

August 11, 2022

By Filing Online

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

Dear Ontario Energy Board Registrar,

Re: Intervenor (HDI) Evidence – Ontario Energy Board File No. EB-2022-0140

We are counsel to the Haudenosaunee Development Institute (“**HDI**”), intervenor in Ontario Energy Board (“**OEB**”) File No. EB-2022-0140 (“**EB-2022-0140**”).

We write in response to the OEB’s letter of August 5, 2022 to provide information regarding HDI’s expected evidence in EB-2022-0140.

Background

EB-2022-0140 concerns the proposed construction of approximately 49 kilometers 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/Fort Albany Treaty of 1701 (the “**Nanfan Treaty**”). 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.

In the OEB’s Procedural Order No. 1, dated July 13, 2022, and its letter of August 5, 2022, the OEB cautioned the intervenors that it will not make provision for the filing of evidence relating to matters that are outside the scope of the proceeding, which is reflected in the Issues List, Schedule A to Procedural Order No. 1. The Issues List includes, among other things, “Prices: Project Cost”, “Prices: Customer Impacts”, “Route Map and Form of Landowner Agreements”, and “Conditions of Approval”.

Proposed Evidence

HDI expects its evidence in EB-2022-0140 to cover matters relevant to “Prices: Project Cost”, “Prices: Customer Impacts”, “Route Map and Form of Landowner Agreements”, and “Conditions of Approval”:

Prices: Project Cost

1. The information needed to demonstrate the reasonableness of the estimates of the project cost, including the impacts of consultation and engagement with the Haudenosaunee on cost for the project, capacity funding, and/or environmental or archaeological monitoring.

Prices: Customer Impacts

2. The identity of the customers impacted by the Project, e.g., the Haudenosaunee, the Haudenosaunee Confederacy Chiefs Council, and HDI; and
3. The nature of customers’ rights impacted by the Project, e.g., Haudenosaunee rights in respect of the Project area, including under the Nanfan Treaty.

Route Map and Form of Landowner Agreements

4. Mitigation and compensation efforts relating to any harm or interference with established Haudenosaunee treaty rights in the Subject Area, similar to the agreements provided to landowners for the purposes of mitigation and compensation. For example, this evidence may include the efforts of Hydro One, the OEB, and/or the Crown to engage with the Haudenosaunee, the HCCC, and HDI in respect of the Project to date.

Conditions of Approval

5. Additional approvals, permits, licences, certificates, agreements, and rights required to construct, operate, and maintain the project not contemplated by the Standard Conditions of Approval for Electricity Leave to Construct Applications, or necessary modifications thereto, including obtaining:
 - a. approval under the Class Environmental Assessment for Minor Transmission Facilities of Hydro One approved by the Lieutenant Governor in Council on November 16, 2016 under Order in Council 1726/2016; and
 - b. free, prior and informed consent of indigenous groups with established rights in the project area, pursuant to the United Nations Declaration on the Rights of Indigenous People.

Proposed Timeline and Estimate Costs

HDI proposes submitting its evidence by September 13, 2022.

Expert fees will accumulate in line with the Cost Award Tariff provided for in the OEB Practice Direction on Cost Awards. HDI anticipates its costs for the preparation of evidence to be approximately \$5,000, exclusive of any disbursements.

Yours truly,

GILBERT'S LLP

Per:

A handwritten signature in blue ink, appearing to read 'JMD', is written over the 'Per:' text.

Jack MacDonald