



March 4, 2011

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

Dear Ms. Walli:

**Re: CK Transmission Inc. Licence Application (EB-2010-0351)**

In Procedural Order 1 in the above-noted proceeding, the Board granted intervenor status to EnWin and other entities. The Board invited the intervenors to file submissions no later than March 4, 2011. EnWin has had the benefit of reviewing the submissions of Power Workers' Union. Enclosed, please find EnWin's submissions.

Yours very truly,

**EnWin Utilities Ltd.**

A handwritten signature in blue ink, reading "Andrew J. Sasso".

Per: Andrew J. Sasso  
Director, Regulatory Affairs

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Ms. Anne-Marie Reilly, Hydro One Networks Inc. (email only)  
Mr. Richard Stephenson, Counsel to Power Workers' Union (email only)

**APPLICATION FOR TRANSMISSION LICENCE  
CHATHAM-KENT TRANSMISSION INC.  
EB-2010-0351**

**SUBMISSIONS OF ENWIN UTILITIES LTD.**

**EnWin's Interest**

1. EnWin is a local electricity distribution company (LDC) in the City of Windsor in the County of Essex. With the only exception of electricity transmitted through international interconnection, all electricity transmitted into and out of EnWin's service area passes through the municipality of Chatham-Kent. Currently, that transmission system is exclusively owned and operated by Hydro One.
2. The introduction of an additional or alternative transmitter could materially impact EnWin and its ratepayers. Through this Application, the Applicant has requested to become one such transmitter.

**Decision Framework**

3. EnWin agrees with the assertion of Power Workers' Union (PWU) that the Board must make its decision based on the public interest.<sup>1</sup> EnWin notes that PWU based its assertion on a Board Decision in case involving an application for a transmission licence.<sup>2</sup>
4. EnWin respectfully submits that in addition to the usefulness of EB-2010-0164 as a reference point for the correct test to apply in this proceeding, the Board should give significant weight to other considerations raised by the Board in its findings in the EB-2010-0164 Decision.
5. In EB-2010-0164, the Board was concerned that the applicant did not provide "specific information about its intended transmission facilities or business activities because those activities are as yet unknown."
6. The Board went on to state, "one threshold test for an application of this nature is whether there is a specific project which underpins the application. No specific transmission project underpins this application."
7. The Board also explored "whether the applicant is engaged in transmission activity elsewhere and whether it has the necessary technical and financial expertise to

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<sup>1</sup> PWU Submission at para. 2.

<sup>2</sup> EB-2010-0164.

undertake transmission activity in Ontario.” The Board was critical of the fact that “the applicant has no specific transmission experience or expertise.”

8. The Board’s analysis on the issue of experience and expertise included the following: “The application indicates that Lexi will contract the proposed transmission activities to RussEngineering and EPC Contractors, and that RussEngineering may take an ownership interest in the company. While Lexi has provided a list of current projects for RussEngineering, the application is clear that currently RussEngineering does not have an ownership interest in Lexi. The Board has therefore not considered whether RussEngineering would provide adequate experience and expertise for purposes of granting a transmission licence in the absence of a specific project.”

### **Submissions on the Public Interest**

9. The burden of demonstrating that granting the transmission licence would be in the public interest sits with the Applicant.
10. In the Application, the Applicant makes arguments in respect of how the “initial project” would be in Pattern Energy Group’s interest, but does not address how the “initial project” would be in the public interest.
11. It is not sufficient for the Applicant to demonstrate that it is better for the public that Pattern Energy Group bring renewable generation capacity to the grid. Rather, the Applicant must demonstrate that it is in the public interest for CKT to be that transmitter as opposed to the alternative provider, Hydro One Networks Inc. The evidence does not make that case.
12. Moreover, the Applicant is seeking a transmission licence without geographic limitation.<sup>3</sup> Excluding Hydro One Networks Inc., the remaining five currently licensed transmitters all have their transmission systems narrowly defined in their Board-issued licences.
13. The Applicant has made some seemingly incidental reference to the Provincial Government’s *Long Term Energy Plan* and the Board’s *Framework for Transmission Project Development Plans* proceeding (EB-2010-0059). However, the Applicant has not demonstrated how broad transmission licence would be in the public interest.
14. The evidence does not demonstrate that granting this licence would serve the public interest through prices, adequacy, reliability and quality of electricity service more favourable than if the licence were not granted. The presumption is that prices would increase to cover incremental transmission administration costs. It

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<sup>3</sup> Response to EnWin Interrogatory 1(e).

also appears that adequacy, reliability and quality of electricity service would suffer as CKT's affiliates have only 5 employees with electrical transmission operations experience<sup>4</sup> and one would expect "growing pains" as the small company enters a new line of business. The outcomes associated with the CKT plan are not in the public interest. EnWin is particularly concerned about the impact of these outcomes on distributors and ratepayers in proximity to CKT operations.

15. The evidence does not demonstrate that granting this licence would serve the public interest through economic efficiency, cost effectiveness and industry financial viability more favourable than if the licence were not granted. Multiple transmitters operating in close proximity are presumed to create inefficiencies, duplicate costs and introduce financial instability due to competing operations. Not only has the Applicant not overcome this presumption, it has not provided any evidence on this point.

### **Submissions on Specificity of Information**

16. Section 4 of the Application is supposed to specify the transmission facilities involved in the application. That section of the Application only specifies the transmission facilities for the "initial project".
17. If the Board does grant a licence to the Applicant in this proceeding, the licence should be restricted to transmission ownership and activities associated with the specified facilities. Any future expansion should necessitate a licence amendment through a public proceeding. The intervenors to this proceeding should be provided special notice at that time in addition to any other notice requirements.

### **Submissions on Underpinning Project**

18. This Application is not based on an underpinning project; it is based on an initial project. The difference between the two is significant. An underpinning project indicates that future projects would relate to and originate in the underpinning project. By contrast, an initial project may have no relationship in scale, scope or nature to the initial project. The evidence and testing of evidence has been limited to the initial project.
19. Accordingly, any licence should be restricted to transmission ownership and activities associated with the facilities associated with the initial project, as specified in the Application.

### **Submissions on Experience and Expertise**

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<sup>4</sup> Response to Hydro One Interrogatory 1(e).

20. As set out in EB-2009-0164, if there is no underpinning project, then the Board should consider whether the public interest will be served and protected based on transmission experience and expertise of the applicant.
21. There appears to be comparability between CKT's Application and the Application in EB-2009-0164 in which the Board did not find the experience and expertise of that applicant (Lexi Transmission) sufficient to merit the granting of a transmission licence.
22. Lexi Transmission intended to contract out significant transmission activities to a third party. The Board was critical of that approach and denied the application in large part of that basis.
23. In this Application, CKT provided evidence in respect of the technical capability and experience of its holding company, its distribution affiliates, its services affiliate, and one of its shareholders (Corix). It also made brief reference to relationships with K-Line and Siemens. In section 9 of the Application, CKT indicated that Pattern Energy Group has or will be contracted the design, construction and customer connection work. Dillon Consulting has or will be contracted the design consultation.
24. Further, in response to Hydro One interrogatories, CKT explained that it has engaged Utility Compliance Service Inc. (UCS) to provide "transmission operational and planning expertise and to provide ongoing advice regarding technical, process and training requirements" in respect of the IESO, NERC and NPCC standards.<sup>5</sup>
25. While CKT's responded to EnWin's Interrogatory 2(a) that it will not be a "virtual transmission company", the evidence suggests that there is very little if any role remaining for CKT to perform other than outsourcing activities and benefiting from the work performed by affiliates and third parties. Just as the Board found that Lexi Transmission's third parties had not been subject to sufficient review, EnWin submits that the evidence in this Application has not allowed the Board to sufficiently assess the qualifications and experience of CKT's third party transmission services and operations providers. Further, the evidence is not clear in respect of the chain of authority and allocation of responsibilities as among these many third parties to ensure that CKT has sufficient control over transmission assets and operations. This is of concern to EnWin as a distributor in close proximity to the CKT initial project and potential future projects.
26. EnWin also notes that CKT has not conducted a review of the business models, organizational structures or other characteristics any of the other licensed

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<sup>5</sup> Response to Hydro One Interrogatory 1(b).

transmitters in Ontario.<sup>6</sup> The experience and expertise of others engaged in the transmission business in the Ontario jurisdiction which CKT proposes to enter for the first time are relevant considerations. To the extent that CKT lacks background in the business, it is reasonable to expect some study of that business. Respectfully, the absence of that study should be of concern to the Board.

## **Conclusion**

27. EnWin submits that the Board should not grant the licence as sought by CKT.
28. EnWin submits that the Board should invite CKT to file a revised application that speaks to the impact of the requested licence on the public interest, especially with regard to the considerations set out in these submissions.
29. In the event that the Board grants a licence to CKT, EnWin submits that the licence ought to be confined to the specific transmission facilities and activities detailed in the Application in relation to the initial project.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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<sup>6</sup> Response to EnWin Interrogatory 4(a).