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VIA RESS FILING and COURIER

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

Dear Ms. Walli

Re: EWT LP Application for an Electricity Transmission Licence (EB-2011-0350)
Motions filed by TransCanada Power Transmission (Ontario) L.P. and AltaLink Ontario L.P.
Submissions on behalf of Power Workers' Union, an Intervenor

We act as counsel to Power Workers' Union, an Intervenor in the above-noted proceedings.

Pursuant to Procedural Order No. 2 issued by the Board on December 22, 2011, the Board ordered that Board staff and intervenors could file written submissions in relation to the motions filed by the moving parties, by January 24, 2012. The submissions of Power Workers' Union were prepared and were intended to be filed with the Board electronically on January 24, 2012. Through inadvertence, however, the filing was not completed.

We have attached the PWU's submissions, and would request that the Board allow same to be filed late, both through *RESS* filing and by hard copy courier delivery.

Please feel free to contact the writer, should you have any questions.

Thank you in advance for your assistance with regard to the above request.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Original signed by

Richard P. Stephenson

RPS:jr

encl.

cc: J. Kwik

cc: All Participants

Doc 812274v1

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

AND IN THE MATTER OF an application under section
60 of the *Ontario Energy Board Act, 1998* for an
electricity transmission licence.

AND IN THE MATTER OF motions filed by (EWT LP -
Application for Electricity Transmission Licence and
Notices of Motion Filed by TransCanada Power
Transmission (Ontario) L.P. ("TransCanada"), Upper
Canada Transmission, Inc. ("Upper Canada") and
AltaLink Ontario L.P. ("AltaLink"))

SUBMISSIONS OF THE POWER WORKERS' UNION

I. INTRODUCTION

1. On September 20, 2011, EWT LP filed an application with the Ontario Energy Board ("OEB" or "Board"), under section 60 of the *Ontario Energy Board Act, 1998* for an electricity transmission licence.

2. EWT LP is a newly formed Ontario limited partnership and currently has no existing transmission assets in Ontario. The purpose of EWT LP's application is to participate in the Board's designation process for the East-West Tie ("EWT") line pursuant to EB-2011-0140 and the intended business activity is to plan, develop, construct, own, operate and maintain transmission facilities in the province of Ontario. The granting of this licence would therefore enable EWT LP to transmit electricity in Ontario. The limited partnership interests in EWT LP are held equally by each of the Applicant's three limited partners: Hydro One Inc. ("Hydro One"), Great Lakes Power Transmission EWT LP ("GLPT-EWT LP") and Bamkushwada L.P. ("BLP"). The general

partner of EWT LP is East-West Tie Inc., of which Hydro One, GLPT-EWT LP and BLP are equal shareholders.

3. Hydro One's largest subsidiary is Hydro One Networks Inc. ("HONI"), which is currently a licenced electricity transmitter in Ontario and is wholly-owned by Hydro One. GLPT-EWT LP is a newly formed limited partnership whose general partner is Great Lakes Power Transmission Inc. ("GLPT"). All of the shares of the general partner, GLPT, as well as all of the limited partnership interests in GLPT-EWT LP, are held by Brookfield Infrastructure Holdings (Canada) Inc. ("BIH"), which is indirectly controlled by Brookfield Asset Management ("Brookfield"). GLPT is also the general partner of Great Lakes Power Transmission L.P. ("GLPTLP"). GLPTLP, through general partner GLPT, is currently a licenced electricity transmission company in Ontario. BLP is a newly formed limited partnership whose general partner is Bamkushwada General Partner Inc. ("BGP"). Shares of BGP, as well as the limited partnership interests in BLP, are held equally by six limited partners: Red Rock Indian Band, Pays Plat First Nation, Ojibways of Pic River First Nation, Pic Mobert First Nation, Michipicoten First Nation and Fort William First Nation (together, the "Participating First Nations").

4. On November 21, 2011 AltaLink Ontario L.P. ("AltaLink"), TransCanada Power Transmission (Ontario) L.P. ("TransCanada" or "TPT") and Upper Canada Transmission, Inc. ("Upper Canada") filed their respective interrogatories and EWT LP filed its interrogatory ("IR") responses on December 5, 2011.

5. On December 12, 2011, counsel for TransCanada filed a Motion for an Order of the Board requiring EWT LP to provide responses to certain interrogatories filed by TransCanada, or in the alternative, for an Order of the Board to make information and resources, respecting the EWT line that incumbent utilities (HONI and GLPT) acquired in the process of providing utility services, available for use by the Board and other parties in the East-West Tie Designation Process (EB-2011-0140) ("EWT Designation Process").

6. On December 13, 2011, counsel for Upper Canada filed a Motion for an Order of the Board requiring EWT LP to provide further and better responses to certain interrogatories filed by Upper Canada.

7. On December 15, 2011, counsel for AltaLink also filed a Motion for an Order of the Board requiring EWT LP to provide further and better responses to certain interrogatories filed by AltaLink, or in the alternative, for an Order of the Board to add issues raised by the intervenors in this proceeding to the formal issues list in the EWT Designation Process.

8. On December 22, 2011, the Board issued Procedural Order No. 2 indicating that it will conduct a written hearing on the Motions filed by TransCanada, Upper Canada and AltaLink (the “Moving Parties”).

II. INTERROGATORIES THAT ARE THE BASIS FOR THE MOTION

9. The Power Workers’ Union (“PWU”) notes that the basis for the Motions filed by the Moving Parties is the Applicant’s refusal to respond, or fully respond to certain interrogatories that the moving parties argue are relevant to this application. As can be seen from the IR responses in question, the main reason for the Applicant’s refusal to respond to certain interrogatories is that they are irrelevant to the current Application. It is the Applicant’s view that the interrogatories are either untimely in the sense that they relate to the actual process of designation, the level of information disclosure is not yet clearly determined by the Board or are irrelevant given the organizational structure of the Applicant and the precedent the Board has set in approving transmission licence applications involving other transmitters including the Moving Parties prior to the current application.

10. In the PWU’s view, it is important for the Board to examine the type and nature of the interrogatories (see Appendix A of this submission) that the Applicant globally viewed as irrelevant, in order to determine whether or not the Motions have any basis.

III. GROUNDS FOR MOTION

11. The Moving Parties have identified a number of grounds for their Motions. In the PWU's view, the four grounds identified by TransCanada are representative of the grounds for the Motions filed by the Moving Parties:

1. **The applicant EWT was created and funded by and under the control of the Incumbent Utilities**
2. **The Incumbent Utilities have been using rate payer funded resources to acquire information and resources respecting the East-West transmission project for several years and have refused to answer any interrogatories that asked about how the Incumbent Utilities intend to share that information and resources with EWT or any other party.**
3. **The Board has structured the Transmission Designation Process to be a fair and open competition among potential transmitter providers. This necessarily involves addressing the treatment of utility information, resources and services that the Incumbent Utilities acquired in the course of providing utility services.**
4. **The Incumbent Utilities have structured EWT to be beyond the reach of the Affiliate Relationships Code for Electricity Distributors and Transmitters (the "ARC"). However, consistent with the Board's practice of imposing preconditions respecting the participation of utilities in contestable businesses, the Board can meet the purposes of the ARC by imposing conditions on TPT's transmission licence, including those enumerated in s. 70(1)(f) of the OEB Act, 1998.**

IV. PWU'S COMMENT ON THE GROUNDS FOR MOTION

- 1) The applicant EWT was created and funded by and under the control of the Incumbent Utilities.**

12. The Moving Parties' claim that the Applicant (EWT LP) is "under the control of the incumbent utilities" is not supported by the facts surrounding the organizational structure of EWT LP. It appears that the major concern of the Moving Parties related to the organizational structure of EWT LP is that such a structure could allow the Applicant to be beyond the scrutiny by the Board under the ARC licence requirements. There are two issues related to this concern.

13. First, the Moving Parties have asked a number of questions intended to clarify their understanding of how the ARC licence requirements will apply in light of the Applicant's 'unique organizational structure' (see: AltaLink's IR #2). The Applicant's response indicates that the manner in which it is structured means that the definition of "Affiliate" under the ARC is not applicable to it and that the incumbent utilities are not in control of the Applicant:

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.¹

14. The PWU submits that it is not appropriate, in the context of an individual licence application, for the Board to revisit or revise the provisions of the ARC. By its nature, the ARC is a code of general application for transmitters and distributors. It deals with issues of a systemic nature, affecting all transmitters and distributors. For this reason, there is a mandatory and well defined process for making and revising such codes, allowing all interested stakeholders the opportunity to have input. To the extent that the moving parties are urging a *de facto* and *ad hoc* variation of ARC definitions as a basis for their motions, the motions should be dismissed.

15. Second, the Applicant is not seeking any exemptions from any licence or code requirements in connection with the Application. The basis for the Applicant's decision not to seek any exemption at this point is the Board's decision with respect to the

¹ Responses to AltaLink Ontario L.P.'s IR # 2a, b, c (page 8 of 14).

electricity transmission licence applications from TransCanada Power Transmission (Ontario) L.P., Iccon Transmission Inc. and AltaLink Ontario Management Ltd. on behalf of AltaLink Ontario L.P. in which the Board found that no exemptions are needed to reflect the Board's regulatory codes, rules, guidelines and standard licence conditions until the applicant actually owns or operates transmission facilities in Ontario. EWT LP is a new entity and does not own or operate any facilities in Ontario at present. In this respect, the issue is whether there are any reasons for the Board to treat the Applicant differently in view of these precedents.

- 2) The Incumbent Utilities have been using rate payer funded resources to acquire information and resources respecting the East-West transmission project for several years and have refused to answer any interrogatories that asked about how the Incumbent Utilities intend to share that information and resources with EWT or any other party.**

16. Here again, the Moving Parties' concern appears to emanate from their misunderstanding of the Applicant's relationships with HONI and GLPT LP. As can be inferred from AltaLink's Motion, for example, their perception of the relationship between the Applicant and HONI/GLPT LP is in turn the source of their concern that the Applicant might have preferential access to information with respect to the EWT line project:

The concern that underlies our next set of questions arises because of the Applicant's reliance upon and relationships with Hydro One Networks Inc. and Great Lakes Power Transmission LP. 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 because no other participant in the EB-2011-0140 will have access to such information.²

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.³

² AltaLink Notice of Motion, Exhibit "A", page 7, AltaLink IR #3, Background, paragraph 3.

³ AltaLink Notice of Motion, Exhibit "A", page 7, AltaLink IR #3, Background, paragraph 5.

17. It is possible and perhaps expected that the incumbent transmitters (HONI and GLPT) have information and knowledge with respect to the EWT line by virtue of being the incumbent transmitters. For example, as discussed below, it is on the public record that HONI has incurred some Development OM&A cost for research and development related to the EWT line. However, it should be noted that HONI was required to undertake this work as the incumbent transmitter responsible for implementing government policy and that it did so only after obtaining approval from the Board.

18. An important background to this issue is HONI's 2009/2010 Transmission Revenue Requirement & Rate Application (EB-2008-0272), filed On September 30, 2008. In that application, HONI requested a Deferral Account to record Hydro One's costs of preliminary work to advance 18 transmission related projects identified by the Ontario Power Authority in the Integrated Power System Plan and for the proposed Darlington "B" generating station. At the time the EWT project was not one of the 18 projects. In any case, the Board approved HONI's request emphasizing the public interest nature of the development work whose costs were being recorded in these accounts:

An important consideration in this specific request is that Hydro One's activities are clearly driven by current Ontario energy policy. Hydro One itself is not the driver behind these expenditures; as the largest transmission utility in the Province, it is responding to the policy drive by the Ontario government to meet certain objectives regarding new generation.⁴

19. By letters dated December 3, 2009 and December 15, 2009 Hydro One requested that the Board expand the scope of the Deferral Account approved in EB-2008-0272 to include Development OM&A costs associated with 14 additional projects, the East-West-Tie (Nipigon x Wawa) project (with \$11.6M in Development OM&A cost proposed) being one of them (EB-2009-0416). The Board approved the request:

The application is approved....The Board is satisfied that Hydro One may be required to undertake significant incremental work. CME, Energy Probe, VECC and CCC raised legitimate concerns, but the Board concludes that these matters can be addressed when the time comes to determine the prudence of the amounts recorded in the account. To assist in that review, the Board expects Hydro One to track its costs so as to be able to report expenditures on a project-specific basis.⁵

⁴ EB-2008-0272 Decision with Reasons, issued May 28, 2009, page 59.

⁵ EB-2009-0416 Decision and Order, issued March 25, 2010, page 4.

20. What should be noted is that the Board's EWT Designation Process came to existence only *after* the Board received a letter from the Minister of Energy dated March 29, 2011 expressing an interest in having the Board undertake a designation process to select the most qualified and cost-effective transmission company to develop the EWT line. The EWT is one of the priority transmission projects identified in the Long Term Energy Plan. On August 22, 2011 the Board issued a letter announcing a designation process for the EWT and inviting transmitters to register to participate.

21. It is clear that the incumbent transmitters cannot be faulted for acquiring any knowledge/information about the EWT project prior to EB-2011-0140 since it was a licence condition that required them to do preliminary study on the project consistent with government policy. The simple fact is they cannot undo what they have done and they cannot unlearn what they have learned about the project in carrying out the work required of them by the Board.

22. The relevant question is whether, in the review of its transmission licence, EWT LP should be treated as if it were an 'incumbent' because HONI and GLPT LP might have prior knowledge about the EWT, and if so, whether its transmission licence application should be subjected to different treatment than other applicants have been subject to. The PWU submits that EWT LP should not be treated differently just because HONI (Hydro One) and GLPT have shares in EWT LP's general partner – EWT Tie Inc.

23. To the extent there are concerns that the Applicant might have access to information that HONI and GLPT have that could give it an advantage over other transmitters participating in the designation process, the issue of when and what information should to be shared is a matter that should be dealt with at a later stage – (i.e. a designation application) and not in this application.

24. As a matter of fact, the Board has already started addressing these concerns in EB-2011-0140. On December 22, 2011, the Board sent a letter to HONI and GLPT requesting certain information from Ontario's major incumbent electricity transmitters (the "Information Request"). The Information Request asks the following:

Given your status as Ontario's major incumbent electricity transmitters, please provide to the Board a complete description of any rules, policies, practices, IT infrastructure and other protocols that you have in place to ensure that any information and resources that you have developed or acquired relevant to the development of the East-West Tie Line cannot be accessed by any registered transmitter. In addition, please describe the protocols you have developed (or propose to develop) regarding the sharing of information necessary to prepare an application for designation with all registered transmitters.⁶

25. On January 9, 2012, both Hydro One and GLPT responded to the Board's Information Request. Hydro One indicated⁷ that it has identified specific employees to work on the Application for Designation and has issued a mandatory Directive to those employees. The Directive instructs that all inquiries are to be made through the Board and not through the normal internal resources. A second mandatory Directive was sent to all other relevant employees that will be working on inquiries from all registered transmitters which instruct internal resources to direct all inquiries to the Board – even if the inquiry originates from Hydro One. Both Directives outline the requirement for all Hydro One employees to follow the Directives and avoid providing EWT LP with any unfair advantage throughout the process for East-West Tie Designation. Both Directives (and an errata sheet) are attached with this response. Similarly, GLPT has confirmed its commitment to a consistent and fair transmission designation process for all transmitters that are submitting designation applications adding that "to prevent any Designation Participant from gaining an unfair advantage in the designation process through GLPT's role as incumbent transmitter, GLPT has established various protocols to manage the information GLPT has with respect to its existing transmission system and the existing East-West Tie".⁸

⁶ EB-2011-0140 – East-West Tie Designation Process, Information request-Board Letter to Hydro One Networks Inc. and Great Lakes Power Transmission L.P., December 22, 2011.

⁷ EB-2011-0140-East West Tie Designation Process, Hydro One's Response to Board's Information Request, January 9, 2012.

⁸ EB-2011-0140-East West Tie Designation Process, GLPT's Response to Board's Information Request, January 9, 2012.

26. The PWU notes that AltaLink, in its Additional Motion Submissions, expresses concern that Hydro One and GLPT's responses to the Board's Information Request address issues relating to the Information Sharing Protocols but fail to provide complete response in regards to the Unfair Access Rules. In the PWU's view, the responses provide the Board with the assurance that it seeks that the incumbent utilities have, or intend to put in place all the necessary protocols to ensure that the EWT Designation Process is fair and competitive.

27. The more substantive point to make here, however, is the fact that the Board issued the Information Request as part of EB-2011-0140. This reinforces the PWU's position that the interrogatories submitted by the Moving Parties are not relevant to the current Application. Should the Board find Hydro One and GLPT's responses to its Information Request insufficient, presumably it would not hesitate to make sure that the incumbent transmitters disclose all information that it deems appropriate as part of EB-2011-0140. The adequacy of Hydro One's and GLPT's mechanisms for dealing with this issue may well be a proper subject matter for review in EB-2011-0140. It is not a proper subject matter for this proceeding.

28. Even assuming that the Board at some point determines that HONI and GLPT or EWT LP should disclose information as part of the EWT Designation Proceeding, the question of whether HONI and GLPT should be required to disclose information beyond what is already on the public record would need to be addressed. As is common in any application before the Board such as in rate applications, utilities are required to disclose information relevant to the application either publicly or in confidence after confidentiality agreements are signed by participating parties. In this respect, it is necessary for the Board to note that some of the interrogatories filed by the Moving Parties and which the Applicant declined to respond to are not only irrelevant in this proceeding, but are also commercially and strategically sensitive information, the disclosure of which could be very damaging to its business. This reinforces the Applicant's argument that until the Board decides on the scope of information that

participants in EB-2011-0140 need to disclose, the Applicant should not be required to respond to the interrogatories in question. This is true even under a different scenario- even if the Applicant were Hydro One or GLPT as a standalone entity.

3) The Board has structured the Transmission Designation Process to be a fair and open competition among potential transmitter providers. This necessarily involves addressing the treatment of utility information, resources and services that the Incumbent Utilities acquired in the course of providing utility services.

29. The Board has clearly articulated its desire for the Transmission Designation Process to be fair and open to competition and its intent to encourage new entrants. However, in the PWU's view, an examination of the interrogatories listed in Appendix A of this submission reveals the Moving Parties' misinterpretation of "fair and open competition" with respect to the Transmission Designation Process. Fair and open competition should be understood to mean fair, open and non-discriminatory to all transmitters that wish to participate in the EWT Designation Proceeding regardless of whether they are intervening in the current application or not. More importantly, it should be up to the Board to first make a determination on the type and amount of information that an entity is expected to disclose in order to render the process open and fair. That determination, which presumably will be part of the actual Designation proceeding, has therefore yet to be made. Disclosing information prior to such a determination and in an entirely separate proceeding could result in the Applicant providing confidential and commercially/strategically sensitive information that the Board might find to be unnecessary in the future. As the Applicant points out below, that could put it at a disadvantage:

...if the 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 licencing proceeding.

The Board has found that it is important that no applicant for designation have an unfair advantage over other applicants in that process.⁹

- 4) The Incumbent Utilities have structured EWT to be beyond the reach of the Affiliate Relationships Code for Electricity Distributors and Transmitters (the “ARC”). However, consistent with the Board’s practice of imposing preconditions respecting the participation of utilities in contestable businesses, the Board can meet the purposes of the ARC by imposing conditions on TPT’s transmission licence, including those enumerated in s. 70(1)(f) of the OEB Act, 1998.

30. It is true that Section 70 of the *OEB Act, 1998* states that a licence may contain such other conditions as are appropriate having regard to the objectives of the Board and the purposes of the *Electricity Act, 1998*. Section 70 (1) (f), for example, indicates that the condition of a licence may require the licensee to maintain specified accounting records, prepare accounts according to specified principles and maintain organizational units or separate accounts for separate businesses in order to prohibit subsidies between separate businesses.

31. The real question for the Board, however, is whether there is any compelling basis for imposing conditions on the licence requested by the Applicant. The Applicant’s position is that its organizational structure and hence its future operations will be compliant with the Board’s ARC. It is well understood that the Board is sensitive to the issue of affiliate relationships and has carefully crafted the ARC to deal with that concern. If the Board was at all concerned about relationships broader than those captured by the ARC as currently drafted, i.e., if the Board felt that there is an ‘oversight’ in the current ARC, the appropriate manner to address the concern is to revise the Code in a separate process with participation from all interested parties. The fact of the matter is that in this particular case there is no convincing reason that justifies imposing conditions on the requested for licence because the ARC as currently drafted is sufficient to address concerns about affiliate relationships.

⁹ EWT LP Response to TransCanada Power Transmission (Ontario) L.P.’s IR #1, page 4 of 20.

V. CONCLUSION

32. The PWU submits that while the specific project underpinning EWT LP's application for a transmission licence is the EWT line project, the Application itself is not for designation for the EWT line, the specifics of which will be determined through the Board's designation process. Rather, the Application is for a transmission licence, which as per the Board's Policy in EB-2010-0059, is a requirement to participate in the designation process.¹⁰

33. EWT LP is a new entrant that is currently not engaged in transmission activity in Ontario. In this regard, the only relevant evaluation the Board should make is with respect to the Applicant's financial viability and technical capability to undertake transmission activity in Ontario. In fact, the Board's most recent Decisions and Orders with respect to the transmission license applications of parties wishing to qualify for and participate in a designation process indicate that even this evaluation would not be an exhaustive assessment of financial capacity and technical capability, but rather —"a preliminary review of the applicant in these respects".¹¹ As the Applicant correctly observes in its response to interrogatories, 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.¹²

34. The PWU submits that certain interrogatories (Appendix A) of the Moving Parties are irrelevant for the purpose of the licence proceeding and may be prejudicial to EWT LP in respect of the designation proceeding. These interrogatories should not be considered, if at all, until the process and filing requirements of the designation proceeding are known and fairly applied to all participants. The Board will have an opportunity to evaluate the need for and relevance of the requested information to the

¹⁰ Ontario Energy Board, EB-2010-0059: Board Policy: Framework for Transmission Project Development Plans, August 26, 2010.

¹¹ See the Board's Decision and Order in TransCanada's licence application (EB-2010-0324), page 7.

¹² EB-2011-0350: Responses to TransCanada Power Transmission (Ontario) L.P.'s Interrogatories Page 3 of 20

actual designation process once the designation proceeding commences. For the purposes of this proceeding, it is important to note that the Board has repeatedly affirmed its position that the licensing process is not meant to consider or endorse the applicant's technical and financial capabilities in relation to the development of a specific transmission project.¹³

35. The PWU submits that the Applicant has filed all the necessary information that the Board needs to make a determination consistent with its recent Decisions and Orders with respect to similar applications and has responded to all relevant interrogatories in this proceeding and therefore the Board should dismiss the Motions filed by the Moving Parties.

All of which is respectfully submitted.

¹³ For example, 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 Iacon application (EB-2010-0403), at page 4; and the Board's Decision and Order in the TransCanada application (EB-2010-0324), at page 7.

APPENDIX A

INTEROGATORIES THAT ARE THE SUBJECT OF THE MOTION

ALTALINK

Interrogatory #1: Technical capabilities and Experience:

Example of questions:

- 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.
- To what extent is the Applicant relying upon Hydro One's/GLPT's transmission planning experience? Will the Applicant be drawing upon Hydro One's/GLPT's employees or resources in this regard? How will the Applicant compensate Hydro One/GLPT for use of these resources?

Interrogatory # 3: The East-West Tie Line (Applicant's reliance upon and relationships with HONI and GLPT LP):

- Did HONI / GLPT LP 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/GLPT LP's role as the dominant incumbent transmitter in Ontario?
- Was HONI/ GLPT LP 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 discussion, including the date of the

- Please provide copies of all correspondence, reports, analysis and other documents prepared or received by HONI/GLPT LP with the Ministry of Energy, the OPA, or the IESO in connection with the transmission project known as the —East-West Tie Line?
- Did HONI/ GLPT LP provide any input into or assistance with the OPA Report or the IESO Study?

Interrogatory # 5: Financial Resources

- 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.
- 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?

UPPER CANADA

Interrogatory # 4 – Financial information

- Please provide information on EWT LP's financial resources, including its access to the financial resources of each of its partners.

- 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.

-

Interrogatory # 4 – Bumkushwada L.P.

- 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.

TRANSCANADA

Interrogatories # 1- 14

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

- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- Please provide all agreements between and correspondence among the Utilities, BLP and the Participating First Nations.
- Please advise of any compensation and other consideration that the Utilities have provided to BLP and the Participating First Nations.

- Please confirm whether the Board has ordered that this information [about each key individual] kept confidential and, if the Board has not so ordered, please provide an unredacted version of the application that includes this information.
- Please provide financial statements of BLP and Participating First Nations.