



EB-2007-0920

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 98 of the Act, for an Interim Order granting entry onto land in connection with the Applicant’s request for leave to construct a new transmission line between the Bruce Power Facility and the Milton Switching Station.

PROCEDURAL ORDER NO. 2 Entry onto Land Application

Hydro One Networks Inc. (“Hydro One”) filed an application (the “Entry onto Land Application”) with the Ontario Energy Board (the “Board”) dated December 6, 2007 under section 98(1.1) of the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B (the “Act”). This Entry onto Land Application was assigned Board File No. EB-2007-0920.

The Entry onto Land Application is related to an application by Hydro One filed with the Board on March 29, 2007, and amended on November 30, 2007, for leave to construct approximately 180 kilometres of double-circuit 500 Kilovolt (“kV”) electricity transmission Line (the “Amended Leave to Construct Application”). The Amended Leave to Construct Application addresses local route alternatives. The potential local route changes are being examined by Hydro One in response to comments it received during its ongoing consultation activities. These potential local route changes are shown on a location map as Appendix A to this Procedural Order.

The Entry onto Land Application seeks an interim order from the Board allowing Hydro One to access certain lands to conduct legal and engineering surveys, soil testing,

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property appraisals, biological and archeological surveys and environmental investigations to fix the site for the proposed transmission line. The Board must decide if it should issue an Interim Order granting entry onto land, and, if it does grant an interim order, what conditions should be attached to that approval.

On December 11, 2007 the Board issued a Notice of Application and Hearing which was served by the Applicant as directed by the Board. The list of registered intervenors is attached in the Appendix A to this Procedural Order.

In the Procedural Order No. 1, issued on February 6, 2008, the Board stated it would only conduct an oral hearing if an intervenor filed a request by February 19, 2008 to cross-examine the Applicant. No parties sent such request and therefore the Board has decided to conduct a written hearing and will allow parties to file written submissions on the Entry onto Land Application and the issues relevant to the application.

Hydro One filed a similar application in March 2007 for an interim order to enter onto land along the entire length of the original proposed route. The Board assigned Board File No. EB-2007-0051 to that application. On August 20, 2007, the Board issued a Decision and Order granting Hydro One permission to enter onto land along the original proposed route until April 1, 2009, subject to certain conditions. Those conditions of approval are attached as Appendix B to this Procedural Order. During its review of this application, the Board will consider whether the same conditions of approval as were applied to the prior application are appropriate and/or whether revisions are required.

If the Board approves the Entry onto Land Application, it allows Hydro One to collect information but does not mean that the Board will approve the Amended Leave to Construct Application. Although the two applications are related, the Board will not be considering issues relating to the Amended Leave to Construct Application through this Entry onto Land Application.

The only purpose of the Entry onto Land Application is to determine the following issues:

1. if Hydro One should be granted an interim order allowing it to enter onto land to fix the site for the possible new transmission line; and
2. if permission to enter onto land is granted, what conditions should be attached to that approval.

It is important to note that if the Entry onto Land application is approved, Hydro One is required to attempt to reach agreement with landowners in respect of any damage to their properties resulting from entry onto their land. The Board does not set compensation amounts for any damages related to entry onto land. If a party is unable to reach agreement with Hydro One on issues related to compensation for any damages, then the provisions of the *Expropriations Act* apply, and the compensation for damages shall be determined under section 27 of that Act or by the Ontario Municipal Board.

THE BOARD ORDERS THAT:

1. Intervenors wishing to make submissions on the application by Hydro One Networks Inc. and on the issues relevant to the proceeding including the conditions of approval shall file the submissions with the Applicant, the Board and all other Intervenors by **Tuesday, March 18, 2008**.
2. Hydro One Networks Inc. shall have the opportunity to reply in writing to these submissions by **Tuesday, March 25, 2008** and shall file its responses with the Board and all intervenors.
3. Eligible intervenors who seek an award of costs incurred in the proceeding shall file their cost submissions in accordance with the *Practice Direction on Cost Awards* with the Board Secretary and with Hydro One Networks Inc. within 15 days of the date of the date of Board's Decision. Hydro One Networks Inc. may make submissions regarding the cost claims within 30 days of the Decision and the intervenors may reply within 45 days of the Decision. A decision and order regarding cost awards will be issued at a later date. Upon receipt of the Board's cost award decision and order, Hydro One Networks Inc. shall pay any awarded costs with dispatch.
4. Hydro One Networks Inc. shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.
5. **All filings with the Board noted in this Procedural Order must be received by the Board by 4:45 p.m. on the stated dates and are to be sent to Hydro One Networks Inc. and all Intervenors.** If possible, the parties are asked to provide correspondence in electronic form as well as three hard copies.

DATED at Toronto, March 4, 2008.
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

**APPENDIX A
to
Procedural Order No. 2**

**IN THE MATTER OF
Entry onto Land Application by Hydro One Networks
EB-2007- 0920
DATED March 4, 2008**

Applicant and List of Intervenors

**HYDRO ONE NETWORKS INC.
LEAVE TO CONSTRUCT
ACCESS TO LAND PRIOR TO APPROVAL OF LEAVE TO CONSTRUCT
EB-2007-0920
APPLICANT & LIST OF INTERVENORS**

February 6, 2008

Applicant

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**APPENDIX B
to
Procedural Order No. 2**

**IN THE MATTER OF
Entry onto Land Application by Hydro One Networks
EB-2007- 0920**

DATED March 4, 2008

Conditions of Approval Issued in the EB-2007-0051

APPENDIX B

EB-2007-0051

Hydro One Networks Inc. Bruce to Milton Transmission Project

Section 98 Interim Order Granting Access to Land

CONDITIONS OF APPROVAL [Extracted from Appendix A to the Board's Decision and Order (August 20, 2007)]

These conditions of approval are an integral part of the Decision and Order EB-2007-0051 issued August 20, 2007 by the Ontario Energy Board (the "Board"). They define, for Hydro One Networks Inc. ("Hydro One") and affected landowners, the conditions that Hydro One shall adhere to when entering on land pursuant to the Board's interim order under section 98 of the *Ontario Energy Board Act*.

1. DEFINITIONS

- 1.1. **Proposed Corridor** – The Board's interim order authorizes Hydro One to enter only on land comprising the Proposed Corridor, being a strip of land 61 meters (200 feet) wide immediately to the north and east of the right-of-way used for Hydro One's existing transmission line from the Bruce Power nuclear generation facilities to Hydro One's Milton Switching Station.
- 1.2. **Permitted Activities** – Permitted Activities are:
 - a. Legal surveys involving property staking and measuring by survey crews along the perimeter of the Proposed Corridor and along the perimeter of properties subject to buy-out;
 - b. Engineering surveys involving property staking and measuring by survey crews;
 - c. Soil testing on selected properties involving bore hole drilling using a tracked vehicle;
 - d. Property appraisals including woodlot assessments on each affected property;
 - e. Biological surveys by personnel on foot involving the collection of plant and wildlife information, habitat assessments and delineation of wetland and Area of Natural and Scientific Interest ("ANSI") boundaries;

- f. Archaeological surveys conducted by licensed personnel on foot in accordance with Provincial Guidelines. Work includes surface checks for items of interest in recently ploughed fields or digging of small test pits to a maximum depth of one meter should ploughing not be possible.
- g. Other environmental investigations by personnel on foot including hydrologic/water quality testing, landscape and visual assessment, cultural and built heritage assessment, landowner and business owner surveys, agricultural investigations and well water testing.

2. GENERAL REQUIREMENTS

- 2.1. Hydro One shall conduct the Permitted Activities in accordance with its application and evidence filed in EB-2007-0051, except as modified by the Board's August 20, 2007 Decision and Order and these conditions of approval.
- 2.2. Unless otherwise directed by the Board, authorization for entry to land shall terminate on April 1, 2009.
- 2.3. A copy of these conditions of approval shall be attached to each written notice to landowners described in condition 3 below.
- 2.4. Hydro One shall obtain all other approvals required to conduct the Permitted Activities.

3. ADVANCE NOTIFICATION OF LANDOWNERS

- 3.1 Hydro One shall use all reasonable efforts to provide oral and written notice to landowners a minimum of 48 hours prior to entry. Unless otherwise agreed upon with landowners, entry is to be limited for a subsequent five-day window in which Permitted Activities could then occur. All Permitted Activities shall only take place during weekdays and not statutory holidays and between the hours of 8 am and 5 pm. (Example: Hydro One will provide notice by Friday for a five-day entry window beginning the next Monday and until and including the following Friday; all Permitted Activities will occur during this period between the hours of 8 am and 5 pm).
- 3.2 The notification described in condition 3.1 above shall include a list of the Permitted Activities Hydro One intends to perform during the entry time-window.
- 3.3 Where Hydro One has not been able to contact a landowner prior to entry, Hydro One shall keep a record of the Permitted Activities conducted and make it available to the landowner upon request.

- 3.4 In the event of soil testing activities are planned to be conducted on lands with tracked equipment, Hydro One shall give the landowner at least five days' advance notice and shall use all reasonable efforts to consult with the landowner in advance of entry and provide a sketch depicting the access route and the location of the soil testing activities. This period of time is intended to provide landowners with the opportunity to indicate the locations of any special fixtures (such as wells, tile drainage or septic areas) that are to be avoided while soil testing activities are carried out.

4. CONDUCT OF PERMITTED ACTIVITIES

- 4.1 Unless otherwise agreed to by the landowner, Hydro One or its representatives shall not clear or remove trees having a caliper diameter of more than two inches measured at three feet above ground level.
- 4.2 Reasonable accommodation is to be made in Hydro One's schedule for landowner requests/concerns to ensure the Permitted Activities do not interfere with landowner operations. These accommodations will be determined on a site specific basis but where appropriate may include the following:
 - a. The use of temporary fencing to surround soil testing area if tracked equipment remains onsite overnight; and
 - b. The use and installation of temporary drainage (i.e. culverts) instruments on access routes to maintain drainage flows.
- 4.3 Hydro One or its agents will consult with landowners in advance of entry as to the manner in which gates/fences/entryways are to be managed while entering property. In the event landowners cannot be contacted, Hydro One shall ensure that gates/fences/entryways used by Hydro One personnel or its agents are left as found. Work sites are to be left in a safe condition overnight.
- 4.4 Landowners can be present to observe the Permitted Activities subject to Hydro One's safety policies and procedures and the *Occupational Health and Safety Act*.
- 4.5 Hydro One shall keep records of the personnel attending and entering on lands, the time in which entry occurred and the locations entered.
- 4.6 Upon request, Hydro One shall provide a landowner with the results of the information collected as a result of conducting the Permitted Activities on the landowner's property (such as legal surveys and property appraisal information and the information described in 4.5 above) and biological information subject to applicable disclosure guidelines of the Ministry of Natural Resources or other agencies (e.g., with respect to species-at-risk protection). In the event biological information cannot be disclosed to a landowner, Hydro One will disclose that fact and provide to the landowner the rationale for such non-disclosure.

- 4.7 Affected areas are to be restored to their original condition to the extent possible and practicable, failing which damages shall be paid as per section 98 (2) of the *Ontario Energy Board Act*.

5. COMPLAINT PROCEDURE

- 5.1 Hydro One shall establish a complaint resolution process and provide a detailed description of the process to the affected landowners. For each affected property, Hydro One shall designate a property agent as a contact person to be responsible for addressing and resolving landowner concerns and complaints. Hydro One shall notify landowners who have lodged complaints about how to escalate an issue if it is not resolved satisfactorily or on a timely basis. Hydro One shall provide to a landowner, on request, non-confidential information about complaints made by other landowners.

6. COMMUNICATIONS WITH THE BOARD

- 6.1 The Board's designated representative for the purpose of these conditions of approval shall be the Manager, Facilities.
- 6.2 Hydro One shall designate a person as project manager and shall provide the name of the individual to the Board's designated representative. The project manager will be responsible for the fulfilment of the conditions of approval on the site. Hydro One shall provide a copy of the Board's Decision and Order and these conditions of approval to the project manager, within seven days of the Board's interim order being issued.
- 6.3 Hydro One shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether Hydro One has complied with the Board's interim order.