

December 5, 2011

RESS, EMAIL, COURIER

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli,

Re: EB-2011-0350 -- Responses to Intervenor Interrogatories -- EWT LP Transmission License Application

We are counsel to EWT LP. In accordance with the Ontario Energy Board's Letter of Direction dated November 7, 2011, please find enclosed responses to the interrogatories of AltaLink Ontario L.P., Upper Canada Transmission, Inc. and TransCanada Power Transmission (Ontario) L.P. in the above noted proceeding. An electronic copy of the responses has also been filed through RESS and emailed to the Board Secretary.

Please let me know if you require any additional information.

Yours truly,



Charles Keizer

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Encl.

EWT LP
Interrogatory Responses
Electricity Transmission Licence Application
EB-2011-0350

December 5, 2011

Responses to AltaLink Ontario L.P.'s Interrogatories

Interrogatory 1 – Technical Capabilities and Experience

Reference:

Cover Letter, pg. 2, Section 3 titled “Technical and Financial Expertise, Experience and Resources”

Application, Part 6, Technical Capabilities and Experience

Preamble:

Since the Applicant has multiple limited partners and affiliates, the following series of questions is intended to clarify what areas of capability, expertise and experience the Applicants relying upon each of its limited partners for. We understand that Bamkushwada LP (“BLP”) does not have any specific experience or expertise with transmission facilities, instead they do represent six First Nations groups whose traditional territories are situated along the East-West Tie Line project corridor.

Questions:

Hydro One Inc. (“Hydro One”)

- (a) To what extent is the Applicant relying upon Hydro One’s transmission planning experience? Will the Applicant be drawing upon Hydro One’s employees or resources in this regard? How will the Applicant compensate Hydro One for use of these resources?
- (b) To what extent is the Applicant relying upon Hydro One’s transmission constructing experience? Will the Applicant be drawing upon Hydro One’s employees or resources in this regard? How will the Applicant compensate Hydro One for use of these resources?
- (c) To what extent is the Applicant relying upon Hydro One’s transmission operating experience? Will the Applicant be drawing upon Hydro One’s employees or resources in this regard? How will the Applicant compensate Hydro One for use of these resources?
- (d) To what extent is the Applicant relying upon Hydro One’s transmission maintenance experience? Will the Applicant be drawing upon Hydro One’s employees or resources in this regard? How will the Applicant compensate Hydro One for use of these resources?

Great Lakes Power Transmission LP (“GLPT”)

- (e) To what extent is the Applicant relying upon GLPT’s transmission planning experience? Please describe this experience (if any). Will the Applicant be drawing

upon GLPT's employees or resources in this regard? How will the Applicant compensate GLPT for use of these resources?

- (f) To what extent is the Applicant relying upon GLPT's transmission constructing experience? Please describe this experience (if any). Will the Applicant be drawing upon GLPT's employees or resources in this regard? How will the Applicant compensate GLPT for use of these resources?
- (g) To what extent is the Applicant relying upon GLPT's transmission operating experience? Will the Applicant be drawing upon GLPT's employees or resources in this regard? How will the Applicant compensate GLPT for use of these resources?
- (h) To what extent is the Applicant relying upon GLPT's transmission maintenance experience? Will the Applicant be drawing upon GLPT's employees or resources in this regard? How will the Applicant compensate GLPT for use of these resources?

BLP

- (i) To what extent is the Applicant relying upon BLP's transmission planning experience? Please describe this experience (if any). Will the Applicant be drawing upon BLP's employees or resources in this regard? How will the Applicant compensate BLP for use of these resources?
- (j) To what extent is the Applicant relying upon BLP's transmission constructing experience? Please describe this experience (if any). Will the Applicant be drawing upon BLP's employees or resources in this regard? How will the Applicant compensate BLP for use of these resources?
- (k) To what extent is the Applicant relying upon BLP's transmission operating experience? Please describe this experience (if any). Will the Applicant be drawing upon BLP's employees or resources in this regard? How will the Applicant compensate BLP for use of these resources?
- (l) To what extent is the Applicant relying upon BLP's transmission maintenance experience? Please describe this experience (if any). Will the Applicant be drawing upon BLP's employees or resources in this regard? How will the Applicant compensate BLP for use of these resources?

Responses:

In response to Interrogatories 1 (a) to (l), as set out in the Applicant's licence application (EB-2011-0350) (the "Application"), the combined expertise, experience and resources of the Applicant through its partners and possibly their respective affiliates provides the Applicant with a very high level of technical capability, expertise and experience with respect to the activities that are associated with the Application, including transmission development, stakeholder, First

Nations and Métis consultations, project development, project management, as well as the construction, ownership, operation and maintenance of electricity transmission facilities.

More specifically,

- the Applicant intends to contract with Great Lakes Power Transmission LP or a related entity for the development and management of any future new EWT LP transmission facilities – the Applicant may engage specialist third parties to undertake design work;
- the Applicant intends to contract with a specialist construction contractor for the construction of any new EWT LP transmission facilities;
- the Applicant intends to contract with Hydro One Networks Inc, the largest licensed electricity transmitter in Ontario, to undertake systems operations for any new EWT LP transmission facilities; and
- the Applicant intends to contract with third parties, including First Nation owned businesses, to provide inspection and maintenance services for any new EWT LP transmission facilities.

In the development of the Application to date, the Applicant has not used any of the non-executive staff and information resources of the transmission development, construction or maintenance groups of Hydro One Networks Inc, an affiliate of EWT LP partner Hydro One Inc., to assist in developing its plans.

Exactly which technical capabilities the Applicant will require, in what amounts, from which sources and at what cost will be determined once the scope and scale of the facilities to be developed, owned and/or operated have been defined.

Interrogatory 2 - No exemptions and no affiliates

Reference:

Cover Letter, pg. 4, Section 5 titled "No Exemptions"

Application, Part 7, Affiliates of the Applicant

Preamble:

We have a number of questions intended to clarify our understanding of how the *Affiliate Relationships Code* ("ARC") licence requirements will apply in light of the Applicant's unique organizational structure. To put our line of questioning into context, we include the following excerpts for ease of reference.

Under ARC:

"affiliate", with respect to a corporation, has the same meaning as in the *Business Corporations Act* (Ontario);

Under the *Business Corporations Act* (Ontario):

"affiliate" means an affiliated body corporate within the meaning of subsection (4);

[...]

Interpretation: subsidiary body corporate

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

- (a) it is controlled by,
 - (i) that other, or
 - (ii) that other and one or more bodies corporate each of which is controlled by that other, or
 - (iii) two or more bodies corporate each of which is controlled by that other; or
- (b) it is a subsidiary of a body corporate that is that other's subsidiary.

Holding body corporate

(3) For the purposes of this Act, a body corporate shall be deemed to be another's holding body corporate if, but only if, that other is its subsidiary.

Affiliated body corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person.

Control

(5) For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

(a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate.

Requests:

- (a) The *Affiliate Relationship Code* defines an affiliate with specific reference to a corporation. Is the Applicant's view that it does not need to comply with ARC because of this definitional oversight?
- (b) If the answer to part (a) is no, what is the Applicant's understanding of the appropriate definition of "affiliate" for use in ARC when the Board is considering how ARC should apply to the Applicant?
- (c) In light of the Applicant's organizational structure, please explain whether each of the following related legal entities is an "affiliate" of the Applicant within the meaning of ARC? If yes, why? If no, why not?
 - (i) East West Tie Inc.
 - (ii) Hydro One Inc.

- (iii) Hydro One Networks Inc.
 - (iv) Great Lakes Power Transmission EWT LP
 - (v) Bamkushwada LP and each of the six Participating First Nations
 - (vi) Great Lakes Power Transmission Inc.
 - (vii) Brookfield Infrastructure Holdings (Canada) Inc.
 - (viii) Brookfield Asset Management
 - (ix) Great Lakes Power Transmission LP
- (d) Please confirm our understanding that, to the extent that any of the above related
- (i) legal entities is not an “affiliate” within the meaning of ARC, the Applicant and that related legal entity would not be obligated to comply with the provisions under ARC, including:
 - (ii) the requirement that at least one-third of a utility’s Board of Directors is independent from any affiliate;
 - (iii) the requirement for a Services Agreements, for services, and any resource, product or use of assets provided to or received from an affiliate;
 - (iv) the requirement for the term of a contract between utility and affiliate not to exceed 5 years, unless approved by the Board;
 - (v) the requirement for a prescribed form of business case analysis for services, products, resources, or use of assets outsourced by the utility to an affiliate;
 - (vi) where a market exists, the prescribed methodology for establishing the fair market value for a service, product, or use of asset from an affiliate;
 - (vii) the additional threshold for utility assets sold or transferred to an affiliate;
 - (viii) the restrictions on a utility’s ability to provide financial support to its affiliates;
 - (ix) the restrictions on the disclosure by a utility of confidential information to an affiliate; and
 - (x) the restrictions on a utility on providing system planning information to an affiliate that is an energy services provider?

Responses:

- (a) The Board has reviewed the ARC on a number of occasions, and as such it is not appropriate to refer to the definition of affiliate as an “oversight”. EWT LP is controlled by its general partner East-West Tie Inc., which is an Ontario corporation. East-West Tie Inc. has no affiliates, as that term is used in the ARC. The ARC adopts the definition of “affiliate” from the *Business Corporations Act* (Ontario). Under that Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, (i) one of them is the subsidiary of the other or (ii) both are subsidiaries of the same body corporate or (iii) each of them is controlled by the same person. East-West Tie Inc. is not an affiliate of Great Lakes Power Transmission Inc., Hydro One Inc. or Bamkushwada Inc. (the “Shareholders”), as it is not a subsidiary of or controlled by any of these entities. This is because each of the Shareholders holds only 33.33% of the outstanding shares in East-West Tie Inc., meaning that no subsidiary or control relationship arises under the *Business Corporations Act* (or the ARC) vis-à-vis the Shareholders and East-West Tie Inc. Consequently, East-West Tie Inc. cannot be an affiliate of any entities to which the Shareholders are subsidiaries or by which they are controlled.
- (b) See the response to Interrogatory 2(a) immediately above.
- (c)
- (i) No. East-West Tie Inc. is the general partner of the EWT LP.
 - (ii) No. See the response to Interrogatory 2(a) above.
 - (iii) No. See the response to Interrogatory 2(a) above.
 - (iv) No. See the response to Interrogatory 2(a) above.
 - (v) No. See the response to Interrogatory 2(a) above.
 - (vi) No. See the response to Interrogatory 2(a) above.
 - (vii) No. See the response to Interrogatory 2(a) above.
 - (viii) No. See the response to Interrogatory 2(a) above.
 - (ix) No. See the response to Interrogatory 2(a) above.
- (d)

In response to Interrogatories 2(d) (i)-(x), Section 1.4 of the ARC states that all utilities are obligated to comply with the ARC in dealing with affiliates. We can confirm that the ARC does not apply to any of the dealings of a Utility that does not have affiliates. Because the entities identified in Interrogatory 2(c) above are not affiliates of EWT LP, they each act at arm’s length

with respect to EWT LP, as do the partners of EWT LP act at arm's length with regard to each other. There is therefore no reason for the ARC to apply with respect to those arm's length relationships.

Interrogatory 3 - The East-West Tie Line

Reference:

Cover Letter, pg. 2, Section 2 titled "Designation Process for the East West Tie Line"
Application, Part 4, Transmission Facilities
Application, Part 14, Location of Facilities

Preamble:

- (a) Our concern is that the Applicant has and will have unfair preferential access to confidential system planning and technical information related to the East-West Tie Line that will create an unfair informational advantage.
- (b) One option available to the Board in this licensing proceeding to address this concern would be to add a new term of the Applicant's license that would prohibit the sharing of confidential information or system planning or technical information, or employees that possess this information, between the Applicant and these related entities.
- (c) Our intent is to ensure that Hydro One Networks Inc. and Great Lakes Power Transmission LP are required to share equally all relevant information with all of the participants in the East-West Tie designation process at the same time, and ultimately to ensure that the Applicant does not gain any unfair informational advantage because of its relationship with or reliance upon these incumbent transmitters.
- (d) The following line of questioning is intended to assist the Board in determining whether such a license term is appropriate in the circumstances.

Questions:

- (a) Did Hydro One Inc. or Hydro One Networks Inc. ("Hydro One") discuss its plan with respect to the Applicant with the Ministry of Energy, the OPA or the IESO prior to submitting this application? Did any of these entities express any concerns with this approach in light of Hydro One's role as the dominant incumbent transmitter in Ontario?
- (b) Was Hydro One involved in any discussions with the Ministry of Energy, the OPA, or the IESO relating to the transmission project known as the "East-West Tie Line"? Please describe each such discussions, including the date of the discussion, where it took place, the specific people involved, and the subject matter of the discussions?
- (c) Please provide copies of all correspondence, reports, analysis and other documents prepared or received by Hydro One with the Ministry of Energy, the OPA, or the IESO in connection with the transmission project known as the "East-West Tie Line"?

- (d) Did Hydro One provide any input into or assistance with the OPA Report or the IESO Study?
- (e) Please answer parts (a) – (d) again as it relates to Great Lakes Power Transmission LP.

Responses:**Hydro One**

- (a) This interrogatory is irrelevant to the Application. See the response to TransCanada Power Transmission (Ontario) L.P.'s ("**TransCanada's**") Interrogatory 1.
- (b) This interrogatory is irrelevant to the Application. See the response to TransCanada's Interrogatory 1.
- (c) This interrogatory is irrelevant to the Application. See the response to TransCanada's Interrogatory 1.
- (d) This interrogatory is irrelevant to the Application. See the response to TransCanada's Interrogatory 1.

GLPT

- (e) This interrogatory is irrelevant to the Application. See the response to TransCanada's Interrogatory 1.
- (f) This interrogatory is irrelevant to the Application. See the response to TransCanada's Interrogatory 1.
- (g) This interrogatory is irrelevant to the Application. See the response to TransCanada's Interrogatory 1.
- (h) This interrogatory is irrelevant to the Application. See the response to TransCanada's Interrogatory 1.

Interrogatory 4 – BLP

Reference:

Cover Letter, pg. 2, Section 1 titled “The Applicant”
Application, Part 6, Technical Capabilities and Experience

Preamble:

We are concerned that incumbent transmitters are using their existing relationships with these First Nations communities in an attempt to exclude new entrant transmitters from developing projects along the East-West Tie project corridor.

Questions:

- (a) Is the Applicant’s relationship with the Bamkushwada LP, or any of the six participating First Nations, exclusive?
- (b) To what extent will the six participating First Nations be willing to cooperate with other new entrant transmitters on development of the East-West Tie line?

Responses:

- (a) The Applicant is in no way attempting to exclude new entrant transmitters from developing projects along the East-West Tie project corridor. The question of whether the Applicant’s relationship with Bamkushwada LP, or any of the six participating First Nations, is exclusive is not relevant to the Application. See the response to TransCanada’s Interrogatory 1.
- (b) There is nothing in the structure of the Applicant, or agreements in its formation, which prohibits the six participating First Nations from i) participating in consultation and accommodation with the Crown in respect of the East-West Tie Line; ii) providing information about their communities, history, people and asserted and actual rights to any person for any purpose, or iii) participating in any consultation or negotiating any form of accommodation with a designated transmitter that is not the Applicant.

Interrogatory 5 – Financial resources

Reference:

Cover Letter, pg. 2, Section 3 titled “Technical and Financial Expertise, Experience and Resources”

Application, Part 2, Applicant

Application, Part 11, Financial Information

Preamble:

Since there are multiple limited partners and affiliates, the following series of questions is intended to clarify to what extent the Applicant is relying upon each of its limited partners and affiliates for financial resources. Please provide a distinct answer for each separate legal entity.

Questions:

- (a) To what extent, if any, is the Applicant relying on the financial resources of each of its limited partners or its affiliates to finance the venture? Please describe each limited partner's and affiliate's financial commitment to EWT LP. Please answer for each of:
- (i) Hydro One Inc.
 - (ii) Hydro One Networks Inc.
 - (iii) Great Lakes Power Transmission EWT LP
 - (iv) Bamkushwada LP and each of the six Participating First Nations
 - (v) Great Lakes Power Transmission Inc.
 - (vi) Brookfield Infrastructure Holdings (Canada) Inc.
 - (vii) Brookfield Asset Management
 - (viii) Great Lakes Power Transmission LP
- (b) To what extent is the Applicant's limited partners or affiliates legally obligated to provide necessary financing to EWT LP? For instance, can EWT LP demand additional capital contributions from its limited partners without an obligation to obtain consent, or will additional financing require the consent of the limited partners? In the event of a dispute between the limited partners, what processes are in place to ensure EWT LP can obtain all necessary financing? Please answer for each of:
- (i) Hydro One Inc.

- (ii) Hydro One Networks Inc.
- (iii) Great Lakes Power Transmission EWT LP
- (iv) Bamkushwada LP and each of the six Participating First Nations
- (v) Great Lakes Power Transmission Inc.
- (vi) Brookfield Infrastructure Holdings (Canada) Inc.
- (vii) Brookfield Asset Management
- (viii) Great Lakes Power Transmission LP

Responses:

- (a) In response to Interrogatories 5(a) (i)-(viii), we note that the Board “typically examines the applicant’s financial information to get *some appreciation* of its ability to operate as a transmitter.”¹ EWT LP has filed, with the Application, the financial statements of Hydro One and Great Lakes Power Transmission Inc. It can also confirm that EWT LP will have the ability to raise financing through equity and debt as would typically be done for transmission projects in Ontario. Particular information about how EWT LP relies on the financial resources of the listed entities is irrelevant to the Application. See also the response to TransCanada’s Interrogatory 1.
- (b) See the response to Interrogatory 5(a) immediately above.

¹ See the Board’s Decision and Order in the Chatham-Kent application (EB-2010-0351), at 5. Emphasis added.

Responses to Upper Canada Transmission, Inc.'s Interrogatories

Interrogatory 1 - Corporate organization chart

Reference:

Section 7, paragraph b) of the Transmission License Application Form

Preamble:

Section 7, paragraph b) of the application form requests a copy of a corporate organization chart. EWT LP's response indicates that corporate structure charts have been provided in Appendix 'A' to the application. The version of the application posted on the Board's website does not include an Appendix 'A'.

Request:

Please file a copy of Appendix 'A' on the public record.

Response:

See the response to TransCanada's Interrogatory 15.

Interrogatory 2 – Section 10 of the Application**Reference:**

Section 10 of the Transmission Licence Application Form

Preamble:

Section 10 of the OEB's Transmission Licence Application Form requests, *inter elle*; i) information about each key individual's experience in the electrical transmission business and in the energy field in general; and ii) whether each key individual has been a proprietor, partner, officer or director of a business that was granted a licence under Part IV or Part V of the of the *Ontario Energy Board Act*, 1998. This information is requested by parts of section 10 of the Application Form other than paragraph b) of section 10.

The OEB's Transmission Licence Application Form indicates that, save for the names and positions held, information provided in response to paragraph b) of section 10 of the Transmission Licence Application Form will be kept confidential. The form does not provide that the balance of the information required by section 10 will be kept confidential. EWT LP has not included in its publicly filed material any request for confidentiality for the material outlined above, which material is responsive to parts of section 10 other than paragraph b), as would be required by the OEB's *Practice Direction on Confidential Filings*.

Requests:

- (a) Please file on the public record a version of EWT's application that provides responses to these questions.
- (b) To the extent not included in the application as filed, please describe for each key individual named in the application their current role and responsibilities with any of the partners of EWT LP or any associated entity that holds a licence under the *Ontario Energy Board Act*, 1998.

Responses:

- (a) See the response to TransCanada's Interrogatory 15.
- (b) See the response to TransCanada's Interrogatory 15.

Interrogatory 3 – Expected impact on facilitation of competition

Reference:

Section 17 of Application

Preamble:

Section 17 of the application requests a brief summary of the expected impact of EWT LP's proposal to participate in the OEB's East-West Tie Line Transmission Development Designation Process on, *inter alia*, facilitating competition in the provision of transmission services. EWT LP's response does not address the issue of competition.

Request:

Please provide a brief summary of the expected impact of EWT LP's licencing for the purposes of participation in the East-West Tie Line Transmission Development Designation Process on the facilitation of competition in the provision of transmission services in Ontario

Response:

The Applicant, as an innovative partnership of First Nation, private and public interests, is representative of the different perspectives, best practices and approaches that competition, at its best, fosters. Moreover, it is expected that the licensing of EWT LP will allow a greater number of qualified entrants to participate in the Board's designation process, which can only facilitate a more competitive process.

Interrogatory 4 – Financial information

Reference:

Section 11 of Application

Preamble:

The OEB has stated that in the exercise of its licensing function in transmission licence application cases the Board will consider, *inter alia*, the applicant's apparent financial status and its potential for access to further financial resources. EWT LP has not provided any financial information in response in section 11 of its application that indicates how the applicant would be capitalized and financed in order to develop a transmission project.

Requests:

- (a) Please provide information on EWT LP's financial resources, including its access to the financial resources of each of its partners.
- (b) Please provide information on EWT LP's plans for capitalizing and financing the East—West Tie transmission project should EWT LP be successful in the upcoming designation process, and the role each of EWT LP's partners might play in such capitalization or financing.

Responses:

- (a) See the response to AltaLink Interrogatories 5(a) and (b).
- (b) See the response to AltaLink Interrogatories 5(a) and (b).

Interrogatory 5 – Bumkushwada L.P.

Reference:

Section 9a of Application

Preamble:

The application notes [section 9a)] that the traditional territories of the six limited partners in Bumkushwada L.P. lie along the East-West Tie Line project corridor. As such, and as recognized by the OEB's G-2010-0059 *Filing Requirements: Transmission Project Development Plans* (page 10), all other applicants for designation to develop the East—West Tie Line will have a legal duty to consult and, as appropriate, accommodate the Bumkushwada partner communities.

Requests:

- (a) Please file a copy of the EWT LP partnership agreement, and any other agreements involving Bumkushwada L.P. or its partner communities that might affect the ability of the partner communities to participate in consultations and, as appropriate, accommodations with other proponents for the East-West Tie Line project.
- (b) Please confirm that neither Bumkushwada L.P. nor any of its constituent partners or their communities is commercially or contractually constrained, by virtue of their involvement in EWT LP, from entertaining full consultations with UCT or any other East-West Tie transmission development proponents.
- (c) Please confirm that neither Bumkushwada L.P. nor any of its constituent partners or their communities is commercially or contractually constrained, by virtue of their involvement in EWT LP, from participating in a transmission development project with another proponent should such other proponent be successful in the upcoming East-West Tie Line development designation process.

Responses:

- (a) See the response to AltaLink Ontario L. P.'s (**AltaLink's**) Interrogatory 4(b) with respect to the ability of the participating First Nations to participate in consultation and accommodation. EWT LP's partnership agreement and any other agreements of its partners are not relevant to the Application; see the response to TransCanada Interrogatory 1.
- (b) Confirmed.
- (c) See the response to 5(a) above.

Responses to TransCanada Power Transmission (Ontario) L.P.'s Interrogatories

Global Preamble:

The evidence states that the technical expertise of the applicant's affiliates, Hydro One Networks Inc. ("HONI") and Brookfield Asset Management ("Brookfield") (collectively the "Utilities") "provides the Applicant with a very high level of technical capability, expertise and experience with respect to the activities that are associated with the Application."

Interrogatory 1 – Development of East-West Tie

Request:

Please advise when one or both of the Utilities first considered developing the East-West Tie.

Response:

This interrogatory is not relevant to the Application. In addition, as noted herein, many of the other interrogatories of TransCanada, AltaLink and Upper Canada Transmission, Inc. ("UCT") request information that is irrelevant to the Application. Further to the reasons below, EWT LP will not be providing responses to the interrogatories noted below (and cross-referenced to this response) on the basis that they are irrelevant to the Application and prejudicial to EWT LP's participation in the designation proceeding.

The Board has been consistent in all of its Decisions and Orders with respect to the transmission license applications of those persons wishing to qualify for and participate in a designation process, some of whom have submitted interrogatories in this Application. In particular, in these Decisions and Orders, the Board has determined that transmission licensing is a "threshold qualification step".²

In the circumstances, the Board has specified its threshold for reviewing an entrant transmitter's licence application: "[t]he key areas reviewed by the Board in any licence application are the financial position, technical capability and conduct of an applicant."³ The Board has clearly stated that this review will not be an exhaustive assessment of financial capacity and technical capability, but rather "a preliminary review" of the applicant in these respects.⁴ With respect to an applicant's financial position, the Board "typically examines the applicant's financial information to get *some appreciation* of its ability to operate as a transmitter."⁵ The Board has

² See the Board's Decisions and Orders in the Chatham-Kent Transmission Inc. ("Chatham-Kent") licence application (EB-2010-0351), page 7. See also the Iecon Transmission Inc. ("Iecon") license application (EB-2010-0403), pages 3-4 (regarding the "threshold qualification step"); the TransCanada license application (EB-2010-0324) (regarding the Board's "preliminary review" of an applicant's financial and technical capacities), page 7; and the AltaLink license application (EB-2011-0126), page 3 (regarding the "threshold qualification step").

³ See the Board's Decision and Order in the transmission licence applications of TransCanada, AltaLink and Iecon (EB-2010-0324, EB-2011-0126 and EB-2010-0403, respectively).

⁴ See the Board's Decision and Order in TransCanada's licence application (EB-2010-0324), page 7.

⁵ See the Board's Decision and Order in the Chatham-Kent application (EB-2010-0351), at 5. Emphasis added.

found it sufficient for the applicant to have provided recent audited financial statements for a parent company where the applicant was newly created and without its own financial statements at the time.⁶ The Board has also found the ability to access capital was sufficient evidence of the applicant's financial position, and that the financial viability of an applicant's development of a particular project was not the focus of the licensing process.⁷

With respect to an applicant's technical capability, the Board will examine the information provided "to assess *at a preliminary stage* its ability to execute a predictable range of transmission development projects."⁸ The Board has considered suitable evidence that applicants or their affiliates have constructed transmission lines in other jurisdictions.⁹ In the Chatham-Kent Application, the Board found Chatham-Kent Transmission Inc. ("**Chatham-Kent**") to have sufficient technical capability through its access to qualified personnel.¹⁰ In its Decision and Order in the AltaLink licence application (the "**AltaLink Application**"), the Board determined that detailed technical information, including regarding landowner and First Nations and Métis relations and cost and schedule outcomes, was unnecessary to demonstrate the technical capability of the applicant.¹¹

With respect to their conduct, applicant transmitters are also required to confirm that they have not previously had a licence or permit revoked and are not currently under investigation by any regulatory body.¹²

Thus, the Board has clearly established that the transmitter licensing process is meant only as a threshold qualification process to help the Board undertake a preliminary review of the applicant's financial position, technical capability and past conduct. According to the Board, the licensing process is not meant to "endorse the applicant's technical and financial capabilities in relation to the development of a specific transmission project."¹³ According to the Framework, the Board will only undertake that more detailed assessment during its designation process.¹⁴

The noted interrogatories are inconsistent with the Board rulings on the purpose of the transmitter licensing process. To varying degrees, the noted interrogatories request information

⁶ See the Board's Decision and Order in the Icon application (EB-2010-0403), at page 4.

⁷ See, for example, the Board's Decision and Order in the Chatham-Kent application (EB-2010-0351), at page 7-8; See the Board's Decision and Order in the Icon application (EB-2010-0403), at page 4

⁸ See the Board's Decision and Order in the Chatham-Kent Application, at page 5. Emphasis added.

⁹ See the Board's Decision and Order in the Icon application (EB-2010-0403), at page 3; see also the Board's Decision and Order in the AltaLink application (EB-2011-0126), at page 3.

¹⁰ See the Board's Decision and Order in the Chatham-Kent application (EB-2010-0351), at page 7.

¹¹ See the Board's Decision and Order in the AltaLink application (EB-2011-0126), at page 4.

¹² See the Board's Decision and Order in the TransCanada application (EB-2010-0324), at page 7.

¹³ See the Board's Decision and Order in the AltaLink application (EB-2011-0126), at page 4; the Board's Decision and Order in the Icon application (EB-2010-0403), at page 4; and the Board's Decision and Order in the TransCanada application (EB-2010-0324), at page 7.

¹⁴ See the Board's Decision and Order in the TransCanada application (EB-2010-0324), at page 7; and the Board's Decision and Order in the Chatham-Kent application (EB-2010-0351), at page 5.

through the EWT LP licence proceeding that is not relevant to the Board's threshold licence considerations. Instead, those interrogatories seek to obtain disclosure of information that (1) should be considered in the designation proceeding and not in the licence proceeding; and (2) should be provided by any party only after the filing requirements of the designation process are made clear.

In this regard, if such interrogatories were allowed, it would be possible for the intervening transmitters to secure an unfair informational advantage over EWT LP as there is not yet a full understanding from the Board as to the scope of the disclosure required from the participants in the designation process or to the filing requirements in general. If any of the information sought by the intervenors was disclosed by EWT LP, even despite the irrelevance of this information to the licensing process, it could be used to inform and facilitate filings in the designation proceeding. To require EWT LP to provide the requested information in the licensing proceeding would give an undue advantage to the intervening transmitters. This is contrary to the Board's approach to the licensing proceeding. The Board has found that it is important that no applicant for designation have an unfair advantage over other applicants in that process.¹⁵

Based on the foregoing, certain interrogatories made by the intervenors are irrelevant for the purpose of the licence proceeding and prejudicial to EWT LP in respect of the designation proceeding. Such interrogatories should not be considered in this licensing proceeding, nor should they be considered, if at all, until the process and filing requirements of the designation proceeding are known and fairly applied to all participants.

¹⁵ See, generally, the Board's Decision and Order in the AltaLink application (EB-2011-0126), at page 8.

Interrogatory 2 – Resources invested in East-West Tie

Request:

Please advise of all the resources invested by each of the Utilities in their consideration of the East-West tie on an annual basis, starting with the time that one or both of the Utilities first considered developing the East-West Tie. Resources include direct costs such as consultant and other third party costs as well as indirect costs, such as staff time.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 3 – Materials prepared or collected prior to formation of EWT LP**Request:**

Please provide copies of all materials in the Utilities' possession respecting the development of the East-West Tie that was prepared or collected prior to the formation of EWT.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 4 – Agreements respecting technical, financial and other support**Request:**

Please provide copies of all agreements between the Utilities, and any of the Applicant, BLP and Participating First Nations respecting the technical, financial, and other support that the Utilities are making available to the Applicant.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 5 – Notes, memoranda and correspondence

Request:

Please provide copies of all notes, memoranda, and correspondence, including correspondence with the government and public agencies, including the OEB, the IESO and the OPA (including e-mails and transcriptions of voice mail messages) which relates to the East-West tie project, including the support that the Utilities will grant to the Applicant, BLP and the Participating First Nations for that project.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 6 – Cost accounting

Request:

Please provide an accounting of all costs expended by the Utilities for studies, analysis, stakeholdering, etc. on the East-West tie project. The determination of costs should indicate how the overhead costs of the Utilities are allocated to the East-West tie project.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above. In addition, the Board had determined in its Framework for Transmission Development Plans that costs will be dealt with at a later date.

Interrogatory 7 – Personnel and consulting staff**Request:**

Please identify the personnel and consulting staff of the Utilities that have been involved in the East-West Tie project and how much time and other resources were invested in that involvement.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 8 – Compensation for Utilities

Request:

Please provide copies of all materials, including cost allocation studies and any other materials which address how the Applicant has and will compensate the Utilities for the support that they have provided and will provide to the East-West tie project.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 9 – Costs included in deferral accounts

Request:

Please provide copies of all materials, including cost allocation studies and any other materials which address how the Utilities determine which costs were included in their deferral accounts respecting the East-West tie project.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 10 – Differentiation of costs incurred**Request:**

In responding to this information, please differentiate all costs that were incurred by the Utilities both prior and subsequent to the opening of deferral accounts respecting the East-West tie project.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 11 – Materials provided by Utilities**Request:**

Please provide copies of all materials that the Utilities have provided to the Applicant, BLP and Participating First Nations respecting the East-West tie project.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 12 – Agreements and correspondence with Participating First Nations

Preamble:

The evidence states that BLP “has a high level of experience and expertise with respect to the geographic area and environmental attributes”.

Request:

Please provide all agreements between and correspondence among the Utilities, BLP and the Participating First Nations.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada’s Interrogatory 1 above. In addition, the statement quoted in the Preamble relates to the experience and expertise of BLP, not to its contractual arrangements.

Interrogatory 13 – Compensation provided to BLP and Participating First Nations**Request:**

Please advise of any compensation and other consideration that the Utilities have provided to BLP and the Participating First Nations.

Response:

This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above.

Interrogatory 14 – Contracting out activities

Reference:

Section 9 (a) of the Licence Application

Preamble:

Section 9 (a) of the Licence Application form indicates that a number activities will be contracted out.

Request:

- (a) With respect to Design and Construction, the application form states that the Applicant's "current intention" is to contract with a third party through a procurement process.
 - (i) Please advise whether the Utilities will be eligible to participate in the procurement process.
 - (ii) Please confirm that EWT will advise the Board and the parties if its current intention changes.
- (b) With respect to Operation, the application form states that the Applicant's current intention is to contract system operations to HONI.
 - (i) Please provide a copy of any arrangement with HONI respecting system operations, including an operations agreement and any other document.
 - (ii) Please request HONI to confirm that it will provide operation services to any party that is designated to develop this line on the same terms as it would provide to the Applicant.
- (c) Please advise whether either of the Utilities have been or will be involved in preparing regulatory materials for the designation application and, if so, to provide specifics of their involvement.

Responses:

- (a)
 - (i) EWT LP's current intention is to establish a procurement process in which suitably qualified and experienced third parties may be invited to participate. The process will include appropriate eligibility criteria based on the services being procured. In EB-2011-0126, the Board determined that detailed information

about the development of a specific project was best suited for the designation process.¹⁶

- (ii) EWT LP will advise the Board if it intends to amend the Application.
- (b)
- (i) This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above. In any event, no such arrangement exists at this time.
 - (ii) Hydro One Networks Inc. is free to enter into agreements with arm's length parties on the terms and conditions mutually agreeable to Hydro One and such parties.
- (c) This interrogatory is not relevant to the Application. See the response to TransCanada's Interrogatory 1 above. In particular, the Board has indicated that the development of a particular project is not the focus of the licensing process.¹⁷ In any event, the form and substance of any filings by EWT LP pursuant to the designation process will be subject to the approval of EWT LP's general partner, East-West Tie Inc.

¹⁶ See the Board's Decision and Order in the AltaLink application (EB-2011-0126), at page 4.

¹⁷ See, for example, the Board's Decision and Order in the Chatham-Kent application (EB-2010-0351), at page 7-8; See the Board's Decision and Order in the Iacon application (EB-2010-0403), at page 4

Interrogatory 15 – Redacted information

Reference:

Section 10 of the Application

Preamble:

Section 10 of the application provides information about each key individual that has been redacted.

Request:

Please confirm whether the Board has ordered that this information be kept confidential and, if the Board has not so ordered, please provide an unredacted version of the application that includes this information.

Response:

Section 2 of the Application Instructions states that the “Board shall keep confidential the information in Item 10, Section B of this form, with the exception of the names and positions held of key individuals. All other information filed as part of this application will be considered public.” According to the Application Instructions, EWT LP sent a completed application form and two hard copies of all attachments to the Board. EWT LP did not make any request for the confidential treatment of this information, although it did understand that the information in Item 10, Section B of the application form would be kept confidential, except for the names and positions of key individuals. We have been informed that the reference to Item 10, Section B in the Application Instructions is to the whole of Item 10, including paragraphs a) to c), within Section B (Corporate Information) of the Application Form. We understand that in posting the Application on its website, the Board posted a version where all of Item 10 was redacted except for the names and positions of key individuals, which is in accordance with the Application Instructions. We also understand that the version posted electronically on the Board’s website did not contain all of the attachments that were filed by EWT LP in hard copy. We have requested that the Board repost the Application, including all of the attachments, on its website. EWT LP has also now posted a comprehensive version of the Application on its own website (except for the confidential information in Item 10, Section B), as the previously posted version used the same abridged version that the Board had posted.

Interrogatory 16 – Financial statements

Preamble:

The evidence includes financial statements of the Utilities.

Request:

Please provide financial statements of BLP and Participating First Nations.

Response:

BLP was established as an investment vehicle for the Participating First Nations. It does not yet have financial statements. Going forward, the Participating First Nations will invest equity in BLP as they see fit. In any event, any financial statements of BLP and the Participating First Nations are irrelevant to the Application. EWT LP's application included financial statements of Hydro One and Great Lakes Power Transmission Inc., which are sufficient to show the existence of financially solvent companies behind EWT LP.¹⁸

¹⁸ For the sufficiency of such financial statements for the purposes of an entrant transmitter's license application, see the Board's Decision and Order in the Chatham-Kent application (EB-2010-0351), at page 7-8; see also the Board's Decision and Order in the Iacon application (EB-2010-0403), at page 4