



PUC (Transmission) LP and Hydro One Sault Ste. Marie

Application for leave to construct transmission lines and station facilities and associated approvals in the City of Sault Ste. Marie.

**PROCEDURAL ORDER NO. 1
March 28, 2024**

PUC (Transmission) LP (PUC Transmission) and Hydro One Sault Ste. Marie (HOSSM) applied to the Ontario Energy Board (OEB) on January 2, 2024, under sections 74, 78, 92 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) for various approvals to build high-voltage transmission facilities in Sault Ste. Marie. The application seeks:

- Permission for PUC Transmission to construct a new 230 kilovolt transformer station in Sault Ste. Marie.
- Permission for PUC Transmission to construct 10 kilometres of 230 kilovolt transmission lines from the Third Line Transformer Station, owned by HOSSM, and ending at the proposed Tagona West Transformer Station, owned by PUC Transmission.
- Approval of the forms of agreement that PUC Transmission will offer affected landowners.
- Permission for HOSSM to construct station facilities and related work at Third Line Transformer Station.
- Approval of a new regulatory deferral account for use by HOSSM to capture costs related to station work that will facilitate the connection of a future priority transmission line in the region.
- An exemption for HOSSM from the Transmission System Code related requirement to require Algoma Steel Inc. to pay bypass compensation.

A Notice of Hearing (Notice) was issued on January 31, 2024. The OEB directed PUC Transmission and HOSSM to serve the Notice on several entities, including property owners and encumbrancers with lands or interest in the lands directly affected by the

proposed construction of the transmission line and station facilities (Landowners or Encumbrancers). The Notice stated that the deadline for intervention requests was February 19, 2024.

PUC Transmission and HOSSM each filed an affidavit of service on February 12, 2024. The affidavit filed by PUC Transmission did not provide evidence to demonstrate that Notice had been served on any Landowners or Encumbrancers in accordance with the OEB's direction.

PUC Transmission filed an updated affidavit of service on March 4, 2024. In the updated affidavit of service, PUC Transmission advised that all but eight of the Landowners and Encumbrancers had been served the original Notice in accordance with the OEB's direction. The updated affidavit of service also showed that PUC Transmission had again attempted to serve the eight Landowners and Encumbrancers that had not initially received the Notice, but the updated affidavit of service did not confirm that they had received the Notice. Moreover, those eight Landowners or Encumbrancers would have received the Notice after the February 19, 2024, deadline for filing intervention requests.

OEB staff has now confirmed that Notice was delivered to the eight Landowners and Encumbrancers and OEB staff informed them that the OEB would permit any Landowners or Encumbrancers that received the Notice after February 19, 2024, to file an intervention request by **March 28, 2024**. No intervention requests have been filed.

Batchewana First Nation (BFN) and Essar Power Canada Limited (EPC) applied for intervenor status by February 19, 2024. BFN also applied for cost eligibility. No objection was received from PUC or HOSSM. BFN and EPC are approved as intervenors. BFN is eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#).

The current list of parties in this proceeding is attached as Schedule A to this Procedural Order.

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.

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.

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party unless a compelling reason is provided when cost claims are filed.

BFN's Long-term Energy Plans

In its intervention request, BFN stated that it intends to provide “submissions” respecting its long-term energy plans and will indicate how the PUC Tx Project and HOSSM Station Project will support these plans and the growth of the electricity sector within BFN's Original Reserve. BFN says its long-term energy plans are directly related to the reliability and quality of electricity service in Ontario.

It is unclear whether BFN is seeking OEB approval to file evidence in this proceeding. The OEB finds it necessary for BFN to provide a more detailed description of any evidence proposed to be filed on its long-term energy plans, including the nature of its proposed evidence, and how it is relevant to the issues list. If BFN plans to seek cost recovery for its evidence, it must describe the estimated cost and any assumptions regarding any impacts on procedural steps or incremental time that would be spent in relation to the evidence. This will enable the OEB to determine whether the proposed evidence is relevant and material to this proceeding.

Independent Electricity System Operator (IESO) Expedited System Impact Assessment Report

PUC Transmission filed copies of two IESO Expedited System Impact Assessment Reports (SIAR) as Appendix E to Exhibit C of the Application, and as Exhibit F to its Application. All but one Appendix to each of the SIARs filed on the public record are marked as confidential and are excluded from the application. No confidential unredacted versions of those appendices have been filed with the OEB, and PUC Transmission has not made a request for confidential treatment of that material, nor has it suggested that the material is not relevant to this proceeding. PUC Transmission is also silent on whether it is prepared to provide confidential, unredacted copies of the material to individuals who have executed the OEB's form of Declaration and Undertaking pursuant to its *Practice Direction on Confidential Filings*.

In its intervention request, BFN stated that it will request from the proponent an unredacted version of the SIAR at Exhibit F such that it can do a thorough review of the information being relied upon to make this decision. BFN stated that it is willing to enter into a confidentiality agreement with the proponent to protect information that it is unwilling to release into the public domain.

In a recent proceeding on an application for leave to construct a new electricity transmission line, the OEB found that certain appendices in a SIAR were not necessary for the OEB's determination of the issues in that proceeding and that the information would be treated as "confidential – not relevant".¹

The OEB finds it necessary for BFN to explain why it believes the information it has requested is relevant to this proceeding. This will enable the OEB to determine whether the information is relevant and material to this proceeding. The OEB will provide an opportunity for PUC Transmission to reply to BFN's response.

Issues and Interrogatories

The OEB has established a [standard issues list](#) for electricity transmission Leave to Construct applications (Standard Issues List). Given the approvals requested in the application, OEB staff will canvass parties for any issues that warrant addition to the Standard Issues List. If parties recommend and agree to revisions, OEB staff will file a revised draft issues list with the OEB. If there is no agreement on whether the Standard Issues List should be revised, OEB staff will advise the OEB in writing. The OEB will approve an issues list prior to the filing of interrogatories.

The Standard Issues List for electricity transmission Leave to Construct applications 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 Requirements², 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

¹ EB-2023-0198, Decisions on Confidentiality and Motion and Procedural Order No. 3, January 16, 2024

² [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

quality of service. As indicated in the OEB Filing Requirements³, 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.

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.

Hearing Type

There are three types of OEB hearings: oral, electronic, and written. The OEB will make its determination on the type of hearing 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. BFN shall clarify whether it intends to request any of those portions of the IESO's SIARs identified as confidential in the prefiled evidence and provide an explanation for why it believes that information is relevant to this proceeding by **April 5, 2024**. PUC Transmission may file a reply to BFN's response regarding the SIARs by **April 12, 2024**.
2. BFN shall file with the OEB a detailed description of any evidence it intends to file on its long-term energy plans by **April 5, 2024**.
3. Any party wishing to file a submission on the relevance of the evidence proposed by BFN shall file its written submission with the OEB by **April 12, 2024**.

³ [Chapter 4 Filing Requirements for Electricity Transmission Applications](#), 4.2.2 Related Approvals, pages 11-12, March 16, 2023

4. OEB staff shall file a proposed issues list, or, alternatively, shall advise the OEB in writing that the parties and OEB staff have been unable to reach an agreement on a draft issues list by **April 12, 2024**.
5. OEB staff and intervenors shall request any relevant information and documentation from PUC Transmission and HOSSM that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **May 2, 2024**.
6. PUC Transmission and HOSSM shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by **May 16, 2024**.

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-2023-0360** 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, Katherine Wang at katherine.wang@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, **March 28, 2024**

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar

SCHEDULE A

LIST OF APPLICANTS AND INTERVENORS

PUC (TRANSMISSION) LP AND HYDRO ONE SAULT STE. MARIE

PROCEDURAL ORDER NO. 1

EB-2023-0360

DATED: MARCH 28, 2024

PUC (Transmission) LP by its general partner PUC (Transmission) GP Inc.
EB-2023-0360

APPLICANT & LIST OF INTERVENORS

March 28, 2024

APPLICANT

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APPLICANT & LIST OF INTERVENORS

March 28, 2024

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