

IN THE MATTER OF the Ontario Energy Board Act, 1998;

AND IN THE MATTER OF an Application by Hydro One Networks Inc., pursuant to subsection 98 of the *Ontario Energy Board Act, 1998*, for an Interim Order granting access to land in connection with the Applicant's request for leave to construct a new transmissions line in southwestern Ontario and the Greater Toronto Area, from Bruce Power Complex on Lake Huron to the town of Milton.

**APPrO's RESPONSE TO MOTIONS FILED BY
POWERLINE CONNECTIONS AND CERTAIN LANDOWNERS**

Introduction

1. Hydro One has brought an application for leave to construct the Bruce-Milton Transmission Reinforcement Project, pursuant to section 92 of the Ontario Energy Board Act (OEB Act), and has applied for an interim order seeking access to certain lands, pursuant to section 98:

for the limited purpose of conducting legal and engineering surveys, soil testing, property appraisals, biological and archaeological surveys and environmental investigations, together with route access for testing-related vehicles and equipment. (collectively, the "Early Access Activities"). The information to be obtained is necessary for fixing the site of the work of the new transmission line. The information obtained will be used in the approvals processes associated with the new line, including proceedings under the *OEB Act*, *Environmental Assessment Act* and *Expropriations Act*. Access prior to obtaining leave to construct is required to enable the Early Access Activities to commence in the spring of 2007, in order to meet the target in-service date for the new line of December, 2011.

Hydro One application for interim access – EB-2007-0051

2. On June 11, 2007, preliminary motions were filed by Powerline Connections and certain landowners.
3. The motions are without merit and seek relief that would create significant and harmful delay of the approval process for the proposed Bruce-Milton Transmission Reinforcement Project. The motions are based on a misapprehension of the applicable statutory framework. The motions do not disclose any prejudice to the moving parties.

Delay Will Cause Harm

4. In its leave to construct application, Hydro One has filed evidence setting out the need for the Bruce-Milton Transmission Reinforcement Project and the urgency of that need. For example, documentation from the Independent Electricity System Operator (IESO) states:

New transmission facilities, particularly in southwestern Ontario, remain a priority for the IESO over the next decade. Major transmission projects are required to deliver additional electricity from the Bruce area, to enable the planned expansion of hydroelectric capability in the northeast and to increase the capability to supply Toronto load. Without new transmission facilities, the IESO will eventually be forced to operate existing facilities near their maximum capabilities, with little margin for unexpected events and requiring complex arrangements to do routine maintenance on critical facilities.

A new 500 kV line out of the Bruce area is required as soon as possible to accommodate additional generation expected from new projects and refurbished Bruce nuclear units. Some short-term solutions are available to minimize potential congestion that could begin with the planned restart of Bruce Unit 2 in 2009. **[emphasis added]**

Hydro One leave to construct application, Ex. B, Tab 6, Sch. 4
IESO – The Ontario Reliability Outlook, March 2007, at p. 61

and:

Enhancing the transmission system in southwestern Ontario, in particular to deliver the planned and future increases in generating capability in and around the Bruce peninsula, continues to be a high priority.

Currently, there is inadequate transmission out of the Bruce area to accommodate both the expected wind developments in that area and the expanded capacity of the Bruce nuclear station resulting from planned refurbishments. Some near-term reinforcements include the up-rating of the Hanover to Orangeville 230 kilovolt (kV) circuits, and the installation of additional voltage support facilities at various transmission stations in southwestern Ontario. These will increase the transfer capability out of Bruce in the short-term. A proposed new 500 kV double-circuit line from Bruce toward the GTA will provide the required transmission capability over the long-term to deliver the full capability of the Bruce refurbishment and both planned and potential new renewable resources in the Bruce area.

The new 500 kV line out of the Bruce area is required as soon as possible to accommodate the additional generation from both new wind projects and refurbished Bruce nuclear units. To minimize potential congestion costs, interim measures, that could begin as early as 2009, are being assessed. These measures include the use of generation rejection of Bruce units and wind turbines, 30 per cent series compensation of the existing 500 kV lines between Bruce, Longwood and Nanticoke, and restricting further generation development in the Bruce area, in addition to the near-term reinforcements described above. These measures are not substitutes for a new line, as they will not eliminate congestion and will increase the operational complexity of this part of the transmission system, and will stretch its design capability. However these measures are expected to reduce the amount of congestion until a new line is built. **[emphasis added]**

Hydro One leave to construct application, Ex. B, Tab 6, Sch. 4
IESO – The Ontario Reliability Outlook, March 2007, at p. 67

5. The Ontario Power Authority (OPA) has also identified the urgent need for the Bruce-Milton Transmission Reinforcement Project:

Need and Transmission Reinforcement Plan for the Bruce Area – As discussed, by 2009, with the addition of the 725 MW of committed wind generation in the Bruce area and the return of Bruce units 1 and 2, the available generation in the Bruce area will exceed the existing transmission capability for transmitting power from the Bruce area to the rest of Ontario. Without interim measures or reinforcement to the Bruce transmission, output from the Bruce nuclear units and/or wind generating units in the area will have to be curtailed to operate within the capability of the Bruce transmission system.

Thus, there is a need to reinforce the Bruce transmission system:

- to permit full deployment of the committed resources in the area with the return of Bruce A units 1 and 2 and the addition of about 725 MW of wind generation in the Bruce area
- to be in-service by 2011/2012 in order to eliminate or minimize the use of interim mitigation measures
- to enable the development of potential new renewable resources in the Bruce area.

The overall plan for increasing the transmission capability from the Bruce area consists of various elements including: commencing the work on a new 500 kV transmission line from Bruce to Toronto (either terminating at the Milton station or the Essa station), implementing near-term reinforcements (230 kV line uprating and a combination of static and dynamic shunt compensation), providing interim measures (GR and/or series compensation) **and restricting new generation in the Bruce area until the transmission line is built**. These actions will permit committed and new generation to be added to the Bruce area as scheduled, with minimum need for curtailment and congestion costs and provide transmission capability for incorporating future resources in the Bruce area. **[emphasis added]**

Hydro One leave to construct application, Ex. B, Tab 6, Sch. 5, Appendix 5

OPA – Ontario’s Integrated Power System Plan, Discussion Paper 5: Transmission, November 13, 2006, at pp. 45-46

In consideration of the provincial land use policy, routing the new line along an existing right-of-way is more feasible, and is expected to require less time and pose less risk of delay than a line along a new corridor. With this assumption, the options for routing the new Bruce to GTA line are narrowed to the following two possibilities:

- the Milton option – from Bruce, follows the existing Bruce to Milton/Claireville 500 kV line right-of-way to the Milton station
- the Essa option – from Bruce, follows the existing Bruce to Milton/Claireville 500 kV line right-of-way until near Luther Lake northwest of Orangeville; then follows the Bruce to Orangeville 230 kV line right-of-way to Orangeville; then follows the Orangeville to Essa 230 kV line right-of-way to the Essa station in the Barrie area.

Hydro One leave to construct application, Ex. B, Tab 6, Sch. 5, Appendix 5

OPA – Ontario’s Integrated Power System Plan, Discussion Paper 5: Transmission, November 13, 2006, at p. 48

6. The OPA noted that:

Detailed studies are ongoing at this time to assess the technical, economic and environmental aspects of the Milton and Essa options. **Because of the urgency of having this line in-service as soon as possible**, the environmental assessment and OEB approvals for this project will be sought ahead and independent of the IPSP approval. **[emphasis added]**

Hydro One leave to construct application, Ex. B, Tab 6, Sch. 5, Appendix 5

OPA – Ontario’s Integrated Power System Plan, Discussion Paper 5: Transmission, November 13, 2006, at p. 50

7. In its discussion of interim measures that could be implemented pending completion of the proposed transmission facilities, the OPA noted:

In the event the new line is delayed beyond the end of 2011, the use of either GR or series compensation alone would not provide sufficient transfer capability to transmit all the power out of the Bruce area when all eight Bruce units are available in 2012. The IESO studies indicate that the combination of GR and series compensation would provide sufficient capacity for transmitting the committed resources in the Bruce area to the Ontario grid should the new line be delayed. **However, there would not be additional transmission capability for adding further resources in the Bruce area until the new Bruce transmission line is in-place. [emphasis added]**

Hydro One leave to construct application, Ex. B, Tab 6, Sch. 5, Appendix 5

OPA – Ontario’s Integrated Power System Plan, Discussion Paper 5: Transmission, November 13, 2006, at p. 52

8. As a result, the OPA indicated that a “third interim measure is to restrict further generation development in the Bruce area. This will be reviewed over time as system reinforcements are implemented”.

Hydro One leave to construct application, Ex. B, Tab 6, Sch. 5, Appendix 5

OPA – Ontario’s Integrated Power System Plan, Discussion Paper 5: Transmission, November 13, 2006, at p. 52

9. The OPA estimates that “there is a potential for another 1,000 MW of wind generation in the area”. The restriction of further generation development due to delay would have an adverse impact on new, renewable wind generation. This has a direct impact on the ability of generators to take up the opportunity to meet Ontario’s need for more generation supply, including participation in the OPA’s Standard Offer Program, which is aimed at increasing the amount of renewable generation in Ontario.

Hydro One leave to construct application, Ex. B, Tab 6, Sch. 5, Appendix 5

10. The moving parties have not filed any evidence that would contradict the evidence regarding the urgent need for the proposed new transmission facilities. Therefore, it is appropriate for the Board to consider the urgent need as a prima facie fact for the purpose of deciding the motions.

The Motions are Based on a Misapprehension of the Applicable Statutory Framework

11. The moving parties are proposing a process that turns the statutory process on its head. Hydro One requires leave to construct and authorization to expropriate land from the OEB and approval to proceed under the Environmental Assessment Act and is pursuing these approvals in parallel. Hydro One seeks interim access to certain land to carry out work to support the processes under both the OEB Act and the Environmental Assessment Act.
12. The landowner moving parties in particular, propose a complex process which would have the OEB make “interim location orders” which would be subject to Environmental Assessment Act approval, after which an interim access order could be issued by the Board, to be followed later by a “final location order”. At the same time, the moving parties also seek a stay of the two applications before the OEB. This approach unnecessarily complicates the approval process and is simply a recipe for delay.
13. The interim order for access to land is just that – an interim order. The OEB will not be making any decision in the interim access order that represents a final disposition of any matter to be decided by the OEB in Hydro One’s application for leave to construct. The OEB Act clearly envisages the need for pre-approval work and creates a mechanism to ensure that the work can be carried out. For that matter, the Environmental Assessment Act also envisages that there will be pre-approval activity that the proponent can engage in. Section 12.2 of that Act states:

Before a proponent receives approval to proceed with an undertaking, a person may,

 - (a) take any action in connection with the undertaking that may be necessary to comply with this Act;
 - (b) acquire property or rights in property in connection with the undertaking;
 - (c) prepare a feasibility study and engage in research in connection with the undertaking;
 - (d) establish a reserve fund or another financing mechanism in connection with the undertaking.
14. The section 98 interim order that Hydro One seeks will facilitate the processes under both the OEB Act and the Environmental Assessment Act. Hydro One has met the statutory pre-conditions under the OEB Act for the issuance of such an order.

15. There is no statutory authority to support the contention of the moving parties that applications to the OEB cannot be pursued in parallel with the process under the Environmental Assessment Act.

The Motions do not Disclose Any Prejudice to the Moving Parties

16. The delay sought by the moving parties will have adverse consequences for Ontario's generation needs and for generators who want to respond to the opportunity to meet those generation needs by developing additional generation supply in southwestern Ontario, as set out in the reports from the OPA and the IESO, referenced above. However, the motion records of the moving parties do not disclose any adverse consequences to the moving parties that would result from the Board continuing with its process in the normal course.

17. On that basis, the balance of convenience dictates that the process should proceed in the normal course, without the delay and resulting harm that arises from the relief sought by the moving parties.

Relief Requested

18. APPrO requests that the Board dismiss the motions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

June 12, 2007

Association of Power Producers of Ontario

By its Counsel

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per Patrick Moran