



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.

PROCEDURAL ORDER NO. 5

January 8, 2013

Background

The Ontario Energy Board initiated 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 adopted a two phase process for this proceeding, and issued its Phase 1 Decision and Order on July 12, 2012. In accordance with this Decision and Order, registered transmitters seeking designation to undertake development work for the East-West Tie line were to file their applications for designation no later than January 4, 2013.

Designation Applications Filed

The Board has received applications for designation from the following:

- AltaLink Ontario L.P.
- Canadian Niagara Power Inc.
- EWT L.P.

- Iccon Transmission Inc. and TransCanada Power Transmission (Ontario) L.P. (joint application)
- RES Canada Transmission L.P.
- Upper Canada Transmission Inc.

How to See the Applications

The applications for designation are available through the Board's website: www.ontarioenergyboard.ca. Once on the website, click on the "Industry" tab, and choose "Transmission Infrastructure: East-West Tie Line" under "OEB Initiatives". You can view all documents on the public record by date, or by Exhibit List. The Exhibit List sorts the items by applicant and type of document. Alternatively, hard copies of the applications are available for viewing at the Board's office (address below).

Interrogatories

The Board invites all parties, including Board staff, applicants and other intervenors to propose written interrogatories for the Board's consideration. As indicated in its Phase 1 Decision and Order, the Board will require all parties to send their interrogatories to the Board, and the Board will issue a combined set of interrogatories to the applicants for responses. The Board will combine and edit the interrogatories proposed by the parties.

This proceeding involves multiple competitive applicants and has elements similar to a procurement process that are absent from most Board proceedings. In a typical Board proceeding, interrogatories serve to complete the record and possibly augment the evidence filed by the applicant. In this designation proceeding, however, it would not be appropriate for applicants to use the interrogatory process to fill any gaps in their applications after those applications have been filed.

Parties proposing interrogatories for the Board's consideration should in general refrain from seeking information that would prompt modification or augmentation of an application, although requests for clarification may be appropriate. In the Board's view, the applicants should be compared on the basis of the applications as filed. When reviewing proposed interrogatories, the Board will consider both the need to obtain a good record to make a decision in the public interest, and the need to maintain a process that is fair to all applicants.

Confidential information

RES Canada Transmission L.P. ("RES") has asked that certain exhibits be held confidential, as set out in the cover letter to the application. For certain exhibits (B-3-3, H-6-2, H-6-3, H-6-4, and portions of L-4-1) RES submits that the material is proprietary and should not appear on the public record of the application. For these exhibits, RES has indicated that it has no objection to those external counsel and consultants to parties who sign or have signed a Declaration and Undertaking in this proceeding seeing this material. However, RES objects to other persons (i.e. employees of other registered transmitters) who have signed a Declaration and Undertaking seeing this material.

RES has also requested that the financial statements of Renewable Energy Holdings Limited and its subsidiaries, which are included at exhibit O-1-2, be held in confidence and be made available only to the Board and its staff. The reasons for these requests appear in the cover letter to the RES application dated January 4, 2013.

As set out in the Board's *Practice Direction on Confidential Filings*, it is the Board's general policy that all evidence should be on the public record unless disclosure is prohibited. This reflects the Board's view that its proceedings should be open, transparent and accessible. The *Practice Direction* seeks to balance these objectives with the need to protect information properly designated as confidential.

The Board is not willing, in a hearing involving competing applications, to review information that is not made available to any representatives of other applicants and parties. Neither the Board nor its staff will review the financial statements appearing at Exhibit O-1-2 of the RES application. If RES is not prepared to disclose the document to counsel and consultants who have signed the Board's Declaration and Undertaking (at a minimum), the exhibit should be withdrawn.

Any party who objects to RES' request for confidential treatment for exhibits B-3-3, H-6-2, H-6-3, H-6-4, and portions of L-4-1 (either the requests in general or the restrictions on access) must file a submission explaining the grounds for the objection, and RES may reply to any such submissions. If the Board ultimately decides that the material should not be afforded confidential treatment, it will be placed on the public record unless, within a period of five business days, and in accordance with section 5.1.12 of the *Practice Direction*, RES requests that the information be withdrawn.

As an interim measure, the Board will require RES to provide access to the confidential versions of exhibits B-3-3, H-6-2, H-6-3, H-6-4, and L-4-1 for those external counsel and consultants to parties who have already signed a Declaration and Undertaking in this proceeding, or who sign a Declaration and Undertaking, and who request access from RES.

A further procedural order will be issued at the time the Board issues the interrogatories.

THE BOARD ORDERS THAT:

1. Parties to the proceeding may propose written interrogatories that request information from the applicants that is relevant to the designation proceeding. The proposed interrogatories must be filed with the Board on or before January 30, 2013. The interrogatories must be provided in both pdf format and Word format.
2. Parties who wish to object to RES' request for confidential treatment shall file their submission with the Board and deliver it to all parties on or before January 15, 2013.
3. RES shall file its response, if any, to the submissions of parties regarding the confidential treatment with the Board and deliver it to all parties by January 18, 2013.

All filings must quote file number EB-2011-0140 and be filed through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. The electronic filing for interrogatories must include one electronic copy in searchable / unrestricted PDF format and one electronic copy in Word format. The electronic filing for submissions regarding confidentiality must consist of one electronic copy in searchable / unrestricted PDF format. Two paper copies of each filing must be mailed or delivered to the Board Secretary's office at the address below. Filings must be received by the Board by 4:45 p.m. on the stated date. If you do not have a user ID, visit the Board's website under e-Filing Services and complete a user ID/password request form.

Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available

parties may email their documents to the address below. All communications should be directed to the attention of the Board Secretary at the address below:

Ontario Energy Board,
P.O. Box 2319
2300 Yonge St.
Suite 2701,
Toronto, Ontario, M4P 1E4
Attention: Board Secretary
Filings: <https://www.pes.ontarioenergyboard.ca/eservice/>
Email: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, January 8, 2013
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary