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Energy | de l'énergie
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DECISION AND ORDER

EB-2024-0268

TRANSMISSION INFRASTRUCTURE PARTNERSHIPS 1 LIMITED

**Request to change the licensing condition and for
certain exemptions from the Transmission System Code
and Ontario Energy Board Act, 1998**

BY DELEGATION, BEFORE: Brian Hewson
Vice President
Consumer Protection and Industry Performance

March 27, 2025

INTRODUCTION

On September 27, 2024, Transmission Infrastructure Partnerships 1 Limited (TIP1), which was approved in EB-2023-0084 for the grant of an electricity transmission licence, filed an application with the Ontario Energy Board (OEB) requesting the following:

- a) that the OEB amend the condition for the issuance of the TIP1 licence to be the in-service date of the Porcupine TS - Crawford Mine transmission line, or, if the licence is issued earlier, to exempt TIP1 from its obligations under the TIP1 licence until the Porcupine TS - Crawford Mine transmission line becomes operational; and
- b) an order or orders exempting TIP1 from sections 6.3, 6.5.2 and 6.5.3 of the Transmission System Code (TSC) and section 78(3) of the *Ontario Energy Board Act, 1998* (OEB Act).

This Decision and Order is issued by the Delegated Authority, pursuant to section 6 of the OEB Act. The Delegated Authority has considered the application without holding a hearing pursuant to section 6(4) of the OEB Act.

In this Decision and Order, for the reasons set out below, the OEB is accepting the change regarding the issuance of the TIP1 licence and granting the requested exemptions from the TSC. The OEB is making no finding on the request related to section 78 of the OEB Act, as Ontario Regulation 161/99 (O. Reg. 161/99) – the definitions and exemptions regulation made under the OEB Act – addresses exemptions from the requirements of section 78.

BACKGROUND

On April 20, 2023, the Ontario Energy Board (OEB) issued a Decision and Order approving an application by Transmission Infrastructure Partnerships 1 Limited (TIP1) for an electricity transmission licence (EB-2023-0084) under section 57 of the *Ontario Energy Board Act, 1998* (OEB Act). In its licence application, TIP1 described its intention to construct, own and operate a 42 km transmission line and related transmission infrastructure to connect Canada Nickel Company's Crawford Mine to Porcupine TS, in the vicinity of Timmins, Ontario, with an expected project in-service date of July 1, 2027.

In its 2023 application, TIP1 indicated that it planned to apply to the OEB for leave to construct under section 92 of the OEB Act. In its Decision and Order, the OEB reserved issuing the TIP1 licence "until TIP1 has received approval by the OEB, for the leave to

construct application that it has indicated it will file for the proposed transmission facilities, at which time TIP1 will be able to file with the OEB a complete description of the facilities to be included in schedule 1 of the licence.”¹

APPLICATION

In its September 27, 2024, application, TIP1 provided an update on the Porcupine TS – Crawford Mine transmission facilities stating that it anticipates construction of the project will begin in 2025 and that the project will come into service in 2027. TIP1 also described a plan for potential future expansion of its transmission system to include a second transmission line and related transmission infrastructure to support CNC’s planned expansion of the Crawford Mine in 2032. Its application only dealt with the Porcupine TS – Crawford Mine transmission.

TIP1 is requesting that the OEB remove the condition that the licence would be issued subject to TIP1 being granted leave to construct for the Porcupine TS – Crawford Mine transmission facilities. TIP1, in its application stated that it no longer intends to seek leave to construct under section 92(1) of the OEB Act for the Porcupine TS – Crawford Mine transmission facilities, because the facilities will be exempt from the requirement for leave to construct based on the exemption provided in section 6.2(1) of O. Reg. 161/99. TIP1 currently plans to recover the cost of the Porcupine TS – Crawford Mine transmission facilities entirely from its customer, Canada Nickel Corporation (CNC), through a transmission services agreement. For this reason, TIP1 has asked that the condition on its licence being issued be revised to be the in-service date of the Porcupine TS - Crawford Mine transmission line, or, if the licence is issued earlier, to exempt TIP1 from its obligations under the TIP1 licence until the Porcupine TS - Crawford Mine transmission line becomes operational

TIP1 is also requesting an exemption from sections 6.3., 6.5.2, and 6.5.3 of the TSC and from section 78(3) of the OEB Act. Sections 6.3, 6.5.2, and 6.5.3 of the TSC pertain to cost responsibility for a new transmission connection. Section 6.3 of the TSC states that load customers must contribute capital for any new or modified transmission connection facilities. Section 6.5.2 requires transmitters to conduct an economic evaluation to determine the capital contribution from load customers, considering the financial risk of the connection. Section 6.5.3 outlines the true-up calculations for load customers based on the risk level of their connection over a specified period. Section 78(3) of the OEB Act gives the OEB the authority to set just and reasonable rates for electricity transmission.

¹ EB-2023-0084 Decision and Order, April 20, 2023, p. 2.

In its application, TIP1 stated that it is not necessary for TIP1 to comply with these provisions of the TSC or section 78(3) of the OEB Act because the cost of the Porcupine TS – Crawford Mine transmission line will be recovered entirely from its customer, CNC, based on a transmission services agreement between TIP1 and the customer with no charges flowing to any other customer. Therefore, in TIP-1's view an OEB rate order will not be required for the Porcupine TS – Crawford Mine transmission line.

FINDINGS

Regarding TIP1's request for a change in the condition on the issuance date of the TIP1 Transmitter Licence, it has stated that it is exempt from the requirement to seek leave to construct under section 92 of the OEB Act under section 6.2(1) of O. Reg. 161/99. That section provides that subsection 92(1) of the OEB Act does not apply to:

- (e) a person, other than a licensed transmitter or licensed distributor, that constructs, expands or reinforces an electricity transmission line, if the cost of the construction, expansion or reinforcement of the line is to be exclusively paid for by the person;
- (e.1) a person that constructs, expands or reinforces an electricity transmission line, if
 - (i) the construction, expansion or reinforcement of the line is undertaken pursuant to an agreement between the person and one or more customers that specifies that the cost of the construction, expansion or reinforcement is to be exclusively paid for by the customer or customers, and
 - (ii) none of the customers is a licensed transmitter or licensed distributor.

The OEB is satisfied that based on TIP1's description of the contractual arrangement between it and CNC, whereby the cost of the construction is to be exclusively paid for by CNC, TIP1's project falls within the scope of the exemption from the requirements for leave under subsection 92(1).

As a result, the OEB will revise the condition for the issuance of the transmission licence, such that the TIP1 transmission licence will come into force on the date the Porcupine TS – Crawford Mine transmission facilities come into service. TIP1 shall notify the OEB that the Porcupine TS – Crawford Mine transmission facilities will be coming into service at least 14 days prior to the expected in-service date, and with the notification, TIP1 shall provide a description of the facilities that will be included in schedule 1 of the TIP1 licence. For greater clarity, TIP1 is reminded that this Decision should not be construed as providing any views or being determinative of any other

regulatory approvals that TIP1 may need to obtain in the future in relation to the Porcupine TS – Crawford Mine transmission facilities, including if there is a change that would affect its qualification for an exemption to section 92(1). The OEB is also making no determination at this time on the status of any transmission lines TIP1 may plan to construct in the future.

The Requested TSC Exemptions

At the time of issuing an electricity transmission licence, the OEB sets the conditions contained in the licence, including the obligation to comply with all applicable sections of the TSC. The OEB may also exempt a licensee from certain sections of the TSC.

The OEB has considered TIP1's exemption request, and approves the exemption of TIP1 from sections 6.3, 6.5.2 and 6.5.3 of the TSC with respect to the Porcupine TS – Crawford Mine transmission facilities. The exemptions are provided on the basis of TIP1's evidence with respect to the Porcupine TS – Crawford Mine transmission facilities while they serve as a single connection between the Crawford Mine and the IESO controlled grid, and the cost of those facilities will be recovered entirely from TIP1's customer and there will be no impact on other Ontario ratepayers.

The OEB will include these exemptions in the TIP1 licence. Once again, the OEB is making no determination at this time on exemptions in relation to any transmission lines TIP1 may plan to construct in the future, nor is it making any determination on the continuation of the appropriateness of the exemptions that are the subject of this proceeding and EB-2023-0084, should (for example) TIP1 construct any future transmission lines or change the manner in which it recovers costs related to the subject transmission facilities.

Request for Exemption from Subsection 78(3) of the OEB Act

With respect to TIP1's request for an exemption under section 78 of the OEB Act. The OEB notes that Section 4.0.2 of O. Reg. 161/99 identifies various circumstances in which a transmitter will be exempt from section 78 of the OEB Act. These include situations where a transmitter transmits electricity for a price, if any, that is no greater than that required to recover all reasonable costs if (for example) the transmitter owns or operates a transmission system that is entirely or partially located on land on which one or more of the types of buildings or facilities described in subsection 4.0.1(1) is also located. The OEB encourages TIP1 to review the regulation and determine its status.

IT IS ORDERED THAT:

1. Transmission Infrastructure Partnerships 1 Limited's application for an electricity transmission licence shall be issued and take effect on the date the Porcupine TS – Crawford Mine transmission facilities come into service.

Transmission Infrastructure Partnerships 1 Limited shall notify the OEB that the Porcupine TS – Crawford Mine transmission facilities will be coming into service at least 14 days prior to the expected in-service date, and with the notification, TIP1 shall provide a description of the facilities to be included in schedule 1 of the TIP1 licence.

2. Schedule 2 of the electricity transmission licence to be issued to Transmission Infrastructure Partnerships 1 Limited shall include an exemption from sections 6.3, 6.5.2 and 6.5.3 of the Transmission System Code for the 42 km transmission line between Porcupine TS and the Crawford Mine and related transmission facilities while they form a single connection between the Crawford Mine and the IESO controlled grid. This exemption will be included in Transmission Infrastructure Partnerships 1 Limited's electricity transmitter licence.

DATED at Toronto March 27, 2025

ONTARIO ENERGY BOARD

Brian Hewson
Vice President, Consumer Protection and Industry Performance