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FILED ELECTRONICALLY AND VIA COURIER

November 22, 2011

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

Helen T Newland
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DIRECT 416-863-4471

Dear Ms. Walli:

**RE: RES Canada Transmission LP;
Request Regarding Effective Date of
Applied-for Electricity Transmission Licence;
Board File No.: EB-2011-0282**

Further to the Board's Decision and Order rendered on November 2, 2011 in Proceeding EB-2011-0260 regarding the transmission licence of TransCanada Power Transmission (Ontario) L.P., RES Canada Transmission L.P. ("RES Transmission") is requesting that any Electricity Transmission Licence issued to it be made effective on the earlier of:

- the date upon which RES Transmission is designated as a developer of transmission assets in Ontario, pursuant to a Board designation process; and
- the date upon which RES Transmission applies to own or operate a transmission system by seeking to amend schedule 1 of its licence to specify the facilities to be owned and/or operated by RES Transmission.

Two hard copies of the application will be couriered to the Board as soon as possible. Please contact the undersigned should you have any questions regarding the application.

Yours very truly,

(signed) H.T. Newland

HTN/ko
Encls.

cc: Michèle Beauchamp
Cory Blair
Irina Kuznetsova
Jerry Vaninetti

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15 (Schedule B);

AND IN THE MATTER OF an Application, by RES Canada
Transmission LP for an Electricity Transmission Licence;

AND IN THE MATTER OF an application by RES Canada
Transmission LP, regarding the effective date of such
licence.

APPLICATION REGARDING EFFECTIVE DATE OF LICENCE

A. Procedural History

1. Under cover of letter to the Ontario Energy Board ("**OEB**" or "**Board**") dated July 28, 2011, RES Canada Transmission LP ("**RES Transmission**" or the "**Applicant**"), by its general partner, RES Canada Transmission GP Inc., filed an application ("**Application**") for an Electricity Transmission Licence ("**Licence**") pursuant to sections 57(b) and 60 of the *Ontario Energy Board Act, 1998*. In its Application, RES Transmission did not seek any exemptions from the *Affiliate Relationships Code for Electricity Distributors and Transmitters* (the "**ARC**").
2. RES Transmission is owned, indirectly, by Renewable Energy Systems Limited and is an affiliate of Renewable Energy Systems Americas Inc., one of the largest developers of solar and wind-powered projects in North America. RES Transmission is an Ontario limited partnership, created for the purpose of developing electricity transmission facilities in Ontario. Accordingly, it intends to participate in the OEB's designation process under the *Board's Framework for Transmission Project Development Plans*.
3. The Board issued a Notice of Application and Written Hearing ("**NOA**") and a Letter of Direction in respect of the Application on August 18, 2011. The NOA established Proceeding EB-2011-0282 to hear and determine the Application by way of a written hearing, subject to receiving a substantiated request from an interested party, for an oral hearing.
4. Two parties – Hydro One Networks Inc. ("**Hydro One**") and Great Lakes Power Transmission LP – applied for and received intervenor status in the proceeding. Neither

sought to have the Application heard orally. One party – Canada Niagara Power Inc. – sought and received observer status.

5. The Board issued Procedural Order No. 1 on September 7, 2011, establishing a procedural schedule for the filing of interrogatories and the receipt of responses thereto, and the filing of submissions by Board staff and intervenors.
6. Hydro One and Board Staff filed interrogatories directed to RES Transmission on September 26, 2011. RES Transmission filed its responses on October 11, 2011.
7. Board Staff filed its submission in respect of the Application on October 25, 2011, noting that RES Canada meets the technical and financial requirements for a transmission licence. Hydro One filed a letter dated October 25, 2011, noting that it had no submissions on the Application.
8. In light of the fact that neither Board Staff nor any intervenor expressed any concerns about the Board granting the Licence, RES Transmission did not file any responding submissions.

B. Reason for Request re Effective Date

9. In its submission, Board Staff noted that RES Transmission had: (a) acknowledged (in section D of the application form) that, as a licenced transmitter, it is required to comply with all licence conditions, including the provisions of the Board's codes; and (b) confirmed, in its response to Board Staff Interrogatory 3 ("**Staff-3**"), that it would comply with the requirements of the ARC, as of the date it was licensed.
10. In fact, in the referenced response to Staff-3, RES Canada confirmed that it would satisfy the requirements of the ARC as of the effective date of the Licence, as opposed to as of the date of issuance of the Licence. RES Transmission's position in this regard was informed by the fact that, at the time that the response to Staff-3 was filed, the Board was considering an application by TransCanada Power Transmission (Ontario) L.P. ("**TransCanada**") for an amendment of its Electricity Transmission Licence (ET-2010-0324). The application sought to change the effective date of Licence ET-2010-0324 from June 22, 2011 to the date on which TransCanada applied to be designated under the Board's transmission designation process or applied to own or operate a transmission system. Subsequent to its application, TransCanada requested a different effective date, namely, the earlier of the date upon which TransCanada applied to own or operate a transmission system (outside of the designation process) and the date on which TransCanada was selected as a "designated transmitter" by the Board.¹

¹ The reason the "effective date" is significant is that licensees are required to comply with the ARC as of the effective date. This requirement can be a barrier to the participation of non-incumbent transmitters in the Board's designation process. New entrants may need to rely on affiliates to provide services at the pre-designation stage.

11. In its Decision and Order dated November 2, 2011, the Board changed the effective date of TransCanada's Licence to the earlier of:
- the date upon which TransCanada is designated as a developer of transmission assets in Ontario, pursuant to a Board designation process; and
 - the date upon which TransCanada applies to own or operate a transmission system by seeking to amend schedule 1 of its licence to specify the facilities to be owned and/or operated by it.

The Board stated that TransCanada's licence would be re-issued to reflect an actual date when one of the two triggering events occurs.

12. In its Decision and Order, the Board also stated that a new entrant transmitter who has already been licensed, or whose application is before the Board, may choose to seek the same relief granted in the Decision and Order by way of application (or amendment to its application), referencing its licence or application number and Decision and Order EB-2011-0260.

C. **Request**

13. In light of the submissions set out above in paragraphs 9-12, RES Transmission requests that the Board issue the applied-for Licence effective on the earlier of:
- the date upon which RES Transmission is designated as a developer of transmission assets in Ontario, pursuant to a Board designation process; and
 - the date upon which RES Transmission applies to own or operate a transmission system by seeking to amend schedule 1 of its licence to specify the facilities to be owned and/or operated by RES Transmission.
14. If the Board issues the Licence with an effective date as requested above in paragraph 13, RES Transmission affirms that it will comply with all licence conditions and Board codes (including the ARC) and other relevant requirements, as of the effective date of the Licence.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of November, 2011.

(signed) H.T. Newland

Helen T. Newland
Counsel to RES Canada Transmission LP