



## BATCHEWANA FIRST NATION OF OJIBWAYS

Rankin Reserve 15D - Goulais Bay Reserve 15A - Obadjiwan Reserve 15E - Whitefish Island 15

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October 24, 2023  
Via email: Registrar@oeb.ca

Nancy Marconi  
Registrar  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

**Re: EB-2023-0061 - Hydro One Sault Ste. Marie Limited Partnership Leave to Construct Application – Sault #3 Transmission Line Refurbishment Project**

### Final Submissions of Batchewana First Nation

Dear Ms. Marconi:

Please find enclosed the final submissions of Batchewana First Nation regarding the above noted matter, submitted pursuant to Procedural Order No. 2.

Sincerely,

Chief Mark McCoy  
Batchewana First Nation

cc: Vithooshan Ganesanathan, Vithooshan.Ganesanathan@oeb.ca  
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**EB-2023-0061**

**FINAL SUBMISSION**

**BATCHEWANA FIRST NATION**

**October 24, 2023**

## A. Introduction

1. Batchewana First Nation (“**BFN**”) holds and exercises treaty rights and interests over lands and resources within its original lands (“**Original Reserve**”). These rights and interests include, but are not limited to, harvesting (hunting and fishing), gathering, medicinal plants, food and sustenance, travel, burials and sacred sites, ceremonial sites, ceremonies, artifacts, trapping and water (“**BFN Rights**”).
2. BFN, by *Batchewana First Nation Notice of Assertions* (“**Notice of Assertions**”), has given notice to resource users and developers, other governments and the general public of the rights and interest it asserts and will continue to assert in its original, traditional and historic territory, including the Original Reserve.
3. BFN asserts its jurisdiction over the lands in the Original Reserve pursuant to the Notice of Assertions, the Robinson Treaty of 1850 between the Batchewana First Nation and Her Majesty the Queen, and its rights and interests and powers pursuant to the *Constitution Act, 1982*.
4. BFN maintains a commercial fishery that uses the waters of Lake Superior from Whitefish Island and stretching all along the shoreline of Lake Superior to the boundary of Pukaskwa National Park. The inherent right to fish, hunt and make use of the lands throughout its Original Reserve remains a part of the way of life for BFN.
5. BFN’s Aboriginal and Treaty rights also trigger the Crown’s constitutional obligations to consult and accommodate BFN in respect of any activity that has the potential to affect these rights. As such, BFN expects to fully participate in the development of any project that may impact its rights.
6. Hydro One Sault Ste. Marie Limited Partnership’s (“**HOSSM**”) proposed refurbishment of the existing Sault #3 transmission line between Third Line Transformer Station and Mackay Transformer Station connecting the Montreal River area with the Sault Ste. Marie area (the “**Project**” or “**Sault #3**”) would traverse through BFN’s Original Reserve. BFN members have historically used the Project area for hunting camps, travel routes, social events and the practice of other cultural pursuits.

7. BFN and its Reserve 15E (Obadjiwon) and 15C (Goulais Bay) depend on HOSSM for delivery of reliable power and for cooperation with its long-term energy plan to accommodate growth and expansion within these reserve lands and for lands that may be added to reserve in the future.

## **B. BFN's Role in a Decarbonized Future**

8. BFN is a progressive First Nation that recognizes the need for sustainable economic development and as such is an active participant in the regional economy. Led by an economic development team, BFN has negotiated with industry and government to create successful business opportunities for its community. Additionally, BFN advocates for the achievement of a net-zero greenhouse gas emissions economy by 2050. These principles have led BFN to become a leader in the renewable energy industry. BFN participates in wind and solar power projects and is committed to long term renewable energy generation. BFN recognizes the need for sustainable electricity generation and, as such, finds balance between environmental protection, economic development and social value.
9. BFN recognizes and shares the Ontario Ministry of Energy's stated goal of reducing greenhouse gas emissions. BFN believes necessary investments are crucial to managing Ontario's energy transition. BFN is, and will continue to be, a key player in the transition to a decarbonized future. We note the Independent Electricity System Operator ("IESO") recognition that a partnership role for Indigenous communities is a necessity and that an increased role for Indigenous governments beyond the current participation rate in electricity projects is essential.<sup>1</sup>

## **C. BFN's Long-Term Energy Plans**

10. The IESO has acknowledged that a partnership role for Indigenous communities is a necessity and that simply consulting Indigenous communities has never been a sufficient approach to electricity system planning.<sup>2</sup> We respectfully submit that HOSSM's proposed Project does not adequately consider BFN's long-term energy plans and does not sufficiently consider growth within the electricity sector on the Original Reserve. HOSSM has not met with BFN to thoroughly understand these issues and it is submitted that without a proper understanding of BFN's unique position in relation to the Sault #3 line, HOSSM is unable to make a comprehensive determination.

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<sup>1</sup> Independent Electricity System Operator, *Pathways to Decarbonization*, page 35 [*Pathways to Decarbonization*]

<sup>2</sup> Independent Electricity System Operator, *Pathways to Decarbonization*, page 35

11. The IESO stated that “Indigenous people must have a voice in how and where new infrastructure is located, and that meaningful and transparent discussions about land use is required.”<sup>3</sup> While BFN acknowledges that it discussed the Project with HOSSM as part of the environmental assessment process, there have been no meaningful consultations regarding the economic implications of the Project on BFN.

#### **D. Sault #3 Voltage Upgrade**

12. The IESO has stated that there is an “urgent need to begin investing in early development work to ensure that the grid is ready to support transformation into the next decade”.<sup>4</sup> Higher voltage lines will be necessary for the integration of renewable energy sources in the future.

13. BFN and the area east of Lake Superior are supplied by a 230 kV and a 115 kV transmission line and transformation facilities. Sault #3, a 115 kV circuit, and the accompanying 230 kV line are both nearing their capacity limits. BFN has the potential to continue to assist in the transition to a decarbonized future but finds itself impeded by a grid that cannot reliably accommodate new generators. The integration of renewable energy sources into the grid must be a priority. BFN respectfully submits that HOSSM has made a short-sighted determination by concluding that upgrading the Sault #3 circuit to operate at 230 kV would not be cost effective.

14. In HOSSM’s response to BFN’s Interrogatories, HOSSM states:

“The 230kV upgrade option would drive substantial additional costs. Apart from the higher cost of the 230kV line itself, the project would require extensive work at both Third Line TS and Mackay TS to connect the upgraded line at these two stations. Both Batchewana TS and Goulais TS would need to be converted to 230kV stations. Further, the re-termination of the Sault No.3 circuit on the 230 kV bus at Third Line TS would remove Sault No.3 as a supply to the 115 kV system at Third Line. This would advance the need, identified in the East Lake Superior IRRP, for additional auto-transformer capacity at Third Line.”<sup>5</sup>

15. BFN respectfully submits that HOSSM should provide a cost comparison between the current plan described in their application and the costs associated with completing the upgrades described above. BFN requests to know the quantum of the “substantial additional costs”.

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<sup>3</sup> *Ibid*, page 4

<sup>4</sup> *Ibid*, page 38

<sup>5</sup> HOSSM’s Response to BFN Interrogatory 02, exhibit I, tab 4, schedule 2, page 2

16. BFN submits that it is not a matter of whether the Sault #3 line will be upgraded but rather when that upgrade will occur. From a long-term planning and business perspective, HOSSM must be considering the upgrade. BFN submits that HOSSM should provide a timeline for when the upgrading will occur and it should indicate whether the upgrade can take place within its existing corridors or whether additional lands will be required to meet the construction demands of a 230 kV line.

**E. Environmental Impacts**

17. As stewards of the environment for future generations, BFN has a responsibility to vigorously advocate for and protect its lands. BFN supports the sustainable development of its lands required for the energy transition but will not consent to shortcuts that threaten the integrity of the environment.

18. Batchewana Natural Resources (“**BNR**”) is the administrative department responsible for the oversight and monitoring of transmission projects within the Original Reserve. BNR has informed Chief and Council of its concern that the failure to upgrade to 230 kV now would ultimately cause more environmental damage to the Original Reserve. The upgrade should be completed now, as a single project, instead of returning in the near future to cause further disturbances to the flora and fauna.

19. Proponents seeking to develop a project within the Original Reserve must obtain the consent of the BFN. BNR is the department responsible for issuing permits which are required before a project can proceed. Proponents are granted the right to commence project development when a permit is issued by BNR.

20. When HOSSM was asked when it intends to negotiate the permit required by BFN for entry and use of land on BFN's Original Reserve, it replied:

“HOSSM has obtained the necessary land rights from the applicable land owner(s) for its Sault #3 transmission line to allow for the work to proceed.”<sup>6</sup>

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<sup>6</sup> HOSSM's Response to BFN Interrogatory 04, exhibit I, tab 4, schedule 4, page 2

21. BFN submits that this response does not answer the question and is inappropriate especially in the spirit of reconciliation.

**F. Conclusion**

22. The failure of HOSSM to upgrade the Sault #3 line to 230kV will result in economic uncertainty and harm to BFN. The short-term thinking belies the IESO's stated goal of decarbonization and restricts Indigenous participation in the low-carbon economy. Investing in a higher voltage system now will not only anticipate future energy needs but would also lead to fewer environmental impacts and less potential impacts on BFN Rights.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 24TH DAY OF OCTOBER 2023.**