



June 27, 2022

Delivered By E-mail and Filing Online

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ontario Energy Board Registrar,

Re: Letter of Intervention – Ontario Energy Board Application File Number EB-2022-0140

We write on behalf of the Haudenosaunee Development Institute (“**HDI**”) in response to the Ontario Energy Board’s (“**OEB**”) Notice for Leave to Construct Application EB-2022-0140, dated June 3, 2022.

We submit this Letter of Intervention pursuant to Rule 22 of the *Ontario Energy Board Rules of Practice and Procedure* to confirm HDI’s intervenor status in OEB Application File Number EB-2022-0140 (“**EB-2022-0140**”).

The Haudenosaunee Development Institute

HDI acts with delegated authority from the Haudenosaunee Confederacy Chiefs Council (“**HCCC**”), the collective rights holder on behalf of the Haudenosaunee. HCCC is the historic and present representative of the Haudenosaunee and is empowered to advance their collective inherent and treaty rights and interests.

HDI acts on behalf of HCCC in respect of development issues on lands where HCCC holds an interest.

HDI’s Interest in EB-2022-0140

EB-2022-0140 concerns the proposed construction of approximately 49 kilometres of 230 kilovolt double-circuit transmission line by Hydro One Networks Inc. (“**Hydro One**”) between Chatham Switching Station and Lakeshore Transformer Station and associated station facilities (the “**Project**”). The work will be completed in the municipalities of Chatham-Kent and Lakeshore and county of Essex (the “**Subject Area**”).

The Subject Area is situated within an area of land subject to, *inter alia*, the Nanfan Treaty of 1701. The Nanfan Treaty applies to a great swath of modern-day southern Ontario and provides that the Haudenosaunee may use Nanfan Treaty lands in a free and undisturbed manner.

The Nanfan Treaty, as well as the Haudenosaunee's historical and traditional use of the Nanfan Treaty lands, grounds the Haudenosaunee rights and interests in the Subject Area.

As such, HDI was identified as either a registered property owner/encumbrancer or a representative of a group/agency for which Hydro One has been directed by OEB to send the Notice and was sent a copy of Hydro One's Notice regarding the Project. A copy of the email attaching the Notice is attached as **Appendix "A"**.

HDI has significant concerns relating to the Project. These concerns relate to the impact the Project may have on Haudenosaunee rights and treaty lands, including, but not limited to, the loss of the Haudenosaunee's substantive rights to the treaty lands in the Subject Area, detrimental environmental effects resulting from the construction and operation of the proposed transmission line, disruption of the environment and ecology of the surrounding land, and sustainable development of historical and traditional Haudenosaunee lands. Where these concerns arise, HDI is available to assist developers and tribunals with understanding and applying the Haudenosaunee perspective to development projects.

HDI's participation in EB-2022-0140, including its review of Hydro One's application materials, may also reveal additional Haudenosaunee concerns with respect to prices and the reliability and quality of electricity service.

Grounds for the Intervention

The Subject Area falls within the lands and territories traditionally owned or otherwise occupied or used by the Haudenosaunee. Therefore, in accordance with *United Nations Declaration on the Rights of Indigenous Peoples* ("**UNDRIP**" and its enactment into Canadian law in the *UNDRIP Act*, SC, 2021 c 14, on June 21, 2021), the Haudenosaunee have the right to redress for the lands, territories and resources that may be occupied, used or damaged by the Project.

Further, UNDRIP requires that the Crown engage and cooperate with the Haudenosaunee in good faith through its own representative institutions (i.e., HDI on behalf of HCCC) in order to obtain the Haudenosaunee's consent prior to the approval of the Project.

The Haudenosaunee have not provided that consent, and given HDI's concerns with the Project, and its singular ability to provide the Haudenosaunee perspective, HDI's intervention in the hearing is necessary to adjudicate EB-2022-0140 in a comprehensive manner. HDI will participate actively and responsibly in the proceeding to assist the OEB in concluding the matter in the most efficient and just way possible.

HDI has advised that the Project will impair, infringe upon and interfere with rights and interests guaranteed to the Haudenosaunee by way of, *inter alia*, the Nanfan Treaty. The Crown (which includes the OEB) is obligated to justify the infringements and the OEB is obligated to ensure that it does not permit, license, or approve the Project where the impairments have not been justified.

The OEB's Position on Indigenous Engagement

In its Notice, the OEB states that "issues related to the government's duty to consult indigenous people are not part of the OEB's review". It appears to HDI that the OEB has therefore preemptively barred intervenors from addressing the Crown's duty to engage in respect of the Project.

HDI is confused by this position. The OEB has acknowledged the existence of “indigenous communities that have been consulted or with lands or interest in the lands directly affected by the proposed upgrade and construction of the transmission line and related facilities.”¹ Further, HDI was invited by Hydro One to submit an intervenor application on the basis that it is “either a registered property owner/encumbrancer or [...] the representative of a group/agency for which Hydro One has been directed by the OEB to send this Notice.” However, the OEB now appears to be preemptively refusing to consider whether the Crown (and the OEB) has sufficiently discharged its duty and engagement obligations arising therefrom. Such a position is irreconcilable with the Crown’s commitments to the goals of reconciliation, particularly in light of the coming into force of the *UNDRIP Act*.²

This preemptive narrowing of issues within the scope of the OEB’s review fails to uphold the honour of the Crown and advance the goals of reconciliation. The absence of a justification for the OEB’s position leaves HDI, the HCCC, and the Haudenosaunee in the dark as to whether/how meaningful Crown engagement with respect to the Project is to be executed. To date, HDI has neither been informed how engagement will be affected, nor which entity will assess whether the Crown has discharged its engagement obligations. In any event, if the OEB has knowledge, either real or constructive, that its conduct may interfere, infringe or impair rights and interests it is not entitled to resile from its legislative and constitutional obligations by policy fiat.

The OEB’s website states that, “[f]or applications for approval to build electricity transmission lines under section 92 of the *Ontario Energy Board Act, 1998*, the OEB’s mandate is more limited and does not include the duty to consult. Instead, the duty to consult for these projects is led by the Ontario government as part of the Environmental Assessment process conducted by the Ministry of the Environment, Conservation and Parks.”³

However, this statement (which was never communicated to HDI directly) raises a host of questions including: what *is* the OEB’s mandate? Why does the mandate not include the duty to engage in the context of electricity transmission lines? Why hasn’t the Ministry of the Environment contacted the Haudenosaunee? Is the Ministry’s Environmental Assessment process ongoing?

To the extent the OEB seeks to justify its position based on any particular legislation, HDI notes that the duty to engage cannot be removed by legislative action.⁴ The Supreme Court has held that although the duty to consult does not apply to the law-making process, legislation that may adversely affect section 35 rights may still be held to be inconsistent with the honour of the Crown.⁵ Any legislation that excludes the consideration of Indigenous engagement is clearly inconsistent with the honour of the Crown, and the enactment of such legislation would be an act, that, in and of itself, is contrary to the government’s fiduciary duty to the Haudenosaunee to uphold

¹ Letter of Direction in EB-2022-0140, dated June 3, 2022.

² HDI further notes the inconsistency between the OEB’s approach to this project and others on which HDI sought and was granted Intervenor status (including for example, the pipeline replacement project at issue in OEB Application File Number EB-2022-0012, in which HDI intervened, submitted evidence, and recently filed submissions).

³ <https://www.oeb.ca/stakeholder-engagement/consultation-indigenous-peoples>.

⁴ *Mikisew Cree First Nation v Canada (Governor General in Council)*, 2018 SCC 40 at paras 20-28; *Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40 at paras 19, 39; *Haida Nation v British Columbia (Minister of Forests)*, 2005 SCC 73 at para 27.

⁵ *Mikisew Cree First Nation v Canada (Governor General in Council)*, 2018 SCC 40 at paras 50-52.

the honour of the Crown. Further, once the duty has been triggered (as it has in this case), the Crown must rule on the adequacy of engagement.⁶

HDI's Intended Participation

HDI wishes to file interrogatories, submit evidence, and make submissions in order to better inform the OEB of the potential implications of the EB-2022-0140 in the Subject Area.

Request for Oral Hearing

HDI requests that this application be adjudicated by way of oral hearing. The present matter is of such complexity that written submissions alone are insufficient to effectively adjudicate its resolution. As established in *Clyde River*, oral hearings ensure procedural fairness.⁷

Further, 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.

* * *

HDI intends to seek an award of costs, pursuant to paragraphs 3.03(b) and 3.03(c) of the OEB's *Practice Direction on Cost Awards*, which permits a party in an OEB process to apply for a cost award where the party:

- 3.03(b): primarily represents an interest or policy perspective relevant to the OEB's mandate and to the proceeding for which cost award eligibility is sought; or
- 3.03(c): is a person with an interest in land that is affected by the process.

HDI represents an interest relevant to the Board's mandate regarding engagement of Indigenous communities and is a person with an interest in the land affected by the process.

Contact information for HDI is as follows:

Tim Gilbert (external counsel)
Gilbert's LLP
181 University Ave, Suite 2200
Toronto ON, M5H 3M7
416-703-1100

tim@gilbertslaw.ca

Aaron Detlor (internal counsel)
Haudenosaunee Development Institute
16 Sunrise Court, Suite 600, P.O. Box 714
Ohsweken, ON, N0A 1M0
519-445-4222

aaron@detlorlaw.ca

Yours truly,

GILBERT'S LLP




Tim Gilbert

⁶ *Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40 at paras 29, 39-42.

⁷ *Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40 at para 47.

APPENDIX "A"

From: REGULATORY AFFAIRS RegulatoryAffairs@hydroone.com 
Subject: EB-2022-0140 – Hydro One Networks Inc.'s – Chatham by Lakeshore Application - Notice of Hearing
Date: June 14, 2022 at 10:01 AM
To: REGULATORY AFFAIRS RegulatoryAffairs@hydroone.com

RA



Notice of Hearing

Hydro One Networks Inc. ("Hydro One") has applied to the Ontario Energy Board ("OEB") for an Order or Orders granting leave to construct approximately 49 kilometers of transmission line facilities in the West of Chatham area. These facilities are required to increase long-term transmission capacity to the Leamington area as recommended by the IESO in their report entitled the Need for Bulk Transmission Reinforcement in the Windsor-Essex Region.

You are receiving the attached Notice as you have been identified as either a registered property owner/encumbrancer or you are the representative of a group/agency for which Hydro One has been directed by the OEB to send this Notice. If you wish to be an intervenor, the OEB must receive your request by **June 27, 2022**.

Attached please find a copy of the OEB's Notice of Application along with Hydro One's Application.

The full Application and Evidence can be viewed on Hydro One's website at the following address:

www.hydroone.com/abouthydroone/RegulatoryInformation/oebapplications

Use the links below to view and/or download files:

- [Application and Evidence](#) updated and filed with the OEB June 8, 2022
- [Notice of Hearing](#) issued by the OEB June 3, 2022 (aussi disponible [en français](#))

All documents of record for this proceeding are available on the Ontario Energy Board's [Advanced Regulatory Document Search \(RDS\)](#).

Contact us

Carla Molina

Sr. Regulatory Coordinator | Regulatory Affairs

Hydro One Networks Inc.

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www.HydroOne.com

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Hydro One Networks Inc.

483 Bay Street
7th Floor South Tower
Toronto, Ontario M5G 2P5
HydroOne.com

Carla Molina

Senior Regulatory Coordinator
T 416.345.5317
Carla.Molina@HydroOne.com

BY EMAIL AND COURIER

June 10, 2022

EB-2022-0140 – Hydro One Networks Inc. Leave to Construct Application – Chatham by Lakeshore – Notice

Hydro One Networks Inc. (“**Hydro One**”) has applied to the Ontario Energy Board (“**OEB**”) for an Order or Orders granting leave to construct approximately 49 kilometers of transmission line facilities in the West of Chatham area. These facilities are required to increase long-term transmission capacity to the Leamington area as recommended by the IESO in their report entitled the *Need for Bulk Transmission Reinforcement in the Windsor-Essex Region*.

You are receiving the attached Notice as you have been identified as either a registered property owner/encumbrancer or you are the representative of a group/agency for which Hydro One has been directed by the OEB to send this Notice. You can send the OEB a letter with your comments, which will be considered during the hearing; or you can ask the OEB for permission to be an intervenor in the hearing. If you wish to be an intervenor, the OEB must receive your request by **June 27, 2022**.

Hydro One Networks Inc. Leave to Construct Chatham by Lakeshore Project – Application and Evidence documents, including the Notice, can be found at the following link:

www.hydroone.com/abouthydroone/RegulatoryInformation/oebapplications

Sincerely,



Carla Molina

Encl: Ontario Energy Board Notice of Hearing (English);
Ontario Energy Board Notice of Hearing (French);
Hydro One Networks Inc. Leave to Construct Chatham by Lakeshore Application

ONTARIO ENERGY BOARD NOTICE

Hydro One Networks Inc. has applied to the Ontario Energy Board to build a high-voltage electricity transmission line.

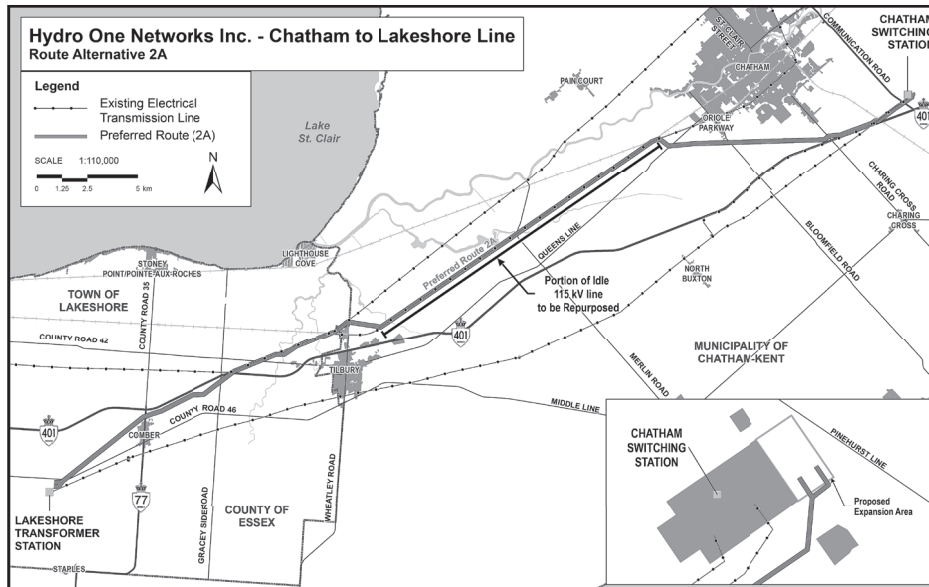
Learn more.

Hydro One Networks Inc. is asking the Ontario Energy Board for permission to construct approximately 49 kilometres of 230 kilovolt double-circuit transmission line between Chatham Switching Station and Lakeshore Transformer Station and associated station facilities to connect the new transmission line at the terminal stations. The work will be completed in the municipalities of Chatham-Kent and Lakeshore and county of Essex.

Hydro One Networks Inc. is also asking the Ontario Energy Board to approve the form of agreement it offers to landowners to use their land for routing or construction of the proposed line.

Hydro One Networks Inc. states that the transmission line and associated facilities are required to meet expected electricity demand growth in the Kingsville-Leamington area in southwestern Ontario and that the Lieutenant Governor in Council has declared that the project is needed as a priority project.

The general location of the transmission line is shown in the map.



THE ONTARIO ENERGY BOARD WILL HOLD A PUBLIC HEARING

The OEB is an independent and impartial public agency. It will hold a public hearing to consider Hydro One Networks Inc.'s (Hydro One) requests. During the hearing, which could be a written or oral hearing, the OEB will consider evidence and arguments by Hydro One and by participants (individuals, municipalities and others whose interests would be affected) that have registered to participate in the hearing (called intervenors).

SCOPE OF THE OEB'S HEARING

It is important to note that the OEB's hearing is not the only approval process required before a transmission line is built and that priority project designation affects the OEB's review of the application. In particular and pursuant to section 96(1)(2) of the *Ontario Energy Board Act, 1998*, the OEB is required to accept that the project is needed when it considers the issues that are within the OEB's legislative authority.

The scope of the OEB's legislative authority with respect to applications seeking leave to construct electricity transmission lines is set out in sections 92 and 96 of the

Ontario Energy Board Act. When determining whether the proposed project is in the public interest, the *Ontario Energy Board Act* specifies that the OEB shall only consider the interests of consumers with respect to prices and the reliability and quality of electricity service. As required under section 97 of the *Ontario Energy Board Act*, the OEB also considers matters related to the form of agreement that is offered to landowners affected by the route or location of the transmission line.

More information on the types of issues that the OEB will consider in this hearing are provided on the OEB's website: Issues List - Leave to Construct - Electricity (oeb.ca). Parties to the proceeding are required to limit their participation to areas that fall within the OEB's legislative mandate, as described above. For example, determining need for the project will not be a part of the OEB's review; Further, environmental issues, or issues related to the government's duty to consult indigenous people are not part of the OEB's review, unless there is a direct impact on price and the reliability and quality of electricity service.

BE INFORMED AND HAVE YOUR SAY

You have the right to information regarding Hydro One's application. You can read Hydro One's application on the OEB's website now.

If you would be affected by the proposed transmission line, you may want to take a more active role in the hearing.

- You can send the OEB a letter with your comments, which will be considered during the hearing; OR
- You can ask the OEB for permission to be an intervenor in the hearing. As an intervenor, you can ask questions about Hydro One's application and make arguments on whether the OEB should approve Hydro One's request. To be an intervenor, a party must be affected by the transmission line in a way that relates directly to the issues the OEB will consider. If you wish to be an intervenor, the OEB must receive your request by **June 27, 2022**.

LEARN MORE

Our file number for this case is **EB-2022-0140**. To learn more about this hearing, find instructions on how to file a letter with your comments or become an intervenor, or to access the documents related to this case, please select the file number **EB-2022-0140** from the list on the OEB website: www.oeb.ca/noticeltrc. You can also phone Andrew Bishop at 1-888-632-2727 extension 108.

ORAL VS. WRITTEN HEARINGS

There are two types of OEB hearings – oral and written. The OEB will determine later in the process whether to hold an oral or a written hearing in this case. If you think an oral hearing is needed, you can write to the OEB to explain why **June 27, 2022**.

PRIVACY

If you write a letter with your comments, your name and the content of your letter will be put on the OEB's public record and the OEB website. However, your personal telephone number, home address and email address will be removed. If you are a business, all your information will be public. If you apply to become an intervenor, all your information will be public.

This application was filed under sections 92 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B.

Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Attention: Registrar

Filings: <https://p-pes.ontarioenergyboard.ca/PivotalUX/>.



Ontario
Energy
Board

Commission
de l'énergie
de l'Ontario

Hydro One Networks Inc. a déposé une requête auprès de la Commission de l'énergie de l'Ontario en vue de construire une ligne de transport de haute tension.

En savoir plus.

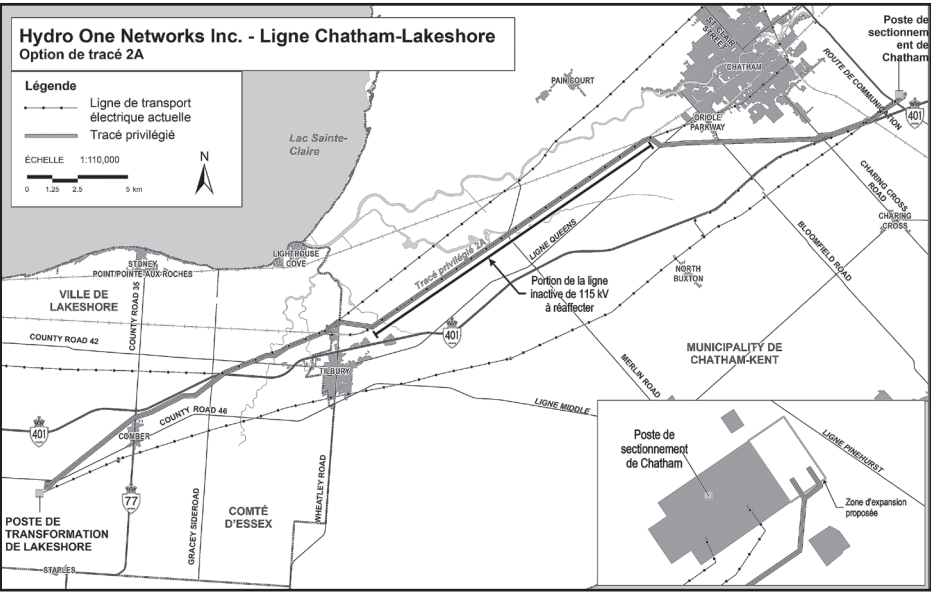
Hydro One Networks Inc. a demandé à la Commission de l'énergie de l'Ontario l'autorisation de construire environ 49 kilomètres de ligne de transport à double circuit de 230 kilovolts entre le poste de commutation de Chatham et le poste de transformation de Lakeshore et les installations associées pour connecter la nouvelle ligne de transport aux stations terminales. Les travaux seront exécutés dans les municipalités de Chatham-Kent et Lakeshore, et le comté d'Essex.

Hydro One Networks Inc. demande également à la Commission de l'énergie de l'Ontario d'approuver la forme de l'entente qu'elle propose aux propriétaires fonciers afin d'utiliser leurs terres pour la construction, l'exploitation et l'entretien de la ligne proposée.

Tel que recommandé par la Société indépendante d'exploitation du réseau d'électricité dans son rapport intitulé le « Need for Bulk Transmission Reinforcement in the Windsor-Essex Region », la ligne de transport et les installations connexes sont nécessaires pour répondre à la croissance prévue de la demande d'électricité et aux besoins du réseau.

Le lieutenant-gouverneur en conseil a émis un décret prenant effet le 31 mars 2022, déclarant que la construction de la ligne de transport entre le poste de sectionnement de Chatham et le poste de transformation de Lakeshore est nécessaire en tant que projet prioritaire.

L'emplacement de la ligne de transport proposée est présenté sur la carte.



LA COMMISSION DE L'ÉNERGIE DE L'ONTARIO TIENDRA UNE AUDIENCE PUBLIQUE

La CEO est une agence publique indépendante et impartiale. Elle tiendra une audience publique afin d'étudier les demandes d'Hydro One Networks Inc. (Hydro One). Au cours de l'audience, qui pourrait être une audience écrite ou orale, la CEO examinera les preuves et les arguments de Hydro One et des participants (particuliers, municipalités et autres dont les intérêts seraient en jeu) qui se sont inscrits pour participer à l'audience (appelés intervenants).

PORTÉE DE L'AUDIENCE DE LA CEO

La portée de l'autorité législative de la CEO en ce qui concerne les demandes d'autorisation visant la construction de lignes de transport d'électricité est énoncée aux articles 92, 96, 96.1 et 97 de la Loi de 1998 sur la Commission de l'énergie de l'Ontario. La Loi sur la Commission de l'énergie de l'Ontario stipule que, pour déterminer si le projet proposé est dans l'intérêt du public, la CEO ne doit tenir compte que des intérêts des consommateurs en ce qui concerne les prix ainsi que la fiabilité et

la qualité du service d'électricité. Comme l'exige l'article 97 de la Loi sur la Commission de l'énergie de l'Ontario, la CEO examine également les questions liées à la forme de l'entente proposée aux propriétaires fonciers concernés par le tracé ou l'emplacement de la ligne de transport.

Il est important de souligner qu'en plus de l'audience de la CEO, d'autres processus sont requis avant de pouvoir construire le câblage d'une ligne de transport et que la CEO tient compte de la désignation du projet en tant que projet prioritaire dans son examen de la demande. En particulier et aux termes du paragraphe (2) de l'article 96.1 de la Loi de 1998 sur la Commission de l'énergie de l'Ontario, la CEO est tenue d'accepter que le projet est nécessaire lorsqu'elle examine les questions qui relèvent de son autorité législative.

Les parties à l'instance sont tenues de limiter leur participation aux domaines qui relèvent du mandat législatif de la CEO décrit plus haut. Par exemple, la détermination de la nécessité du projet ne fera pas partie de l'examen de la CEO. En outre, les questions environnementales ou les questions liées à l'obligation de la Couronne de consulter les peuples autochtones ne font pas partie de l'examen de la CEO, à moins qu'elles n'aient une incidence directe sur le prix et sur la fiabilité et la qualité du service d'électricité.

RENSEIGNEZ-VOUS ET DONNEZ VOTRE AVIS

Vous avez le droit d'être informé au sujet de la requête d'Hydro One. Il est possible de consulter la demande d'Hydro One sur le site Web de la CEO dès maintenant.

Si vous êtes concernés par la ligne de transport proposée, vous voudrez peut-être participer activement à l'audience de l'une des façons suivantes :

- Vous pouvez envoyer à la CEO une lettre de commentaires qui sera prise en compte au cours de l'audience;
- Vous pouvez demander à la CEO la permission de participer à l'audience à titre d'intervenant. En tant qu'intervenant, vous pouvez poser des questions sur la requête d'Hydro One et présenter les raisons pour lesquelles la CEO devrait approuver la requête d'Hydro One. Pour obtenir le statut d'intervenant, une partie doit être touchée par la ligne de transport de façon directement liée aux éléments qui seront pris en compte par la CEO. Si vous souhaitez agir à titre d'intervenant, la CEO doit recevoir votre demande au plus tard le 27 juin 2022.

EN SAVOIR PLUS

Notre numéro de dossier pour cette affaire est **EB-2022-0140**. Pour obtenir de plus amples renseignements sur cette audience, sur les démarches à suivre pour déposer une lettre contenant vos commentaires, participer en tant qu'intervenant ou pour consulter les documents relatifs à cette affaire, veuillez sélectionner le numéro de dossier **EB-2022-0140** dans la liste sur le site Web de la CEO : <https://www.oeb.ca/fr/participez/applications/requetes-tarifaires-en-cours>. Vous pouvez également téléphoner à Andrew Bishop au 1 416 440-8108.

AUDIENCES ORALES OU AUDIENCES ÉCRITES

Il existe deux types d'audiences à la CEO : les audiences orales et les audiences écrites. La CEO décidera ultérieurement de traiter l'affaire par voie d'audience orale ou écrite. Si vous estimez qu'avoir recours à une audience orale serait nécessaire, vous pouvez écrire à la CEO pour lui présenter vos arguments d'ici le 27 juin 2022.

PROTECTION DES RENSEIGNEMENTS PERSONNELS

Si vous écrivez une lettre de commentaires, votre nom et le contenu de cette lettre apparaîtront dans le dossier public et sur le site Web de la CEO. Toutefois, votre numéro de téléphone, votre adresse de domicile et votre adresse électronique ne seront pas rendus publics. Si vous représentez une entreprise, tous les renseignements de l'entreprise demeureront accessibles au public. Si vous participez à titre d'intervenant, tous vos renseignements personnels seront rendus publics.

La requête a été déposée conformément aux articles 92 et 97 de la Loi de 1998 sur la Commission de l'énergie de l'Ontario, L.O. 1998, chap. 15, annexe B.

Commission de l'énergie de l'Ontario
C.P. 2319, 27^e étage
2300, rue Yonge
Toronto (Ontario) M4P 1E4
À l'attention de : Registraire
Dépôts : <https://p-pes.ontarioenergyboard.ca/PivotalUX/>.
courriel : registrar@oeb.ca



Ontario
Energy
Board | Commission
de l'énergie
de l'Ontario

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*;

AND IN THE MATTER OF an Application by Hydro One Networks Inc. pursuant to s. 92 of the *Ontario Energy Board Act, 1998* (the “Act”) for an Order or Orders granting leave to construct transmission line facilities (“**CxL Project**” or “**Project**”) in the West of Chatham area.

AND IN THE MATTER OF an Application by Hydro One Networks Inc. pursuant to s. 97 of the Act for an Order granting approval of the forms of land use agreements offered or to be offered to affected landowners.

APPLICATION

1. The Applicant is Hydro One Networks Inc. (“**Hydro One**”), a subsidiary of Hydro One Inc. The Applicant is an Ontario corporation with its head office in the City of Toronto. Hydro One carries on the business, among other things, of owning and operating transmission facilities within Ontario.
2. Hydro One hereby applies to the Ontario Energy Board (the “**Board**”) pursuant to s. 92 of the Act for an Order or Orders granting leave to construct approximately 49 kilometers of transmission line facilities in the West of Chatham area. The CxL Project has been declared a priority project for Hydro One to develop and seek approvals for by the Minister of Energy. The Order in Council from the Minister of Energy is provided as **Exhibit B, Tab 3, Schedule 1, Attachment 1**. These facilities are required to increase long-term transmission capacity to the Leamington area as recommended by the IESO in their report entitled the *Need for Bulk Transmission Reinforcement in the Windsor-Essex Region*. That report is provided as **Exhibit B, Tab 3, Schedule 1, Attachment 2**. The Project has been identified as a non-discretionary development project in **Exhibit B, Tab 4, Schedule 1**.

3. Hydro One is committed to working with Indigenous Peoples in a spirit of cooperation and shared responsibility. We acknowledge that Indigenous Peoples have unique historic and cultural relationships with their land and a unique knowledge of the natural environment. Forging meaningful relationships with Indigenous Peoples based upon trust, confidence, and accountability is vital to achieving our corporate objectives. Hydro One has been engaging with communities since early in the development process and will continue that engagement throughout the life cycle of the Project. Additionally, Hydro One has, and will continue to throughout the life cycle of the Project, engaged in extensive economic participation negotiations with impacted Indigenous communities including employment, training, contracting and equity participation in the Project. Though Hydro One has been directed to undertake the development component of this Project, the transmission line facilities proposed within this Application will ultimately be owned by a future Hydro One partnership expected to have First Nation ownership. As of the time of this Application, that partnership has not yet been finalized. As negotiations are ongoing, Hydro One is not currently able to provide commercial details. However, those details will be provided to the OEB once the partnership is formed through any and all a transmission licence applications and asset transfer applications. Given this information, the cost associated with the transmission line facilities will reside in the OEB approved Affiliate Transmission Partnership regulatory account¹ and not form part of Hydro One's rate base. For reference purposes, further information on this OEB-approved regulatory account is provided at **Exhibit B, Tab 10, Schedule 1**.

4. The proposed CxL Project will construct approximately 49 km of 230 kilovolt ("kV") circuits between Chatham Switching Station ("SS") and Lakeshore Transformer Station ("TS"). An overview map of this area is provided in **Exhibit B, Tab 2, Schedule 1, Attachment 1** and a schematic diagram of the proposed Project can be found at **Exhibit B, Tab 2, Schedule 1, Attachment 2**.

The proposed in-service date for the CxL Project is December 2025, assuming a construction commencement date of January 2023 and an OEB approval of this

¹ EB-2021-0169

1 Application by December 2022. A project schedule is provided at **Exhibit B, Tab**
2 **11, Schedule 1.**

3

4 5. New permanent land rights on properties from Lakeshore TS and Chatham SS
5 will be required to accommodate the proposed transmission facilities. Temporary
6 rights for construction purposes will also be required at specific locations along
7 the corridor. Further information regarding the real estate needs to complete this
8 project are provided in **Exhibit E, Tab 1, Schedule 1.**

9

10 6. The IESO has completed a System Impact Assessment (“**SIA**”). The SIA
11 concludes that the Project is expected to have no material adverse impact on the
12 reliability of the integrated power system and recommends that a *Notification of*
13 *Conditional Approval for Connection* be issued. The IESO’s SIA is provided as
14 **Exhibit F, Tab 1, Schedule 1, Attachment 1** of Hydro One’s prefiled evidence.

15

16 7. Hydro One has completed a Customer Impact Assessment (“**CIA**”) in accordance
17 with Hydro One’s connection procedures. The results confirm that there will be
18 no impacts on area customers as a result of the CxL Project. A copy of the CIA
19 is provided as **Exhibit G, Tab 1, Schedule 1, Attachment 1**. Hydro One will
20 fulfill all requirements of the SIA and the CIA, and will obtain all necessary
21 approvals, permits, licences, certificates, agreements and rights required to
22 construct, the Project.

23

24 8. The forecast total capital cost of the Project transmission facilities is
25 \$267.7million². Details pertaining to these costs are provided at **Exhibit B, Tab**
26 **7, Schedule 1.**

27

28 9. The expected rate impact associated with the CxL Project (using 2022 OEB-
29 approved uniform transmission rates as filed in **Exhibit B, Tab 9, Schedule 1**) is
30 a \$0.03/kw/month decrease in the network pool rate and a 0.02% decrease on
31 the overall average Ontario residential consumer’s electricity bill.

² There will be an additional \$0.1M of OMA removal costs associated with constructing this project.

10. This Application is also seeking for approval of the forms of the agreement offered or to be offered to affected landowners, pursuant to s. 97 of the Act. The majority of these agreements are in the same form as previously approved in prior Hydro One Networks leave to construct proceedings. Any agreements that have not been previously approved by the OEB or have been altered from their last approval have all been explicitly identified in the Application. The forms of the applied-for agreements are found as attachments to **Exhibit E, Tab 1, Schedule 1**.

11. The Application is supported by written evidence which includes details of the Applicant's proposal for the transmission line. The written evidence is prefiled and may be amended from time to time prior to the Board's final decision on this Application.

12. Given the information provided in the prefiled evidence, Hydro One submits that the Project is in the public interest. The Project meets the need of the transmission system and improves quality of service and reliability with minimal impact on price.

13. Hydro One requests that a copy of all documents filed with the Board be served on the Applicant and the Applicant's counsel, as follows:

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