

Appendix B Duty to Consult

Appendix B1 Hydro One's Duty to Consult Inquiry

Hydro One Networks Inc.
483 Bay Street
North Tower, 12th Floor
Toronto, Ontario, M5G 2P5
www.HydroOne.com

Tel: 416-345-5031
Email: yusan.ong@HydroOne.com



Yu San Ong
Environmental Planner, Environmental Engineering and Project Support

August 14, 2017

Shannon McCabe
Manager (Acting), Indigenous Energy Policy (Energy)
Ministry of Energy
77 Grenville St., 6th Floor
Toronto, ON M7A 2C1

RE: Class Environmental Assessment: Downtown Toronto Underground Cable Replacement Project

(Email)

Dear Ms. McCabe:

I am writing to inform you that Hydro One Networks Inc. (Hydro One) is planning to conduct a Class Environmental Assessment (EA) for the proposed replacement of existing 115 kV underground (UG) transmission cables (Circuits C5E and C7E) located between Hydro One's Esplanade Transformer Station (TS) to Terauley TS. The study area, shown on the attached map, is located in the downtown core within the City of Toronto.

These transmission cables are critical to supplying power to Toronto Hydro, to serve areas including the Hospital Row, Financial District and University campuses. These cables were installed in 1959 and are operating beyond their expected life-span and as such require replacement. The proposed project includes the complete replacement of approximately 3.6 kilometres (km) of low-pressure oil-filled cables between Esplanade TS and Terauley TS.

As identified on the attached map, a study area is bounded by Gerrard St. to the north, Sherbourne St. to the east, Queens Quay to the south, and University Ave./ York St. to the west. Potential alternative routes are to be identified and evaluated throughout the Class EA process.

The Downtown Toronto Underground Cable Replacement Project is subject to Class Environmental Assessment for Minor Transmission Facilities (Hydro One, 2016) process, in accordance with the *Ontario Environmental Assessment Act*. The Class EA is a streamlined process to ensure that transmission projects that have a predictable range of effects have feasible environmental mitigation and/or protection measures in place.

Contingent on the outcome of the Class EA process, construction is proposed to start in early 2019 in order to meet the December, 2023 required in-service date.

Hydro One has identified the following First Nation communities in proximity to the project area:

1. Huron Wendat First Nation
2. Mississaugas of the New Credit First Nation

We kindly ask that you advise us on whether you believe the Project will require Aboriginal and treaty rights consultation and if so, whether the Crown delegates its constitutional duty to consult to Hydro One. If affirmative, please indicate what depth of consultation is required for each community? In addition, can you please confirm that this is an accurate and exhaustive list of First Nation communities to be included in the consultations for this project?

If the Crown determines that there is a duty to consult with respect to the Project and decides to delegate its duty to Hydro One, we would appreciate if the Crown could notify the communities that it has delegated the procedural aspects of consultation on the Project to Hydro One.

Hydro One recognizes that if, during public consultations, any First Nation or Métis community makes an assertion of a potential impact of the Project on its Aboriginal or treaty rights, it must notify the Crown with respect to any potential duty to consult and accommodate. Hydro One is also aware of the need to be mindful of possible archaeological material in the area. For this reason, Hydro One would appreciate a map of the traditional territories and/or culturally sensitive areas in that locale if this is available.

In the interim, if you have questions or would like additional information, please feel free to contact me at 416-345-5031 or YuSan.Ong@HydroOne.com.

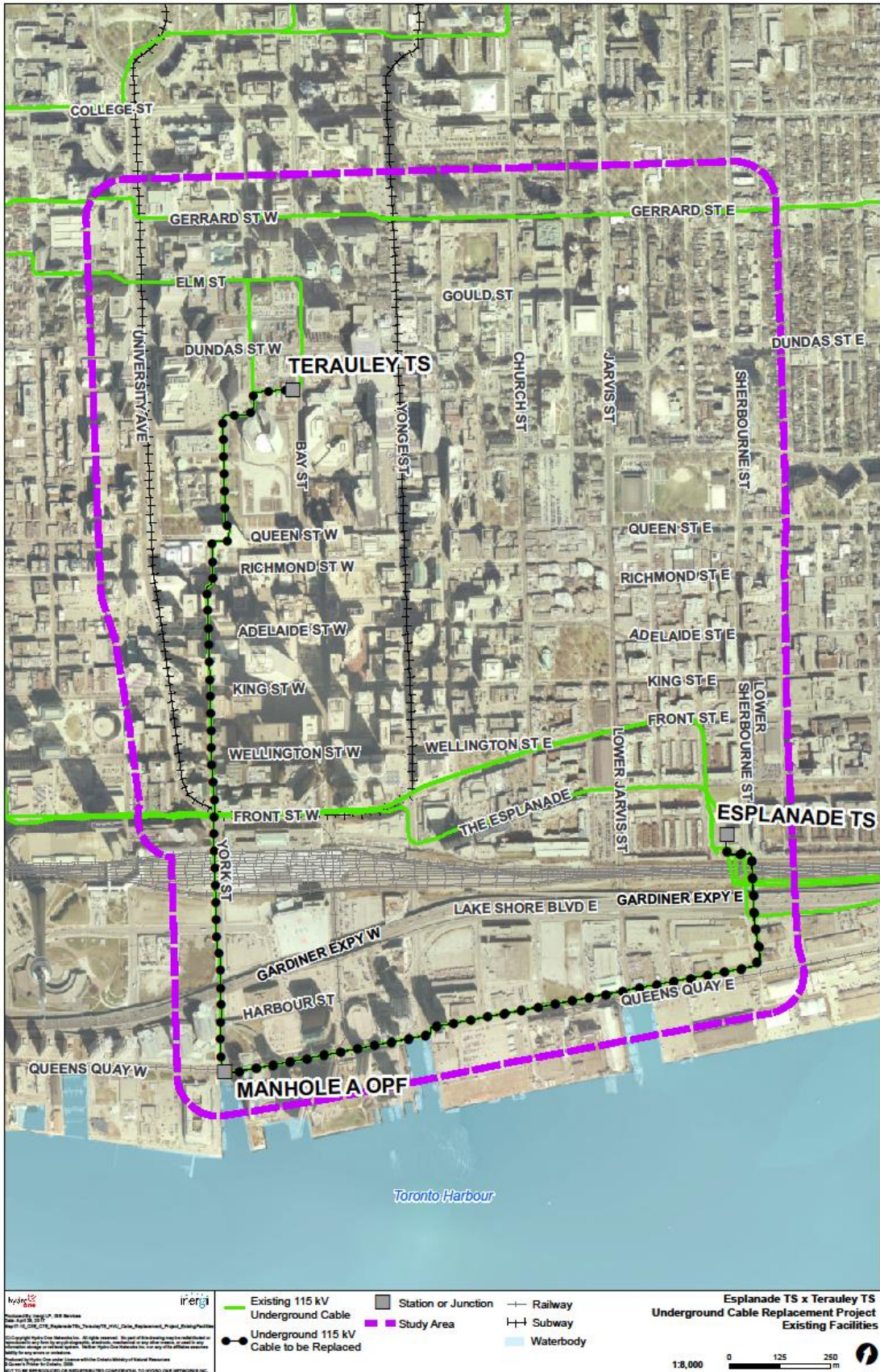
Sincerely,



Yu San Ong, Environmental Planner
Environmental Engineering and Project Support

Attachment (1): Study Area Map

cc: Brian McCormick, Manager, Environmental Engineering and Project Support, Hydro One
Patricia Staite, Team Lead, Environmental Engineering and Project Support, Hydro One
Daniel Charbonneau, Senior Manager, Indigenous Relations, Hydro One



Appendix B2 Crown's Duty to Consult Delegation

Ministry of Energy

77 Grenville Street
6th Floor
Toronto ON M7A 2C1

Tel: (416) 314-2599

Ministère de l'Énergie

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Toronto ON M7A 2C1

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Indigenous Energy Policy

VIA EMAIL

December 18, 2017

Ms Ong,

Thank you for your letter dated August 14, 2017, notifying the Ministry of Energy of Hydro One's intention to apply for Leave to Construct for the Toronto underground replacement project and requesting clarification on Duty to Consult requirements.

I understand from your letter that the proposed project includes the complete replacement of approximately 3.6 kilometres (km) of low-pressure oil-filled cables between Esplanade TS and Terauley TS, located underground.

Based on the information Hydro One has provided to date, the Ministry is of the view that the project will not result in any appreciable adverse impacts to the asserted or established rights of any First Nation or Métis communities. Should new project information become available that indicates a potential to impact Aboriginal and treaty rights (e.g. the result of the archeological assessment), I request that you notify the Ministry as appropriate.

First Nation and Métis communities may make new rights assertions at any time, and other developments (e.g. the discovery of Indigenous archaeological sites) can occur that may require First Nation and Métis communities to be notified and/or consulted. If you become aware of potential impacts to Aboriginal or treaty rights kindly bring this to the attention of the Ministry with any supporting information regarding the claim. The Ministry will then re-assess whether the duty to consult is triggered.

Given that this project takes place within the asserted traditional territory of the Mississaugas of the New Credit, Hydro One may wish to proactively notify them of the project on an interest basis at this time. Also, I recommend that Hydro One continue to maintain a record of its interactions with Indigenous communities about the project that it may engage on an interests-basis. In the event that an Indigenous community provides you with information indicating a potential adverse impact of this project on its Aboriginal or Treaty rights, I request that you notify the Ministry as appropriate.

Please contact Morgan Owen (morgan.owen@ontario.ca) with any further questions or if you wish to discuss the matter in more detail.

Sincerely,

A handwritten signature in grey ink, appearing to read 'M. Owen', with a long horizontal flourish extending to the right.

Morgan Owen

Senior Policy Advisor

Indigenous Energy Policy

CC: Emma Sharkey, A/Manager, Indigenous Energy Policy

Brian McCormick, Manager, Environmental Engineering and Project Support, Hydro One

Patricia Staite, Team Lead, Environmental Engineering and Project Support, Hydro One

Daniel Charbonneau, Senior Manager, Indigenous Relations, Hydro One