



Hydro One Networks Inc.

**Application for leave to construct construction of an
electricity transmission line between Chatham switching
station and Lakeshore transmission station.**

PROCEDURAL ORDER NO. 2

August 23, 2022

Hydro One Networks Inc. (Hydro One) applied to the Ontario Energy Board (OEB) on May 9, 2022 under sections 92 and 97 of the *Ontario Energy Board Act* (OEB Act), 1998, S.O. 1998, c. 15, (Schedule B), for an order or orders granting leave 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 proposed new transmission line at the terminal stations (Project). Hydro One 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 Project.

The Issues List for this proceeding was set out in [Procedural Order No. 1](#), issued on July 13, 2022. On August 5, 2022 the OEB issued a [letter](#) (Letter) allowing intervenors that wish to file evidence that is directly and materially relevant to an issue on the approved Issues List an opportunity to file a letter with the OEB by August 11, 2022 that includes a description of the proposed evidence (including an explanation of how the evidence relates to the issues in this proceeding), an estimate of the cost of the evidence (if the intervenor is eligible for an award of costs), and the proposed timing of the filing of the evidence.

The Letter also confirmed that the scope of the OEB's review in this proceeding is limited by section 96(2) of the OEB Act to a consideration of the interests of consumers with respect to prices and the reliability and quality of electricity service, and that the OEB will not make provision for the filing of evidence relating to matters that fall outside the scope of this proceeding.

In particular, the Letter indicated that environmental issues and issues related to the Constitutional duty to consult are outside the scope of this proceeding, except to the extent that these issues might be relevant to price, reliability and the quality of electricity service, and further that environmental issues and issues related to the Constitutional duty to consult are considered through the Environmental Assessment process. The

Letter also noted that the Project has been declared a priority transmission project under section 96.1 of the OEB Act, and therefore issues related to project need and the consideration of alternatives to a transmission line would not be considered in this proceeding.

On August 11, 2022, three cost-eligible intervenors responded to the Letter with letters that provided an overview of their proposed evidence: Haudenosaunee Development Institute (HDI), Three Fires Group Inc. (Three Fires Group) and the Ross Firm Group. As a general observation, the letters filed provide little detail regarding the nature of their proposed evidence and, particularly in the case of the first two of these intervenors, offer limited information as to precisely how the proposed evidence relates directly and materially to the issues in this proceeding. The OEB also observes that where evidence is proposed to be filed in relation to issues that are or may be within the scope of this proceeding, the intervenors generally did not directly explore those issues in their interrogatories to Hydro One which were due on July 27, 2022.

For the reasons provided below, the OEB has determined that it will not make provision for the filing of the evidence proposed by these three intervenors, much of which appears to go beyond the scope of this proceeding. The OEB will, however, allow for supplemental interrogatories on certain issues as described below.

HDI's Proposed Evidence

HDI stated that its proposed evidence would cover matters relevant to prices (both with respect to Project costs and customer impacts), the route map and form of landowner agreements, and the conditions of approval.

Prices: Project Costs

HDI stated that its evidence would relate to the reasonableness of the estimates of the Project costs, including consultation and engagement related costs. The reasonableness of Hydro One's estimates of the cost of the Project is an issue in this proceeding as it goes to the issue of price, and the OEB accepts that costs related to Indigenous engagement may have an impact on the total Project costs.

Although the OEB is not making provision for the filing of intervenor evidence on this issue, it will make provision for supplemental interrogatories to allow parties to explore the quantum of Environmental Assessment costs or costs related to Indigenous consultation, that are included in the application. The OEB would be assisted by a better understanding of what these costs are forecast to be, to the extent that they are reflected in the Project budget and are intended to ultimately be recovered through rates.

The OEB observes that although the OEB will consider the forecast costs of the Project in this proceeding, the actual costs of the Project (if it is approved and constructed) will be reviewed again by the OEB in a future rates proceeding. To the extent that the actual costs of the Project vary from the forecasts presented in this proceeding, the OEB will have the ability to consider the appropriate treatment of those costs when Hydro One seeks to close those costs to rate base. It is also noted that one of the OEB's standard conditions of approval (condition 3) requires an applicant to advise the OEB of any material changes to the proposed route, construction schedule, and necessary environmental assessment approvals, amongst other things.

Prices: Customer Impacts

HDI indicated that its evidence would: a) identify the customers impacted by the Project, "e.g., the Haudenosaunee, the Haudenosaunee Confederacy Chiefs Council, and HDI"; and b) provide details in respect of the nature of customers' rights impacted by the Project, "e.g., Haudenosaunee rights in respect of the Project area, including under the Nanfan Treaty".

The Project will affect all electricity customers in Ontario that pay transmission rates, and the OEB does not require evidence on the identity of these customers. As noted above, how the costs of the Project, if approved, will be recovered will be the subject of a later proceeding.

As issues related to the Constitutional duty to consult are outside the scope of this proceeding, the OEB also does not require evidence respecting Aboriginal or treaty rights that may be affected by the Project. As noted in the Letter, however, it is expected that any order granting Hydro One leave to construct the Project will be conditional on the Environmental Assessment and other approvals being obtained.

Route Map and Landowner Agreements

HDI stated that its proposed evidence would address:

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.

HDI's focus in this regard appears to be entirely related to Aboriginal or treaty rights, and the efforts of Hydro One, the OEB and/or the Crown to engage or consult with respect to these matters. These are not matters within the scope of this proceeding.

Conditions of Approval

HDI's proposed evidence would relate to new proposed conditions, in particular with respect to a requirement that any approval be contingent on obtaining (i) an approved Environmental Assessment, and (ii) the 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 (UNDRIP).

As noted above, the OEB's standard conditions for an electricity leave to construct approval already include a requirement that a proponent "obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the project." Approvals that Hydro One requires with respect to the Environmental Assessment are covered by this provision.

HDI may propose whatever conditions it wishes in its final argument, provided they are within the scope of this proceeding. However, the OEB will not be assisted by evidence related to UNDRIP in that regard.

Three Fires Group

Three Fires Group indicated that it proposed to file evidence related to prices (project costs), the reliability and quality of electricity service, and the conditions of approval.

Prices: Project Costs

The description of the evidence proposed to be filed by Three Fires Group in this regard is broadly similar to that of HDI. As noted above, the OEB is making provision for supplementary interrogatories to allow parties to explore Environmental Assessment related costs.

Reliability and Quality of Electricity Service

Three Fires Group stated its evidence would address: "how the reliability, quality, and electricity service infrastructure of the proposed project may improve for Treaty First Nations customers and/or be impacted by the rights of affected Treaty First Nations and Indigenous customers." Reliability and quality of electricity service are issues within the scope of this proceeding. However, the nature of the evidence intended to be filed is not apparent from the letter filed by Three Fires Group, and it is unclear to the OEB how reliability and quality of service would be "impacted by the rights of affected Treaty First Nations and indigenous customers".

Conditions of Approval

Three Fires Group stated that its evidence would address: “known and anticipated risks to costs and scheduling that may be impacted by the rights of affected Treaty First Nations (including all necessary approvals, permits, licences, certificates, agreements, and rights required to construct, operate, and maintain the proposed project).” As noted above, the OEB’s standard conditions largely cover these matters. Three Fires Group may propose whatever conditions it wishes in its final argument, provided they are within the scope of this proceeding.

The Ross Firm Group

The Ross Firm Group filed a letter from the engineering consulting firm SEA Limited (SEA). SEA indicated that it could prepare evidence related to the impact the Project may have on cost, reliability and power quality. The evidence would focus on four areas: 1) Hydro One’s decision to only consider the limited options of do nothing, build generation, or build new transmission lines; 2) Hydro One’s failure to consider reconductoring existing transmission lines; 3) an analysis of Hydro One’s proposed route, which requires significant new rights of way, “raises the exposure of the transmission system that can reduce reliability and increase exposure to weather damage and potential outages” relative to using the existing proven transmission corridor; and 4) Hydro One’s decision to construct the Project using what SEA describes as “dated” tower and conductor technology, which may increase costs over the long term or reduce reliability.

The first two areas SEA proposes to cover are outside the scope of this proceeding. As noted above and in the Letter, the Project has been declared a priority transmission project under section 96.1 of the OEB Act. Issues related to project need and the consideration of alternatives to a transmission line are therefore not applicable in this proceeding by reason of section 96.1(2) of the OEB Act.

With respect to the routing of the Project, the OEB notes that the Issues List specifically references the route in the sense that it requires that a route map be filed, and does not speak to a detailed review of routing alternatives. The OEB accepts that the choice of route can impact the costs of the Project, and notes that OEB staff asked an interrogatory regarding the various route alternatives that were considered. The OEB also recognizes that route selection is one of the matters reviewed through the Environmental Assessment, and that the considerations in the Environmental Assessment process include but are not limited to a review of the costs of the various alternatives. The OEB does not see value in completely reproducing that process.

The OEB is unable to discern from SEA's letter exactly what type of evidence it proposes to prepare with respect to routing, and in particular any related impacts to prices or the reliability and quality of electricity service.

Although the Project is a priority transmission project, and the need for a new transmission line from the Chatham station to the Lakeshore station is not an issue in this proceeding, the OEB believes that there is a limited scope to review the cost (and therefore potential ratepayer) and reliability implications of Hydro One's proposed route between those stations. The OEB will therefore allow parties to file supplemental interrogatories on the narrow issue of the cost implications of Hydro One's proposed route.

With respect to the tower and conductor technology that Hydro One proposes to use for the Project, the OEB notes that the application includes evidence related to the Project's conductors and towers. To the extent parties have questions regarding why Hydro One selected its proposed tower and conductor technologies as they may impact price or reliability, they may do so through the supplemental interrogatories.

IT IS THEREFORE ORDERED THAT:

1. OEB staff and intervenors shall request any relevant information and documentation from Hydro One that is in addition to the evidence already filed in relation to: a) the price impacts of Hydro One's Environmental Assessment costs and costs related to Indigenous consultation activities, b) price and reliability impacts related to route selection, and/or c) price or reliability impacts related to the choice of tower or conductor technologies, by written interrogatories filed with the OEB and served on all parties by **September 2, 2022**.
2. Hydro One shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by **September 12, 2022**.
3. Hydro One shall file a written argument-in-chief with the OEB and serve it on all intervenors by **September 20, 2022**.
4. Any written submissions from OEB staff and intervenors, shall be filed with the OEB and served on all parties by **September 28, 2022**.
5. Any written reply submissions from Hydro One shall be filed with the OEB and served on intervenors by **October 7, 2022**.

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-2022-0140** 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 [File documents online 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 by end of business, 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, Andrew Bishop at Andrew.Bishop@oeb.ca and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca.

Email: registrar@oeb.ca
Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **August 23, 2022**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar