



EB-2022-0330

**WATAYNIKANEYAP POWER GP INC.
ON BEHALF OF WATAYNIKANEYAP LP**

**REQUEST FOR MODIFICATIONS TO STANDARD FORM
OF TRANSMISSION CONNECTION AGREEMENT FOR
LOAD CUSTOMERS, AMENDMENTS TO TRANSMISSION
LICENCE AND APPROVAL OF TRANSMISSION
CONNECTION PROCEDURES**

ELECTRICITY TRANSMISSION LICENCE: ET-2015-0264

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

April 6, 2023

INTRODUCTION

On December 16, 2022, Wataynikaneyap GP on behalf of Wataynikaneyap LP (WPLP), a licensed electricity transmitter (ET-2015-0264), applied for approval of the following:

1. 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 *Transmission System Code* (TSC), on a final basis, under subsection 70.1(3) of the *Ontario Energy Board Act, 1998* (Act) and section 4.1.2 of the TSC.¹ There are three specific modifications being requested – to Section 3, Schedule B and Schedule J.
2. Amendments to Schedule 2 of WPLP's electricity Transmission Licence (ET-2015-0264) to: (i) extend certain TSC exemptions and effective dates; and (ii) provide an exemption from section 6.2 of the TSC under section 74 of the Act; and
3. WPLP's Transmission Connection Procedures, in accordance with Section 2(b) of WPLP's Transmission Licence and the requirements set out in sections 6.1.3 to 6.1.6 of the TSC.

WPLP requested that the OEB consider each of the above elements concurrently as a single, consolidated application (the Application) due to the interrelated nature and similar timing requirements under WPLP's Transmission Licence. WPLP also 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. For the reasons set out below, the OEB grants WPLP's request to use a modified TCA for load customers that includes the requested modifications to Section 3, Schedule B and Schedule J, on a final basis. The OEB also approves the licence amendments requested by WPLP to extend certain TSC exemptions and effective dates related to its Transmission Connection Procedures and its Reporting and Record Keeping Requirements (RRR), and provide an exemption from section 6.2 of the TSC (i.e., available capacity rules) in relation to HORCI. As discussed below and as shown in the Order, the OEB has limited the scope of the exemption from

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.

section 6.2 of the TSC from that requested in the application. The OEB further approves the Transmission Connection Procedures as filed by WPLP.

THE APPLICATION

In its Application, WPLP explained the rationale for its three requests separately, and the OEB will address them in a similar way here:

A. Modifications to TCA for Load Customers

On June 30, 2022, WPLP requested approval, on an interim basis, for modifications to Section 3, Section 14, Schedule B and Schedule J of the standard TCA in anticipation of the scheduled connection date for Pikangikum First Nation to: (a) allow WPLP and HORCI to give further consideration to the modified terms that should apply in place of Schedule J of the TCA; and (b) to allow WPLP to further consider the approach to such modified terms in relation to WPLP's Transmission Connection Procedures. That application was given OEB file number EB-2022-0199.

After consideration of WPLP's application, the OEB issued a [Decision and Order](#), approving the use of a modified TCA that included the requested modifications to Section 3, Schedule B and Schedule J, on an interim basis. The OEB also required WPLP to file a proposed final version of the modified TCA, including any further modifications to Schedule J, by December 31, 2022. WPLP's proposed modification to Section 14 was not approved.

In the current Application, WPLP indicated it was not requesting any changes to the modifications previously approved, on an interim basis, in relation to Section 3 and Schedule B, and was requesting approval of those modifications on a final basis. WPLP also requested approval of certain modifications to Schedule J which would only apply to the TCA that WPLP enters into with HORCI in relation to the connection of the remote First Nation communities identified in Schedule 1 of WPLP's Transmission Licence and in the application (referred to in this Decision and Order as the Listed Communities).² Those modifications to Schedule J are set out in Appendix A of the Application and consist of:

- a) Replacing the language related to bypass compensation in the TSC to reflect the fact that WPLP's transmission connection facilities have been developed,

² WPLP included a table on page 6 of the application that provides a schedule related to the connection of the 16 remote First Nation communities listed in Schedule 1 of its licence.

- designed and constructed to meet the capacity requirements of connecting the First Nation communities under a unique funding and rate recovery framework.
- b) Acknowledging that the connection of HORCI's distribution systems to WPLP's transmission system is not subject to the economic evaluation framework in the TSC and removing or modifying provisions related to contracted capacity and true-ups for clarity; and
 - c) Replacing references to sections of the TSC from which WPLP is exempt with references to WPLP's Transmission Connection Procedures (for which WPLP is seeking OEB approval as part of the Application) to ensure that WPLP's modified TCA (with HORCI) is consistent with its Transmission Licence and Transmission Connection Procedures.

WPLP also requested that Section 4 of Schedule 2 of its Transmission Licence be amended (as shown in Appendix C of the Application) to reflect the OEB's approval of the requested modifications to the TCA discussed above, on a final basis, in a manner that is consistent with the approach taken in the EB-2022-0199 Decision and Order.

Findings

The OEB approves the modifications to sections 3.1 and 3.2 and Schedule B in relation to the TCA that WPLP enters into with HORCI for the connection of the Listed Communities, on a final basis, for the reasons identified in its EB-2022-0199 Decision and Order that approved those modifications on an interim basis.

The OEB also approves the modifications to Schedule J, on a final basis, in the form set out in Appendix A of the Application, to: (a) ensure the approach to bypass compensation is consistent with the unique funding and rate recovery framework that was previously approved by the OEB in its leave to construct (LTC) [Decision and Order](#) related to WPLP³; (b) clarify the economic evaluation framework and the provisions related to contracted capacity and true-ups in the TSC do not apply to HORCI; and (c) ensure WPLP's modified TCA (with HORCI) is consistent with its Transmission Licence and Transmission Connection Procedures.

Having approved all the above requested modifications to the TCA, on final basis, the OEB will amend Paragraph 4 of Schedule 2 of WPLP's transmission licence (as shown

³ EB-2018-0190, Decision and Order, April 1, 2019, p.27.

in Appendix C of the Application) to reflect that those modifications are approved on a final basis.

B. Amendments to Transmission Licence to Extend TSC Exemptions

WPLP requested that Schedule 2 of its Transmission Licence be amended to change the expiration dates of certain TSC exemptions, in Sections 2(a) and 3, and the effective date for WPLP's Transmission Connection Procedures in Section 2(b), that had been previously granted in a Decision and Order⁴. The specific amendments are set out in Appendix C of the Application and are described below.

Under Schedule 2 of the Transmission Licence, WPLP is currently exempt from certain sections of the TSC and the RRR in the following ways:

- a) Section 2(a) of Schedule 2 exempts WPLP from the sections of the TSC in Section 1 of that schedule until the earlier of the date on which all facilities listed in Schedule 1 of the Transmission Licence are placed in service and December 31, 2023. Section 1 provides that, in relation to the Remote Connection Lines (but not in relation to the Line to Pickle Lake)⁵, WPLP is exempted from all sections of the TSC relating to connection procedures, including but not limited to 6.1.8, 6.2 and 6.4, as well as all sections related to customer capital contributions for connection facilities and cost responsibility, including but not limited to 6.1.2, 6.3.1, 6.5.2 and 6.9.
- b) Section 2(b) of Schedule 2 provides that WPLP must file Transmission Connection Procedures with the OEB by December 31, 2022 and that they will be effective as of the date on which all of the facilities listed in Schedule 1 of the licence are placed in service, or January 1, 2024, whichever is earlier.
- c) Section 3 of Schedule 2 exempts WPLP from Sections 3.1.1 through 3.1.4 of the OEB's Electricity RRRs for the 2019 to 2023 reporting periods, and therefore requires WPLP to commence reporting under those sections in 2025 in relation to the 2024 reporting period.

WPLP explained that its schedule for connecting the Listed Communities to its transmission system has been extended into 2024 as a result of construction delays

⁴ EB-2022-0199, Decision and Order, August 5, 2022.

⁵ The "Remote Connection Lines" were approved by the OEB in its LTC Decision (EB-2018-0190) to enable the connection of the Listed Communities to the provincial electricity grid through portions of the system north of Pickle Lake and north of Red Lake. The "Line to Pickle Lake" was approved in the same LTC Decision but it was not similarly approved for the purpose of connecting First Nation communities.

due to factors that include the COVID-19 pandemic, forest fires and access issues. WPLP provided a table in the Application that set out the current connection schedule and the final Listed Community – Keewaywin First Nation – is forecast to be connected in August 2024. As a result, the exemptions under Sections 2(a), 2(b) and 3 of Schedule 2 of WPLP's Transmission Licence are no longer aligned with the construction period as originally anticipated. WPLP therefore requested the following changes to maintain the intended effect of those exemptions (i.e., align with the construction period):

- a) The exemptions in Section 2(a) of Schedule 2 of its Transmission Licence be extended from December 31, 2023 to December 31, 2024;
- b) The effective date for the Transmission Connection Procedures (referred to in Section 2(b) of Schedule 2 of its Transmission Licence) be extended to the later of September 1, 2024 and the date all facilities are placed into service; and
- c) The exemptions in Section 3 of Schedule 2 of its Transmission Licence be extended so that WPLP would not be required to comply with the relevant RRRs for the 2019 to 2024 reporting periods and would therefore commence reporting in 2026 in respect of the 2025 reporting period.

Findings

The OEB accepts WPLP's submission that construction delays were due to factors that were beyond WPLP's control (including, among others, the COVID-19 pandemic and forest fires). The OEB therefore approves the following extensions to ensure the exemptions and effective dates align with WPLP's revised construction schedule, for the reasons it approved these exemptions in its earlier Decision and Order.

- For the Remote Connection Line, a one-year extension from December 31, 2023 to December 31, 2024 of the exemptions from all sections of the TSC related to connection procedures, and customer capital contributions for connection facilities and cost responsibility in relation to connecting the Listed Communities – in Section 2(a) of Schedule 2 of WPLP's licence.
- An extension of the effective date for WPLP's Transmission Connection Procedures to the later of September 1, 2024 and the date all facilities are placed into service (from the date on which all of the facilities are placed in service, or January 1, 2024, whichever is earlier) – in Section 2(b) of Schedule 2 of WPLP's licence.

- A one-year extension of the exemption from sections 3.1.1 through 3.1.4 of the RRR reporting requirements which will result in the commencement of reporting in 2026, rather than 2025 – in Section 3 of Schedule 2 of WPLP's licence.

C. Approval of Transmission Connection Procedures and Treatment of Available Capacity

Under sections 6.1.3 to 6.1.6 of the TSC, WPLP is required to file Connection Procedures with the OEB for processing requests to connect to its transmission system or to modify connections to its transmission system. WPLP's licence required WPLP to file its Connection Procedures for the OEB's approval by December 31, 2022.

WPLP filed its Connection Procedures (in Appendix D of the Application) and requested that the OEB approve them.

Under section 6.2 of the TSC, WPLP is required to establish an available capacity procedure as part of its Connection Procedures, and to meet the requirements set out in that section of the TSC in relation to assigning available capacity to load customers.

WPLP proposed in its Connection Procedures that assigning available capacity to HORCI for connecting First Nations should be prioritized over other load customer connections and that available capacity should be assigned to HORCI based on load forecasts as opposed to historical demand. WPLP submitted that this is required "to ensure it is able to meet its requirement to provide reliable power, with the capacity available, to meet the needs of the connecting First Nations".

OEB staff asked WPLP to elaborate on the reasons for their proposals for assigning capacity. WPLP submitted that its proposed approach would ensure the capacity on the system required to meet the current and forecast needs of the Listed Communities is not eroded by other load customers that seek to connect to its system. WPLP also explained that historical demand would not be an appropriate indicator of available capacity given that, during the historical period, the First Nation remote communities were not connected to the grid and generation capacity within each community was severely constrained.

WPLP requested that its Transmission Licence be amended to provide a permanent exemption from section 6.2 of the TSC to allow WPLP to: (a) assign available capacity to HORCI in relation to connecting First Nations on a priority basis over other load customer connections; and (b) assign available capacity to HORCI based on load forecasts rather than historical demand.

Findings

The OEB approves the exemption from section 6.2 of the TSC to allow WPLP to: (a) connect the Listed Communities on a priority basis over other load customers that want to connect to WPLP's transmission system; and (b) assign available capacity to HORCI based on load forecasts, rather than historical demand.

With regard to item (a), the OEB notes that section 26(1) of the *Electricity Act, 1998* provides that "A transmitter or distributor shall provide generators, retailers, market participants and consumers with non-discriminatory access to its transmission or distribution systems in Ontario in accordance with its licence." However, a July 20, 2016 Order in Council identified the transmission line to connect the Listed Communities as a priority project under section 96.1 of the Act, and stated the following:

"Ontario has determined the benefit of expanding Ontario's transmission system in order to connect the sixteen remote First Nation communities in Appendix A to the provincial electricity grid (the "Remotes Connection Project"); and the Line to Pickle Lake"

The Order in Council identified WPLP as the party to undertake the development of the Remotes Connection Project and the Line to Pickle Lake.⁶ It is clear from these legislative actions that the connection of the 16 Listed Communities is a priority. WPLP also entered into a Memorandum of Understanding with the governments of Canada and Ontario related to federal funding for the specific purpose of connecting the Listed Communities.⁷ Accordingly, the OEB considers it appropriate to treat the connection of the Listed Communities as a priority in the context of section 6.2 of the TSC, through an appropriate licence condition. However, the OEB believes it may not be necessary or appropriate to maintain this exemption indefinitely, once the Listed Communities are connected. The OEB will therefore require WPLP to notify the OEB when the last of the Listed Communities has been connected through HORCI, and the OEB may review the exemption set out in Paragraph 5(a) of the WPLP Electricity Transmission Licence at that time.

In regard to item (b), the OEB agrees that HORCI's historical demand would not necessarily be representative of future demand. Neither the Listed Communities nor HORCI has ever been connected to the system which is balanced by the IESO to ensure supply meets changes in demand, and the electricity available to the Listed

⁶ See Exhibit B, Tab 4, Schedule 1, Appendix B to WPLP's application for leave to construct, EB-2018-0190.

⁷ EB-2018-0190, Decision and Order, April 1, 2019, p.8.

Communities has in the past been constrained. It is therefore more appropriate to use load forecasts in this case.

In summary, the OEB approves WPLP's request to use a modified TCA in relation to HORCI's connection of the Listed Communities that includes the requested modifications to Section 3, Schedule B and Schedule J, on a final basis. The OEB also approves the licence amendments requested by WPLP to extend certain TSC exemptions and effective dates related to its Transmission Connection Procedures and its RRR obligations, and provide an exemption from section 6.2 of the TSC (i.e., available capacity rules) in relation to the connection of the Listed Communities by HORCI. The OEB further approves the Transmission Connection Procedures as filed by WPLP.

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 replacing Paragraph 2(a) with the following to extend the expiration date:
 - a) The exemptions expire on the date on which all of the facilities listed in Schedule 1 are placed in service, or December 31, 2024, whichever is earlier;*
2. Schedule 2 of the Electricity Transmission Licence of Wataynikaneyap Power GP Inc. (on behalf of Wataynikaneyap LP) is hereby amended by replacing Paragraph 2(b) with the following to extend the effective date:
 - b) The Customer Connection Procedures approved by the OEB on March 27, 2023 shall be effective on the later of September 1, 2024 and the date on which all of the facilities listed in Schedule 1 are placed in service;*
3. Schedule 2 of the Electricity Transmission Licence of Wataynikaneyap Power GP Inc. (on behalf of Wataynikaneyap LP) is hereby amended by replacing Paragraph 3 with the following to extend the exemption period:
 - 3) The Licensee is exempt from Sections 3.1.1 through 3.1.4, inclusive, of the Electricity Reporting and Record Keeping Requirements. This exemption applies in respect of the 2019 to 2024 reporting periods. The Licensee shall commence reporting under Sections 3.1.1 through 3.1.4 of the Electricity Reporting and Record Keeping Requirements in 2026 in respect of the 2025 reporting period.*

4. Schedule 2 of the Electricity Transmission Licence of Wataynikaneyap Power GP Inc. (on behalf of Wataynikaneyap LP) is hereby amended by replacing Paragraph 4 with the following:

4. The Licensee may, for the purpose of entering a connection agreement with Hydro One Remote Communities Inc. for the purpose of connecting the First Nations communities listed in Schedule 1, 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 a final basis in the Decision and Order of the Board dated April 6, 2023 (EB-2022-0330).

5. 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 4:

5) The Licensee is exempt from section 6.2 of the Transmission System Code, but only to the extent required to:

a) assign available capacity to Hydro One Remote Communities Inc. in respect of connecting the First Nations communities listed in Schedule 1 on a priority basis over other load customer connections. The Licensee shall notify the OEB when the last of the First Nations communities listed in Schedule 1 has been connected through Hydro One Remote Communities Inc., so that the OEB may consider whether the exemption set out in this Paragraph 5(a) should remain in place at that time; and

b) assign available capacity to Hydro One Remote Communities Inc. in respect of connecting First Nations communities based on load forecasts rather than historical demand.

The amended Transmission Licence is attached to this Decision and Order.

DATED at Toronto April 6, 2023

ONTARIO ENERGY BOARD

Brian Hewson
Vice President
Consumer Protection and Industry Performance