



May 31, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P. O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

RE: COMMENTS ON EB-2010-0059 STAFF DISCUSSION PAPER TRANSMISSION PROJECT DEVELOPMENT PLAN ("TPDP")

As a preliminary matter, FortisOntario Inc. ("FortisOntario") thanks Ontario Energy Board ("OEB") Staff for the opportunity to provide comments on the TPDP. Canadian Niagara Power Inc. ("CNPI") is a wholly-owned subsidiary of FortisOntario, and is a licensed transmitter. Accordingly, FortisOntario has an interest in transmission development in the province of Ontario. FortisOntario has reviewed the discussion paper and has suggestions that may assist in achieving government policy goals pertaining to the development and approval of transmission projects, while ensuring that the interests of consumers and investors are protected.

Introduction

The process of developing any new transmission project in Ontario is difficult to achieve, takes significant financial and human resources, and has extensive timelines. The Independent Electricity System Operator ("IESO") acknowledged these hurdles in their "Ontario Reliability Outlook", as identified in Appendix A.

It is evident from five years of recitals of the same fundamental concern that the traditional project timelines for transmission development in Ontario are unacceptable. They have been identified as a critical issue that must be addressed. The pressure on these timelines and the need to streamline the regulatory approval process is only reinforced by the arrival of the Green Energy Act. The directives from the province to the Ontario Power Authority (the "OPA") to contract renewable generation further underscores the urgency for greater certainty and efficiency of the existing process for transmission development and address the risk of transmission not built and in place when required. FortisOntario believes that aspects of the process being suggested in the TPDP are an important first step in improving the regulatory process, but that significant changes are required to accommodate transmission projects for the existing and future generation needs of the province.

FortisOntario has identified a number of concerns in the process contemplated in the TPDP and suggests some possible modifications.

Recommendations

1. Timeliness of Decision

OEB Staff has suggested that the process of transmission development provide greater predictability in relation to cost recovery for development work. FortisOntario agrees this is a significant step in mitigating the risks associated with investing in a project. However, the issue of greater significance is the overall timeliness of the Board decision, which allows the proponent to proceed with the project. OEB Staff acknowledges that Section 70 (1.1) of the OEB Act allows for approvals under a licence to be granted without a hearing. OEB Staff goes on to suggest that “if there is only one transmitter that files a transmission project development plan for any particular project, the Board could hold relatively simple written hearing.” CNPI’s recent experience with a transmission project written hearing before the Board took an eight and one-half month for a decision. Introducing an additional regulatory step should be carefully considered and where possible, establish efficiency in the other established steps such as the “Leave to Construct” process and ultimately the Rate Approval process.

2. Leave to Construct Process

If the detailed information being suggested by OEB Staff for the “Designation Process” carries forward to the “Leave to Construct” application under Section 92 of the OEB Act, then it is possible to achieve a more timely decision. However, if the “Leave to Construct” process places the proponent “back to square one” with all the associated risks underlining the “Leave to Construct” application and hearing, then the timelines will have not been improved at all. Under the proposed regime, to achieve designation approval, the proponent must provide extensive evidence that is very similar to the “Leave to Construct” process. The applicant must then demonstrate at a “Leave to Construct” hearing the following: detailed design routing, detailed cost estimates, environmental specs, land ownership/consultations with affected First Nations and Métis groups, engineering and financing, construction capability and permitting in the planning process. Needless to say, both processes as currently contemplated present further redundancy. It is recommended below by FortisOntario that the Board consider some efficiency between the two processes.

3. Approval Process

Levels of Detail

Another concern is that the level of detail that is being proposed may not be reasonable given the “unknowns” associated with the best plans. Confirmation surrounding permitting, and land ownership issues are only achieved upon the project becoming an undertaking. Detailed cost estimates are an important consideration to determine the overall efficiency proposed by the proponent, however, the accuracy in the planning stage should be high level. Although some level of planning should have been considered in each of these areas, the level and accuracy should be specified in the filing guidelines.

Regulatory Efficiency

FortisOntario suggests that the plan Approval be the beginning of the “Leave to Construct” process and that any consideration of project need, and any duplication that would have been determined in the Designation process be carried into the “Leave to Construct” proceeding and then into the applicant’s next Rates Application. The regulatory process for rate setting in the industry is transparent and transmitters are obligated to defend expenditures before intervenors as a matter of process. It is on this basis that the final step in the recovery of cost associated with the project be a matter of a prudence review in the applicant’s future rates application. The matter of need should be determined at the outset upon taking the OPA’s recommendation and the OEB’s determination of a Designated transmitter.

If the Board believes that “The outcome of the ECT is expected to be a comprehensive assessment of transmission requirements considering the magnitude and location of applications of FIT contracts and other factors that the OPA considers relevant” then the OEB could request/ensure from the OPA that the ECT has the sufficient rigor to accept the outcome prima facie and allow proponent transmitters to focus on construction planning and other filing requirements. To place the onus on proponent transmitters to establish the need for the project to be confirmed again later at the “Leave to Construct” stage and potentially a third time in the applicant’s rate application is too late in the process and adds unacceptable risk.

Recognizing in the OEB’s words, “While the OPA’s analysis will identify which transmission investments are, in its judgement economically justified, it does not have the mandate that would allow it to ensure that the transmission facilities are in fact developed.” The OEB does have the mandate and could assess the ECT and establish the need. In essence, adopt the outcome of ECT as the need for the project. The OEB acknowledges the OPA has an important legislated responsibility for transmission planning in addition to the planning that transmitters are expected to undertake themselves.

Timelines

To participate in a process that requires two to three years of development to only be denied at the “Leave to Construct” stage is not an efficient use of valuable resources regardless of cost recovery.

FortisOntario recommends that the process be revised to have the Leave to Construct application begin at the Plan Approval Proceeding once the transmitter has been designated solely on the selection by the OEB upon reviewing the Project Development Plan of the proponent. This will reduce the regulatory approval period considerably and allow the proponent that has not been designated to focus efforts elsewhere. This approach versus the proposed timelines as shown below would substantially reduce the total length of time for processing a transmission application to the “Leave to Construct” phase.

OEB TIMELINES PROPOSED

Qualification to Tender	3 Months
Project Development Plan by Proponent	6-9 Months
Designation & Plan Approval Proceeding	4-9 Months
Leave to Construct Application	6-9 Months
Total	19-30 Months

TIMELINES SUGGESTED

Qualification to Tender	2 Months
Project Development Plan by Proponent	6-9 Months
Designation, Plan Approval Proceeding, Leave to Construct Application	6-9 Months
Total	14-20 Months

These suggestions are important modifications to the process contemplated by OEB Staff and it must be recognized that the GEA is driving dramatic expansions in transmission in Ontario. FortisOntario believes the approval process requires significant change for this period.

Yours truly,



Angus S. Orford
Vice President, Operations

ASO:mar

Enclosures

ISSUE FOR STAKEHOLDER COMMENT

Should new entrants be required to be licensed as transmitters as a condition of participation in a designation process?

FortisOntario believes that new entrants should be required to be licensed transmitters as a condition of participation in a designation process. CNPI is in business in Ontario for the long-term as this has been demonstrated by CNPI's 118 year history. New entrants should establish their commitment by becoming licensed.

How long would it take to prepare transmission project development plans?

Nine (9) months – development work will involve engineering work, site studies, preliminary land owners/other consultations, OPA consultation and determining the size and configuration of the project.

Are these the appropriate decision criteria?

FortisOntario agrees with the decision criteria. However, the Board should be explicit in terms of the levels of detail that will be required to make its determination. Avoiding unnecessary details will allow the plans to be developed as they would in the normal course and efficiently deploy resources to expedite the process and reduce overall project risk.

Should the decision criteria be weighted and, if so, which are most important?

FortisOntario believes the decision criteria should be heavily weighted (50% minimum) towards Land Owner and Other Consultations. Land occupation, consultation and obtaining land use rights for transmission require highly sensitive approaches to be adopted to engage all affected parties.

Are staff's proposals regarding implications of plan approval reasonable?

The detail established in developing the plan for approval is significant and the implications of Plan Approval are reasonable if this is also the initiation of the Leave to Construct Application. This suggestion is not intended to have the Development Plan Approval Process replace or eliminate the requirement to obtain Leave to Construct for any particular project, but initiate and complement the Leave to Construct process.

Under what circumstances should two transmitters be designated to develop the same project and to recover the development costs from ratepayers?

Under no circumstances should two transmitters be designated to develop the same project and recover the development costs from ratepayers. This follows the principle of efficiently deploying resources and avoiding duplicative efforts.

Are these the appropriate filing requirements to enable the Board to apply the decision criteria identified in section 3.1?

They are reasonable filing requirements. No other decision criteria are being suggested.

APPENDIX A

In the February 2006 issue of “Ontario Reliability Outlook”:

Page 16

ONTARIO APPROVALS PROCESS

The current regulatory approvals process is highly complex. Overlapping and uncoordinated requirements create unacceptably high risks to the timely implementation of the planned generation and transmission projects required to maintain reliability of Ontario’s power system.

Proponents are required to obtain numerous approvals from a variety of agencies, resulting in many of the same issues having to be repeatedly addressed. This can unnecessarily add to costs and extend the time required for decision-making and approval processes, putting in-service dates at risk.

For example, the IESO has identified the need for a third transmission path to Central Toronto by early in the next decade. However, under the current approvals process, the in-service date could be as late as 2016.

Changes can and should be made to reduce unnecessary complexity and duplication, providing a more efficient process while maintaining necessary public and stakeholder participation and environmental protection.

The IESO has been working with other entities including the Ontario Energy Board, the OPA and Hydro One to identify necessary changes to the current regulatory approvals process.

CONCLUSIONS AND RECOMMENDATIONS

- Bullet #3**
- *The current regulatory approvals process is complex and the requirements to comply present unacceptably high risks to the timely implementation of planned generation and transmission projects. Expedited, but thorough, approvals processes must be in place to ensure that timelines are met.*

In the June 2006 issue of “Ontario Reliability Outlook”, the IESO identifies the same concerns:

CONCLUSIONS AND RECOMMENDATIONS

Page 20

- Bullet #6**
- *Experience since the release of the last Reliability Outlook continues to highlight the significant schedule risks inherent in Ontario approvals processes for new generation and transmission. The IESO has been working with other entities to identify necessary changes and progress is required to address concerns that several of the projects identified above are at risk of not being in service in time under the current regulatory process. Early action is recommended to implement an expedited, but thorough and time-bound regulatory approvals process to facilitate the timely implementation of new generation and transmission projects required for reliability purposes.*

This concern is reiterated the following year by the IESO in the March 2007 publication of “Ontario Reliability Outlook”:

EXECUTIVE SUMMARY

Page 1

Consultation is underway with a number of stakeholders related to overall system and local reliability needs. The IESO remains concerned about the uncertainty around the length of approvals processes affecting generation and transmission projects. These approval processes may impact the nature and timing of the implementation of certain transmission and renewable generation projects. The situation is particularly troublesome in the case of new transmission. While some changes have been made, until the approvals process is demonstrated to produce timely decisions, there will continue to be a risk that transmission will not be available when it is required.

Page 20

APPROVALS PROCESS

The IESO remains concerned about the impact of the current approvals processes on the ability to achieve the timely implementation of generation and transmission projects. This issue was first raised in the February, 2006, Ontario Reliability Outlook.

In the meantime, a number of projects awarded contracts under the Renewable Energy Supply and Clean Energy Supply Requests for Proposals have been delayed by various municipal permitting or environmental screening requirements. Of particular concern in these cases has been the open-ended nature of the appeals process which does not provide time-certainty to the decisions.

While some changes have been made, there will continue to be a risk that projects will not be available when needed because of uncertainties and timelines under local and environmental approvals.

The potential impacts of the current approvals process on planned projects will need to be continually evaluated to determine whether other decisions affecting planned or existing facilities are required to maintain reliability.

CONCLUSIONS AND RECOMMENDATIONS

- Bullet #3**
- *The IESO remains concerned about the uncertainty around the length of approvals processes affecting generation and transmission projects and the impact on the timing of the implementation of the projects. Until the approvals process is demonstrated to be effective, there will continue to be a risk that projects will not be available when required.*

In December 2007 edition of “Ontario Reliability Outlook”, the IESO continues to express similar concerns:

Page 3

APPROVALS PROCESS

The filing of the IPSP with the OEB represented a major milestone in the program to address Ontario’s supply needs over the next two decades. However, as has been identified in previous Outlooks, the IESO remains concerned about the uncertainty

around the length of approvals process, which presents risks to the timely implementation of the planned generation and transmission projects.

Substantial work is underway by a number of stakeholders, including the provincial government, to address the inefficiencies in the current approvals process. Given the risks to reliability, there is an urgent need to implement a comprehensive strategy for streamlining the relevant regulatory approvals process.

Approvals process improvements should ensure appropriate public review of infrastructure proposals, while reducing the redundancy of the existing processes and ensuring reasonable and defined timelines to allow the projects to be implemented when needed.

Page 20

CONCLUSIONS AND RECOMMENDATIONS

- Bullet #6**
- *Concerns continue to be raised about the impact of the current approvals process on implementation timelines. The IESO urges all regulatory bodies to accelerate and coordinate their work in this area. Lags in approvals represent the biggest risk to meeting the province's need for new supply and transmission facilities over the next 20 years.*

In December 2009, two years after the last publication, the IESO repeats its warnings regarding delayed approvals:

Page 2

TRANSMISSION

Earlier this fall, Hydro One was instructed by the Minister of Energy and Infrastructure to immediately commence work on 20 transmission projects, as well as other station work and distribution projects. These new facilities will increase the transfer capability of the transmission network, allowing it to accommodate output from renewable generation located in many of Ontario's remote, yet resource-rich locations. This move recognizes that longer lead-times are required for new transmission infrastructure than for generation projects.

Previous Outlooks have highlighted the impact of extended regulatory approvals, environmental reviews and land acquisition processes on in-service dates. To that end, the GEA also introduced a new renewable energy approval process which consolidates two existing processes into one. This approach will be critical to the timely implementation of new renewable contracts.

The IESO remains concerned, however, that ongoing delays to key transmission projects such as the Bruce-Milton line, could impede the rapid integration of new generation facilities. This concern also extends to approvals for future major transmission projects. Specific initiatives to streamline existing – yet important – approval processes will help with the construction of new transmission infrastructure in time to connect new renewable generation.