



PUBLIC INTEREST ADVOCACY CENTRE  
LE CENTRE POUR LA DÉFENSE DE L'INTÉRÊT PUBLIC

March 23, 2021

VIA E-MAIL

Ms. Christine Long,  
Board Secretary and Registrar  
Ontario Energy Board  
Toronto, ON

Dear Ms. Walli:

**Re: EB-2020-0150  
Upper Canada Transmission, Inc.'s ("NextBridge")  
Timing of Intervenor Compendium**

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We are in receipt of a letter dated 22 March 2021 from counsel for Upper Canada Transmission Inc (also known as "NextBridge") with respect to the circulation of materials prior to the upcoming hearing of March 29<sup>th</sup>. The letter is in reference to an email sent by VECC's consultant (not counsel as stated) with respect to early filing of a compendium. The essence of the letter is to suggest that NextBridge may be prejudiced should it not receive, three days prior to the hearing, any compendium that VECC may choose to use to assist in its cross-examination.

NextBridge's selectively quotes from a series of emails between Staff and VECC so as to suggest that the Board is requesting an early circulation a compendium and that VECC is being obstructionist to that request. This is not what transpired. Staff was putting forward NextBridge's suggestion for an early circulation of a compendium, by March 25<sup>th</sup>, and we were asked if we objected. We responded that we did. However, we also added that, for any material relied upon not already in evidence, we would endeavour to circulate that by the Applicant's requested date of March 25<sup>th</sup>.

To support their request to receive a compendium, counsel turns to the new Virtual Guidelines (issued a day before this event transpired), the *Ontario Rules of Civil Procedure* and the calculation of days therein.

In response, we would point out that the governing rule for hearings of the Board are its *Rules of Practice and Procedures*, which, unlike the recent Virtual Guidelines are (at least as to our understanding) promulgated under section 25.1 of the *Statutory Powers Procedure Act*. As far as we are aware, there are no OEB rules which require that a cross-examining party produce, prior to examination, a document of the record evidence that may be referenced.

To us, and we are sure the Board, this is all a bit beside the point. The Board is not a court: it is an administrative tribunal and its practices are designed such that the non-legally trained persons can participate. The common use of “an evidence compendium” is simply a norm, not required under the Rules, and began with the wider adoption of electronic documents and presentations. VECC was an early proponent of this change and we believe it has made hearings more efficient overall.

While we understand the desire of the Applicant to view any evidence we might rely on, our objection was simply practical. VECC relies on a few consultants who work on many files simultaneously (e.g., currently OPG, EGI Gas Supply, Wellington North COS, etc.). We anticipate that our consultant’s preparation for this hearing will be in the latter part of this week. We therefore objected to an informal request to be held to meeting NextBridge’s desire to see what evidence we find important for cross. However, to the extent we are able to exceed our delivery expectation we will do so, as we fully intend to provide a compendium to Board Staff at the earliest possible time and certainly a day before the hearing begins.

If, on the other hand, the Board believes it important for NextBridge have access to our compendium of evidence by March 26<sup>th</sup> at 11 a.m., and we are unable to provide it, then we may be forced to do our cross-examination without the benefit of any visual references, which likely would be counterproductive for all parties.

Yours truly,

Counsel to VECC