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June 20, 2025

Via Email and RESS

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

**Re: Hydro One Networks Inc. ("HONI")
Application for Expropriation Near City of Port Colborne
HONI Interrogatories
OEB File Number: EB-2024-0142**

In accordance with Procedural Order No. 1, please find attached HONI's interrogatories to Nyon Oil Inc. and 1170367 Ontario Inc. (together, "**Nyon**") in the above-noted proceeding.

Yours very truly,

A handwritten signature in black ink, appearing to read 'G. Nettleton', written over a horizontal line.

Gordon M. Nettleton
Partner | Associé

Enclosure

HONI Interrogatories

Nyon Oil Inc. and 1170367 Ontario Inc. (together, “Nyon”)

Ontario Energy Board File Number EB-2024-0142

HONI – 1

Reference 1: Document 6 of Nyon’s Evidence, at Preamble and sections 1.1, 2.4, 3.1, 4.1 and 5

Reference 2: Document 20 of Nyon’s Evidence

Preamble: The Preamble to the Master Agreement between the St. Lawrence Seaway Authority and Hydro-Electric Power Commission of Ontario dated October 6, 1969, reads in part:

AND WHEREAS the Authority is relocating its channel between Port Robinson and Port Colborne and has expropriate lands on which ***the Commission’s power lines and electricity supply facilities*** are presently operated and maintained;
[Emphasis added]

The Master Agreement goes on to read as follows:

1.1 The Commission shall as soon as practicable survey and estimate the cost of relocating ***its power lines and electricity supply facilities*** within the expropriated area and shall calculate as a percentage of such cost the value of any betterment resulting from such relocation and restoration.

...

2.4 The relocation and restoration of existing power lines or electricity supply facilities shall be entirely at the expense of the Authority. The Commission shall pay only for those betterments or improvements to ***its power lines or electricity supply facilities*** installed at its request at the time of relocation.

...

3.1 For the purpose of this agreement “cost of relocation and restoration of power lines or electricity supply facilities” shall include:

a) the costs incurred by the Commission in removing and relocating ***its power lines or electricity supply facilities***;...

...

4.1 The Authority shall grant to the Commission permission to enter upon its lands for the purpose of relocation and restoration of ***its said power lines and electricity supply facilities***.

...

5. In lieu of all rights and privileges hitherto enjoyed by the Commission within the expropriated area the Authority ***shall grant free of rental to the Commission the right and privilege to maintain and operate its power lines and electricity supply facilities*** across the relocated channel and equivalent lands as more particularly set out in an agreement supplemental hereto. [Emphasis added]

Questions:

- a) Is the Master Agreement at Reference 1 complete, including all schedules and appendices? If not, please produce a complete version.
- b) Does Nyon agree that the parties to the Master Agreement contemplated that the “power lines and electricity supply facilities” were those of the Commission (i.e., “its power lines and electricity supply facilities”). If not, on what basis does Nyon disagree?

HONI – 2

Reference 1: Document 13 of Nyon's Evidence, at section 4 (p. 2) and Schedule "C" (p. 9)

Preamble: On May 10, 2005, Canada Lands Company CLC Limited sold a portion of the subject lands to the Corporation of the City of Port Colborne pursuant to an Agreement of Purchase and Sale. Sections 4 and 6 of the Agreement of Purchase and Sale dated May 10, 2005, reads:

4. Notwithstanding the provisions of Paragraph 10, the Purchaser agrees to accept title subject to (i) all registered or unregistered agreements with municipalities and publicly or privately regulated utilities; (ii) all registered or unregistered easements, rights, covenants and/or restrictions in favour of municipalities, publicly or privately regulated utilities or adjoining owners, or that otherwise run with the land; (iii) any encroachments as may be revealed by Schedule "A-2" or by an up-to-date survey; and (iv) the Permitted Encumbrances set out in Schedule "C"...

6. The Purchaser and Vendor agree that no fixtures, building or chattels are included in the Purchase Price.

Schedule "C" of lists two Permitted Encumbrances, as follows:

1. Agreement No. 15-73 dated October 6, 1969 between The St. Lawrence Seaway Authority and Hydro-Electric Power Commission of Ontario being a Master Agreement regarding permanent relocation of power lines and electricity supply facilities, Counties of Lincoln and Welland as amended by Agreement G-73-1 dated June 1, 1976.

2. License (File 37-66-1028) dated April 4, 1977 between The St. Lawrence Seaway Authority as Licensor and Ontario Hydro as Licensee to erect, maintain and/or renew electrical transmission line.

Questions:

- a) Is it Nyon's position that it is a successor in interest to, or otherwise has custody of, the Agreement of Purchase and Sale at the reference above? Please explain why or why not.
- b) Please provide a copy of the License listed at para. 2 of Schedule "C": "License (File 37-66-1028) dated April 4, 1977 between The St. Lawrence Seaway Authority as Licensor and Ontario Hydro as Licensee to erect, maintain, operate and/or renew electrical transmission line".
- c) Is it Nyon's position that the License referenced in question (b) continued as a permitted encumbrance following the execution of the Agreement of Purchase and Sale referenced above? If not, please explain why not.

- d) Does Nyon agree that the City of Port Colborne did not acquire title to any of the transmission infrastructure located on the subject lands pursuant to this May 2005 Agreement of Purchase and Sale? If Nyon does not agree, please provide full particulars and documentation in support of its position.

HONI – 3

Reference 1: Document 12 of Nyon's Evidence, at para. 6 (p. 2) and Schedule "C" (p. 7)

Reference 2: Document 1 of Nyon's Evidence

Preamble: On December 13, 2005, the Canada Lands Company CLC Limited sold another portion of the subject lands to the Corporation of the City of Port Colborne pursuant to a second Agreement of Purchase and Sale. Sections 4 and 6 of the Agreement of Purchase and Sale dated December 13, 2005, reads:

4. Notwithstanding the provisions of Paragraph 10, the Purchaser agrees to accept title subject to (i) all registered or unregistered agreements with municipalities and publicly or privately regulated utilities; (ii) all registered or unregistered easements, rights, covenants and/or restrictions in favour of municipalities, publicly or privately regulated utilities or adjoining owners, or that otherwise run with the land; (iii) any encroachments as may be revealed by Schedule "A-2" or by an up-to-date survey; and (iv) the Permitted Encumbrances set out in Schedule "C"...

6. The Purchaser and Vendor agree that no fixtures, building or chattels are included in the Purchase Price.

Schedule "C" of lists four Permitted Encumbrances, including the following:

1. Instrument No. 12470 registered January 5, 1931 which is grant of easement from Charles C. Phillips as Lessor in favour of The Hydro-Electric Power Commission of Ontario.

Questions:

- a) Is it Nyon's position that it is a successor in interest to, or otherwise has custody of, the Agreement of Purchase and Sale at the reference above? Please explain why or why not.
- b) Does Nyon agree that section 1 of Schedule "C" of Reference 1, quoted above, expressly provides that the easement interest granted in favour of HONI's predecessor was continued, despite the expropriation of the lands by the St. Lawrence Seaway Authority. If not, on what basis?
- c) Does Nyon agree that the City of Port Colborne did not acquire title to any of the transmission infrastructure located on the subject lands pursuant to this December 2005 Agreement of Purchase and Sale? If Nyon does not agree, please provide full particulars and documentation in support of its position.

HONI – 4

Reference 1: Document 14 of Nyon's Evidence, at paras. 13 and 14

Preamble: The referenced document is an Agreement of Purchase and Sale between Nyon Energy Corp. (as purchaser) and the Corporation of the City of Port Colborne (as vendor), dated January 30, 2006. Sections 13 and 14 of the Agreement of Purchase and Sale read:

13. **TITLE AND TITLE SEARCH:** Purchaser shall be allowed until 6:00 p.m. on the Condition Date ("**Requisition Date**") to examine the title to the Property at its own expense. Provided that the title to the Property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement. If within the time specified above any valid objection to title is made in writing to the Vendor and which the Vendor is unable or unwilling to remove, remedy or satisfy and which Purchaser will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and neither the Vendor nor Purchaser, shall be liable for any costs or damages. Save as to any valid objection so made by such time and except for any objection going to the root of the title, Purchaser shall be conclusively deemed to have accepted the Vendor's title to the Property.

14. **DOCUMENTS AND DISCHARGE:** Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of the Vendor. The Vendor will deliver any sketch or survey of the Property within the Vendor's control to the Purchaser no later than seven (7) days after the execution of this agreement. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company is not available in registrable form on completion, Purchaser agrees to accept the Vendor's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same on title within a reasonable period of time after completion, provided that on or before completion the Vendor shall provide to Purchaser a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by the Vendor directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

Questions:

- a) Does Nyon agree that at the time that the City of Port Colborne entered the referenced Agreement of Purchase and Sale, it did not own any of the transmission infrastructure on the subject lands and could not sell any of the transmission infrastructure to Nyon? If Nyon does not agree, please provide full particulars and documentation in support of its position.

- b) Did Nyon conduct a title search prior to the Requisition Date, as set out in section 13 of the Agreement of Purchase and Sale at Reference 1?
- c) When did Nyon do so?
- d) What easements or other permitted encumbrances were listed on title at that time? Did these permitted encumbrances include the instrument and easement referred to in interrogatories **HONI – 2** and **HONI – 3**, respectively?
- e) Did Nyon raise any objections with the Vendor in respect of the title to the Property and any restrictions, charges, liens, and encumbrances thereon? If so, when did Nyon do so and what was its objection? If not, why not?

HONI – 5

Reference 1: Notice of Constitutional Question, p. 3, para. 8; p. 6, para. 20

Reference 2: Document 21 of Nyon's Evidence

Reference 3: Document 28 of Nyon's Evidence

Preamble: Nyon states that it is the owner of “hydroelectric infrastructure and transmission lines” on the subject lands.

Questions:

- a) If Nyon is correct in its view that it owns the infrastructure on the subject lands, is it Nyon's intention to operate and maintain the transmission infrastructure or, alternatively, to take it down?
- b) Please provide a detailed financial breakdown of all investments made by Nyon to support ownership of the Existing Transmission Lines including any capital improvements made to the Existing Transmission Lines since 2006.
- c) Please confirm whether Nyon has registered with the IESO their facilities and equipment associated with these capital improvements. If Nyon believe that registration was not required, please clarify why and provide the supporting documentation relied upon to substantiate this position.
- d) Please confirm whether Nyon believes that the part of the Existing Transmission Lines that Nyon purports to own form part of the IESO-controlled grid. If not, please clarify why and supporting documentation relied upon to substantiate this position.
- e) Please confirm whether Nyon believes that it is in compliance with NERC Reliability Standards and the IESO Market Rules. If Nyon believes that NERC Reliability Standards and IESO Market Rules do not apply, please clarify why. Please support Nyon's position by detailing all legislation, regulations or any other relevant documentation relied upon to substantiate this position
- f) Please confirm whether Nyon has participated in the IESO regional planning process in the capacity of a “transmitter.” If Nyon believes that participation was not required, please clarify why and supporting documentation relied upon to substantiate this position.
- g) Please provide or detail:
 - I. All of Nyon's emergency response procedures in place in case of emergency for the Existing Transmission Lines.
 - II. Public safety measures put in place by Nyon for the Existing Transmission Lines.

- III. The grounding and protection schemes associated with the Existing Transmission Lines.
 - IV. Cybersecurity measures that have been taken by Nyon to support the Existing Transmission Lines.
 - V. The maintenance and inspection schedule associated with the Existing Transmission Lines including all reports associated with those inspections, the conclusions thereof, and the investments made to address the results.
 - VI. All compliance standards that the Existing Transmission Lines are in compliance with and all documentation available to Nyon to validate this compliance.
- h) If Nyon intends to own, operate and maintain the transmission infrastructure, please answer the following questions. In instances where Nyon asserts that is not accountable for an activity outlined below, please provide evidence of who is responsible, and any agreements held by Nyon to define these responsibilities:
- I. Is Nyon licensed to own or operate a transmission system under Part V of the *OEB Act*, as required by section 57(b) of the *OEB Act*?
 - II. If Nyon is not presently licensed to own or operate a transmission system pursuant to the provisions of the *OEB Act*, how does Nyon reconcile its failure to hold a license with its position that it owns the transmission infrastructure at issue?
 - III. If Nyon believes that s. 57 of the *OEB Act* does not apply, please clarify why with reference to all legislation, regulations or other relevant documentation relied upon to support this position.
 - IV. When does Nyon intend to apply for a license under Part V of the *OEB Act*?
 - V. On what basis does Nyon assert that a license to own or operate a transmission system ought to be issued to it?
 - VI. Does Nyon have expertise in the transmission of electricity? Please provide full particulars.
 - VII. Does Nyon have the financial capability to operate a transmission system or register with the Independent Electric System Operator as a Registered Participant? Please provide full particulars.
 - VIII. If the answer to questions (I), (VI) or (VII) is negative, the result is that Nyon's ownership and operation of the transmission infrastructure would be unreliable and unstable. Please explain whether, and how, an unreliable electricity supply is in the public interest.
- i) If Nyon intends to take down the transmission infrastructure,
- I. Under what authority does Nyon intend to do so?

- II. When does Nyon intend to do so?
- III. If this conduct will cause a loss of power to an estimated 37,000 customers, including the entire City of Port Colborne, what is Nyon's position with respect to whether such conduct is in the public interest and if so, how?
- j) If Nyon does not intend to operate and maintain the transmission infrastructure or to take it down, please provide full particulars of Nyon's intended course of action with respect to the transmission infrastructure and detail how such course of action is in the public interest.

HONI – 6

Reference 1: Notice of Constitutional Question, at pp 1-2; p. 3, at para. 9; p. 6, at para. 20; and Appendix C

Reference 2: Document 21 of Nyon's Evidence

Reference 3: Document 28 of Nyon's Evidence

Preamble: Nyon's claim of ownership appears to be based on its assertion that the land and fixtures were expropriated by the federal government in 1965 and 1968, and then transferred by Canada Lands to Port Colborne and from Port Colborne to Nyon. Nyon asserts that "[t]he infrastructure and transmission lines were expropriated by the Seaway pursuant to s. 18 of the SLSA and the federal Expropriation Act." However, section 18 of the *St. Lawrence Seaway Authority Act* refers only to the expropriation of land:

18. (1) With the prior approval of the Governor in Council, the Authority may, without the consent of the owner, **take or acquire lands** for the purposes of this Act and, except as otherwise provided in this section, all the provisions of the *Expropriation Act* are, *mutatis mutandis*, applicable to the taking, acquisition, sale or abandonment of lands by the authority under this section. [Emphasis added.]

Nevertheless, as HONI understands it, Nyon's argument is that the federal legislation authorizing the expropriation of the lands is paramount to section 44 of the *Electricity Act* (and its predecessor legislation), which provides that:

44. Despite any other Act, if property of a transmitter or distributor has been affixed to realty, **the property remains subject to the rights of the transmitter or distributor as fully as it was before being so affixed and does not become part of the realty** unless otherwise agreed by the transmitter or distributor in writing. [Emphasis added.]

Questions:

- a) In view of the text of section 18 of the *St. Lawrence Seaway Authority Act*, what is the basis for Nyon's assertion that the St. Lawrence Seaway Authority expropriated not only the land but also the "infrastructure and transmission lines" thereon?
- b) Does Nyon agree that HONI and its predecessor(s) never agreed in writing that its infrastructure on the subject lands would become part of the realty? If Nyon does not agree, please provide full particulars and documentation to establish when HONI or its predecessor(s) so agreed.
- c) Please identify the provision(s) of a relevant federal law, e.g., *Expropriation Act* or *St. Lawrence Seaway Authority Act*, which requires that the land be expropriated together with the transmission infrastructure.

- d) Is it Nyon's position that it is impossible to comply with both the federal and provincial laws on which it relies in the referenced document? If so, please provide full particulars of the alleged operational conflict.
- e) Is it Nyon's position that applying the *Electricity Act* and its predecessor(s) frustrates the purpose of the federal law(s)? If so, please detail the purpose of the federal law(s) and provide full particulars as to how that purpose is frustrated by the operation of the provincial law.

HONI – 7

Reference 1: Document 22 of Nyon's Evidence

Reference 2: Document 23 of Nyon's Evidence

Reference 3: Document 24 of Nyon's Evidence

Reference 4: Document 25 of Nyon's Evidence

Reference 5: Document 26 of Nyon's Evidence

Reference 6: Document 27 of Nyon's Evidence

Preamble: Nyon's Evidence contains six parcel registers current to July 2022.

Questions:

- a) Please provide a map of all lands that were originally acquired by Nyon from the City of Port Colborne. On the same map please detail the balance of the lands owned by Nyon, today.
- b) Update each referenced document with a current parcel register current to June 23, 2025 or later.

HONI – 8

Reference 1: Document 16 of Nyon's Evidence

Reference 2: Document 21 of Nyon's Evidence

Reference 3: Document 28 of Nyon's Evidence

Preamble: Nyon asserts that it has an interest in the lands to be expropriated.

Questions:

- a) Please confirm the nature of Nyon's interest in the lands to be expropriated, including by:
 - I. Identifying the legal interests Nyon hold in the land;
 - II. Confirming when Nyon acquired such legal interests, i.e., their duration; and
 - III. To the extent that Nyon's legal interests in the land changed over time, the timing and nature of any such change, together with documentation supporting that the change occurred.

HONI – 9

Reference 1: Document 20 of Nyon's Evidence

Reference 2: Document 21 of Nyon's Evidence

Reference 3: Document 28 of Nyon's Evidence

Preamble: At the referenced documents, Nyon asserts that it acquired an interest in the subject lands and demands that HONI disconnect the transmission infrastructure and remove it from the land.

Questions:

- a) Please provide evidence as to how, without expropriation, customers (whether directly or indirectly connected) will be assured of reliable delivery of electricity.
- b) Please provide evidence as to how, without expropriation, ratepayers will be assured that the cost of property interests will be aligned with fair market value.

HONI – 10

Reference 1: Letter from Nyon to the OEB dated May 28, 2025, at Appendix A, p. 5

Reference 2: Document 28 of Nyon's Evidence

Preamble: In Nyon's letter to Asahi Kasei Battery Separator Canada Corporation dated April 14, 2025, it demanded that "if [Asahi Kasei] intends to connect to, or alter the Infrastructure, it must bring that proposal directly to Nyon for approval...".

Questions:

- a) Please provide a copy of Nyon's Transmission Connection Procedures, in compliance with sections 6.1.3 and 6.1.4 of the Ontario Energy Board's Transmission System Code.
- b) Please identify, within Nyon's Transmission Connection Procedures, the processes that Nyon presently has in place to connect new transmission customers.
- c) Is it Nyon's position that Asahi Kasei's connection point is on land in which Nyon has a fee simple interest? If so, please provide documentation and full particulars for this position.
- d) Nyon appears to desire to obtain payment from Asahi Kasei and other potential customers who may wish to connect to the transmission infrastructure. Please produce the order of the Ontario Energy Board that authorizes Nyon to charge for the transmission of electricity, as required by section 78 of the *OEB Act*.
- e) Please identify all new transmission connections that have occurred on this line since 2006. Please confirm whether the advanced approval that Nyon has requested from Asahi Kasei were also requested from all new transmission connections since 2006. If not, please explain why this request is being made of Asahi Kasei and how this request aligns with the provision of non-discriminatory access to transmission infrastructure.

HONI – 11

Reference 1: Document 16 of Nyon's Evidence

Reference 2: Document 21 of Nyon's Evidence

Reference 3: Document 28 of Nyon's Evidence

Preamble: Nyon asserts that it has an interest in the lands to be expropriated.

Questions:

- a) Please describe the use and importance of the land to be expropriated with supporting details and documentation, including:
 - I. How Nyon currently uses the land;
 - II. Any existing business operations affected by the expropriation;
 - III. Any heritage, cultural or environmental features on the land and the impact of these features on expropriation;
 - IV. How the expropriation would interfere with Nyon's current and planned future use of the land, if at all;
 - V. How Nyon's current and planned future use of the land is consistent with local land use and planning policies;
 - VI. Any wetlands or endangered species on the lands and the impact of these features on expropriation; and
 - VII. Details from any third-party reports or assessments regarding the consequences and impacts of expropriation to the current and future use of the lands.