

June 30, 2022

RESS & EMAIL

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

Attention: Ms. Nancy Marconi, Registrar

Dear Ms. Marconi:

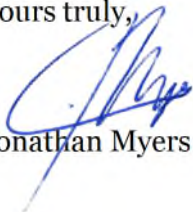
Re: Wataynikaneyap Power LP - Application for Approval of Modifications to OEB's Form of Transmission Connection Agreement for Load Customers

We are legal counsel to Wataynikaneyap Power LP, a licensed Ontario electricity transmitter. Wataynikaneyap Power LP, by its general partner Wataynikaneyap Power GP Inc. (together, "WPLP"), is pleased to submit its application to the Ontario Energy Board (OEB) for approval to use certain terms and conditions in its connection agreement with Hydro One Remote Communities Inc. ("Hydro One Remotes") other than those set forth in the OEB's form of connection agreement for load customers provided in Appendix 1 (Version A) of the *Transmission System Code*. This application is made pursuant to ss. 70.1(3) of the *Ontario Energy Board Act* (the "Act") and s. 4.1.2 of the *Transmission System Code*.

Please note that this application includes a letter of support from Hydro One Remotes. In addition, please note that WPLP is requesting that the OEB proceed without a hearing pursuant to ss. 6(4) of the Act.

If you have any questions, please do not hesitate to contact me at the number shown above.

Yours truly,



Jonathan Myers

cc: Mr. Brian Hewson, OEB
Ms. Helen Guo, OEB
Mr. Duane Fecteau, WPLP
Mr. Greg Beharriell, WPLP

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, C.S.O. 1998, c.15 (Sched. B) (the “Act”);

AND IN THE MATTER OF an application by Wataynikaneyap Power GP Inc. on behalf of Wataynikaneyap Power LP for an Order or Orders made pursuant to section 70.1(3) of the Act and section 4.1.2 of the *Transmission System Code*, approving the use of certain terms and conditions in a connection agreement other than those set forth in the form of connection agreement for load customers provided in Appendix 1 (Version A) of the *Transmission System Code*.

APPLICATION

1. Wataynikaneyap Power GP Inc. (“Wataynikaneyap GP”) is an Ontario corporation and the general partner of Wataynikaneyap Power LP (“Wataynikaneyap LP”), an Ontario limited partnership. Wataynikaneyap GP on behalf of Wataynikaneyap LP (“WPLP” or the “Applicant”) holds an electricity transmission licence (ET-2015-0264) from the Ontario Energy Board (the “Board”). Pursuant to subsection 70.1(3) of the *Ontario Energy Board Act* (the “Act”) and section 4.1.2 of the *Transmission System Code* (the “Code”), WPLP hereby requests approval to use certain terms and conditions in a connection agreement other than those set forth in the form of connection agreement for load customers provided in Appendix 1 (Version A) of the *Transmission System Code*.
2. WPLP was established for the purposes of developing, constructing, owning and operating a new electricity transmission system, approximately 1744 km in total length, in northwestern Ontario (the “Transmission System”). On completion, the Transmission System will reinforce supply to Pickle Lake through a portion of the system referred to as the “Line to Pickle Lake”, and enable connection to the provincial electricity grid for 16 remote First Nation communities through portions of the system referred to as the “Remote Connection Lines” north of Pickle Lake and north of Red Lake.¹

¹ The Transmission Project is designed to permit the potential future connection of a 17th community, McDowell Lake First Nation.

3. The Transmission System is currently under construction and is being brought into service in stages over the 2022 to 2024 period. When completed in 2024, the Remote Connection Lines will supply service to 25 kV distribution systems that are or will be owned and operated by Hydro One Remote Communities Inc. (“HORCI”) in each of the connecting First Nation communities. Based on WPLP’s current project schedule, HORCI’s distribution systems in three of the connecting First Nation communities will be connected to WPLP’s Transmission System in 2022, starting with Pikangikum First Nation on or around August 15, 2022, followed by North Caribou Lake First Nation and Kingfisher Lake First Nation in September 2022.
4. Prior to connecting HORCI’s distribution system in Pikangikum First Nation to WPLP’s Transmission System, WPLP is required by section 4.1.1 of the Code to enter into a connection agreement with HORCI in the form set out for load customers in Appendix 1 (Version A) of the Code (the “Standard Connection Agreement”). Pursuant to section 4.1.2 of the Code, WPLP may not enter into a connection agreement with a customer on terms and conditions other than those set out in the Standard Connection Agreement except as expressly contemplated in the Standard Connection Agreement or with the prior approval of the Board.
5. Due to certain unique aspects of WPLP’s Transmission System, WPLP requires modifications to several of the terms and conditions in the Standard Connection Agreement in the agreement it is planning to enter into with HORCI. None of those modifications fall within the scope of the amendments that the parties are permitted to make by mutual agreement under section 9 of the Standard Connection Agreement. As such, the Board’s prior approval is required before WPLP can finalize and execute the connection agreement with HORCI.
6. WPLP is therefore requesting approval of four modifications to the terms and conditions of the Standard Connection Agreement. These modifications, which are to Section 3, Section 14, Schedule B and Schedule J of the Standard Connection Agreement as described in greater detail below, will apply only to the connection agreement that WPLP enters into with HORCI in respect of the remote First Nation communities.

7. While the modifications to Section 3, Section 14 and Schedule B are discrete and have been settled as between the parties, with respect to Schedule J the parties have thus far agreed only that the standard terms should not apply and that further consideration needs to be given to the modified terms that should apply in their place. Moreover, the approach to those modified terms will need to be considered in relation to WPLP's connection procedures, which are currently under development. WPLP is therefore requesting that the Board's approval of the modifications proposed herein be granted on an interim basis.
8. WPLP and HORCI have agreed to cooperate in developing appropriate modified terms for Schedule J on a timely basis to enable WPLP to seek final approval from the Board for all of the modifications to the HORCI connection agreement prior to year-end 2022. WPLP anticipates seeking that final approval in conjunction with certain related requests, including for approval of its connection procedures as required under its transmission licence. WPLP further anticipates that the issues to be considered in Schedule J will also need to be considered for purposes of approving WPLP's connection procedures. As such, the proposed approach is appropriate and efficient from a regulatory standpoint.
9. Notably, the modifications to the terms and conditions of the Standard Connection Agreement as proposed herein are made with the concurrence of HORCI. A letter from HORCI confirming its support is attached hereto at **Appendix 'A'**.
10. The specific modifications proposed by WPLP are set out in **Appendix 'B'**. Descriptions of those modifications and the associated rationale are as follows:
 - a. Section 3 of the Standard Connection Agreement provides for the incorporation of the Code in its entirety into the connection agreement. Under section 3.2, the transmitter agrees to be bound by and to at all times to comply with the Code, and the customer acknowledges and agrees that the transmitter is at all times bound to comply with the Code. WPLP proposes to modify this section so that it expressly recognizes any exemptions from the Code that the Board has approved or approves from time to time, as set out in Schedule 2 of WPLP's transmission licence. Without this modification, WPLP is concerned that there would be

potential for confusion due to the conflict between its obligations under the contract to comply with all aspects of the Code at all times and Code exemptions established under the terms of its licence.

- b. Section 14 of the Standard Connection Agreement sets out the respective representations and warranties of the parties, with subsection 14.2 being the transmitter's representations and warranties. It has been WPLP's experience from time to time that certain regulatory authorities and counterparties it interacts with have shown some hesitation in communicating with and taking instructions from WPLP's project manager, Wataynikaneyap Power PM Inc., and its employees, on behalf of WPLP. WPLP proposes to modify this section by adding a new paragraph 14.2.3 in an effort to provide clarification regarding the role and authority of WPLP's project manager in relation to WPLP. This would provide confidence and legal certainty to HORCI that it can communicate with and take instructions from Wataynikaneyap Power PM Inc. on behalf of WPLP for purposes relating to the connection agreement.
- c. Schedule B to the Standard Connection Agreement sets out certain terms and conditions relating to the provision of transmission services and the imposition of associated charges where a customer's facilities are connected to a transmitter's facilities that form part of the IESO-controlled grid. With respect to charges for transmission services, the terms of Schedule B only contemplate that such charges be paid by the customer to the IESO in accordance with the Market Rules. However, under the unique cost recovery and rate framework for WPLP's Transmission System established in EB-2018-0190, the Board approved the use of fixed monthly charges to HORCI, which are payable directly from HORCI to WPLP.² WPLP proposes to modify this schedule to reflect the use of fixed monthly charges under the approved cost recovery and rate framework and the associated payment mechanics.

² OEB, Decision and Order re Wataynikaneyap Power (EB-2018-0190), April 1, 2019 (revised April 29, 2019), pp. 27-28.

- d. Schedule J to the Standard Connection Agreement sets out certain terms and conditions relating to the treatment of embedded generation, bypass, load forecasting and changes in load, assigned capacity, and true-up calculations. Due to some of the unique aspects of WPLP's Transmission System and its regulatory context, these aspects (other than the treatment of embedded generation) either do not apply, should not apply or need to be applied differently as between WPLP and HORCI in respect of the connection of the remote First Nation communities. For example, given the funding and rate framework for the Transmission System, it may not be appropriate for the standard terms regarding bypass and bypass compensation to apply. As the parties have not yet settled on the modified terms to be included in Schedule J, which terms need to be considered together with the development of WPLP's connection procedures, WPLP is proposing on an interim basis to replace most of Schedule J with a new section that confirms the standard terms do not apply and that the parties agree co-operate in developing an amended Schedule J on a timely basis for submission to the Board.
11. Given the expected timing for the connection of HORCI's distribution system in Pikangikum First Nation to WPLP's transmission system, and to allow for the time needed for each of WPLP and HORCI to arrange for execution of the connection agreement, WPLP requests that the Board approve the proposed modifications to the Standard Connection Agreement by no later than August 5, 2022.
12. WPLP requests that copies of all documents filed with or issued by the OEB in connection with this Application be served on the Applicant and its counsel as follows:

Applicant:

Mr. Duane Fecteau
Vice President – Finance and CFO
Wataynikaneyap Power PM Inc.
c/o FortisOntario Inc.
PO Box 1218, 1130 Bertie Street
Fort Erie, Ontario L2A 5Y2
Tel: (705) 987-3616
Fax: (705) 759-2218
Duane.Fecteau@wataypower.ca

Mr. Greg Beharriell
Director, Operations and Engineering
Wataynikaneyap Power PM Inc.
c/o FortisOntario Inc.
PO Box 1218, 1130 Bertie Street
Fort Erie, Ontario L2A 5Y2
Tel: (289)696-4853
Fax: -
Greg.Beharriell@wataypower.ca

Applicant's Counsel:

Mr. Jonathan Myers
Torys LLP
79 Wellington St. W., 30th Floor
Box 270
TD South Tower
Toronto, Ontario M5K 1N2
Tel: 416-865-7532
Fax: 416-865-7380
jmyers@torys.com

13. WPLP requests that the Board proceed without a hearing, pursuant to Section 6(4) of the Act.

Dated at Toronto, Ontario, this 30th day of June, 2022.

WATAYNIKANEYAP POWER GP INC.
on behalf of WATAYNIKANEYAP POWER LP

By its counsel, Torys LLP



Jonathan Myers

Appendix 'A'

Letter of Support from HORCI



**Hydro One
Remote Communities Inc.**
680 Beaverhall Place
Thunder Bay, ON P7E 6G9



Partners in Powerful Communities

BY EMAIL

June 30, 2022

Mr. Greg Beharriell
Director, Operations and Engineering
Wataynikaneyap Power PM Inc.
c/o FortisOntario Inc.
PO Box 1218, 1130 Bertie Street
Fort Erie, Ontario L2A 5Y2

Re: Application by Wataynikaneyap Power LP for Approval to Use Modified Terms and Conditions in its Connection Agreement with Hydro One Remote Communities Inc.

Dear Mr. Beharriell:

This is to confirm that Hydro One Remote Communities Inc. ("Hydro One Remotes") supports Wataynikaneyap Power LP ("WPLP") in its application to the Ontario Energy Board ("OEB"), to be filed on or around June 30, 2022, for an Order made pursuant to section 70.1(3) of the *Ontario Energy Board Act, 1998* and section 4.1.2 of the *Transmission System Code*, approving the use of certain terms and conditions in its connection agreement with Hydro One Remotes other than those set forth in the form of connection agreement for load customers provided in Appendix 1 (Version A) of the *Transmission System Code*.

Hydro One Remotes has been working closely with WPLP in support of WPLP's transmission project. Given that three remote First Nation communities will be connecting to WPLP's transmission system in 2022, with the first such community - Pikangikum First Nation – expected to connect in mid-August 2022, the parties have been diligently working towards finalizing the terms of WPLP's connection agreement with Hydro One Remotes. During this process, the parties identified and considered the need for modifications to certain of the standard terms and conditions in the OEB's form of connection agreement for load customers. Hydro One Remotes has reviewed and provided input into WPLP's proposed modifications to Section 3, Section 14, Schedule B and Schedule J of the OEB's form of agreement and agrees with those proposed modifications. We are also committed to working in a co-operative fashion on Schedule J necessary to meet the stated December 31, 2022 timeline as well as continuing to work with Watay on this exciting project.

Sincerely,

Kraemer Coulter
Managing Director
Hydro One Remote Communities Inc.

cc Kevin Mann, Hydro One
Naomi Martin, Hydro One

Appendix 'B'

Proposed Modifications to Connection Agreement

Section 3

[Amend existing section 3, as follows:]

3. INCORPORATION OF TRANSMISSION SYSTEM CODE

3.1 Subject to any exemptions from the Code that are listed in Schedule 2 of the Transmitter's licence, as may be amended from time to time, ~~t~~The Code is hereby incorporated in its entirety by reference into, and forms an integral part of, this Agreement. Unless the context otherwise requires, all references in this Agreement to "this Agreement" shall be deemed to include a reference to the Code.

3.2. Without limiting the generality of section 3.1:

- (a) subject to any exemptions from the Code that are listed in Schedule 2 of the Transmitter's licence, as may be amended from time to time, the Transmitter hereby agrees to be bound by, and at all times to comply with, the Code; and
- (b) subject to any exemptions from the Code that are listed in Schedule 2 of the Transmitter's licence, as may be amended from time to time, the Customer acknowledges and agrees that the Transmitter is bound at all times to comply with the Code in addition to complying with the provisions of this Agreement.

Section 14

[Add the following new subparagraph immediately following s. 14.2.2:]

14.2.3 Wataynikaneyap Power PM Inc. (the "Transmitter's Project Manager") is hereby authorized by the Transmitter to act on the Transmitter's behalf and the Customer shall be entitled to and shall act on any written communication (or verbal to the extent permitted under this Agreement) given, or agreement entered into by or on behalf of the Transmitter, by the Transmitter's Project Manager. The Transmitter hereby represents and warrants that the Transmitter's Project Manager has the authority to act on the Transmitter's behalf and to bind the Transmitter and in that regard, the Transmitter expressly ratifies, adopts, and confirms that all acts or omissions of the Transmitter's Project Manager shall for all purposes be construed as having been made or done by the Transmitter.

Schedule B

[Amend existing section B.7 and add new sections B.10 and B.11 immediately following existing section B.9, as follows:]

- B.7 Transmission service charges, ~~excluding the fixed charges referred to in~~ Sections B.10 and B.11, shall be paid by the Customer to the IESO in

accordance with the Market Rules. A dispute related to an amount payable by the Customer to the IESO on account of transmission service charges that is subject to the dispute resolution provisions of the Market Rules shall be resolved in accordance with those provisions. Nothing in this section B.7 shall preclude a Customer from initiating a dispute under this Agreement in relation to the applicability of transmission service charges or the classification of transmission service charges.

- B.10 Subject to section B.11, fixed monthly charges shall be paid by the Customer to the Transmitter, in accordance with the Transmitter's Rate Order then in effect, with payment due within 2 business days following the Customer's receipt from the IESO of the rate protection funds payable to it on a monthly basis under O. Reg. 442/01 (*Rural or Remote Electricity Rate Protection*) made under the *Ontario Energy Board Act, 1998* ("RRRP Regulation").
- B.11 The Customer shall not be required to pay a fixed monthly charge for which it has received an invoice from the Transmitter in accordance with the Transmitter's Rate Order then in effect, as required under section B.10, if and to the extent that the amount of the fixed monthly charge has not been received by the Customer from the IESO under the RRRP Regulation. The Customer shall pay the Transmitter within 2 days of receipt from the IESO the amounts that it is required to pay the Transmitter. For clarity, to the extent that the Customer has been paid by the IESO in part, the Customer shall make a partial payment to the Transmitter for a corresponding amount and shall pay the Transmitter the difference within 2 days of receipt of same from the IESO.

Schedule J

[Delete existing section J.2 and onward, and replace with the following:]

J.2 BYPASS, ASSIGNED CAPACITY AND TRUE-UPS

- J.2.1 Notwithstanding section 4.1.2 of the Code and section 9 of this Agreement, the Parties agree, on an interim basis until such time that an amended Schedule J is developed and filed by the Transmitter and approved on a final basis by the Board, that parts J.2 (Bypass), J.3 (Load Forecast and Changes in Load), J.4 (Assigned Capacity) and J.5 (True-ups) of Schedule J, as well as Attachments J1 and J2 thereto, each as contemplated in Appendix 1 – Version A – Form of Connection Agreement for Load Customers under the Code, shall not form part of this Agreement or otherwise apply to the Transmitter or the Customer for the purposes of this Agreement, and that the Parties shall co-operate in developing an amended Schedule J on a timely basis to enable the Transmitter to file same with the Board by no later than December 31, 2022.