



DECISION AND ORDER

EB-2022-0199

WATAYNIKANEYAP POWER GP INC. ON BEHALF OF WATAYNIKANEYAP LP

**REQUEST FOR MODIFICATIONS TO STANDARD FORM
OF TRANSMISSION CONNECTION AGREEMENT FOR
LOAD CUSTOMERS**

ELECTRICITY TRANSMISSION LICENCE: ET-2015-0264

BY DELEGATION, BEFORE: Brian Hewson
Vice President
Consumer Protection and Industry Performance

August 5, 2022

INTRODUCTION

On June 30, 2022, Wataynikaneyap GP on behalf of Wataynikaneyap LP (WPLP), a licensed electricity transmitter (ET-2015-0264), applied under subsection 70.1(3) of the *Ontario Energy Board Act, 1998* (Act) and section 4.1.2 of the Transmission System Code (TSC) for approval to use certain terms and conditions in its Connection Agreement with Hydro One Remote Communities Inc. (HORCI) other than those set out in the standard form of Transmission Connection Agreement (TCA) for load customers provided in the TSC (the Application).¹ There are four specific modifications being requested – to Section 3, Section 14, Schedule B and Schedule J which would all apply on an interim basis. WPLP requested that the OEB proceed without a hearing in relation to this Application.

This Decision and Order is being issued by the delegated authority, without a hearing, under section 6 of the Act.² For the reasons set out below, the OEB grants WPLP's request to use a modified TCA that includes the requested modifications to Section 3, Schedule B and Schedule J, but not section 14.2.3, for its connections with HORCI, on an interim basis. The OEB requires WPLP to file a final version of the modified TCA for approval prior to year-end 2022.

THE APPLICATION

In its Application, WPLP explained that the impetus for its request for modifications to the terms and conditions of the standard TCA is due to certain unique aspects of WPLP's transmission system. WPLP stated that none of the proposed modifications fall within the scope of the amendments that the parties are permitted to make by mutual agreement under section 9 of the standard TCA.

WPLP identified four modifications to Section 3, Section 14, Schedule B and Schedule J and that the modifications would apply only to the TCA that WPLP enters into with HORCI in respect of the remote First Nation communities.

WPLP explained that the modifications to Section 3, Section 14 and Schedule B are discrete and have been settled between WPLP and HORCI; however, further consideration needs to be given to the modified terms in Schedule J and the approach to those modified terms will need to be considered in relation to WPLP's Connection

¹ Section 4.1.2 of the TSC states that a transmitter may not enter into a connection agreement on terms and conditions other than those set forth in the applicable version of the connection agreement set out in Appendix 1 except where the transmitter receives "prior approval of the Board" to make modifications to the connection agreement.

² WPLP requested that the OEB proceed without a hearing in relation to this Application.

Procedures, which are currently under development and are to be filed prior to December 31, 2022, as required under its transmission licence. Therefore, approval of the proposed modifications is being sought on an interim basis. 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 OEB of all the modifications to the HORCI TCA prior to year-end 2022. WPLP is of the view seeking final approval of the modified TCA, in conjunction with approval of its Connection Procedures, is appropriate and efficient from a regulatory standpoint because WPLP anticipates that the issues to be considered in Schedule J will also need to be considered for purposes of approving WPLP's Connection Procedures.

The following is a summary of the description provided by WPLP of the four specific proposed modifications including WPLP's rationale for each. The specific amended wording to the TCA is set out in Appendix B of the Application.

1. Section 3 – Under section 3.2, the transmitter agrees to comply with the TSC in its entirety and at all times. WPLP proposed to modify this section to expressly recognize any OEB approved exemptions from the TSC that are set out in Schedule 2 of WPLP's transmitter licence. Without this modification, WPLP is concerned that there would be potential for confusion due to the conflict between the TCA and the TSC exemptions in its licence.
2. Section 14 – It sets out the respective representations and warranties of the parties, with subsection 14.2 being those that apply to the transmitter. WPLP noted it has been their experience 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. (WPPM) – on behalf of WPLP. WPLP proposed to add new section 14.2.3 to provide clarification regarding the role and authority of WPPM in relation to WPLP. WPLP submitted this would provide confidence and legal certainty to HORCI that it can communicate with and take instructions from WPPM (on behalf of WPLP) for purposes relating to the TCA.
3. Schedule B – WPLP noted the terms contemplate that all charges for transmission services will be paid by the customer to only the Independent Electricity System Operator (IESO), in accordance with the Market Rules. However, under the unique cost recovery and rate framework approved by the OEB in its initial leave to construct (LTC) proceeding, fixed monthly charges are to be paid directly by HORCI to WPLP.³ WPLP therefore proposed a modification

³ EB-2018-0190.

to recognize those fixed monthly charges and the associated payment mechanics.

4. Schedule J – WPLP stated this schedule sets out certain terms and conditions related to the treatment of embedded generation, bypass, load forecasting and changes in load, assigned capacity, and true-up calculations. WPLP expressed the view that, due to some of the unique aspects of WPLP’s transmission system and its regulatory context, the above noted terms and conditions (except the treatment of embedded generation) either do not apply, should not apply or need to be applied differently between WPLP and HORCI. For example, given the unique rate framework discussed above, it may not be appropriate for the standard terms regarding bypass and bypass compensation to apply. The Application notes WPLP and HORCI have not yet settled on the modified terms to be included in Schedule J. WPLP also noted these terms need to be considered together with the development of WPLP’s Connection Procedures. WPLP therefore proposed to replace most of Schedule J with a new section, on an interim basis, that confirms those standard terms do not apply and that the parties agree to co-operate in developing an amended Schedule J on a timely basis for submission to the OEB for approval by no later than December 31, 2022.

WPLP stated its transmission system is currently under construction and is being brought into service in stages over the 2022 to 2024 period. 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.

WPLP noted that, due to the expected timing for the connection of HORCI’s distribution system in Pikangikum First Nation, and to allow for the time needed for WPLP and HORCI to arrange for execution of the modified TCA, WPLP requested that the OEB approve the proposed modifications to the standard TCA by August 5, 2022.

WPLP included a letter from HORCI confirming its support for the proposed modifications.

Findings

The OEB approves the modifications to sections 3.1 and 3.2, in the form proposed in Appendix B of the Application. These modifications ensure consistency between WPLP’s licence and the TCA between WPLP and HORCI.

The OEB also approves the modifications to Schedule B, in the form proposed in Appendix B of the Application, to recognize that transmission charges will be paid by HORCI directly to WPLP (not the IESO) via the fixed monthly charge approved by the OEB in its leave to construct [Decision and Order](#) related to WPLP.⁴

The OEB does not approve proposed new section 14.2.3 which identifies WPPM and its role. WPPM is identified in the new section as a being authorized to act on behalf of WPLP which is the party to the TCA. The OEB does not consider it necessary to include, in the TCA, amendments that identify a licensee's agents or service providers in order for them to have the authority to carry out the functions that WPLP has contracted for. Inclusion of this provision could lead to the addition of many new provisions as new service providers are contracted, and potential confusion as to who the responsible party is, which is WPLP in this case. If the parties wish, they may include information regarding the contacts at WPPM that HORCI may communicate with in Schedule A of the standard TCA.

The OEB will approve the proposed changes to Schedule J on an interim basis. While it may be unlikely that any of the suggested scenarios arise in the period up until the approval of a final TCA and Connection Procedures, the OEB does not have a concern with the Application of the proposed modifications for the interim period. That said, the OEB has already concluded there will be no true-ups related to consumption due to the cost recovery and rate framework that was approved in its Decision and Order related to WPLP's LTC application.⁵

In summary, the OEB approves the modifications to Section 3, Schedule B and Schedule J, on an interim basis, in the form proposed in Appendix B of the Application. The OEB also requires that WPLP's proposed modified TCA be filed along with its proposed Connection Procedures no later than December 31, 2022.⁶

In the past, the OEB has approved applications for modifications to the standard TCA set out in the TSC by way of an amendment to the applicant's transmission licence.⁷ The same approach will be adopted in this case. The amended licence is attached to this Decision and Order.

⁴ Decision and Order, EB-2018-0190, April 1, 2019, p.27.

⁵ Decision and Order, EB-2018-0190, April 1, 2019, p. 23.

⁶ In Schedule 2 of WPLP's licence, it states "The Licensee shall file Customer Connection Procedures with the OEB by December 31, 2022."

⁷ See the May 6, 2022 [Decision and Order](#) approving certain modifications requested by Hydro One Networks Inc. (EB-2022-0085).

IT IS ORDERED THAT:

1. Schedule 2 of the Electricity Transmission Licence of Wataynikaneyap Power GP Inc. (on behalf of Wataynikaneyap LP) is hereby amended by adding the following paragraph after Paragraph 3:

4. Pending final approval of the Board, the Licensee may, for the purpose of entering a connection agreement with Hydro One Remote Communities Inc., modify the standard form of connection agreement for load customers set out in Appendix 1 (Version A) of the Transmission System Code in the manner approved on an interim basis in the Decision and Order of the Board dated August 5, 2022 (EB-2022-0199). The Licensee shall apply to the Board for final approval of its proposed modifications to the standard form of connection agreement by December 31, 2022.

DATED at Toronto August 5, 2022

ONTARIO ENERGY BOARD

Brian Hewson
Vice President
Consumer Protection and Industry Performance