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BY EMAIL

August 13, 2019

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

Dear Ms. Walli:

**Re: OEB Staff Submission
Upper Canada Transmission, Inc. operating as NextBridge Infrastructure,
LP (NextBridge) East West Tie Project Expropriation Application
OEB File No. EB-2019-0127**

In accordance with Procedural Order No. 1, please find attached the OEB staff Submission for the above proceeding. This document has been sent to NextBridge.

Upper Canada Transmission, Inc. operating as NextBridge Infrastructure, LP (NextBridge) is reminded that its Reply Submission is due by August 20, 2019, should it choose to file one.

Yours truly,

Original Signed By

Zora Crnojacki
Project Advisor, Supply & Infrastructure

Encl.

c. NextBridge



EAST WEST TIE PROJECT Expropriation Application

**Upper Canada Transmission, Inc. operating as
NextBridge Infrastructure, LP (NextBridge)**

EB-2019-0127

OEB Staff Submission

August 13, 2019

1 INTRODUCTION AND SUMMARY

On April 17, 2019, Upper Canada Transmission, Inc. operating as NextBridge Infrastructure, LP (NextBridge) applied to the Ontario Energy Board (OEB) under s. 99 of the *Ontario Energy Board Act, 1998* (OEB Act) for an order granting authority to expropriate interests in 23 parcels of land to construct a 450 kilometer 230 kV transmission line in northwestern Ontario (East West Tie (EWT) Project). On June 10, 2019, NextBridge amended its application advising that, since the filing of the application with the OEB, it had negotiated agreements in relation to 10 parcels of land and so that it is now requesting authority to expropriate interests in 13 parcels of land owned by seven landowners, rather than 23 parcels of land. NextBridge continues to pursue voluntary agreements with those landowners.¹ On August 9, 2019 in its Argument-in-Chief, NextBridge informed the OEB that it has reached an agreement with Barrick Gold Inc., and that it now seeks the authority to appropriate interests in land on 12 properties owned by 6 registered owners.

NextBridge seeks the authority to expropriate three types of interests in land²:

- i. Permanent Transmission Line Easements - required for construction and ongoing operation and maintenance of the EWT Project. The Right-of-Way (ROW) width is approximately 64 metres depending on location of structures, terrain, length of span and other external site factors.
- ii. Permanent Road Use Easements – required for access during construction and to maintain and operate the EWT Project.
- iii. Temporary Road Use Easements – required for temporary road use and access during construction of the EWT Project. The term of temporary rights sought is for either four or seven years.

Construction of the EWT Project was approved by the OEB on February 11, 2019 pursuant to section 92 of the OEB Act in a leave to construct (LTC) proceeding.

NextBridge indicated that it planned to start construction of the EWT Project in June 2019 and that it requires access to the subject lands by December 2019. NextBridge requested the OEB's decision by no later than September 13, 2019. NextBridge indicated through interrogatory responses that if a decision on expropriation is not issued by September 13, 2019, NextBridge may incur

¹ NextBridge's Response to OEB staff IR No. 1 b) (EB-2019-0127)

² NextBridge Application (EB-2019-0127) Exhibit A, Tab 1, Schedule 2, paragraph 10, pages 3-4 ; Exhibit A, Tab 2, Appendices B,C,D,E Description of Rights Sought

additional work and costs to complete construction. At the same time, NextBridge indicated that there are options to abridge the time to enter the lands by adjusting the construction schedule.³

For the reasons set out below, OEB staff submits that the requested authority to expropriate interests in the subject land is in the public interest and should be granted by the OEB.

1.1 Process to Date

The OEB issued its Notice of Hearing (Notice) on May 28, 2019, and directed NextBridge to serve the Notice, the application and relevant evidence on current registered property owners, encumbrancers and those with any interest in the lands directly affected by the expropriation application.

By letter dated May 28, 2019, the OEB notified all intervenors in the EWT Project leave to construct application (EB-2017-0182) and all First Nation and Métis communities that were consulted in relation to the EWT Project of the filing of the expropriation application. OEB staff notes that none of the affected properties are on First Nations reserves.

Based on a title search, NextBridge determined that it was required to serve seven registered property owners and 49 encumbrancers.

By letter dated July 16, 2019, NextBridge advised the OEB that it had served all but one property owner and 10 encumbrancers. The unserved landowner owns a property identified as F-4 in the Amended Expropriation Application. On that property NextBridge requires a Temporary Road Easement over an area of approximately 5,692 m². According to NextBridge's letter, this property will be liable to be forfeited and vested in the Crown on December 1, 2019. NextBridge intends to acquire a Temporary Road Easement for the property through the current expropriation proceeding as the property continues to be registered in the name of the landowner. If that property is forfeited to or vested in the Crown, NextBridge will contact the Crown to determine the appropriate reservation of rights.

With regard to the 10 unserved encumbrancers, NextBridge provided a detailed explanation of the circumstances that prevented service.⁴ OEB staff's view is that NextBridge has made reasonable efforts as multiple attempts to complete the service of the Notice to the registered landowners and the encumbrancers were made.

³ NextBridge's Response to OEB staff IR No. 1 b) (EB-2019-0127)

⁴ NextBridge's Letter to the OEB dated July 16, 2019 page 2

There are no intervenors in this proceeding. No party requested an oral hearing.

The OEB issued Procedural Order No. 1, on July 23, 2019, setting the schedule for written discovery through interrogatories and for submissions. The written interrogatories process was completed on August 6, 2019. NextBridge filed its Argument-in-Chief on August 9, 2019. NextBridge may file a reply to the OEB Staff submission by August 20, 2019.

1.2 OEB’s Jurisdiction in Expropriation Applications

The OEB’s power to grant an applicant authority to expropriate land is derived from section 99 of the OEB Act, and set out in Appendix B to this submission. Under this section, any person who has been granted leave by the OEB to construct certain ‘works’ under section 90 (natural gas) or section 92 (electricity) of the OEB Act may apply for authority to expropriate land for such works⁵.

Subsection 99(5) of the OEB Act establishes the test for approving an application brought under subsection 99(1) and states that, if the Board is of the opinion that the expropriation of the land is in the public interest, it may make an order authorizing the applicant to expropriate the land.

Compensation issues do not fall within the OEB’s jurisdiction under section 99 of the OEB Act and are addressed in accordance with the *Expropriations Act, R.S.O. 1990. C. E 26* (Expropriations Act) and, if required, are resolved by the Board of Negotiations⁶. If the OEB grants authority to expropriate land, the applicant would follow the process set out in the Expropriations Act to determine the amount of compensation to be paid.

⁵ Section 99 of the OEB Act falls under Part VI of the Act and sets out the requirements for leave to construct, expropriation and related matters. A “work” is defined in this part of the OEB Act as a hydrocarbon line, electricity distribution line, electricity transmission line, interconnection or station.

⁶ This role was formerly played by the Ontario Municipal Board. The Board of Negotiations is an informal tribunal that mediates settlements for compensation when property is expropriated. The Board of Negotiation is part of Environment and Land Tribunals Ontario (ELTO).

1.3 Leave to Construct –NextBridge’s EWT Project Approval

NextBridge applied on July 31, 2017 under section 92 of the OEB Act for leave to construct the EWT Project.⁷

On March 2, 2016, the Ontario government declared that the expansion or reinforcement of the electricity transmission network in the area between Wawa and Thunder Bay is needed as a priority project.⁸ Given the Priority Project OIC, the OEB accepted that the transmission line between Wawa and Thunder Bay is needed. Under section 96(1) of the OEB Act, leave to construct is granted if the OEB is of the opinion that the project is in the public interest.

On January 30, 2019, the Minister of Energy, Northern Development and Mines issued a directive (Directive)⁹ to the OEB to amend the electricity transmission licence of NextBridge, to include a requirement that it develop and construct the EWT Project.

Pursuant to the Directive, on February 11, 2019, the OEB issued its decision as follows:

- The OEB granted leave to construct approval to NextBridge for the EWT Project, in accordance with the Directive. The OEB found that the EWT Project is in the public interest with respect to prices and the reliability and quality of electricity service.¹⁰
- The OEB approved the form of land easement agreements that have been or will be offered by NextBridge to directly affected landowners for the purposes of section 97 of the OEB Act.¹¹

NextBridge stated that it has offered the agreements in the form approved by the OEB to the registered landowners whose land is subject to this expropriation application¹².

⁷ That application was assigned OEB File No. EB-2017-0182 and was heard in a combined proceeding together with Hydro One Networks Inc. Stations Upgrades s. 92 Application (EB-2017-0194) and Hydro One Networks Inc. section 92 application for leave to construct a transmission line between the same two points as NextBridge’s EWT Project One (referred to as the Lake Superior Link Project (EB-2017-0364).

⁸ Lieutenant Governor in Council made Order-in-Council 326/2016 under Section 96.1 of the Act (Priority Project OIC).

⁹ The directive to the OEB was issued by the Minister of Energy, Northern Development and Mines and approved by Order in Council 52/2019 dated January 30, 2019.

¹⁰ Section 96(2) of the Act also includes the promotion of the use of renewable energy sources as an issue to be considered, where applicable. The promotion of the use of renewable energy sources was not relevant in this case.

¹¹ Decision and Order, EB-2017-0182/EB-2017-0194/EB-2017-0364, February 11, 2019, page 9

¹² NextBridge’s Response to IR No. 3 a) (EB-2019-0127)

1.4 Scope of OEB's Review - Expropriation Applications

A 2011 OEB decision regarding Hydro One Networks Inc. (HONI) proposed expropriations for a new 500 kilovolt double circuit transmission line (HONI Bruce to Milton Expropriation Case) provides guidance on issues that may be considered in cases of expropriation under section 99 of the Act.¹³ Considerable time and effort was spent by the parties and the OEB in the establishment of the issues that the OEB needed to hear in order to render a decision on the requested expropriations. The issues were set out as follows:¹⁴

- To the extent that the public interest has not already been considered in the associated leave to construct application, are the proposed expropriations in the public interest?
- What specific interests in lands for which the authorization to expropriate is requested, are appropriate in the circumstances?
- Has the applicant taken appropriate and reasonable steps to minimize the impact of the proposed expropriations on the subject properties?
- Has the applicant taken appropriate steps to minimize the disruption to landowners by requesting easements that are no larger and no more extensive than necessary?
- Does the applicant's plan, if any, for the [eventual] abandonment of the proposed facilities include appropriate and reasonable measures taken to minimize any impact on the specific properties proposed for expropriation?
- If approval to expropriate lands is granted, what conditions, if any, should be attached to the OEB's Order?

OEB staff's submission is framed to address the general principles expressed in the HONI Bruce to Milton Expropriation Case for the OEB's consideration of the public interest in an application pursuant to section 99 of the OEB Act.

¹³ EB-2010-0023 Decision and Order issued March 15, 2011 (Bruce to Milton Expropriation Case) in which Hydro One sought new permanent and temporary easements in the range from 53 to 61 metres in width which affected 355 properties directly affected by the Project. Voluntary settlements were reached for the majority of the properties and 47 properties were the subject of the Hydro One's application.

¹⁴ EB-2010-0023 Decision and Order, dated March 15, 2011, page 6

1. Is the proposed expropriation in the public interest?
2. Are the specific interests in the lands requested for expropriation appropriate?
3. Has NextBridge taken reasonable steps to minimize the impact of the proposed expropriation on the subject properties?
4. Is NextBridge's decommissioning and abandonment plan appropriate and reasonable?
5. Has the impact of the proposed expropriation on the landowner been minimized?
6. What conditions, if any, should be attached to the OEB's Order?

OEB staff has also proposed draft conditions that the OEB should attach to its approval of authority to expropriate.

2 SUBMISSIONS

2.1 Is the proposed expropriation in the public interest?

Under section 96(1) of the OEB Act, leave to construct is granted if the OEB is of the opinion that the project is in the public interest. Pursuant to section 96(2) of the OEB Act, in the case of the EWT Project, the interests of consumers with respect to prices and the reliability and quality of electricity service were considered by the OEB in assessing whether a project is in the public interest. OEB staff is of the view that the consideration of the public interest with respect to the EWT Project was fully examined during the leave to construct approval process and that the OEB found that the construction of the EWT Project is needed and is in the public interest. In addition, OEB staff notes that in accordance with the Directive and the OEB's associated amendment of NextBridge's electricity transmission licence, NextBridge is required to develop and construct the EWT Project. For these reasons, OEB staff's submission is that the proposed expropriation is in public interest.

2.2 Are the specific interests in the lands requested for expropriation appropriate?

The OEB's Order granting leave to construct the EWT Project states:

1. NextBridge is granted leave pursuant to section 92 of the Act to construct 450 km of new transmission line that will run for 235 km from Lakehead TS to Marathon TS, continuing for approximately 215 km from Marathon TS to

Wawa TS. For a map depicting the line route proposed in the NextBridge-EWT Project application, see Schedule A.¹⁵

The locations of the specific interests in the properties for which NextBridge seeks authority to expropriate are within the approved route of the EWT Project transmission line. NextBridge's evidence in this application includes aerial maps and survey drawings for each property and location of the area of the interest in lands on each of the 12 properties.¹⁶

OEB staff submits that the locations of the requested permanent easements and permanent and temporary road use easements are appropriate as these are within the OEB approved EWT Project route.

2.3 Has NextBridge taken reasonable steps to minimize the impact of the proposed expropriation on the subject properties?

For the Permanent Transmission Line Easements, the average Right-of-Way (ROW) width of approximately 64 metres of permanent easement was determined in order to accommodate topographic features and provide flexibility in final structure placement, as well as consideration of the design of the structures, the span between structures, and the sag of the conductor. The ROW width was also determined in accordance with CSA 22.3 No. 1-15 (Canadian Standards Association, June 2015), CSA 22.3 No. 60826-10 (Canadian Standards Association, December 2010), NERC FAC-003-4, (North American Electric Reliability Corporation, Transmission Vegetation Management, April 2016), ANSI Vegetation Management Standard Z133 – Safety Requirements for Arboricultural Operations, and the OEB Minimum Technical Requirements.¹⁷

The dimensions of the Permanent and Temporary Road Use Easements for the construction of new access roads were determined based on the access requirements for the Project, particularly the width required to accommodate vehicular traffic and turning radius. In order to determine the dimensions of the road easements, NextBridge used the Ministry of Natural Resources and Forestry Guidelines for Access Roads, including the Environmental Guidelines for Access Roads and Water Crossings document (MNR 1990).¹⁸ NextBridge also noted that in order to minimize impacts, it

¹⁵ Decision and Order, EB-2017-0182/EB-2017-0194/EB-2017-0364, February 11, 2019, page 12

¹⁶ NextBridge Application (EB-2019-0127) Exhibit A Tab 2, Schedule 1, Appendix F, Property Descriptions, pages 1-87

¹⁷ NextBridge's Response to IR No. 4 b) (EB-2019-0127)

¹⁸ NextBridge's Response to IR No. 4 b) (EB-2019-0127)

uses existing roads to the extent possible and that it is in the process of finalizing agreements to use Hydro One roads and ROWs.

NextBridge explained why it requires either four or seven year terms for Temporary Road Use Agreements on different parcels of land. NextBridge requires a four year term on a number of parcels as the construction is estimated to last two years and it needs an additional two years for post construction monitoring and restoration. NextBridge requires a seven year Temporary Road Use Easements on parcels where species at risk permits are required pursuant to the *Endangered Species Act, 2007*. According to NextBridge, these permits will require monitoring for five years after construction is completed resulting in a requirement for a seven year access period.¹⁹

To minimize environmental impacts on the affected properties, NextBridge stated that it will apply the mitigation strategies specified in its Environmental Assessment report approved by the Ministry of Environment, Conservation and Parks (EA Report).²⁰

NextBridge confirmed that the post construction inspection and maintenance of the transmission line will be done in accordance with NextBridge's EA Report and applicable reliability standards including standards by the North American Electric Reliability Corporation (NERC) and the Independent Electricity System Operator (IESO). During operation of the transmission line, NextBridge will inspect the line annually by helicopter and will have to access the easements every three years for ground inspection and vegetation management.²¹

OEB staff submits that the requested permanent and temporary easement area dimensions and locations are appropriate in the circumstances. OEB staff submits that NextBridge has minimized the size of the requested easements within the applicable standards and guidance in order to reduce the impact on the affected properties. OEB staff notes that NextBridge has been committed to implement mitigation strategies to minimize environmental impacts on the affected properties.

2.4 Has the impact of the proposed expropriation on the landowners been minimized?

As previously discussed in section 2.2 and 2.3 of this submission, it is OEB staff's view that NextBridge has taken steps to locate and determine the size of the requested

¹⁹ NextBridge's Response to IR No. 4 c) (EB-2019-0127)

²⁰ NextBridge's Response to IR No. 5 c) (EB-2019-0127)

²¹ NextBridge's Response to IR No. 4 e) (EB-2019-0127)

easements such that the impacts of the proposed expropriation on the landowners are minimized.

NextBridge provided examples of actions that it will take to minimize disruption to landowners and interest-holders during construction. Examples of such actions include advance notification of entering a property, having land agents on site as a point of contact during construction, mitigations to minimize disruption to coordinate scheduled work with landowners and interest-holders, restricting work hours to mitigate noise impacts, and minimizing noise through the use of mufflers on construction vehicles and equipment.

NextBridge will also ensure that environmental inspectors are present during construction to ensure that appropriate mitigation measures are employed, including utilizing silt fences; installing swamp mats and geotextile fabric; bridging in wet/soft areas; and separating topsoil from subsoil during grading. During operation and maintenance, NextBridge will restrict the access for ground inspections and maintenance to every three years.²²

OEB staff is of the view that NextBridge has demonstrated plans to take reasonable and appropriate steps to minimize the impact of the proposed expropriation on the landowners and tenants.

2.5 Is NextBridge's decommissioning and abandonment plan appropriate and reasonable?

OEB staff notes that the forms of NextBridge's easement agreements approved by the OEB²³ include a clause related to decommissioning of the EWT Project²⁴. The decommissioning clause sets out the general approach for restoration of the easement area during the process of decommissioning and states that, "...should the Province of Ontario or Canada impose any regulatory or legislative decommissioning requirements greater than described above, the Grantee shall comply with the same".

OEB staff has no concerns with NextBridge's approach and submits that a more detailed decommissioning and abandonment plan may be premature at this time. OEB staff submits that the decommissioning clause in the form of easement agreement offered to the affected landowners is sufficient, reasonable and appropriate at this time.

²² NextBridge's Response to IR No. 5 i) and 5 ii) (EB-2019-0127)

²³ The approved forms adhere to the OEB's *Filing Requirements for Electricity Transmission Applications* (Chapter 4), Appendix A: Draft Form of Lease or Easement Agreement, pp. 28-30, July 31, 2014.

²⁴ NextBridge Evidence EB-2017-0182, Exhibit E, Tab 5, Schedule 1, Attachment 2 page 3, paragraph 12.

2.6 What conditions, if any, should be attached to the OEB's Order?

OEB staff reviewed the conditions of approval in a number of recent gas and electric expropriation cases²⁵, and assembled a draft of eight conditions that it believes are relevant to the current case. NextBridge reviewed the draft conditions of approval proposed by OEB staff in the interrogatory process and suggested a number of changes, as summarized below²⁶:

Draft Condition 1 – NextBridge accepted with no comments.

1. NextBridge shall notify the OEB in writing in the event that, after this Decision and Order has been issued, a negotiated settlement is reached and expropriation is no longer necessary for any of the 12 properties that are the subject of this proceeding. This notice shall be filed with the OEB within ten days of the settlement.

For the sake of clarity, OEB staff modified previously proposed wording to specify that the Condition 1 refers to any the 12 subject properties.

Draft Condition 2- NextBridge proposed amendments.

2. NextBridge shall use all reasonable efforts to provide oral ~~and~~ or written notice to the landowners a minimum of 48 hours prior to the initial entry onto the land. In the event of an emergency, as determined by NextBridge, entry may take place prior to oral or written notice, but reasonable efforts will be made to notify the landowners of entry as soon as practicable.

NextBridge explained that it proposed the amendment to Condition 2 to ensure that in emergency circumstances, entry is not delayed and that the landowners will be notified as soon as practical. Also, NextBridge considers that either oral or written notice should suffice based on landowner preferences, and that when multiple entries per day are required, a notification for each entry is not practical.

In OEB staff's view, NextBridge's proposed modifications to Draft Condition 2 are practical and reasonable. However, the conditions should specify that oral or written notice should be based on landowner preference.

²⁵ EB-2010-0230, Hydro One Networks Inc., Bruce to Milton Expropriation; EB-2011-0391, Enbridge Gas Distribution In., Welland Expropriation; EB-2012-0451, Enbridge Gas Distribution In., Brampton Expropriation; EB-2014-0335, Union Gas Limited, Hamilton Expropriation; EB-2015-0230, Union Gas Limited, Milton Expropriation

²⁶ NextBridge Response to IR No. 6

Draft Condition 3- NextBridge accepted with no comments.

3. Reasonable accommodation shall be made in NextBridge's schedule for landowner requests/concerns to ensure that transmission facilities' construction and associated activities do not interfere with landowner operations.

Draft Condition 4- NextBridge requested that this condition be removed.

4. NextBridge or its agents will consult with the landowner in advance of entry as to the manner in which existing gates / fences / entryways are to be managed while entering property. In the event the landowner cannot be contacted, NextBridge shall ensure that gates / fences / entryways used by NextBridge personnel or its agents are left as found.

NextBridge noted that none of the affected property except Barrick Gold Inc. has gates or fences and that because this property is an active mine, Barrick Gold Inc. imposes their own safety requirements regarding access to the property, including gates and fences. Based on that, NextBridge stated that the Condition 4 is redundant and should not be imposed.

OEB staff agrees with NextBridge's rationale for removing this draft condition.

Draft Condition 5- NextBridge accepted with proposed amendments.

5. Upon providing NextBridge with reasonable prior notice, the landowners and tenants can be present to observe the transmission facilities' construction and associated activities subject to NextBridge's health, safety and security policies and procedures and the *Occupational Health and Safety Act, R.S.O. 1990, c.O.1.*

NextBridge proposed amending Draft Condition 5 to include health and security policies and procedures. NextBridge added that a reasonable notice should be given by the landowners and tenants to NextBridge if they wish to observe construction activities for the sake of landowners and tenants' safety, health and risk exposures.

OEB staff agrees with NextBridge's proposed amendments.

Draft Condition 6-NextBridge accepted with proposed amendments.

6. NextBridge shall keep records of the personnel attending its worksite. ~~and entering on lands, the time in which entry occurred and the locations entered.~~

NextBridge's position is that it is not practical to maintain records of each personnel entering the lands and suggested that instead they maintain records of the personnel entering the worksite. NextBridge's rationale is that its personnel will enter the subject properties on multiple days and multiple times a day and at multiple entry points, which may make maintaining the record as proposed impractical.

OEB staff notes that this condition has been used in similar proceedings²⁷ and understands that the intent of the condition is to record who accessed the property, when and where, for use in the event a concern is raised - for example some sort of damage to the property. OEB staff submits that NextBridge's proposed change is not completely in the spirit of the condition. OEB staff submits that NextBridge should be required to keep records of personnel entering its worksite, including the time of entry and departure, but not the location of entry.

Draft Condition 7 – NextBridge accepted with no comments.

7. NextBridge shall designate one of its employees as project manager who will be responsible for the fulfillment of these conditions, and shall provide the employee's name and contact information to the OEB and to the landowners and tenants as well clearly posted on the construction site. The project manager will be responsible for the fulfilment of the conditions of approval on the site.

Draft Condition 8 - NextBridge accepted with no comments.

8. NextBridge shall furnish the OEB's designated representative with all reasonable assistance for ascertaining whether NextBridge has complied with these conditions of approval.

Draft conditions of approval proposed by OEB staff are provided in Appendix A.

OEB staff agrees with the proposed amendments and changes to draft conditions 2, 4 and 5. OEB staff has provided further clarifications to draft condition 1 and 2, and provided comments in response to NextBridge's suggested changes to draft condition 6.

²⁷ EB-2007-0051, HONI application to access land, Decision and Order issued August 20, 2007

OEB staff submits that the updated proposed conditions of approval will ensure that NextBridge coordinates its activities with the landowners in order to minimize the disruption to the landowners and tenants. In OEB staff's view, the proposed conditions are reasonable and should not compromise the safety, health and security of landowners and tenants.

All of which is respectfully submitted.

APPENDIX A

**NextBridge
East West Tie Project– Expropriation Application
EB-2019-0127**

NextBridge
East West Tie Project – Expropriation Application
Section 99 Order

1. NextBridge shall notify the OEB in writing in the event that, after this Decision and Order has been issued, a negotiated settlement is reached and expropriation is no longer necessary for any of the 12 properties that are the subject of this proceeding. This notice shall be filed with the OEB within ten days of the settlement.
2. NextBridge shall use all reasonable efforts to provide oral or written notice at the landowner preference to the landowners a minimum of 48 hours prior to the initial entry onto the land. In the event of an emergency, as determined by NextBridge, entry may take place prior to oral or written notice, but reasonable efforts will be made to notify the landowners of entry as soon as practicable.
3. Reasonable accommodation shall be made in NextBridge's schedule for landowner requests/concerns to ensure that transmission facilities' construction and associated activities do not interfere with landowner operations.
- ~~4. NextBridge or its agents will consult with the landowner in advance of entry as to the manner in which existing gates / fences / entryways are to be managed while entering property. In the event the landowner cannot be contacted, NextBridge shall ensure that gates / fences / entryways used by NextBridge personnel or its agents are left as found.~~
5. Upon providing NextBridge with reasonable prior notice, the landowners and tenants can be present to observe the transmission facilities' construction and associated activities subject to NextBridge's health, safety and security policies and procedures and the *Occupational Health and Safety Act, R.S.O. 1990, c.O.1*.
6. NextBridge shall keep records of the personnel attending its worksite and entering on lands, including the time in which entry and departure occurred.
7. NextBridge shall designate one of its employees as project manager who will be responsible for the fulfillment of these conditions, and shall provide the employee's name and contact information to the OEB and to the landowners and tenants as well clearly posted on the construction site. The project manager will be responsible for the fulfillment of the conditions of approval on the site.

8. NextBridge shall furnish the OEB's designated representative with all reasonable assistance for ascertaining whether NextBridge has complied with these conditions of approval.

The OEB's designated representative for the purpose of these Conditions of Approval shall be the OEB's Manager of Supply and Infrastructure (or the Manager of any OEB successor department that oversees leave to construct applications).

APPENDIX B

**NextBridge
East West Tie Project– Expropriation Application
EB-2019-0127**

ONTARIO ENERGY BOARD ACT, 1998, SECTIONS 99 AND 100

Expropriation

99 (1) The following persons may apply to the Board for authority to expropriate land for a work:

1. Any person who has leave under this Part or a predecessor of this Part.
2. Any person who intends to construct, expand or reinforce an electricity transmission line or an electricity distribution line or make an interconnection and who is exempted from the requirement to obtain leave by the Board under section 95 or a regulation made under clause 127 (1) (f). 1998, c. 15, Sched. B, s. 99 (1).

Hearing

(2) The Board shall set a date for the hearing of the application, but the date shall not be earlier than 14 days after the date of the application. 1998, c. 15, Sched. B, s. 99 (2).

Information to be filed

(3) The applicant shall file with the Board a plan and description of the land required, together with the names of all persons having an apparent interest in the land. 1998, c. 15, Sched. B, s. 99 (3).

(4) Repealed: 2003, c. 3, s. 67.

Power to make order

(5) If after the hearing the Board is of the opinion that the expropriation of the land is in the public interest, it may make an order authorizing the applicant to expropriate the land. 1998, c. 15, Sched. B, s. 99 (5).

Section Amendments with date in force (d/m/y)

Determination of compensation

100 If compensation for damages is provided for in this Part and is not agreed upon, the procedures set out in clauses 26 (a) and (b) of the *Expropriations Act* apply to the determination of the compensation, and the compensation shall be determined under section 27 of that Act or by the Ontario Municipal Board. 1998, c. 15, Sched. B, s. 100.