



Hydro One Networks Inc.

**Application for approval to expropriate certain lands
near City of Port Colborne**

PROCEDURAL ORDER NO. 1

May 28, 2025

On December 16, 2024, Hydro One Networks Inc. applied to the Ontario Energy Board (OEB) under section 99 of the *Ontario Energy Board Act, 1998*, (OEB Act), for an order granting approval to expropriate interests in certain lands (the Subject Lands) near the City of Port Colborne. Hydro One stated that the expropriation is needed so that it may continue to operate and maintain existing transmission lines that are located on the Subject Lands (Existing Transmission Lines). The Existing Transmission Lines were placed in their current location in the 1960s and form part of the Independent Electricity System Operator controlled transmission grid.

In May 2015, Nyon Oil Inc. (Nyon) and 1170367 Ontario Inc. (117) (collectively Nyon and 117) completed the purchase of certain lands which include the Subject Lands. In September 2015, Nyon issued a letter to Hydro One in which it stated that Hydro One does not have the right to occupy the Subject Lands and served Hydro One with a Notice to Pay or Quit and a Notice to Remove.

On February 6, 2025, Hydro One filed an updated application which included additional documentation regarding its initial authorizations to construct and operate the Existing Transmission Lines.

The OEB issued a Notice of Hearing on April 9, 2025.¹ In accordance with the OEB's Letter of Direction, Hydro One served the Notice on the current registered property owners and encumbrancers with lands or interest in the lands directly affected by the proposed expropriation application.

On May 15, 2025, Nyon and 117 applied for intervention status and cost eligibility. No objection was received from Hydro One. No other party applied for intervention status.

¹ EB-2024-0142 [Notice of Hearing](#)

Regulatory Framework

Under section 99 of the OEB Act, a person may apply to the OEB for authority to expropriate land for a work where they have obtained leave to construct under Part VI of the OEB Act (Transmission and Distribution Lines), or a predecessor to Part VI.

If an order authorizing expropriation is granted by the OEB, the OEB does not determine the compensation owing to the expropriated party.² 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*.

Nyon's Intervention Request

In its intervention request, Nyon and 117 stated that it owns both the Subject Lands and the Existing Transmission Lines themselves. Nyon and 117 oppose the requested expropriation.

Nyon and 117 are approved as intervenors and are eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#). The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

In making its decision on cost awards, the OEB will consider whether Nyon and 117 made reasonable efforts to avoid duplication and to ensure that their participation in the hearing was focused on material issues.

Nyon and 117 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.

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.

Nyon Request for an Adjournment

On February 5, 2025, Nyon and 117 filed a letter with the OEB that, among other things, requested that the OEB "adjourn the Application *sine die*" until a related matter that is currently before the Superior Court of Justice is disposed of.³ The matter that is before the court relates to the ownership of the Existing Transmission Lines as between Nyon and 117 and Hydro One. Nyon and 117 submitted that an adjournment "will prevent

² [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](#)

³ Court File No. CV-22-00692208-0000

duplicate proceedings and an unnecessary second hearing before the OEB, which will be required if our clients are correct regarding their ownership of the transmission infrastructure.”

On February 12, 2025, Hydro One filed a letter with the OEB that, among other things, argued that there is no need for an adjournment. Hydro One submitted that, “even if a Court were to accept that it had jurisdiction to determine who owned portions of the Provincial Transmission Grid, Nyon’s claim for ownership of the Existing Transmission Lines is weak and unlikely to be successful. The likelihood of the need for a second hearing is low, and is not a reason to indefinitely adjourn the application.”

On February 13, 2025, Nyon and 117 filed a letter with the OEB in which it, among other things, submitted that, “[t]here is no clear jurisdiction for the OEB to determine the application of historical federal expropriation legislation and the conflicts of law resulting therefrom.”

The OEB will not adjourn the proceeding. As noted by Nyon and 117 in the intervention request, the court proceeding “has been stayed for one year to allow the matters before the OEB to proceed and to prevent duplicity of proceedings regarding the ongoing rent-owed issue.”

Nyon’s Request for an Oral Hearing

In its intervention request, Nyon and 117 made a request for an oral hearing. The OEB will make a determination on hearing type at a later date.

Nyon’s Request to File Evidence

In its intervention request, Nyon and 117 indicated that it will seek to file evidence related to:

- Historical evidence with regard to the initial expropriation of the subject lands and fixtures and subsequent transfers and sales
- The pleadings in the lawsuit referenced above

Nyon and 117 indicated that at a later date their counsel will provide the OEB with the expected cost of preparing the evidence.

As a party to the proceeding, Nyon and 117 are entitled to file evidence that is relevant.

Requirement for Notice of Constitutional Question

Nyon and 117 have asserted that they own the Existing Transmission Lines located on the Subject Lands as a result of a federal expropriation process carried out in 1965 under the *St. Lawrence Seaway Authority Act*, R.S.C. 1952, c. 242. Nyon and 117 also assert that to the extent that there is a conflict between that Act and Ontario's *Electricity Act*, 1998, and the OEB Act, the federal Act prevails. If Nyon and 117 intend to raise a question about the constitutional validity or applicability of legislation as part of their intervention in this proceeding, the OEB directs them to comply with Rule 36 of OEB Rules of Practice and Procedure no later than June 6, 2025.

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.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. In the event that Nyon and 117 are challenging the applicability of the Electricity Act, 1998 and the Ontario Energy Board Act, 1998, Nyon and 117 shall comply with Rule 36 of the OEB's Rules of Practice and Procedure by no later than **June 6, 2025**.
2. Nyon and 117 shall file any evidence they intend to submit by **June 6, 2025**.
3. OEB staff and Nyon and 117 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 **June 11, 2025**.
4. OEB staff and Hydro One shall request any relevant information and documentation from Nyon and 117 that is in addition to the evidence filed, by

written interrogatories filed with the OEB and served on all parties by **June 20, 2025**.

5. Hydro One shall file with the OEB complete written responses to all interrogatories and serve them on Nyon and 117 by **June 25, 2025**.
6. Nyon and 117 shall file with the OEB complete written responses to all interrogatories and serve them on Hydro One by **July 4, 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-2024-0142** 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, Muhammad Yunus at Muhammad.Yunus@oeb.ca and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca.

Email: registrar@oeb.ca

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

DATED at Toronto, **May 28, 2025**

ONTARIO ENERGY BOARD

By delegation, before: Ritchie Murray

Ritchie Murray
Acting Registrar

**Hydro One Networks Inc.
EB-2024-0142**

APPLICANT & LIST OF PARTICIPANTS, INTERVENORS

May 28, 2025

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May 28, 2025

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