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May 31, 2010

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
Toronto, Ontario, M4P 1E4

Dear Ms. Walli:

**Re: EB-2010-0059 – Transmission Project Development Planning - Comments of the London Property Management Association**

This letter is in response to the Board's April 19, 2010 letter related to the above noted proceeding. Three paper copies have been provided to the Board and an electronic version has been filed through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca).

These are the comments of the London Property Management Association ("LPMA") on the Staff Discussion Paper "Transmission Project Development Planning". LPMA is in general agreement with the process outlined in the Discussion Paper.

Comments have been structured to respond to the specific "Issues for stakeholder comment" identified within the Discussion Paper.

**Should new entrants be required to be licensed as transmitters as a condition of participation in a designation process? (page 10)**

Yes, LPMA believes that in order to participate in the designation process, the participant should be a licensed transmitter. However, as noted in the Discussion Paper, under the OEB Act, a license is only required to own and operate a transmission system. Therefore a license is only required when a facility has been constructed and energized.

LPMA submits that the Board should investigate an option wherein a participant that is not a licensed transmitter is allowed to participate and file a transmission project development plan for a particular project (i.e. a project developer), on the condition that they are considered qualified and have the general financial and technical capabilities to complete the project. In addition, there should be an indication of whether the participant plans to obtain a transmission license or whether it intends to sell the transmission assets, upon completion, to a licensed transmitter. By opening up the process to potentially more participants, including those that are interested in the project, but not necessarily owning and operating the system upon completion, LPMA believes that there would be more competitive alternatives brought forward.

LPMA agrees that a new entrant's general financial and technical capabilities should not be examined at the time of the designation stage of a project, whether the entrant is interested in becoming a licensed transmitter, or the developer of the project.

In either case, LPMA recommends that the Board should immediately begin a pre-qualification process for potential new licensed transmitters and/or potential new project developers. Starting this process as soon as possible would ensure that there are more than just a handful of existing licensed transmitters available at the designation stage of a project. As noted above, the addition of qualified project developers to licensed transmitters may expand the pool of potential entrants.

**How long would it take to prepare transmission project development plans (i.e., how much time should be given for filing transmission project development plans after notice of the designation process has been given)? (page 10)**

LPMA believes that, in general, a three month period may not be sufficient for interested parties to prepare transmission project development plans following notice of the designation process. There may be situations where shorter or longer periods may be appropriate. For a relatively small project, a three month window may not be required for plans to be prepared. For larger or more complex projects, the three month period may not be sufficient for participants to bring forward an adequate and accurate plan.

LPMA believes an approach that sets some period as the standard period to bring forward a transmission project development plan is appropriate, but there should be flexibility to allow for shorter or longer periods that may be needed on a project by project basis.

As noted in the Staff Discussion Paper, the three month period used by Ofgem was the time allowed for qualification to tender. This three month period was not for the filing of any detailed plans that are need to evaluate the proposals.

LPMA recommends that Board Staff consult with the existing licensed distributors and obtain feedback from them on how long they think it would take them to prepare adequate transmission project development plans in different scenarios.

**Are these the appropriate decision criteria? Should the decision criteria be weighted and, if so, which are most important? (page 13)**

LPMA does not believe that the Board should automatically make any assumptions about the general corporate fitness (financial and technical) of any licensed transmitter. While it could be expected that all such licensed transmitters would be technically sound (even when unexpected employee turnover takes places), the same may not be true for the financial soundness of the transmitter if a project, or a series of projects, require a significant increase in capital requirements relative to the current size of the transmission assets. The composition of the incremental capital requirements (short term debt, long term debt, preferred shares, equity) may significantly change the financial fitness of a transmitter. The impact of significant investments may also be different for publically owned versus privately owned transmitters.

The Staff Discussion Papers sets out six criteria to evaluate a plan and to determine which transmitter should be designated for any given project. LPMA believes that each of the criteria listed is a necessary component to determine which transmitter should be designated for any given project.

With regard to whether or not the criteria should be weighted, LPMA provides the following comments on each of the criterion listed in the Staff Discussion Paper.

### **1. Organization and Experience**

LPMA does not believe this criterion should be weighted in the final determination in any way, since a weighting implies some sort of quantification. This criterion should be based on a pass-fail approach. Only those transmitters/project developers that meet the organization and experience criterion as outlined in the Staff Discussion Paper should be evaluated on the other criteria. LPMA does not believe that this criterion lends itself to an objective quantification. Either an applicant meets the criterion or it does not. The Board should not attempt to rank applicants that meet the criterion.

### **2. Technical Capability**

Similar to the first criterion noted above, LPMA does not believe that this criterion should be weighted in any way. Again, this criterion should be based on a pass-fail approach. The applicant is either technically capable or it is not. If it is not, it should be removed from the analysis of the remaining criteria. Again, it is submitted that any attempt to quantify or rank applicants that are technically capable should be avoided.

### **3. Schedule**

LPMA is concerned with how this criterion should or could be evaluated and whether the Board is in a position to evaluate the manner in which the transmitter/project developer has prioritized the project or projects. The applicants will be in the best position to provide realistic schedules.

The only base upon which the Board may have to evaluate a schedule is whether or not the schedule meets any timelines that may have been identified by the Ontario Power Authority. It is not clear to the LPMA whether the OPA assessments will provide detailed timelines and capacities required for each project. If not, then the Board will be placed in a situation of determining how to interpret the OPA assessment, especially if two or more proponents have interpreted it in different ways. For example, a statement

that transmission capacity of up to 2,000 MW is likely to be required in the next 1 to 3 years can be reasonably interpreted in different ways from both a capacity point of view and a timing point of view, both of which could influence the design of the project and the related schedules.

LPMA further notes that sooner is not necessarily better from a scheduling point of view. A realistic schedule is more appropriate than an overly optimistic schedule.

LPMA concludes that the scheduling criterion should not be included in any weighting of the other criteria. LPMA recommends that this criterion be evaluated on a similar basis to pass-fail, only it would be evaluated as reasonable or not reasonable. The not reasonable evaluation could be the result of timing beyond any timelines suggested by the OPA or it could be deemed to be not reasonable as being overly optimistic. The Board should consider a window, or time horizon, in which it would be reasonable to expect the various project stages to be completed.

If the schedule is found to be reasonable, then the remaining criteria would be evaluated. If the schedule is found to not be reasonable, then the Board may consider requesting the applicant to adjust its plan to reflect a schedule that is believed to be reasonable by the Board.

#### **4. Costs**

LPMA believes that this criterion is the first of those listed by Board Staff that lends itself to an objective quantification. From the point of view of ratepayers, this criterion, along with financing, are the most important criteria.

Competing projects that are brought forward by applicants that pass the tests related to organization and experience and technical capability and have a reasonable schedule are equivalent in the eyes of ratepayers. It is not until the costs are estimated and brought forward that any significant difference between projects (if any) are visible to those who will ultimately pay for them.

Ratepayers do not mind paying for projects that are deemed necessary for policy purposes. Ratepayers, however, do object to paying for more than what is needed and required.

While the lowest cost project may not always be the best one to select, it does introduce competition into the process. If the Board were to send a strong signal to the industry that costs are one of the key criteria that will be used to select the transmitter/project developer, proponents will concentrate on providing value for the assets to be provided. The planned project is less likely to be overbuilt. If one transmitter accumulates a history of cost overruns on a number of projects (capital and/or operating), the Board should take this into consideration in the evaluation of future projects.

## **5. Financing**

Like the costs above, this criterion easily lends itself to an objective quantification. If a project developer wants to request a higher return on equity, has a higher cost of debt or wants a different capital structure for the incremental capital funding required, these impacts on the ultimate cost to ratepayers can be quantified and evaluated in comparison to the other project developers.

LPMA proposes that the ratepayer impact be the guiding factor that the Board uses to select one plan over another. The ratepayer impact would be a combination of costs (capital and operating), including financing, and would essentially be the impact on the transmission revenue requirement of the proposed plan.

This approach would effectively take into account the original capital expenditure, cost of debt and equity financing, structure of the incremental financing needed, OM&A costs including any economies of scale or shared resources, the request for any alternate mechanism as set out in the `Report of the Board: The Regulatory Treatment of Infrastructure Investment in Connection with the Rate-regulated Activities of Distributors and Transmitters in Ontario` (EB-2009-0152), capital cost allowance deductions for income tax purposes and the rate of depreciation being requested (LPMA notes that

different transmitters may propose different depreciation rates, as long as they are consistent with International Financial Reporting Standards ("IFRS").

All of these factors noted above can be aggregated and distilled down into the impact on the ratepayers. LPMA submits that this the appropriate way to determine which project should be selected.

## **6. Land Owner and Other Consultations**

Land owner (and other) consultations are an important part of any proposed plan. However, they are not likely to be equally important for all plans. Some projects may require extensive use of First Nations lands, while others may require easements from numerous individual property owners. Some projects may be able to use existing transmission corridors for part of the project, while others will require all new corridors.

Rather than trying to quantify the proposals brought forward by competing plans, LPMA suggests it would be more appropriate for the Board to determine if the plans related to land owner and other consultations were adequate or inadequate. Similar to the Schedule criterion noted above, if the Board found the plan to be inadequate on this front, it could request the plan proponent to adjust this component of the plan to make it acceptable to the Board (and to the land owners and other parties involved).

### **Are staff's proposals regarding the implications of plan approval reasonable? (page 15)**

LPMA has reviewed the Staff proposals regarding the implications of plan approval and believe they are reasonable.

However, to make the process more transparent and accountable, LPMA recommends that the Board **should** attach conditions on implementation of the transmission project development plan including milestones for completion and reporting requirements. Staff has indicated that the Board's decision **could** attach such conditions.

LPMA has further comments on the proposed deferral accounts in which the development costs would be recorded. This does not appear to be a variance account, and as such, only amounts up to the budget associated with the approved transmission project development plan would be included. If during the development plan, the transmitter determines that its budget is not sufficient (for example, due to unforeseen or unknown circumstances) LPMA submits that the transmitter should, as soon as possible, return to the Board for a review of the additional budget requirements.

LPMA agrees with Staff that prudently incurred costs within the approved budget should be recoverable through rates. However, LPMA believes that the Board and ratepayers should be free to review the actual expenditures to ensure that the amounts to be recovered from ratepayers were prudently incurred.

While LPMA agrees that if the designated transmitter requires immediate funding a rate rider could be used as part of the plan. However, LPMA believes this would be the exception, rather than the standard approach. Any transmitter requesting such funding should be expected to provide sufficient justification for the request.

**Under what circumstances should two transmitters be designated to develop the same project and to recover the development costs from ratepayers? (page 15)**

LPMA agrees with Staff that allowing two transmitters to be designated to develop the same project could result in the more cost effective alternative being chosen based on better and more information available at that time. It would introduce a level of competition and cost control into the project that may not necessarily be present if there were only one designated transmitter.

However, as the costs incurred by both designated transmitters would ultimately be recovered from ratepayers, the Board should use this approach only in situations where there is a reasonable expectation that the cost savings expected would materially exceed the expense of funding two development streams.



The Board may want to consider an interim step between the designation of two transmitters to develop the same project and the leave to construct stage of the process. The Board could consider reviewing preliminary costs of the competing proposals. These preliminary costs, while not as certain as that expected in the leave to construct application, would be better information than that used for the purposes of designation.

If the preliminary costs of one of the proposals was significantly higher than the other, the Board could then designate the lower cost transmitter as the designated transmitter, and allow the costs incurred to that point from the other transmitter to be recovered. That transmitter, however, would be allowed to continue on to the leave to construct phase, if they wish, but knowing that if they are not the successful applicant, any costs incurred from that point on would not be recoverable from ratepayers.

If the preliminary costs of the two proposals are close to one another, the Board will have to decide whether it is worthwhile for ratepayers to continue to pay the expenses for two development streams when there would appear to be no significant cost savings from one plan over the other.

The Board may also consider an approach that allows both development streams to continue to the leave to construct phase (thus eliminating the need for the interim step based on preliminary costs) but would allow only the successful developer to recover 100% of their development costs. The unsuccessful applicant would be allowed to recover a minimum percentage of their prudently incurred costs (perhaps 50%) and up to 100% of these costs, depending on the quality and competitiveness of the application.

**Are these the appropriate filing requirements to enable the Board to apply the decision criteria identified in section 3.1? If other decision criteria are being suggested, what additional filing requirements would be appropriate for the other criterion or criteria? (page 19)**

LPMA has reviewed the proposed filing requirements and in general finds them to be appropriate. However, LPMA believes these filing requirements should be considered as

"interim" minimum filing requirements for transmission project development plans until the Board and other stakeholders have some experience with the material provided relative to the decision criteria described in section 3.1.

In addition, LPMA believes that these interim filing requirements should be expanded to include "Alternatives Considered". This additional material could cross a number of the categories listed in the Staff Discussion Paper. For example, under Project Identification, there should be a discussion of alternate routes that were considered and rejected, different proposed structure types, different compositions, and so on of any alternatives that were not ultimately selected by the Applicant. The reasons for rejecting these alternatives should be included. This may relate to the cost category. Cost estimates of any alternatives considered should be provided. This would be needed not only to evaluate the option chosen by the Applicant, but could be relevant in examining the option(s) chosen by other Applicant(s). As an example, one applicant may have rejected the use of concrete structures in favour of wood structures based on the cost differential, while another applicant may have selected the concrete structures over the wood structures because they believe the cost differential is lower and the added life expectancy results in lower depreciation costs on annual basis. Technical capability, or just a lack of familiarity, may also have an influence on the alternatives that were considered and rejected.

In the "Costs" category in the Staff Discussion Paper, LPMA believes that the annual depreciation cost should also be explicitly identified. As the Board is aware, International Financial Reporting Standards ("IFRS") will require a more comprehensive break down of the capital assets included in the project. This will likely result in a number of different depreciation rates being used for the various asset categories. If different Applicants take different approaches to the project, their mix of capital assets may be substantially different, resulting in substantially different depreciation expenses.

The detailed impact on income taxes should also be reflected. Again different asset mixes may result in different capital cost allowance ("CCA") deductions being available.

The proposed capital structure, cost of debt, and the requested return on equity will also have an impact on the income taxes.

It is assumed that property taxes and/or payments in lieu of property taxes are included in the cost of operating and maintaining the project.

Any use of an alternative mechanism that is requested by the Applicant should also be identified in terms of its impact on costs. For example, including construction work in progress in rate base would impact the amount of costs and the timing of those costs.

Sincerely,

*Randy Aiken*

Randy Aiken  
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