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July 26, 2011

VIA Email and RESS

Ms. Kirsten Walli, Board Secretary
Ontario Energy Board
2300 Yonge Street,
Ste. 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

Re: AltaLink Ontario, L.P.'s ("AltaLink Ontario's") response to Hydro One Letter dated July 15, 2011 regarding AltaLink Ontario's response to Hydro One Interrogatory #4 (EB-2011-0126)

AltaLink Ontario is writing in response to a letter received from Hydro One Networks Inc. ("Hydro One") dated July 15, 2011 requesting that AltaLink Ontario provide a further response to Hydro One interrogatory number 4.

As is more fully detailed below, AltaLink Ontario has concerns about the process used by Hydro One to obtain additional information, the availability and relevance of the information requested by Hydro One, and the relief sought by Hydro One in its letter.

However, AltaLink Ontario is principally concerned with ensuring that the Board has access to a full and complete record upon which to make its Decision. In this regard, AltaLink Ontario discussed this issue with its affiliate SNC-Lavalin, and to provide additional context for the Board SNC-Lavalin has provided a high level summary of some of the recent assignments of SNC-Lavalin in Ontario. This summary is included in AltaLink Ontario's amended response to Hydro One interrogatory number 4 attached hereto.

Concerns Regarding Process

AltaLink Ontario has concerns about the process adopted by Hydro One. In proceedings of this nature it is open for parties, including the applicant and intervenors, to have reasonable disagreements about the relevance or availability of requested information. The Board has a process to address these disagreements in its Rules, which Hydro One has chosen to ignore. In addition, on July 20, 2011, counsel to AltaLink Ontario notified Hydro One and the Board that AltaLink Ontario intended to file a formal response to the Hydro One letter early this week. If Hydro One wanted the information it requested, it should have at a minimum waited for AltaLink Ontario's response to its letter (Hydro One could have reasonably requested a delay in its deadline to file submissions to await its requested information). Instead, Hydro One chose not to do so before filing its submissions with the Board on July 22, 2011 (AltaLink Ontario will reserve

responding to these submissions to its reply). Hydro One has knowingly placed itself in its current position.

Response to Hydro One's Letter

In providing its response to all of the Hydro One interrogatories, AltaLink Ontario fulfilled its obligation to provide full and complete responses to all interrogatories except for those specific interrogatories for which AltaLink viewed that the exceptions under Section 29.02 of the Board's Rules of Practice and Procedure (the "Rules") applied.

In its response to Hydro One interrogatory number 4, AltaLink Ontario identified that it was unable and unwilling to provide a response on the basis that the information requested is not in the possession of AltaLink Ontario. AltaLink Ontario noted its concern that the information requested by Hydro One is strictly confidential and competitive data and SNC-Lavalin is not a party to the proceeding.

Hydro One takes this concern regarding confidentiality out of context when it suggests in its letter that this is not an accepted ground upon which an applicant may refuse to provide an answer. AltaLink Ontario refused to provide an answer on the basis of Rule 29.02(b). This rule indicates that AltaLink Ontario must explain the reasons for such unavailability of information. The reason is that the information requested is SNC-Lavalin's confidential and competitive data. SNC-Lavalin is a competitive affiliate of AltaLink Ontario that is concerned with protecting its commercially sensitive and confidential information. As a result AltaLink Ontario was and continues to be unable to obtain access to this information.

In the attached updated response to Hydro One interrogatory number 4, it is clear that the information requested relates directly to confidential and commercially sensitive arrangements between SNC-Lavalin and its various Ontario customers, including Hydro One (an intervenor in this proceeding), Brookfield (an affiliate of an intervenor in this proceeding), Powerstream, Goldcorp and Five Nations Energy. SNC-Lavalin is concerned that its planned EPC relationship with AltaLink Ontario should not be used to prejudice other relationships in a very competitive EPC market in Ontario.

Hydro One's conclusion that, as a result of this interrogatory response, AltaLink Ontario should be obligated to amend its Application to remove references to SNC-Lavalin as an affiliate on which it will rely for EPC support is simply inappropriate and prejudicial to AltaLink Ontario's application.

AltaLink Ontario's evidence is clear and unambiguous that it intends to rely on the financial resources and technical expertise of its affiliates, AltaLink Management Ltd. and SNC-Lavalin, when participating in the Board's designation process and if designated to design, develop, construct, operate and maintain transmission assets in Ontario. It is not open to Hydro One, as an intervenor in this proceeding, to attempt to re-write AltaLink Ontario's evidence in this regard because it is not satisfied with AltaLink Ontario's interrogatory response.

Additional grounds for refusal

In addition to the grounds noted in AltaLink Ontario's response to Hydro One interrogatory number 4, AltaLink Ontario would like to formally add a further ground for refusing to answer Hydro One interrogatory number 4. AltaLink Ontario is further unable and unwilling to provide a response on the basis allowed under Section 29.02(a) of the Rules –the information requested is not relevant.

AltaLink Ontario views the information requested as overly detailed project specific information that is not directly relevant to the Board's assessment of the general technical and financial capabilities of the applicant, or its affiliates, for the purposes of the transmission licence application.

AltaLink Ontario notes that in its letter Hydro One has provided no reasons for its assertion that it believes the information is relevant.

It is not disputed by Hydro One that SNC-Lavalin is a world leading provider of engineering, procurement, construction, commissioning and related services for power facilities and infrastructure, with the combined resources of more than 1,000 employees in the field of power transmission and distribution across Canada. It is clear on the evidence, and is not disputed by Hydro One, that SNC-Lavalin *as a company* has the necessary technical expertise to plan design and construct transmission facilities in the public interest. In this context, it is simply not clear to AltaLink Ontario why the requested information is relevant for the purposes of this licence application.

The Board's recent Decision in the Chatham-Kent Transmission Inc. ("CKT") licence application (EB-2010-0351) is helpful in this regard. In that Decision, the Board determined that CKT had provided sufficient evidence of its financial position and technical capabilities to qualify for a transmission licence, but the Board noted that "it is expected that as part of the designation process, very much more specific financial and technical/operational information will be required to meet the focused demands of specific projects. This review will be undertaken in connection with that process, not at this stage."

AltaLink Ontario submits that the project specific information requested by Hydro One may be relevant during a specific designation process in contemplation of a specific new transmission project, but that the information is simply not relevant to the Board's assessment of whether AltaLink Ontario, *as a company*, has the commensurate financial resources, or access to them, and the technical capability to own and operate a transmission system in the public interest. AltaLink Ontario further notes that during the Board's designation process, it would have an opportunity to ask similar project specific interrogatories to Hydro One.

Concerns regarding confidentiality and competitive data

AltaLink Ontario would like to conclude by making the Board aware of a serious concern that Hydro One appears to be using the Board's discovery process to obtain commercially sensitive information about, and to otherwise discredit, credible new entrant competitors, like AltaLink Ontario, in an effort to defend and protect its dominant position as the principal monopoly transmitter in Ontario.

AltaLink Ontario's concern arises in the context of the Board's new policy framework for transmission project development plans (EB-2010-0059) (the "Framework"). The Framework has the following three policy goals:

- allow transmitters to move ahead on development work in a timely manner;
- **encourage new entrants to transmission in Ontario** bringing additional resources for project development; and
- **support competition in transmission in Ontario** to drive economic efficiency for the benefit of ratepayers.

AltaLink Ontario was very encouraged by the Framework, enough so to submit the subject licence application to become a new entrant to transmission in Ontario. AltaLink Ontario brings with it access to considerable additional resources for project development that can only serve to benefit Ontario's ratepayers.

It should not be lost, however, that as a new entrant transmitter AltaLink Ontario is now a direct competitor to Hydro One in respect of new transmission projects that will be subject to the Board's Framework (such as the proposed east-west tie). The Board determined in its Framework that this competition is healthy and will serve to drive economic efficiency for the benefit of Ontario ratepayers.

However, AltaLink Ontario submits that in the context of this new environment of competitive transmission the Board should be vigilant to ensure that dominant monopoly incumbent transmitters do not unfairly draw on existing ratepayer funded resources to unfairly inhibit competition or otherwise attempt to undermine the credibility of new entrant transmitters. This concern is particularly relevant given the very detailed and specific commercially sensitive information requested by Hydro One about AltaLink Ontario's competitive affiliate.

Sincerely,

Original Signed by John A.D. Vellone for J. Mark Rodger

J. Mark Rodger
Counsel to AltaLink Ontario, L.P.

Encl.

Copy To: Andrew Skalski, Director – Applications, Hydro One Networks Inc.
Steve Hodgkinson, AltaLink Ontario, L.P.
Intervenors of Record in EB-2011-0126

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