



Ontario
Energy
Board

Commission
de l'énergie
de l'Ontario

DECISION AND ORDER

EB-2022-0140

HYDRO ONE NETWORKS INC.

Application for leave to construct a double-circuit transmission line between Chatham Switching Station and Lakeshore Transformer Station and associated station facilities in the municipalities of Chatham-Kent and Lakeshore and the County of Essex

BEFORE: Emad Elsayed
Presiding Commissioner

Robert Dodds
Commissioner

Michael Janigan
Commissioner

November 24, 2022



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1 OVERVIEW

This is a Decision and Order of the Ontario Energy Board (OEB) on an application filed by Hydro One Networks Inc. (Hydro One) for leave to construct a double-circuit transmission line and associated station facilities in the municipalities of Chatham-Kent and Lakeshore and the County of Essex.

The transmission line and associated station facilities proposed by Hydro One are collectively referred to as the Chatham to Lakeshore Transmission Line Project (the Project). A map showing the location of the Project is attached as Schedule A to this Decision and Order.

By an Order in Council dated March 31, 2022, the Lieutenant Governor in Council declared that a new 230 kV transmission line from the Chatham Switching Station to the new Lakeshore Transformer Station (which is the transmission line that Hydro One has applied for approval to construct in this application, hereon referred to as “the Project”) would be designated as a priority transmission project under section 96.1 of the OEB Act. As such, pursuant to section 96.1(2) of the OEB Act, the OEB is required to accept that the transmission line is needed when forming its opinion as to whether it is in the public interest under section 96 of the OEB Act.

Hydro One also applied for approval of the form of land use agreements it has offered or will offer to landowners affected by the route of the Project.

For the reasons provided in this Decision and Order, the OEB grants Hydro One’s application for leave to construct the Project. The OEB also approves the forms of land use agreements set out in the application.

The OEB finds that this application is in the public interest based on an examination of the impact of the Project on consumers with respect to prices and the reliability and quality of electricity service. The Project need and alternatives were not examined because the Lieutenant Governor in Council declared the Project a priority transmission project, and the OEB is therefore required to accept that the construction of the Project is needed.

The leave to construct is subject to the OEB’s conditions of approval, attached as Schedule B to this Decision and Order.

2 CONTEXT AND PROCESS

Hydro One applied to the OEB on May 9, 2022, under section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (the OEB Act) for leave to construct a new approximately 49 kilometre (km) long 230 kilovolt (kV) double-circuit transmission line between Chatham Switching Station and Lakeshore Transformer Station and associated station facilities to connect the new transmission line at the terminal stations (Application). Hydro One has also applied under section 97 of the OEB Act for approval of the form of land use agreements it has offered or will offer to landowners affected by the route of the Project.

The Application indicates that terminal station modifications at Chatham Switching Station and Lakeshore Transformer Station will be necessary to accommodate the new transmission line. Chatham Switching Station will require new and modified structures within the station property to accommodate the termination of the two new 230 kV circuits. Lakeshore Transformer Station is currently under construction and accommodations will be made for the termination of the two new 230 kV circuits.

The OEB issued a Notice of Hearing on June 3, 2022. The Chippewas of Kettle and Stony Point First Nation together with Southwind Corporate Development Inc. (CKSPFN), Environmental Defence, the Haudenosaunee Development Institute (HDI), the Independent Electricity System Operator (IESO), the Municipality of Chatham-Kent, Pollution Probe, and the Ross Firm Group (RFG) applied for intervenor status. CKSPFN, Environmental Defence, HDI, Pollution Probe and RFG applied for cost eligibility. The Municipality of Chatham-Kent stated that it reserved the right to seek costs depending upon the extent of its involvement and contribution throughout the proceeding and if exceptions to section 3.05 of the OEB's *Practice Direction on Cost Awards* apply.

As part of their intervention requests, HDI indicated that it wished to file evidence and requested an oral hearing; CKSPFN indicated that it may wish to submit evidence; RFG requested an oral hearing; and the Municipality of Chatham-Kent requested the right to file evidence.

The OEB issued Procedural Order No. 1 on July 13, 2022. It granted intervenor status to all requesting parties; granted Environmental Defence, Pollution Probe, RFG¹, CKSPFN² and HDI eligibility to apply for an award of costs; established the proceeding's issues list; and set the initial procedural schedule for the Application, including the filing of OEB staff and intervenor interrogatories by July 27, 2022, and the filing of interrogatory responses by Hydro One by August 10, 2022.

Among other things, Procedural Order No. 1 also noted that by Order in Council dated March 31, 2022, the Lieutenant Governor in Council declared the Project a priority transmission project under section 96.1 of the OEB Act and that pursuant to section 96.1(2) of the OEB Act, the OEB is therefore required to accept that the construction of the Project is needed. Procedural Order No. 1 also noted that it is a condition of Hydro One's electricity transmission licence to develop and seek approvals for the Project, and that development of the line accord with the project scope and timing recommended by the IESO. The OEB approved issues list established through Procedural Order No. 1 reflected that the need for the Project and Project alternatives would not be issues in this proceeding (in accordance with the Order in Council and Hydro One licence condition).

On August 5, 2022 the OEB issued a [letter](#) (August 2022 letter) instructing that intervenors who wished to file evidence in the proceeding were required to file a letter with the OEB by August 11, 2022 that included a description of the proposed evidence, an estimate of the cost of the evidence, and the proposed timing of the filing of the evidence. The OEB's August 2022 letter also clarified that the OEB's authority to consider environmental issues and the Constitutional duty to consult in the proceeding was limited to issues set out in section 96(2) of the OEB Act. Specifically, the letter confirmed that the scope of the OEB's review on these matters was limited to a consideration of their impact on prices and the reliability and quality of electricity

¹ Procedural Order No. 1 did not grant cost eligibility to the RFG in respect of representing the interests of the directly abutting landowners in their capacity as landowners, as its intervention request did not clearly describe whether or how the directly abutting landowners were affected by the Project. Procedural Order No. 1 provided RFG with an opportunity to provide additional information on how these landowners are affected by the Project, or to identify any special circumstances that they wished the OEB to consider in relation to cost award eligibility in respect of representing the interests of those landowners. Procedural Order No. 1 required RFG to file any such submissions by July 20, 2022. RFG did not file any submissions in this regard.

² On July 21, 2022, counsel to CKSPFN filed a letter indicating that Caldwell First Nation had joined CKSPFN for purposes of the proceeding and requested that its intervenor status and cost eligibility be continued under the name of Three Fires Group Inc. In a letter dated July 26, 2022, the OEB approved this request.

service, and that the OEB would not make provision for the filing of evidence related to matters that fall outside of that scope.

Hydro One filed its responses to interrogatories on August 10, 2022, in accordance with the established procedural schedule.

On August 11, 2022, three cost-eligible intervenors responded to the OEB's direction with letters that provided an overview of their proposed evidence: HDI, RFG and Three Fires Group Inc. (Three Fires). The OEB provided its response to these letters on August 23, 2022 through Procedural Order No. 2 where it indicated that it would not make provision for the filing of the proposed evidence, on the grounds that, among other things, much of the evidence appeared to go beyond the scope of the proceeding. The OEB did, however, acknowledge that certain issues could benefit from additional discovery. Accordingly, to provide parties with an opportunity to explore these issues, Procedural Order No. 2 established a process for supplemental interrogatories. Supplemental interrogatories were to be filed by OEB staff and intervenors by September 2, 2022, and the filing of responses by Hydro One by September 12, 2022.

On August 26, 2022, RFG filed a "Notice of Motion to Review and Vary Procedural Order No. 1 and Determinations on the Filing of Evidence and Form of the Hearing."³ The motion requested, amongst other things, that: a) the OEB require Hydro One to lead evidence with respect to the preferred route and route alternatives as it relates to the interests of consumers with respect to prices and the reliability and quality of electricity service, and b) that the OEB reverse its decision to hold a written hearing, and to hold an oral hearing instead.

Through Procedural Order No. 3 and Response to Motion Filing and Related Submission (Procedural Order No. 3), issued on August 30, 2022, the OEB determined that it would defer any hearing of RFG's motion until after Hydro One filed its responses to supplemental interrogatories. The OEB also encouraged RFG to seek through supplemental interrogatories the information and/or evidence related to route and route alternatives it had requested through its motion, to the extent that the requested information is within the scope of the proceeding. The OEB also noted that should RFG wish to pursue the motion after the process for supplemental interrogatories was concluded, it must inform the OEB with clear and specific reasons for why the motion should be heard. Procedural Order No. 3 also extended the schedule for the filing of

³ The "Determinations on the Filing of Evidence and Form of the Hearing" reference in the title of RFG's motion letter refers to the OEB letter dated August 5, 2022.

supplemental interrogatories and responses to September 9, 2022 and September 19, 2022, respectively, to ensure parties had sufficient time to prepare.

On September 19, 2022, Hydro One filed responses to supplemental interrogatories.

On September 23, 2022, RFG communicated that, while it was satisfied with Hydro One's responses to its supplemental interrogatories, it wished to pursue the portion of its motion relating to holding an oral hearing instead of a written hearing. RFG indicated that: "...for all the reasons set out in our motion, and in light of the existing evidence, and the new evidence, we require the opportunity to cross-examine the witnesses in person."⁴ No additional details were provided.

The OEB dismissed RFG's motion to require the OEB to hold an oral hearing through Procedural Order No. 4 and Decision on Motion from the Ross Firm Group (Procedural Order No. 4), issued on September 27, 2022. In it, the OEB stated that RFG had not provided the OEB with any clear or specific reasons why an oral hearing was required, as it was requested to do through Procedural Order No. 3. It also stated that as RFG had withdrawn the other issues that were raised in its motion, that the proceeding would move to final argument. In accordance with the procedural schedule established through Procedural Order No. 4, Hydro One filed its written Argument-in-Chief on September 28, 2022; written submissions from OEB staff and intervenors were filed on October 6, 2022; and Hydro One's reply submission was filed on October 13, 2022.

⁴ RFG correspondence, September 23, 2022

3 OEB DETERMINATIONS ON SCOPE AND PROCESS

This chapter addresses certain specific matters raised by RFG and HDI during the course of the proceeding that are not expressly captured by the issues list established through Procedural Order No. 1.

3.1 Background

In Procedural Order No. 1, issued on July 13, 2022, the OEB identified the issues that it would consider in this proceeding. That issues list was based on the OEB's Standard Issues List for electricity leave to construct applications, subject to certain modifications on account of the Project being designated a priority transmission project pursuant to section 96.1 of the OEB Act. In particular, the priority transmission project designation removed certain issues related to project need and project alternatives.

In considering an application for leave to construct under section 92 of the OEB Act, the OEB's jurisdiction is expressly limited by section 96(2) of the OEB Act:

96 (1) If, after considering an application under section 90, 91 or 92 the Board is of the opinion that the construction, expansion or reinforcement of the proposed work is in the public interest, it shall make an order granting leave to carry out the work.

(2) In an application under section 92, the Board shall only consider the following when, under subsection (1), it considers whether the construction, expansion or reinforcement of the electricity transmission line or electricity distribution line, or the making of the interconnection, is in the public interest:

1. The interests of consumers with respect to prices and the reliability and quality of electricity service.

The OEB's August 2022 letter noted that the OEB's authority to consider environmental issues and the Constitutional duty to consult is therefore limited to the matters set out in section 96(2) of the OEB Act; in other words, where these matters are relevant to the issues of price, reliability and quality of electricity service such as impacts relating to the cost or schedule for a project.

The OEB further noted in both Procedural Order No. 1 and in its August 2022 letter that the Project is subject to an Environmental Assessment conducted under the Ministry of the Environment, Conservation and Parks, and that the consideration of the duty to consult for the Project is led by the Ontario government as part of the Environmental Assessment process. The OEB also confirmed that it is a standard condition of approval in any approval granted under section 92 of the OEB Act that the applicant obtain all

necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the project.

Finally, both Procedural Order No. 1 and the August 2022 letter noted that the Project has been declared a priority transmission project under section 96.1 of the OEB Act:

96.1 (1) The Lieutenant Governor in Council may make an order declaring that the construction, expansion or reinforcement of an electricity transmission line specified in the order is needed as a priority project. 2015, c. 29, s. 16.

Effect of order

(2) When it considers an application under section 92 in respect of the construction, expansion or reinforcement of an electricity transmission line specified in an order under subsection (1), the Board shall accept that the construction, expansion or reinforcement is needed when forming its opinion under section 96. 2015, c. 29, s. 16.

In Procedural Order No. 3, the OEB noted: 1) that the two end points of the transmission line (Chatham Switching Station and Lakeshore Transformer Station) as well as the capacity of the line (230 kV double circuit transmission line) are characteristics of the Project defined by an Order in Council issued by the Lieutenant Governor in Council (and subsequently included as a term of Hydro One's transmission licence) and that these parameters are prescribed in the Order in Council and cannot be altered by the OEB, and 2) that Hydro One's electricity transmission licence includes a condition to develop and seek approvals for the Project in accordance with the project scope and timing recommended by the IESO. The OEB therefore determined that issues related to project need and the consideration of alternatives to the construction of a transmission line would not be considered during the proceeding.

3.2 Matters Raised by RFG

In its submission, RFG challenged the OEB's determinations regarding the scope of its review authority stating that it had relied "...on an overly broad [Order in Council], which goes far beyond establishing as fact, the need for the project, but defines the form of project without the benefit of appropriate regulatory testing."⁵ In support of its position, RFG provided excerpts from Hansard, which it submits "clearly demonstrates"⁶ that a

⁵ RFG Submission, p.2.

⁶ RFG Submission, p.3.

“priority designation would only eliminate the consideration of the ‘basic principle of need’; other elements of the existing approval process would continue.”⁷ RFG also asserted that by failing to consider evidence with respect to the form of the Project or alternatives to meet the established need, the OEB has “declined its inherent jurisdiction”, and further that the OEB “failed to explicitly determine whether its statutory grant of power gives it the authority to decide a particular matter”⁸, despite being presented with a motion from RFG requesting that it do so. On that basis, RFG submitted that the OEB should “reopen the proceedings to undertake its statutory duty to review the form of project and alternatives.”⁹

RFG further submitted that if the OEB does not reopen the proceeding, that the Application as presented should not be allowed on the basis that the evidence filed by Hydro One is “incomplete and does not constitute the best evidence available for the determination of price, reliability, and quality of electricity service and further that the evidence filed does not support that the mitigation costs are reasonable.”¹⁰ On this basis, RFG also stated that the OEB lacks the information necessary to assess whether the Application meets the required standards by “failing to avail itself of the best evidence, or erroneously scoping the evidence required from [Hydro One].” RFG further supported its position on project costs by relying on the submissions of Pollution Probe.¹¹

Hydro One’s reply submission addressed RFG’s challenge to the OEB’s determinations relating to the scope of the proceeding, stating RFG’s “argument is effectively a recast of the views it expressed in the lead up to Procedural Orders No. 2 and 3 and the submissions [RFG] made in its Review and Variance Motion. Hydro One submits that [RFG’s] submissions are not proper argument but rather are challenges to the reasons the Board has set out in these determinations as well as Procedural Order No. 4.”¹² It also responded to RFG’s assertions related to the quality of the evidentiary record and suggested that the additional evidence RFG seeks related to matters that the OEB has deemed out of scope of this proceeding and therefore the associated relief sought by RFG should be denied.¹³ Hydro One concluded by suggesting RFG’s position provides “little assistance” to the OEB’s consideration of the Application, in part because of the

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ RFG Submission, pp.3-4.

¹¹ *Ibid.*

¹² Hydro One reply submission, pp. 10-11.

¹³ Hydro One reply submission, p.11.

OEB's previous determination that matters related to route selection and alternatives would not be considered during the proceeding.¹⁴

Findings

The OEB will address the main arguments made by RFG under two headings:

Scope of the Proceeding

The OEB does not agree with RFG that the priority designation of this Project only eliminates the consideration of project need. The Order in Council clearly states that the line is to be constructed between the Chatham Switching Station and the Lakeshore Transformer Station, and this is also reflected in Hydro One's transmission licence. Therefore, the line, i.e., the needed Project, must connect these two specific points. As a result, consideration of alternatives connecting other terminal points for this line is beyond the scope of this proceeding.

The OEB finds that Hydro One's approach to selecting the preferred route between these two terminal points is appropriate. Hydro One assessed three route alternatives between these end points as part of the Environmental Assessment process which falls under the purview of the Ministry of the Environment, Conservation and Parks. Hydro One proposed one of these routes based on a number of factors including impact on the natural environment, socio-economic environment, technical and cost related matters, and Indigenous consultation.

Additional Evidence

Before making a decision on the RFG motion, the OEB determined that it would be beneficial to allow for supplemental interrogatories on the narrow issue of the cost implications of Hydro One's proposed route. This unusual step was added because some intervenors, including RFG, raised issues after the first round of interrogatories which should have been raised earlier. On September 23, 2022, RFG communicated that, while it was satisfied with Hydro One's responses to its supplemental interrogatories, it wished to pursue the portion of its motion relating to holding an oral hearing instead of a written hearing. RFG indicated that: "...for all the reasons set out in our motion, and in light of the existing evidence, and the new evidence, we require the opportunity to cross-examine the witnesses in person."¹⁵ No additional details were

¹⁴ *Ibid*

¹⁵ RFG correspondence, September 23, 2022

provided. As it had not provided any compelling reasons to hold an oral hearing, RFG's request was denied and its motion was dismissed.

3.3 Matters Raised by HDI

HDI submitted that the OEB cannot grant Hydro One's approval requests for three reasons:

1. The OEB has proceeded on the basis of an improper process that refuses to consider issues related to Indigenous engagement.
2. The OEB has refused to accept or consider evidence related to Indigenous rights and the impacts of the Project thereon.
3. The Crown and Hydro One have failed to obtain the consent of the Haudenosaunee as required by the United Nations Declaration on the Rights on Indigenous Peoples (UNDRIP), or in the absence of such consent, justify infringements on Haudenosaunee rights.¹⁶

HDI's submission challenged the OEB's determinations with respect to the scope of the proceeding established by the OEB through the proceeding's procedural orders and August 2022 letter. In particular, HDI asserted that the established process "is based on an erroneous and overly restrictive interpretation of the [OEB Act] that, particularly in light of the UNDRIP Act, must be reconsidered." Further, HDI stated that the OEB should expand its current interpretation of prevailing legislation to include consideration of Indigenous engagement in order to align its processes with UNDRIP.¹⁷

HDI also asserted that, resulting from its narrow interpretation of the OEB Act, the OEB has "refused to accept evidence of Indigenous rights and impacts thereon and plowed ahead absent assessments thereof" and consequently, the limited evidence in this matter should prevent the OEB from approving the Application.¹⁸ HDI argued that the OEB is obliged to consider evidence and preliminary assessments of how the Project will impact the rights of Haudenosaunee and should not approve the Project in the absence of such information.¹⁹

Additionally, HDI asserted that the OEB is "bound by the articles of [UNDRIP] and the goal of advancing reconciliation. Therefore, the Board cannot approve the Application

¹⁶ HDI Submission, p. 3.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ HDI Submission, p. 6.

absent the provision of the Haudenosaunee’s free, prior, and informed consent.” HDI goes on to say that if the OEB disagrees with the need for the Haudenosaunee’s consent, it should provide written reasons for its position.²⁰

Hydro One’s reply submission argued that the OEB had correctly determined its jurisdiction relating to the duty to consult, which it contended remains unaffected by the federally enacted UNDRIP Act.²¹ Specifically, Hydro One stated that:

“Contrary to HDI’s submissions, the federal UNDRIP Act only imposes obligations on the federal government and does not affect provincial laws or regulators or give immediate legal force and effect to UNDRIP in Canada. While UNDRIP can be used as an interpretive aid in statutory interpretation, it cannot override the plain meaning of a statute. The relevant provisions of the [OEB Act] are unambiguous and do not support the interpretation advanced by HDI.”²²

Hydro One provided three reasons to support its position with respect to UNDRIP, summaries of which are provided below:

1. The federal government does not have the constitutional authority to enact legislation that changes validly enacted provincial laws relating to provincial undertakings, such as the OEB Act.
2. Consistent with the division of powers, the obligation to align the “laws of Canada” with UNDRIP over time in section 5 of the federal UNDRIP Act is limited to federal laws and does not include provincial laws.
3. There have been numerous statements by the federal government before and after the passage of the federal UNDRIP Act confirming that the legislation was not intended to impact provincial laws and decision-making.

Hydro One further stated that the Province of Ontario has yet to enact similar UNDRIP legislation and that the 2019 provincial private member’s bill referenced by HDI in its submission was not passed by the legislature, nor is such legislation currently before the Ontario legislature.²³

Hydro One’s submission also addressed HDI’s comments regarding the adequacy of consultation and in doing so stated that the OEB “correctly determined that it does not

²⁰ HDI Submission, p. 7.

²¹ Hydro One reply submission, p. 4.

²² Hydro One reply submission, p. 4.

²³ HDI Submission, p. 6.

have jurisdiction to conduct consultation or assess the adequacy of Crown consultation on an application under s. 92 of the OEB Act, except to the extent it is relevant to issues of price and reliability and quality of electricity services.”²⁴ In particular, Hydro One refuted HDI’s reliance on *Gitxaala Nation* as precedent, challenged HDI’s assertions related to the OEB Act and also reaffirmed that, through the environmental assessment process, Indigenous groups have had the opportunity to participate and express concerns related to the impacts to rights resulting from the Project. Moreover, Hydro One reiterated that before it can proceed with the Project the adequacy of Indigenous consultation will be assessed by the Ministry of Environment, Conservation and Parks.

In close, Hydro One stated “[t]his is not a situation where there has been no Indigenous engagement or where the Crown is not assessing the adequacy of consultation. It is being assessed by a separate Crown entity and it is not the responsibility of the OEB to assess this issue.”

Findings

The OEB’s findings are summarized below under two headings:

Scope of the Proceeding

The role of the OEB is limited to a consideration of the Project’s impact on price, reliability and quality of electricity service. However, the Project is also subject to a separate Environmental Assessment conducted under the Ministry of the Environment, Conservation and Parks, and the duty to consult for the Project is led by the Ontario government as part of the Environmental Assessment process. Therefore, and as explained previously by the OEB in Procedural Order No. 2 and the August 2022 letter, while the duty to consult and environmental aspects of the Project are given due consideration through the Environmental Assessment process, they are outside the scope of the OEB’s jurisdiction (except to the narrow extent they may have direct relevance to prices or the reliability or quality of electricity service). As one of the conditions to the OEB’s order, the Project cannot proceed until the Environmental Assessment is completed.

²⁴ Hydro One reply submission, p. 8.

UNDRIP

The OEB finds that the duty to consult has been adequately addressed in respect of matters within the OEB's jurisdiction in this proceeding; i.e., to the extent these matters are relevant to issues of price and reliability and quality of electricity service. As noted below, the actual total Project costs (which will include all costs incurred by Hydro One to fulfil its obligations related to the duty to consult) will be reviewed by the OEB in a future proceeding and only once the Project's costs are approved will they be included in transmission rates. To the extent the actual Project costs are lower than those forecast in the application, only a maximum of the actual costs will be included in transmission rates. To the extent the actual costs are higher than those forecast in the application, a prudence review will be conducted before any additional costs are included in transmission rates.

With respect to HDI's arguments concerning the federally enacted UNDRIP Act, the OEB finds that it does not have separate jurisdiction to conduct consultation, assess the adequacy of Crown consultation, or consider the issue of "free, prior and informed consent" under the UNDRIP Act for the following reasons:

1. The federal government does not have the constitutional authority to enact legislation that changes validly enacted provincial laws relating to provincial undertakings, such as the OEB Act.
2. Consistent with the division of powers, the obligation to align the "laws of Canada" with UNDRIP over time in section 5 of the federal UNDRIP Act is limited to federal laws and does not include provincial laws.
3. There have been numerous statements by the federal government before and after the passage of the federal UNDRIP Act confirming that the legislation was not intended to impact provincial laws and decision-making.

The OEB therefore finds that the federal UNDRIP Act is not binding on the OEB.

4 DECISION ON THE ISSUES ON THE ISSUES LIST

Section 92 of the OEB Act provides that leave of the OEB must be obtained for the construction, expansion or reinforcement of electricity transmission lines. Section 96(2) of the OEB Act limits the scope of the OEB's review in an application under section 92 to the interests of consumers with respect to prices and the reliability and quality of electricity service.

Section 92 of the OEB Act provides that leave of the OEB must be obtained for the construction, expansion or reinforcement of electricity transmission lines. Section 96(2) of the OEB Act limits the scope of the OEB's review in an application under section 92 to the interests of consumers with respect to prices and the reliability and quality of electricity service.

The OEB's determinations in this proceeding were informed, in part, by two separate Orders in Council. The first, [dated March 31, 2022](#), identified the Project as a priority transmission project under section 96.1 of the OEB Act. In accordance with s. 96.1(2) of the OEB Act, having been declared to be a priority project, the OEB must accept that the Project is needed when it considers whether the Project is in the public interest. The second, [dated December 17, 2020](#), required the OEB to amend Hydro One's licence to include a condition that it develop and seek approvals for the Project, including associated station facilities. The OEB [amended Hydro One's licence](#) to accord with this Ministerial directive on December 23, 2020.

The OEB's findings on the Project's impacts on price, reliability and quality of service, route map, form of landowner agreements, and conditions of approval are addressed in this chapter.

4.1 Price: Project Costs

Hydro One estimated that the Project will cost \$267.8 million, including \$0.1 million in removal costs.²⁵ The cost estimate carries a level of confidence equivalent to a Class 3 AACE estimate (-20% / +30%).²⁶

Hydro One's cost estimate is comprised of \$235.3 million for line work and \$32.4 million for station work, including approximately \$21 million and \$1.5 million in contingency for the line work and station work, respectively.²⁷ These estimates were developed with the

²⁵ Exhibit B / Tab 9 / Schedule 1 / p. 2.

²⁶ Exhibit B / Tab 7 / Schedule 1 / p. 2.

²⁷ Exhibit B / Tab 7 / Schedule 1 / pp. 1-2.

guidance of a risk assessment framework. The total contingency amount is approximately 9% of the pre-contingency cost estimate which Hydro One stated is similar to industry norms and other line construction projects it has recently undertaken.²⁸

Hydro One cited two of its previous transmission line projects for purposes of demonstrating the reasonableness of the Project's budget. Both comparators involved the construction of double-circuit 230 kV transmission lines in southwestern Ontario that are less than 50 km in length. Hydro One explained that when making the comparison, it is appropriate to exclude real estate costs given the significant escalation in the real estate market since the time the comparator projects were placed in-service. In addition, Hydro One explained that the Project's real estate needs are far greater than those required to complete the comparator projects. After adjusting for real estate costs, the cost of the two comparator projects were \$2 million and \$2.8 million per circuit km²⁹; Hydro One estimated that the Project will cost \$2.8 million per circuit km.

Hydro One identified its recently in-serviced Wawa transformer station project as an appropriate cost comparator for the station work to be completed at Chatham switching station, given the similarities between the two projects. Hydro One indicated that the cost of the Wawa transformer station was \$31.4 million, while the cost of Chatham switching station is estimated to be \$28.8 million.³⁰ Hydro One did not include a comparable for the Lakeshore transformer station as its estimated cost of \$3.6 million represents less than 1.5% of the total project cost.

Hydro One has not requested any deferral accounts to be established, however, it has indicated that line costs associated with the Project will be recorded and tracked in the Affiliate Transmission Projects (ATP) Account, consistent with the OEB's decision in the proceeding in which the establishment of the ATP Account was approved.³¹ In accordance with that decision, Hydro One stated that it will record line costs in the ATP Account because the following criteria apply:

- i) Hydro One has or will receive a letter from the IESO identifying transmission system needs, and/or an Order in Council or direction of the Minister of Energy in respect of Hydro One or its OEB Transmission Licence for the development or construction of a transmission project; and

²⁸ Exhibit I / Tab 1 / Schedule 8 / p. 2.

²⁹ Exhibit B / Tab 7 / Schedule 1 / p. 5.

³⁰ Exhibit B / Tab 7 / Schedule 1 / p. 7.

³¹ EB-2021-0169

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- ii) All or part of the project is expected to be owned by and included in the rate base of a new partnership between Hydro One and one or more partners, as a licensed transmitter, and will not form part of Hydro One's rate base.³²

OEB staff submitted that Hydro One followed a reasonable process when developing its project cost estimate and that it appropriately assessed project risks and the corresponding contingency estimate.³³ OEB staff further noted that while real estate costs represent a significant portion of the total Project costs, Hydro One followed a reasonable process to develop the estimate of these costs and has taken appropriate steps to mitigate them.

In relation to routing, OEB staff noted that while “the route of a transmission line can have a material impact on price...OEB staff notes that detailed routing selection is considered through the [environmental assessment] process.”³⁴ OEB staff further noted that the conclusions of the environmental assessment are based “on a weighting of the advantages and disadvantages of each route alternative from a number of criteria: natural environment, socio-economic environment, technical and cost related matters, and Indigenous consultation.” Accordingly, regarding the proposed route, OEB staff submitted it had no concerns related to the interests of consumers with respect to prices and the reliability and quality of electricity service.

Pollution Probe's submission identified a number of concerns related to Hydro One's estimated costs as well as its approach to assessing the Project's risks.

In particular, Pollution Probe noted that “Hydro One did not translate the information from the draft Environmental Study Report into specific mitigation measures or related cost estimates.”³⁵ It further commented that Hydro One had not accounted for the current inflationary environment, noting that one of the comparator projects used by Hydro One dates back to 2012. Pollution Probe submitted that “[g]iven the high likelihood that project costs will exceed the estimates provided by Hydro One in this application, consideration on how to limit ratepayer impacts due to Project overspending are worth consideration.”³⁶

³² Exhibit B / Tab 10 / Schedule 1 / p. 1.

³³ OEB staff Submission, p. 7.

³⁴ OEB staff Submission, p. 5.

³⁵ Pollution Probe Submission, p. 4.

³⁶ Pollution Probe Submission, p. 5.

Pollution Probe also submitted that, given the cost estimate is based on a Class 3 estimate that carries an estimate range of -20% / +30%, there is potential for an additional \$57.6 million in costs which are significantly higher than Hydro One's proposed contingency budgets.³⁷ Pollution Probe also indicated that the Project cost estimate does not consider additional proceeding costs, specifically those that will be incurred if Hydro One is required to file an application to expropriate the lands necessary to construct the Project.

In its reply submission, Hydro One indicated that validation of the "environmental mitigation measures carried out to fulfill environmental approval requirements is beyond the scope of this proceeding" and explained that it failed to see how a "detailed and in-depth consideration of a cost estimate sub-category totaling less than 1.5% of the overall cost estimate for this Project would materially improve the quality and outcome of this application."³⁸

Hydro One also noted that its cost estimates are "informed by past experience as well as present market conditions" and indicated that it does not have more recent greenfield 230 kV transmission projects that can be used as relevant comparators to the Project.³⁹

In response to Pollution Probe's suggestion of limiting project cost overspending, Hydro One stated that such an approach risks materially impacting in-service timing and would also cause contractors to "demand significant price premiums in order to accept additional pricing risks."⁴⁰

Regarding Pollution Probe's comments on contingency budgets, Hydro One indicated that "Project outcomes at the edges of the range will be the extreme outliers" and that it would be "unreasonable for Hydro One to incorporate the most infrequent risk materialization outcomes at the outside edge of the distribution curve range."⁴¹ It also reiterated that it had previously explained the process it engaged to develop the contingency estimates proposed in the Application, and explained how that process targets identifying and quantifying the impact of the most likely risks.

Three Fires submitted that "Hydro One's costs related to Indigenous consultation activities with respect to the Project are significant."⁴² Three Fires further noted that it is

³⁷ Pollution Probe Submission, p. 6.

³⁸ Hydro One Reply Submission, p. 2.

³⁹ *Ibid.*

⁴⁰ Hydro One Reply Submission, p. 3.

⁴¹ *Ibid.*

⁴² Three Fires Submission, p. 4.

“well-positioned to assist Hydro One to lower its costs of Indigenous engagement and consultation by acting as a one-window Indigenous consultation coordinating entity.”

In its reply submission, Hydro One submitted that “Three Fires has not demonstrated that Hydro One’s consultation costs are unreasonable or in any way deficient.” Hydro One also noted that its “approach to engagement is informed by the directions received from each Indigenous Community” and further that “procedural aspects of Crown consultation are matters best determined by the Crown”.⁴³

RFG’s submission identified several concerns related to project cost, including those related to route selection, conductor technology and the proposed form of tower. RFG also noted concerns with Hydro One’s proposed mitigation costs, and relied on the submission of Pollution Probe to support its position.⁴⁴

RFG submitted that the “preferred route selected is not the most cost effective.”⁴⁵ In relation to conductor technology, RFG noted that “[w]hile the Applicant indeed demonstrates that [aluminum conductor composite core (ACCC)] have a greater initial investment cost, they make no comment on the ability for those conductors to scale up allowing for future expansion of transmission on an existing corridor.”⁴⁶ In relation to the form of tower used, RFG indicated that Hydro One “simply looked at the cost of the construction of the monopole towers but did not qualify the potential savings in land acquisition costs from the admittedly smaller corridor footprint monopoles offer.”⁴⁷

In its reply submission, Hydro One noted that routing selection and routing alternatives are “matters determined to be out of scope in this proceeding.” Hydro One also indicated that RFG’s comments on the conductor technology appear to take issue with the 230 kV line design itself and that a larger capacity system should be planned. To this end, Hydro indicated that its “transmission license was amended to accommodate a 230 kV transmission line to be located between Chatham and Lakeshore.”⁴⁸

Hydro One further indicated that there is no evidence to support RFG’s view that “a monopole design of the Project is feasible as increased costs for this type of asset would be more than offset by lower real estate costs.” Hydro One indicated that RFG

⁴³ Hydro One Reply Submission, p. 12.

⁴⁴ RFG Submission, p. 4.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ RFG Submission, p. 5.

⁴⁸ Hydro One Reply Submission, p. 11.

asked no interrogatories in this regard “nor did it provide any description that this was the type of evidence it sought to elicit.”⁴⁹

Environmental Defence submitted that Hydro One conducted a “fundamentally flawed analysis to support its decision to use a 1443 kcmil [aluminum conductor steel reinforced (ASCR)] conductor instead of a larger 1780 kcmil ACSR conductor.”⁵⁰ Environmental Defence further noted that a larger conductor would reduce line losses and that Hydro One “has not properly estimated the value of those potential line loss reductions to determine if upsizing the conductor would be cost-effective.”

In its reply submission, Hydro One submitted that “transmission line losses are calculated consistent and compliant with Hydro One’s existing standards” and that its estimates represent best evidence of the estimated transmission losses for the Project.⁵¹ Regarding the referenced IESO draft transmission losses guideline, Hydro One stated that it is a “draft guideline” and the finalization of the document is the subject-matter of an ongoing OEB-directed IESO-led engagement process.⁵² Further, Hydro One questioned why Environmental Defence had not sought to provide evidence on the efficacy of increased conductor size, given it was provided with an opportunity to do so through Procedural Order No. 3.

Findings

The OEB finds that the estimated total Project capital cost of \$267.8 million, including \$22.5 million in contingency, is reasonable based on Hydro One’s comparison of the estimated Project cost per circuit km to two other projects. The contingency amount is based on Hydro One’s assessment of the Project risks.

The OEB notes, however, that the real estate costs which represent 40% of the estimated Project cost were excluded in the comparison with the other two projects because of the significant escalation in real estate costs since these other projects were placed in service, and the fact that the scope of the real estate acquisition program is far greater for this Project.

Hydro One has indicated that it will take steps to mitigate the real estate component cost by reducing reliance on expropriation and selecting a project corridor that has fewer property buyouts than other route alternatives.

⁴⁹ Hydro One Reply Submission, p. 12.

⁵⁰ Environmental Defence Submission, p. 1.

⁵¹ Hydro One Reply Submission, p. 15.

⁵² Hydro One Reply Submission, p. 13.

The OEB expects Hydro One to demonstrate the prudence of its route selection and associated real estate acquisition program and resulting impacts on the costs for this Project in a future rebasing application.

The OEB agrees with OEB staff that detailed routing selection has been considered through the Environmental Assessment process and that the conclusions of the Environmental Assessment are based on a weighting of the advantages and disadvantages of each route alternative. Accordingly, the OEB finds that the estimated total Project capital cost is reasonable, taking into consideration the requirement of the OEB to protect the interests of consumers with respect to prices and the reliability and quality of electricity service. The OEB notes that this decision itself does not approve the inclusion of any amounts into rates, and a review of the prudence of the Project's actual costs (and in particular any cost overruns compared to the Project cost estimates provided in the application) will take place when Hydro One seeks to add the costs to rate base and clear the balance in the ATP account through transmission rates. To the extent that the actual costs related to the Environmental Assessment (including costs related to the duty to consult) are higher than forecast, they will not automatically be approved and therefore passed on to ratepayers.

The OEB is satisfied based on the evidence that Hydro One has selected an acceptable conductor size. The OEB accepts Hydro One's explanation that transmission line losses are calculated consistent and compliant with Hydro One's existing standards. The OEB notes that the referenced IESO draft transmission losses guideline is not finalized, being the subject-matter of an ongoing OEB-directed IESO-led engagement process.

4.2 Price: Customer Impacts

Hydro One stated that all Project costs will be included in the network connection pool and that no customer contributions in aid of capital will be required because the Project is not driven by any specific customer load application.⁵³

Due to the enabled load growth from the Project in Southwestern Ontario, the net incremental revenue is expected to have an overall rate mitigating impact over a 25-year time horizon. Specifically, Hydro One estimated that the Project will decrease the current network rate of \$5.13/kW/month to an average rate of \$5.11/kW/month over the 25-year period. Hydro One estimated the Project will decrease the typical monthly residential customer bill by \$0.03 or 0.02%.⁵⁴

⁵³ Exhibit B / Tab 9 / Schedule 1 / p. 1.

⁵⁴ Exhibit B / Tab 9 / Schedule 1 / p. 6.

OEB staff submitted that the customer impacts of the Project are appropriate given the project costs and expected increase in revenue. OEB staff also agreed with Hydro One's position that no customer contribution is required.

Pollution Probe submitted that there are "no specific customers identified in the evidence provided by Hydro One that would appear to require a customer contribution."⁵⁵ Pollution Probe further indicated that "actual rate impacts will depend on the total Project costs that the OEB allows Hydro One to put into rates."

Findings

Although the OEB notes that no party objected to Hydro One's submission that the costs of the Project should go entirely in the Network Pool, that determination will be made when the assets are added to rate base.

4.3 Reliability and Quality of Service

Hydro One filed the Final System Impact Assessment (SIA) prepared by the IESO and the Final Customer Impact Assessment (CIA) prepared by Hydro One.

The SIA concluded that the Project will not have a materially adverse impact on the reliability of the integrated power system. The CIA concluded that the Project will not have any adverse effects on transmission-connected customers.

OEB staff submitted that it did not have any concerns about the reliability and quality of service associated with the Project, considering the conclusions of the IESO's SIA and Hydro One's CIA.

Pollution Probe submitted that Hydro One "has not established that the project will maintain or improve reliability."⁵⁶ Pollution Probe further noted that Hydro One "does not plan to track any metrics that would enable the OEB, IESO or other parties to validate if the Project maintained, improved or decreased reliability."

In response, Hydro One referenced its Argument-in-Chief which provided evidence in the form of the conclusions of the SIA and IESO studies that support the important role of the project in maintaining and/or improving reliability.⁵⁷

⁵⁵ Pollution Probe Submission, p. 7.

⁵⁶ Pollution Probe Submission, p. 7.

⁵⁷ Hydro One reply submission, p. 3.

Findings

The OEB concurs with the findings of the IESO's SIA and Hydro One's CIA that the Project is expected to have no material adverse impact on the reliability of the integrated power system and will improve the power supply reliability for customers in the Windsor-Essex region.

4.4 Route Map and Form of Landowner Agreements

Hydro One filed a map of the route of the Project with its application pursuant to section 94 of the OEB Act. Hydro One indicated that the new corridor for the Project is sited alongside an existing Hydro One transmission corridor or will be using Bill 58 corridor lands for 50% of the route. Hydro One has further indicated the Project will require it to acquire land rights from 126 directly impacted property owners, consisting of 120 privately or municipally held properties and 6 railway crossings.

Hydro One noted that the land rights requirements will include easements or fee simple rights, rail crossing agreements and temporary access and/or construction rights. Hydro One provided forms of landowner agreements that it intends to utilize in order to obtain the required new land rights for the Project and for related activities.

Hydro One also submitted that the maps that it had provided with the Application and through the interrogatory process satisfy OEB requirements.

OEB staff submitted that it had no issues or concerns with Hydro One's proposed forms of agreements. OEB staff also noted that "[m]any of the agreements are generally consistent with the agreements approved by the OEB through previous proceedings."⁵⁸ OEB staff further indicated that through interrogatory responses, Hydro One has indicated "why the new agreements are required to facilitate the Project."

Both OEB staff and Pollution Probe noted that the route maps submitted by Hydro One meet the OEB's requirements.

Pollution Probe further submitted that it "encourages the OEB to consider options or requirements for the applicant to resolve outstanding issues in favour of avoiding an additional expropriation proceeding."⁵⁹

⁵⁸ OEB staff Submission, p. 10

⁵⁹ Pollution Probe Submission, p. 8

Findings

The OEB finds that the route maps submitted by Hydro One meet the OEB's requirements.

The OEB approves the forms of land use agreements set out in the Application. It should be noted, however, that these forms of agreement serve only as the initial offer to landowners and may not reflect the final agreement between the parties.

4.5 Conditions of Approval

Under subsection 23(1) of the OEB Act, the OEB may, in making an order, impose such conditions as it considers proper.

OEB staff submitted that, if leave to construct the Project is granted, it should be subject to the standard conditions of approval attached to Procedural Order No. 1.⁶⁰

Pollution Probe submitted that the OEB could include a condition of approval "that Hydro One must adhere to the environmental and socio-economic mitigation recommendations included in the project Environmental Study Report."⁶¹

Three Fires' submission proposed two additions to the conditions of approval. Firstly, Three Fires indicated that condition #3 from the standard conditions of approval should be revised to "[The Applicant] shall advise the OEB of any proposed material change in the project, defined as costs exceeding \$250,000, including but not limited to changes in: the proposed route, construction schedule, routing construction schedule, necessary environmental assessment approvals (including any additional matters triggering duty to consult and accommodate Indigenous peoples), and all other Crown approvals, permits, licences, certificates and rights required to construct the project."⁶² [emphasis original]

Secondly, Three Fires requested that the following new condition be added: "Hydro One shall record and track the costs associated with the Project in the Affiliate Transmission Partnership account, in accordance with the Board's Decision and Order in EB-2021-0169." [emphasis original]

HDI submitted that, if the OEB proceeds to grant approval, it must do so on the express condition that the Crown's duty to engage with the Haudenosaunee, through HDI or the Haudenosaunee Confederacy of Chiefs Council, has been discharged prior to

⁶⁰ Procedural Order No. 1, Attachment 1

⁶¹ Pollution Probe Submission, p. 5

⁶² Three Fires Submission, p. 6

construction.⁶³ HDI further noted that in the leave to construct proceeding for the East-West Tie project⁶⁴ “the Board required that the successful applicant obtain all necessary approvals, including “EA approval”.”

Hydro One submitted that it had no concerns with the standard conditions of approval attached to Procedural Order No. 1 being included in the OEB’s final Decision and Order.⁶⁵

Hydro One noted that the conditions proposed by Three Fires are not required.⁶⁶ Hydro One indicated that “Three Fires has not reasonably demonstrated why the facts and circumstances in the present application are so significant as to cause deviations of this sort to the Board’s standard condition #3.” Hydro One also indicated that “the line costs associated with the Project will be recorded and tracked in the ATP Account, consistent with the OEB’s EB-2021-0169 Decision (sic) Hydro One can advise that costs that are recorded in the ATP Account are associated with specific capital project expenditures.”

Hydro One also noted that the condition proposed by HDI is not necessary.⁶⁷ Hydro One noted that the standard conditions of approval require it to “obtain all necessary approvals”, which would include the environmental assessment.

Findings

This leave to construct approval is subject to OEB’s standard conditions of approval, attached as Schedule B to this Decision and Order. The OEB does not find it necessary to add or revise any of these conditions. Those conditions are generic enough to capture most circumstances that may arise as demonstrated by the experience obtained in prior leave to construct applications approved by the OEB.

⁶³ HDI Submission, p. 25

⁶⁴ EB-2017-0182

⁶⁵ Interrogatory Response to OEB-Staff 10

⁶⁶ Hydro One Reply Submission, p. 13

⁶⁷ Hydro One Reply Submission, p. 10

5 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Hydro One Networks Inc. is granted leave, pursuant to section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), to construct the Chatham to Lakeshore Transmission Line Project as described in the Application.
2. Leave to construct is subject to Hydro One Networks Inc. complying with the Conditions of Approval set forth in Schedule B.
3. The Ontario Energy Board approves the proposed forms of agreements that Hydro One Networks Inc. has offered or will offer to each owner of land affected by the Chatham to Lakeshore Transmission Line Project.
4. Eligible intervenors shall file with the Ontario Energy Board and forward to Hydro One Networks Inc. their respective cost claims in accordance with the Ontario Energy Board's Practice Direction on Cost Awards on or before **December 1, 2022**.
5. Hydro One shall file with the Ontario Energy Board and forward to intervenors any objections to the claimed costs of the intervenors on or before **December 8, 2022**.
6. If Hydro One Networks Inc. objects to any intervenor costs, those intervenors shall file with the Ontario Energy Board and forward to Hydro One Networks Inc. their responses, if any, to the objections to cost claims on or before **December 15, 2022**.
7. Hydro One Networks Inc. shall pay the Ontario Energy Board's costs of, and incidental to, this proceeding upon receipt of the Ontario Energy Board's invoice.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0140** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Andrew Bishop at Andrew.Bishop@oeb.ca and OEB staff counsel, Michael Millar at Michael.Millar@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto November 24, 2022

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

SCHEDULE A
DECISION AND ORDER
HYDRO ONE NETWORKS INC.
EB-2022-0140
NOVEMBER 24, 2022

SCHEDULE B
DECISION AND ORDER
HYDRO ONE NETWORKS INC.
EB-2022-0140
NOVEMBER 24, 2022

CONDITIONS OF APPROVAL
APPLICATION UNDER SECTION 92 OF THE OEB ACT
HYDRO ONE NETWORKS INC.
EB-2022-0140

1. Hydro One shall fulfill any requirements of the SIA and the CIA, and shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.
2. Unless otherwise ordered by the OEB, authorization for leave to construct shall terminate 12 months from the date of the Decision and Order, unless construction has commenced prior to that date.
3. Hydro One shall advise the OEB of any proposed material change in the Project, including but not limited to changes in: the proposed route, construction schedule, necessary environmental assessment approvals, and all other approvals, permits, licences, certificates and rights required to construct the Project.
4. Hydro One shall submit to the OEB written confirmation of the completion of the Project construction. This written confirmation shall be provided within one month of the completion of construction.
5. Hydro One shall designate one of its employees as project manager who will be the point of contact for these conditions, and shall provide the employee's name and contact information to the OEB and to all affected landowners, and shall clearly post the Project manager's contact information in a prominent place at the construction site.