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DECISION AND ORDER

EB-2024-0155

HYDRO ONE NETWORKS INC.

**Leave to Construct Application- St. Clair Transmission Line
Project**

BEFORE: Fred Cass
Presiding Commissioner

Robert Dodds
Commissioner

David Sword
Commissioner

December 10, 2024

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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 approximately 64 kilometres of 230 kilovolt (kV) electricity transmission line and associated facilities in the Township of St. Clair, Municipality of Wallaceburg and the Chatham-Kent areas.

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

The proposed electricity transmission line would extend from Lambton Transformer Station, connecting Wallaceburg Transformer Station (TS), and terminate at Chatham Switching Station (SS). By an Order in Council 876/2022, the Lieutenant Governor in Council declared that the Project would be designated as a priority transmission project under section 96.1 of the *Ontario Energy Board Act, 1998* (OEB Act).¹ 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 the Project is in the public interest under section 96 of the OEB Act.

Hydro One has also applied for approval of the form of land use agreements it has offered, or will offer, to landowners affected by 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 finds that the Project is in the public interest based on an examination of the Project need, alternatives, cost, customer impacts, reliability and quality of electricity service, and land matters.

The OEB accepts the proposed Project cost of \$471.9M. A prudence review of all costs incurred, including the utilization of the Project contingency, may be conducted by the OEB at the appropriate future revenue requirement proceeding after the Project is completed.

The OEB approves the forms of land use agreements that Hydro One has offered, or will offer, to landowners affected by the routing and construction of the Project. The leave to construct is subject to the OEB's conditions of approval, attached as Schedule B to this Decision and Order.

¹ [Order in Council \(OIC\) dated March 31, 2022.](#)

PROCESS

Hydro One applied to the OEB on May 28, 2024, under section 92 of the OEB Act, for an order granting leave to construct approximately 64 kilometres of electricity transmission line and associated facilities in the Township of St. Clair, Municipality of Wallaceburg, and the Chatham-Kent areas. The proposed electricity transmission line would extend from Lambton Transformer Station, connecting Wallaceburg Transformer Station, and terminate at Chatham Switching Station. This transmission line has been designated as a priority transmission project under section 96.1 of the OEB Act by [Order in Council 876/2022](#).

Hydro One has also applied to the OEB under section 97 of the OEB Act for approval of the forms of land use agreements it offers to landowners for the routing and construction of the Project.

The OEB issued a Notice of Hearing on June 21, 2024. Applications for intervenor status were made by the following:

- The Ross Firm Group
- Enbridge Gas Inc.
- Vector Pipeline Inc.
- The Siskinds Firm Group
- Kevin Jakubec
- Independent Electricity System Operator (IESO)

The OEB issued Procedural Order No. 1 on July 31, 2024. Intervenor status was granted to each of the above-noted parties for matters within the scope of the proceeding.

The Ross Firm Group and Siskinds Firm Group also applied for cost eligibility.

The Ross Firm Group was granted eligibility for cost awards. The Siskinds Firm Group was granted eligibility for cost awards only to the extent that the landowners represented by the Siskinds Firm Group are landowners directly affected by the Project.

In Procedural Order No.1, the OEB provided the Siskinds Firm Group with an opportunity to provide additional information within the scope of the issues in the proceeding on how its members are affected by the Project, or to identify any special

circumstances that they wished the OEB to consider regarding cost award eligibility in respect of representing the interests of members (other than affected landowners). The Siskinds Firm Group did not file any further information on this matter.

In their intervention requests, the Ross Firm Group and the Siskinds Firm Group indicated that they intended to submit evidence. Procedural Order No. 1 directed these intervenors to provide a detailed description of any evidence they each intended to submit and the proposed timing for the filing of such evidence. Neither the Ross Firm Group nor the Siskinds Firm Group filed further information or evidence.

Procedural Order No. 1 established the schedule for filing interrogatories and responses and included the [standard issues list](#) for electricity transmission leave to construct applications, which reflects the OEB's authority under section 96(2) of the OEB Act. Procedural Order No. 1 noted that by Order in Council (OIC) dated March 31, 2022, the Lieutenant Governor in Council identified the Project as a priority transmission project under section 96.1 of the OEB Act. In accordance with section 96.1(2) of the OEB Act, the OEB is required to accept that 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 related to the Project and that development of the Project accord with the project scope and timing recommended by the IESO.² As such, the standard issues relating to need and the consideration of alternatives to the Project were not applicable in this proceeding.

Procedural Order No. 1 indicated that the Project is subject to an Environmental Assessment conducted by the Ministry of the Environment, Conservation and Parks, and that issues related to the Environmental Assessment process are not reviewed by the OEB except to the extent that they are relevant to the OEB's consideration of price, reliability and quality of service.

In accordance with the procedural schedule, the Ross Firm Group, the Siskinds Firm Group, Enbridge Gas Inc., Vector Pipeline Inc., Kevin Jakubec, and OEB staff filed interrogatories.

On September 4, 2024, Hydro One filed its responses to the interrogatories and requested confidential treatment for certain information contained in some of its interrogatory responses. The OEB issued its [Decision on Confidentiality](#) regarding

² Exhibit B, Tab 3, Schedule 1, p. 1

responses to certain OEB Staff Interrogatories on October 16, 2024. No intervenors requested access to the confidential, unredacted versions of the information.

In accordance with the schedule established through Procedural Order No. 2, written submissions were filed by OEB staff, the Ross Firm Group, the Siskinds Firm Group and Kevin Jakubec on October 8, 2024. Hydro One filed its reply submission on October 23, 2024.

DECISION

The OEB grants leave to construct the Project subject to standard conditions of approval that have been approved by the OEB in prior leave to construct proceedings.

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.

Under section 96(1) of the OEB Act, if the OEB finds that the construction of a proposed electricity transmission line is in the public interest, it shall make an order granting leave to carry out the work. Section 96(2) provides that, when the OEB considers whether an electricity transmission line is in the public interest, it shall consider only the interests of consumers with respect to prices and the reliability and quality of electricity service.

Further, section 96.1(2) of the OEB Act provides that when the OEB considers a leave to construct application in respect of an electricity transmission line specified in an Order in Council as a priority project, the OEB shall accept that the construction is needed. The Project that is the subject of this application has been specified as a priority project by an Order in Council dated March 31, 2022.³

Accordingly, in deciding whether the Project is in the public interest, the OEB has considered the interests of consumers with respect to prices and the reliability and quality of electricity service. As required by Section 96.1(2) of the OEB Act, the OEB accepts that construction of the Project is needed. For the reasons set out below, the OEB finds that the Project is in the public interest and it grants leave to construct the Project pursuant to section 96 of the OEB Act.

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.

1.1 Price: Project Costs

Hydro One estimated that the total capital cost of the Project is approximately \$471.9 million, consisting of \$334.5 million for line work and \$137.4 million for station work.⁴ Hydro One has indicated that this cost estimate carries a confidence level consistent with a Class 3 (-20% / +30%) estimate classification under the Association for the

³ [Order-in-Council 876/2022](#)

⁴ Exhibit B, Tab 7, Schedule 1, p. 1.

Advancement of Cost Engineering (ACE) International system, reflecting a moderate level of definition for project scope, risk, and cost estimation.⁵

Hydro One stated that the Project cost estimate is based on a fixed price Engineering, Procurement and Construction (EPC) contract, which reflects current market-tested EPC pricing to deliver the Project, along with corresponding risk that will be transferred to the EPC contractor.⁶

Future Ownership of Transmission Line

Hydro One expects that, after completion of the Project, the ownership of the transmission line facilities comprising the Project will be transferred to a future limited partnership that will include ownership interests held by impacted First Nations.⁷

At the time the application was submitted to the OEB, the formation and structuring of the limited partnership had not been finalized, such that commercial details of the partnership were not provided. Hydro One stated that any limited partnership agreement is not anticipated to impact the cost estimate of the Project.⁸

Hydro One has not requested any deferral accounts to be established, however, it has indicated that until the limited partnership is formed, line work costs associated with the construction of the Project will reside in the OEB-approved Affiliate Transmission Projects (ATP) regulatory account and will not form part of Hydro One's rate base.⁹

Comparator Transmission Line Projects

For the line work, Hydro One referenced three recent double-circuit 230 kV transmission lines as comparators. These are the Woodstock Area Transmission Reinforcement project, the Power South Nepean project, and the Chatham x Lakeshore Transmission Line project.¹⁰

Hydro One stated that these projects were chosen as comparators because they are 230 kV double-circuit transmission lines that included a rebuild of existing 115 kV

⁵ Exhibit B, Tab 10, Schedule 1, p. 2.

⁶ Exhibit B, Tab 7, Schedule 1, p. 2.

⁷ The Indigenous communities that will have the opportunity to participate in the equity ownership model include: Aamjiwnaang First Nation, Bkejwanong (Walpole Island) First Nation, Caldwell First Nation, Chippewas of Kettle and Stony Point First Nation, Chippewas of the Thames First Nation.

⁸ Exhibit B, Tab 1, Schedule 1, p. 2-3.

⁹ Exhibit B, Tab 1, Schedule 1, p. 3.

¹⁰ Woodstock Area Transmission Reinforcement Project (EB-2007-0027), Power South Nepean Project (EB-2019-0077), Chatham x Lakeshore Transmission Line Project (EB-2022-0140).

transmission line and structures. Additionally, the Woodstock Area Transmission Reinforcement and Chatham x Lakeshore Transmission Line projects were projects utilizing the same sized conductor as contemplated for this Project and are also geographically situated in similar Southwestern Ontario areas.¹¹

Hydro One stated that the total project costs on a per-kilometre of line basis for the comparator projects were between \$3.1 million and \$4.4 million, while the Project is estimated to cost \$3.3 million per kilometre.¹²

Hydro One stated that when considering the adjusted comparable cost per kilometre ratio, the estimate for the Project is consistent with the cost to complete comparable transmission lines and is reasonable.¹³

Comparator Station Projects

Hydro One provided cost ranges for comparator projects related to the modifications at Chatham SS, Lambton TS, and Wallaceburg TS. For the Chatham SS and Lambton TS work, Hydro One referenced the recently in-service Wawa TS and Lakehead TS in Northwestern Ontario undertaken for the East-West Tie Line project, and the ongoing Chatham SS works undertaken for the Chatham x Lakeshore Transmission Line project. Additionally, for the proposed Wallaceburg TS work, Hydro One referenced the recently in-service system renewal refurbishment projects at Chenaux TS and Parry Sound TS.¹⁴

Hydro One stated that the total project costs for the Chatham SS and Lambton TS comparator projects were between \$32.2 million and \$69.7 million, while the Chatham SS project is estimated to cost \$35 million and the Lambton TS project is estimated at \$52.3 million. Hydro One stated that the estimated cost for Chatham SS and Lambton TS is consistent with the cost to complete comparable terminal station modification work and is reasonable.

The Wallaceburg TS comparator projects ranged from \$26.9 million to \$53 million, while the Project is estimated to cost \$43.2 million.¹⁵

For the Wallaceburg TS project, Hydro One stated that a direct comparison to the scope of the project was not available due to the limited number of projects requiring a 115 kV

¹¹ Exhibit B, Tab 7, Schedule 1, p. 5-6

¹² Interrogatory Responses, Staff 4(g) and Exhibit I, Tab 1, Schedule 4, p. 6.

¹³ Exhibit B, Tab 7, Schedule 1, p. 6-7.

¹⁴ Exhibit B, Tab 7, Schedule 1, p. 8.

¹⁵ Interrogatory Responses, Staff 4(g), Exhibit I, Tab 1, Schedule 4, p. 7-8.

to 230 kV station conversion that Hydro One has completed. Hydro One submitted that the estimated costs were reasonable when compared to similar comparator projects.

OEB Staff submitted that the comparative projects used by Hydro One are appropriate benchmarks for evaluating the costs of the Project and the inflationary adjustments applied to comparator projects by Hydro One appear reasonable. OEB staff noted that the line and station costs for the proposed Project are similar to those of the comparative projects, adjusting for current market conditions. Intervenors did not make any submissions on the project costs or the comparative projects referenced by Hydro One.

Overhead Capitalization Methodology

Hydro One calculated the overhead cost estimate using two capitalization rates: one for the line component that is employing the Early Contractor Involvement (ECI) model with an external owner's engineer that utilizes the ECI-EPC overhead capitalization rate, and another for the station component in which there is no early contractor involvement and utilizes the full Hydro One standard overhead capitalization rate.

Hydro One stated that the ECI delivery model engages the services of external engineering firms and EPC contractors (ECI-EPC) and that, compared to standard Hydro One transmission projects, the ECI-EPC model provides an enhanced overhead capitalization rate allocation, which reduces the level of overhead to the Project line costs by \$20 million.¹⁶

OEB staff submitted that Hydro One followed a reasonable process for developing its project cost estimate. Hydro One used a competitive procurement process to select an EPC contractor. OEB staff is supportive of Hydro One's ECI-EPC approach for large transmission projects since it leads to early risk identification and more accurate cost estimation. OEB staff noted that such an approach was also used by Hydro One for the recently approved Chatham to Lakeshore and Waasigan transmission line projects.¹⁷

OEB staff submitted that the overhead capitalization methodology is a rates issue and should be reviewed in the first rate application associated with the Project. OEB staff noted that this approach is consistent with the OEB's decision for the Waasigan

¹⁶ Interrogatory Responses, Staff-8(d), Exhibit I, Tab 1, Schedule 8, p. 2-3.

¹⁷ EB-2022-0140, Decision and Order, November 24, 2022; EB-2023-0198, Decision and Order, April 16, 2024.

transmission line project and is being used in the application currently before the OEB to set the revenue requirement for the Chatham to Lakeshore line project.¹⁸

Project Risks and Contingency Costs

Hydro One's cost estimate for the Project includes a contingency allowance to account for various risks, which was developed using a risk management model that involves both qualitative and quantitative analyses. Key risks and mitigation measures identified by Hydro One include:

- Outage Constraints
- Approvals, Permits, and Authorizations
- Subsurface Conditions

To mitigate these risks, Hydro One has established communication plans with EPC contractors to manage schedule updates and minimize delays and has indicated that it has taken the following additional steps:

1. Incorporated outage planning into the project schedule to avoid peak load seasons.
2. Submitted regulatory applications and permits well in advance.
3. Conducted preliminary studies to identify subsurface conditions and plan accordingly.

OEB staff submitted that while the contingency costs form a significant portion of the Project costs, the allocations of 8.4% for line work and 9.8% for station work are in line with previous projects of similar size and complexity.¹⁹

Findings

The OEB finds the estimated capital cost of the Project of \$471.9 million, consisting of \$334.5 million for line work and \$137.4 million for station work, to be reasonable.

The evidence upon which the OEB has relied in reaching its conclusion that these costs are reasonable includes the following:

¹⁸ EB-2023-0198 Decision and Order, April 16, 2024 (Waasigan Transmission Line Project); EB-2024-0216 (Chatham x Lakeshore Limited Partnership 2025-2029 Transmission Revenue Requirement Application).

¹⁹ OEB Staff Submission, p. 9

- The estimated Project costs provide a confidence level consistent with an AACE Class 3 cost estimate (-20%/+30% accuracy level).
- Hydro One used a fixed price EPC execution methodology for the Project to define and manage its scope, schedule and risk; it is using an Early Contractor Involvement delivery model for the Project; and it used a competitive procurement process to select the EPC contractor.
- Hydro One's evidence of comparator projects provided benchmarks for the OEB's evaluation of estimated costs and, after accounting for current market conditions, Hydro One's overall cost estimate is generally supported by the comparator evidence.
- The estimated cost per kilometre of Hydro One's proposed line work is within the range of comparator projects provided by Hydro One and slightly lower than certain other projects referred to by Hydro One.
- Although direct cost comparisons for station work are challenging due to unique site conditions and configurations for different stations, Hydro One provided evidence that the estimated cost of the station work compares favourably to the cost of similar station work completed by Hydro One.
- The cost estimates for the line work and station work each include an allowance for contingencies which recognizes the risks associated with estimating costs and these contingencies are in line with Hydro One's contingency allowances on previous projects of similar size and complexity.

1.2 Price: Customer Impacts

Hydro One stated that the Project costs will be included in the network, line and transformation connection pools for cost classification purposes. Hydro One further stated that the Project costs will not be allocated to any individual customer, and no customer capital contribution is required because the Project is not driven by any specific customer load application.²⁰ Additionally, Hydro One stated that due to the enabled growth in the Southwestern Ontario area, the steady net incremental revenue will have an overall rate mitigating impact over the 25- year time horizon for the line and transformation pools.²¹

²⁰ Exhibit B, Tab 9, Schedule 1, p. 2.

²¹ Exhibit B, Tab 9, Schedule 1, p. 4.

Hydro One estimated that the Project will decrease the typical residential customer bill by \$0.14 per month or 0.09%. This amounts to a decrease of approximately \$1.63 per year.²²

Network Pool

Over a 25-year time horizon, the average Uniform Transmission Rate (UTR) will have little variation from the 2024 OEB-approved rate of \$5.78 per kW/month.

Line Connection Pool

Over a 25-year time horizon, the 2024 OEB-approved rate of \$0.95 per kW/month decreases to \$0.93 per kW/month.

Transformation Pool

Over a 25-year time horizon, the 2024 OEB-approved rate of \$3.21 per kW/month decreases to about \$3.14 per kW/month.²³

OEB staff submitted that Hydro One's proposed allocation of Project costs to the network, line and transformation connection rate pools is appropriate. OEB staff took no issue with Hydro One's position that no customer capital contribution is required. Additionally, OEB staff submitted that the consumer impacts of the Project are appropriate given the need for the Project and the forecasted decrease to typical residential customer bills, as Hydro One's evidence suggests.

Intervenors did not make submissions on the matter.

Findings

The OEB finds that that the projected impacts of the Project on the consumer are reasonable and appropriate given the need for the Project and the evidence of Hydro One regarding the impact of the estimated Project costs on its transmission revenue requirement. In making this finding, the OEB has taken into account Hydro One's evidence that, over a 25-year horizon, the Project is expected to have very little impact on the 2024 OEB approved rate for the Network Pool and to result in small decreases to the 2024 OEB approved rates for the Line Connection Pool and the Transformation Connection Pool.²⁴

²² Exhibit B, Tab 9, Schedule 1, p. 3-4.

²³ Exhibit B, Tab 9, Schedule 1, p. 3-4.

²⁴ Exhibit B, Tab 9, Schedule 1, pages 3 and 4.

The OEB has also taken into account Hydro One's estimate that the Project will decrease the typical residential customer's monthly bill by \$0.14 or 0.09%.²⁵

The OEB also finds that Hydro One's proposed allocation of Project costs to the network, line, and transformation connection rate pools, is appropriate.

1.3 Reliability and Quality of Electricity Service

The IESO's draft System Impact Assessment (SIA) concluded that the Project is expected to have no material adverse impact on the reliability of the integrated power system, provided that all requirements in the SIA report are implemented.²⁶

Hydro One's Final Customer Impact Assessment (CIA) concluded that the addition of the St. Clair transmission line will improve the power supply reliability for customers in the region, including the beneficial impact of converting Wallaceburg TS from 115 kV supply to 230 kV supply.²⁷

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

Intervenors did not make submissions on the matter.

Findings

The OEB finds that the Project is expected to have no material adverse impact on the reliability of the integrated power system, provided that all requirements in the System Impact Assessment are implemented, and that it will improve supply reliability for connected customers. In making this finding, the OEB has considered the System Impact Assessment, Hydro One's Customer Impact Assessment and the other evidence in this proceeding relating to reliability and quality of electricity service.

As such, the OEB has no concerns related to the interests of consumers with respect to prices and the reliability and quality of electricity service.

²⁵ Exhibit B, Tab 9, Schedule 1, page 5.

²⁶ Interrogatory Response Ross Firm Group-6a, Exhibit I, Tab 5, Schedule 6, Attachment 1, Final System Impact Assessment, p. 6.

²⁷ Interrogatory Responses, Staff-15a, Exhibit I, Tab 1, Schedule 15, p. 2.

1.4 Proposed Route and Land Matters

1.4.1 Proposed Route

Hydro One evaluated several alternative routes for the Project as part of the Environmental Assessment (EA) process. The evaluation considered social, technical, environmental, and cost criteria. The preferred route, which uses existing transmission corridors for about 80% of its length, was chosen to minimize environmental and socioeconomic impacts.²⁸

Part of the preferred route involves upgrading an existing 115 kV transmission line corridor to a 230 kV double-circuit line which, although more complex and costly, improves reliability and efficiency of the transmission system to the Wallaceburg area.²⁹

With respect to the proposed route of the Project, OEB staff stated that it has no concerns related to the interests of consumers with respect to prices and the reliability and quality of electricity service.

Hydro One filed a map showing the geographic location of the existing facilities and the selected preferred route.³⁰ OEB staff submitted that the route maps submitted by Hydro One meet the OEB's requirements.

Findings

OEB has no concerns with the proposed route of the Project. The map that Hydro One filed with the application satisfies the requirements of the OEB Act³¹ and issue 6.1 of the standard issues list for leave to construct applications.

The OEB notes that the detailed route selection is determined in the EA process and that Hydro One carried out consultations with municipal, provincial, and federal government officials and agencies, Indigenous communities, potentially affected and interested persons, businesses, and interest groups and examined route options that were based on social, technical, environmental, and cost considerations.³²

²⁸ Interrogatory Response Staff-2(a), Exhibit I, Tab 1, Schedule 2, pg. 3.

²⁹ Exhibit B, Tab 3, Schedule 1, p. 2-3.

³⁰ Exhibit B, Tab 2, Schedule 1, Attachment 1.

³¹ OEB Act, s. 94

³² Hydro One Reply Submission, p. 5-6, para. 13

1.4.2 Land Matters

The application states that the proposed transmission line of 64 km will be sited within a corridor varying from 30 metres to 46 metres in width. About 13 kilometres of the transmission line corridor is on provincially owned land with statutory easements held by Hydro One³³, while the remaining 51 kilometers of the corridor will be on privately owned lands. On approximately 41 kilometres of these private lands, an existing 115 kV single-circuit transmission line will be decommissioned, removed and replaced with a new 230 kV double-circuit line.³⁴

The Project impacts 103 properties, including 95 privately-held properties, 2 provincially-held (by Ontario Power Generation) properties, and 6 railway crossings.

The project requires various land rights, including statutory easements on provincial land, easement or fee simple rights on private and provincial properties, rail crossing agreements, and temporary access for construction-related activities.

As of August 2024, Hydro One had secured 96% of the early access agreements and voluntary property settlement agreements with 32% of affected landowners.³⁵

Hydro One filed the proposed forms of agreements that it has offered or will offer to affected landowners. Hydro One stated that three of the forms of agreements have been updated since they were approved in prior proceedings but remain materially unchanged.³⁶

Hydro One stated that all impacted property owners will be advised during property acquisition discussions that they have the option to receive independent legal advice and that it would commit to reimbursing those property owners for reasonably incurred legal fees associated with the review and completion of the necessary land rights.³⁷

OEB staff submitted that it reviewed the proposed forms of agreements and had no issues or concerns. Many of the agreements were generally consistent with the agreements approved by the OEB through previous proceedings. OEB staff observed that the three agreements that were updated appear to offer more choice and compensation options to landowners. OEB staff further noted that the forms of

³³ *Electricity Act, 1998*, Part IX.1 (Ownership and Use of Corridor Land).

³⁴ Exhibit E, Tab 1, Schedule 1, p. 1.

³⁵ Interrogatory Response Staff-14(a), Exhibit I, Tab 1, Schedule 14, p. 2.

³⁶ The Early Access Agreement, Compensation and Incentive Agreement – Easement, and Compensation and Incentive Agreement – Fee Simple were updated since prior approval. Details of the updates are set out at Exhibit E, Tab 1, Schedule 1, p. 6-7, Table 4.

³⁷ Exhibit E, Tab 1, Schedule 1, p. 4.

agreement serve only as the initial offer to landowners and may not reflect the final agreement that is agreed to between the parties.

Ross Firm Group Submission

In its submission, the Ross Firm Group stated that their clients were concerned about the overly broad and onerous language in the proposed Easement Agreement and that inclusion of telecommunications lines and related business ventures within the Easement Agreement is outside the scope of the current application. The Ross Firm Group submitted that Hydro One intends to rely on the broad language of the Easement Agreement to avoid compensating landowners for future projects and that such an approach is inconsistent with the principles of fairness and the statutory requirements under the OEB Act.³⁸

In response to the Ross Firm Group's submission, Hydro One stated that the forms of agreement proposed in the application have been utilized in multiple OEB-approved electricity leave to construct proceedings and noted that all of the forms of agreement are materially the same as the forms of agreements approved by the OEB in the Chatham to Lakeshore Project proceeding (EB-2022-0140).³⁹

Further, Hydro One emphasized that the language in the Easement Agreement offers the necessary flexibility for the operation and maintenance of its transmission line assets, including any future requirements. Hydro One plans to utilize the rights granted under Section 1 of the Transfer and Grant of Easement in this Application to ensure safe access to the easement lands for ongoing operation and maintenance of the transmission line.⁴⁰

Hydro One stated that telecommunication systems form part of the transmission line infrastructure that is critical for the safe, secure and reliable operation of a transmission line. Hydro One also submitted that, "telecommunication systems" and "related business venture" within the Easement Agreement reflect the rights provided to Hydro One by section 42 of the *Electricity Act* which includes the right to utilize transmission and distribution infrastructure for the purpose of providing telecommunication services and the right to enter into agreements with others, authorizing them to attach wires or

³⁸ The Ross Firm Group Submission, p. 2.

³⁹ Hydro One Reply Submission, p. 10, para 26.

⁴⁰ Hydro One Reply Submission, p. 12, para. 35.

other telecommunication facilities to that infrastructure for the purposes of supplying telecommunication systems.⁴¹

Siskinds Firm Group Submission

Submissions regarding annual compensation payments

In its interrogatories to Hydro One, the Siskinds Firm Group asked whether consideration had been given by Hydro One for an annual payment to landowners for the continued and ongoing impacts associated with Hydro One's use of the land. Hydro One responded that annual payments are not being offered as part of the land rights acquisition program for the Project. Hydro One is compensating landowners for the necessary land rights it requires for its assets via a one-time payment framework. Hydro One stated that this methodology is consistent with how other long term industry infrastructure companies approach their land rights compensation in the Province.⁴²

⁴¹ Interrogatory response Ross Firm Group-08(d) Exhibit I, Tab 5, Schedule 8, p. 3 and Hydro One Reply submission, p. 12, para. 34.

Section 42 of the *Electricity Act, 1998* states:

42 (1) If part of a transmission or distribution system is located on land with respect to which the transmitter or distributor has an easement or other right to use the land, the transmitter or distributor may,

(a) use the land that is subject to the easement or other right for the purpose of providing telecommunications service; or

(b) enter into agreements with other persons, including affiliates of the transmitter or distributor, authorizing them to use the land that is subject to the easement or other right for the purpose of providing telecommunications service. 1998, c. 15, Sched. A, s. 42 (1).

No compensation

(4) The transmitter or distributor is not required to pay any compensation for attaching wires or other telecommunications facilities to a transmission or distribution pole pursuant to clause (1) (a). 1998, c. 15, Sched. A, s. 42 (4).

Same

(5) A person who is authorized to use land pursuant to an agreement entered into under clause (1) (b) is not required to pay any compensation, other than compensation provided for in the agreement, for attaching wires or other telecommunications facilities to a transmission or distribution pole pursuant to the agreement. 1998, c. 15, Sched. A, s. 42 (5).

⁴² Interrogatory Response Siskinds-02(a), Exhibit I, Tab 4, Schedule 2, p. 1.

In its submission, the Siskinds Firm Group contended that there is precedent for annual payments as part of any land rights acquisition program for the Project and cited the example of Union Gas, which regularly includes within its contract minimum annual payment provisions.⁴³

In its reply submission, Hydro One noted that the Siskinds Firm Group used compensation structures related to natural gas storage and submitted that there are material differences between land acquisition requirements for electricity transmission systems, compared to rights to use underground, salt cavern formations required for natural gas storage purposes.⁴⁴

Hydro One stated that its compensation approach remains consistent with its other major transmission projects, and the reliance on lump sum compensation structures under its voluntary land acquisition program achieves finality and security of land rights.⁴⁵ Hydro One submitted that the propriety of lump sum compensation structures is not a relevant issue when considering whether an approval should be granted in accordance with section 97 of the OEB Act.

Submissions regarding consultation

The Siskinds Firm Group submitted that Hydro One has not conducted sufficient consultation with them and other stakeholders, specifically those agricultural landowners impacted by the Project and whose resources are being utilized by Hydro One.⁴⁶

In its reply submission Hydro One stated that significant consultation had occurred throughout the process with various parties, beginning with the Class EA process, continued following completion of the Class EA process and will continue throughout the life of the Project.⁴⁷

Submissions regarding decommissioning

The Ross Firm Group noted that the Easement Agreement lacks any decommissioning provisions and argued that, without a decommissioning clause, landowners risk being left with obsolete infrastructure on their property, negatively impacting land use and value.⁴⁸

⁴³ Siskinds submission, p. 2, para. 10.

⁴⁴ Hydro One Reply Submission, p. 6, para. 16.

⁴⁵ Hydro One Reply Submission, p. 7, para. 18.

⁴⁶ Siskinds Firm Group Submission, p. 4

⁴⁷ Hydro One Reply Submission, p. 5-6

⁴⁸ The Ross Firm Group Submission, p. 6-7

The Siskinds Firm Group also made submissions in support of a decommissioning plan and submitted that decommissioning and rehabilitation are standard requirements that relieve the landowner of the burden of having to deal with, and address, Hydro One's abandoned assets."⁴⁹

In its reply submission, Hydro One submitted that a decommissioning clause is not mandatory based on the [OEB Filing Requirements](#) for leave to construct transmission facilities. Hydro One also stated that, as a priority project, the Project does not envision any need to decommission these facilities in the foreseeable future. It is often the case that electricity transmission lines and structures will have an expected service life of over 80 years. Hydro One submitted that any consideration of decommissioning at this stage would be premature and should be addressed if and when the facilities are to be removed."⁵⁰

Findings

The OEB is satisfied that sufficient consultation has occurred with landowners and other stakeholders along the route as per the evidence filed by Hydro One in this regard.

The OEB approves the proposed forms of agreements offered, or to be offered, by Hydro One to owners of land affected by the route and location of the Project for reasons following.

Hydro One provided evidence of ten land-related forms of agreement that it will use as it proceeds with its efforts to secure the land rights required for the Project. All of these forms of agreement have been previously approved by the OEB, although three have been updated since they were last approved by the OEB.⁵¹ Hydro One has explained the basis for the update to each of these three forms of agreement, namely, Early Access Agreement, Compensation and Incentive Agreement – Easement and Compensation and Incentive Agreement – Fee Simple.⁵²

The OEB finds that Hydro One's explanation of the basis for the updates to each of the three forms of agreements is reasonable. The updates add clarity to Hydro One's offer to landowners to whom the updated forms of agreement will be presented. Accordingly, the OEB accepts the updated forms of agreement and, as stated above, approves all of the forms of agreement offered, or to be offered, by Hydro One to affected landowners.

⁴⁹ Siskinds Firm Group Submission, p. 5.

⁵⁰ Hydro One Reply Submission, p. 15-16, para. 44.

⁵¹ Exhibit E, Tab 1, Schedule 1, page 6.

⁵² Exhibit E, Tab 1, Schedule 1, pages 6-7.

The OEB notes that Hydro One has made a commitment that affected landowners will be afforded an opportunity to receive independent legal advice during discussions regarding acquisition of land rights and that landowners who avail themselves of this opportunity will be reimbursed for reasonably incurred legal fees associated with the review and completion of the necessary land rights agreements.

The written submissions from the Ross Firm Group and the Siskinds Firm Group (Ross and Siskinds Submissions) advance a number of arguments in the context of the OEB's approval of the forms of agreement put forward by Hydro One.

These include arguments about particular provisions contained in or omitted from the forms of agreement, appropriate compensation for landowners and proposed requirements for disclosure by Hydro One.

Section 97 of the OEB Act provides that, in a leave to construct application, the applicant must satisfy the OEB that it has offered or will offer to each affected landowner a form of agreement approved by the OEB. As stated in the OEB Staff Submission, the forms of agreement referred to in section 97 serve as the applicant's "initial offer" to landowners.⁵³

It is clear that section 97 is concerned with the offer made or to be made to affected owners of land, rather than the details of negotiations between the applicant and landowners, and it is concerned with forms of agreement, rather than the terms of actual, concluded agreements between the applicant and landowners.

The OEB's consideration of the applicant's forms of agreement under section 97 does not bring into play any OEB determination of the amount of compensation or the structure of compensation arrangements.

The Ross and Siskinds Submissions are not framed in the context of whether Hydro One's forms of agreement are reasonable or appropriate as an initial offering by Hydro One. They do not put forward any basis for the OEB to conclude that the forms of agreement are problematic when the forms are properly considered, in accordance with section 97 of the OEB Act, as initial offers by Hydro One. They do not identify any prejudice or disadvantage to landowners, nor any other reason for concern, that will or could arise from Hydro One simply making initial offers on the basis of its forms of agreement.

This is all the more so when considered in light of Hydro One's commitment, noted above, that affected landowners will be afforded an opportunity to receive independent legal advice and that they will be reimbursed for reasonably incurred legal fees.

⁵³ OEB Staff Submission, p. 14.

The OEB notes that in the event this process does not result in a satisfactory result for the affected landowners, the issue of compensation can be brought before the Ontario Land Tribunal.

The OEB agrees with Hydro One that the need for the project does not envision that the facilities will be decommissioned in the foreseeable future. The OEB acknowledges that transmission lines and related support structures have an expected service life of over 80-years. Given the importance of transmission infrastructure in meeting Ontario's future electricity needs, the OEB finds that it is not necessary to include conditions related to decommissioning in the standard forms of agreements, as has been recommended by the Ross and Siskinds Groups.

1.5 Conditions of Approval

The OEB Act permits the OEB, when making an order, to impose such conditions as it considers proper. The OEB has established a set of [standard conditions of approval for transmission Leave to Construct applications](#).

OEB staff proposed that the leave to construct order in this proceeding be made subject to the standard conditions of approval.

Submissions by Mr. Jakubec

In his submission, Mr. Kevin Jakubec requested the OEB to make the construction of the St Clair Transmission line conditional on the requirement that Hydro One complete a groundwater baseline study.⁵⁴

Hydro One's reply submission argued that the groundwater baseline study was out of scope of the project and that this type of condition is not related to matters that concern price, quality and reliability of electricity transmission service. In response to an interrogatory from Mr. Jakubec, Hydro One stated that the Final Environmental Study Report for the Project provides a summary of the environment, including groundwater resources, in Section 4.6.4.⁵⁵ If additional baseline groundwater studies were deemed necessary, these would have been a matter arising out of and within the purview of the Minister of Environment, Conservation and Parks's environmental assessment process and thus fall outside of the OEB's scope of jurisdiction.⁵⁶

⁵⁴ Kevin Jakubec Submission, p. 1

⁵⁵ Interrogatory Response Kevin Jakubec-1, Exhibit I, Tab 3, Schedule 1, p. 2-3.

⁵⁶ Hydro One Reply Submission, p. 15, para. 42.

Findings

The OEB grants leave to construct the Project subject to standard conditions of approval that have been approved by the OEB in prior leave to construct proceedings.

Hydro One has confirmed that it accepts the standard conditions of approval.⁵⁷ These conditions of approval are shown in Schedule B of this Decision and Order.

The OEB does not agree with Kevin Jakubec's request that the OEB make the construction of the St Clair Transmission line conditional on the requirement that Hydro One complete a groundwater baseline study. Mr. Jakubec has not made any connection between the condition of approval that he proposes and the scope of the OEB's authority on this application.

As discussed above, when, in a leave to construct application, the OEB considers whether an electricity transmission line is in the public interest, its authority is limited to consideration of the interests of consumers with respect to prices and the reliability and quality of electricity service. Mr. Jakubec has made no connection between his proposed condition of approval and either the interests of consumers with respect to prices or the reliability and quality of electricity service. There is nothing on the record of this proceeding to support a finding that the OEB can, or should, require Hydro One to complete a groundwater baseline study for reasons that relate to the interests of consumers with respect to prices or the reliability and quality of electricity service.

The St. Clair Transmission Line was subject to an Environmental Study under the Ontario Environmental Assessment Act that featured a review of groundwater from wells along the route. The OEB notes that Mr. Jakubec was in correspondence with Hydro One with respect to groundwater issues, and that Hydro One has stated that consultation on environmental issues will continue throughout the life of the Project.

⁵⁷ Exhibit B, Tab 1, Schedule 1, paragraph 18; Hydro One Reply Submission, p. 16, para. 45.

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 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 OEB approves the proposed forms of agreements that Hydro One Networks Inc. has offered or will offer to each owner of land affected by the Project.
4. Eligible intervenors shall file with the OEB and forward to Hydro One Networks Inc. their respective cost claims in accordance with the OEB's Practice Direction on Cost Awards on or before December 17, 2024.
5. Hydro One Networks Inc. shall file with the OEB and forward to intervenors any objections to the claimed costs of the intervenors on or before January 7, 2025.
6. If Hydro One Networks Inc. objects to any intervenor costs, those intervenors shall file with the OEB and forward to Hydro One Networks Inc. their responses, if any, to the objections to cost claims on or before January 17, 2025.

Hydro One Networks Inc. shall pay the OEB's costs of, and incidental to, this proceeding upon receipt of the OEB'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-2024-0155** 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 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, Muhammad Yunus at Muhammad.Yunus@oeb.ca, and OEB Counsel, Ljuba Djurdjevic at Ljuba.Djurdjevic@oeb.ca.

Email: registrar@oeb.ca

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

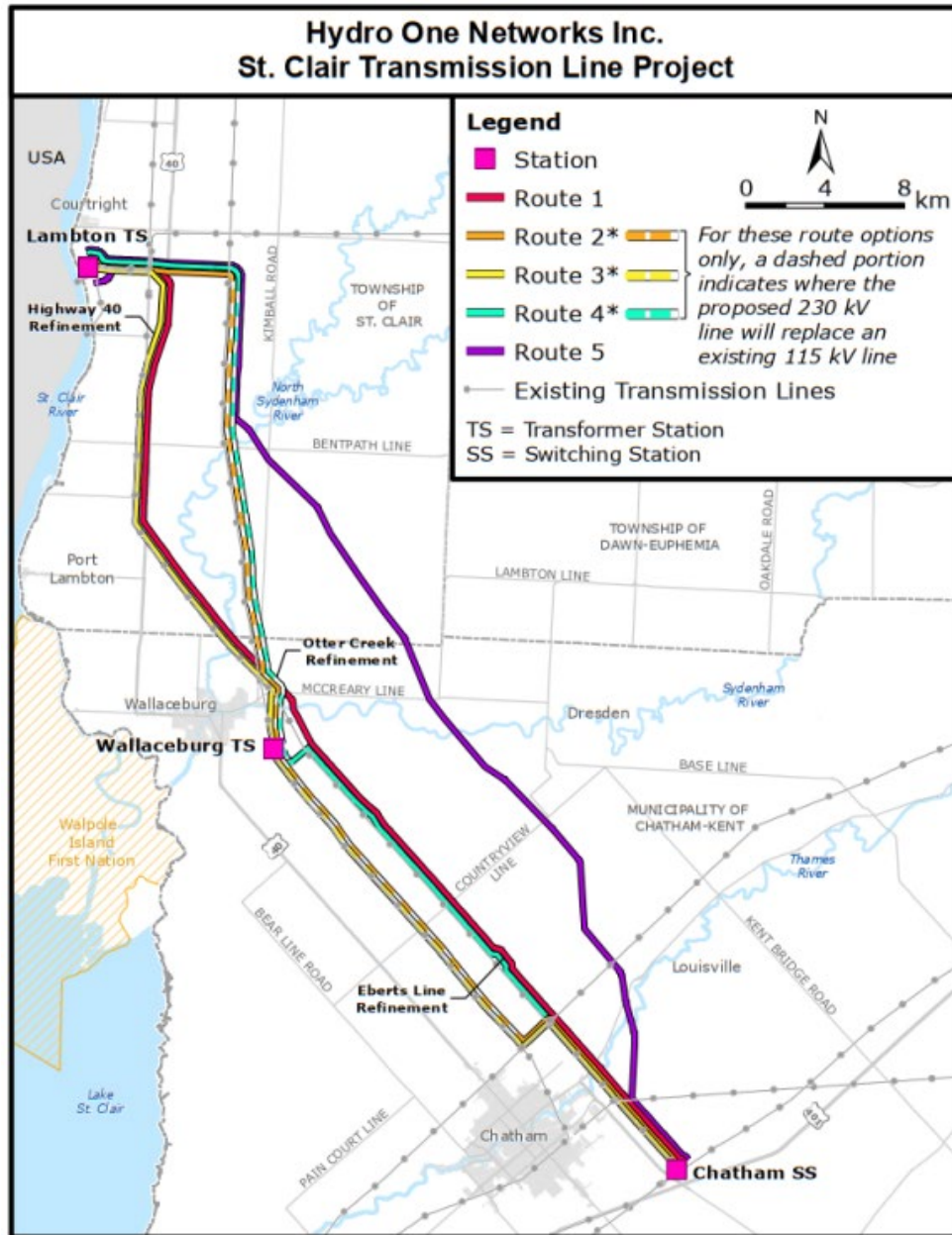
DATED at Toronto December 10, 2024

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

SCHEDULE A
DECISION AND ORDER
HYDRO ONE NETWORKS INC.
EB-2024-0155
DECEMBER 10, 2024

SCHEDULE A – ST. CLAIR TRANSMISSION LINE PROJECT MAP
HYDRO ONE NETWORKS INC.
EB-2024-0155
DECEMBER 10, 2024



SCHEDULE B
DECISION AND ORDER
HYDRO ONE NETWORKS INC.
EB-2024-0155
DECEMBER 10, 2024

**SCHEDULE B: STANDARD CONDITIONS OF APPROVAL
FOR ELECTRICITY LEAVE TO CONSTRUCT APPLICATIONS
HYDRO ONE NETWORKS INC.
EB-2024-0155**

1. Hydro One Networks Inc. 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 Networks Inc. 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 Networks Inc. 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 Networks Inc. shall designate one of their 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.