

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Sched. B (the “Act”)

AND IN THE MATTER OF section 99 (1) of the Act

AND IN THE MATTER OF an Application by Hydro One Networks Inc. (the “**Applicant**”) for authority to expropriate land for the purpose of operating a 115 kilovolt transmission lines in Port Colborne, Ontario (EB-2024-0142).

WRITTEN INTERROGATORIES OF NYON OIL INC. and 1170367 ONTARIO INC.
(the “**Intervenors**”)

ONTARIO ENERGY BOARD FILE NO. EB-2024-0142

3-Nyon-1

Question(s):

- a. Identify Sir Adam Beck No. 1 Generating Station on a plan or survey.
- b. Identify Sir Adam Beck No. 2 Generating Station on a plan or survey.

4-Nyon-1

Preamble: The second sentence of paragraph 4 states: “This realignment required Hydro One to relocate portions of its transmission system to their current location on the expropriated lands because their original location was in the path that the realigned Canal would take.”

Question(s):

- a. Identify which Existing Transmission Lines were situated on lands expropriated by the St. Lawrence Seaway Authority in the 1960s.
- b. Identify which Existing Transmission Lines were constructed after the Seaway expropriation and provide evidence of same.
- c. Identify which Existing Transmission Lines were on the subject lands at the time of expropriation by the Seaway and continue on the lands today. And provide evidence of same.

5-Nyon-1

Question(s):

- a. Provide evidence of the listing of the licences granted to the Applicant being listed as a permitted encumbrance in both of the January and February 2006 agreements of purchase and sale between Canada Lands Corporation, as vendor and the City of Port Colborne, as purchaser.

11-Nyon-1

Preamble: The Applicant states that the components of the Existing Transmission Lines that were in place in the 1960s have long since been replaced through the Applicant's ongoing maintenance programs.

Question(s):

- a. Provide documents or other evidence authorizing the Applicant to replace the components of the Existing Transmission Lines.
- b. Provide evidence of the replacement of the components of the Existing Transmission Lines.

12-Nyon-1

Question(s):

- a. Provide evidence of the Seaway supposedly acknowledging that the Applicant owned the Existing Transmission Lines.

14-Nyon-1

Question(s):

- a. Provide any evidence that resolution is unlikely without OEB intervention and expropriation authorization.¹

25-Nyon-1

¹ In the Intervenor's initial letter to the Applicant regarding this matter on February 22, 2024, which is included at Appendix 4 of the Application, the Intervenor proposed an efficient dispute resolution process, which the Applicant ignored. The Applicant responded to the Intervenor's letter by specifically stating that they do not believe a dispute resolution process is necessary and their client will be bringing an application pursuant to s. 99 of the OEB Act to expropriate the lands. The statement at paragraph 37 regarding the Applicant attempting good faith negotiations and making settlement offers based on the Applicant's LACP is blatantly dishonest and not true.

Preamble: At paragraph 24 of the application, the Applicant states that s.24(2)(g) of the Power Commission Act, 1970 Chap 354, Sec.1 (J) gave the Lieutenant Governor in Council the power to authorize the Hydro-Electric Power Commission of Ontario to:

construct, maintain and operate, and acquire by purchase lease or otherwise, or without the consent of the owner thereof or of any person interested therein, enter upon, take possession of, expropriate and use all erections, machinery, plant and other works and appliances for the transmission, transformation, supply and distribution of power, and conduct, store, transmit, transform and supply power for the purposes of this Act, and with lines of wires, poles, conduits, pipes, motors, transformers or other conductors, equipment or devices, receive, conduct, convey, transmit, transform, distribute, supply or furnish such power to or from or for any person at any place, through, over, under, along, upon or across any land, public highway or public place, stream, water, watercourse, bridge, viaduct or railway, and through, over, upon or under the land of any person”.

At paragraph 25, the Applicant states that “all predecessor statutes had substantively similar language”.

Question(s):

- c. Provide a copy of all predecessor statutes with substantively similar language referenced at paragraph 25 with section references.

26-Nyon-1

Preamble: The Applicant states at paragraph 26 that the August 25, 1976 Order-in-Council, approved the transmission infrastructure at issue in this application. Schedule 1 (at Appendix 2C, page 4) to the Order-in-Council specifies that HONI was granted authority over the following areas:

1. In the City of Welland;

- a. Lot 18 and Gore Lot 18, Concession 7, in the Township of Crowland;
 - b. Lots 17 and 18, Concession 5 in the Township of Humberstone;
- 2. In the said City of Port Colborne;
 - a. Lots 17 and 18, Concession 5, in the Township of Humberstone.

Question(s):

- a. The hydro electric infrastructure and Existing Transmission Lines also run through Lots 23 and 24, Concession 4, and Lot 19, Concession 5. Please provide an Order-in-Council or any other evidence confirming that the Applicant was granted authority to construct on those lands.
- b. The Applicant suggests that the August 25, 1976 Order-in-Council referenced at paragraph 26 and Appendix 2C refers to the hydroelectric infrastructure that was constructed after the federal expropriation.² The Applicant argues that the August 25, 1976 Order-in-Council provides the Board the authority to grant the expropriation relief under s. 99(1)1 of the OEB Act. The hydroelectric infrastructure on Lot 24, Concession 4 pre-dates the federal expropriation of those lands (completed in the 1960s) and the August 25, 1976 Order-in-Council. There is also hydroelectric infrastructure on Concession 5 that was constructed prior to the August 25, 1976 Order-in-Council. From what document does the Applicant suggest that the Board has authority to grant relief in the form of expropriation of an easement, pursuant to s. 99 of the OEB Act over the Intervenors' lands on Concession 4 and the balance of the lands on Concession 5 for

² In its application, the Applicant refers to this Order-in-Council being dated as of April 23, 1976, but at Appendix 2C the Order-in-Council provided is dated August 25, 1976.

which there is hydroelectric infrastructure that was constructed prior to the August 25, 1976 Order-in-Council?³

- c. Please provide a document or other specific evidence authorizing the Applicant to construct hydroelectric infrastructure on the lands, prior to August 25, 1976.

30-Nyon-1

Preamble: In this application, the Applicant seeks a permanent easement over a portion of land that measures 15 meters in width, from either side of the C2P and A6C transmission lines. However, in prior correspondence in 2013 between the Applicant and the Intervenors' counsel, the Applicant sought an easement measuring 75 meters in width and claimed that such easement was required to ensure the continued operation of the transmission lines.

- a. The Applicant states that 15 meters from either side of the Existing Transmission Lines has been historically required. Why did the Applicant demand a 75 meter setback in 2013?
- b. How did the Applicant determine the width of the required easement for this expropriation application? If the Applicant relied on professional or technical reports or surveys, please provide copies of same.
- c. Why was the setback demanded in 2013 significantly wider than the easement being sought now?

³ For clarity, the Intervenors do not agree that the August 25, 1976 Order-in-Council is sufficient to grant the Applicant leave under s. 99 of the OEB Act.

- d. Elaborate on why this easement is required to ensure the continued operation of the Existing Transmission Lines.
- e. Provide evidence of typical easement interests obtained by Hydro One for similar transmission infrastructure.

31-Nyon-1

Question(s):

- a. Provide evidence of “Hydro One’s ongoing willingness to secure these rights voluntarily.”⁴

35-Nyon-1

Preamble: The Applicant states at paragraph 35 that the expropriation is required in order for it to “safely operate and maintain the Existing Transmission Lines and provide service to an estimated 37,000 customers served by these lines, which includes the entire City of Port Colborne.” It further states that the expropriation is required for the public interest, without further elaboration or explanation. There is no evidence in the Application to support these statements.

Question(s):

⁴ This, and other statements to this effect, are flagrantly dishonest statements made by the Applicant in its application. There have been no efforts to negotiate with the Intervenor. In fact, the Applicant has ignored offers by the Intervenor to engage in resolution discussions and moved straight to expropriation. For example, see pp. 23-24 of the Intervenor’s February 22, 2024 letter (Appendix 4 of the Application) and Hydro One’s April 8, 2024 response (included in the evidence filed by the Intervenor).

- a. Provide evidence of the estimated 37,000 customers served by these lines, which includes the entire City of Port Colborne.
- b. Provide evidence of why the expropriation is required to ensure the safe operation and maintenance of the Existing Transmission Lines. (A manufactured concern that the Intervenor is going to disconnect the lines prior to alternative transmission lines being constructed is not realistic. The Intervenor has owned the lands since 2015 and has not taken any such action. Remedies for the Applicant's trespass and use of the Intervenor's real and personal property lies with the Ontario Superior Court of Justice).
- c. The Existing Transmission Lines have been operating indefinitely since their installation and safety has never been at issue. In fact, 12 years ago, when the Intervenor alerted the Applicant to the issues at hand, the Applicant did nothing, and has done nothing until now. What has changed in the preceding 13 years to give rise to a safety issue?
- d. To the same end, in the INTRODUCTION at paragraph 1, the Applicant states: "... these circuits supply numerous industrial customer facilities as well as local distribution companies that supply residential and commercial customers in the area."
 - a. Provide evidence of industrial customer facilities and local distribution companies supplied by these circuits.
 - b. Provide evidence of commercial customers supplied in the area.
- e. Provide further details of the customer usage and power output of the Existing Transmission Lines.

37-Nyon-1

Question(s):

- a. Provide correspondence or any documentary evidence whatsoever of the attempted good faith negotiations with the Intervenors.
- b. Provide copies of the offers provided by the Applicant to the Intervenors in accordance with the Applicant's LACP.
- c. Provide a copy of the most recent LACP.

38-Nyon-1

Question(s):

- a. What ambiguities are in need of clarification between the Intervenors and the Applicant that will avoid or mitigate existing legal proceedings?

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