



Hydro One Networks Inc.

**Application for leave to construct a new electricity
transmission line between Lakeland Transmission
Station to Mackenzie Transmission Station and
Mackenzie Transmission Station to Dryden
Transmission Station**

**PROCEDURAL ORDER NO. 1
November 10, 2023**

Hydro One Networks Inc. (Hydro One) applied to the Ontario Energy Board (OEB) on July 31, 2023, under sections 92 and 97 of the *Ontario Energy Board Act, 1998*, for an order granting leave to construct approximately 360 kilometres of electricity transmission line and associated facilities in the regions of Thunder Bay, Rainy River and Kenora, Ontario (Project). The proposed electricity transmission line would extend between the Lakehead Transformer Station and the Mackenzie Transformer Station, and between the Mackenzie Transformer Station and the Dryden Transformer Station. Hydro One states that the Project is required to increase long-term transmission capacity in northwest Ontario.

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.

On August 24, 2023, the OEB issued its Notice of Hearing (Notice). On August 25, 2023 Hydro One requested an extension of time to complete service of notices, which the OEB granted. The OEB issued an updated Notice of Hearing on August 30, 2023. On October 3, 2023, Hydro One requested a further extension of time due to an administrative error because of which it had not been able to complete service of the Notice on some land interest holders that may be impacted by the application. The OEB approved the extension request and issued an updated Notice on October 5, 2023. As a result of the extension requests the OEB's planned timeline for adjudicating this application is extended by 44 calendar days.

The following persons and groups applied for intervenor status:

- Gwayakocchigewin Limited Partnership (GLP)
- Independent Energy System Operator (IESO)
- Kurt Krause

- Lac des Mille Lacs First Nation (LDMLFN)
- Larry Richard
- Neighbours on the Line (NOTL)
- Northwestern Ontario Metis Community and Region 2 of the Metis Nation of Ontario (MNO)
- Ontario Power Generation Inc. (OPG)

GLP, Kurt Krause, LDMLFN, Larry Richard, NOTL, and MNO also applied for cost eligibility.

No objection to the requests for intervention or cost eligibility was received from Hydro One. GLP, IESO, Kurt Krause, LDMLFN, Larry Richard, NOTL, MNO and OPG are approved as intervenors in this proceeding.

Gwayakocchigewin Limited Partnership (GLP), Lac des Mille Lacs First Nation (LDMLFN), Northwestern Ontario Metis Community and Region 2 of the Metis Nation of Ontario (MNO)

GLP

In its intervention request, GLP stated that it is a limited partnership made up of eight First Nations partners representing over 10,000 First Nation members. GLP stated that it is materially impacted by the proceeding because its partner First Nations have land rights and interests potentially impacted by the development, construction, operation, and decommissioning of the Project. GLP stated that, while its partner First Nations do not own or have controlling interest in the applicant (Hydro One), GLP has the option to participate in the ownership of the Project's assets after construction is complete.

LDMLFN

In its intervention request, LDMLFN stated that it is an independent and self-governing First Nation whose traditional territory extends throughout Northwestern Ontario. LDMLFN stated that it is the most proximate and affected community as a substantial portion of the Project goes through their lands and two reserve land locations are proximate within the Project's corridor. LDMLFN stated that the Project has the potential to impact LDMLFN's rights, interests, lands, claims and practices throughout the traditional territory.

The intervention request also states that LDMLFN has the option to acquire equity in the Project once construction is completed.

MNO

In its intervention request, the Northwestern Ontario Metis Community (NWOMC) and Region 2 of the Metis Nation of Ontario (Region 2), acting under the Métis Nation of Ontario (MNO)¹ stated that they will be materially impacted by the proceeding. MNO is specifically interested in the Project costs as they relate to construction, route alternatives and with respect to the participation of Indigenous groups in the Project and how that aligns with provincial policy and priorities.

GLP, LDMLFN and MNO are approved as intervenors and are eligible for costs in respect of matters that are within the scope of this proceeding.

Larry Richard, Kurt Krause, Neighbours on the Line (NOTL)Larry Richard

In his intervention request, Larry Richard stated that he is representing cottage owner families along Three Mile Bay on Lake Shebandowan and noted various concerns with the Project including:

- deforestation of 200km of land between Thunder Bay and Atikokan
- negative effect on visual aesthetics and noise from the operation of the transmission line
- decreased property values
- impacts on wetlands and wildlife

Kurt Krause

In his intervention request, Kurt Krause stated that he is a property owner directly impacted by the Project. In addition to the impacts on his property, Kurt Krause expressed other concerns including the impact of the Project on his “business and wildlife in the region” and the “substantial increase in ratepayer levies caused by (the Project)”.

Larry Richard and Kurt Krause are approved as intervenors and are each eligible for costs in accordance with the Practice Direction in respect of matters that are within the scope of this proceeding.

¹ The Metis Nation of Ontario (MNO) comprises of many different Metis communities in Ontario with 31 Chartered Metis Community Councils and over 30,000 Metis citizens. In this proceeding, MNO is specifically representing the Northwestern Ontario Metis Community and Region 2 of the Metis Nation of Ontario.

Neighbours on the Line (NOTL)

In its intervention request, NOTL stated that it is a group of “affected residents from the Townships of Gorham, Ware, Dawson Road Lots, Forbes and Goldie”. NOTL stated that its objectives are to “represent affected landowners and communities” and “protect the environment”.

The intervention request states that the issues that NOTL wishes to address in this proceeding are concerns that the Project will: “destroy personal property and the environment”; “create liability issues”; and “cause grid insecurity from potential hazards such as weather”. The intervention request indicates that NOTL’s policy interest is “choosing alternative routes” for the Project which would “reduce construction costs by 20 percent”.

NOTL is approved as an intervenor and is eligible for cost awards in respect of matters that are within the scope of the proceeding.

At this time, the OEB does not grant cost eligibility to NOTL in respect of representing the interests of landowners who are not directly affected landowners. Except in exceptional circumstances, the OEB does not grant cost eligibility to individual landowners unless the facilities that are the subject of the application are on their property or the utility requires access to their property.²

NOTL’s intervention request does not provide any further information as to the make-up of the group such as the number of directly affected landowners that are part of the group or how the residents that are not directly affected landowners are affected. The OEB will allow NOTL an opportunity to provide additional information within the scope of the issues in the proceeding on how their members are affected by the Project, or to identify any special circumstances that they wish the OEB to consider in relation to cost award eligibility in respect of representing the interests of members (other than directly affected landowners). Any such submissions must be filed by November 17, 2023.

Considerations in Awarding Costs

Parties should focus their participation on issues that are within the scope of the OEB’s review and should coordinate their participation to avoid duplication.

Individuals that represent their own interests should carefully review the OEB’s [Practice Direction on Cost Awards](#) for information about the types of costs and disbursements that an individual may claim. For example, while wage or salary losses incurred as a

² EB-2012-0451 (Enbridge Gas GTA Expansion, Procedural Order No.1 and Cost Eligibility Decision, April 17, 2013; EB-2022-0140 (Hydro One Chatham / Lakeshore), Procedural Order No.1, July 13, 2022

result of participating in an OEB hearing may be claimed, fees are not generally permitted to be claimed by individuals under the OEB's Cost Award Tariff.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of a hearing.

Issues and Interrogatories

The OEB has established a [standard issues list](#) for electricity transmission Leave to Construct applications. The types of issues that the OEB will consider in this hearing are listed in Schedule B to this Procedural Order.

The standard issues list reflects the OEB's authority under section 96(2) of the Act and is intended to ensure that the OEB's review is focused and aligned with its mandate. Section 96(2) of the Act states that, in determining whether an electricity transmission project is in the public interest, the OEB can only consider the interests of consumers with respect to prices, and the reliability and quality of electricity service.

As indicated in the OEB Filing Requirements³, the OEB's consideration of environmental matters and Indigenous consultation matters are limited by section 96(2) of the Act and these matters can only be considered to the extent they are relevant to the issues of price, reliability and quality of electricity service.

The Project is subject to an Environmental Assessment conducted by the Ministry of the Environment, Conservation and Parks, and the duty to consult for the Project is led by the Ontario government as part of the Environmental Assessment process. Issues related to the Environmental Assessment process are not reviewed by the OEB except to the extent that they are relevant to the OEB's consideration of price, reliability and quality of service. As indicated in the OEB Filing Requirements⁴, it is a standard condition of any approval granted under section 92 of the OEB Act that the applicant obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the project.

In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues that are within scope and material and avoid duplication with other parties.

³ [Chapter 4 Filing Requirements for Electricity Transmission Applications](#), Section 96: Scope of OEB Consideration of Public Interest" under section 92, pages 12-13, March 16, 2023

⁴ [Chapter 4 Filing Requirements for Electricity Transmission Applications](#), 4.2.2 Related Approvals, pages 11-12, March 16, 2023

At this time provision is being made for written interrogatories. Parties should not engage in detailed exploration of items that are outside the scope of this proceeding, as reflected in the issues list, and those that do not appear to be material. Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

Other Intervenor Requests

None of the intervenors requested that the OEB hold an oral hearing. Larry Richard, Kurt Krause and MNO indicated that they wish to submit evidence. The OEB will make its determination on these matters at a later date.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

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, by written interrogatories filed with the OEB and served on all parties by **November 28, 2023**.
2. Hydro One shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by **December 12, 2023**.

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-2023-0198** 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 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, Vithooshan Ganesanathan at Vithooshan.Ganesanathan@oeb.ca and OEB Counsel, Ljuba Djurdjevic at Ljuba.Djurdjevic@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, November 10, 2023

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar

Schedule A
Hydro One Networks Inc.
EB-2023-0198
Applicant and List of Intervenors

Hydro One Networks Inc.
EB-2023-0198

APPLICANT & LIST OF INTERVENORS

November 10, 2023

APPLICANT

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APPLICANT & LIST OF INTERVENORS

November 10, 2023

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Schedule B
Hydro One Networks Inc.
EB-2023-0198
Standard Issues List

Section 92 Leave to Construct Issues List

1.0: Prices: Need for the Project

- 1.1:** Has the applicant demonstrated that the project is needed or would be beneficial in the case of discretionary projects? What factor(s) are driving the need – e.g. new customer demand, increased system capacity requirement, reliability, sustainment, system resilience, etc.?
- 1.2:** Is the project consistent with any relevant power system plan (e.g., regional plan)?

2.0: Prices: Project Alternatives

- 2.1:** Has the applicant demonstrated that the proposed project is the preferred option to address the need, as opposed to implementing a different transmission solution, a distribution solution, a non-wires solution, or some other solution?

3.0: Prices: Project Cost

- 3.1:** Has the applicant provided sufficient information to demonstrate that the estimates of the project cost are reasonable? Are comparable projects selected by the applicant (as required by the filing requirements) sufficient and appropriate proxies for the proposed project?
- 3.2:** Has the applicant adequately identified and described any risks associated with the proposed project? Is the proposed contingency budget appropriate and consistent with these identified risks?
- 3.3:** If the applicant has requested that deferral accounts be established, has the applicant adequately demonstrated that the eligibility criteria of Causation, Materiality, and Prudence have been met?

4.0: Prices: Customer Impacts

- 4.1:** Has the applicant correctly determined the need for and the amount of any capital contributions that are required for the project?
- 4.2:** Are the projected transmission rate impacts that will result from the project reasonable given the need(s) it satisfies and the benefit(s) it provides?

5.0: Reliability and Quality of Electricity Service

- 5.1:** Has the applicant established that the project will maintain or improve reliability?
- 5.2:** Has the applicant provided a final System Impact Assessment (SIA)? Does the final SIA conclude that the project will not have a material adverse impact on the reliability of the integrated power system?

5.3: Has the applicant provided a final Customer Impact Assessment (CIA)?
Does the final CIA conclude that the project will not have an adverse impact on customers, with respect to reliability and quality of electricity service?

6.0: Route Map and Form of Landowner Agreements

6.1: Are any proposed forms of landowner agreements under section 97 of the OEB Act appropriate and consistent with OEB requirements?

6.2: Does the route map provided pursuant to section 94 of the OEB Act show the general location of the proposed project and the municipalities, highways, railways, utility lines and navigable waters through, under, over, upon or across which the proposed project is to pass.

7.0: Conditions of Approval

7.1: The OEB's standard conditions of approval are attached as Schedule 1. If the OEB approves the proposed project, what additional or revised conditions, if any, are appropriate?