



Application to Participate([A74311](#))

Filing Date: 2015-11-27

Hearing Information

Project Name: ITC Lake Erie Connector International Powerline Project

Company: ITC Lake Erie Connector LLC

File Number: OF-Fac-IPL-I175-2015-01 02

Hearing Order: EH-002-2015

I am Applying as:

- ☐ An Individual
- ☐ Authorized Representative on Behalf of an Individual
- ☒ A Group

Select which one best describes your group:

- ☐ Company
- ☐ Association (Special Interest Group)
- ☐ Aboriginal
- ☒ Federal Government
- ☐ Provincial Government
- ☐ Territorial Government
- ☐ Municipal Government
- ☐ Others

- ☐ My group is an organization that will represent its own interests
- ☒ My group is a collection of individuals with common interest

☒ I have permission to identify and speak on behalf of the people listed below:

Haudenosaunee Confederacy Chiefs Council

Contact Information:

- If you apply as individual, the contact information is for the Person Applying to Participate.
- If you apply as Authorized Representative, the contact information is for the Individual you are representing.
- If you apply as Group, the contact information is for the Group's main contact.

Salutation: Mr.

Last Name: Detlor

First Name: Aaron

Title: Counsel

Organization: Haudenosaunee Confederacy Chiefs Council

Telephone: 5194454225

Facsimile:

Email Address:

aarondetlor@gmail.com

Address:

16 Sunrise Court
Toronto, Ontario N0A1M0
Canada

Authorized Representative(s) Information:

If you do not have an authorized representative this section will be blank.

Method of Participation

I wish to participate as a:

- ☐ Commenter
- ☒ Intervenor

Interest or Expertise

- ☒ The Group I am representing is **directly affected** by the Board's decision
- ☒ The Group I am representing has **relevant information or expertise**

Connection to Project Issues

9. Potential impacts of the Project on Aboriginal interests.

The HCCC submit the following list of issues for determination:

1. Whether the NEB as presently constituted raises a reasonable apprehension of bias with respect to NEB's consideration of Haudenosaunee rights and interests;
2. Whether the NEB has breached section 35 of the Constitution Act, 1982 and at the same time fiduciary duties by failing to establish an engagement process which upholds the honour of the Crown
 - a. If the NEB can proceed with a hearing on this matter where it is acting contrary to section 35 of the

517 Tenth Avenue SW
Calgary, Alberta T2R 0A8

517, Dixième Avenue S.-O.
Calgary, (Alberta) T2R 0A8

Canada

Telephone/Téléphone : (403) 292-4800
Facsimile/Télécopieur : (403) 292-5503
<http://www..neb-one.gc.ca>
1-800-899-1265

3. Whether Natural Resources Canada has breached section 35 of the Constitution Act, fiduciary duties owed to the Haudenosaunee, and/or the treaty rights of the Haudenosaunee where it has purported to delegate engagement obligations to the NEB without undertaking any assessment of Haudenosaunee rights and interests which would determine the nature and scope of engagement required.

a. If the NEB can proceed with a hearing on this matter as a question of law where it is acting contrary to section 35 of the Constitution Act, 1982, breached fiduciary duties and/or failed to uphold the honour of the Crown

4. Whether NEB has breached section 35 of the Constitution Act, 1982, fiduciary duties owed to the Haudenosaunee, and/or the treaty rights of the Haudenosaunee where it has purported to provide for engagement process without undertaking any assessment of Haudenosaunee rights and interests which would determine the nature and scope of engagement required.

a. a. If the NEB can proceed with a hearing as a question of law where it is acting contrary to section 35 of the Constitution Act, 1982, breached fiduciary duties and/or failed to uphold the honour of the Crown ("A")

5. Whether Natural Resources Canada and/or the NEB have breached section 35 of the Constitution Act, fiduciary duties owed to the Haudenosaunee, and/or the treaty rights of the Haudenosaunee where NRC and/or NEB have failed to consider whether the free prior and informed consent of the Haudenosaunee is required for the Project to proceed.

a. If the NEB can proceed with a hearing on this matter as a question of law where it is acting contrary to section 35 of the Constitution Act, 1982, breached fiduciary duties and/or failed to uphold the honour of the Crown

6. Whether Natural Resources Canada and/or the NEB have breached section 35 of the Constitution Act, fiduciary duties owed to the Haudenosaunee, and/or the treaty rights of the Haudenosaunee where NRC and/or NEB have failed to consider an approach to Haudenosaunee rights and interests that is consistent with the Supreme Court of Canada decisions namely *Grassy Narrows First Nation v. Ontario (Natural Resources)*, 2014 SCC 48, [2014] 2 S.C.R. 447 where it was held that the Crown must discharge fiduciary duties with respect to government activity that impairs or infringes treaty rights;

7. Whether the NRC can delegate engagement obligations which include fiduciary obligations;

a.If the NEB can lawfully proceed with the hearing where NRC has unlawfully delegated fiduciary obligations

Access, Notification and Service

Which official language do you wish to use in correspondence with the Board and at the public hearing?

English ☒ French ☐

Documents submitted electronically are available on the Board's electronic document repository, (Click 'View' under 'Regulatory Documents' at www.neb-one.gc.ca). If you have the capability to access the repository, the Board and other Participants in this proceeding may serve you by notifying you that a document has been filed and is available in the repository, instead of serving you with a hard copy of the document.

Are you able to access the Board's electronic document repository?

Yes ☒ No ☐

Notification by email advising that a document has been filed will be sent to the following email addresses:

Aaron Detlor [aarondetlor@gmail.com]