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Ministry of Energy
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I. Introduction

In ERO 019-7336¹, the Ministry of Energy (Ministry) proposed the development of critical electricity transmission projects to support economic growth and electrification and decarbonization initiatives in the Northeastern and Eastern regions of Ontario while also advancing economic opportunities for Indigenous communities. As part of this effort, the Ministry requested comments on its proposal.

NextEra Energy Transmission Investments, LLC (NETI) appreciates the opportunity to offer comments on the Ministry's proposal. NETI is a wholly owned subsidiary of NextEra Energy Transmission, LLC (NEET), which is a leading competitive transmission company that has invested over C\$7 billion to own, finance, develop, construct, and operate transmission assets across the U.S. and Canada. NETI is also an affiliate of NextEra Energy Resources, LLC, which is a leading developer of renewable energy across North America.

Specific to Ontario, a NextEra Energy Canada, LP² subsidiary partnered with Enbridge, Inc., OMERS, and Bamkushwada Limited Partnership³ to develop a major transmission line in the Province – the East-West Tie (EWT) Line. The EWT Line was placed into service on time despite construction occurring almost exclusively during the COVID-19 pandemic and amidst wildfires. NETI is thus one of a few transmission companies having direct and recent experience with transmission development and construction in Ontario and partnering with First Nations on this major transmission project. This expertise, coupled with NEER's development of nearly a dozen renewable energy projects in Canada, uniquely qualifies and positions NETI to comment on transmission development and decarbonization initiatives.

NETI's comments are organized into two sections. Section II addresses the proposed prioritization of certain projects, including the Northeastern Bulk Lines⁴ and the proposed direct designation to the legacy incumbent transmitter. Section III provides comments specific to our interest and efforts related to the

¹ <https://ero.ontario.ca/notice/019-7336>

² NextEra Energy Canada LP is an affiliate of NEET.

³ Specifically, NextEra Energy Canada indirect subsidiary NextEra Energy NextBridge Holdings, ULC partnered with OMERS (the Ontario Municipal Employee Retirement System) and Bamkushwada Limited Partnership (comprised of six First Nations). For convenience, these Comments refer to the indirect subsidiary as NextEra Energy Canada.

⁴ In ERO 019-7336, the Ministry has proposed three lines for *prioritization* and designation directly to the legacy incumbent transmitter. This includes two of three Northeastern Bulk transmission projects – the Mississagi to Third Line and the Hanmer to Mississagi Line (collectively Northeastern Bulk Lines) – as well as the Greater Toronto Area (GTA) Line. The Wawa to Porcupine Line is the third of the Northeastern Bulk transmission projects, and while it has not been proposed to be prioritized in the ERO, NETI supports its prioritization at this time.

development of the Wawa to Porcupine Line (one of the Northeastern Bulk Lines), including our focus on engaging First Nations and participating in the process to be the established designate to develop that line.

II. Comments on Proposed Prioritization of Mississagi Lines and Designation to Incumbent Transmitter

NETI supports Ontario’s prioritization of the projects identified in ERO 019-7336, especially the Mississagi Lines,⁵ which are important to stimulating economic development in northern area communities (Indigenous and non-Indigenous). These projects will bring economic benefits through partnerships with Indigenous communities and the creation of (i) jobs in energy infrastructure and (ii) new businesses to support economic expansion of mining, other extraction, and manufacturing industries.

While NETI is supportive of these prioritized projects, it respectfully requests that the Ministry reconsider the direct assignment and designation of the two Northeastern Bulk transmission projects to a legacy incumbent transmitter. As discussed further in this Section, the proposed designation is premature and would deprive the Province and its citizens of the expertise and very recent experience that non-incumbent transmitters such as NETI can uniquely offer.⁶

1. **Ministry Proposal:** A direct assignment of the project to the legacy incumbent “would streamline the OEB’s review processes and prevent delays to ensure that projects are brought online on time. OEB would still be required to consider the interests of electricity consumers with respect to project costs and the reliability and quality of electricity service.”

NETI Comments: While NETI appreciates the Ministry’s reference to this mandated inquiry by the Board, the OEB’s consideration would be severely constrained due to having only a single proposal before it — that of a legacy incumbent utility. Put another way, the proposed direct designation to the legacy incumbent transmitter would miss an opportunity to seek out other transmitters with proven reliability that could bring lower cost alternatives to the table for effective transmission development and deliver savings to Ontario ratepayers. The Ministry’s key objectives in ERO-019-7336 can be strengthened and enhanced by considering non-incumbent transmitters who have successfully and recently delivered transmission projects. Expanding the potential designees to those qualified transmitters capable of developing the proposed transmission projects would empower the OEB to faithfully fulfill its objectives of considering the interests of electricity consumers while ensuring the urgent and timely completion of the projects in a cost-effective manner.⁷

⁵ For purposes of these Comments, “Mississagi Lines” refers to the first two Northeastern Bulk Lines: (i) the Mississagi to Third Line – a 230-kilovolt transmission line that will run approximately 75 kilometers from Mississagi Transformer Station (west of Sudbury) to Third Line Transformer Station (Sault Ste Marie); and, (ii) The Hanmer to Mississagi Line – a 500-kilovolt transmission line that will run approximately 205 kilometers from Hanmer Transformer Station (Greater Sudbury) to Mississagi Transformer Station (west of Sudbury).

⁶ While NETI understands that this comment process does not concern the merits of competitive transmission procurement, we refer the Ministry to our comments made to Ontario’s Electrification and Energy Transition Panel should they be of interest to the Ministry. Those comments, among other things, encouraged the Ministry to prioritize affordability, reliability, and predictability in long-term transmission planning as transmission expansion is critical to meeting Ontario’s decarbonization and energy goals. NETI believes that these priorities are equally applicable to the current ERO proposal.

⁷ Broader consideration of alternative transmitters – e.g., through competitive transmission procurement – has the potential to reduce overall development costs of new transmission by 20-30% compared to non-competitively procured transmission. See, e.g., *Cost Savings Offered by Competitive in Electric Transmission*, The Brattle Group, available at https://www.brattle.com/wp-content/uploads/2021/05/17805_cost_savings_offered_by_competition_in_electric_transmission.pdf.

NextEra Energy Canada is one such non-incumbent transmitter. EWT achieved the in-service date (ISD) established by the Independent Electricity System Operator (IESO)⁸ and prudently managed construction costs. During the first year of service of the EWT Line, it has demonstrated best-in-class resiliency and reliability, remaining in service during periods of high winds and severe storms as seen this winter along the North Shore of Lake Superior. The development of this transmission line has ensured the reliable and efficient addition of 450 MW of electricity transfer capability to Northwestern Ontario’s grid. NETI urges the Ministry to consider non-incumbent transmitters like NETI, which has proven performance within the Province, and delivered a complex project on time despite its construction occurring almost exclusively during a worldwide pandemic.

2. Ministry Proposal: If Hydro One were designated the priority projects, the transmitter would still need to obtain all proper approvals, including the requirement to “consult with indigenous communities, the public, and stakeholders on the proposed projects... [T]he provincial Crown is committed to fulfilling its duty to consult Indigenous communities in respect of any conduct that may have the potential to impact Aboriginal and treaty rights. The ministry will be providing information to potentially impacted Indigenous communities about how they can participate in the consultation process at this early stage of project development for these transmission lines.”

NETI Comments: NETI agrees that a fulsome engagement with, and a robust commitment to, First Nations should be a condition of designation and that the chosen developer should have demonstrated experience partnering with First Nation stakeholders. However, to best achieve this objective, First Nations should be afforded the opportunity to entertain proposals from multiple potential transmitters rather than a single incumbent. This would result in a more comprehensive consultation process with Indigenous communities, the public, and stakeholders that is designed to maximize equity and economic benefit. Other transmitters such as EWT have successfully engaged and partnered with First Nations, and the Ministry should accordingly ensure that Indigenous communities impacted by new transmission projects have the opportunity to consult, and engage in negotiations, with all qualified transmitters.

In the same way that the Ministry is requiring broader consultation with “potentially effected Indigenous communities” for the Wawa to Porcupine Line, here too should the Ministry require more comprehensive consultation with First Nations. This will ensure that the Ministry’s consultation and reconciliation objectives are fully realized and not unduly constrained by the exclusion of other viable proposals.

3. Ministry Proposal: “Further, the development of these transmission lines is expected to advance reconciliation in a meaningful and inclusive way by creating economic opportunities for Indigenous communities, such as equity participation and jobs. The proposed designated transmitter, Hydro One, established a First Nations equity partnership model in 2022, which offers First Nations a 50% equity stake in new transmission lines exceeding \$100 million.”

NETI Comments: As to the specific reconciliation goals of economic participation and job creation, NETI reiterates that consideration of alternative well-qualified transmitters would result in a stronger slate of proposals from which First Nations could choose. While the Ministry’s proposal cites to a single equity partnership example, non-incumbent transmitters have also entered into innovative partnerships with First Nations on past projects and are developing new partnership models for future projects. First Nations stand to benefit when more than one proposal is presented.

⁸ The IESO amended the original EWT in-service date requirement – extending it to March 31, 2022 – to accommodate shifts in project schedule that were required to respond adequately to the COVID-19 pandemic and wildfires. Project construction commenced on November 4, 2019, and the line was energized on March 31, 2022.

For example, EWT Line construction provided meaningful and transferable skills development and ongoing employment opportunities for affected communities. At the time of the Line’s commissioning, the Ontario Minister of Northern Development and Mines, Natural Resources and Forestry commented: “The East-West Tie is another example of what can be accomplished through strong partnerships. Indigenous businesses helped make this project a reality and it will lead to long term economic opportunities in the region. The East-West Tie will also meet the energy needs of mining and industrial sectors for many years to come.”

NETI accordingly recommends that the Ministry require the designated transmitter(s) to establish terms that include (i) minimum requirements for First Nations employment and (ii) economic opportunities for First Nation-owned businesses. Requirements should also include firm commitments that ensure the consultation of First Nations on regulatory and environmental submissions so that they may properly monitor construction activities on culturally sensitive and traditional land.

4. Ministry Proposal: “[D]esignating Hydro One and their First Nations’ equity partnership model would provide Hydro One as the transmitter with the regulatory clarity needed to initiate project development work and advance Indigenous partnership discussions on the specified projects. This would help to avoid the possibility of delays in the approvals process which can add to development timelines and increased costs that are ultimately borne by electricity ratepayers.”

NETI Comments: NETI cautions that assumptions about incumbent transmitters and their ability to deliver a project on time should be weighed against a careful review of relevant data. For example, in the United States, direct designation to legacy incumbent transmitters based on factors similar to “regulatory clarity” and location has, more often than not, increased delays and missed ISDs. For example, in PJM, as of 2022, there were 112 completed transmission projects, of which *only one* was in-service prior to PJM’s stated ISD, and 87 were between one to four years behind scheduled ISD. The one project that was in service prior to PJM’s stated ISD was awarded through a competitive process. All others were directly designated without a competitive process.⁹

While NETI understands that a full competitive procurement process for the Mississagi projects is not contemplated by the Ministry, NETI nonetheless recommends that other transmitters who can act upon “regulatory clarity” — and secure meaningful Indigenous partnerships — just as efficiently as Hydro One should be considered. This approach can improve measures of reconciliation, increase cost-effective development, and further ensure meeting the ISD of 2029.

5. Ministry Proposal: The Ministry has suggested that a reason for designating Hydro One as developer for both the Mississagi to Third Line and the Hanmer to Mississagi line projects is “...assigning these two projects, which are in close proximity to each other, to a single entity is anticipated to provide efficiencies that can result in cost and time savings, as well as more transparent consultations with both Indigenous communities and stakeholders.”

NETI Comments: NETI agrees that designating a single transmitter to develop both Mississagi lines has potential to provide efficiencies in cost and time savings. However, a legacy incumbent transmitter, as is currently proposed, need not be the designated transmitter for the reasons explained above. A non-incumbent transmitter such as NETI that has the resources to develop the two lines simultaneously could achieve such efficiencies. NETI accordingly encourages the Ministry to carefully quantify these demands,

⁹ United States of America Before the Federal Energy Regulatory Commission, Reply Affidavit of Dr. John R. Morris, p. 10, Sept. 19, 2022. See Upgrade ID b2633.1 at <https://pjm.com/planning/project-construction>.

evaluate data related to meeting in-service dates and any delays, and give further consideration to alternative transmitters that are sufficiently resourced and capitalized.

III. Comments on Wawa to Porcupine Line

In ERO 019-7336, the Ministry also remarked that the Wawa to Porcupine Line information gathering process “will occur in parallel” to the Mississagi Lines designation(s). While the Wawa to Porcupine Line process is not entirely clear, below NETI emphasizes its commitment to, and qualifications in support of, developing the Line.

NETI’s Capabilities and Preparedness: As noted in Section I, NETI is fully capable and well-resourced to develop the Wawa to Porcupine Line. In fact, NETI began engaging in early-stage development activities earlier this year consistent with the Ministry’s initial messaging on designation requirements and with the goal of securing a mutually beneficial agreement with First Nations stakeholders. These activities included negotiations with First Nations partners, outreach to impacted landowners and municipalities, and development of a route that minimizes environmental impacts and cost. As these partnerships take shape, NETI will communicate progress to the Ministry.

The *NEET Development Capabilities and Fact Sheets* included in Appendix A provide a full overview of our capabilities and resources as well as a list of NEET’s major transmission projects.

NETI’s Distinct Qualifications and Experience: NETI is uniquely qualified to develop the Wawa to Porcupine Line given our experience with developing and constructing the EWT Line and the relationships and partnerships forged in furtherance of that project. NextEra Energy Canada led the development and construction efforts and ultimately delivered the project on-time despite the outbreak of COVID-19 at the beginning of construction and intervening wildfires.¹⁰ Also, the fact that the EWT Line involved challenging terrain similar to that where Wawa to Porcupine Line will be constructed further supports NETI’s unique suitability to develop the project.

NETI’s experience in managing EWT’s engineering and construction included sourcing materials, managing contractors, and securing environmental approvals. NETI is familiar with operating challenges in all climates and environments and with deploying all major transmission technologies. Throughout the development, construction, and operation of EWT, NextEra Energy Canada worked closely with key Ministries (including MNR, MINA, MECP and MOE) to secure more than 1,000 permits necessary for construction and ensure the Crown’s duty to consult with First Nations was effectively discharged. To this latter point, NextEra Energy Canada had the opportunity to work closely with Ontario First Nations and the Metis Nation of Ontario to address and resolve their concerns. Like the Ministry, NETI recognizes the importance of strong indigenous relationships and partnerships, which are a key contributor to advancing the goal of reconciliation efforts outlined in ERO 019-7336.

NETI’s Participation in Anticipated Processes: NETI supports the Ministry’s statement that it will work further with the IESO to consider competitive procurement processes for future projects. As NETI stated in its comments to Ontario’s Electrification and Energy Transition Panel, we believe that competitive transmission procurement in Ontario allows for the best possible outcome in terms of cost savings for utility customers as well as more beneficial equity partnerships with Indigenous communities.

If the Ministry nonetheless decides to designate the Wawa to Porcupine Line, NETI directs the Ministry to its comments in Section II above, which encourage the Ministry to strongly consider alternative transmitters

¹⁰ As noted in Section II, the IESO amended the original EWT in-service date for EWT to March 31, 2022.

based on a review of key criteria, including development and construction history (e.g., on-time completion and performance once in service), regulatory and First Nations engagement, and equity partnerships and economic development with First Nations communities.

Regardless of the designation process chosen by the Ministry for the Wawa to Porcupine Line, NETI supports the Ministry's statement in ERO 019-7336 that the Ministry will prioritize hearing from Indigenous communities on their engagement with *multiple* transmitters, which will ensure First Nation communities have the benefit of evaluating competing proposals.

IV. Conclusion

NETI supports the Ministry's proposal to expeditiously develop much needed transmission infrastructure to help the Province achieve its capacity, reliability, and decarbonization goals while creating economic partnerships with First Nation communities. NETI cautions that the current proposal for the Mississagi Lines — which focuses solely on designation to a legacy incumbent transmitter— will deprive Indigenous communities, ratepayers, and the Province of the benefits that would inure from considering other qualified transmitters and the innovative proposals they would bring to the table.

To meet its stated goals and in-service dates¹¹ for the proposed transmission lines, NETI recommends that the Ministry initiate an expedited consultation process that is open to qualifying transmitters (whether incumbent or non-incumbent). This process will better position the Ministry and Province in procuring a cost-effective and timely-delivered project that also secures the most advantageous terms for First Nation partnerships.

Sincerely,



Tracee Collins,
Director, Development

Appendices:

- A. NEET Development Capabilities and Fact Sheets**
- B. East-West Tie Newsletter, published Aug. 25, 2023**

¹¹ ERO 019-7336 identifies ISD targets of 2029 for the Mississagi Lines and 2030 for the Wawa to Porcupine Line.