



September 27, 2024

VIA EMAIL: registrar@oeb.ca

OEB Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

jbarretto@cassels.com
tel: +1 403 351 3825
fax: 1 403 648 1151

Dear: OEB Registrar

Re: Transmission Infrastructure Partnerships 1 Limited (“TIP-1”) application for an Electricity Transmission Licence – EB 2023-0084 (“TIP-1 Licence”)

On behalf of our client, TIP-1, we write this letter to withdraw the letter submitted to the Ontario Energy Board (“OEB”) on August 23, 2024 (the “**August Letter**”) for the additional details regarding the application for the Electricity Transmission Licence and submit this letter in place of the August Letter in response to the OEB’s request¹ for additional details regarding TIP-1’s proposed transmission facility projects near Timmins, in Northeastern Ontario, referred to as “Project 1” and “Project 2” (collectively, the “**Projects**”). Specifically, TIP-1 requests (i) for the Licence to take effect on the Project 1’s in-service date (“**ISD**”) or, alternatively, for TIP-1 to be exempt from the TIP-1 Licence requirements until Project 1’s ISD; and (ii) for an exemption from certain provisions under the *Transmission System Code*² (“**TSC**”) and the *Ontario Energy Board Act*³ (“**OEB Act**”). Additional details are provided below.

I. Background

TIP-1 has entered into an agreement with Canada Nickel Company (“**CNC**”) to develop a transmission line to connect CNC’s new mine, the Crawford Nickel Mine (“**Crawford Mine**”), to Ontario’s electricity system. The Crawford Mine is currently in the permitting stage and is expected to commence operations in 2027.

On April 20, 2023, the OEB issued a decision and order under EB 2023-0084, granting TIP-1’s application for an Electricity Transmitter Licence (“**TIP-1 Licence**”). In the decision, the OEB reserved issuing the TIP-1 Licence until TIP-1 had obtained leave to construct Project 1 from the OEB, at which time TIP-1 would have filed with the OEB a complete description of the facilities to be included in schedule 1 of the TIP-1 Licence.

¹ The Ontario Energy Board [OEB] made this request in an email to TIP-1 dated May 2, 2024.

² Ontario Energy Board’s *Transmission System Code*, last revised on August 2, 2023 (originally issued on July 14, 2000) [TSC].

³ *Ontario Energy Board Act*, 1998, SO 1998, c 15, Sch B.

Upon TIP-1's further engagement with the OEB, the OEB confirmed TIP-1's understanding that TIP-1 was not required to seek leave under section 92(1) of the *OEB Act* for Project 1 because it qualified for the exemption contemplated in section 6.2(1)(e) of the *Definitions and Exemptions*⁴ regulation, enacted under the *OEB Act*. To issue the TIP-1 Licence however, the OEB requested TIP-1 to file further details regarding the Projects, which would be included in schedule 1 of the TIP-1 Licence.

II. Project 1

Project 1, as constructed, will meet the Crawford Mine's initial electric load requirements, estimated at 150 MW. This facility will be owned, maintained, and operated by TIP-1. TIP-1 will recover its costs pursuant to a negotiated Transmission Service Agreement ("**TSA**") with CNC.

a. Project 1 Details

Project 1 consists of an approximately 42 km of 230 kV guyed steel tower transmission line, connecting a proposed new switching station at the Crawford Mine to Hydro One Network Inc.'s ("**Hydro One**") Porcupine Substation. TIP-1 has already initiated project development activities for Project 1, including conducting environmental assessments, consulting with affected First Nation Communities, conducting preliminary engineering, and entering into agreements with affected stakeholders, including Hydro One. TIP-1 anticipates construction of Project 1 will begin in 2025 with an ISD currently scheduled for July 1, 2027.

TIP-1 does not currently own or operate transmission assets in Ontario, and only requires the TIP-1 Licence once Project 1 becomes operational; therefore, TIP-1 requests the OEB to order the TIP-1 Licence to only take effect on the ISD of Project 1, or on such other date that is closer to Project 1's ISD as may be determined by the OEB. Alternatively, TIP-1 requests an exemption from its obligations under the TIP-1 Licence until such time as Project 1 is operational.

b. Project 1 Exemptions

Pursuant to discussions between TIP-1 and the OEB staff, TIP-1 believes that it should be exempt from certain provisions under the TSC and the *OEB Act*. TIP-1 submits that because TIP-1 and CNC's relationship is governed by the TSA and because the Project 1 costs will initially be recovered from CNC only, TIP-1 should be exempt from the following provisions:

1) Sections 6.3., 6.5.2, and 6.5.3 of the TSC⁵

Project 1 is proposed to, initially, be a merchant facility, to be constructed, owned, maintained, and operated by TIP-1, as opposed to the typical scenario where the load customer or Hydro One constructs, owns, maintains and operates the facility. The Project 1 costs will initially be recovered from CNC through the TSA with no charges flowing to any other Ontario customer. Under the TSA, TIP-1 will not seek an initial capital

⁴ *Definitions and Exemptions*, O Reg 161/99.

⁵ TSC, section 6.3.1.

contribution from CNC, making it unnecessary for Project 1 to be compliant with these provisions.

2) OEB's approval of TSA rates – section 78(3) of the *OEB Act*⁶

The OEB may, through the delegation of its powers to an employee, amend a licence in the public interest, pursuant to section 6(6) and section 74(1)(b) of the *OEB Act*. As such, TIP-1 respectfully requests that it be exempt from section 78(3) of the *OEB Act*, namely, that the OEB make an order to fix a reasonable rate for the transmitting of electricity in this instance.

The TSA is currently being negotiated at arms length between TIP-1 and CNC. The TSA pricing structure is modelled after the OEB rate formula but is drafted to account for the higher level of risk that TIP-1 is assuming. Existing transmission customers will not bear any of Project 1 costs initially. As explained herein, if the OEB accepts the Net Present Value (calculated at the relevant time) of these facilities to be collected through the IESO tariff, it will be through a rate filing made by TIP-1 and subject to OEB approval.

III. Project 2

CNC plans to expand the Crawford Mine in 2032, with a corresponding increase in its electric load requirement to approximately 225 MW.

Pursuant to section 7.1 of the Independent Electricity System Operator's ("**IESO**") *Ontario Resource and Transmission Assessment Criteria* ("**Transmission Assessment Criteria**"),⁷ not more than 150 MW of load may be interrupted by configuration and by planned load curtailment or load rejection; therefore, once the load surpasses 150 MW, TIP-1 would be required to build a second transmission line, i.e. Project 2, to supply the Crawford Mine's electricity needs and remain compliant with section 7.1 of the *Transmission Assessment Criteria*. Project 2 will be owned, maintained, and operated by TIP-1. TIP-1 requested the IESO to perform and complete a Transmission Feasibility Study ("**TFS**") for possible 230kV connections at Pinard Substation or Hunta Substation. The TFS demonstrated that the better location for this connection is Pinard as such location would provide system benefits beyond simply meeting the section 7.1 requirement under the *Transmission Assessment Criteria*.

a. Project 2 Details

Project 2 is anticipated to consist of a 120 km, 230 kV transmission line connecting the proposed new switching station at the Crawford Mine to Hydro One's Pinard Substation near Fraserdale, Ontario. TIP-1 has submitted a System Impact Assessment to the IESO for Project 2 on June 24, 2024. Construction for Project 2 is planned to begin in 2028 with an ISD scheduled for July 1, 2031.

⁶ TSC, Appendix 5.

⁷ *Ontario Resources and Transmission Assessment Criteria*, Issue 5.0, effective date August 22, 2007.

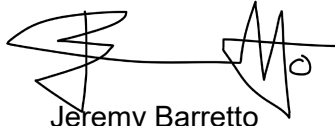
IV. Requests

Based on the above, TIP-1 respectfully requests:

- (i) An order from the OEB reserving the issuance of the TIP-1 Licence to the ISD of Project 1 or, alternatively, to exempt TIP-1 from its obligations under the TIP-1 Licence until such time as Project 1 becomes operational; and
- (ii) An order from the OEB exempting TIP-1 from sections 6.3., 6.5.2, and 6.5.3 of the TSC and, as pursuant to sections 6(6) and 74(1)(b) of the *OEB Act*, an exemption from section 78(3) of the *OEB Act*.

Yours truly,

Cassels Brock & Blackwell LLP



Jeremy Barretto
Partner