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VIA RESS FILING AND COURIER

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Dear Ms. Walli

**Re: East-West Tie Designation Process – Phase 1 Criteria for the
Selection of a Designated Transmitter (EB-2011-0140)**

The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on the East-West Tie Designation Process – Phase 1 Criteria for the Selection of a Designated Transmitter (EB-2011-0140).

We hope you will find the PWU's comments useful.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



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cc: J. Kwik
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All participants

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HONORARY COUNSEL

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(1934 - 2006)

List of PWU Employers

Algoma Power
AMEC Nuclear Safety Solutions
Atomic Energy of Canada Limited (Chalk River Laboratories)
BPC District Energy Investments Limited Partnership
Brant County Power Incorporated
Brighton Beach Power Limited
Brookfield Power – Mississagi Power Trust
Bruce Power Inc.
Atlantic Power - Calstock Power Plant
Atlantic Power - Kapuskasing Power Plant
Atlantic Power - Nipigon Power Plant
Atlantic Power - Tunis Power Plant
Coo Nuclear Services
Corporation of the City of Dryden – Dryden Municipal Telephone
Corporation of the County of Brant, The
Coulter Water Meter Service Inc.
CRU Solutions Inc.
Ecaliber (Canada)
Electrical Safety Authority
Erie Thames Services and Powerlines
ES Fox
Great Lakes Power Limited
Grimsby Power Incorporated
Halton Hills Hydro Inc.
Hydro One Inc.
Independent Electricity System Operator
Inergi LP
Innisfil Hydro Distribution Systems Limited
Kenora Hydro Electric Corporation Ltd.
Kincardine Cable TV Ltd.
Kinectrics Inc.
Kitchener-Wilmot Hydro Inc.
Lake Superior Power Inc. (A Brookfield Company)
London Hydro Corporation
Middlesex Power Distribution Corporation
Milton Hydro Distribution Inc.
New Horizon System Solutions
Newmarket Hydro Ltd.
Norfolk Power Distribution Inc.
Nuclear Waste Management Organization
Ontario Power Generation Inc.
Orangeville Hydro Limited
Portlands Energy Centre
PowerStream
PUC Services
Sioux Lookout Hydro Inc.
Sodexo Canada Ltd.
TransAlta Generation Partnership O.H.S.C.
Vertex Customer Management (Canada) Limited
Whitby Hydro Energy Services Corporation

IN THE MATTER OF sections 70 and 78 of the *Ontario Energy Board Act 1998*, S.O. 1998, c. 15 (Schedule B);

AND IN THE MATTER OF a Board-initiated proceeding to designate an electricity transmitter to undertake development work for a new electricity transmission line between Northeast and Northwest Ontario: the East-West Tie Line

1 INTRODUCTION

The Government of Ontario and the Ontario Power Authority (the “OPA”) have identified five priority transmission projects for the province, one of which is the East-West tie line (the “E-W Tie”) to increase capacity between the northwest and the rest of Ontario.

On August 26, 2010 the Board issued its policy framework for transmission project development plans entitled *Framework for Transmission Project Development Plans* (“Board’s Policy”) that sets out a transmitter designation process for the development of new transmission infrastructure required and economically justified to connect FIT projects (EB-2010-0059). In a March 29, 2011, letter to the Board the Minister of Energy (“Minister’s letter”) expressed the Government’s interest in the Board undertaking “a designation process to select the most qualified and cost-effective transmission company to develop the East-West Tie”.

In a June 30, 2011 report entitled *Long Term Electricity Outlook for the Northwest and Context for the East-West Tie Expansion* (the “OPA Report”) the OPA identified the need for the E-W Tie and on August 19, 2011 the Independent Electricity System Operator (“IESO”) issued an E-W Tie feasibility study. The Board’s expectation is that the final determination of need will be made in a future leave to construct proceeding.

On August 22, 2011 the Ontario Energy Board (the “OEB” or “Board”) initiated the E-W Tie proceeding and invited interested licenced transmitters and those that have applied for a transmission licence to indicate their interest in filing a plan for the development of the E-W Tie.

In a letter dated March 20th, 2012 the Board set out a two-phase process for this proceeding. In Phase 1 the Board invited parties to make submissions on criteria for the selection of a designated transmitter (e.g. weightings of the criteria; filing and reporting requirements; the process for Phase 2; and the schedule for the filing of applications for designation). In Phase 2 the registered transmitters will file their applications and the Board will review them and designate a transmitter (“designated transmitter”) to undertake the development work for the E-W Tie.

On April 24, 2012 Board staff submitted its input on the criteria for the selection of a designated transmitter and proposed *Filing Requirements for the Designation Process for the East West Tie Line* (“Appendix A”).

The PWU’s input on the criteria and proposed filing requirements for the selection of a designated transmitter stems from the PWU’s energy policy:

Reliable, secure, safe, environmentally sustainable and reasonably priced electricity supply and service, supported by a financially viable energy industry and skilled labour force is essential for the continued prosperity and social welfare of the people of Ontario. In minimizing environmental impacts, due consideration must be given to economic impacts and the efficiency and sustainability of all energy sources and existing assets. A stable business environment and predictable and fair regulatory framework will promote investment in technical innovation that results in efficiency gains.

2 DECISION CRITERIA

1. What additions, deletions or changes, if any, should be made to the general decision criteria listed by the Board in its policy *Framework for Transmission Project Development Plans (EB-2010-0059)*?

The Board’s Policy lists the following decision criteria: organization; technical capability; financial capacity; schedule; costs; landowner and other consultations; and, other factors. The PWU identifies the need to add the following four criteria: experience; aboriginal participation; ability to carry out the procedural aspects of Crown consultation; and, ensuring reliability and maintaining efficiency and flexibility.

While the Board staff discussion paper on a Framework for Transmission Project Development Plans (EB-2010-0059) originally set out a criterion of “organization and experience”. In the Board’s Policy it adopted the criterion of “organization”. The Board’s

Policy is silent on the deletion of “experience” from the criterion. However, the Board’s Filing Requirements (G-2010-0059) specifies “Organization and Applicant’s Experience”. Experience demonstrates an applicant’s proven ability and is an important decision criterion. Filing requirements on experience should include ‘relevant’ Ontario and Canadian experience. Such relevant experience would imply firsthand familiarity with, and working knowledge of, provincial and federal regulatory requirements, applicable rules and processes, and an understanding of concerns of local landowners, and First Nation and Métis communities. While Appendix A includes filing requirements related to experience, experience as a decision criterion would take into account the significance of experience in the selection of the designated transmitter.

The PWU’s input on decision criteria on Aboriginal participation and the ability to carry out the procedural aspects of Crown consultation is provided in the responses to Questions 2 and 3 below.

The PWU suggests the addition of a criterion on ensuring reliability and maintaining efficiency and flexibility that addresses the Minister’s letter’s reference to the E-W Tie as ensuring “reliability and maintaining efficiency and flexibility of the system”. This criterion is preferred over Board staff’s suggestion of “Line capacity and reliability”. Flexibility as a decision criterion would require the designated transmitter to have the ability to accommodate changes in the plan related to unexpected external circumstances without undue increases in cost and time, or negative impact on the reliability of the E-W Tie.

- 2. Should the Board add the criterion of First Nations and Métis participation? If yes, how will that criterion be assessed?**
- 3. Should the Board add the criterion of the ability to carry out the procedural aspects of First Nations and Métis consultation? If yes, how will that criterion be assessed?**

Yes, the Board should add the criterion of First Nation and Métis participation and the criterion of the ability to carry out the procedural aspects of First Nation and Métis consultation. The Minister’s letter clearly articulates the Minister’s expectation that the

Board establish decision criteria on Aboriginal participation and the ability to carry out procedural aspects of the Crown consultations:

...given the location and value of the East-West Tie in ensuring reliability and maintaining efficiency and flexibility of the system, I would expect that the weighting of decision criteria in the Board's designation process takes into account the significance of aboriginal participation to the delivery of the transmission project, as well as a proponent's ability to carry out the procedural aspects of Crown consultations.

While Appendix A includes filing requirements related to First Nation and Métis participation and consultations, a filing requirement places these requirements at a lower hierarchical level in a selection matrix than a decision criterion. Therefore, addressing these requirements only through filing requirements and not as decision criteria diminishes their significance.

The PWU agrees with Board staff that while no delegation has been made that imposes the responsibility for the procedural aspects of Crown consultation on the designated transmitter, the Minister's letter is clear on the importance of the ability to take on this responsibility as a selection criterion. Where a project impacts existing or asserted Aboriginal or treaty rights, and contemplates conduct that may adversely affect the rights the Crown is required to consult with First Nation and Métis communities and the delegation can therefore be expected in the circumstance of the E-W Tie. The PWU also agrees with Board staff that the lack of delegation at this time should not bar the Board from "considering an applicant's abilities to bear the responsibility for the procedural aspects of Crown consultation". Further the PWU agrees that applicants that have commenced these consultations should not be regarded more favourably than applicants that have not, given the understanding that the responsibility rests with the OPA until the Board has designated a transmitter.

4. What is the effect of the Minister's letter to the Board dated March 29, 2011 on the above two questions?

The PWU assumes that the expectation that the Board will take into account the significance of Aboriginal participation and the proponent's ability to carry out the procedural aspects of Crown consultation conveyed in the Minister's letter reflects Government policy. Board policy is expected to be supportive of Government policy and the Minister's letter can be seen to ensure that the Board's framework for the designation of a transmitter for the E-W Tie is supportive of Government policy. The Minister's letter therefore has the same effect as a directive in articulating the need for the Board to take into account the criteria set out in Questions 2 and 3.

Use of the Decision Criteria

- 5. Should the Board assign relative importance to the decision criteria through rankings, groupings or weightings? If yes, what should those rankings, groupings or weightings be?**

Not only does the Minister set out the expectation for criteria on Aboriginal participation and the ability to carry out procedural aspects of the Crown consultations in the March 29, 2011 letter, the Minister specifies that the weighting of decision criteria in the designation process is to take into account the significance of the criteria set out in the letter. It would appear that the Minister's letter contemplates that there will at least be weighting of the two criteria set out in the letter to establish their significance relative to the remaining criteria. With regard to weighting amongst the remaining criteria, the PWU agrees with Board staff that "failure on any one criterion could mean failure of the project, and all the criteria are important". The remaining criteria therefore should have equal weighting and the criteria set out in the Minister's letter would at minimum, have equal weighting to those criteria.

- 6. Should the Board articulate an assessment methodology to apply to the decision criteria? If yes, what should this methodology be?**

The purpose of the designation proceeding is different from other proceedings that the Board holds. The purpose is not approval/disapproval of an application. In this proceeding the goal is to select the best applicant as the designated transmitter and this requires assessment methodologies to compare the applications.

It is the evaluation of the responses to the filing requirements under each criterion that results in the assessment of a transmitter’s plan. Therefore, for transparency of the selection process, the Board should articulate assessment methodologies including weightings in the filing requirements. For some filing requirements, the assessment methodology will consist of a two-tiered assessment. The first tier would be a pass/fail assessment. An applicant must pass all first tier filing requirement to satisfy a decision criterion. Where the first tier response gets a pass, there would be a second tier qualitative assessment for which the Board will need to establish weightings. The following are illustrations of the application of such an assessment methodology and weightings:

Organization and Experience		
<ul style="list-style-type: none"> Experience with regulatory processes, the acquisition of land use rights and landowner and other required consultations – Maximum 75 points 		
First Tier	Applicant has experience	Pass
	Applicant does not have experience	Fail
Second Tier	Ontario –based experience	75
	No Ontario experience, but experience in other Canadian province(s)	50
	No Canadian-based experience, but experience in jurisdictions outside of Canada	25
<ul style="list-style-type: none"> Experience with Management of similar transmission projects – Maximum 75 points 		
First Tier	Applicant has experience	Pass

	Applicant does not have experience	Fail
Second Tier	Similar Line	25
	Similar Terrain	25
	Similar size (cost)	25
<ul style="list-style-type: none"> Participation of First Nation and Métis communities – Maximum 100 points 		
First Tier	Participation of First Nation and Métis communities	Pass
	No participation of First Nation and Métis communities	Fail
Second Tier	Ownership	25
	Employment	25
	Consultation	25
	Other benefits	25

The development of appropriate assessment methodologies is essential to a fair, transparent and efficient evaluation of applications in a competitive selection process. The PWU therefore recommends that the Board provide opportunity for participants to provide comment on proposed assessment methods/weightings before finalizing the filing requirements.

3 FILING REQUIREMENTS

7. What additions, deletions or changes should be made to the Filing Requirements (G-2010-0059)?

Board staff seeks input on whether some of the filing requirements are too specific to be available at the time of an application for designation. In the PWU’s view, where filing requirements may be too specific to be available at the time of an application for designation it should behove the applicant to respond to the filing requirement to the best of its ability given the information available to it at the time the development plan is filed and for the applicant to identify the paucity in the available information that

prevents the applicant from completing the filing requirements. A review of the information filed will provide the Board and stakeholders with an indication of the applicant's familiarity with the circumstances of the project. This should also apply to the first bullet in Section 2.1.5 of the OEB's Minimum Technical Requirements that requires information on "all proposed design assumption". Rather than deleting this requirement, it should remain in place so that the available assumptions can be assessed. The same concept should apply to information sought in Section 5.1 of the filing requirements which requires a summary description of how the plan meets the specified requirements for the E-W Tie, as well as Section 8.3 which requires information on the applicant's proposed route.

The following are filing requirements missing from Board staff's Appendix A that need to be added:

Organization - Ability to Meet Intermittent Peak Skilled Workforce Requirements

In considering "organization", the Board should require the applicant to demonstrate its ability to be flexible and innovative in meeting fluctuating/peaking skilled workforce requirements. The filing requirement should require demonstration of how the resourcing strategy will provide flexibility and mitigate adverse impacts of delays, cost overruns and poor service quality and should require details on existing or planned contract sources for skilled resources if the ability to do so is to be met through contracting. The following is an illustration of the filing requirements that should be added:

Overview on the organization's access to skilled (i.e. transmission skills) workforce requirements:

- Existing source for skilled workforce
- Strategy for dealing with fluctuating/peaking skilled workforce requirement including intermittent peak requirements to mitigate:
 - Delays;
 - Costs; and,

- Reduced service quality.

Safety

The filing requirements set out in Appendix A of Board staff's submission do not include any filing requirements that speak to the applicant's safety record and safety processes. The PWU recommends the addition of safety to filing requirement 3.4 which would require evidence on the consistency of the applicant's safety practices with good utility practices.

8. May applicants submit, in addition or in the alternative to plans for the entire East-West Tie Line, plans for separate segments of the East-West Tie Line?

If the Board were to allow applicants to submit plans for separate segments of the E-W Tie, in addition to or in the alternative to plans for the entire E-W Tie, it is difficult to contemplate how that would impact the assessment of plans for the entire E-W Tie submitted by other applicants. Would this require all the applicants to file plans with and without the separate segment(s) of the E-W Tie that another applicant is filing plans for? Or alternatively, would applicants need to demonstrate plan flexibility to parse off segments of the E-W Tie? Both options would add considerable cost, time and effort into the preparation of the development plans. In the PWU's view, parties interested in only developing specific segments of the E-W Tie should collaborate with other applicant(s) to submit an entire plan.

4 OBLIGATIONS AND MILESTONES

- 9. What reporting obligations should be imposed on the designated transmitter (subject matter and timing)? When should these obligations be determined? When should they be imposed?**
- 10. What performance obligations should be imposed on the designated transmitter? When should these obligations be determined? When should they be imposed?**

- 11. What are the performance milestones that the designated transmitter should be required to meet: for both the development period and for the construction period? When should these milestones be determined? When should they be imposed?**
- 12. What should the consequences be of failure to meet these obligations and milestones? When should these consequences be determined? When should they be imposed?**

The PWU agrees with Board staff that the Board should not impose a method of work on the transmitters by imposing a development work plan with specific milestones in the filing requirements. The PWU also agrees that the judgement that transmitters bring in proposing milestones and a schedule in their applications can be used by the Board in differentiating the transmitters' applications.

In the PWU's view, the designated transmitter's proposed milestones should be imposed as performance obligations in the designation order.

The designated transmitter should be required to report to the Board when it becomes aware that it will not be meeting one of its proposed milestones. The report should provide details on the circumstances that led to the transmitters' assessment on its inability to meet the milestone and the corrective actions that the transmitter is undertaking to address the circumstances. In addition the transmitter should indicate the impact on its ability to complete the development (i.e. obtain leave to construct the line). If the Board deems the transmitter's ability to complete the development as significantly minimized the Board will need to make a determination on revoking the transmitter's designation order and issuing a designation order to an alternate transmitter.

With regard to consequences of failure to meet the development process obligations, the filing requirements should set out the consequences of failure to complete the development as a consequence of circumstances that are/were in the control of the transmitter. This allows the applicants to understand the risk that comes with the successful bid for designated transmitter of the E-W Tie. In addition, as Board staff suggests, the consequences of failure should be set out in the designation order.

Where it is apparent that missing a milestone indicates the transmitter's inability to complete the development through its own fault, the transmitter should be considered to have defaulted on its designation order. In this circumstance the designated transmitter should be required to submit the costs that it incurred up to the point of default.

In case of default by the designated transmitter the Board will need to issue a designation order for an alternate transmitter ("alternate transmitter") to complete the project development. The maximum costs that the defaulting transmitter would be able to recover could be established as the difference between the costs deemed to be prudent in Phase 2 of the designation process and the alternate transmitter's costs deemed to be prudent for the completion of the development work. The Board would then review the costs of the defaulted designated transmitter and allow for recovery of reasonable costs up to the amount determined as described. In this way, default by the designated transmitter will not result in incremental costs to customers and will be at the risk of the designated transmitter.

5 CONSEQUENCES OF DESIGNATION

- 13. On what basis and when does the Board determine the prudence of budgeted development costs?**
- 14. Should the designated transmitter be permitted to recover its prudently incurred costs associated with preparing its application for designation? If yes, what accounting mechanism(s) are required to allow for such recovery?**
- 15. To what extent will the designated transmitter be held to the content of its application for designation?**
- 16. What costs will a designated transmitter be entitled to recover in the event that the project does not move forward to a successful application for leave to construct?**

The PWU agrees with Board staff that the prudence of the budgeted development costs should be determined in the hearing process in Phase 2. As with any cost review the

Board's determination on the prudence of the proposed costs should be based on discovery of the evidence put in front of it.

Consistent with the Board's Policy and letter of December 20, 2011 the designated transmitter should be entitled to recover its costs of preparing its application for the designation proceeding. Deferral account(s) for the recovery of costs would likely be the most amicable mechanism for cost recovery given the Board and intervenors' familiarity with this mechanism. The alternative mechanisms suggested by Board staff (i.e. provisions in Section 70(2) and Section 78(3.0.5) of the *Ontario Energy Board Act* have not been tested the way that deferral accounts have and the practical risks and benefits related to these mechanisms are therefore not understood from both the customer's and utilities' perspectives.

Designation based on the designated transmitter's application would be meaningless unless the designated transmitter is held to its proposed plan. However, circumstances can arise that may present options not contemplated in the plan or that create legitimate obstacles to the planned options. Flexibility is required to address such circumstances.

The PWU agrees with Board staff that in the circumstance where the designated transmitter fails to obtain a leave to construct order due to incompetence or failure within its control, recovery of costs should not be automatic.

6 PROCESS

- 17. The Board has stated its intention to proceed by way of a written hearing and has received objections to a written hearing. What should the process be for the phase of the hearing in which a designated transmitter is selected (phase 2)?**
- 18. Should the Board clarify the roles of the Board's expert advisor, the IESO, the OPA, Hydro One Networks Inc. and Great Lakes Power Transmission LP in the designation process? If yes, what should those roles be?**
- 19. What information should Hydro One Networks Inc. and Great Lakes Power Transmission LP be required to disclose?**

- 20. Are any special conditions required regarding the participation in the designation process of any or all registered transmitters?**
- 21. Are the protocols put in place by Hydro One Networks Inc. and Great Lakes Power Transmission LP, and described in response to the Board's letter of December 22, 2011, adequate, and if not, should the Board require modification of the protocols?**
- 22. Given that EWT LP shares a common parent with Great Lakes Power Transmission LP and Hydro One Networks Inc., should the relationship between EWT LP and each of Great Lakes Power Transmission LP and Hydro One Networks Inc. be governed by the Board's regulatory requirements (in particular the Affiliate Relationships Code) that pertain to the relationship between licensed transmission utilities and their energy service provider affiliates?**

The PWU supports the Board's intention of proceeding with Phase 2 by way of a written hearing. With seven competing applications expected to be filed in this proceeding, a written hearing would provide for a more orderly and efficient process than an oral hearing. In addition, given the highly technical nature of the review, an oral hearing is likely to result in a large number of undertakings that could be dealt with more efficiently through a second round of interrogatories in a written hearing.

Procedural Order No. 1 granted intervenor status to each transmitter registered in the E-W Tie designation proceeding. In Phase 1 of the proceeding in which the Board is considering issues to be determined before applications for designation are filed, intervenor status for the registered transmitters is appropriate. However, in Phase 2 of the proceeding the registered transmitters will be filing their applications for the development of the E-W Tie and the Board will be reviewing the applications and selecting a designated transmitter to undertake the development work for the E-W Tie, intervenor status for the competing applicants is problematic. Granting intervenor status to the applicants competing for the designation order in Phase 2 involves them in the selection of the designated transmitter. This will necessarily create an adversarial process that will interfere with the discovery process and assessment of the

applications. Therefore the Board should reconsider the applicants' intervenor status for Phase 2.

A process for a written hearing for Phase 2 of the E-W Tie proceeding in which a designated transmitter is selected is as follows:

- Applications - The transmitters file their applications/plans
- Issues list – To contain the scope of the hearing to the relevant decision criteria the Board determines the decision criteria that will constitute the issues for review. In doing so the Board clarifies that the scope within each issue is confined to the filing requirements set out for each criterion.
- Round One Interrogatories - Board staff files interrogatories on each application; intervenors file interrogatories a week later.
- Round Two Interrogatories – The second round of interrogatories is limited to seeking clarification on round one interrogatory responses.
- Submissions – The submissions consist of Board staff and intervenors' input on the weightings of the applicants' responses to the filing requirements and justification for the assigned weightings.
- Board Decision - Selection of the designated transmitter based on the Board's assessment of Board staff and intervenor's weightings of the applicants' filing requirement responses. Where the Board has difficulty weighing/ranking between two or more applicants on a particular issue, the Board can hold an oral hearing on the issue.

The PWU does not agree with Board staff's proposal on the culling and editing of intervenor interrogatories by Board staff. Where an applicant finds interrogatories to be out of scope it is for the applicant to object to the interrogatories.

In considering motions filed by applicants over the course of this proceeding the Board needs to consider that the applicants are in a competitive process with each other. In addition, the applicants may be in competitive situations with Hydro One Networks Inc. ("HONI") and Great Lakes Power Transmission LP ("GLLPL") in a future designation proceeding. To ensure that hearing a motion filed by one applicant does not serve to advantage it above one or more of the other applicants, for the Board to consider

hearing the motion, the motion should be supported by all applicants. In addition, the Board should be satisfied that hearing a motion will not disadvantage HONI and/or GLPL in a future designation process.

The Board should clarify the roles of the Board's expert advisor, the IESO, the OPA, HONI and GLPL in the designation process.

Board staff's view of the Board's expert advisor acting as Board staff's advisor, with any advice provided shared with all parties through the interrogatory process and submissions is an appropriate role for the Board's expert advisor.

The OPA's and IESO's roles in the designation process should be to provide input on the consistency and compatibility of the applications/plans with the OPA's reference case and IESO's feasibility study. Where a plan differs from the OPA's reference case and the IESO's feasibility study, the OPA's and IESO's roles are to provide input on whether a plan is, and if so how it is, acceptable from the perspective of their respective requirements.

Board staff's proposal on the roles for HONI and GLPL as providing information to assist applicants with plan preparation and to file interrogatories and make submissions on proposals that affect their infrastructure is reasonable. Therefore the information that HONI and GLPL should be required to disclose should be limited to information that is required to assist applicants with their plan preparation.

While two of EWT LP's limited partners are incumbent transmitters that are not "affiliates" of EWT LP within the meaning of the Board's Affiliate Relationships Code ("ARC") for Distributors and Transmitters, and the rules of the ARC therefore do not apply between EWT LP and its limited partners, as Board staff points out, the ARC also does not apply to the applicants whose licences are not yet in effect. Of the seven transmitters that have registered interest in the E-W Tie designation the only transmitter that has a licence that is currently in effect, Canadian Niagara Power Inc., is also the only transmitter of the seven that currently owns and operates transmission facilities in Ontario.

The PWU believes that the Board order for HONI and GLPL information and the protocols that HONI and GLPL have put in place are adequate in ensuring equal access by all applicants to the incumbents' information and there is no need to impose further regulatory requirements on EWT LP.

With regard to a filing date for the applications for designated transmitter of the E-W Tie, the PWU agrees with Board staff that the issuance of the Board's Phase 1 decision should be regarded as equivalent to notice in this process and that in the absence of significant issues arising in the Phase 1 decision, applications should be filed within four months of the issuance of the Phase 1 decision.

All of which is respectfully submitted.