



**EB-2011-0140**

**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.

**BEFORE:** Cynthia Chaplin  
Presiding Member and Vice-Chair

Cathy Spoel  
Member

## **PHASE 1 DECISION AND ORDER**

**July 12, 2012**

### **INTRODUCTION**

On February 2, 2012, the Ontario Energy Board issued notice that it was initiating a 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. The Board assigned File No. EB-2011-0140 to the designation proceeding. Seven transmitters registered their interest in the designation process.

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The Board developed the Framework for Transmission Project Development (EB-2010-0059) (the “Policy”) as a way to encourage the timely development of electric transmission construction in Ontario. A number of transmission projects were expected to be identified by the Ontario Power Authority (“OPA”) through an Economic Connection Test or an Integrated Power System Plan to accommodate the connection of renewable generation. The designation process outlined in the Policy has, nevertheless, been adopted by the Board in this proceeding for a single bulk transmission line that was identified in the Minister’s Long Term Energy Plan to address reliability issues. The East-West Tie line will run between Thunder Bay and Wawa, and connect to the bulk transmission system in Northern Ontario at transformer stations owned by Hydro One Networks Inc. (“HONI”).

This designation proceeding represents an evolving process as the Board applies the Policy for the first time. The Board has adopted a two phase process for the designation proceeding. In Phase 1, which is the subject of this decision and order, the Board establishes specifics for the proceeding including decision criteria, filing requirements, obligations and consequences arising on designation, the hearing process for Phase 2 and the schedule for the filing of applications for designation.

In Phase 2, the registered transmitters will have an opportunity to file their applications for designation, and the Board intends to select one of them as the designated transmitter through a hearing process. The Board notes that this proceeding is voluntary on the part of the registered transmitters and intends that this Phase 1 decision and order will assist them in deciding whether to make an application for designation in Phase 2. The Board will not, at this stage, compel any transmitter to file a plan for the line.

It is important to remind participants of the limited scope of this process, which is the selection of a designated transmitter to do development work for the East-West Tie line. The final determination of the need for the line will be considered in a subsequent leave to construct proceeding. In general, environmental matters are not within the mandate of the Board and the necessary environmental assessment will be conducted in another forum.

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## THE PROCEEDING

On February 2, 2012, the Board issued a Notice of Proceeding for this designation proceeding. On March 9, 2012, the Board issued Procedural Order No. 1, granting intervenor status to the seven transmitters registered in this proceeding, namely: AltaLink Ontario, L.P. (“AltaLink”); Canadian Niagara Power Inc. (“CNPI”); EWT L.P.; Iccon Transmission Inc. (“Iccon”); RES Canada Transmission L.P. (“RES”); TransCanada Power Transmission (Ontario) L.P. (“TPT”); and Upper Canada Transmission, Inc. (“UCT”).

The Board’s Decision on Intervention and Cost Award Eligibility, dated March 30, 2012, and the Board’s Procedural Order No.2, dated April 16, 2012, granted intervenor status to 24 parties (or, in some instances, groups of parties) and cost award eligibility for the proceeding to nine of those parties. The matter of costs is discussed in further detail at the end of this decision.

Procedural Order No. 2 included the Board-approved issues list for Phase 1. On June 14, 2012, the Board issued its Phase 1 Partial Decision and Order to deal specifically with issue 19 of the issues list. This decision ordered HONI and Great Lakes Power Transmission LP (“GLPT”) to file with the Board, and provide to other parties, certain documents in their possession which may be relevant to the development of the East-West Tie line. This decision addresses the other issues identified for Phase 1 of the proceeding.

## BOARD FINDINGS ON THE ISSUES

The Board’s primary objective in this proceeding is to select the most qualified transmission company to develop, and to bring a leave to construct application for, the East-West Tie line. The Board recognizes that the key to achieving this objective is the establishment of an efficient and transparent competitive process that avoids bestowing any unfair advantage upon a particular applicant or group of applicants. The Board’s view is that competition is best served by creating an open, fair and cost-efficient proceeding that encourages multiple qualified proponents to participate. The Board has considered each of the issues in this light.

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**Decision Criteria: Issues 1 – 4*****Issue 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)?***

For the reasons given under issues 1 to 4, the Board's criteria for this designation process are:

- Organization
- First Nation and Métis participation
- Technical capability
- Financial capacity
- Proposed Design for the East-West Tie line
- Schedule
- Costs
- Landowner, municipal and community consultation
- First Nation and Métis consultation
- Other factors

**Original criteria**

There was general support among the parties for the retention of the original criteria from the Policy. The Board agrees that these original criteria remain valid for the East-West Tie line project, and will retain the following criteria in their original form: organization, technical capability, financial capacity, schedule, costs, and other factors. The criterion "landowner and other consultations" will be subdivided, as described below.

Several parties suggested that the Board provide guidance as to the way in which it would assess the criteria "cost" and "other factors". Regarding cost, the Board acknowledges, as several parties observed, that one of the purposes of the development work itself will be the estimation of construction and operation and maintenance costs, and that therefore applicants for designation will likely not be in a position to provide an accurate estimate of construction and operating and maintenance costs at the time of their application. Nevertheless, the Board finds that it must consider

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all costs in assessing the merits of the various applications. Providing benefit to ratepayers through economic efficiency is a core objective in the Board's Policy, and the reasonableness of the total costs of the project will be a critical component in achieving that objective. The Board will therefore require that parties include in their applications an estimate of all costs, including those related to: preparation of an application for designation; development; construction; and operation and maintenance of the line.

However, in recognition of the uncertainty inherent in estimating costs of construction and operation and maintenance of the line, the Board will accept these estimates expressed as a range. All the transmitters who have registered their interest in the East-West Tie line project have, or have access to, experience in the construction of major infrastructure projects, and the Board expects that they will be able to create a reasonable estimated range for these costs, and provide justification for the cost estimates and width of the range. The Board will also require applicants to provide evidence of their plan to manage the costs of construction and operation and maintenance, and of their track record in estimating construction costs and keeping to those estimates.

Applicants should also describe any proposals they have regarding the recovery of the various categories of costs from ratepayers. For example, the Board notes TPT's submission that no applicant, including the designated transmitter, should be able to recover the costs of participating in the designation process. While this is not the Board's ruling (see issue 14 below), the Board invites any applicant to distinguish itself by proposals that reduce costs or risks for ratepayers for any category of cost.

The Board will retain the criterion "other factors", but will not specify at this time what factors or evidence will be considered under this criterion. This criterion offers applicants the opportunity to bring forward any distinguishing feature of their application that is not addressed in the other criteria. The Board acknowledges that this criterion is open-ended. However, all potential applicants are in the same position and have the same opportunity to provide evidence under this criterion. Experienced transmitters, such as those who have registered their interest in this proceeding, may bring forward useful information that the Board cannot anticipate at this stage in the proceeding.

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### **Additional criteria, other than First Nation and Métis issues**

The submissions of parties contained several proposals for additional criteria. The Board will not add a specific additional criterion relating to facilitating competition and new entrants. The facilitation of competition and the encouragement of new entrants to transmission in the province was part of the context for the Board's Policy, and are being recognized by the initiation of this designation process. Any applicant who wishes to bring evidence of any advantage to Ontario ratepayers of the designation of a new entrant for this project is invited to do so as part of the "other factors" criterion.

The Board finds that there is no need to create additional criteria related to the provision of socio-economic benefits, the ability to mitigate environmental impacts, regulatory expertise, or location-specific experience. Each of these issues will be considered to some degree under the criteria "technical capability" and "organization". The Board notes that mitigation of environmental and socio-economic impacts is considered as part of the Environmental Assessment process. The Board will not require evidence of an applicant's ability to mitigate these impacts, but will require evidence of the applicant's ability to successfully complete regulatory processes similar to Ontario's Environmental Assessment process.

With respect to regulatory expertise, the Board will require evidence under the criterion "technical capability" of an applicant's ability to successfully complete the regulatory processes necessary for the construction and operation of the line.

The Board will not necessarily favour experience in Ontario over experience in other jurisdictions. It is important that the designated transmitter be fully capable of constructing and operating an electricity transmission line that meets the needs identified by the OPA and the Independent Electricity System Operator ("IESO") in the location proposed in the transmitter's plan. However, the experience necessary to achieve this capability may have been gained in other jurisdictions. The Board invites applicants to bring evidence of their experience and to demonstrate its relevance to the East-West Tie line project.

The Board finds that three additional criteria are appropriate to address the specific circumstances of this designation process. The Board will add the new criterion "Proposed Design for the East-West Tie Line". In creating this additional criterion, the Board has particularly considered the submissions of Board staff, the IESO, RES, the

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Power Workers Union (“PWU”) and EWT LP. The evidence to be filed to satisfy this criterion is largely that listed in section 5 of Board staff’s proposed filing requirements presently titled “Plan Overview”. The criterion is intended to be assessed as pass/fail in respect of whether the applicant’s plan for the line meets the targeted transfer capability while satisfying all applicable reliability standards. However, the other evidence to be filed under this criterion by each applicant will be compared against the plans of the other applicants to assess the relative strengths of the proposed designs. An applicant may demonstrate under this criterion the ways in which its technical design for the line provides advantages to the transmission system, local communities or transmission ratepayers, or demonstrates advantageous innovation, or in some way exceeds the minimum requirements while remaining cost effective.

The Board will divide the original criterion “landowner and other consultations” into two criteria: “landowner, municipal and community consultation” and “First Nation and Métis consultation”. The delineation of “landowner, municipal and community consultation” from the more general original criterion is intended to make explicit the need for consultation with municipalities and communities located along the transmission line corridor.

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

***Issue 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?***

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

The Board finds that the Minister’s letter is not a directive within the meaning of the *Ontario Energy Board Act, 1998*. However, the letter is an expression of the government’s interest in promoting First Nations and Métis participation in energy projects, and is consistent with government policy as articulated in the Long Term Energy Plan.

The Board will create the criterion “First Nation and Métis participation” and, as indicated in the previous section, divide the original criterion “Landowner and other consultations” into two criteria: “landowner, municipal and community consultation” and

“First Nation and Métis consultation”. The Board recognizes that First Nation and Métis consultation is unique in being a constitutional obligation on the Crown, certain aspects of which may be delegated to the designated transmitter. Applicants will be required to demonstrate their ability to conduct successful consultations with First Nation and Métis communities, as may be delegated by the Crown, by providing a plan for such consultations, and evidence of their experience in conducting such consultations.

The Board will not look more favourably upon First Nation and Métis participation that is already in place at the time of application than upon a high quality plan for such participation, supported by experience in negotiating such arrangements. “Participation” can mean many things, and the Board will not restrict its consideration to any particular type of participation. Applicants are invited to demonstrate the advantages of whatever type and level of First Nation and Métis participation they have in place, or are proposing to secure.

The Board notes the proposal of the Ojibways of Pic River First Nation (“PRFN”) that the First Nation and Métis participation criterion be categorized, weighted, and scored by the impacted relevant communities. The Board will not adopt this methodology for assessing the criterion, which could amount to an improper delegation of its decision making power. The Board will evaluate this criterion through the public hearing process, and the various intervenors representing First Nation and Métis interests, along with the other parties, can seek input from their constituencies and bring that information forward for the Board’s consideration in the hearing.

#### **Use of the Decision Criteria: Issues 5 and 6**

***Issue 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?***

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

The Board will not, at this time, articulate an assessment methodology to be applied to the decision criteria, nor will it ascribe any relative importance to the decision criteria through a weighting system. The Board appreciates the points made in the submissions from some parties that assigning weights or rankings to the criteria would

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assist applicants in focusing their applications towards factors that the Board considers important. However, the Board is unwilling to remove the discretion and flexibility it may need in evaluating the applications for designation. The Board will exercise its judgment for each criterion, with the assistance of the evidence presented and the submissions received from all parties.

The Board notes that in providing decision criteria and filing requirements, it has provided some guidance to potential applicants, and that all applicants face the same challenge in designing their proposals around these criteria and filing requirements. All the decision criteria are important, and the Board is unwilling to restrict its ability to give full consideration to each criterion before it is informed by the content of the applications for designation.

### **Filing Requirements: Issues 7 and 8**

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

As part of its Policy, the Board issued its “Filing Requirements: Transmission Project Development Plans” (G2010-0059) dated August 26, 2010. Board staff proposed revisions to the original filing requirements to take into account the specific circumstances of the East-West Tie line. These revised filing requirements were attached as Appendix A to Board staff’s April 24, 2012 submission. Most parties agreed with the reorganization of the filing requirements proposed by Board staff, but had specific suggestions for additions, deletions or changes.

The approved filing requirements for the East-West Tie line designation process are attached as Appendix A to this decision. The filing requirements have been modified from Board staff’s proposed filing requirements to reflect the Board’s findings in this Phase 1 decision. Certain issues raised by parties, and not otherwise addressed in this decision, are discussed below.

### **Background Information**

AltaLink submitted that an additional requirement should be added to require each applicant to file a statement from a senior officer that the applicant is not in a position of an actual or perceived conflict of interest. The Board finds that this requirement is

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unnecessary at this time. The Board, in issues 20 – 22 in this decision, addresses issues arising from the participation of entities related to incumbents. The Board can address this issue further through Phase 2 in the event additional concerns are identified.

### **Technical Capability**

AltaLink and Iacon submitted that references to experience in Ontario and experience involving similar terrain, climate and other environmental conditions should be excluded from the filing requirements. EWT LP submitted that experience in Ontario and in similar terrain, climate and other environmental conditions is important when assessing a transmitter's technical experience.

As mentioned under issue 1 in this decision, the Board finds that it is appropriate for applicants to document their experience, wherever gained, and to demonstrate the relevance of that experience to the East-West Tie line project.

The Board will not, as urged by TPT, change the wording in the filing requirements to refer only to “linear infrastructure”, but recognizes that such experience may be relevant to the construction and operation of the East-West Tie line.

The Board will require evidence of consistency with good utility practice in the areas of safety, environmental compliance, and regulatory compliance.

### **Financial Capacity**

School Energy Coalition (“SEC”) recommended the addition of a requirement for information on the current credit rating of the applicant and its parent company. The Board has adopted this proposal.

### **Plan Overview (now Proposed Design)**

Some parties submitted that the requirements listed in Section 5.1 of Board staff’s proposed filing requirements are too detailed for the designation applications since providing this information would require development work which should not be part of the designation process. EWT LP suggested that these requirements should be determined by the designated transmitter once designated and that only a description of

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the development activities planned to determine these requirements should be included in the designation application.

The Board is of the view that the filing requirements should require the applicant transmitters to provide sufficient detail to allow the Board to carry out a meaningful, thorough and accurate assessment of the applicant transmitters and their proposed plans. However, the Board also recognizes the time, effort and cost associated with preparation of detailed designation applications. If an applicant is unable to provide certain information, then it can provide a description of the methodology it will use to develop the information. The Board has made the list under this section (now 6.1) optional rather than mandatory, and provided the option of describing the method and criteria for the determination of these parameters.

Board staff noted that section 2.1.5 of the Board's Minimum Technical Requirements requires that "all proposed design assumptions" be provided by the applicant. Board staff recommended that the need to provide "all proposed design assumptions" be excluded from the designation application because this information will not be available to the applicants before development work for the line is well underway.

The Board agrees with Board staff that it would be premature to expect the applicants to be able to provide this information prior to having done at least some development work, and will not include a requirement for "all" design assumptions in the filing requirements. As a general rule, the Board agrees with UCT and PWU that if the filing requirements require detail which is impossible or impractical to obtain, the applicant should respond to the best of its ability and identify the factors that prevent a full response or require deviation from the filing requirements. The Board also acknowledges, as submitted by RES, that plans will evolve during the development phase.

The Board will adopt the proposal of the OPA (supported by SEC) for a requirement to outline how a proposed plan leads to a lower cost solution than other alternatives while meeting the project requirements. The Board is not, at this stage, asking applicants to compare their plans to those of other applicants, but to other options for the East-West Tie line that could reasonably be considered to satisfy the need for the line.

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## Schedule

EWT LP suggested that section 6.3 of Board staff's proposed filing requirements related to information regarding the construction phase of the project should be eliminated since this would require environmental assessment work and consultation which will not have been done at the time of filing the applications. Some parties suggested that specific milestone dates should be removed.

The Board is of the view that the requirements in section 6.3 will be helpful to the Board in assessing the merits of the applicants' proposed plans and that they should remain in the filing requirements. The Board is not seeking a commitment, but information to assist it in understanding the applicant's overall strategy for completion of the project. The Board recognizes that the construction schedule will change as a result of the more detailed development work to be carried out by the designated transmitter.

## Costs

Board staff's revisions to the original filing requirements propose a number of additions including, among other things, amounts already spent for preparation of an application, major risks that could cause the applicant to exceed its development budget, strategy to mitigate risks, threshold of materiality for prudence review of cost overruns and evidence of the applicant's past success in completing similar transmission line projects.

The Board finds that it is reasonable to simplify the development cost breakdown by grouping some categories of cost. The Board is of the view that, while development cost estimates will be considered, the magnitude of development costs will be small in comparison to the total costs of the East-West Tie project. Consequently, an applicant's demonstrated ability to manage complex projects and control all costs is more important for the selection of a designated transmitter than the estimate of development costs.

Also, the Board concludes that the applicants are not required to propose a threshold of materiality for prudence review if cost overruns occur for the costs of development. Instead, the Board will ask parties to address this matter in their submissions in Phase 2.

## Consultation

The Board determined under issue 1 that there will be a separate criterion for First Nation and Métis consultation, and the filing requirements have been modified accordingly. The Board has adopted most of the wording for this section proposed by the Métis Nation of Ontario (“MNO”).

Several parties submitted that the information regarding routing in staff’s proposed section 8.3 should not be required as this information will be unreliable until environmental assessment work has been done. The Board will permit applicants to file routing information at the level of detail they believe is appropriate, and will be assisted by such description as the applicant can provide regarding the route or routes it is considering.

***Issue 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?***

The Board will not permit applicants to submit plans for separate segments of the East-West Tie line. The Board recognizes that the proposed line could possibly be considered two segments, one from Wawa to Marathon and one from Marathon to Thunder Bay. However, the need identified by the OPA and the IESO cannot be satisfied by one of these two segments alone, and the project is best considered as a single unit. The Board agrees with those parties that submitted that attempting to consider separate applications for the two line segments would add cost and complexity to the designation process, require extensive co-ordination between the two selected transmitters, and could create additional risk for ratepayers and confusion for communities that are to be consulted. However, the Board would consider a joint venture or joint application from two or more parties who together propose to complete the entire East-West Tie line. Such a joint application would have to include a clear acceptance of risks and obligations by each party for the completion of the entire project.

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**Obligations and Milestones: Issues 9 – 12**

***Issue 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?***

***Issue 10: What performance obligations should be imposed on the designated transmitter? When should these obligations be determined? When should they be imposed?***

***Issue 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?***

***Issue 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 Board will not impose a “performance obligation” in the sense of a performance bond or other financial instrument on the designated transmitter. Those parties who chose to address this issue in their submissions largely agreed with Board staff that a financial performance obligation was not necessary. The Board accepts the submission of EWT LP that the regulatory risk of cost disallowance is a deterrent to a voluntary failure to perform. The Board also agrees with SEC that the Board has the authority to impose conditions through amendments to the designated transmitter’s licence if non-financial obligations are necessary.

The Board agrees with Board staff and other parties that it will be necessary to impose performance milestones and reporting obligations on the designated transmitter. The objectives of the milestones and reporting are:

- to ensure that the designated transmitter is moving forward with the work on the East-West Tie line in a timely manner;
- to facilitate early identification of circumstances which may undermine this ability to move forward; and

- to maintain transparency, as the costs of development work are intended to be recovered from ratepayers.

The Board will require, through its filing requirements, applicants for designation to propose performance milestones and reporting obligations that accomplish these objectives. The Board is reluctant to pre-determine the milestones and reporting that the successful applicant must accept, and expects that the experience in major project management that the applicants will bring to the designation process will be of assistance to the Board in setting appropriate conditions.

The proposed milestones and reporting obligations should apply to both the development phase and construction phase of the project, although the Board accepts that the milestones and reporting for the construction phase will be reconsidered and finalized during the Board's consideration of the leave to construct application. The Board will consider construction milestones and reporting only as indicative, and does not intend to impose those obligations at the time of designation.

Potential applicants for designation and other parties should note that the Board is not limited to imposing on a designated transmitter only those performance milestones and reporting obligations that the transmitter proposed in its application. All parties may choose to make submissions concerning the appropriate milestones that should be imposed on any transmitter that may be selected for designation. The Board will not impose novel conditions without providing designation applicants the opportunity to address the appropriateness of such conditions. The Board will establish the reporting requirements and performance milestones through an amendment to the designated transmitter's licence.

The Board finds that it is premature to determine in this Phase 1 decision the consequences for failure to meet the required performance milestones and performance obligations. Applicants for designation must include in their applications their proposals regarding the consequences of failure to meet their proposed performance milestones and reporting obligations.

The Board's policy indicates that the loss of designation and the inability to recover development costs are two potential consequences of failure. The Board is of the view that the severity of the consequences should be proportional to the severity of the

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breach, and take into account the designated transmitter's mitigation efforts. In determining how to address any failure the Board will consider:

- the nature and severity of the failure
- the specific circumstances related to the failure
- the consequences of the failure
- the designated transmitter's proposal to address the failure

The Board notes SEC's submission that if a designated transmitter does not bring forth a leave to construct application, it must relinquish ownership of all information and intellectual property that it created or acquired during the development phase. AltaLink and others argued in response that to require delivery of all such information and intellectual property would be punitive, confiscatory and contrary to the public interest. The Board will not determine this issue at this time. However, if failure of the project occurs, and development costs are to be recovered from ratepayers, the Board may wish to consider whether information gathered and even design work completed at ratepayer expense must be made available to a substitute transmitter.

### **Runner up**

Board staff, in its submission, asked parties to comment on the issue of whether one or more "runners-up" for designation should be selected by the Board. Some of the registered transmitters were not in favour of the Board selecting a runner-up, in part because keeping capital and human resources on hold awaiting potential failure of the designated transmitter would not be practical. However, several parties mentioned the potential efficiency to be gained, as if the original designee failed, no new designation process would be required to continue work on the project.

The Board will invite applicants for designation to indicate whether they are willing to be named as a runner-up. If the designated transmitter fails to fulfill its obligations and the line is still needed, the Board could offer the development opportunity to the runner-up. The runner-up would not be under an obligation to take on the project, but would have right of first refusal to undertake the work. Applicants that indicate their willingness to be named runner-up should also provide in their application any conditions that they believe are necessary to enable them to take on this role. The Board will not consider

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willingness to take on the runner-up role in its selection of the primary designated transmitter. This is a choice for applicants, not a requirement.

### **Consequences of Designation: Issues 13 – 16**

#### ***Issue 13: On what basis and when does the Board determine the prudence of budgeted development costs?***

The Board agrees with the general tenor of parties' submissions that the time to review the budgeted development costs put forward in applications for designation is during Phase 2 of this designation proceeding. The level of development costs, which are expected to be recovered from ratepayers, will be a factor in the Board's selection of a designated transmitter. In this light, the Board does not foresee a circumstance, as suggested by SEC, in which it would adjust the amount of development costs proposed by a transmitter at the time the Board designates that transmitter.

The level of development costs is only one aspect of the proposal put forward by a transmitter. The Board does not intend to adjust this part of the proposal any more than it would adjust the proposed organization, design, financing or any other aspect. Unlike an application for rates or approval of a facility, this proceeding concerns itself with choosing from among several competing proposals. The Board will compare these proposals to each other and will determine which proposal is best overall. It would be inappropriate and unfair to the applicants to expect any of them to adjust their applications once they have been filed.

This does not mean that the development costs proposed in applications for designation cannot be questioned. The Board will receive and consider interrogatories and submissions regarding the level of these budgeted costs during Phase 2 and will take that evidence into account in assessing the applications. The selection of a transmitter for designation will indicate that the Board has found the development costs to be reasonable as part of an overall development plan. This selection will also establish that the development costs are approved for recovery. The Board will not select a transmitter for designation if it cannot find that the development costs are reasonable. However, applicants should be aware that costs in excess of budgeted costs that are put forward for recovery from ratepayers will be subject to a prudence review, which would include consideration of the reasons for the overage.

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***Issue 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?***

The Board finds that the designated transmitter will be permitted to recover from ratepayers its prudently incurred costs associated with preparing its application for designation, with one restriction. Cost recovery will be restricted to costs incurred on or after the date that the Board gave notice of the proceeding, February 2, 2012. This date represents the beginning of the proceeding and therefore is a date after which the designated transmitter could reasonably expect to recover its costs.

Applicant transmitters should identify the costs already incurred to prepare an application, as well as an estimate of the costs required to complete the designation proceeding, as part of their budgeted development costs. The Board will establish a deferral account for the designated transmitter in which the budgeted development costs, including amounts incurred after February 2, 2012 for the preparation of the application for designation, will be recorded for future recovery. As noted earlier in this decision, an applicant transmitter can choose not to seek recovery of all its costs, as a way to reduce the costs of its proposal to ratepayers.

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

The Board will be choosing a designated transmitter based on the plans that applicants for designation file. Therefore, the Board will generally expect the designated transmitter to conform to its filed application, as it formed the basis for designation. However, the Board understands that there is a need for some flexibility, as the plan for the line will evolve as development work takes place.

The Board has discussed in the previous section of this decision the need for performance milestones and reporting obligations, and the expectation that these will be adhered to. Any development costs in excess of budgeted costs may not be recovered from ratepayers, and will be subject to a prudence review if recovery is sought. The leave to construct proceeding will provide an opportunity for the Board to assess the reasonableness of any deviations from other aspects of the designated transmitter's

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plan, and the Board may choose to deny the leave to construct application or impose special conditions on its approval if warranted.

Particular concern was expressed by some parties regarding commitment to construction costs, First Nation and Métis participation, and First Nation and Métis consultation. The Board recognizes that these three areas in particular may be subject to modification to accommodate new information, and changing needs and circumstances. Nevertheless, in the leave to construct proceeding, the Board will compare the actual performance of the designated transmitter in these areas to the evidence filed in its designation application to assess the reasonableness of any deviations from the application.

***Issue 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?***

On the issue of cost recovery after a failure to obtain an order for leave to construct the line, the Board agrees with Board staff and other parties that the reason for failure will be an important consideration in determining what costs, if any, are to be recovered from ratepayers. Generally, if the project does not move forward due to factors outside the designated transmitter's control, the designated transmitter should be able to recover the budgeted development costs spent and reasonable wind-up costs. If failure occurs due to factors within the designated transmitter's control, neither recovery nor automatic denial is certain. The Board will review the circumstances of the failure to determine a fair level of cost recovery. The Board acknowledges that it may not be possible to attribute failure to a single cause, and the sources of failure may be both internal and external to the designated transmitter. It is not possible to decide on the level of cost recovery in the abstract at this time, as the specific circumstances of the failure will need to be considered.

### **Process: Issues 17 – 23**

***Issue 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)?***

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The Board will continue to proceed for the present by way of written hearing, and adopt the procedural steps proposed by Board staff (and largely supported by the registered transmitters). The Board is master of its own process, within the limits set by the *Ontario Energy Board Act, 1998* and the *Statutory Powers Procedure Act*. In the interests of fairness to all applicants and of keeping the costs of the designation proceeding within reasonable limits, the Board will exercise considerable control over the process. The Board's primary aim in Phase 2 is to obtain a good record upon which to make a decision on designation. The Board will ensure, as it does in all its hearings, that the process is open, transparent and fair.

The Board notes the concern of parties over the suggestion by Board staff that interrogatories be funneled through the Board, and that "culling and editing" may occur before the Board sends the interrogatories to the applicants. The Board will require all parties to send their interrogatories to the Board, and the Board panel (not Board staff) reserves the right to combine and edit interrogatories for matters such as relevance, duplication and excessive demands upon the applicants. The primary purpose of the interrogatory process is to create a good record for the Board to assist it in making a determination in this designation proceeding. The fact that this proceeding involves multiple competitive applicants and has elements similar to a procurement process that are absent from most Board proceedings calls for specific procedural approaches that respect fairness and efficiency.

Some parties suggested that an oral hearing is necessary to ensure full participation from non-applicant intervenors, particularly First Nation and Métis intervenors, and intervenors from northern communities. The Board will evaluate the need for an oral component to this proceeding, including the scope and location of any oral component, as the hearing proceeds.

The Board will not adopt the proposal of the PWU to remove intervenor status from the registered transmitters. The Board expects to receive useful information and submissions from all intervenors.

***Issue 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?***

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The Board agrees with the description of the roles of the IESO and the OPA provided in their respective submissions. The Board panel will not receive information from either of these participants privately, and requires that any advice they have to offer be provided on the record of the hearing. The Board expects that the OPA and the IESO will remain neutral as between applicants. Consistent with the reply submissions from the OPA and the IESO, the Board does not anticipate that the participation of these entities in this proceeding will be affected by Bill 75, which contemplates their merger.

The Board panel will communicate with Board staff both on and off the record. The panel will be vigilant to ensure that Board staff continues to remain neutral as between other parties in the proceeding, and provides any new information or any opinion on the record so that other parties may respond to it. The Board will not receive any advice off the record from the Board's expert advisor, and expects any information from this expert to be placed on the record by Board staff.

HONI and GLPT must remain neutral as between applicants. The Board expects that the primary role of these transmitters will be to respond to reasonable requests for information. The Board would also appreciate receiving comment from these transmitters on any technical matters, or matters affecting existing infrastructure, as they see fit, through submissions in Phase 2 of the proceeding.

***Issue 19: What information should Hydro One Networks Inc. and Great Lakes Power Transmission be required to disclose?***

The Board ruled on this issue in the Phase 1 Partial Decision and Order, dated June 14, 2012.

***Issue 20. Are any special conditions required regarding the participation in the designation process of any or all registered transmitters?***

***Issue 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?***

***Issue 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***

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***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?***

Board staff did not suggest any particular measures to address the concerns raised by issues 20 through 22, but asked that parties requesting such measures “explain the harm they are seeking to prevent, how the proposed condition or measure mitigates that harm without causing other harm, and whether the proposed condition or measure should apply to all similar participants in the interest of fairness.”

EWT LP submitted that all designation applicants should be prohibited from working together or coordinating the preparation of plans or strategies and, moreover, that any party found to be coordinating or communicating with other designation applicants with respect to their designation plans or designation strategy be disqualified. In their reply submissions, a number of the other parties disagreed and, instead, suggested that a prohibition of co-operative submissions or co-development agreements was not only unwarranted but potentially counter-productive.

As discussed in the Board's findings on issue 8, the Board will not prohibit co-operation or co-ordination between the prospective applicants, whether among themselves or with other parties. As there may be potential for certain parties to demonstrate that their co-operation and co-ordination of efforts will be to the advantage of ratepayers, the Board will not impose conditions to preclude this. However, the nature and extent of any co-operation or co-ordination must be disclosed in the application(s).

A number of the parties submitted that there should be special conditions placed specifically on EWT LP, generally in furtherance of the Board's objective for a fair process. In particular, these applicants point to a perceived informational advantage of EWT LP given its relationship with HONI and GLPT, and submit that such advantage should be negated by preventing the sharing of employees between them, or by precluding EWT LP from participating altogether. Several of the parties submitted that EWT LP's relationship with HONI and GLPT should be governed by the Board's Affiliate Relationships Code for Electricity Distributors and Transmitters (“ARC”). As well, a number of these parties suggested that the protocols put in place by HONI and GLPT are insufficient to address data management and data access for shared employees, and they proposed various remedies, including modifications to the protocols.

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EWT LP argued that the current protocols are adequate, and that they have effectively served to ensure that no information from HONI and GLPT was or will be provided to EWT LP that was or will not also be provided to all proponents. EWT LP also submitted that it is neither an affiliate of HONI nor GLPT; that the activities of EWT LP are not analogous to the activities of energy service providers; that EWT LP is comprised of three arm's length partners each of whom is unable to control EWT LP; and that, ultimately, the circumstances for which the ARC was developed do not apply to their circumstances.

The Board acknowledges the arguments of EWT LP that neither transmission development nor participation in the designation process is an activity controlled by the ARC and that no affiliate relationship exists between EWT LP and either of GLPT or HONI. The Board also appreciates the point made by PWU that, as the licenses currently stand, the ARC would not apply to many of the proponents.

In the Board's view, while the ARC does not apply to the relationship between EWT LP and each of HONI and GLPT, the types of harm that the ARC seeks to prevent in the context of affiliate relationships can also exist in other contexts. The Board notes that almost all of the parties to this proceeding have referred to HONI and GLPT as the "incumbents". While it is true that each of them (as well as CNPI) are transmission utilities operating in the Province of Ontario, the position of HONI is unique. HONI has information critical to the proposed East-West Tie line, as it owns the assets to which the East-West Tie line will connect and, under the Reference Option, the East-West Tie line will be located beside HONI's existing line and right of way. While GLPT, and to a lesser extent CNPI, may have some knowledge of similar terrain and the local transmission system, neither has the advantage of owning and operating an existing line in this specific area, or of determining the conditions and costing related to connection of the new line to the existing transmission system.

The Board believes that HONI and GLPT have been and will continue to be diligent in following the existing protocols. However, the Board is not satisfied that the protocols provide adequate protection against the inadvertent sharing or disclosure of information between HONI and EWT LP, if they continue to share employees in Phase 2 of this proceeding. While the Board is confident in the commitment of staff at HONI to not intentionally share information with one applicant that is not also shared with all other applicants, the legitimacy and integrity of this process requires that, going forward, there

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be no opportunity during Phase 2 of this process for the disclosure or sharing (whether intentional or inadvertent) of any relevant information by HONI to EWT LP.

In order to avoid any real or perceived informational advantage, the Board will require that EWT LP make arrangements to ensure that no individual will be performing work concurrently for HONI and EWT LP during Phase 2 of this proceeding. This condition will be effective as of fifteen days from the date of issuance of this decision until the close of the record in Phase 2 of this proceeding.

Employees engaged by EWT LP must be placed in the position where they cannot inadvertently acquire advantageous information from employees currently employed by HONI, and, therefore, the work location of EWT LP must also be physically separated from the HONI offices until the record is closed in Phase 2 of this proceeding. This means, at a minimum, that HONI and EWT LP must not share a computer system or other data management system, and must occupy separate premises.

EWT LP's continued participation as an intervenor and as a registered transmitter is dependent on compliance with these conditions, as well as its role in adhering to the protocols established by HONI and GLPT.

Except for this ruling requiring a separation of employees and premises between EWT LP and HONI, the Board will not impose regulatory conditions governing the relationship between EWT LP and each of HONI and GLPT. However, the Board reminds both HONI and GLPT that careful separation of costs attributable to EWT LP's creation and participation in the designation process must be maintained.

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

The Board has considered the various timelines, and reasons for those timelines, proposed in the submissions on this issue. The Board finds that it will require applications for designation to be filed no later than January 4, 2013. This filing date should allow sufficient time for the preparation of applications, and is consistent with the period of six months which many transmitters proposed. The Board is of the view that this relatively generous timeline is appropriate because this is the first designation proceeding for transmission in Ontario, and all parties may need time to resolve matters related to the provision of information and the preparation of plans.

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**THE BOARD ORDERS THAT:**

1. The Board adopts the filing requirements attached as Appendix A to this decision for the purpose of applications for designation to undertake development work for the East-West Tie line.
2. EWT LP must make arrangements so as to ensure that no individual will be performing work concurrently for HONI and EWT LP during Phase 2 of this designation proceeding, and the work location of EWT LP must also be physically separated from the HONI offices as described in this decision. This condition will be effective as of fifteen days from the date of issuance of this decision until the close of the record in Phase 2 of this proceeding. EWT LP must provide confirmation to the Board that this condition has been implemented, within 21 days of the date of this decision.
3. A licensed transmitter seeking designation to undertake development work for the East-West Tie line must file its application for designation no later than January 4, 2013.

**Cost Claims for Phase 1 of the Proceeding**

On March 30, 2012, the Board issued its Decision on Intervention and Cost Award Eligibility. Procedural Order No. 2 issued on April 16, 2012 also, to some extent, dealt with the issues of interventions and cost award eligibility. As a result of these orders, certain parties have been ruled eligible to apply for cost awards in both phases of this designation proceeding and certain other parties have been ruled eligible to apply for limited cost awards relating to their attendance at an all party conference in Phase 1 of this designation proceeding.

In total, nine parties have been determined to be eligible to apply for cost awards in both phases of this designation proceeding. These parties will be referred to as the "eligible parties". They are:

- the coalition representing the City of Thunder Bay, Northwestern Ontario Associated Chambers of Commerce and Northwestern Ontario Municipal Association;

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- the coalition representing the Municipality of Wawa and the Algoma Coalition;
  - Consumers Council of Canada;
  - MNO;
  - National Chief's Office on Behalf of the Assembly of First Nations;
  - Nishnawbe-Aski Nation;
  - Northwatch;
  - PRFN; and
  - SEC.

Each of the following parties has been granted eligibility for an award of costs up to a maximum of 12 hours if it attended the all party conference in Phase 1 of this proceeding on March 23, 2012:

- Association of Major Power Consumers in Ontario ("AMPCO");
- Building Owners and Managers Association Toronto ("BOMA");
- Canadian Manufacturers and Exporters ("CME"); and
- Energy Probe Research Foundation ("Energy Probe").

The cost awards to the eligible parties, the cost awards to AMPCO, BOMA, CME and Energy Probe, and the Board's own costs will be recovered from licensed transmitters whose revenue requirements are recovered through the Ontario Uniform Transmission Rate (and the costs will be apportioned between the transmitters based on their respective transmission revenues). These transmitters are:

- CNPI;
- Five Nations Energy Inc. ("FNEI");
- GLPT; and
- HONI.

A schedule for claiming cost awards for Phase 1 is provided in the Board's order below. A decision and order on cost awards will be issued after these steps have been completed.

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Furthermore, parties claiming cost awards are reminded that they must submit their cost claims in accordance with the Board's *Practice Direction on Cost Awards* and ensure that their claims are consistent with the Board's required forms and the Cost Awards Tariff.

**THE BOARD FURTHER ORDERS THAT:**

1. Eligible parties shall submit their cost claims for Phase 1 of the Designation Proceeding by **July 26, 2012**. A copy of the cost claim must be filed with the Board and one copy is to be served on each of CNPI, FNEI, GLPT and HONI.
2. AMPCO, BOMA, CME and Energy Probe shall submit their cost claims up to a maximum of 12 hours if they attended the all party conference in Phase 1 of the Designation Proceeding on March 23, 2012 by **July 26, 2012**. A copy of the cost claim must be filed with the Board and one copy is to be served on each of CNPI, FNEI, GLPT and HONI.
3. CNPI, FNEI, GLPT and HONI will have until **August 2, 2012** to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.
4. The party whose cost claim was objected to will have until **August 9, 2012** to make a reply submission as to why its cost claim should be allowed. A copy of the submission must be filed with the Board and one copy must be served on the party who objected to the claim.

All filings with the Board must quote the file number EB-2011-0140, and be made through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Parties should use the

document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available, parties may e-mail their documents to the attention of the Board Secretary at BoardSec@ontarioenergyboard.ca.

**DATED** at Toronto, July 12, 2012  
**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**To Phase 1 Decision and Order**

**East-West Tie Designation Process**

**Filing Requirements for Designation Applications**

**Board File No: EB-2011-0140**

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## **FILING REQUIREMENTS**

### **EAST-WEST TIE DESIGNATION APPLICATIONS**

An application for designation will contain three main sections. Together, these sections of the application address the Board's decision criteria for the East-West Tie line designation process:

- (A) Evidence addressing the capability of the applicant to carry out the East-West Tie line project;
- (B) The applicant's Plan for the East-West Tie line; and
- (C) Other factors.

#### **(A) CAPABILITY OF THE APPLICANT**

##### **1. Background Information**

The applicant must provide the following information:

- 1.1** the applicant's name;
- 1.2** the applicant's OEB transmission licence number;
- 1.3** any change in information provided as part of the transmitter's licence application;
- 1.4** confirmation that the applicant has not previously had a licence or permit revoked and is not currently under investigation by any regulatory body;
- 1.5** confirmation that the applicant is committed to the completion of the development work for the East-West Tie line, and to the filing of a leave to construct application for the line, to the best of its ability;
- 1.6** a statement from a senior officer that the application for designation is complete and accurate to the best of his/her information and belief;

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- 1.7 an indication of whether the applicant is willing to be named as a runner up designated transmitter and a statement of any conditions necessary to this role.
- 1.8 a description of any co-ordination or co-operation with other parties that has contributed to this application.

## 2. Organization

The applicant shall identify how, from an organizational perspective, it intends to undertake the East-West Tie line project. The applicant must file:

- 2.1 an overview of the organizational plan for undertaking the project, including:
- any partnerships or contracting for significant work;
  - identification and description of the role of any third parties that are proposed to have a major role in the development, construction, operation or maintenance of the line; and
  - a chart to illustrate the organizational structure described.
- 2.2 identification of the specific management team for the project, with resumés for key management personnel.
- 2.3 an overview of the applicant's experience with:
- the management of similar projects; and
  - regulatory processes and approvals related to similar projects.
- 2.4 an explanation of the relevance of the applicant's experience to the East-West Tie line project.

## 3. First Nation and Métis Participation

The applicant must address its approach to First Nation and Métis participation in the East-West Tie line project. To that end, the applicant must file evidence of one of the following:

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- 3.1** If arrangements for First Nation and Métis participation have been made, a description of:
- the First Nation and Métis communities that will be participating in the project;
  - the nature of the participation (e.g. type of arrangement, timing of participation);
  - benefits to First Nation and Métis communities arising from the participation; and
  - whether participation opportunities are available for other First Nation and Métis communities in proximity to the line.
- 3.2** If arrangements for First Nation and Métis participation have not been made but are planned, a description of:
- the plan for First Nation and Métis participation in the project, including the method and schedule for seeking participation;
  - the nature of the planned participation; and
  - the planned benefits to First Nation and Métis communities arising from the participation;
- 3.3** If no First Nation or Métis participation in the project is planned, detailed reasons for this choice.

#### **4. Technical Capability**

The applicant must demonstrate that it has the technical capability to engineer, plan, construct, operate and maintain the line, based on experience with projects of equivalent nature, magnitude and complexity. To that end, the following must be filed:

- 4.1** a discussion of the type of resources, including relevant capability (in-house personnel, contractors, other transmitters, etc.) that would be dedicated to each activity associated with developing, constructing, operating and maintaining the line, including:

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- design;
  - engineering;
  - material and equipment procurement;
  - licensing and permitting;
  - completion of environmental assessment and other regulatory approvals;
  - consultations, both with First Nation and Métis, and other communities;
  - construction;
  - operation and maintenance; and
  - project management.

**4.2** resumés for key technical team personnel;

**4.3** A description of sample projects, and other evidence of experience in Ontario and/or other jurisdictions in developing, constructing and operating transmission lines or other infrastructure and why these projects and experience are relevant to the East-West Tie line project. The evidence should include a description of experience with:

- the acquisition of land use rights from private landowners and the Crown;
- the acquisition of necessary permits from government agencies;
- obtaining environmental approvals similar to the environmental approvals that will be necessary for the East-West Tie line;
- community consultation; and
- completion of the procedural aspects of Crown consultation with First Nation and Métis communities.

**4.4** Evidence that the applicant's business practices are consistent with good utility practices for the following:

- design;
- engineering;
- material and equipment procurement;
- right-of-way and other land use acquisitions;

- licensing and permitting;
- consultations, both with First Nation and Métis, and other communities
- construction;
- operation and maintenance;
- project management;
- safety;
- environmental compliance; and
- regulatory compliance

**4.5** A description of:

- the challenges involved in achieving the required capacity and reliability of the East-West Tie line, including challenges related to terrain and weather; and
- the plan for addressing these challenges through the design and construction of the line (e.g. number and spacing of towers, planned resistance to failure).

## **5. Financial Capacity**

The applicant must demonstrate that it has the financial capability necessary to develop, construct, operate and maintain the line. To that end, the applicant shall provide the following:

- 5.1** evidence that it has capital resources that are sufficient to develop, finance, construct, operate and maintain the line;
- 5.2** evidence of the current credit rating of the applicant, its parent or associated companies;
- 5.3** evidence that the financing, construction, operation, and maintenance of the line will not have a significant adverse effect on the applicant's creditworthiness or financial condition;
- 5.4** the applicant's financing plan, including:

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- the estimated proportions of debt and equity; and
  - the estimated cost of debt and equity, including:
    - the use of variable and fixed cost financing;
    - short-term and long-term maturities; and
    - a discussion of how the project might impact the applicant's cost of debt.
- 5.5** if the financing plan contemplates the need to raise additional debt or equity, evidence of the applicant's ability to access the debt and equity markets;
- 5.6** evidence of the applicant's ability to finance the project in the case of cost overruns, delay in completion of the project and other factors that may impact the financing plan;
- 5.7** evidence of the applicant's experience in financing similar projects;
- 5.8** the identification of any alternative mechanisms (e.g., rate treatment of construction work in progress) that the applicant is requesting or likely to request.<sup>1</sup>

## **(B) PLAN FOR THE EAST-WEST TIE LINE**

### **6. Proposed Design**

The applicant must provide an overview of its proposed design for the East-West Tie line including:

- 6.1** a summary description of how the Plan meets the specified requirements for the East-West Tie Line to the extent known at the time of the designation application. This could include the items listed below as well as any other relevant information the applicant may wish to provide. For items that are unknown, the applicant should describe the method and criteria for determination.

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- length of the proposed transmission line;
  - number of circuits;
  - voltage class;
  - load carrying capacity;
    - summer continuous rating (MVA)<sup>2</sup>; and
    - summer emergency rating (MVA)<sup>3</sup> ;
  - resulting total transfer capability for the East-West Tie line (MW);
  - anticipated lifetime of the line;
  - structures and conductors
    - number and average spacing of towers;
    - tower structure types (lattice, monopole, etc.) and composition (wood, steel, concrete, hybrid, etc.);
    - conductor size and type; and
    - protection against cascading failure and conductor galloping;
  - design assumptions; and
  - other relevant transmission facility characteristics.

**6.2** confirmation that the line will interconnect with the existing transformer stations at Wawa and Lakehead, and an indication of whether the line will be switched at the Marathon transformer station.

**6.3** a signed affidavit from an officer of the licensed transmitter to confirm:

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<sup>1</sup>See Report of the Board on The Regulatory Treatment of Infrastructure Investment in connection with the Rate-regulated Activities of Distributors and Transmitters in Ontario.

<sup>2</sup> Based on an operating voltage of 240 kV, ambient temperature of 30°C and conductor temperature of 93°C

<sup>3</sup> Based on an operating voltage of 240 kV, ambient temperature of 30°C and conductor temperature of 127 °C

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- that the line will be designed to meet or exceed the existing NERC, NPCC and IESO reliability standards; and
  - that the line will be designed to meet or exceed the Board's Minimum Technical Requirements; or documentation of where the applicant seeks to differ from the Minimum Technical Requirements and evidence as to the equivalence or superiority of the proposed alternative option.
- 6.4** an indication as to whether the Plan will be based on the Reference Option for the East-West Tie line. Where the Plan is not based on the Reference Option, the applicant must file:
- a description of the main differences between the applicant's Plan and the Reference Option;
  - a description of the interconnection of the line with the relevant transformer stations; and
  - a Feasibility Study performed by the IESO, or performed to IESO requirements.
- 6.5** a brief description which highlights the strengths of the Plan, which may include:
- any technological innovation proposed for the line;
  - reduction of ratepayer risk for the costs of development, construction, operation and maintenance;
  - how the plan satisfies the identified need for the line at a lower cost than other options;
  - local benefits (e.g. employment, partnerships); and
  - enhanced reliability for the transmission grid.
- 6.6** an indication as to whether the applicant's present intention is to own and operate the line once the line is in service.

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## 7. Schedule

The applicant must file, as part of its Plan:

- 7.1** a project execution chart showing major milestones for both line development and line construction phases of the project.
- 7.2** for the development phase of the project:
- a detailed line development schedule identifying significant milestones that are part of the development phase of the project, and estimated dates for completing these milestones;
  - proposed reporting requirements for the development phase;
  - proposed consequences for failure to meet the required performance milestones and reporting requirements for the development phase;
  - a chart of the major risks to achievement of the line development schedule, indicating the likelihood of the item (e.g. not likely, somewhat likely, very likely) and the severity of its effects on the schedule (e.g. minor, moderate, major); and
  - a description of the applicant's strategy to mitigate or address the identified risks.
- 7.3** for the construction phase of the project:
- a preliminary line construction schedule identifying significant milestones that are part of the construction phase of the project, and estimated dates for completing these milestones;
  - proposed reporting requirements for the construction phase;
  - proposed consequences for failure to meet the required performance milestones and reporting requirements for the construction phase;
  - proposed in-service date for the line (can be 2017 or another date);
  - a chart of the major risks to achievement of the construction schedule, indicating the likelihood of the item (e.g. not likely, somewhat likely, very

likely) and the severity of its effects on the schedule (e.g. minor, moderate, major); and

- a description of the applicant's strategy to mitigate or address the identified risks.

**7.4** evidence of the applicant's past experience in completing similar transmission line or other infrastructure projects within planned time frames. Such evidence could include a comparison of the construction schedule filed with a regulator when seeking approval to proceed with a transmission line project and the actual completion dates of the milestones identified in the schedule.

**7.5** any innovative practices that the applicant is proposing to use to ensure compliance with, or accelerate, the line development and line construction schedules.

## **8. Costs**

As part of its Plan, the applicant must file a summary of the total costs associated with the Plan, divided into development costs, construction costs and operation and maintenance costs. In addition, the applicant must file:

**8.1** the amount already spent for preparation of an application for designation, and an estimate of remaining costs to achieve designation.

**8.2** the estimated total development costs of the line, broken down by the following categories of cost:

- permitting, licensing, environmental assessment and other regulatory approvals
- engineering and design
- procurement of material and equipment;
- costs of the acquisition of land use rights, First Nation and Métis participation, and consultations with landowners, municipalities, the public and First Nation and Métis communities;

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- contingencies; and
  - other significant expenditures.
- 8.3** the basis for and assumptions underlying the development cost estimates, and a description of how the applicant plans to manage the cost of development;
- 8.4** a schedule of development expenditures.
- 8.5** a chart of the major risks that could lead the applicant to exceed the line development budget, indicating the likelihood of the item (e.g. not likely, somewhat likely, very likely) and the severity of its effects on the budget (e.g. minor, moderate, major), and a description of the applicant's strategy to mitigate or address the identified risks.
- 8.6** a statement as to the allocation between the applicant and transmission ratepayers of risks relating to costs of development. For example:
- if the costs of development are less than budgeted, does the applicant propose to recover only spent costs, or all budgeted costs (spent and unspent) or spent costs plus a portion of unspent cost (savings sharing)? and
  - if the costs of development exceed budgeted costs, does the applicant plan to seek recovery of the excess costs?
- 8.7** an estimated budget for the construction of the line. This budget and its elements may be expressed as a range. If a range is used, the applicant must provide an explanation for the width of the range;
- 8.8** if the Plan is not based on the Reference Option, evidence as to the difference in cost (positive or negative) of work required at the transformer stations to which the line connects, and at any other location identified by the IESO.
- 8.9** a list of the major risks that could lead the applicant to exceed the line construction budget, and the applicant's strategies to mitigate or address those risks.

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- 8.10** evidence of the applicant's past experience in completing similar transmission line projects within planned construction budgets. Such evidence could include a comparison of the budget filed with a regulator when seeking approval to proceed with a transmission line project and the actual costs of the project.
- 8.11** a statement as to the allocation between the applicant and transmission ratepayers of the risks relating to construction costs;
- 8.12** the estimated average annual cost of operating and maintaining the line. This cost may be expressed as a range. If a range is used, the applicant must provide an explanation for the width of the range.

## **9. Landowner, Municipal and Community Consultation**

The applicant must demonstrate the ability to conduct successful consultations with landowners, municipalities and local communities. In addition, the designated transmitter will be required to satisfy environmental and other requirements that are outside the jurisdiction of the Board.

As part of its Plan, the applicant must file:

- 9.1** an overview of:
- the rights-of-way and other land use rights, presented by category, that would need to be acquired for the purposes of the development, construction, operation and maintenance of the line;
  - the applicant's plan for obtaining those rights; and
  - a description of any significant issues anticipated in land acquisition or permitting and a plan to mitigate them.
- 9.2** a landowner, municipal and community consultation plan for the line, including:
- identification of the categories of parties to be consulted;

- the applicant's plan for consultation for each party or category of party, including method and tentative schedule in relation to the overall project schedule; and
- A description of any significant issues anticipated in consultation and a plan to mitigate them.

**9.3** If the applicant has identified a proposed route for the line, the applicant must file a general description of the planned route for the line and may include:

- approximate right-of-way width;
- approximate portion of the route that is:
  - adjacent to the existing corridor (%); or
  - along a new corridor (%):
- a brief description of the environmental challenges posed by the proposed route; and
- an estimate of ownership by category of lands along the proposed route:
  - Crown (federal or provincial) (%);
  - Private (%);
  - First Nation or Métis (%); and
  - Other (%).

**9.4** If a proposed route for the line has not been identified, the applicant must file:

- a list of alternative routes;
- an explanation of the method and decision criteria for route analysis and selection; and
- the planned schedule for route selection.

## **10. First Nation and Métis Consultation**

The applicant must demonstrate the ability to conduct successful consultations with First Nation and Métis communities, as may be delegated by the Crown.

As part of its Plan, the applicant must file:

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**10.1** a proposed First Nation and Métis consultation plan, including:

- a list of First Nation and Métis communities that may have interests affected by the project;
- an approach for engaging with affected First Nations and Métis communities, along with rationale or other justification for such an approach;
- a description of any significant First Nation or Métis issues anticipated in consultation and a plan to address them;
- an overview of expected outcomes from the proposed consultation plan.

**10.2** evidence of experience in undertaking procedural aspects of First Nations and Métis consultation in the development, construction or operation of transmission lines or other large construction projects. If applicable, previous engagement or existing relationships with the First Nation and Métis communities to be engaged.

**(C) OTHER FACTORS**

The applicant should provide any other information that it considers relevant to its application for designation, for example, any distinguishing features of the application.