.2, 6.3.1, 6.5.2 and 6.9.
2. The exemptions from the Transmission System Code referred to in section 1 of this Schedule are subject to the following conditions:
  - a) The exemptions expire on the date on which all of the facilities listed in Schedule 1 are placed in service, or December 31, 2023, whichever is earlier;
  - b) The Licensee shall file Customer Connection Procedures with the OEB by December 31, 2022. These Procedures shall be effective on the date on which all of the facilities listed in Schedule 1 are placed in service, or January 1, 2024, whichever is earlier;
  - c) The Licensee's Customer Connection Procedures shall either comply with section 6.1.3 of the Transmission System Code, or shall be accompanied by an application to the OEB requesting specific exemptions of an ongoing nature from the Transmission System Code; and
  - d) In the event that the Licensee receives one or more connection requests unrelated to the connection of the customers listed in Schedule 1 in advance of the OEB's approval of the Licensee's Customer Connection Procedures, then the Licensee shall seek further direction from the OEB with respect to the connection request(s).