



Hydro One Networks Inc.

**Application for approval to expropriate certain lands in
northwestern Ontario**

PROCEDURAL ORDER NO. 1

January 29, 2025

On November 8, 2024, Hydro One Networks Inc. (Hydro One) applied to the Ontario Energy Board (OEB) under section 99 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (OEB Act), for an order granting approval to expropriate interests in certain lands in the Municipality of Shuniah and the Town of Atikokan that are needed to facilitate the first phase of an electricity transmission project (Project).

The Project consists of two phases. Phase 1 consists of constructing a new 230 kilovolt double-circuit transmission line between Lakehead Transformer Station and Mackenzie Transformer Station. Phase 2 consists of constructing a new 230 kilovolt single-circuit transmission line between Mackenzie Transformer Station and Dryden Transformer Station (Phase 2). The anticipated in-service date for Phase 1 is December 2025, while Phase 2 is expected to be in-service by December 2027.

Phase 1 of the Project will require Hydro One to acquire land rights from approximately 136 directly impacted property owners. Hydro One is not requesting permission to expropriate interests in lands related to Phase 2 of the Project at this time.

On December 5, 2024, Hydro One filed an updated application which removed any property for which it no longer requires expropriation relief due to the closing of a number of voluntary agreements since the original date of filing the application.

The OEB issued a Notice of Hearing on December 2, 2024.¹ In accordance with the OEB's Letter of Direction, Hydro One served the Notice on affected property owners, registered interest holders, or their legal representatives. In addition, the OEB sent letters on December 16, 2024, to the parties that participated in the leave to construct proceeding:²

- Gwayakocchigewin Limited Partnership

¹ EB-2024-0319 [Notice of Hearing](#)

² [EB-2023-0198](#), an application by Hydro One for leave to construct the Waasigan project

- Independent Energy System Operator
- Kurt Krause
- Lac des Mille Lacs First Nation
- Larry Richard
- Neighbours on the Line
- Northwestern Ontario Metis Community and Region 2 of the Metis Nation of Ontario (MNO)
- Ontario Power Generation Inc.

On January 9, 2025 Kurt Krause applied for intervention status and cost eligibility. No objection was received from Hydro One. No other party applied for intervention status.

Regulatory Framework

Under section 99 of the OEB Act, any person who has received leave to construct approval from the OEB may apply for expropriation where they have been unable to reach an agreement with an affected landowner and the OEB can authorize the expropriation of land if it is in the public interest.

On April 16, 2024, the OEB granted Hydro One leave to construct and operate the Project (Leave to Construct Decision).³

As part of the Leave to Construct Decision, the OEB approved the form of landowner agreements that Hydro One has offered or will offer to landowners affected by the routing and construction of the Project (collectively the Landowner Agreements).

The OEB does not, in the context of an expropriation application, determine the specific compensation, the principles that are applied to determine compensation, the process through which those principles were developed, the application of those principles in determining compensation, or the reasonableness of compensation offers.⁴

Section 100 of the OEB Act provides that, if the applicant and affected landowners cannot agree on compensation for expropriation, the compensation is determined by the Ontario Land Tribunal under the Expropriations Act.

Kurt Krause's Intervention Request

Kurt Krause was an approved intervenor in the leave to construct proceeding related to the Project. In his intervention request for that proceeding, he indicated that his property

³ [EB-2023-0198 Decision and Order](#) issued (April 16, 2024)

⁴ [OEB Filing Requirements for Electricity Transmission Applications, Chapter 4: Leave to Construct and Related Matters under Part VI of the Ontario Energy Board Act, updated March 16, 2023](#)

is directly affected by the Project. However, his intervention request in this expropriation proceeding does not indicate whether he is an affected property owner or whether his property is one of the parcels that Hydro One is seeking to expropriate for the Project.⁵

In his intervention request for the current proceeding, Kurt Krause identified the following three issues that, in his view, should be addressed and can be summarized as follows:

1. *Telecommunications Equipment Clause* in one of the Landowner Agreements (option to purchase agreement) approved in the Leave to Construct Decision should be revised, and any commitment by landowners to allow the installation of non-electrical transmission equipment must be removed or discussed.
2. *Archaeological Survey of 255 Hill Road* has not been conducted and no mitigation efforts or contingency plans have been communicated to stakeholders.
3. *Endangered Bat Population Survey* Hydro One has not addressed a biologist's report which has identified evidence of an endangered bat population near the proposed transmission line or proposed mitigation measures.

With respect to the first issue raised by Kurt Krause, the OEB notes that the forms of Landowner Agreements were approved in the Leave to Construct Decision. In the leave to construct proceeding, Hydro One confirmed that all impacted landowners will have the option to receive independent legal advice regarding the land agreements and that Hydro One would reimburse landowners for reasonably incurred legal fees associated with the review and completion of the necessary Landowner Agreements.⁶ It is unclear from his intervention request whether Kurt Krause is a directly affected landowner and, if so, whether he has signed an agreement with Hydro One or is in the process of negotiating an agreement. It is not clear to the OEB how this issue raised by Kurt Krause is within the scope of an expropriation proceeding, or whether it is a contractual matter between Hydro One and affected landowners and not a matter for the OEB to determine.

With respect to the second and third issues raised by Kurt Krause, the OEB notes that environmental assessments and approvals are under the authority of the Minister of Environment, Conservation and Parks (MECP) under the *Environmental Assessment*

⁵ [Kurt Krause intervention request in EB-2023-0198](#)

⁶ [EB-2023-0198 Decision and Order](#), page 25 and Interrogatory response to OEB Staff 15(a-b).

Act, R.S.O. 1990, c. E. 18 and should have been addressed as part of Hydro One's Environmental Assessment that was filed with the leave to construct application. The OEB notes that the Leave to Construct Decision included several standard conditions that Hydro One is required to comply with. To the extent that any environmental issues have not been addressed by Hydro One, they should be referred to the MECP.

In order to consider his intervention request in the current proceeding, the OEB requires Kurt Krause to provide the following information:

- a) Whether your property is one of the parcels that Hydro One is seeking to expropriate for the Project.
- b) If you answered yes to part a), please confirm whether you signed an agreement with Hydro One for the acquisition of your property. If you have not signed an agreement with Hydro One, please advise whether you are in negotiations with Hydro One regarding an agreement for the acquisition of your property.

With respect to the second and third issues raised by Kurt Krause, the OEB notes that environmental assessments and approvals are under the authority of the Minister of Environment, Conservation and Parks (MECP) under the *Environmental Assessment Act*, R.S.O. 1990, c. E. 18 and should have been addressed as part of Hydro One's Environmental Assessment that was filed with the leave to construct application. The OEB notes that the Leave to Construct Decision included several standard conditions that Hydro One is required to comply with, including obtaining all necessary approvals and permits required to construct, operate and maintain the Project. Hydro One should be working with MECP to obtain the necessary environmental approvals.

In his intervention request, Kurt Krause has not indicated whether there are environmental concerns related to his particular property.

Issues List

As part of its application, Hydro One included a proposed Issues List. OEB staff will develop a draft Issues List and canvas parties for any unique issues that warrant revisions to the draft 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 draft Issues List should be revised, OEB staff will advise the OEB in writing. If intervenors do not propose any amendments to the draft Issues List, OEB staff will notify the OEB of this fact. The OEB will approve an Issues List prior to the filing of interrogatories.

Interrogatories and Submissions

At this time, provision is being made for written interrogatories and submissions. Parties should not engage in detailed exploration of items that do not appear to be material. 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.

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.

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. Kurt Krause shall file a response to the information requested in this Procedural Order with the OEB by **February 5, 2025**.
2. 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 **February 14, 2025**.
3. 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, **February 24, 2025**.
4. Hydro One shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by, **March 10, 2025**.
5. Any written submissions from OEB staff and intervenors, shall be filed with the OEB and served on all parties by **March 24, 2025**.
6. Any written reply submissions from Hydro One shall be filed with the OEB and served on intervenors by **April 7, 2025**.

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-2024-0319** 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, Jeffrey Sauer at Jeffrey.Sauer@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, **January 29, 2025**

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar