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January 14, 2013

Delivered by Courier and RESS

Ms. Kristen Walli, Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2701
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: East-West Tie Designation
OEB File No. EB-2011-0140
Objection to Confidential Treatment of RES Canada Transmission L.P.
("RES") Exhibits B-3-3, H-6-2, H-6-3, H-6-4, portions of L-4-1 and
Exhibit O-1-2 (the "Materials").**

We write on behalf of AltaLink Ontario, L.P. ("AltaLink") to object to RES' request for confidential treatment of the Materials for the reasons set out below.

With the exception of Exhibit O-1-2, a copy of the Materials was provided to AltaLink's counsel who have signed the Board's Declaration and Undertaking on January 9, 2013. A copy of Exhibit O-1-2 was provided to AltaLink's counsel who signed the Board's Declaration and Undertaking on January 11, 2013.

In preparing these submissions, AltaLink has made reference to the principals set out in the Board's *Practice Direction on Confidential Filings*. AltaLink understands that the Board's general policy is that all records should be open for inspection by any person, which reflects the Board's view that its proceedings should be open, transparent, and accessible.

AltaLink submits that this policy is particularly important in a competitive designation proceeding. An applicant could use the Board's confidentiality process to gain a competitive advantage vis-à-vis other applicants by restricting a competitor's employees access to and ability to review and pose interrogatories on key elements of an application.

Given the potential for abuse, AltaLink submits that the Board should err on the side of full disclosure and transparency. This is particularly true in light of the fact that RES is the only applicant that is seeking special treatment.

Exhibit B-3-3 and Exhibit H-6-3 – Access Road Classification Map
Exhibit H-6-2 – Access Road Inventory Report
Exhibit H-6-4 - Staging Locations Map

AltaLink respectfully submits that the Board should not grant special treatment to RES in this competitive designation proceeding by granting confidential treatment of this information.

RES is relying on this information to support its proposed design and route selection in connection with Section 6.1 of the Filing Guidelines.¹

No other applicant has asked for confidential treatment of similar information, even though other registered applicants have also procured, at considerable expense, valuable proprietary information to support the proposed design and route selection in their proposals. For example, AltaLink commissioned SNC-Lavalin to prepare a proprietary routing study which has been filed non-confidentially at Appendix 15 of the AltaLink application and which includes four detailed map books covering environmental constraints, surficial geology, land cover and water courses, and the preferred route and optimization options. In addition, the joint application filed by Icon and TransCanada also includes a non-confidential preliminary routing study prepared by Golder Associates at Section 9.4 of their Application.

A proper assessment of this type of technical mapping and routing information requires proficient and experienced technical staff. This is not an analysis that can be delegated to counsel. In making the confidentiality request, RES expressly objects to employees of other registered transmitters reviewing this material. This means that the proficient and experienced technical staff at AltaLink and other registered transmitters will be denied an opportunity to review and ask interrogatories on an important input into RES' proposed design. This greatly limits the ability of the other registered applicants to assess and provide meaningful input on the RES application, giving RES an unfair advantage in the designation proceeding.

RES further argues that disclosure could be of value to and used by a competitor in the event RES is not successful in its Application. This should not be a basis upon which the Board grants a confidentiality request in a competitive process. This is true of all of the applications, and applies equally to all other designation applicants. Yet no other party is seeking special treatment

Exhibit L-4-1 – Environmental Assessment Plan

AltaLink respectfully submits that the Board should not grant confidential treatment to the portions of this Exhibit that have been highlighted in the confidential version and deleted entirely from the non-confidential version.

¹ See Tab A-1-1 of the RES Application.

RES is relying on this Exhibit to support its proposed design and route selection in connection with Sections 4.1, 9.1 and 9.3 of the Filing Guidelines.²

The information that has been filed only in confidence and otherwise deleted from the non-confidential version includes proposed processes, qualifying statements, key assumptions and important limitations each of which are necessary to properly assess and provide meaningful interrogatories on RES's proposed Environmental Assessment Plan.

In making the confidentiality request, RES expressly objects to employees of other registered transmitters from reviewing this material. This means that the proficient and experienced technical staff at AltaLink and other registered transmitters will be denied an opportunity to consider key processes, qualifying statements, key assumptions and important limitations when asking interrogatories on RES' proposed Environmental Assessment Plan. This greatly limits the ability of the other registered applicants to assess and provide meaningful input on the RES application, giving RES an unfair advantage in the designation proceeding.

No other applicant has asked for confidential treatment of similar information, even though other registered applicants have also procured, at considerable expense, valuable proprietary information to support their technical capacity and their proposed Environmental Assessment and consultation work in their proposals. For example, AltaLink commissioned SNC-Lavalin to prepare a proprietary Environmental Assessment scope of work in draft which has been filed non-confidentially at Appendix 14 of the AltaLink application.

Exhibit O-1-2 – RES Group Financial Statements

AltaLink acknowledges that it has been the Board's practice to retain in confidence financial information, such as that in Exhibit O-1-2, provided by applicants in support of licence applications.

However, this is not a licence proceeding. AltaLink submits that this competitive designation proceeding is fundamentally different from a standard licence proceeding and requires an increased emphasis on public disclosure of competing applications.

AltaLink respectfully submits that the Board should not grant confidential treatment for this Exhibit.

RES is relying on this Exhibit to support its financial capacity in connection with Sections 2.4, 5, 5.1-5.3, 5.5 and 5.6 of the Filing Guidelines.³

² See Tab A-1-1 of the RES Application.

³ See Tab A-1-1 of the RES Application.

In fact, RES is relying primarily on the financial capability of the MidAmerican Group and the RES Group to support its assertion that it has the financial capability to undertake the proposed East-West Tie Line.⁴

No other applicant is seeking confidential treatment of their financial statements. As a result, the RES application will not be subject to the same level of public scrutiny and testing as its competitors. While competitors may stress test the financial statements referenced in support of the AltaLink application, using appropriate financial ratios and analytics, RES would not be subject to similar scrutiny.

RES proposes that the Dun and Bradstreet Review filed at Exhibit E-2-3 has been prepared to provide a substitute for public disclosure of the audited financial statements included at Exhibit O-1-2. However, the Dun and Bradstreet Review includes a very broad disclaimer at page 32, which states:

“Whilst D&B attempts to ensure that the information provided is accurate and complete by reason of the immense quantity of detailed matter dealt within compiling the information and the fact that some of the data are supplied from sources not controlled by D&B which cannot always be verified, including information provided direct from the subject of enquiry as well as the possibility of negligence and mistake, D&B does not guarantee the correctness or the effective delivery of the information and will not be held responsible for any errors therein or omissions therefrom.”

This disclaimer makes it clear that there is a probability of error in the Dun and Bradstreet Review data, and that the information provided in the Review is not in any way equivalent in terms of reliability to the information provided in audited financial statements. To the extent that Dun and Bradstreet Review accurately reflects the audited financial statements, on what basis is RES asking for confidential treatment of information that is already on the public record? To the extent the Dun and Bradstreet Review does not accurately reflect the audited financial statements, relying on the Dun and Bradstreet Review would serve only to obfuscate the public record in this proceeding by misleading parties as to the financial capabilities of RES.

Yours Truly,

BORDEN LADNER GERVAIS LLP



J. Mark Rodger*

Incorporated Partner

*Mark Rodger Professional Corporation

⁴ See Exhibit E-2-1, page 2, lines 4 to 10 of the RES Application.

Copy: Steve Hodgkinson, AltaLink Ontario, L.P.
Helen Newland, Counsel to RES

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