



EB-2007-0050

IN THE MATTER OF the *Ontario Energy Board Act 1998*, S.O.1998, c.15, (Schedule B) (the “Act”);

AND IN THE MATTER OF an Application by Hydro One Networks Inc. pursuant to section 92 of the Act, for an Order or Orders granting leave to construct a transmission reinforcement project between the Bruce Power Facility and Milton Switching Station, all in the Province of Ontario.

AND IN THE MATTER OF certain confidential filings related to the Application by Hydro One Networks Inc. pursuant to section 92 of the Act for leave to construct the Bruce-Milton project.

DECISION AND ORDER ON CONFIDENTIALITY MATTER

Hydro One Networks Inc. (“Hydro One”) filed an amended application (the “Amended Leave to Construct Application”) with the Ontario Energy Board (the “Board”) dated November 30, 2007 under section 92 of the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B (the “Act”). This Amended Leave to Construct Application addresses certain changes to Hydro One’s original application filed with the Board on March 29, 2007.

Hydro One is seeking an Order of the Board to construct approximately 180 kilometres of double-circuit 500 Kilovolt (“kV”) electricity transmission line adjacent to the existing transmission corridor (500 kV and/or 230 kV) extending from the Bruce Power Facility in Kincardine Township to Hydro One’s Milton Switching Station in the town of Milton. Hydro One also proposes to make modifications at the Milton, Bruce A and Bruce B transmission stations to accommodate the new transmission lines. The Leave to Construct Application was given Board file No. EB-2007-0050.

Hydro One has submitted that the project is required to meet the increased need for transmission capacity associated with the development of wind power in the Bruce area

and the return to service of nuclear units at the Bruce Power Facility. Hydro One proposes an in-service date of Fall 2011 for the new 500 kV transmission line and related facilities. The estimated cost of the transmission project is approximately \$635 million.

On February 25, 2008, the Board issued Procedural Order No.5 setting out the schedule for interrogatories and the filing of intervenor evidence.

On March 4, 2008, the Board received a letter from the Independent Electricity System Operator (“IESO”) seeking confidential treatment pursuant to the Board’s Practice Direction on Confidential Filings (the “Practice Direction”) for an interrogatory response. The undertaking response in question (the “Interrogatory Response”) is interrogatory # 25 from the Saugeen Ojibway Nations. Although Hydro One Networks Inc. (“Hydro One”) is the applicant in this case, certain evidence relating to the “need” for the project is in fact being prepared by the IESO, which is why this interrogatory was directed to the IESO.

The Board has also received a number of letters from Mr. Pappas, an intervenor in this proceeding, with relation to the Interrogatory Response. It is Mr. Pappas’ view that the Interrogatory Response should be released to the parties immediately, and that delay in releasing the response may require an adjustment to the schedule to allow parties time to review and consider it.

On March 7, 2008, the Board issued Procedural Order No. 6, which set filing dates for submissions from parties on the confidentiality issue. This Procedural Order also allowed parties that wanted to see the Model prior to the Board’s ultimate decision on the confidentiality issue to sign the Board’s Declaration and Undertaking (the “Undertaking”) and thereby receive the Model prior to the decision. This Undertaking would be held to have lapsed if the Board ultimately decided that the Model is not confidential.

The Board received no submissions stating that the Interrogatory Response should not be considered confidential. However, it did receive a submission from the Association of Power Producers of Ontario (“APPPrO”) on March 14, 2008, stating that the Model should not be produced to any additional parties, irrespective of whether or not they sign the Board’s Undertaking. It was APPPrO’s view that the Model contains highly confidential information about market participants (many of which are represented by

APPrO), and disclosure of such information could result in damage to the IESO, market participants, and the efficiency of the IESO administered markets. APPrO therefore requested that the Model should not be made available to any further parties, irrespective of whether or not they signed the Board's Undertaking. Parties that had already received the Model would continue to be governed by the provisions of the Undertaking.

It is the Board's decision that the Model will be granted confidential status, and that it will only be made available to those who are eligible under the Board's Confidentiality Guidelines which includes a requirement to sign the Board's Undertaking. In the normal course, access is restricted to intervenor counsel and intervenor external consultants. In this case, those eligible to receive the Model will be restricted to counsel and expert witnesses for intervenors in those instances where the intervenor is commissioning expert evidence which requires access to the Model for its preparation. The Board notes the submissions of APPrO, and would emphasize that the Board's practices with regard to confidential filings are designed to allow parties access to relevant information and documents while protecting the legitimate confidentiality concerns of the applicant or other stakeholders. In this case, it is important to note that the confidential material is not a document; it is a comprehensive model which includes, in part, all the relevant generation and load data for all entities connected to the provincial transmission system. The Board therefore concludes that additional protections are warranted in these circumstances.

The Board is aware that counsel and experts for two intervenors have received the Model upon signing the Undertaking – the Saugeen Ojibway Nations and Pollution Probe Foundation. The Board understands that these parties intend to use the model to assist in the preparation of expert evidence for this proceeding. The Board also notes that Ontario Power Generation's letter dated March 11, 2008 contains an alternative to address the need of intervenors to examine the Applicant's evidence by requiring the IESO to perform a reasonable number of "alternative runs" of the model, to address the confidentiality concerns.

The Board has decided that any further release of the Model to counsel or experts for intervenors will require prior Board approval. Any intervenor which is planning to submit evidence and believes that access to the Model is essential for the preparation of that evidence must file with the Board justification for such a request along with an

explanation as to why it is not adequate to have the IESO perform a certain number of runs.

The Board reminds intervenors of the seriousness of the Undertaking and the Board's commitment to its full enforcement.

Please be aware that further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Any intervenor wishing to receive a copy of the Independent System Operator's system Model, must submit a request to the Board by **April 4, 2008**, and must set out the justification for why access to the system Model is required, and why the alternative of having the Independent system operator carrying out certain number of runs would not be adequate.
2. The Independent System Operator's Model will not be released to any intervenor who has not already received it as of today's date, without prior approval of the Board.
3. All parties filing material must provide these to the Board Secretary as ten hard copies and one electronic copy in searchable PDF format at boardsec@gov.on.ca, **by 4:45pm on the date indicated**, and copy all parties.

DATED at Toronto, April 1, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary