

BY RESS AND COURIER

December 20, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: TransCanada Transmission License Application (EB-2010-0324)

On October 26, 2010, TransCanada Power Transmission LP (“TransCanada”) filed an application with the Ontario Energy Board (the “Board”) for an electricity transmission license and certain exemptions from the Affiliate Relationships Code for Distributors and Transmitters (the “Code”) that are applicable to licensed transmitters. The IESO wishes to comment on TransCanada’s application. While the IESO is interested in all aspects of the application and proceeding, the IESO’s current comments will be confined to the request for an exemption from Sections 2.2.2 and 2.2.3 of the Code.

As general matter, the IESO is not opposed to the Board granting TransCanada a transmitter license; however, we don’t believe the exemption request from Sections 2.2.2 and 2.2.3 of the Code is reasonable in this case nor should this be granted by the Board. These provisions of the Code, among others, are designed to ensure that participants and their affiliates will uphold and maintain the integrity of the electricity market.

As a licensed transmitter in Ontario, TransCanada will have access to, or will be in a position to potentially access a significant amount of confidential information and data pertaining to transmission customers and their activities (e.g., Commercial Reconciliation Statements and Data Files), as well as that of its affiliates. The IESO is concerned that should the exemption request be granted in this regard, this may reduce TransCanada’s capacity and incentive to effectively comply and monitor compliance with various regulatory requirements, including the

Market Rules (i.e., Chapter 3, Section 5) pertaining to accessibility and secure management of confidential information which will come under TransCanada's possession or control.

TransCanada notes that "similar exemptions (with respect to Sections 2.2.2. and 2.2.3 of the ["Code"]) have been granted before to Canadian Niagara Power Inc. (ED-2002-0572) and Cornwall Street Railway Light and Power Company Limited (ED-2004-0405)." We do not believe that these prior cases are comparable with the current application by TransCanada; accordingly, should not be relied on as precedent or basis for granting the exemption request. Furthermore, we also observe that where such exemptions were granted by the Board, this only applies to certain service related activities between the utility and specific affiliates as prescribed in the Services Agreements approved by the Board (ED-2002-0572 and ED-2004-0405, Schedule 3, List of Code Exemptions).

TransCanada also notes its existing regulatory compliance system, to which the transmission affiliate will be incorporated, "meets the requirements of the National Energy Board and exceeds the Standards of Conduct requirements of the U.S. Federal Energy Regulatory Commission." This may very well be the case; however, we do not believe it would be appropriate for this Board to relegate its obligation and responsibility for regulating entities in Ontario in accordance with its codes, rules and processes to other regulators.

In the IESO's view, approval of this exemption request would amount to a reduced standard of conduct and performance requirements applicable to TransCanada, relative to other market participants, with respect of the need for secure management and avoidance of the illicit sharing of confidential information with affiliates. Upholding these inherent principles of the Code and Market Rules are important in ensuring that other market participants will not be disadvantaged from any potential interactions between TransCanada and its affiliates, nor will its affiliates be afforded any advantage from such interactions. In addition, the IESO believes that approval of this exemption request would establish a bad precedent going forward.

Yours truly,

Original signed by

Carl Burrell
Senior Regulatory Analyst
Regulatory Affairs
Independent Electricity System Operator

cc. Frank Karabetsos, Legal Counsel, TransCanada
Brian Kelly, Manager, Eastern Canada Marketing & Trading, TransCanada