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VIA RESS and COURIER

July 3, 2013

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2701  
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: EB-2011-0140: East-West Tie Designation Proceeding.  
Correction of the Record in Respect of Statements made by NextBridge  
(Upper Canada Transmission, Inc.)**

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We write as legal counsel to Pic River First Nation (PRFN) to correct misstatements made by NextBridge in its reply argument regarding oral submissions made by Mr. Byron LeClair on behalf of PRFN.

In his oral submissions, Mr. LeClair stated:

*Additionally, every transmitter responding to this designation process had the very same opportunity to reach out to the aboriginal communities and establish the same forms of partnership represented by EWT LP. That six First Nations along the north shore of Lake Superior could recognize the strategic opportunity of EWT during IPSP and subsequent planning initiatives and organize themselves accordingly, is evidence of sound strategic thinking, not discrimination.*

In response to this, the UCT Reply submission states that:

*115. NextBridge has also explained that none of the most directly affected First Nations communities have, to date, responded to NextBridge's request for their community specific engagement protocols. The central importance of the community specific engagement protocols as a basis for, and to inform, discussions with aboriginal communities is acknowledged by other parties.*



*116. Mr. LeClair also confirmed that the six BLP First Nations consider their arrangement with Hydro One and GLPT to be “exclusive”<sup>67</sup>, so it is not surprising that there has been no response to NextBridge’s overtures. To then criticize others, including NextBridge, for not having advanced discussions to date is inappropriate. The decision of Pic River and the other BLP LP partners to engage in an exclusive commercial arrangement with EWT LP is precisely what has precluded EWT LP’s competitors from the “proaction” that they are, regrettably, being criticized for.*

*117. With all due respect to Mr. LeClair, his assertion that “every transmitter responding to this designation process had the very same opportunity to reach out to the Aboriginal communities and establish the same forms of partnership represented by EWT LP” is simply untrue, as he himself has evidenced.*

Exclusivity only existed as to a proposed “Aboriginal Participation” partnership, not as to “Aboriginal Consultation” in general. There is no evidence that NextBridge sought any input from PRFN on the NextBridge Aboriginal Consultation Plan. By suggesting the exclusivity of an “Aboriginal Participation” partnership prevented PRFN from providing input into the NextBridge Consultation plan demonstrates NextBridge still fails to understand the distinction between “Aboriginal Participation” and “Aboriginal Consultation”.

### **ABORIGINAL PARTICIPATION**

The development of the east-west tie transmission line has been identified as the next transmission project to be developed in Ontario since the Integrated Power System Plan (“IPSP”) process was started in 2006. This information was on the public record and accessible to all transmitters, including NextBridge. Any transmitter since 2006, could have met with any Aboriginal community and sought to form partnerships with those communities for the EWT project.

Contrary to NextBridge’s position in paragraph 117, quoted above, NextBridge, acting proactively, could have partnered with PRFN or Bamkushwada LP prior to the exclusivity agreement with Great Lakes Power and Hydro One Networks. PRFN was not always subject to a commercial exclusivity provision.

It is highly inappropriate for NextBridge to blame PRFN, Mr. LeClair or the First Nations that form part of the Bamkushwada LP for NextBridge’s failure to act. NextBridge’s distortion of the project history is at best a self serving attempt to explain its failure to form a strategic partnership on a public infrastructure project where Aboriginal groups have stated an interest to participate since 2006.



## **ABORIGINAL CONSULTATION**

NextBridge asserts that the EWT LP partnership with the First Nations that form part of the Bamkushwada LP has prevented NextBridge from obtaining input on NextBridge's consultation plan.

The EWT LP partnership simply precluded the First Nations that form part of the Bamkushwada LP from consideration of other commercial partnerships with other transmitters. There has never been any commercial exclusive arrangement that precludes discussions on Aboriginal Consultation plans between transmitters and First Nations governments, such as PRFN and the other First Nations of the Bamkushwada LP.

NextBridge has confused Aboriginal Participation with Aboriginal Consultation, and in doing so, failed to seek input from affected First Nations on its consultation plan.

We trust this clarifies PRFN's position and the facts in this matter.

Yours truly,

Cherie Brant

cc `Byron Leclair

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