



Sun-Canadian Pipe Line Company Limited

Application for leave to construct the NPS 12 East Sixteen Mile Creek Pipeline Replacement Project in the Town of Milton, Ontario

PROCEDURAL ORDER NO. 1

March 22, 2022

Sun-Canadian Pipe Line Company Limited (Sun-Canadian) applied to the Ontario Energy Board (OEB) on January 17, 2022, under sections 90(1) and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), for an order granting leave to construct approximately 480 meters of 12-inch pipeline in the vicinity of the East Sixteen Mile Creek crossing, in the Town of Milton, Ontario (the Project). Sun-Canadian has also applied to the OEB for approval of the form of land-use agreements it offers to landowners for the routing and construction of the proposed pipeline.

The OEB issued a Notice of Hearing on February 10, 2022.

Intervention Request of Haudenosaunee Development Institute

The Haudenosaunee Development Institute (HDI) applied for intervenor status and cost eligibility.

HDI stated that the proposed site is situated within an area of land subject to the Nanfan Treaty of 1701 which provides for the Haudenosaunee to practice traditional land use on Nanfan Treaty lands. HDI noted that it has significant concerns relating to the proposed pipeline replacement which include detrimental environmental effects resulting from the removal, replacement, and operation of the proposed pipeline, disruption of the environment and ecology of the surrounding land, and sustainable development of historical and traditional Haudenosaunee lands.

HDI stated that it intends to submit evidence and argument in order to better inform the OEB of the potential implications of the Project.

With respect to its request for cost award eligibility, HDI stated that, pursuant to sections 3.03(b) and 3.03(c) of the OEB's *Practice Direction on Cost Awards*, it represents an

interest relevant to the OEB's mandate regarding engagement of Indigenous communities and has an interest in the land affected by the process.

No objection was received from Sun-Canadian.

HDI is approved as an intervenor and is eligible to apply for an award of costs under the OEB's *Practice Direction on Cost Awards*. The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

Cost awards are made by way of OEB order at the end of a hearing. Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party unless a compelling reason is provided when cost claims are filed.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed.

Interrogatories

At this time, provision is being made for written interrogatories on Sun-Canadian's evidence. Parties should consult sections 26 and 27 of the OEB's *Rules of Practice and Procedure* regarding required naming and numbering conventions for interrogatories. Parties should focus their interrogatories on material issues and on issues that are within the scope of the OEB's review in this proceeding. When preparing interrogatories, parties should consult the OEB's standard [Issues List](#) for leave to construct applications.

Intervenor Evidence

In its letter of intervention HDI stated that it intends to submit evidence. At this time, provision is being made for HDI to file a letter providing more information on the evidence it wishes to file in this proceeding. The letter should indicate the areas that the evidence is expected to cover, whether an expert will be retained, the estimated cost of preparing the evidence, the proposed timing for filing the evidence, and any other relevant information. Following receipt of the letter the OEB will issue further guidance with respect to the evidence.

Oral vs Written Hearing

Sun-Canadian requested that the application be processed by a written hearing.

HDI requested that the application be adjudicated by way of oral hearing, stating that the matter is of such complexity that written submissions alone are insufficient to

effectively adjudicate its resolution. HDI also stated that an oral hearing is required as the tendering of portions of HDI's evidence is only possible, or ideally suited, through oral testimony redolent of Haudenosaunee oral traditions.

The OEB will make its determination on the type of hearing after its review of the interrogatory responses and intervenor evidence as applicable.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

Interrogatories

1. If HDI or OEB staff seek information from Sun-Canadian that is in addition to the evidence filed with the OEB and that is relevant to the hearing, they shall request the information by means of written interrogatories filed with the OEB and delivered to all parties by **April 5, 2022**. All interrogatories and responses must include a specific reference to the evidence on which the interrogatory is based.
2. Sun-Canadian shall file with the OEB complete written responses to all interrogatories and serve them on all parties by **April 18, 2022**.

Intervenor Evidence

3. If HDI wishes to file evidence, it must file a letter with the OEB by **April 1, 2022**, providing more information on the areas HDI's evidence is expected to cover, whether an expert will be retained, the estimated cost of preparing the evidence, the proposed timing for filing the evidence, and any other relevant information.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0012** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar at the address below and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Judith Fernandes at judith.fernandes@oeb.ca and OEB Counsel, Michael Millar at michael.millar@oeb.ca.

Email: registrar@oeb.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **March 22, 2022**

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar

SCHEDULE A

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EB-2022-0012

APPLICANT & LIST OF INTERVENORS

**Sun-Canadian Pipe Line Company Ltd.
EB-2022-0012**

APPLICANT & LIST OF INTERVENORS

March 22, 2022

APPLICANT

Rep. and Address for Service

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Company Ltd.**

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INTERVENORS

Rep. and Address for Service

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Development Institute**

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March 22, 2022

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