



**Ontario Energy Board**  
**Commission de l'énergie de l'Ontario**

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# **DECISION AND ORDER ON PHASE 1**

**EB-2013-0421**

## **HYDRO ONE NETWORKS INC.**

**Leave to construct a new transmission line and facilities in the Windsor-Essex Region, Ontario.**

**Before: Ken Quesnelle**  
**Presiding Member and Vice Chair**

**Christine Long**  
**Member**

**Cathy Spoel**  
**Member**

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**July 16, 2015**

## INTRODUCTION AND SUMMARY

Hydro One Networks Inc. (Hydro One) filed an application on January 22, 2014 with the Ontario Energy Board (OEB) under section 92 of the Act for an order granting leave to construct approximately 13 km of new 230 kV transmission lines on steel lattice towers on a new right of way in the Windsor-Essex area and for the installation of optic ground wire on existing and new towers as part of the Supply to Essex County Transmission Reinforcement (SECTR) Project.

Hydro One filed an updated application on February 12, 2015, which also included the approvals sought to build a new 230/27.6 kV Leamington Transformer Station (Leamington TS). The expected in-service date for the SECTR Project is March 2018. The OEB decided that the proceeding would be addressed in two phases. Phase 1 would deal with the leave to construct application, including consideration of the component and total costs of the SECTR Project, but would not address the cost allocation issue. Phase 2 of the proceeding would deal with the cost allocation.

For the reasons given below, the OEB approves the application subject to certain conditions.

## THE OEB'S JURISDICTION

The OEB's power to grant an applicant leave to construct transmission facilities arises from subsection 92(1) of the Act which states:

*92. (1) No person shall construct, expand or reinforce an electricity transmission line or an electricity distribution line or make an interconnection without first obtaining from the Board an order granting leave to construct, expand or reinforce such line or interconnection.*

In discharging its duties in this proceeding, the OEB is also bound by the provisions of section 96 of the Act which states:

*96. (1) If, after considering an application under section 90, 91 or 92 the Board is of the opinion that the construction expansion or reinforcement of the proposed work is in the public interest, it shall make an order granting leave to carry out the work.*

*(2) In an application under section 92, the Board shall only consider the following when, under subsection 1, it considers whether the*

*construction, expansion or reinforcement of the electricity transmission line or electricity distribution line or the making of the interconnection, is in the public interest:*

- 1. The interests of consumers with respect to prices and the reliability and quality of electricity service.*
- 2. Where applicable and in a manner consistent with the policies of the government of Ontario the promotion of the use of renewable energy resources.*

In addition, section 97 of the Act states:

*97. In an application under section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.*

## **THE PROCESS**

The OEB issued a Notice of Application and Hearing on February 13, 2014. Comber Wind Limited Partnership (Comber), E.L.K. Energy Inc. (ELK), Entegrus Powerlines Inc. (Entegrus), EnWin Utilities Ltd. (EnWin), Essex Powerlines Corporation (Essex), the Independent Electricity System Operator (IESO) and the former Ontario Power Authority (OPA) were granted intervenor status.

In Procedural Order No. 1, the OEB adjourned the hearing until Hydro One filed a final System Impact Assessment (SIA) Report and a final Customer Impact Assessment (CIA) Report. In Procedural Order No. 2, the OEB reconvened the hearing and sought submissions on what transmission facilities fell under the scope of section 92 of the Act and for which an applicant, in this case, Hydro One, must seek leave of the OEB to construct, expand or reinforce. The OEB also invited Hydro One to clarify its position in relation to the approvals it sought in this application. In its Decision on Threshold Questions, the OEB determined that transformer stations, in this case, the Leamington TS, require approval under section 92 if they are associated with the construction of a line which exceeds 2 km in length, and are otherwise exempt. The OEB also determined that the optic ground wire should not be identified as a separate facility for approval under section 92 of the Act. The OEB determined that any installed functionality or communication capacity that is installed beyond what is required for the operation of the transmission line is not subject to the OEB's leave to construct order.

In a Notice of New Cost Allocation Issue and Procedural Order No. 3, the OEB decided that in order to facilitate the consideration of both the leave to construct and the cost allocation issues<sup>1</sup> it would proceed with the hearing in two parallel phases. Phase 1 would deal with the leave to construct application, including consideration of the component and total costs of the project, but would not address cost allocation issues. Phase 2 would deal with the cost allocation issues.

As directed by the OEB, Hydro One filed its Argument-in-Chief on March 23, 2015. Comber and OEB staff filed submissions on March 30, 2015. Comber submitted that based on the commitments made by Hydro One through its interrogatory responses and Argument-in-Chief, it is satisfied that its concerns with respect to the potential impacts of the proposed transmission facilities on Comber's generation facilities, including its collection system, have been and would continue to be appropriately considered and addressed by Hydro One. OEB staff submitted that the leave to construct should be granted based on the review of the project need, project economics, impact of the proposed project on reliability and quality of electricity service, land matters and forms of agreement and environmental assessment information supplied by Hydro One<sup>2</sup>.

In Procedural Order No. 6, the OEB informed parties that it intended to issue a decision on Phase 1 of the proceeding stating that it did not want to unduly delay the consideration of the need for the SECTR Project given the reliability concerns it was intended to address. The OEB also noted that in response to E3 Coalition's interrogatory #19, Hydro One revealed that, in addition to the transmission costs for the proposed Leamington TS, there would be further distribution level costs required to bring this TS into service. The OEB directed Hydro One to file a submission describing what changes, if any, the inclusion of the distribution level costs associated with the alternatives considered would have on Hydro One's determination of the Leamington TS as the preferred alternative. Hydro One filed its submission noting additional benefits associated with the Leamington TS alternative and that the addition of distribution level costs to its assessment would not change Hydro One's position that the Leamington TS is the preferred option<sup>3</sup>.

Hydro One also submitted that if it is the OEB's intent that Hydro One proceed with the SECTR Project before the cost allocation is determined, Hydro One would seek assurance, on behalf of its shareholder and ratepayers, that the

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<sup>1</sup> Hydro One requested that the OEB endorse the proposed cost allocation methodology at the distribution level for the customer-related transmission investments associated with the SECTR Project provided in Exhibit B, Tab 4, Schedule 5.

<sup>2</sup> OEB Staff Submission, March 30, 2015, Page 1.

<sup>3</sup> Hydro One Submission, June 29, 2015, Lines 18 – 21, Page 3 of 6.

project costs are recoverable from the appropriate parties. Hydro One offered the following potential options for the OEB's consideration:

1. The OEB approve an interim methodology and associated cost recovery agreements for execution with parties. Once these agreements are signed, Hydro One would then commence construction procedures; or
2. Hydro One would capture all construction project costs in a new OEB-approved transmission deferral account so that the construction process could begin.

Hydro One submitted that once the OEB's new cost allocation rules are in place, Hydro One would apply them retroactively in accordance with the OEB's decision on Phase 2. Hydro One also noted that in the event the SECTR Project's facilities are not ultimately placed in service, Hydro One would seek future disposition of any otherwise unrecovered costs, via a deferral account, from all transmission ratepayers.

## **INTERESTS OF CONSUMERS WITH RESPECT TO PRICES**

### **Project Cost**

Hydro One's evidence is that the line cost of the SECTR Project is expected to be \$45.3M, which includes the cost of building approximately 13 km of new 230 kV double-circuit line on a new right of way, installation of optic ground wire, providing connections to the new circuits and right of way acquisitions. The transformation cost of the SECTR Project is \$32.1M, which includes the cost of establishing a new Leamington TS, providing the station with two 230/27.6 – 27.0 kV 71/100/125 MVA step-down transformers, associated 27.6 KV switchgear and feeder positions and property acquisition.

### **Comparison of Alternatives Considered**

Aside from the proposed SECTR Project, Hydro One also considered an alternative that would reinforce the existing 115 kV transmission lines in the area (Division TS Alternative) by building a new transformer station near Woodslee Junction consisting of two 230/115 kV autotransformers, and required switchgear,

supplied from the C21J and C22J 230 kV circuits and upgrading the 115 kV connection line between Division TS and Kingsville TS<sup>4</sup>.

Hydro One chose to apply for the proposed project based on its lower costs. It submitted that even if associated distribution costs were included in the analysis, it's proposal would remain the same.

Hydro One has proposed a funding arrangement that allocates the costs of the SECTR Project using a methodology that Hydro One considers is aligned with the beneficiary pay principle that the OEB articulated in its *Report of the Board, Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach*, October 18, 2012.

As described earlier in this Decision, the OEB determined that the cost allocation matters in respect of the SECTR Project are to be dealt with in a separate phase in this proceeding. For consideration of the interests of consumers with respect to prices the OEB has at this juncture considered the interests of Ontario consumers at large. The OEB considers consumer interests with respect to prices by assessing the costs to Ontario consumers against the submitted justification or need for a project.

If all identified project costs were borne by Ontario consumers the OEB estimates the rate impact would be an increase of 0.03% on a monthly bill. To the extent that the OEB ultimately allocates costs to individual sub-transmission customers, this rate impact would be reduced.

## **Project Need**

Hydro One provided evidence that was prepared by the former OPA on the need for the SECTR Project. Demand in the Kingsville-Leamington subsystem has exceeded the supply capacity and is expected to continue to exceed the supply capacity over the 20 year forecast period. There are also restoration and reliability needs in the Windsor-Essex region, specifically a need to minimize the impact of supply interruptions to customers in the J3E-J4E subsystem. Hydro One noted that currently the J3E-J4E subsystem does not comply with the IESO's Ontario Resource and Transmission Assessment Criteria restoration criteria.

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<sup>4</sup> Exhibit B, Tab 1, Schedule 5, Page 36.

The evidence includes a conclusion that an integrated solution comprised of conservation and demand management (CDM) along with distributed generation (DG) resources, and transmissions investments, including the SECTR Project, is the recommended solution for addressing the reliability needs of the Windsor-Essex area. CDM and DG resources are expected to offset more than 90% of the growth in the Windsor-Essex region between 2014 and 2033. The OPA noted that the SECTR Project addresses the supply capacity needs of the Kingsville-Leamington area and that the solution substantially addresses the restoration need for the larger portion of the region which must be supplied by J3E-J4E after the double-circuit C23Z-C24Z outage. The OPA also noted that the SECTR Project has a lower cost than the Division TS alternative. The OPA's view is that these facilities are cost effective and technically effective solutions for addressing the reliability needs and other constraints of the Windsor-Essex area.

### **OEB Findings**

The OEB notes that no intervenor challenged the OPA evidence supporting the need for the SECTR Project and further notes OEB staff's submission in support of the proposed project.

The OEB accepts the evidence of the OPA which outlines the various system benefits including improvements in reliability, provision of supply as well as the evidence that the SECTR Project is preferred over the examined alternative due to its lower costs. With respect to the lower costs attribute of the project, the OEB accepts Hydro One's submission pertaining to the consideration of the distribution system costs.

In consideration of the interests of consumers with respect to prices the OEB finds that the project benefits are of sufficient value to warrant the costs to consumers.

## **INTERESTS OF CONSUMERS WITH RESPECT TO RELIABILITY AND QUALITY OF ELECTRICITY SERVICE**

### **System Impact Assessment**

The SIA Report, prepared by the IESO, assesses whether the proposed SECTR Project connection to the IESO-controlled electricity grid will have an adverse impact on the reliability of the integrated power system and whether the IESO should issue a notice of conditional approval or disapproval of the proposed connection. Hydro One filed a final version of the SIA Report on June 11, 2014.

The SIA Report finds that the proposed project, subject to the requirements specified in the SIA Report, is expected to have no material adverse impact on the reliability of the integrated power system<sup>5</sup>. It also concludes that with the use of operating measures, thermal loading of transmission facilities remain within their capabilities, and that voltage performance at customer connection points meets Market Rules Requirements.

### **Customer Impact Assessment**

The CIA Report prepared by Hydro One assesses the impact of the proposed new transmission facilities on the existing connected load and generation customers in the Windsor-Essex area.

The CIA Report concluded that: the short-circuit levels at customer transmission connection points will not be materially affected as a result of the transmission reinforcement; the proposed transmission reinforcement has no material adverse reliability impact on existing customers in the area; and the voltage assessment as reported in the SIA Report shows that voltage performance remains within the planning criteria for the scenarios studied<sup>6</sup>.

The CIA report states that with the establishment of the Leamington TS, loads in and to the east of the Town of Leamington will be closer to the supply station, which will improve the reliability for these loads by reducing their exposure to supply interruptions caused by faults in the distribution system<sup>7</sup>. Hydro One submitted that another benefit of the SECTR Project is the provision of greater geographic and electrical supply diversity for the Kingsville-Leamington area, the Leamington TS allows the area load to be backed up by another transformer station that is 12 km away from Kingsville<sup>8</sup>.

### **OEB Findings**

The OEB accepts that the CIA and SIA reports rule out any negative impacts on reliability or quality of service that would occur as a result of the project being put in place. In its analysis of the interest of consumers in relation to prices the OEB accepted the OPA evidence on the improvement in reliability that was provided as

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<sup>5</sup> System Impact Assessment Report, Leamington TS – Supply to Essex County Transmission Reinforcement Project, Final Report, June 9, 2014, Page 1.

<sup>6</sup> Customer Impact Assessment, Supply to Essex County Transmission Reinforcement Project, June 9, 2014, page 7.

<sup>7</sup> Customer Impact Assessment, Supply to Essex County Transmission Reinforcement Project, June 9, 2014, page 6.

<sup>8</sup> Hydro One Submission, June 29, 2015, Page 2.

justification for the SECTR Project. The OEB specifically notes the improvement in reliability caused by the diversification of electrical supply which reduces exposure to supply interruptions.

In consideration of the interests of consumers with respect to reliability and quality of electricity service the OEB finds that consumers will benefit from the SECTR Project.

## **LAND AND PROPERTY MATTERS**

### **Form of Agreement Offered to Landowners**

Section 97 of the Act requires that the OEB be satisfied that Hydro One has offered, or will offer, to each landowner affected by the approved route or location an agreement in a form approved by the OEB.

The land area required for the SECTR Project consists of:

- a) Provincially owned property;
- b) Easement rights on municipally owned and private property; and
- c) Municipal road corridors.

Hydro One provided copies of the Offer to Grant an Easement, Off-Corridor Temporary Access and Access Road, Temporary Construction Licence Agreement for construction staging, and a Damage Claim Agreement and Release Form<sup>9</sup> (which will be used as the basis for compensation related to construction impacts such as crop damage).

In response to an OEB staff interrogatory, Hydro One stated that it had purchased the land required for the proposed Leamington TS in December 2009 and that no additional land was required for the station.

OEB staff submitted that the OEB's approval of Hydro One's application should be conditional upon Hydro One obtaining all permanent and temporary land rights and easements. Hydro One replied that, in practice, it does not enter lands nor does it conduct any preliminary examinations of the lands that are necessary for fixing the site for the proposed SECTR Project until leave of the OEB has been granted. Hydro One, instead, proposed that it will obtain and comply with all necessary approvals, permits, licences, certificates and easement rights required

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<sup>9</sup> Exhibit B, Tab 6, Schedule 7, Attachments 1, 2, 3 and 4.

to construct, operate and maintain the SECTR Project, and will provide copies of all such written approvals, permits, licences and certificates upon the OEB's request.

### **OEB Findings**

The OEB approves the forms of agreement provided by Hydro One which either has or will be offered to each land owner affected by the route of the SECTR Project.

The OEB will not condition its approval of this leave to construct on Hydro One obtaining all permanent and temporary land rights and easements as proposed by OEB staff. The public interest test prescribed under section 96 (2) does not include the satisfaction of affected land owners of a project. The legislative scheme contemplates this by making provision for project proponents to seek the right to expropriate land rights under section 99 of the Act where agreements are not reached. The inclusion of the condition as proposed by OEB staff would conflict with this aspect of the statute.

### **OEB DECISION**

For the reasons provided above, the OEB finds that it is in the public interest to grant Hydro One leave to construct the SECTR Project pursuant to section 92 of the Act. The OEB's decision is subject to conditions, which are fully set out in the Order below.

As stated in Procedural Order No. 6, the OEB has determined that the cost allocation matters in respect of the SECTR Project can be dealt with subsequent to the commencement of the construction of the project. Hydro One submitted that the OEB should ensure that the project costs are recoverable from the appropriate parties. The OEB agrees and accepts Hydro One's submission that a deferral account should be established to facilitate the allocation of project costs as later determined.

Hydro One is responsible for obtaining all necessary approvals, permits, licences and certificates required to construct, operate and maintain the SECTR Project. The OEB notes that Hydro One has received approval of its Environmental Study Report for the transmission line, as defined in the SECTR Project, by the MOE<sup>10</sup>.

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<sup>10</sup> Exhibit B, Tab 6, Schedule 5, Attachment 10.

For clarity, such approvals are granted separately and apart from section 92 leave to construct applications and are not a determinative factor in the consideration of the public interests as defined in section 96 (2) of the Act.

**THE OEB ORDERS THAT:**

1. Pursuant to section 92 of the Act, the OEB grants Hydro One leave to construct the SECTR Project in accordance with the OEB's decision in this proceeding. The granting of this leave to construct is conditional on:
  - I. The fulfillment of the requirements of the SIA Report;
  - II. The fulfillment of the requirements of the CIA Report; and
  - III. Hydro One commencing construction within 12 months of the date of the OEB's decision.
2. Pursuant to section 97 of the Act, the OEB approves the forms of agreement offered or to be offered to affected landowners filed by Hydro One in this proceeding.
3. Hydro One shall prepare a draft accounting order for each of the deferral accounts requested, and file it with the OEB on or before July 30, 2015.
4. Hydro One shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

**ISSUED** at Toronto, July 16, 2015

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary