

EB-2011-0140

**Proceeding to Designate a
Transmitter to Carry Out
Development Work for the
East-West Tie Line**

- Phase 1 -

**Ontario Power Authority
Submission**

May 7, 2012



1 **Background**

2 On February 2, 2012 the Ontario Energy Board (the “Board”) initiated a proceeding to designate
3 an electricity transmitter to undertake development work for a new transmission line between
4 Northeast and Northwest Ontario: the East-West Tie Line. This process was initiated by a letter
5 from the Minister of Energy to the Chair of the Board suggesting that the Board’s designation
6 process, identified in its policy *Framework for Transmission Project Development Plans*, could
7 be used to select the most qualified and cost-effective transmission company to develop the
8 East-West Tie Line. The OPA provided a report describing preliminary need for the line, the
9 Independent Electricity System Operator provided a feasibility study identifying potential
10 solutions, and the Board decided to initiate the designation process.

11 The Board has adopted a two-phase process for the proceeding. In the first phase, the Board
12 will establish specifics for the proceeding including decision criteria, filing requirements,
13 obligations and consequences arising on designation, the hearing process for phase 2 and the
14 schedule for the filing of applications for designation. In phase 2, registered transmitters will
15 have an opportunity to file their applications for designation, and the Board intends to select
16 one of the applicants as the designated transmitter through a hearing process.

17 In Procedural Order No. 2, the Board approved an issues list for phase 1 of the hearing. The
18 OPA’s submission provides comments on a number of the phase 1 issues approved by the
19 Board.

20 **Written submission**

21 **1. Project Costs**

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

25 *Issue #5: Should the Board assign relative importance to the decision criteria through*
26 *rankings, groupings or weightings? If yes, what should those rankings, groupings or*
27 *weightings be?*

28 *Issue #7: What additions, deletions or changes should be made to the Filing*
29 *Requirements (G-2010-0059)?*

30 *Issue #15: To what extent will the designated transmitter be held to the content of its*
31 *application for designation?*

32 In general, the OPA believes that the decision criteria listed by the Board in its policy
33 *Framework for Transmission Project Development Plans* is complete. The OPA does not
34 propose to modify or add to the proposed criteria at this time. The OPA agrees with Board staff

1 that "Construction costs will be reviewed in the leave to construct application, and it would be
2 premature to expect accurate estimates before development work is complete." The OPA also
3 agrees that it is therefore appropriate not to require any definite commitment from applicants
4 on these costs at the time that plans are filed. However, the OPA does want to ensure that the
5 relative importance of the cost criterion is not diminished by not requiring a definite
6 commitment from applicants on the costs of their projects. The OPA believes that the cost of
7 the project is critical in terms of being able to establish the need for the project, to determine
8 that a transmission alternative is the best option for meeting the need, and therefore, that the
9 project should be constructed. The importance of project costs was highlighted by Board staff
10 on page 4 of their written submission:

11 *"The schedule and costs are fundamental to the economic efficiency, and*
12 *therefore the need for the line. For example, if costs of construction are too high,*
13 *other options identified by the OPA for satisfying demand in Northwest Ontario*
14 *could be preferable."*

15 The OPA suggests that when looking at transmitters' plans, it would be wise for the Board to
16 choose a proposal that leans toward a lower cost solution under most foreseeable
17 circumstances, subject to all other relevant criteria. For example, proposal A may be inherently
18 lower cost than proposal B, and although the initial costs provided for both proposals are likely
19 not accurate, it can be expected that under nearly all circumstances, proposal A would end up
20 being less expensive than proposal B. The OPA suggests that this be considered when the
21 Board evaluates transmitters' plans, and therefore proposes to add the following addition to
22 the filing requirements, in section 5 - Plan Overview so that transmitters have the opportunity
23 to demonstrate economic efficiency in their proposals:

24 *5.8 A discussion of why the Plan leads to a lower cost solution than other*
25 *alternatives, while still meeting the project requirements.*

26 The OPA does appreciate, however, that even if this criterion is not added to the filing
27 requirements, the project may no longer be economic if the project costs rise significantly, and
28 this fact will likely serve as a driver for transmitters to keep costs down.

29 **2. First Nations and Métis Participation / Consultation**

30 *Issue #2: Should the Board add the criterion of First Nations and Métis participation?*
31 *If yes, how will that criterion be assessed?*

32 *Issue #3: Should the Board add the criterion of the ability to carry out the procedural*
33 *aspects of First Nations and Métis consultation? If yes, how will that criterion be*
34 *assessed?*

35 *Issue #4: What is the effect of the Minister's letter to the Board dated March 29,*
36 *2011 on the above two questions?*

1 The OPA generally agrees with Board staff's approach to First Nations and Métis participation,
2 and the related Filing Requirements proposed for the Designation Process as outlined in
3 Sections 2.4, 2.5, and 2.6.

4 On page 6 of the Board staff's written submission it states that:

5 *"It is Board staff's submission that applicants who have commenced consultation*
6 *with First Nations and Métis groups before they apply for designation should not*
7 *be regarded more favourably than those who have not commenced consultation*
8 *but have a comprehensive and practical plan for consultation that would be*
9 *initiated upon designation."*

10 While the OPA agrees with Board staff's above position, the OPA believes it is still of value for
11 transmitters to get out early in the process and build positive and constructive relations with
12 First Nations and Métis communities.

13 The OPA also agrees with Board staff that the duty to consult is the responsibility of the Crown
14 and as such, the OPA believes that Aboriginal consultation needs to be coordinated with the
15 Crown. However, the OPA believes it is worth noting that in our view, if any duty to consult
16 arose prior to the Board's letter of August 22, 2011 calling for transmitters interested in filing a
17 plan for the development of the E-W Tie, the procedural aspects of such duty were met by the
18 activities undertaken by the OPA on or before the July 29, 2011 date that Aboriginal
19 communities had been given to write to the OPA with their questions or comments. On page 7,
20 Board staff's submission states that, "[...] any responsibility for consultation will remain with
21 the OPA until designation". The OPA will not be carrying out any additional engagement
22 activities with respect to this matter leading up to the designation decision, and it is the OPA's
23 position that any duty to consult rests with the Crown.

24 **3. Project In-Service Date**

25 *Issue #7: What additions, deletions or changes should be made to the Filing*
26 *Requirements (G-2010-0059)?*

27 On page 10 of Board staff's written submission, the following comment is made with respect to
28 the in-service date for the East-West Tie Line:

29 *"Staff also notes that the OPA has stated that it is seeking input on the proposed*
30 *in-service date for the line, and economic efficiency cannot be assessed in the*
31 *absence of an in-service date."*

32 The OPA had suggested that transmitters provide input as to whether the 2017 in-service date
33 remains appropriate because nearly a year-and-a-half has passed since the project was
34 originally identified in the government's Long-Term Energy Plan, and the OPA thought that it
35 was important to understand the implications of this date from the transmitter's perspective.

1 The OPA does, however, recognize the additional burden placed on the Board from having to
2 consider different in-service dates when examining transmitter’s plans. For example, it may be
3 difficult to compare the costs and benefits of one proposal with another if the timing is not
4 consistent. In order to help alleviate this burden, the OPA proposes that transmitters be
5 required to file plans with a reference in-service date of 2017, but that they have the option of
6 also submitting plans with an in-service date of 2018 or 2019. The OPA believes that this would
7 allow for a consistent comparison of transmitters’ plans and associated costs, milestones, etc.
8 by the Board. It would also allow parties to understand the benefits, if any, of allowing
9 additional time in the development work and construction schedule for the line.

10 The OPA expects that this information could allow it, along with other parties, to provide
11 information on whether any cost savings arising from a later in-service date for the project
12 warrant the additional costs associated with a delay in addressing the needs.

13 **4. Segmenting the East-West Tie Line**

14 *Issue #8: May applicants submit, in addition or in the alternative to plans for the*
15 *entire East-West Tie Line, plans for separate segments of the East-West Tie Line?*

16 The OPA believes that from a technical standpoint, there is no reason that different
17 transmitters could not build separate segments of the East-West Tie Line. That said, this would
18 introduce complexities and it would be important for designated transmitters to coordinate the
19 technology, configuration, standards, capability and other features of the line in order for the
20 two segments to be the same and operate successfully. It should also be noted that in order for
21 the East-West Tie to be useful, both segments need to be in-service. This would mean that
22 there would also need to be coordination in terms of timelines, in-service dates, milestones,
23 etc. In summary, although the OPA sees no reason that different transmitters could not build
24 separate segments of the project, this would necessitate increased coordination between the
25 transmitters.

26 **5. Clarifying the OPA’s Role**

27 *Issue #9: What reporting obligations should be imposed on the designated*
28 *transmitter (subject matter and timing)? When should these obligations be*
29 *determined? When should they be imposed?*

30 *Issue #18: Should the Board clarify the roles of the Board’s expert advisor, the IESO,*
31 *the OPA, Hydro One Networks Inc. and Great Lakes Power Transmission LP in the*
32 *designation process? If yes, what should those roles be?*

33 The OPA believes that it would be beneficial for the role of the OPA to be clarified, and as such,
34 has tried to summarize its anticipated role both in the designation process and in how the OPA
35 might work with the designated transmitter moving forward.

1 During both phase 1 and phase 2 of the designation process, the OPA intends to:

- 2 • Provide background information on the East-West Tie project;
- 3 • Provide clarification, as required, around the OPA's June 30, 2011 Report;
- 4 • Provide information on the OPA's completed activities with First Nations and Métis
- 5 communities;
- 6 • To answer OPA-directed questions posted on the Board's online data room by potential
- 7 transmitters;
- 8 • Support the Board by providing it with additional information, where necessary; and
- 9 • Clarify matters related to the OPA's mandate.

10 During the development work phase of the project, the OPA expects that it will:

- 11 • Support the designated transmitter in its consultations with stakeholders, First Nations
- 12 and Métis communities as required;
- 13 • Update system studies based on the latest information to ensure there is an accurate
- 14 picture of the project need and requirements, and provide this information to the
- 15 designated transmitter and other parties as appropriate;
- 16 • Receive project information, such as final cost estimates and environmental
- 17 performance from the designated transmitter so that the need and alternatives can be
- 18 reassessed before a Leave to Construct application is filed;
- 19 • Work together with the designated transmitter on an ongoing basis to review the
- 20 project's progress;
- 21 • Support the need and alternatives in approval processes, such as Environmental
- 22 Assessments and Leave to Constructs; and
- 23 • Provide any other assistance in order to enable the project to be completed by the
- 24 target in-service date.

25 The OPA's role is relatively limited during the construction phase of the project, but the OPA
26 expects to be kept informed of the project's progress on a regular basis, and the OPA will
27 provide any assistance that it can to ensure the project is completed by the target in-service
28 date.

29 Given that the OPA expects to be working very closely with the designated transmitter and be
30 kept informed of issues, milestones reached, and next steps in the project through regular
31 meetings and discussions, the OPA does not propose any reporting obligations at this time.

32 **6. Filing Date for Transmitter's Application for Designation**

33 *Issue #23: What should be the required date for filing an application for designation?*

34 The Board staff written submission states, on page 23:

1 *“Board staff acknowledges there may be issues that the Board cannot anticipate*
2 *at the time of its phase 1 decision. An alternative to setting a date in the phase 1*
3 *decision could be a requirement on registered transmitters, or all parties, within*
4 *60 days of the Board’s phase 1 decision, to propose a filing date for applications.*
5 *Board staff invites all parties, but particularly the registered transmitters, the*
6 *IESO, the OPA and Hydro One Networks Inc. to comment on this issue.”*

7 In the interest of keeping the process moving in a timely manner, the OPA recommends that
8 the required date for filing an application for designation be determined by the Board at the
9 time of the Board’s phase 1 decision. Should Board staff’s alternative option to setting a date
10 be pursued, rather than setting a date at the time of the Board’s phase 1 decision, the OPA
11 would suggest that registered transmitters, or all parties, propose a filing date within 15 days of
12 the Board’s phase 1 decision, rather than within 60 days. The OPA believes that this will allow
13 transmitters sufficient time to evaluate the impacts of a phase 1 decision and make submissions
14 as to an appropriate date for filing applications for designation.

15 The OPA appreciates the opportunity to provide its comments in this matter, and looks forward
16 to participating further in this designation process.