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May 28, 2010

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto, Ontario, M4P 1E4

BY COURIER

Dear Ms Walli,

EB-2010-0059: TRANSMISSION PROJECT DEVELOPMENT PLANNING STAKEHOLDER COMMENT

Pattern Transmission LP is pleased to submit the enclosed comments (in triplicate) on the Staff Discussion Paper regarding Transmission Project Development Planning (EB-2010-0059).

We appreciate the opportunity to comment.

Yours sincerely,

Christian Hackett

# Stakeholder Comment: EB-2010- 0059

## Subject: Ontario Energy Board Staff Discussion Paper Transmission Project Development Planning

Submitted by	Company	Date Submitted
<i>Christian Hackett, Christopher McCune and David Parquet</i>	<i>Pattern Transmission LP</i>	<i>May 28, 2010</i>

Pattern Transmission LP (“Pattern”) has reviewed the Ontario Energy Board’s (“Board”) April 19, 2010 Staff Discussion Paper on Transmission Project Development Planning (the “Discussion Paper”). Pattern appreciates the Board’s invitation to provide stakeholder comments, and is hereby offering its comments with respect to the issues raised in the Discussion Paper.

Pattern is a spin-off of Babcock & Brown’s North American Energy Group. We are a renewable energy developer backed by Riverstone, an energy private equity firm with over US\$17 billion of assets under management. Pattern’s team has substantial experience in energy developments and public-private partnerships (“P3”). For example, while at Babcock & Brown, members of our team developed the Trans Bay Cable project in San Francisco (in a P3 with Pittsburg Power Company) and numerous wind farms across North America. In Canada, Pattern is currently constructing the 138 MW St. Joseph wind farm in Manitoba and is developing a portfolio of wind projects in Ontario in partnership with Samsung C&T Corporation and KEPPCO. In the United States, in addition to owning wind farms, Pattern is actively developing several transmission and generation facilities.

Pattern’s comments are as follows:

### **Issue #1: Should new entrants be required to be licensed as transmitters as a condition of participation in a designation process?**

Pattern supports measures to ensure that all project proponents are eminently qualified and capable of completing, operating, and owning any transmission projects awarded to them. However, Pattern is concerned about using the licensing process to achieve this goal.

The current transmission licensing process is designed for existing transmitters with physical transmission assets in Ontario. For example, Section 70(2.1) of the *Ontario Energy Board Act, 1998* (the “Act”) requires the holder of a transmission licence to

prepare and file regular plans for expanding or reinforcing its transmission system, and, under certain conditions, to physically expand or reinforce its transmission system or make expenditures related to the development of a smart grid. While these requirements are appropriate for owners of existing transmission systems, a proponent that has no existing transmission assets in Ontario and is obtaining a transmission licence for the sole purpose of submitting a transmission project development plan should not become subject to section 70(2.1). Pattern accordingly submits that while the Board should adopt rigorous screening criteria to pre-qualify proponents, the Board should not require such proponents to be licensed.

**Issue #2: 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)?**

Pattern is of the view that three months is a reasonable and adequate timeline for the preparation of a transmission project development plan, provided that the bidding process, timeline, and transmission needs are all clearly defined and published in the Board's Notice and Direction to File.

**Issue #3: Are these appropriate decision criteria? Should the decision criteria be weighted and, if so, which are most important?**

Pattern supports the list of criteria set out in the Discussion Paper but submits that the Board should consider the qualifications of the proponent's entire team, not just the proponent itself. Transmission project developers usually form a team with external consultants and building contractors, and the Board should assess this team as a whole.

The appropriate weight allocated to each of the criteria set out in the Discussion Paper may vary between different projects. Accordingly, Pattern recommends that the Board take a contextual approach that considers each of the criteria but is sufficiently flexible to allow them to be weighted in a manner appropriate for each individual project.

The Board should further take a "cumulative" approach to assessing a proponent's ability to execute all of the projects for which it has bid. When each project is considered individually, a proponent may seem to have sufficient resources to ensure successful completion. However, when all projects for which a proponent has bid are considered jointly, it may turn out that a proponent is short-staffed or otherwise has insufficient resources to complete them all.

To the extent that the three headings of (a) financial and technical capacity, (b) the transmitter's plan for carrying out the work, and (c) the economic efficiency of the plan (pp. 10-11 of the Discussion Paper) are reflected in the list of criteria set out in the remainder of the Discussion Paper, the Board should develop a list of which criteria fall under which heading. Otherwise, the Board should clarify how the "economic efficiency" test will be interpreted.

#### **Issue #4: Are staff's proposals regarding the implications of plan approval reasonable?**

It is not clear from the Discussion Paper whether designated proponents would have the right to bring a leave to construct application and proceed to construct, own, and operate the transmission lines developed by them, as opposed to merely handling the development work. Many transmission developers are fully qualified to construct, own, and operate transmission lines, subject to the same regulatory and rate oversight faced by other transmitters in the Province of Ontario.

Pattern is concerned that otherwise qualified potential proponents will be deterred from submitting a transmission development plan due to the risk (whether perceived or real) of obtaining a designation from the Board but failing to obtain leave to construct pursuant to section 92 of the Act. Many of the factors that a successful proponent must demonstrate under a transmission project development plan mirror those that must be demonstrated under a leave to construct application. Pattern submits that the Board should only designate proponents that have the capacity to construct, own and operate required facilities, and should not sever the construction process from the development process.

Pattern further recommends that the Board amend its guideline setting out the minimum filing requirements for leave to construct applications to better reflect the Board's narrow mandate under section 96(2) with respect to such applications. This would provide potential proponents with a greater degree of clarity and certainty as to the threshold they must meet to obtain leave to construct.

#### **Issue #5: Under what circumstances should two transmitters be designated to develop the same project and to recover the development costs from ratepayers?**

Where the Board is of the opinion that a project should be co-developed by more than one proponent, it should specifically set this out in its Notice and Direction to File. In circumstances where the successful proponents are unable or unwilling to work together in a manner acceptable to the Board, the Board should designate a single proponent.

The Board should further be open to joint proposals between two or more qualified developers, even where not specifically requested by the Board. Such teams could create synergies and combine resources to deliver more efficient results than a single developer.

Under no circumstances should two proponents be required to compete with each other during the development phase of a project, as this would create a hostile development environment that could well have the effect of increasing total project cost and causing considerable delays.

**Issue #6: 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?**

As set out above, Pattern is of the opinion that in screening and assessing proponents, the Board should assess a proponent's entire development team, as many successful developers involve outside consultants and contractors in their work. If the Board acts on this recommendation, it should require proponents to provide, in all transmission project development plans, a description of the project proponent's team's experience in developing similar projects.