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RE: EB-2026-0083 – Hydro One Networks Inc. – St. Thomas Transmisison Line Project – Expropriation – Intervenor Request Response

We are counsel to Hydro One Networks Inc. (“**Hydro One**”), the Applicant in the above-referenced Ontario Energy Board (“**OEB**” or “**Board**”) proceeding related to the St. Thomas Transmission Line Project (“**Project**”). We write in response to the following intervention request letters each dated April 23, 2026:

1. the intervention request letter filed by The Ross Firm on behalf of eight individuals referred to as “**The Ross Firm Group**”; and
2. the intervention request letters filed by Siskinds LLP on behalf of Donna Crinklaw, Donald McInnis, Mt. Elgin Dairy Farm Ltd., and the estate trustee of Ralph Winfield and Joan Winfield referred to as the “**Siskinds Client Group**”.

In summary, in response to the following matters raised in the intervention request letters, it is Hydro One’s position that the OEB should:

- a) deny The Ross Firm Group intervenor status as each of the individuals comprising the group do not have a substantial interest in the proceeding. Hydro One does not object to the intervenor status or the cost award eligibility requests made by the Siskinds Client Group;
- b) scope the issues for the hearing to the Board’s standard “Section 99 Expropriation Issues List” and reject the additional issues proposed to be raised in the proceeding by the Siskinds Client Group; and
- c) hold a written hearing (not an oral hearing as requested by the Siskinds Client Group), which will enable the OEB to effectively and completely adjudicate the matters before it in a manner that is just, expeditious and efficient.

Each of these matters is addressed in further detail below.

The Ross Firm Group’s Intervention Request Should be Denied

Rule 22.02 of the OEB’s *Rules of Practice and Procedure* provides that a person applying for intervenor status must satisfy the Board that they have a substantial interest and intend to participate responsibly in the proceeding. Rule 22.02 further provides that a person has a substantial interest if they have a material interest that is within the scope of the proceedings. Examples of a material interest listed in Rule 22.02 include, in the context of an expropriation application, having an interest in land that may be affected by the outcome of the proceeding.

The individuals comprising The Ross Firm Group do not have a substantial interest in the proceeding. As a result, their intervention request should be denied.

In its intervention request letter, The Ross Firm Group requests intervenor status on the sole basis that Hydro One “...proposes a taking of their land in furtherance of the project.”

This is incorrect. Hydro One is not proposing to take the land of any of the individuals comprising The Ross Firm Group. While each of the individuals hold interests in land along the Project route, each of them has entered into separate voluntary settlement agreements with Hydro One granting it an irrevocable option to acquire their interest in land required to facilitate construction of the Project. In short, Hydro One is not proposing to take these individuals interests because each of the individuals has already voluntarily agreed to the acquisition of those interests by Hydro One.

Considering the foregoing, the OEB should exercise its broad discretion to manage its own procedures¹ by denying participation by The Ross Firm Group in this proceeding to ensure the Board’s expertise and decision making reflect timely and efficient hearing and decision processes. Denying The Ross Firm Group’s intervention request, where its individual members do not have a direct, substantial or unique interest in the subject matter of the proceeding will ensure that these expropriation proceedings remain focused on securing the most just, expeditious and efficient determination on the merits of the proceeding.²

Scope of the Proceeding Should be the Standard Section 99 Expropriation Issues List

Hydro One submits that the Board’s [Standard Section 99 Expropriation Issues List](#) is the appropriate scope for this proceeding³ as it will ensure the proceeding remains focused on the

¹ *Ontario (Energy Board) v Ontario Power Generation Inc.*, [2015 SCC 44](#) and *Canada (Minister of Citizen and Immigration) v Vavilov*, [2019 SCC 65](#) at para 108.

² Rule 2.01 of the [OEB Rules of Practice and Procedure](#) (“OEB Rules”).

³ The Board’s [Standard Section 99 Expropriation Issues List](#) includes the following issues: (i) Is the proposed expropriation in the public interest?; (ii) Has the applicant requested expropriation of the minimum amount

central issues for determination in an expropriation proceeding, namely whether the specific expropriations requested are in the public interest. This approach accords with the Board's statutory mandate under section 99 of the *Ontario Energy Board Act, 1998* (“**OEB Act**”)⁴ and will enable the OEB to effectively and completely adjudicate the matter before it.⁵

In its intervention request letters, the Siskinds Client Group seeks to raise additional issues related to whether the Project “fall[s] within the statutory exception that leave be obtained to engage in the construction and operation of the new 230 kilovolt transmission corridor under the provisions of section 6.2(1)(e.1) as set out in Ontario Regulation 161/99.”

Subsection 6.2(1)(e.1) of Ontario Regulation 161/99 exempts a person from having to obtain leave to construct for a project where the project constructs, expands or reinforces an electricity transmission line where:

- i. the construction, expansion or reinforcement of the line is undertaken pursuant to an agreement between the person and one or more customers that specifies the cost of the construction, expansion or reinforcement is to be exclusively paid for by the customer or customers, and
- ii. none of the customers is a licensed transmitter or licensed distributor.

Under this regulatory exemption, Hydro One is exempt from having to obtain leave to construct for the proposed transmission line because: (i) the Project is being undertaken pursuant to the terms of a Connection and Cost Recovery Agreement made between Hydro One and its customer, PowerCo Canada Inc. (“**PowerCo**”), that specifies that the cost of the Project is to be exclusively paid for by PowerCo; and (ii) PowerCo is not a licenced transmitter or distributor. A copy of the Connection and Cost Recovery Agreement is provided as Appendix 2 to Hydro One's Application and Evidence.

The Board's Notice of a Hearing for this proceeding confirms the exemption, stating that “[t]he Project is to be exclusively paid for by [PowerCo]. For this reason, subsection 6.2(1)(e.1) of Ontario Regulation 161/99 applies and Hydro One Networks is exempt from the requirement to obtain leave to construct approval from the OEB for the Project under section 92 of the *Ontario Energy Board Act, 1998*.”

of land needed for the project, and the minimum legal interest required for that land?; and (iii) What conditions, if any, should be attached to the OEB's Order in this proceeding?

⁴ Section 99(5) of the [OEB Act](#) provides (emphasis added): “**If after the hearing the Board is of the opinion that the expropriation of land is in the public interest,** it may make an order authorizing the applicant to expropriate the land.”

⁵ Rule 2.02 of the [OEB Rules](#).

Hydro One submits that the OEB should deny the Siskinds Client Group’s request that the Board consider the applicability of the regulatory exemption, and the related issues that the Siskinds Client Group proposes be included on the Issues List in this proceeding.⁶ As outlined above, the regulatory criteria required to meet the exemption in subsection 6.2(1)(e.1) have been satisfied, such that the Siskinds Client Group’s proposed issues do not merit inclusion on the Issues List. Put simply, there is a commercial agreement between Hydro One and its customer (PowerCo) which provides that the cost of construction of the transmission line is to be *exclusively paid* by the customer and the customer is not a licenced transmitter or distributor. Therefore, the criteria for exemption from leave to construct have been met and there is no need for the Board to adjudicate on the application of the exemption.

In raising the applicability of the regulatory exemption, the Siskinds Client Group states that the “purpose and intention” of the Project “is to attract other industry to the area” – and specifically references a potential project by Vianode Canada Inc. (“**Vianode**”) and the Yarmouth Industrial Park. Hydro One understands that Vianode has announced its intention to construct a synthetic graphite manufacturing facility in St. Thomas.⁷ However, no agreement between Hydro One and Vianode for electricity transmission has been entered into and Vianode’s connection proposal application to the Independent Electricity System Operator remains active and undetermined.⁸ Notwithstanding these facts, even in the hypothetical case that a future customer was to connect, cost responsibility would rest with the connecting customers and would not impact ratepayers. Therefore, the regulatory exemption would remain applicable. This was the aim and intent of the regulation and not something that should be frustrated in practice.

The Siskinds Client Group’s suggestion that the Project is for purposes other than serving PowerCo is incorrect. Hydro One received a connection request from PowerCo in March 2023 for a supply in excess of 300MW and, at PowerCo’s request, Hydro One prepared a connection cost estimate and the parties subsequently concluded a Connection and Cost Recovery Agreement dated August 28, 2024. Consistent with Hydro One’s statutory obligation to provide customers non-discriminatory access to its transmission system⁹ and the

⁶ In the OEB intervention forms that accompanied the Siskinds Client Group’s intervention request letters, the Siskinds Client Group propose the following issues for inclusion on the Issues List: (a) Is Hydro One relying on the customer connection exemption as a way to avoid a fulsome leave to construct, but engineering in a manner that goes beyond the identified need?; (b) Is the purpose of the Project entirely for one customer and is that in the public interest to justify expropriation?; and (c) Is the proposed Project being developed to support other customers in the area confirming it is not just one customer as suggested?

⁷ See: [Ontario Welcomes \\$3.2 Billion Investment by Vianode in St. Thomas | Ontario Newsroom](#)

⁸ Independent Electricity System Operator, [Application Status Website](#), Application ID #2024-819.

⁹ *Electricity Act, 1998*, [section 26](#).

requirements of the Transmission System Code, Hydro One processed PowerCo's connection request and determined that the only way to reliably meet the customer's load was via the Project (i.e., the construction of a new transformer station and a new 230kV electricity transmission line).

Considering PowerCo's electricity needs and the fact that the requirements for the regulatory exemption in subsection 6.2(1)(e.1) of Ontario Regulation 161/99 have been met, Hydro One submits that adding the applicability of the regulatory exemption to the Issues List is not warranted and would unnecessarily distract the OEB from efficiently and effectively adjudicating the matter before it.

Further, Hydro One submits that the Board's standard "Section 99 Expropriation Issues List" is sufficient to address the balance of the issues proposed by the Siskinds Client Group.

The Hearing Should be in Writing

Hydro One submits that the hearing should be in writing.¹⁰ Since 2019, expropriation proceedings before the OEB have been heard in writing.¹¹

Written hearings are consistent with the *Statutory Powers Procedure Act* ("SPPA")¹² and the OEB's *Rules of Practice and Procedure*¹³, the latter of which are to be construed in the public interest to secure the most just, expeditious, and efficient determination on the merits of the proceeding.¹⁴ Hydro One submits that a written hearing will result in the most efficient and expeditious proceeding, while ensuring that the hearing is just for all involved. Considering the thoroughness and flexibility of the written hearing process before the OEB, which includes the opportunity for written discovery, Hydro One respectfully requests that the OEB deny the Siskinds Client Group's request for an oral proceeding.

¹⁰ Rule 32 of the [OEB Rules](#) made under section 25.1 of the *Statutory Powers Procedure Act*, allow the OEB to hold an oral, electronic, or written hearing, and provides that the format of the hearing will be determined by the Board.

¹¹ Recent OEB expropriation proceedings under section 99 of the OEB Act include: EB-2025-0290, EB-2025-0314, EB-2025-0286, EB-2024-0142, and EB-2019-0078.

¹² [Subsection 5.1](#) of the SPPA provides: "5.1(1) A tribunal whose rules made under section 25.1 deal with written hearings may hold a written hearing in a proceeding. (2) The tribunal shall not hold a written hearing if a party satisfies the tribunal that there is good reason for not doing so."

¹³ Rule 32.01 of the [OEB Rules](#) provides: "In any proceeding, the OEB may hold any combination of oral, electronic or written hearings, including in respect of different issues, subject to the *Statutory Powers Procedure Act* and the statute under which the proceeding arises."

¹⁴ Rule 2.01 of the [OEB Rules](#).

Contrary to the Siskinds Client Group's submissions, and as previously found by the Board¹⁵:

- a) written hearing processes are able to provide parties with a comprehensive opportunity to test Hydro One's evidence;
- b) there is no legitimate expectation of an oral hearing;
- c) written hearing processes are transparent and accountable;
- d) expropriation applications (unlike leave to construct applications) are not overly complex or technical; and
- e) many OEB proceedings do contain some evidence that is complex and technical in nature, but this is not sufficient to require the OEB to hold an oral hearing.¹⁶

Most hearing processes before the Board are conducted in writing¹⁷ and Hydro One submits that the Siskinds Client Group has not satisfied the statutory requirement that it establish a good reason that the instant proceeding not be heard in writing.¹⁸ Given that recent expropriation proceedings before the OEB have been held in writing, and no unique circumstances have been raised by the Siskinds Client Group to warrant an oral hearing, there is no need to depart from recent OEB practice and order an oral hearing matter in this proceeding.

Please contact the undersigned if you have any questions regarding the foregoing.

Sincerely,



Evan J. Barz

CC: Quinn M. Ross – The Ross Firm
Paula Lombardi – Siskinds LLP
Laura Brazil / Pasquale Catalano – Hydro One Networks Inc.
Richard J. King – Osler, Hoskin & Harcourt LLP

¹⁵ EB-2010-0140: [Procedural Order No. 4 and Decision on Motion from the Ross Firm Group](#), issued September 27, 2022.

¹⁶ *Ibid* at page 3.

¹⁷ *Ibid* at page 3.

¹⁸ [Subsection 5.1\(2\)](#) of the SPPA.