Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

June 30, 2026

Ritchie Murray
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ritchie Murray:

Re: Ontario Energy Board (OEB) Staff Submission on Preliminary Issue
Hydro One Networks Inc. (Hydro One)
Expropriation Application – St. Thomas Project
OEB File Number: EB-2026-0083

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to the OEB's Procedural Order No. 1.

Yours truly,

Tina Zhu Digitally signed by Tina Zhu Date: 2026.06.30 10:31:43 -04'00'

Tina Zhu
Senior Advisor, Transmission

Encl.

cc: All parties in EB-2026-0083

ONTARIO ENERGY BOARD

OEB Staff Submission on Preliminary Issue

Hydro One Networks Inc.

Expropriation Application – St. Thomas Project

EB-2026-0083

June 30, 2026

Background

Hydro One Networks Inc. (Hydro One) applied to the Ontario Energy Board (OEB) on March 4, 2026, under section 99(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (OEB Act), for an order granting approval to expropriate certain interests in lands. Hydro One stated that the authorization is needed to facilitate the construction and operation of a new 230-kilovolt double-circuit electricity transmission line between the City of London and the City of St. Thomas in Ontario (Project).

Hydro One indicated further in its application that it is exempt from having to obtain leave to construct for the Project under section 92 of the OEB Act by virtue of subsection 6.2(1)(e.1) of Ontario Regulation 161/99.

On March 24, 2026, Hydro One filed an updated application that removed any property for which it no longer requires expropriation relief due to the closing of a voluntary agreement since the original date of filing the original application.

A Notice of Hearing was issued on March 25, 2026, as well as a Letter of Direction to Hydro One.

Intervention requests were received from Donald John McInnis, Donna Crinklaw, Mt. Elgin Dairy Farms Ltd., and Ralph Gordon Winfield and Joan Margaret Winfield through the estate trustee, all of which listed the same legal representative, Siskinds LLP (collectively, the Siskinds Clients). An intervention request was also filed on behalf of a group of individuals/entities represented by the Ross Firm Professional Corporation and calling themselves the “Ross Firm Group” and/or “RFG” (RFG).

In Procedural Order No. 1, dated June 23, 2026, the OEB granted intervenor status to all of the Siskinds Clients. Also, the OEB granted RFG intervenor status specifically with respect to the preliminary issue that the OEB has decided to address in this proceeding (Preliminary Issue), namely whether Hydro One is eligible to apply for expropriation authority under section 99 of the OEB Act.

Procedural Order No. 1 set out a process for parties and OEB staff to make submissions regarding the Preliminary Issue. Also, with respect to the further participation and cost eligibility of RFG beyond the OEB deciding the Preliminary Issue, the OEB set out a process for certain parties to make submissions on this issue as well (RFG Participation Issue).

Specifically, the OEB provided for the Siskinds Clients, RFG and OEB staff to make submissions regarding the Preliminary Issue, for Hydro One to provide any reply submissions regarding the Preliminary Issue and any submissions regarding the RFG

Participation Issue, and for RFG to provide any reply submissions regarding the RFG Participation Issue.

This submission from OEB staff addresses the Preliminary Issue.

Staff Submission – Preliminary Issue: Is Hydro One Eligible to Apply for Expropriation Authority Under Section 99 of the OEB Act?

Parties' Submissions to Date on Preliminary Issue

As outlined in Procedural Order No. 1, in their intervention requests, the Siskinds Clients expressed that they wish to raise the issue of whether, as stated by Hydro One, it is exempt from having to obtain leave to construct for the Project under section 92 of the OEB Act by virtue of subsection 6.2(1)(e.1) of Ontario Regulation 161/99. The Siskinds Clients further stated that certain issues should be included in the issues list for the proceeding, including the issue of whether Hydro One is “relying on the customer connection exemption as a way to avoid a fulsome leave to construct, but engineering it in a manner that goes beyond the identified need” and issues related to whether the Project is entirely for one customer.

On April 28, 2026, Hydro One submitted that the OEB should deny the request from the Siskinds Clients that the OEB consider the applicability of the regulatory exemption and related proposed issues. Hydro One submitted that under subsection 6.2(1)(e.1) of Ontario Regulation 161/99, it 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 licensed transmitter or distributor.

Hydro One's Application and Evidence

OEB staff notes that in Hydro One's application, it states that the Project will transmit electricity to PowerCo electric vehicle (EV) battery cell manufacturing facility in the City of St. Thomas. Hydro One states that the Project is being undertaken pursuant to the terms of a Connection and Cost Recovery Agreement between Hydro One and PowerCo that specifies that the cost of the Project is to be exclusively paid for by PowerCo, and that PowerCo is not a licensed transmitter or distributor.[1]

The application also states that in the spring of 2023, the provincial and federal governments secured an investment from the Volkswagen Group and its subsidiary,

[1] EB-20-26-0083 Exhibit A, Tab 1, Schedule 1, Page 2.

PowerCo, to build an EV battery cell manufacturing facility in the City of St. Thomas.[2] The Government of Ontario urged Hydro One to make the Project a priority in a letter dated August 31, 2023, a copy of which Hydro One included in its application.[3] Hydro One also stated that the Ontario government announced on October 28, 2025 that construction work for PowerCo's EV manufacturing facility was underway.[4]

Also included with the application is a copy of a Connection and Cost Recovery Agreement dated August 28, 2024, between Hydro One and PowerCo.[5]

Regulatory Framework

Section 99(1) of the OEB Act provides that the following persons may apply to the OEB for authority to expropriate land for a work:

1. Any person who has leave under this Part or a predecessor of this Part.

2. Any person who intends to construct, expand or reinforce an electricity transmission line or an electricity distribution line or make an interconnection and who is exempted under this Act from the requirement to obtain leave.

Hydro One's position is that paragraph 2 applies. The Siskinds Clients in their intervention requests raise the issue of whether, under paragraph 2, Hydro One is in fact exempt from the leave to construct requirement under section 92 of the OEB Act.

The exemption in question is subsection 6.2(1)(e.1) of Ontario Regulation 161/99, which provides that the requirement for leave to construct in section 92 of the OEB Act does not apply to a person that constructs, expands or reinforces an electricity transmission line, if:

(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 that 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.

OEB Staff Submits that Exemption Applies

OEB staff submits that based on the information in the application, Hydro One is eligible

[2] EB-2026-0083 Exhibit A, Tab 1, Schedule 1, Page 3.
[3] EB-2026-0083 Appendix 1 - Letter from Ministry of Energy to Hydro One on Enabling Economic Growth and Connecting the St. Thomas EV Battery Facility, dated August 31, 2023.
[4] EB-2026-0083 Exhibit A, Tab 1, Schedule 1, Page 4.
[5] EB-2026-0083 Appendix 2 - Connection and Cost Recovery Agreement between PowerCo Canada Inc. and Hydro One.

to apply for expropriation under section 99 of the OEB Act. Specifically, OEB staff submits that Hydro One is exempt from the requirement for leave to construct for the Project under section 92 of the OEB Act, as Hydro One meets all of the requirements under subsection 6.2(1)(e.1) of Ontario Regulation 161/99 for an exemption from the leave to construct requirement:

- Hydro One is constructing an electricity transmission line
- PowerCo is not a licensed transmitter or licensed distributor
- The construction of the electricity transmission line is being undertaken pursuant to an agreement under which PowerCo will exclusively pay for its construction.

With respect to the third bullet point above, OEB staff submits that Hydro One has provided sufficient evidence in the application that PowerCo has agreed to cover the costs of construction of the Project, including the Connection and Cost Recovery Agreement.

Based on the Siskinds Clients' intervention requests, they appear to be questioning whether the Project is truly being undertaken due to an agreement with PowerCo or whether the Project's purpose is also to serve other customers and attract further customers to the area.

OEB staff submits that while the Siskinds Clients have not yet provided particulars of their argument at the time of this submission, based on their intervention requests they appear to be implying that subsection 6.2(1)(e.1) of Ontario Regulation 161/99 includes a requirement regarding the underlying purpose or reason for a given project, separate from the requirement regarding who is paying for it. OEB staff has not located any prior cases where the OEB has considered this question.

OEB staff does not agree with the Siskinds Clients' interpretation of subsection 6.2(1)(e.1) of Ontario Regulation 161/99. OEB staff submits that the provision does not include a requirement regarding the underlying reason or purpose for a project.

OEB staff submits that the focus of the regulatory provision at issue is cost responsibility, similar to the provision directly above it, subsection 6.2(1)(e). The text of the subsection 6.2(1)(e.1) provides very clear requirements regarding the payment agreement for a project, including that it can be an agreement with "one or more customers" and that the customers must pay for the project "exclusively". In OEB staff's view, it is significant that these requirements are provided in detail, while little else is said.

Also, OEB staff submits that this reading of subsection 6.2(1)(e.1) of Ontario Regulation 161/99 is consistent with the broader context and purpose of the regulatory and legislative scheme in which it is situated. Under section 96(2) of the OEB Act, in deciding whether it is in the public interest to grant leave to construct for an electricity transmission project, the OEB shall only consider 1) the interests of consumers with respect to prices and the reliability and quality of electrical service, and 2) supporting economic growth in a manner consistent with the policies of the Government of Ontario.

OEB staff submits that it is in this context, where consumer interests are at the forefront of an application for leave to construct, that subsection 6.2(1)(e.1) of Ontario Regulation 161/99 provides for an exemption from the leave requirement for a project where one or more customers have agreed to fund it and ratepayers will not be impacted.

In any event, OEB staff submits that Hydro One has provided sufficient evidence that the purpose of the Project is to transmit electricity to PowerCo, including the Government of Ontario’s letter dated August 31, 2023.

~All of which is respectfully submitted~