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March 28, 2013

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**SENT BY COURIER**

Ontario Energy Board  
Suite 2700, 2300 Yonge Street  
P.O. Box 2319  
Toronto ON M4P 1E4

Attention: Kirsten Walli

Dear Ms. Walli:

**RE: Hydro One Networks' Request for Leave to Sell Bruce to Milton Transmission Assets - EB-2013-0079**

I am writing to you on behalf of Hydro One Networks Inc. Enclosed for filing is an application made pursuant to Section 86(1)(b) of the *Ontario Energy Board Act, 1998*, for leave to sell certain transmission assets located between the Bruce and Milton transmission stations.

The sale of these assets relates to a commercial transaction entered into between Hydro One and the Saugeen Ojibway Nation. This transaction involves separate yet related regulatory applications for (1) electricity transmitter authorization for the purchaser of the assets proposed to be transferred; (2) approval of the asset transfer; and (3) approval of a SON owned and operated company to acquire up to a 30 percent ownership interest in the newly authorized transmitter.

The OEB's standard form for applications made pursuant to section 86(1)(b) is found in the attached filing at Section 8. In addition, full details of this transaction, including details respecting all three applications noted above are enclosed.

Please direct all correspondence in respect of this application to the following:

Susan Frank  
Gordon Nettleton  
Colin Slater  
Alex Monem

Yours very truly,

ORIGINAL SIGNED BY GORDON M. NETTLETON

Gordon M. Nettleton  
GMN: mpf

Attachment

**IN THE MATTER OF** an application made by Hydro One Networks Inc. for leave to sell certain transmission assets made pursuant to section 86 of the *Ontario Energy Board Act* 1998, S.O, (“**Act**”)

**AND IN THE MATTER OF** other related applications made by B2M Limited Partnership for electricity transmitter licensing authority made pursuant to section 60 of the Act and SON LP Co. for leave to acquire an ownership interest in B2M Limited Partnership made pursuant to section 86 of the Act.

## **JOINT SUBMISSION**

### **1.0 INTRODUCTION**

- 1.1 This joint submission is made on behalf of Hydro One Networks Inc., B2M Limited Partnership, and SON LP Co. It is made in support of three interrelated applications for Ontario Energy Board (“**OEB**” or “**Board**”) approvals regarding the sale of certain transmission assets to a new transmitter, the licensing of that transmitter, and the purchase of up to a 30 percent partnership interest in the newly licensed transmitter by a third party. The approvals sought are in respect of a commercial transaction contemplated by the parties involved. Satisfactory approval of all three applications is necessary in order for the proposed transaction to take effect.
- 1.2 Hydro One Networks Inc. (“**HONI**”), is applying pursuant to section 86(1)(b) of the Act for approval to sell certain transmission assets located between its Bruce and Milton transmission stations. The proposed purchaser of these assets is a newly formed limited partnership, B2M Limited Partnership (“**B2M LP**”).
- 1.3 B2M LP is seeking transmitter licensing authority in accordance with section 60 of the Act so that it may own and operate the transferred assets as its transmission system. Following the transfer of the transmission assets to B2M LP, the partners of B2M LP will be a subsidiary company of Hydro One Inc. (“**Hydro One**”) and a corporation formed by the Saugeen Ojibway Nation (“**SON**”) referred to as “SON LP Co.” The general partner, B2M GP Inc., will be owned and controlled indirectly by Hydro One Inc. through a 100 percent controlled subsidiary.
- 1.4 SON LP Co. is applying pursuant to section 86(2) of the Act for approval to purchase up to a 30 percent partnership interest in B2M LP. SON LP Co. will be owned and controlled by SON. SON LP Co.’s investment in B2M LP is intended to provide SON

with an important economic opportunity that will be used to support the ongoing needs of its First Nation communities and their members.

- 1.5 The purpose of these three applications is to give effect to a key commercial arrangement negotiated between the SON and Hydro One which has fundamentally allowed for the timely development, construction and in-service operation of HONI's Bruce to Milton Transmission Reinforcement Project ("**BxM Project**" or "**Project**").
- 1.6 The BxM Project was approved by the Board pursuant to Proceeding EB- 2007-0050. The Project comprises two 500 kV transmission circuits, now known as B501M and B502M. Construction and operation of these facilities has provided necessary transmission system reinforcement capabilities for the Ontario bulk transmission grid. HONI's success in developing and implementing this Project has, in part, been based upon the commercial efforts undertaken to address directly affected interested parties including the SON. This approach has resulted in the Project proceeding through to in-service in a timely and efficient manner and without any legal challenges being made regarding the development and implementation of the Project.
- 1.7 This filing provides additional information regarding the proposed transaction. It is organized as follows:
  - Section 2 describes the parties involved in the transaction.
  - Section 3 describes the transmission assets to be transferred.
  - Section 4 provides details of the proposed transaction and describes the transaction documents.
  - Section 5 examines the economic efficiency and viability of the transaction including the commercial rationale for the SON's involvement in the transaction.
  - Section 6 examines the potential impacts that the transaction may have on consumers.
  - Section 7 describes the relief requested and timing considerations associated with the transaction.
  - Section 8 includes the OEB Form of Application made by HONI for Leave to Sell the BxM Project transmission assets to B2M LP in accordance with Section 86(1) of the Act.
  - Section 9 includes the OEB Form of Application made by B2M LP for a Transmitter Licence approval in accordance with Section 60 of the OEB Act.
  - Section 10 includes the OEB Form of Application made by SON LP Co., for Leave to Purchase up to a 30 percent partnership interest in B2M LP in accordance with Section 86(2) of the Act.

- Section 11 provides all supporting information referred to in the above as scheduled Appendices.

## **2.0 DESCRIPTION OF PARTIES INVOLVED IN THE TRANSACTION**

2.1 This section provides a description of the parties involved in the proposed transaction.

### **A. Hydro One Networks Inc.**

2.2 HONI is the owner and operator of the BxM Project. HONI is the largest transmitter and distributor of electricity in the Province of Ontario. HONI and its regulated affiliates serve distribution and transmission customers throughout the province of Ontario. HONI owns 96% of the transmission assets in Ontario, with almost 29,000 km of high-voltage transmission lines transmitting 142 TWh of electricity [annually]. HONI also owns and operates 26 interconnections with neighbouring provinces and states, with a total export capacity of 6,000 MW. The distribution system delivers electricity at lower voltages to homes, farms and businesses through its network of poles and power lines. HONI's distribution network is the largest in the province, with over 123,000 km of wires serving 1.3 million customers, mostly in rural areas.

2.3 HONI is a wholly owned subsidiary of Hydro One Inc., which is a business corporation wholly owned by the Province of Ontario. An organizational chart for the Hydro One group of companies is found in Section 11, Appendix 1.

2.4 The audited Financial Statements of HONI Transmission for 2010, 2011 and 2012 are found in Section 11 Appendix 2. All other information that Hydro One has filed with the Ontario Securities Commission for the past two years (i.e. annual information forms and financial statements) is available through SEDAR at [www.sedar.com](http://www.sedar.com).

### **B. B2M Limited Partnership**

2.5 B2M LP is a limited partnership formed under the laws of Ontario for purposes related specifically to the transaction. B2M LP will be acquiring certain BxM Project transmission assets from HONI. The business to be carried out by B2M LP will concern the provision of electric transmission service in Ontario that is provided by the transferred assets. B2M LP confirms that it will comply with all applicable OEB licence, code and rule requirements following the completion and closing of the transaction.

2.6 As B2M LP is a newly formed limited partnership, no historical audited financial information or statements are available.

### **C. Hydro One B2M Holdings Inc., B2M GP Inc., Hydro One B2M LP Inc.**

2.7 Hydro One B2M Holdings Inc. is a wholly owned subsidiary company of Hydro One and has been formed for purposes of this transaction. Following certain intercompany transfer steps associated with the transaction, Hydro One B2M Holdings Inc. will have two subsidiary companies also formed for purposes of the transaction. These are: B2M GP Inc. and Hydro One B2M LP Inc.

2.8 B2M GP Inc. will hold the general partner interests and carry out the general partner responsibilities of B2M LP, and will also retain substantially all of Hydro One's partnership interests in B2M LP. B2M GP Inc. will be responsible for ensuring that the

BxM Project transmission assets transferred to B2M LP are operated and maintained in accordance with all applicable regulatory standards and HONI's maintenance and operating practices. B2M GP Inc. will carry out these functions through an operations and management services agreement with HONI. HONI shall be required to ensure that all applicable OEB licence, code and rule requirements will be followed following the completion and closing of the transaction.

- 2.9 Hydro One B2M LP Inc. and B2M GP Inc. will hold Hydro One's interest in B2M LP. The aggregate partnership interest in B2M LP held by Hydro One (through its ownership of Hydro One B2M Holdings Inc., the parent of Hydro One B2M LP INC. and B2M GP INC.) will be 70 percent and under the assumption that SON LP Co is able to obtain all necessary financing to acquire a 30 percent partnership interest in B2M LP.
- 2.10 An organizational chart depicting the ownership structure of these entities following the intercompany transfer steps is found in Section 11 Appendix 3.
- 2.11 As each of Hydro One B2M Holdings Inc., B2M GP Inc., and Hydro One B2M LP Inc. are newly formed entities, no historical audited financial information or statements are available.

#### **D. Saugeen Ojibway Nation ("SON")**

The Saugeen Ojibway Nations consist of the Chippewas of Saugeen First Nation and the Chippewas of Nawash Unceded First Nation. SON traditional territory extends east from Lake Huron to the Nottawasaga River and south from the tip of the Bruce Peninsula to the Maitland River system, 11 miles south of Goderich. SON traditional waters include the lakebed of Lake Huron from the shore to the international boundary with the United States and the lakebed of Georgian Bay to the halfway point. SON assert Aboriginal and Treaty rights throughout its traditional territory, including an established commercial fishing right in the waters of Lake Huron and Georgian Bay. A significant proportion of the assets that comprise the BxM Project are situated within the area SON identify as their traditional territory.

#### **E. SON LP Co.**

SON LP Co is an Ontario corporation that has been formed specifically as the vehicle for SON to be able to participate in the B2M LP. SON LP Co will have no assets other than its partnership interest in the B2M LP and no liabilities other than its proposed loan arranged through the TD Securities to fund its acquisition cost of the partnership interest. The loan will be comprised of two tranches, the first tranche for \$50 million, will be guaranteed by the Province of Ontario through its Aboriginal Loan Guarantee Program and a second tranche of \$22 million. Attached as Schedules are draft term sheets for the proposed financing to SON LP Co. SON LP Co will acquire its interest in the partnership as bare trustee and agent for SON. As a bare trustee and agent, SON LP Co will be a flow through vehicle for income tax purposes, allowing SON, as First Nations to receive the net profit from the B2M LP without diminution for income taxes and decreasing the cost to ratepayers by this amount.

SON LP Co confirms that all applicable licence, code and rule requirements will be followed following completion of the transaction.

- 2.12 As SON LP Co. is a newly formed entity, no historical audited financial information or statements are available.

### **3.0 DESCRIPTION OF TRANSFERRED ASSETS**

- 3.1 The proposed transferred assets currently form part of the BxM Project. All Project facilities were constructed and placed into operation in accordance with approvals made in respect of OEB Proceeding 2007-0050.
- 3.2 The BxM Project involved the construction and operation of two 500 kV transmission circuits now known as B501M and B502M. These circuits interface at the north west end with HONI's Bruce A and B transmission stations and terminate at the south east end with HONI's Milton transmission station. The B501M and B502M circuits extend across parts of Bruce, Grey and Wellington Counties and the Regional Municipality of Halton. Each circuit is approximately 176 km in length and have a combined capacity of approximately 3,000 MW. A map showing the location of circuits B501M and B502M is found in Section 11 Appendix 4.
- 3.3 The BxM Project transmission assets to be transferred generally comprise the B501M and B502M circuits, namely, 717 steel-lattice transmission towers, the transmission lines and certain rights to HONI's existing transmission corridor on which the circuits are located. (the "Transferred Assets"). For clarity, none of HONI's transmission station assets are part of the Transferred Assets. Further details concerning the BxM Project, including the Transferred Assets, may be found in the evidence filed by HONI during OEB Proceeding 2007-0050, all of which is electronically available via the OEB website.
- 3.4 The current net book value of the Transferred Assets is approximately \$600 million.
- 3.5 A final net book value calculation of the Transferred Assets will occur on the closing of the transaction and which amount will form the final basis for the transaction.



## 4.0 TRANSACTION DETAILS

- 4.1 The overall objective of the transaction is to formalize a long-term cooperative commercial arrangement between HONI and SON and in so doing, provide the SON with the opportunity to invest in and acquire up to a 30 percent ownership interest in the Transferred Assets.
- 4.2 The steps involved in the transaction are described in the Anishnaabeking Naagnigewin Agreement dated June 18, 2012 as supplemented by the side letter agreement of December 18, 2012 (collectively, the "AN Agreement"). A copy of the AN Agreement is found in Section 11, Appendix 5.
- 4.3 Under the terms of the AN Agreement, Hydro One will facilitate the creation of a limited partnership (B2M LP), incorporate and organize two entities that will hold the general partnership interest (B2M GP Inc) and a nominal limited partnership interest (Hydro One B2M LP Inc.) in B2M LP. Hydro One will also incorporate and organize a corporation (SON LP Co.) that will subsequently be sold to the SON and used by the SON to hold the SON's limited partnership interest in B2M LP.
- 4.4 Upon receiving all necessary approvals, HONI will transfer the Transferred Assets to B2M LP. Through a series of related party transactions, HONI and its parent, Hydro One, will receive from B2M LP consideration in the form of cash, a promissory note, and partnership unit interests which, prior to the investment by SON LP Co., will represent, in aggregate, the net book value of the Transferred Assets transferred to B2M LP.
- 4.5 SON LP Co. will acquire limited partnership units in B2M LP which in total represents up to 30 percent of the value of the Transferred Assets.
- 4.6 Valuation of the interests held by Hydro One (indirectly) and SON LP Co. in B2M LP will be based on the net book value of the Transferred Assets.
- 4.7 Cash consideration paid by SON LP Co. to B2M LP for the acquisition of limited partnership units will, in the final step of the transaction, be used to reduce the level of debt that B2M LP will have owing to B2M GP Inc. such that a 60/40 capital structure is maintained for B2M LP.
- 4.8 Based on the Transferred Assets having a net book value of approximately \$600 million at the time of the transaction closing, the Transferred Assets will be financed by \$360 million in total debt and equity of \$240 million. The cost of the debt is expected to have an average interest rate and term similar to the outstanding debt of Hydro One or HONI allocated to the Transferred Assets, as may be adjusted from time to time. .

An example outlining the closing steps, calculations and descriptions of the transaction is found at Schedule A of the December 18, 2012 Side Letter Agreement (see Section 11 Attachment C).

## Transaction Documentation

- 4.9 The AN Agreement describes the key terms to the transaction and describes the implementation steps to be taken by the parties in order to give effect to the transaction.
- 4.10 The AN Agreement has been approved by the Board of Directors of Hydro One Inc. as well as through Band Council Resolutions from the SON. Copies of these approvals are found in Section 11, Appendix 6.
- 4.11 The transfer of the BxM Project transmission assets will be effected through an asset purchase agreement made between HONI and B2M LP. Preparation of this agreement is underway and a copy will be filed with the Board once it is finalized. The filed agreement will be executed upon receipt of all necessary approvals on the closing of the transaction.
- 4.12 Governance of B2M LP will initially be through a limited partnership agreement which has been executed (the “Limited Partnership Agreement”). Upon closing, governance of the B2M LP will be effected through the execution of an Amended and Restated Limited Partnership Agreement. The form of the Amended and Restated Limited Partnership Agreement to be executed at closing is found in Section 11, Appendix 7.
- 4.13 The AN Agreement contemplates HONI and SON obtaining favourable tax rulings from both provincial and federal tax authorities. The nature of these rulings are described in Attachment “A” to the AN Agreement and sections 10 and 11 of the Side Letter Agreement dated December 18, 2012 (see Section 11 Appendix 5). Copies of all tax ruling applications are found in Section 11 at Appendix 8. These applications are currently under review by the applicable tax authorities. The parties will advise the Board of the outcome of these rulings in due course. The parties are requesting that all regulatory approvals be granted on condition that satisfactory tax rulings are obtained and filed with the Board.
- 4.14 The AN Agreement contemplates B2M LP entering into an operations and management services agreement with B2M GP Inc. and HONI for the provision of services for the ongoing operation and management of the Transferred Assets. The form of the operations and management services agreement is attached as Schedule 4.3 to the Amended and Restated Limited Partnership Agreement, found at Section 11 Appendix 7. This agreement will ensure that the transaction has no impact upon the manner in which the Transferred Assets will be managed and operated.
- 4.15 Pro-forma financial statements for HONI Transmission and B2M LP for a period of five years following the expected closing of the transaction are found in Section 11, Appendix 9.

## 5.0 ECONOMIC RATIONALE FOR THE TRANSACTION

- 5.1 During the development phase of the BxM Project, Hydro One and SON carried out significant mutual engagement under a Protocol Agreement respecting the BxM Project and its potential impacts on SON Rights and interest. The purpose of this engagement, and the Protocol Agreement itself, was to allow for the continued development, regulatory authorization and implementation of the BxM Project, while ensuring that SON long-term interest would be protected and accommodated. The relationship and cooperation between SON and Hydro One was critical in ensuring timely and efficient completion of the BxM Project.
- 5.2 Engagement in early phases focused on identifying and mitigating potential environmental impacts of the BxM Project. Later discussions were aimed at identifying mechanisms for SON economic participation in the BxM Projects that would provide meaningful and lasting benefits to SON's communities.
- 5.3 The proposed transaction has achieved these objectives. It provides SON with a commercial opportunity to invest in a major infrastructure project within its traditional territory. It is consistent with SON's overall objective of supporting and participating in projects that are carried out in a responsible way and are aligned with SON community interests. SON's investment in the BxM Project will result in a new and essential revenue stream to both SON First Nations which will help SON achieve its long-term objectives of creating strong, independent local economies and making a contribution to the essential infrastructure of the region.
- 5.4 SON's decision to make a significant financial investment in the Transferred Assets causes SON and HONI to have a long-term alignment of economic interests. As partners, both SON and Hydro One have the incentive to ensure the Transferred Assets continue to be operated and maintained in a safe and reliable manner so as to ensure the investment produces a fair return on and of employed capital. In so doing, both SON and Hydro One are aligned to act in the best interest of B2M LP and to ensure the long-term economic viability of the Transferred Assets.
- 5.5 The initial capital invested by SON will be sourced from competing financial lending institutions in part guaranteed by the Province's Aboriginal Loan Guarantee Program. The cost to finance the acquisition of additional B2M LP partnership units will be paid by SON LP Co. using distributions that B2M LP provides from time to time to its partners. Such distributions are contemplated to occur based on achieved earnings from rates charged for regulated transmission service provided by the transmission assets owned by B2M LP.
- 5.6 SON will use its share of the partnership profit to fund important community programs. SON participated in lengthy and complex negotiations with Hydro One and government officials to ensure that the construction of the transmission line through their traditional territories would provide economic benefits to the First Nations. The participation of the First Nations in a limited partnership that would own the transmission line was selected as the most efficient method to achieve this objective. It was intended that the partnership be in place prior to the transmission line becoming operational, so for each day that the transmission line is operated outside of the partnership structure SON is

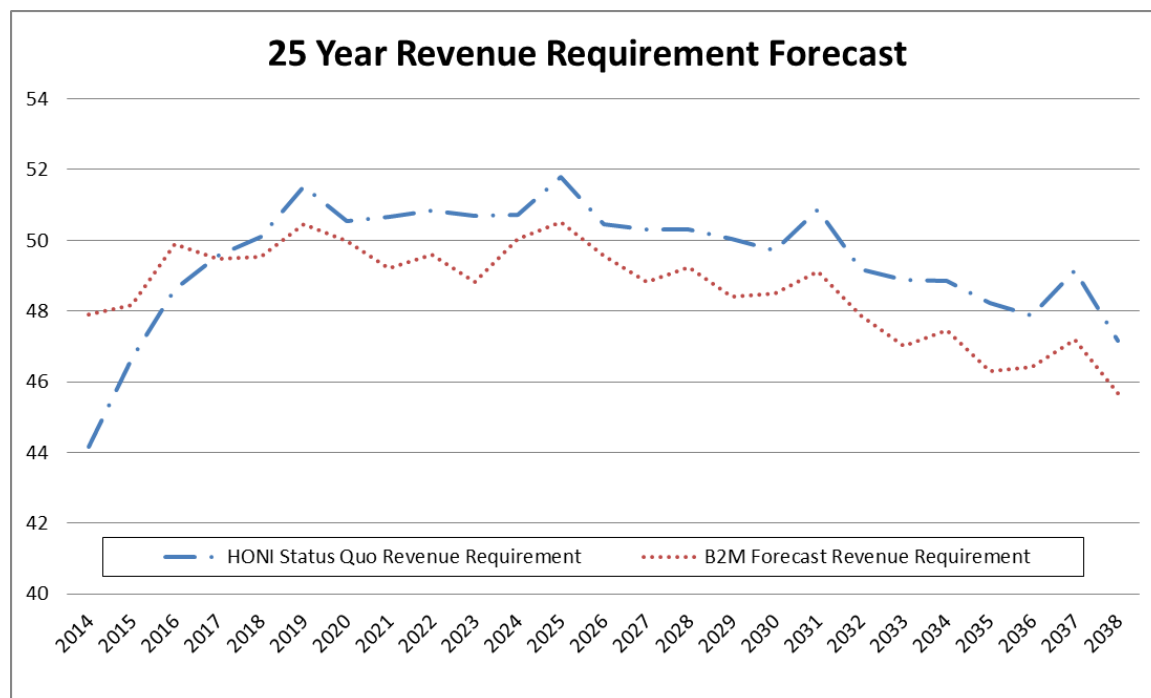
missing out on the important benefits it was intended would be available to their communities.

- 5.7 One of the key economic risks to the SON associated with the transaction concerns the timing of all necessary regulatory approvals. SON's economic interests in this transaction are directly related to its ability to obtain all necessary financing for the purchase of its ownership interest in B2M LP. Currently, provincial government loan guarantee programs available to SON, such as the Aboriginal Loan Guarantee Program, coupled with historically low capital market borrowing costs, provide a unique opportunity for SON to maximize their economic opportunity. This however assumes that the transaction may proceed in a timely and expedited manner. If regulatory approvals are delayed or provincial financing programs are curtailed or significant changes occur in capital market borrowing costs, the financial ability of SON to participate in the transaction is put at risk.
- 5.8 Barring exceptional circumstances, a substantial portion of the income of B2M LP is expected to be distributed to its partners annually, subject to the requirements of prudent operation and management of the Transferred Assets. As these facilities have just recently been placed into operation, there is very little planned capital investment required for many years, and hence, there is no expectation that there will be a need to retain significant earnings or to issue new debt to fund capital improvements over the short to medium term.
- 5.9 Furthermore, it is expected that, barring unforeseen events such as major storm damage which would necessitate material capital replacements, the annual depreciation expense for the Transferred Assets will generally exceed capital expenditures. As such, rate base for B2M LP will generally decline over time, along with the underlying debt and equity amounts needed to support it. This will require cash distributions to the partners in order to keep debt and equity amounts aligned with the OEB approved 60/40 capital structure.
- 5.10 Nonetheless, any and all activities, including the distribution of partnership income by B2M LP, will be in keeping with the maintenance of the long-term financial stability of the regulated entity, as determined by the general partner.

## 6.0 POTENTIAL CONSUMER IMPACTS OF THE TRANSACTION

- 6.1 The structure of the proposed transaction will not cause a material change in the manner in which the Transferred Assets are operated and maintained. HONI will remain the party primarily responsible for the ongoing operation and management of the Transferred Assets through the execution of an operations and management services agreement with B2M GP Inc. and B2M LP. The operations and management services agreement will be cost of service based employing the same resources and standards used by HONI today in operating and managing the Transferred Assets. In light of these circumstances, there is no expected material change in cost incurrence and the reliability and quality of service that will be provided by the Transferred Assets is expected to remain unchanged.
- 6.2 The proposed transaction is structured so that favourable tax rulings regarding the taxable position of B2M LP and SON LP Co. can result in reductions to the rates that B2M LP charges for transmission service to customers over the long term. The preliminary estimate of the net present value of the customer benefit associated with this transaction is \$10 million, calculated over the life of the Transferred Assets.
- 6.3 In the short term, the transaction is expected to cause a slight increase in rates during the first year following the completion of the transaction. This result is largely due to incremental transaction and administration costs and the delayed benefit of tax deductions related to capital cost allowance. However, after year 5, the favourable tax position of B2M LP is expected to cause B2M LP's revenue requirement to fall below what would have otherwise been charged had the assets remained with HONI and thus provide a benefit to rate payers. This favourable rate differential is expected to remain for the balance of the life of the assets.
- 6.4 The current breakdown of the estimated incremental transaction and administration costs concern the following:
- Costs incurred to negotiate and complete the transaction;
  - Costs associated with all necessary regulatory approvals;
  - Ongoing regulatory costs incurred by B2M LP;
  - Ongoing administration and management costs of B2M LP;
  - Incremental insurance costs incurred by B2M LP; and
  - Audit and accounting costs incurred by B2M LP.
- 6.5 At the present time, the total preliminary estimate of incremental costs are \$1 million (one time cost) and an average of \$1.1 million every two years.
- 6.6 The analysis depicting this result is found in Figure 1 below. From a rate impact perspective, the expected Year 1 increase over the "HONI Status Quo Revenue Requirement" (approximately \$3.7 million) would cause an estimated 0.02 cent or 0.53% increase in the 2014 Network UTR from \$3.80/kW/month to \$3.82/kW/month. From the

perspective of a typical HONI distribution rate paying customer, this increase would result in an estimated total monthly bill increase of \$0.03 for the first year after the completion of the transaction - declining thereafter.



- 6.7 Details respecting all rate impacts of the transaction will be considered in applications to be made by B2M LP and HONI pursuant to section 78 of the Ontario Energy Board Act, 1998. These applications are expected to be filed following timely approvals of the current applications that approve the transaction and in any event prior to year end 2013. The section 78 applications will establish the B2M LP initial revenue requirement for the Transferred Assets and adjust the provincial Uniform Transmission Rates (“UTR”). HONI will concurrently make application for a revised Rate Order for its approved 2014 revenue requirement to remove the costs (including return) for the Transferred Assets.

## **7.0 REQUESTED RELIEF & TIMING CONSIDERATION**

- 7.1 The parties to the transaction respectfully request the OEB to approve the contemplated asset transfer by HONI to B2M LP, the granting of a transmitter licence to B2M LP and the purchase by SON LP Co. of up to a 30 percent ownership interest in B2M LP.
- 7.2 In the collective view of the parties, the transaction is in the public interest and is consistent with the objectives found in the Ontario Energy Board Act, 1998. The proposed transaction will not cause harm to transmission rate payers. The transaction will not proceed unless favourable tax rulings are obtained and the parties are prepared to have all requested approvals made conditional to ensure of this outcome. Under this assumption, transmission rates to customers are not adversely affected in the long term and in fact a positive rate impact is expected in the medium to long-term.
- 7.3 The proposed transaction will ensure that the Transferred Assets are operated in a safe and reliable manner and without any change to the manner and conduct that they are managed today by HONI.
- 7.4 The proposed transaction establishes a new and important benchmark for the parties. In particular, Hydro One and SON will become commercial partners with a common alignment of economic interests. This is an important step towards creating co-operative economic opportunities for First Nations and establishes a structure and model that may be used in the future for other large-scale transmission projects.
- 7.5 Timely consideration of these applications is essential to the parties. SON and Hydro One have been engaged for over 6 years in a process that would allow the BxM Project to be developed, approved and implemented in a timely way, while protecting SON's long-term interests. It is because of this engagement that the BxM Project has proceeded so efficiently and is now operational. The proposed transaction is a critical component of the relationship between SON and Hydro One that has made this possible and it is essential that this transaction is now brought to conclusion. More specifically, SON requires expedited consideration to ensure financing steps can be taken at a time while borrowing costs in capital markets remain at an all-time low, and provincial government loan guarantee programs remain in effect that are intended to promote First Nation economic opportunities in the development of Ontario transmission projects.
- 7.6 For clarification, the assumptions throughout this application that underpin the success of the transaction are based upon a final execution date of January 1, 2014. In order to meet this closing date, the parties are seeking approval of the 3 applications on or about August 31, 2013. This timing will accommodate the filing of the Section 78 Revenue Requirement proceeding such that approvals can be obtained prior to the proposed execution date.

**8.0 APPLICATION BY HONI FOR LEAVE TO SELL**



Ontario Energy Board  
Commission de l'énergie de l'Ontario



## Application Form for Applications under Section 86(1)(b) of the *Ontario Energy Board Act, 1998*

### Application Instructions

#### 1. Purpose of this Form

This form is to be used by parties applying under section 86(1)(b) of the *Ontario Energy Board Act, 1998* (the "Act"). Please note that the Board may require information that is additional or supplementary to the information filed in this form and that the filing of the form does not preclude the applicant from filing additional or supplementary information.

#### 2. Completion Instructions

This form is in a writeable PDF format. The applicant may, however, complete responses on additional pages if the space provided is not sufficient. The applicant must either:

- type answers to all questions, print two copies and sign both copies; or
- print a copy of the form, clearly print answers to all questions, make a copy and sign both copies.

Please send both copies of the completed form and two copies of any attachments to:

Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

If you have any questions regarding the completion of this application, please contact the Market Operations Hotline by telephone at 416-440-7604 or 1-888-632-6273 or e-mail at [market.operations@oeb.gov.on.ca](mailto:market.operations@oeb.gov.on.ca).

The Board's "Performance Standards for Processing Applications" are indicated on the "Corporate Information and Reports" section of the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). Applicants are encouraged to consider the timelines required to process applications to avoid submitting applications too late. If the submitted application is incomplete, it may be returned by the Board or there may be a delay in processing the application.

Ontario Energy  
Board  
P.O. Box 2319  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto ON M4P 1E4  
Telephone: 1-888-632-6273  
Facsimile: (416) 440-7656

Commission de l'énergie  
l'Ontario  
C.P. 2319  
2300, rue Yonge  
27<sup>e</sup> étage  
Toronto ON M4P 1E4  
Téléphone: 1-888-632-6273  
Télécopieur: (416) 440-7656



## Application Form for Applications under Section 86(1)(b) of the *Ontario Energy Board Act, 1998*

For Office Use Only	
Application Number	EB -
Date Received	

### PART I: IDENTIFICATION OF PARTIES

#### 1.1 Name of Applicant

Legal name of the applicant: Hydro One Networks Inc. ("HONI")

Name of Primary Contact:

Mr. <input checked="" type="radio"/>	Mrs. <input type="radio"/>	Last Name	First Name	Initial
Miss <input type="radio"/>	Ms. <input type="radio"/>	Struthers	Alexander	N
Other <input type="radio"/>		Title/Position		
		Vice President, Chief Administration and Chief Financial Officer		

Address of Head Office:

City	Province/State	Country	Postal/Zip Code
Toronto	ON	Canada	M5G 2P5
Phone Number	Fax Number	E-mail Address	
416-345-6140	416-345-6058	sandy.struthers@hydroone.com	

#### 1.2 Other Party to the Transaction (if more than one attach a list)

Name of the other party: B2M Limited Partnership ("B2M")

Name of Primary Contact:

Mr. <input checked="" type="radio"/>	Mrs. <input type="radio"/>	Last Name	First Name	Initial
Miss <input type="radio"/>	Ms. <input type="radio"/>	Penstone	Michael	D
Other <input type="radio"/>		Title/Position		
		Managing Director, B2M Limited Partnership		

Address of Head Office:

City	Province/State	Country	Postal/Zip Code
Toronto	ON	Canada	M5G 2P5
Phone Number	Fax Number	E-mail Address	
416-345-5444	(416) 345-4141	mike.penstone @b2mlp.ca	

1.3 If the proposed recipient is not a licensed distributor or transmitter, is it a distributor or transmitter that is exempted from the requirement to hold a distribution or transmission licence?

- ☐ Yes  
☒ No

## PART II: DESCRIPTION OF ASSETS TO BE TRANSFERRED

2.1 Please provide a description of the assets that are the subject of the proposed transaction.

The B2M line includes the 500 kV circuits known specifically as B501M and B502M. please refer to section 3 of the Supplementary Application Information filing for a further description of the assets to be transferred.

2.2 Please indicate where the assets are located - whether in the applicant's service area or in the proposed recipient's service area (if applicable). Please include a map of the location.

The assets interconnect at the north west end with Hydro One Networks' Bruce A and B transmission stations near Kincardine and at its south east end with HONI's Milton Switching Station in the Regional Municipality of Halton. please see Section 11 - Appendix 4 to the Supplementary Application Information filing for a map that shows the location of the assets.

2.3 Are the assets surplus to the applicant's needs?

☐ Yes

☒ No

If yes, please indicate why the assets are surplus and when they became surplus.

2.4 Are the assets useful to the proposed recipient or any other party in serving the public?

☒ Yes

☐ No

If yes, please indicate why.

The assets will remain an integral part of the bulk transmission system, delivering power produced from the Bruce Power Development and the surrounding distributed generation sources to the Milton Transmission Station.

2.5 Please identify which utility's customers are currently served by the assets.

This line is part of the bulk transmission system and thus supports, directly or indirectly, all the customers of Ontario including those of HONI and the Local Distribution Companies (LDC).

2.6 Please identify which utility's customers will be served by the assets after the transaction and into the foreseeable future.

This line will continue to serve the customers of Ontario in the same fashion as it does currently.

### PART III: DESCRIPTION OF THE PROPOSED TRANSACTION

3.1 Will the proposed transaction be a sale, lease or other?

- ☒ Sale  
☐ Lease  
☐ Other

If other, please specify. \_\_\_\_\_

3.2 Please attach the details of the consideration (e.g. cash, assets, shares) to be given and received by each of the parties to the proposed transaction.

3.3 Would the proposed transfer impact any other parties (e.g. joint users of poles) including any agreements with third parties?

- ☐ Yes  
☒ No

If yes, please explain how.

3.4 Would the proposed transfer impact distribution or transmission rates of the applicant?

- ☒ Yes  
☐ No

If yes, please explain how.

The revenue requirement for HONI will be adjusted to accommodate the removal of the associated rate base and OMA costs. The revenue requirement for B2M will subsequently include these costs. If Leave to Sell is granted, B2M LP will initiate a proceeding for approval of its initial requirement and an adjustment will be made to the HONI's current revenue requirement.

3.5 Will the transaction adversely affect the safety, reliability, quality of service, operational flexibility or economic efficiency of the applicant or the proposed recipient?

- ☐ Yes  
☒ No

If yes, please explain how.

**9.0 APPLICATION BY B2M LP FOR TRANSMITTER LICENCE IN THE  
PROVINCE OF ONTARIO**

#### PART IV: WRITTEN CONSENT/JOINT AGREEMENT

- 4.1 Please provide the proposed recipient's written consent to the transfer of the assets by attaching:
- a) a letter from the proposed recipient consenting to the transfer of the assets;
  - b) a letter or proposed sale agreement jointly signed by the applicant and the proposed recipient agreeing to the transfer of the assets; or
  - c) the proposed recipient's signature on the application.

#### PART V: REQUEST FOR NO HEARING

- 5.1 Does the applicant request that the application be determined by the Board without a hearing? If yes, please provide:
- a) an explanation as to how no person, other than the applicant or licence holder, will be adversely affected in a material way by the outcome of the proceeding; and
  - b) the proposed recipient's written consent to dispose of the application without a hearing.

The proposed transaction results in an inter-company transfer of assets. The proposed transaction contemplates the transferred assets to continue to be operated and maintained by HONI in the same manner as is currently carried out. Performance and reliability will be unaffected. In light of these circumstances, HONI does not view the application to require a public hearing.

#### PART VI: OTHER INFORMATION

- 6.1 Please provide the Board with any other information that is relevant to the application. When providing this additional information, please have due regard to the Board's objectives in relation to electricity.

As described in the Supplementary Application Information filing, concurrently filed applications have been made for transmitter licensing of the asset purchaser (B2M LP) and approval for SON LP Co. to purchase a 30% interest in B2M LP. This transaction supports Government of Ontario objectives to promote economic partnerships with First Nations in transmission developments.

#### PART VII : CERTIFICATION AND ACKNOWLEDGMENT

##### 7.1 Certification and Acknowledgment

I certify that the information contained in this application and in documents provided are true and accurate.

Signature of Key Individual	Print Name of Key Individual original signed by Sandy Struthers	Title/Position CAO & CFO
	Date March 28, 2013	Company Hydro One Networks Inc

(Must be signed by a key individual. A key individual is one that is responsible for executing the following functions for the applicant: matters related to regulatory requirements and conduct, financial matters and technical matters. These key individuals may include the Chief Executive Officer, the Chief Financial Officer, other officers, directors or proprietors.)



## Application for Electricity Transmission Licence

### Application Instructions

#### 1. Purpose of this form

The purpose of this form is to collect information to determine whether the Applicant will be granted a licence to transmit electricity.

#### 2. Structure of the Application Form

This form contains the following sections:

- A General Information;
- B Corporate Information;
- C Notice and Consent;
- D Acknowledgement

**Note:** 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. Where the applicant objects to public disclosure of the information, the applicant must follow the Ontario Energy Board's approved Guidelines for Treatment of Filing made in confidence, effective March 19, 2001.

#### 3. Completion Instructions

PRINT CLEARLY or TYPE all information in BLACK. Please send the completed form and two copies of all attachments to:

Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
P.O. Box 2319, 26th Floor  
Toronto, ON M4P 1E4

#### 4. Licence Fees:

##### **Application Fees:**

A non-refundable application fee is required to process your application. Please enclose a cheque or money order made payable to the **ONTARIO ENERGY BOARD**.

##### **Note:**

The Licencee may be required to pay an annual fee.

#### 5. Important Information:

As a licenced Electricity Transmitter, the licensee may be subject to additional obligations as required by the Independent Electricity System Operator (IESO) and as established under section 70 of the *Ontario Energy Board Act, 1998*.

The issuance of an electricity transmission licence does not guarantee accreditation by the IESO or connection to a transmission or distribution system.

##### REMARQUE:

Ce document est disponible en français.

For Office Use Only	
Application Number	
Date Received	

## A. General information

### 1. Type of Application

New licence	<input checked="checked" type="checkbox"/>
Renewal	<input type="checkbox"/>
Amendment to an existing Licence	<input type="checkbox"/>

### 2. Applicant

Please provide the following information about the Applicant			
Full Legal Name of Applicant  B2M Limited Partnership		Ontario Corporation Number, Canadian Corporation Number or Business Registration Number 230303174	Date of Formation or Incorporation  March 22, 2013
Business Address: 483 Bay Street			
City Toronto	Prov. Ontario	Country Canada	Postal/Zip Code M5G 2P5
Phone Number 416-345-5444	FAX Number (416) 345-4141	E-Mail Address (if applicable) mike.penstone@b2mlp.ca	



### 3. Primary Contact for this Application

Please provide the following information about the Primary Contact for this Application:			
Mr. <input checked="" type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other: _____	Last Name: Penstone	Full First Name: Michael	Initial: D
Position Held: Managing Director			
Contact Address (if R.R., give Lot, Concession No. and Township) 483 Bay Street, 6 <sup>th</sup> Floor			
City Toronto	Province Ontario	Country Canada	Postal/Zip Code M5G 2P5
Phone Number 416-345-5444	FAX Number 416-345-4141	E-mail Address (if applicable) mike.penstone@b2mlp.ca	

### 4. Transmission Facilities

Please provide a description of the transmission facilities involved in this Application:
<p>The Applicant is a newly formed limited partnership which does not currently own or operate transmission facilities in Ontario. Subject to various tax and regulatory approvals, including this transmission licence application, the Applicant has entered into an agreement with Hydro One Networks Inc. ("HONI") to purchase transmission line assets ("The Line") recently completed and placed in-service. These line assets are part of HONI's Bruce to Milton Transmission Reinforcement Project. The purchase does not include any of the station assets constructed as part of the Bruce to Milton project nor the optical fibre sky wire affixed to the towers. A Leave-to-Sell application under s. 86 of the <i>OEB Act, 1998</i> will be filed with the Board shortly to seek approval for the proposed sale of The Line.</p>

**B. Corporate Information**

**Organizational**  
**5. Business Classification**

Please indicate the Applicant's Business Classification (check appropriate type below):	
<input type="checkbox"/>	Sole Proprietor
<input checked="" type="checkbox"/>	Partnership
<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Other (describe)_____

**6. Business Activities**

Please provide a description of the Applicant's business activities:
<p>The Applicant is a newly-formed Ontario limited partnership which is currently 100% owned by Hydro One Inc., through wholly-owned subsidiaries. The Applicant intends to engage in activities that are related to the ownership of The Line. Accordingly, the Applicant’s business activities, under the direction and management of the general partner, are expected to generally be limited to the operation, maintenance and administration of that facility, as well as financing and recovery of costs and prudent investments through the Board’s established transmission rate setting process.</p> <p>Subject to tax and regulatory approvals, Hydro One Inc. has signed an agreement with a corporation owned by the Saugeen-Ojibway Nation (“SON”), two First Nations over whose traditional lands The Line crosses, to enable the SON to buy up to a 30% equity interest in the Applicant.</p>

## 7. Affiliates of the Applicant

a) Please provide the following information for all Affiliates of the Applicant:			
Full Legal Name of Affiliate Company Hydro One Inc. Hydro One Networks Inc. Hydro One Remote Communities Inc. Hydro One Brampton Networks Inc. Hydro One Telecom Inc.			
Business Address: 483 Bay St., 15 <sup>th</sup> Floor, Toronto, ON M5G 2P5			
City Toronto	Prov. Ontario	Country Canada	Postal/Zip Code M5G 2P5
Phone Number 416-345-6800	FAX Number 416-345-6058	E-Mail Address (if applicable) sandy.struthers @hydroone.com	
Description of Business Activities:			
<p>Following the enactment of the <i>Electricity Act, 1998</i> and the restructuring of the former Ontario Hydro, Ontario Hydro Services Company Inc. was incorporated under the <i>Ontario Business Corporations Act</i> on December 1, 1998 and commenced business on May 1, 1999. On May 1, 2000, the company's name was changed to Hydro One Inc. in accordance with Section 48.1 of the <i>Electricity Act, 1998</i>, as amended. Hydro One Inc. is a holding company operating through its wholly-owned subsidiaries. Its principal subsidiary, Hydro One Networks Inc., is the largest electricity transmitter and distributor within Ontario.</p> <p>In accordance with the Affiliate Relationships Code ("ARC"), when Hydro One Transmission, as a separately regulated business within HONI, provides services to, or purchases services from affiliates, it does so in accordance with service level agreements.</p> <p>Hydro One Remote Communities Inc. carries on all business relating to ownership, operation, maintenance and construction of generating and distribution assets used in the supply of electricity to remote communities throughout Northern Ontario that are not connected to the transmission grid.</p> <p>Hydro One Brampton Networks Inc. carries on all business relating to the ownership, operation and management of electricity distribution systems and facilities in Brampton, Ontario.</p> <p>Hydro One Telecom Inc. carries on all business relating to leasing dark fibre and providing lit capacity to other telecommunications carriers, large corporations, government, health care and education institutions.</p>			
b) Please attach a Corporate organization chart describing the relationships between the Applicant and its Affiliates and, if applicable, the respective ownership percentages by the Applicant in each Affiliate.			
Please refer to Section 11, Appendix 1 of the Supplementary Application Form.			

a) Please provide the following information for all Affiliates of the Applicant:			
Full Legal Name of Affiliate Company: Hydro One B2M Holdings Inc Hydro One B2M LP Inc B2M GP Inc B2M Limited Partnership			
Business Address: 483 Bay St., 6 <sup>th</sup> Floor, Toronto, ON M5G 2P5			
City Toronto	Prov. Ontario	Country Canada	Postal/Zip Code M5G 2P5
Phone Number 416-345-5444	FAX Number 416-345-4141	E-Mail Address (if applicable) mike.penstone@b2mlp.ca	
Description of Business Activities:			
<p>Subject to OEB approval, the B2M Limited Partnership ("B2M"), which is seeking a transmission licence via this application, would own, operate and maintain the transmission line assets of the recently completed and in-service Bruce to Milton Line, under the direction and management of the general partner, B2M GP Inc.</p> <p>It is the intention of B2M GP Inc. to arrange for the operation and maintenance of The Line to be carried out by HONI under an operations agreement with B2M GP Inc. as agent for B2M. This will be reflected in a service level agreement between HONI and the Applicant.</p> <p>Activities of the B2M Limited Partnership will be directed and managed by B2M GP Inc. – the General Partner – on behalf of the Transmitter. This entity will coordinate, supervise and manage all activities relating to the Partnership.</p>			
b) Please attach a Corporate organization chart describing the relationships between the Applicant and its Affiliates and, if applicable, the respective ownership percentages by the Applicant in each Affiliate.  Please refer to Section 11, Appendix 3 of the Supplementary Application Form.			

---

## 8. Energy Sector Activities

<p>Has the Applicant or an Affiliate undertaken any energy sector activities in Ontario or any other jurisdiction?</p> <p>If yes, please provide the following information for each:</p>	<p>Yes      No</p> <p><input checked="" type="checkbox"/>      <input type="checkbox"/></p>
<p>Full Legal Name of Company:</p> <p>Hydro One Networks, Inc.</p> <p>Hydro One Remote Communities, Inc.</p> <p>Hydro One Brampton Networks, Inc.</p>	<p>Licence/Registration Number:</p> <p>870865821</p> <p>870836269</p> <p>864867635</p>
<p>Jurisdiction:</p> <p>Across the Province of Ontario</p>	<p>Type of Business Activity (e.g. Generation, Transmission, Distribution):</p> <p>Hydro One Networks: Transmission, Distribution</p> <p>Hydro One Remote Communities: Generation, Distribution</p> <p>Hydro One Brampton Networks: Distribution</p>

## Technical Capability and Experience

### 9. Technical Ability

a) Please describe the applicant's technical ability to carry out the activities applied for including the Applicant's specific experience in Ontario and in other jurisdictions.

The Applicant is a newly formed Ontario entity that has been established for the purpose of operating, maintaining and administering an electricity transmission facility in Ontario. Units of B2M will be held by each of the two limited partners and one general partner. The limited partners are Hydro One Inc. indirectly through wholly-owned subsidiaries, and the SON through a corporate entity. The general partner, B2M GP Inc., through its affiliation with HONI, brings significant skills, resources and experience to the limited partnership, including technical, financial and stakeholder relationship capabilities. Each of the limited partners brings financial capabilities and stakeholder relationship capabilities.

B2M, through its general partner, intends to sign an operations agreement with HONI, which will then be responsible for carrying out the maintenance and operation of the assets under the supervision of the general partner.

b) If the Applicant intends to utilize the capability of others by contracting transmission activities, please indicate below which activities and to whom they will be contracted:

<input type="checkbox"/> Design Contracted	Contracted to:
<input type="checkbox"/> Construction	Contracted to:
<input type="checkbox"/> Customer Connection	Contracted to:
<input checked="" type="checkbox"/> Inspection & Maintenance	Contracted to: Hydro One Networks
<input checked="" type="checkbox"/> Operation	Contracted to: Hydro One Networks
<input type="checkbox"/> Other (describe)	Contracted to:

## 10. Information About Each Key Individual

Mr. <input checked="" type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other: _____	Last Name: <b>Penstone</b>	Full First Name: <b>Michael</b>	Initial: <b>D</b>
Position Held: <b>Managing Director</b>			
<p>Please explain the person's experience in the electrical transmission business and in the energy field in general.</p> <p>Mr. Penstone joined Hydro One in 1998 and has over thirty years of diverse experience in Ontario's electricity sector. Since joining Hydro One in 1998, he has held a variety of management positions in its planning and operating functions. At present, he is Vice President of Network Development and Regional Planning and is accountable for transmission planning, load and generation connections, project development of transmission expansions. Past recent roles included accountabilities for asset management and government relations. Mr. Penstone is currently on the Board of Directors of the Northeast Power Coordinating Council and the Members Representative Committee of the North American Electricity Corporation. He previously was a member of the Canadian Electricity Association's Transmission Council, IESO's Technical Panel and the Canadian Standards Association's Strategic Committee on Power Engineering. He has a Bachelor of Applied Science in Electrical Engineering from McMaster University. He will be the Managing Director of B2M GP Inc., responsible for overseeing, directing and managing the B2M business activities.</p>			
<p>a) Has this person been a proprietor, partner, officer or director of a business that was granted a licence under Part IV or Part V of the <i>Ontario Energy Board Act, 1998</i>. <span style="float: right;">Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></span></p> <p>If yes, provide business names and licence number(s) and describe the individual's specific related experience.</p> <p><b>Michael Penstone is a Vice-President with Hydro One Networks.</b></p>			
<p>b) Has this person been a proprietor, partner, officer, or director of a business that was registered or licenced under this or any other acts or legislation? <span style="float: right;">Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></span></p> <p>If yes, identify the business name, the legislation, licence number(s), date of the licencing or registration and the individual's specific related experience.</p> <p><b>Michael Penstone is a Vice-President with Hydro One Networks.</b></p>			
<p>c) Has this person been a proprietor, partner, officer or director of a business that had a registration or licence of any kind refused, suspended, revoked or cancelled? <span style="float: right;">Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></span></p> <p>If yes, please provide company name and describe the situation, including the jurisdiction and type of licence.</p>			

**Note:**  
**Attach a copy of Item 10 for each Key Individual: Officer and Director, Partner or Sole Proprietor.**

## 11. Financial Information

Please attach financial statements of the Applicant for each of the past two fiscal years. This may include audited financial statements, annual reports, prospectuses or other such information.

B2M is a newly formed entity and as such does not have financial statements available.

## Transmission Facilities Information

### 12. Facilities

Please indicate whether the Applicant's transmission facilities are:

☐

New assets to be constructed?

Proposed In-service date: \_\_\_\_\_

Please attach a statement explaining the financing arrangements.

☐

Existing assets presently owned by the Applicant?

☒

Existing assets not presently owned by the applicant (i.e. to be purchased)? Please indicate from whom assets will be purchased:

Hydro One Networks

☐

Other (describe)

### 13. Purpose of Facilities

Please indicate the intended purpose(s) of the Applicant's transmission facilities:

☐

To provide a connection between a generator and a transmission system.

☐

To provide a connection between a transmission system and a load customer.

☒

To provide a connection between one transmission system and another

☐

To provide a connection between a generator and a load customer.

☐

To import or export power

☐

Other (please describe): \_\_\_\_\_

If parties other than the Applicant are involved, please indicate the specific names of the participants (generator, load customer, transmission system(s):

The B2M line will interconnect with the HONI transmission system at both ends of The Line. Please see Section 14 for more details.



## 14. Location of Facilities

Please indicate the location (township or other such description as appropriate) of the Applicant's transmission facilities and attach a single-line diagram indicating the length (km), capacity (MW) and operating voltage (kV) of each element.

The B2M line includes the 500 kV circuits known specifically as B501M – energized May 7, 2012 and B502M – energized May 14, 2012. They will interconnect at the north west end with Hydro One Networks' Bruce A and B transmission stations and at its south east end with HONI's Milton TS. The B2M line is approximately 171 km. in length and has a capacity of approximately 3,000 MW.

## 15. Licensing History

Has the Applicant obtained Ontario Energy Board, National Energy Board, Federal Energy Regulatory Commission or any other regulatory approvals required for the acquisition, construction or operation of the transmission facilities?

Yes

No

☐☒

If no, please indicate the status and plans for seeking these approvals.

These transmission facilities are currently in-service and operating as part of HONI's licensed transmission system. Request for regulatory approvals related to the proposed sale of the assets to B2M, and the subsequent investment by the SON of a minority interest in B2M, resulting in a corresponding decrease of Hydro One's investment in B2M, are expected to be filed concurrently with or shortly after this application. An initial revenue requirement and rate application for B2M will be filed following approvals of this Licence application, pending receipt of various tax rulings that are being sought by the partners.

## 16. Service to other parties

If the transmission facilities are to be used to deliver electricity to a party other than the Applicant please attach the following:

- a) a summary of business plans relating to the Applicant's proposed transmission business for the next five years. This should include the following:
  - a forecast of annual peak demand (MW) and energy (MWH) transmitted and/or transformed.
  - annual pro forma financial statements including forecasts of costs, revenues and project financing indicating the underlying assumptions on which the forecasts are based.
- b) estimates of net annual cash flows for subsequent periods to demonstrate financial feasibility and security.
- c) indication of the Applicant's plans to seek Ontario Energy Board approval for rates for transmission services.

All power delivered via the facilities is expected to be delivered to its affiliate, HONI.

## 17. Proposed business transactions impact

Please provide a brief summary of the expected impact of the proposed business transactions on the Ontario electricity market under the following headings:

- Facilitate competition and enhance access to transmission services

If approved, B2M will be a new transmitter in the Province of Ontario. The existence of this entity supports the government's stated mandate to increase ownership diversity within the Transmission sector in Ontario, and to foster participation by First Nations.

- Improve reliability and quality of supply

The B2M line is currently owned, operated and maintained by HONI. After the sale, The Line will continue to be operated and maintained by HONI through a service level agreement with the limited partnership. As such, there will be no impact on reliability or quality of supply as a result of the sale.

- Promote economic and efficient electrical energy supply

The participation of the SON as an owner in these transmission facilities crossing its traditional lands is expected to foster ongoing harmony and co-operation, and as such, allow for the continued economic and efficient supply of energy from the Bruce Nuclear complex to the provincial grid.

## Other Information

### 18. Ontario market activities

Please indicate whether the Applicant intends to be involved with other electricity sector activities in the Ontario market?		
<input type="checkbox"/> Buy or Sell (Wholesale) electricity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<input type="checkbox"/> Distribute electricity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<input type="checkbox"/> Retail electricity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<input type="checkbox"/> Generate electricity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes to any of the above:		
a) If affiliates have not yet been established, please indicate when this is planned _____		
b) Has Applicant or an affiliate applied for an Ontario Energy Board Licence?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- If no, when planned? _____		
Hydro One Networks is a licensee under the Ontario Energy Board.		

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## C. Notice and Consent

### AS REQUIRED BY THE FREEDOM OF INFORMATION AND PROTECTION OF INDIVIDUAL PRIVACY ACT

In order to complete or verify the information provided on this form, it may be necessary for the Ontario Energy Board to collect additional information from some or all of the following sources: federal, provincial/state and municipal governments; licensing bodies; banks; professional and industry associations; and former and current employers. **Only information relevant to your application will be collected.**

The public official who can answer questions about the collection of information is:

Board Secretary  
Ontario Energy Board  
2300 Yonge Street, P.O. Box 2319  
Toronto, Ontario M4P 1E4

**Note: The issuance of an electricity transmitter licence does not guarantee accreditation by the IESO, or connection to a transmission or distribution system.**

**NOTE:** This application must be signed by the proprietor or by at least one partner, officer or director of the organization.

**WARNING:** It is an offence to knowingly provide false information on this application.

I/We consent to the collection of this information as authorized under the *Ontario Energy Board Act, 1998*.

Yes  
☒

I/We understand that this information will be used to determine whether I am/we are and remain qualified for the licence for which I am/we are applying.

Yes  
☒

Print Name and Title Michael Penstone, Managing Director	Signature of Applicant(s)  Original Signed by Michael Penstone	Date Signed  March 28, 2013
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## D. Acknowledgement

**NOTE:** This acknowledgement must be signed by the proprietor or by at least one partner, officer or director of the organization. I

understand and acknowledge that, as a licenced electricity transmitter, I will be required, unless otherwise exempted:

- To provide non-discriminatory access to all persons wishing to connect to the transmission system.
- To comply with all licence conditions including the provisions of:
  - S The Ontario Energy Board Affiliate Relationships Code for Electricity Distributors and Transmitters
  - S The Ontario Energy Board Transmission System Code
  - S The Market Rules made under section 32 of the Electricity Act.

Print Name and Title Michael Penstone, Managing Director	Signature of Applicant(s) Original Signed by Michael Penstone	Date Signed March 28, 2013
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## CHECKLIST

### Have You:

1.	Properly and fully completed this form? (Illegible, incomplete or improperly completed forms do not qualify for registration and will be delayed or returned.)	<input type="checkbox"/>
2.	Enclosed a cheque or money order payable to the <b>ONTARIO ENERGY BOARD</b> in the amount prescribed?	<input type="checkbox"/>
3.	Attached two copies of all financial information specified in Section B?	<input type="checkbox"/>
4.	Attached Section C, the signed "Notice and Consent" form, as specified?	<input type="checkbox"/>
5.	Attached Section D, the "Acknowledgement" form, as specified?	<input type="checkbox"/>
<p><b>Please send the completed form and all attachments to:</b></p> <p>Board Secretary Ontario Energy Board 2300 Yonge Street P.O. Box 2319 , 26th Floor Toronto, ON M4P 1E4</p>		
<p><b>NOTE:</b> You are not required to return the cover page or this checklist to the Ontario Energy Board.</p>		

## **10.0 APPLICATION BY THE SON FOR LEAVE TO PURCHASE**

Ontario Energy Board  
Commission de l'énergie de l'Ontario



## **Application Form for Applications under Section 86 of the *Ontario Energy Board Act, 1998***

### **Application Instructions**

#### **1. Purpose of this Form**

This form is to be used by parties applying under section 86 of the *Ontario Energy Board Act, 1998* (the "Act"). Please note that the Board may require information that is additional or supplementary to the information filed in this form and that the filing of the form does not preclude the applicant from filing additional or supplementary information.

For applications made under section 86(1)(b) of the Act that involve the sale of assets between licensed distributors or transmitters, the applicant must use the application form for Applications Under Section 86(1)(b) of the *Ontario Energy Board Act, 1998*. For transactions involving a non-licensed entity, please contact Market Operations at [market.operations@oeb.gov.on.ca](mailto:market.operations@oeb.gov.on.ca) for further guidance.

Persons required to provide a Notice of Proposal under section 80 or 81 of the Act must also complete the "Preliminary Filing Requirements for a Notice of Proposal Under Sections 80 and 81 of the *Ontario Energy Board Act, 1998*" form in addition to this form.

Depending on the nature of the proposed transaction, the parties to the proposed transaction may be required to apply for the cancellation of an existing licence, an amendment to an existing licence, the issuance of a new licence or any combination thereof. Such applications are to be made under separate cover; however, parties may apply for the cancellation of an existing licence, an amendment to an existing licence, the issuance of a new licence or any combination thereof at the same time the parties apply for approval of the proposed transaction.

#### **2. Completion Instructions**

The applicant must:

- (a) provide responses to all questions; and
- (b) print and sign two copies of the form.

Please send both copies of the completed form and two copies of the responses and attachments to:

Board Secretary  
Ontario Energy Board  
P.O Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

If you have any questions regarding the completion of this application, please contact the Market Operations Hotline by telephone at 416-440-7604 or 1-888-632-6273 or e-mail at [market.operations@oeb.gov.on.ca](mailto:market.operations@oeb.gov.on.ca).

The Board's "Performance Standards for Processing Applications" are indicated on the "Corporate Information and Reports" section of the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). Applicants are encouraged to consider the timelines required to process applications to avoid submitting applications too late. If the submitted application is incomplete, it may be returned by the Board or there may be a delay in processing the application.



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27<sup>th</sup> Floor  
Toronto ON M4P 1E4  
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## Application Form for Applications under Section 86 of the *Ontario Energy Board Act, 1998*

For Office Use Only	
Application Number	EB -
Date Received	

### PART I : GENERAL INFORMATION

#### 1.1 Nature of Application

##### 1.1.1 Application Type

- ☐ For leave for a transmitter or distributor to sell, lease or otherwise dispose of its transmission or distribution system as an entirety or substantially as an entirety (section 86(1)(a))
- ☐ For leave for a transmitter or distributor to sell, lease or otherwise dispose of that part of its transmission or distribution system that is necessary in serving the public (section 86(1)(b))
- ☐ For leave for a transmitter or distributor to amalgamate with any other corporation (section 86(1)(c))
- ☒ For leave for a person to acquire voting securities that will exceed 20% of a distributor or transmitter (section 86(2)(a))
- ☐ For leave for a person to acquire control of a company that holds more than 20% of the voting securities of a transmitter or distributor if such voting securities constitute a significant asset of the corporation (section 86(2)(b))

##### 1.1.2 Notice under section 80 or 81 of the Act

Is a notice of proposal required under section 80 or 81 of the Act?

- ☐ Yes
- ☒ No

If yes, the applicant must also file a completed "Preliminary Filing Requirements for a Notice of Proposal Under Sections 80 and 81 of the *Ontario Energy Board Act, 1998*" with the Board.

## 1.2 Identification of the Parties

### 1.2.1 Name of Applicant

Legal name of the applicant: Saugeen Ojibway Nation

Name of Primary Contact:

Mr. <input type="radio"/>	Mrs. <input type="radio"/>	Last Name	First Name	Initial
Miss <input type="radio"/>	Ms. <input type="radio"/>	TBD		
Other <input type="radio"/>		Title/Position		

Address of Head Office:

City	Province/State	Country	Postal/Zip Code
Phone Number	Fax Number	E-mail Address	

### 1.2.2 Other Party to the Transaction (if more than one attach a list)

Name of the other party: B2M Limited Partnership

Name of Primary Contact:

Mr. <input checked="" type="radio"/>	Mrs. <input type="radio"/>	Last Name	First Name	Initial
Miss <input type="radio"/>	Ms. <input type="radio"/>	Penstone	Michael	D
Other <input type="radio"/>		Title/Position		
		Managing Director, B2M Limited Partnership		

Address of Head Office:

City	Province/State	Country	Postal/Zip Code
Toronto	ON	Canada	M5G 2P5
Phone Number	Fax Number	E-mail Address	
416-345-5444	416-345-4141	mike.penstone@b2mlp.ca	

### **1.3 Description of the Business of Each of the Parties**

- 1.3.1 Please provide a description of the business of each of the parties to the proposed transaction, including each of their affiliates engaged in, or providing goods or services to anyone engaged in, the generation, transmission, distribution or retailing of electricity ("Electricity Sector Affiliates").
- 1.3.2 Please provide a description of the geographic territory served by each of the parties to the proposed transaction, including each of their Electricity Sector Affiliates, if applicable.
- 1.3.3 Please provide a description of the customers, including the number of customers in each class, served by each of the parties to the proposed transaction.
- 1.3.4 Please provide a description of the proposed geographic service area of each of the parties after completion of the proposed transaction.
- 1.3.5 Please attach a corporate chart describing the relationship between each of the parties to the proposed transaction and each of their respective affiliates.

### **1.4 Description of the Proposed Transaction**

- 1.4.1 Please provide a detailed description of the proposed transaction.
- 1.4.2 Please provide the details of the consideration (e.g. cash, assets, shares) to be given and received by each of the parties to the proposed transaction.
- 1.4.3 Please attach the financial statements (including balance sheet, income statement, and cash flow statement) of the parties to the proposed transaction for the past two most recent years.
- 1.4.4 Please attach the pro forma financial statements for each of the parties (or if amalgamation, the one party) for the first full year following the completion of the proposed transaction.

### **1.5 Documentation**

- 1.5.1 Please provide copies of all annual reports, proxy circulars, prospectuses or other information filed with securities commissions or similar authorities or sent to shareholders for each of the parties to the proposed transaction and their affiliates within the past 2 years.
- 1.5.2 Please list all legal documents (including those currently in draft form if not yet executed) to be used to implement the proposed transaction.
- 1.5.3 Please list all Board issued licences held by the parties and confirm that the parties will be in compliance with all licence, code and rule requirements both before and after the proposed transaction. If any of the parties will not be in compliance with all applicable licences, codes and rules after completion of the proposed transaction, please explain the reasons for such non-compliance. (Note: any application for an exemption from a provision of a rule or code is subject to a separate application process.)

## **1.6 Consumer Protection**

- 1.6.1 Please explain whether the proposed transaction will cause a change of control of any of the transmission or distribution system assets, at any time, during or by the end of the transaction.
- 1.6.2 Please indicate the impact the proposed transaction will have on consumers with respect to prices and the adequacy, reliability and quality of electricity service.
- 1.6.3 Please describe the steps, including details of any capital expenditure plans, that will be taken to ensure that operational safety and system integrity are maintained after completion of the proposed transaction.
- 1.6.4 Please provide details, including any capital expenditure plans, of how quality and reliability of service will be maintained after completion of the proposed transaction. Indicate where service centres will be located and expected response times.
- 1.6.5 Please indicate whether the parties to the proposed transaction intend to undertake a rate harmonization process after the proposed transaction is completed. If yes, please provide a description of the plan.
- 1.6.6 If the application is for an amalgamation, please provide a proposal for the time of rebasing the consolidated entity in accordance with the five-year limit set by the Board.
- 1.6.7 Please identify all incremental costs that the parties to the proposed transaction expect to incur. These may include incremental transaction costs, (i.e., legal), incremental merged costs (i.e., employee severances), and incremental ongoing costs (i.e., purchase and maintenance of new IT systems). Please explain how the new utility plans to finance these costs.
- 1.6.8 Please describe the changes, if any, in distribution or transmission rate levels (as applicable) and the impact on the total bill that may result from the proposed transaction.
- 1.6.9 Please provide details of the costs and benefits of the proposed transaction to the customers of the parties to the proposed transaction.

## **1.7 Economic Efficiency**

- 1.7.1 Please indicate the impact the proposed transaction will have on economic efficiency and cost effectiveness (in the distribution or transmission of electricity). Details on the impacts of the proposed transaction on economic efficiency and cost effectiveness should include, but are not limited to, impacts on administration support functions such as IT, accounting, and customer service.

## **1.8 Financial Viability**

- 1.8.1 Please provide a valuation of any assets or shares that will be transferred in the proposed transaction. Provide details on how this value was determined, including any assumptions made about future rate levels.

- 1.8.2 If the price paid as part of the proposed transaction is significantly more than the book value of the assets of the selling utility, please provide details as to why this price will not have an adverse affect on the economic viability of the acquiring utility.
- 1.8.3 Please provide details of the financing of the proposed transaction.
- 1.8.4 If the proposed transaction involves a leasing arrangement , please identify separately any assets in the service area that are owned, from those assets that are encumbered by any means, e.g., subject to a lease or debt covenant.
- 1.8.5 Please outline the capital (debt /equity) structure, on an actual basis, of the parties to the proposed transaction prior to the transaction and on a pro forma basis after completion of the proposed transaction. In order to allow the Board to assess any potential impacts on the utility's financial viability, please include the terms associated with the debt structure of the utility as well as the utility's dividend policy after the completion of the proposed transaction. Please ensure that any debt covenants associated with the debt issue are also disclosed.
- 1.8.6 Please provide details of any potential liabilities associated with the proposed transaction in relation to public health and safety matters or environmental matters. These may be matters that have been identified in the audited financial statements or they may be matters that the parties have become aware of since the release of the most recently audited financial statements. If there are any pre-existing potential liabilities regarding public health and safety matters or environmental matters for any party to the proposed transaction, provide details on how the parties propose to deal with those potential liabilities after the transaction is completed. Specify who will have on-going liability for the pre-existing potential liabilities.

## **1.9 Other Information**

- 1.9.1 If the proposed transaction requires the approval of a parent company, municipal council or any other entity please provide a copy of appropriate resolutions indicating that all such parties have approved the proposed transaction.
- 1.9.2 Please list all suits, actions, investigations, inquiries or proceedings by any government body, or other legal or administrative proceeding, except proceedings before the Board, that have been instituted or threatened against each of the parties to the proposed transaction or any of their respective affiliates.
- 1.9.3 Regarding net metering thresholds, the Board will, absent exceptional circumstances, add together the kW threshold amounts allocated to the individual utilities and assign the sum to the new or remaining utility. Please indicate the current net metering thresholds of the utilities involved in the proposed transaction. Please also indicate if there are any special circumstances that may warrant the Board using a different methodology to determine the net metering threshold for the new or remaining utility.
- 1.9.4 Please provide the Board with any other information that is relevant to the application. When providing this additional information, please have due regard to the Board's objectives in relation to electricity.

## PART II : CERTIFICATION AND ACKNOWLEDGMENT

### 2.1.1 Certification and Acknowledgment

I certify that the information contained in this application and in documents provided are true and accurate.

Signature of Key Individual	Print Name of Key Individual original signed	Title/Position
	Date March 28, 2013	Company

(Must be signed by a key individual. A key individual is one that is responsible for executing the following functions for the applicant: matters related to regulatory requirements and conduct, financial matters and technical matters. These key individuals may include the Chief Executive Officer, the Chief Financial Officer, other officers, directors or proprietors.)

EB-2013-0080

# Evidence Circular

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This section is provided as material answering the specific questions provided in the Section 86 Application form for EB-2013-0080. The primary body of evidence submitted in support of this application remains the Supplementary Application Information filing filed concurrently with this application. Certain answers contained herein refer to that document for further information.



### **1.3. Description of the Business of Each of the Parties**

#### **1.3.1. Please provide a description of the business of each of the parties to the proposed transaction, including each of their affiliates engaged in, or providing goods or services to anyone engaged in, the generation, transmission, distribution or retailing of electricity (“Electricity Sector Affiliates”).**

Please refer to Section 2 of the Supplementary Application Information filing for a description of the parties involved in the transaction.

#### **1.3.2. Please provide a description of the geographic territory served by each of the parties to the proposed transaction, including each of their Electricity Sector Affiliates, if applicable.**

HONI Transmission delivers electricity to very large customers and LDCs at high voltage. Customers served are located across the province of Ontario except the far north.

HONI Distribution distributes electricity to residential, commercial and industrial customers at low to medium voltage. The customers are located in rural and urban areas across the province of Ontario except the far north.

Hydro One Remote Communities generates and distributes electricity to customers not connected to the transmission grid in the far northern regions of Ontario.

#### **1.3.3. Please provide a description of the customers, including the number of customers in each class, served by each of the parties to the proposed transaction.**

The transmission assets to be owned and operated by B2M LP together with HONI’s transmission system and HONI’s regulated affiliates will serve transmission and distribution customers throughout the Province of Ontario. The assets to be owned and operated by B2M LP will remain as an integral part of the bulk transmission system in Ontario. As a result, these facilities will continue to serve, directly or indirectly, all the customers in Ontario.

**1.3.4. Please attach a corporate chart describing the relationship between each of the parties to the proposed transaction and each of their respective affiliates.**

Please refer to Section 11 Appendices 1 and 3 of the Supplementary Application Information filing for diagrams outlining the corporate relationships of the parties involved in this transaction.

**1.4. Description of the Proposed Transaction**

**1.4.1. Please provide a detailed description of the proposed transaction.**

Please refer to Section 4 of the Supplementary Application Information filing.

**1.4.2. Please provide the details of the consideration (e.g. cash, assets, shares) to be given and received by each of the parties to the proposed transaction.**

Please refer to Section 4 of the Supplementary Application Information filing. SON LP Co. will be paying cash for all partnership units acquired in B2M LP.

**1.4.3. Please attach the financial statements (including balance sheet, income statement, and cash flow statement) of the parties to the proposed transaction for the past two most recent years.**

B2M LP and SON LP Co. are newly formed entities and as such no historical audited financial statements are available.

**1.4.4. Please attach the pro forma financial statements for each of the parties (or if amalgamation, the one party) for the first full year following the completion of the proposed transaction.**

Please see Section 11 Appendix 9 of the Supplementary Application Information filing for the pro-forma financial statements of B2M LP for the first five years following the closing of the transaction.

## **1.5. Documentation**

### **1.5.1. Please provide copies of all annual reports, proxy circulars, prospectuses or other information filed with securities commissions or similar authorities or sent to shareholders for each of the parties to the proposed transaction and their affiliates within the past 2 years.**

B2M LP and SON LP Co. are newly formed entities. Neither entity has filed information with securities commissions or similar authorities. SON LP Co. is owned and controlled by SON. Band Council Resolutions in respect of the proposed transaction have been obtained, copies of which are included in Section 11 Appendix 6 of the Supplementary Application Information filing. B2M LP is indirectly owned and controlled by Hydro One Inc. Information which Hydro One Inc. has filed with the Ontario Securities Commission is publicly available through SEDAR ([www.sedar.com](http://www.sedar.com)). Hydro One Inc. Board of Director approvals concerning the transaction are also included as part of Section 11 Appendix 6 of the Supplementary Application Information filing.

### **1.5.2. Please list all legal documents (including those currently in draft form if not yet executed) to be used to implement the proposed transaction.**

Please refer to Section 4 of the Supplementary Application Information filing for a description of the transaction and the transaction documentation. A copy of the Anishnaabeking Naagnigewin Agreement approved by the Board of Directors of Hydro One Inc., and the SON Band Council's is found at Section 11 Appendix 5 of the Supplementary Application Information filing. The current draft of the Amended Restated Limited Partnership Agreement concerning B2M LP is found at Section 11 Appendix 7 of the Supplementary Application Information filing.

### **1.5.3. Please list all Board issued licences held by the parties and confirm that the parties will be in compliance with all licence, code and rule requirements both before and after the proposed transaction. If any of the parties will not be in compliance with all applicable licences, codes and rules after completion of the proposed transaction, please explain the reasons for such non-compliance. (Note: any application for an exemption from a provision of a rule or code is subject to a separate application process.)**

An application for a transmitter licence for B2M LP has been submitted for approval under docket number EB-2013-0078. A copy of this Application is found at Section 9 of the Supplementary Application Information filing.

B2M LP and SON LP Co. confirm that they will each comply with all licence, code and rule requirements.

## **1.6. Consumer Protection**

### **1.6.1. Please explain whether the proposed transaction will cause a change of control of any of the transmission or distribution system assets, at any time, during or by the end of the transaction.**

SON LP Co. will be acquiring up to a 30 percent ownership interest in B2M LP. The remaining 70 percent of B2M LP will be held (indirectly) by Hydro One Inc. The general partner of B2M LP will be owned and controlled by Hydro One Inc. B2M LP's general partner intends to enter into an operating agreement and service levels agreement with HONI for the ongoing operation and maintenance of the transmission facilities owned by B2M LP. In light of this structure, the proposed acquisition of up to a 30 percent interest in B2M LP by SON LP Co. will not cause a change of control of any of the transmission assets to be acquired by B2M LP during or by the end of the transaction.

### **1.6.2. Please indicate the impact the proposed transaction will have on consumers with respect to prices and the adequacy, reliability and quality of electricity service.**

SON LP Co.'s acquisition of up to a 30 percent ownership interest in B2M LP is not expected to have any adverse impact on consumers with respect to prices and the adequacy, reliability and quality of electricity service. Overall the involvement of SON LP Co. in this transaction is expected to have a favourable impact to ratepayers through a reduction in rates over the long term. For further information regarding this topic, please see Section 6 of the Supplementary Application Information filing.

### **1.6.3. Please describe the steps, including details of any capital expenditure plans, that will be taken to ensure that operational safety and system integrity are maintained after completion of the proposed transaction.**

After completion of the proposed sale of a 30% interest in B2M LP to SON LP Co., the assets owned by B2M will continue to be maintained and operated by HONI in the same fashion and to the same standards, and will be subject to the same IESO market rules, as is currently the case. Operational safety and system integrity standards will be unaffected. The ongoing costs to operate and maintain the assets owned by B2M LP will be recovered through periodic revenue requirement applications made pursuant to section 78 of the Act.

**1.6.4. Please provide details, including any capital expenditure plans, of how quality and reliability of service will be maintained after completion of the proposed transaction. Indicate where service centres will be located and expected response times.**

The assets owned by B2M LP will continue to be maintained and operated by HONI in the same fashion and to the same standards, and will be subject to the same IESO market rules, as they are currently. Thus quality and reliability of service will be unaffected. HONI's existing service centres currently used to operate and maintain the assets will continue to be used following the close of the transaction. Response times to serve the B2M LP assets are not expected to change as compared to the time taken by HONI today to operate and maintain the assets. As such, the sale of a 30% interest in B2M LP to SON LP Co. will not have an effect on quality and reliability of service.

**1.6.5. Please indicate whether the parties to the proposed transaction intend to undertake a rate harmonization process after the proposed transaction is completed. If yes, please provide a description of the plan.**

A rate application under section 78 will be filed by B2M LP later in 2013 to establish its initial revenue requirement as of 2014 and to adjust the provincial Uniform Transmission Rates ("UTR").

**1.6.6. If the application is for an amalgamation, please provide a proposal for the time of rebasing the consolidated entity in accordance with the five-year limit set by the Board.**

N/A

**1.6.7. Please identify all incremental costs that the parties to the proposed transaction expect to incur. These may include incremental transaction costs, (i.e., legal), incremental merged costs (i.e., employee severances), and incremental ongoing costs (i.e., purchase and maintenance of new IT systems). Please explain how the new utility plans to finance these costs.**

Please refer to Section 6 of the Supplementary Application Information filing.

**1.6.8. Please describe the changes, if any, in distribution or transmission rate levels (as applicable) and the impact on the total bill that may result from the proposed transaction.**

Please refer to Section 6 of the Supplementary Application Information filing.

**1.6.9. Please provide details of the costs and benefits of the proposed transaction to the customers of the parties to the proposed transaction.**

Please refer to Sections 6 and 7 of the Supplementary Application Information filing.

## **1.7. Economic Efficiency**

**1.7.1. Please indicate the impact the proposed transaction will have on economic efficiency and cost effectiveness (in the distribution or transmission of electricity). Details on the impacts of the proposed transaction on economic efficiency and cost effectiveness should include, but are not limited to, impacts on administration support functions such as IT, accounting, and customer service.**

Please refer to Sections 4 through 7 of the Supplementary Application Information filing.

## **1.8. Financial Viability**

### **1.8.1. Please provide a valuation of any assets or shares that will be transferred in the proposed transaction. Provide details on how this value was determined, including any assumptions made about future rate levels.**

Valuation of the partnership units to be acquired by SON LP Co. from B2M LP will be based on the net book value, which approximates fair market value, of the assets that are transferred from HONI to B2M LP. The transaction contemplates SON LP Co.'s acquiring up to a 30 percent of ownership interest in B2M LP based on the net book value of the transferred assets. SON LP Co.'s actual take up of partnership interests will be dependent upon its availability to finance this purchase, which in turn is dependent upon provincial loan guarantee programs and the prevailing long term cost to borrow funds as determined in the capital markets.

### **1.8.2. If the price paid as part of the proposed transaction is significantly more than the book value of the assets of the selling utility, please provide details as to why this price will not have an adverse effect on the economic viability of the acquiring utility.**

The parties have agreed that the price of the sale will be based upon the net book value of the assets, which the parties agree, approximates fair market value.

### **1.8.3. Please provide details of the financing of the proposed transaction.**

Please refer to Section 4 of the Supplementary Application Information filing.

### **1.8.4. If the proposed transaction involves a leasing arrangement, please identify separately any assets in the service area that are owned, from those assets that are encumbered by any means, e.g., subject to a lease or debt covenant.**

A leasing arrangement is not involved in this transaction.



**1.8.5. Please outline the capital (debt /equity) structure, on an actual basis, of the parties to the proposed transaction prior to the transaction and on a pro forma basis after completion of the proposed transaction. In order to allow the Board to assess any potential impacts on the utility's financial viability, please include the terms associated with the debt structure of the utility as well as the utility's dividend policy after the completion of the proposed transaction. Please ensure that any debt covenants associated with the debt issue are also disclosed.**

B2M LP and SON LP Co. are newly formed entities and as such no historical audited financial statements are available. Please refer to Section 11 Appendix 9 of the Supplementary Application Information filing for Pro Forma statements.

The debt for the entity will be in the form of a note payable by B2M LP to GPCo. The financing to support this debt will be provided, indirectly, by Hydro One Inc. through a collateral agreement identical in nature to that currently held by Hydro One Inc. with all of its subsidiaries including HONI. This debt is expected to have an average interest rate and term that is similar to that currently held by HONI's Transmission Business in relation to the Bruce to Milton line.

The equity will ultimately be held by 3 parties in total:

- Hydro One B2M LP Inc. – 0.1%
- B2M GP Inc. – 69.9%
- SON LP Co. – 30%

See Section 1.3.5 above for illustration of the corporate structure.

Barring exceptional circumstances, a substantial portion of the income of B2M LP is expected to be distributed to its partners annually, subject to the requirements of prudent operation and management of assets transferred to B2M LP. As the transferred assets comprise newly built 500 kV transmission towers and circuits, there is very little planned capital investment required for many years, and hence, there is no expectation that there will be a need to retain significant earnings or to issue new debt to fund capital improvements over the short to medium term.

Furthermore, it is expected that, barring an extraordinary event such as major storm damage which would necessitate material capital replacements, the annual depreciation expense for The Line will generally exceed capital expenditures. As such, rate base for B2M LP will generally decline over time, along with the underlying debt and equity amounts needed to support it. This will require cash distributions to the partners in excess of partnership income in order to keep debt and equity amounts aligned with the OEB-approved 60/40 capital structure.

Nonetheless, any and all activities, including the partnership distributions made by B2M LP, will be in keeping with the maintenance of the long-term financial stability of the regulated entity, as determined by the general partner.

**1.8.6. Please provide details of any potential liabilities associated with the proposed transaction in relation to public health and safety matters or environmental matters. These may be matters that have been identified in the audited financial statements or they may be matters that the parties have become aware of since the release of the most recently audited financial statements. If there are any pre-existing potential liabilities regarding public health and safety matters or environmental matters for any party to the proposed transaction, provide details on how the parties propose to deal with those potential liabilities after the transaction is completed. Specify who will have on-going liability for the pre-existing potential liabilities.**

Acquisition of up to a 30 percent interest in B2M LP by SON LP Co. is not contemplated to in any way cause public health, safety or environmental issues, liabilities or concerns. On-going liability of the assets to be owned and operated by B2M LP will be the responsibility of its general partner, who in turn, is a wholly owned and controlled subsidiary of Hydro One.

## **1.9. Other Information**

**1.9.1. If the proposed transaction requires the approval of a parent company, municipal council or any other entity please provide a copy of appropriate resolutions indicating that all such parties have approved the proposed transaction.**

Please see Band Council Resolutions enclosed as part of Section 11 Appendix 6 to the Supplementary Application Information filing.

**1.9.2. Please list all suits, actions, investigations, inquiries or proceedings by any government body, or other legal or administrative proceeding, except proceedings before the Board, that have been instituted or**

**threatened against each of the parties to the proposed transaction or any of their respective affiliates.**

No legal action against the parties related to this transaction is currently in progress or reasonably foreseen to materialize within the exercising of this transaction

**1.9.3. Regarding net metering thresholds, the Board will, absent exceptional circumstances, add together the kW threshold amounts allocated to the individual utilities and assign the sum to the new or remaining utility. Please indicate the current net metering thresholds of the utilities involved in the proposed transaction. Please also indicate if there are any special circumstances that may warrant the Board using a different methodology to determine the net metering threshold for the new or remaining utility.**

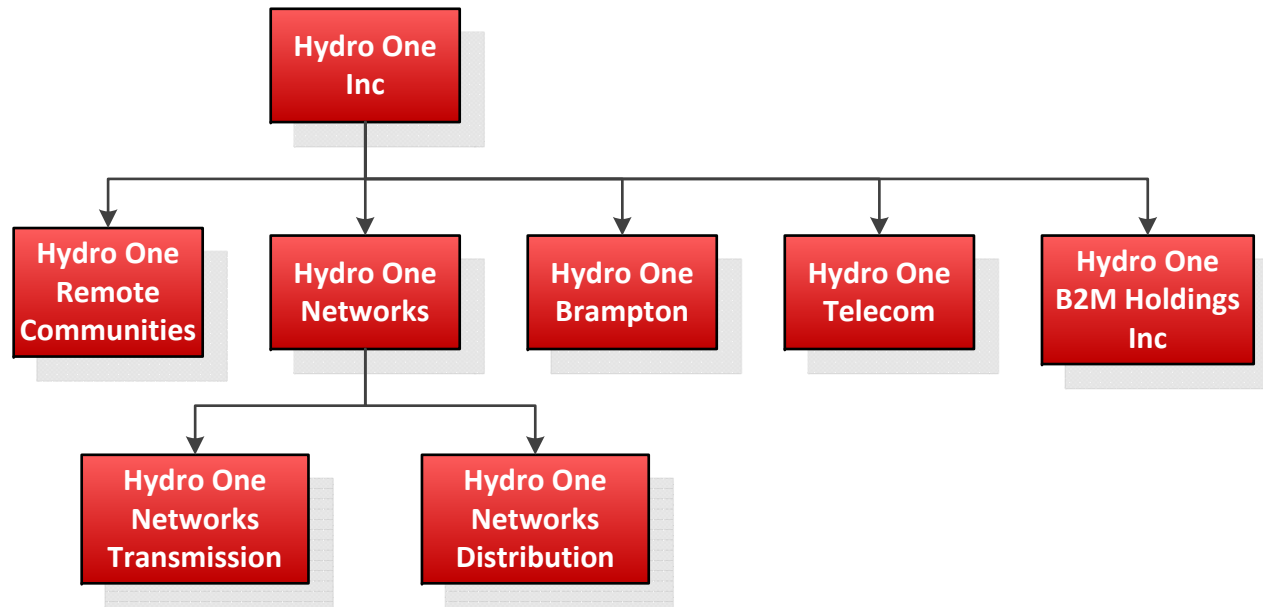
N/A. The parties and assets involved in this transaction are not involved in any net metering transactions.

**1.9.4. Please provide the Board with any other information that is relevant to the application. When providing this additional information, please have due regard to the Board's objectives in relation to electricity.**

Please refer to Sections 1 through 9 of the Supplementary Application Information filing.

## 11.0 APPENDICES

**Appendix 1**  
**Hydro One Inc. Organization Chart**



**Appendix 2**

**Hydro One Networks Inc. Audited Financial Statements**

**2010 - 2012**

**HYDRO ONE NETWORKS INC.**

**TRANSMISSION BUSINESS**

**FINANCIAL STATEMENTS**

**DECEMBER 31, 2011**



# **HYDRO ONE NETWORKS INC. TRANSMISSION BUSINESS INDEPENDENT AUDITORS' REPORT**

To the Directors of Hydro One Networks Inc.

We have audited the accompanying financial statements of the Transmission Business (a business of Hydro One Networks Inc.), which comprise the balance sheet as at December 31, 2011, the statement of operations and comprehensive income, and cash flows for the year then ended, and notes, comprising a summary of significant accounting policies and other explanatory information. The financial statements have been prepared by management in accordance with the basis of accounting in Note 2 to these financial statements.

## *Management's Responsibility for the Financial Statements*

Management of Hydro One Networks Inc. is responsible for the preparation of these financial statements in accordance with the basis of accounting in Note 2 to these financial statements; this includes determining that the basis of accounting is an acceptable basis for the preparation of these financial statements in the circumstances, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

## *Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the entity's preparation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

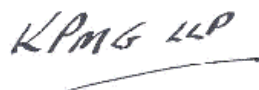
We believe that the audit evidence we have obtained in our audits is sufficient and appropriate to provide a basis for our audit opinion.

## *Opinion*

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Transmission Business (a business of Hydro One Networks Inc.) as at December 31, 2011 and the results of its operations and its cash flows for the year then ended in accordance with basis of accounting as set out in Note 2 to these financial statements.

## *Basis of Accounting and Restriction on Use*

Without modifying our opinion, we draw attention to Note 2 to these financial statement, which describes the basis of accounting and composition of the Hydro One Networks Inc. that comprise Transmission Business. In particular, in preparing these financial statements, corporate long-term debt, shared functions and services costs and payments in lieu of corporate income taxes have been allocated to the Transmission Business (a business of Hydro One Networks Inc.) using the method of allocation described in Note 2 to these financial statements. As a result of this basis of accounting, these financial statements may not necessarily be identical to the financial position, results of operations and cash flows that would have resulted had the Transmission Business (a business of Hydro One Networks Inc.) historically operated on a stand-alone basis. These financial statements are prepared to assist Hydro One Networks Inc. to comply with its reporting requirements of the Ontario Energy Board. As a result, these financial statements may not be suitable for another purpose. Our report is intended solely for Hydro One Networks Inc. and the Ontario Energy Board and should not be used by parties other than Hydro One Networks Inc. or the Ontario Energy Board.



Chartered Accountants, Licensed Public Accountants  
Toronto, Canada  
April 2, 2012

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME**

<i>Years ended December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
<b>Revenues</b>		
Transmission tariff (Note 16)	1,353	1,287
Other	37	20
	<u>1,390</u>	<u>1,307</u>
<b>Costs</b>		
Operation, maintenance and administration (Note 16)	434	426
Depreciation and amortization (Note 3)	301	273
	<u>735</u>	<u>699</u>
<b>Income before financing charges and provision for payments in lieu of corporate income taxes</b>	655	608
Financing charges (Notes 4 and 16)	198	195
<b>Income before provision for payments in lieu of corporate income taxes</b>	457	413
Provision for payments in lieu of corporate income taxes (Notes 5 and 16)	77	40
<b>Net income and comprehensive income</b>	<u>380</u>	<u>373</u>

*See accompanying notes to Financial Statements.*

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**BALANCE SHEETS**

<i>December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
<b>Assets</b>		
Current assets:		
Accounts receivable (net of allowance for doubtful accounts - \$2 million; 2010- \$2 million) ( <i>Note 16</i> )	150	135
Regulatory assets ( <i>Note 8</i> )	10	15
Materials and supplies	16	13
Future income tax assets ( <i>Note 5</i> )	10	16
Other	8	2
	194	181
Fixed assets ( <i>Note 6</i> ):		
Fixed assets in service	12,410	11,666
Less: accumulated depreciation	4,463	4,234
	7,947	7,432
Construction in progress	1,123	1,111
Future use land, components and spares	89	89
	9,159	8,632
Other long-term assets:		
Regulatory assets ( <i>Note 8</i> )	691	660
Intangible assets (net of accumulated amortization) ( <i>Note 7</i> )	113	119
Other	13	2
	817	781
<b>Total assets</b>	<b>10,170</b>	<b>9,594</b>

*See accompanying notes to Financial Statements.*

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**BALANCE SHEETS (continued)**

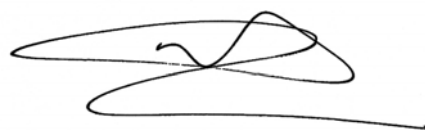
<i>December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
<b>Liabilities</b>		
Current liabilities:		
Inter-company demand facility (Note 16)	181	83
Accounts payable and accrued charges (Notes 13 and 16)	281	241
Regulatory liabilities (Note 8)	7	20
Accrued interest	52	51
Long-term debt payable within one year (Notes 9, 10 and 16)	276	324
	797	719
Long-term debt (Notes 9, 10 and 16)	4,388	4,201
Other long-term liabilities:		
Future income tax liabilities (Note 5)	570	522
Employee future benefits other than pension (Note 12)	442	416
Environmental liabilities (Note 13)	90	124
Regulatory liabilities (Note 8)	47	24
Asset retirement obligations (Note 14)	12	7
Long-term accounts payable and other liabilities	6	5
	1,167	1,098
<b>Total liabilities</b>	<b>6,352</b>	<b>6,018</b>
Contingencies and commitments (Notes 18 and 19)		
Excess of assets over liabilities (Notes 11 and 15)	3,818	3,576
<b>Total liabilities and excess of assets over liabilities</b>	<b>10,170</b>	<b>9,594</b>

*See accompanying notes to Financial Statements.*

On behalf of the Board:



Laura Formusa  
Chair



Sandy Struthers  
Director

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**STATEMENTS OF CASH FLOWS**

<i>Year ended December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
<b>Operating activities</b>		
Net income	380	373
Environmental expenditures	(7)	(7)
Adjustments for non-cash items:		
Depreciation and amortization (excluding removal costs)	281	259
Regulatory asset and liability accounts	10	(12)
Future income taxes	(7)	(1)
Gain on interest rate swap agreements	(4)	(7)
Asset retirement obligation	4	4
Other	6	-
	664	609
Changes in non-cash balances related to operations ( <i>Note 17</i> )	47	21
<b>Net cash from operating activities</b>	<b>711</b>	<b>630</b>
<b>Financing activities</b>		
Allocated long-term debt issued	455	750
Allocated long-term debt retired	(324)	(403)
Payments to Hydro One Inc. to finance dividends	(138)	(63)
Other	(3)	-
<b>Net cash (used in) from financing activities</b>	<b>(10)</b>	<b>284</b>
<b>Investing activities</b>		
Capital expenditures		
Fixed assets	(792)	(928)
Intangible assets	(18)	(8)
	(810)	(936)
Other assets	11	21
<b>Net cash used in investing activities</b>	<b>(799)</b>	<b>(915)</b>
<b>Net change in inter-company demand facility</b>	<b>(98)</b>	<b>(1)</b>
Inter-company demand facility, January 1	(83)	(82)
<b>Inter-company demand facility, December 31</b>	<b>(181)</b>	<b>(83)</b>

*See accompanying notes to Financial Statements.*

# **HYDRO ONE NETWORKS INC.**

## **TRANSMISSION BUSINESS**

### **NOTES TO FINANCIAL STATEMENTS**

#### **1. DESCRIPTION OF THE TRANSMISSION BUSINESS**

Hydro One Inc. (Hydro One) was incorporated on December 1, 1998, under the *Business Corporations Act* (Ontario) and is wholly owned by the Province of Ontario (the Province). The principal businesses of Hydro One are the transmission and distribution of electricity to customers within Ontario. These businesses are regulated by the Ontario Energy Board (OEB).

Hydro One Networks Inc. (Hydro One Networks or the Company) was incorporated on March 4, 1999 under the *Business Corporations Act* (Ontario) and is a wholly owned subsidiary of Hydro One. The Company owns and operates Hydro One's regulated transmission and distribution businesses. The regulated transmission business (Transmission Business) operates a high-voltage electrical transmission network that represents almost all of the licensed transmission capacity in Ontario.

#### **2. SIGNIFICANT ACCOUNTING POLICIES**

##### ***Basis of Accounting***

These financial statements have been prepared in accordance with the accounting policies summarized below. These policies are consistent with Canadian generally accepted accounting principles (GAAP) as contained in Part V of the Canadian Institute of Chartered Accountants (CICA) Handbook - Accounting. These financial statements have been prepared for the specific use of the OEB. Consolidated financial statements of Hydro One for the year ended December 31, 2011 have been prepared and are publicly available.

These financial statements have been prepared on a carve-out basis to provide the financial position, results of operations and cash flows of the Company's regulated Transmission Business on a basis approved by the OEB. The financial statements are considered by management to be a reasonable representation, prepared on a rational, systematic and consistent basis, of the financial results of that business. As a result of this basis of accounting, these financial statements may not necessarily be identical to the financial position and results of operations and cash flows that would have resulted had the Transmission Business historically operated on a stand-alone basis.

These financial statements have been constructed primarily through specific identification of assets, liabilities (other than debt), revenues and expenses that relate to the Transmission Business. The Company's long-term debt is allocated based on the respective borrowing requirements of the Company's transmission and distribution businesses. A portion of the Company's shared functions and services costs is allocated to the Transmission Business on a fully-allocated basis, consistent with OEB-approved independent studies. Payments in lieu of corporate income taxes (PILs) have been recorded at effective rates based on income taxes as reported in the Statements of Operations and Comprehensive Income as though the Transmission Business was a separate taxpaying entity. Certain other amounts presented in these financial statements represent allocations subject to review and approval by the OEB.

##### ***Rate-setting***

The rates of the Company's electricity Transmission Business are subject to regulation by the OEB.

Hydro One Networks filed a transmission rate application for 2009 and 2010 rates in September 2008. On May 28, 2009, the OEB issued its decision with reasons in respect of this application. The decision, which was effective July 1, 2009, resulted in revenue requirements of \$1,180 million and \$1,240 million for 2009 and 2010, respectively. The OEB decision disallowed development capital expenditures of \$180 million for 2010, but the OEB agreed to reconsider these projects if additional evidence was provided. On September 4, 2009, Hydro One Networks filed the additional evidence on two projects amounting to approximately \$160 million in capital expenditures. The OEB approved the supplemental evidence for inclusion in Hydro One Networks' 2010 rates. This resulted in a revised revenue requirement of \$1,257 million for 2010, on the basis of an updated return on equity of 8.39%.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

On May 19, 2010 Hydro One Networks submitted an application for 2011 and 2012 transmission rates in continued support of its aging critical infrastructure and the supply mix objectives for generation, including off-coal initiatives and initiation of investments in support of the Green Energy Act (GEA). This application sought the approval of revenue requirements of approximately \$1,446 million for 2011 and \$1,547 million for 2012. On December 23, 2010, the OEB issued its decision with reasons effective January 1, 2011, which resulted in approved revenue requirements of \$1,346 million for 2011 and \$1,658 million for 2012. The approved 2012 revenue requirement was higher than that applied for, reflecting OEB direction to Hydro One Networks to adopt a modified International Financial Reporting Standards (IFRS) cost capitalization policy.

On September 6, 2011, the Company submitted its evidence to the OEB in support of its request of approval to adopt US GAAP as its approved basis for rate-setting, regulatory accounting and reporting. On November 23, 2011, the OEB approved Hydro One Network's request to adopt US GAAP and approved a revised revenue requirement for 2012 that effectively removed the impact of adopting the modified IFRS cost capitalization policy.

*Regulatory Accounting*

The OEB has the general power to include or exclude costs, revenues, losses or gains in the rates of a specific period, resulting in a change in the timing of accounting recognition from that which would have applied in an unregulated company. Such change in timing involves the application of rate-regulated accounting, giving rise to the recognition of regulatory assets and liabilities. The Transmission Business' regulatory assets represent certain amounts receivable from future customers and costs that have been deferred for accounting purposes because it is probable that they will be recovered in future rates. In addition, the Transmission Business has recorded regulatory liabilities, which represent amounts incurred in different periods than would be the case had the Transmission Business been unregulated. The Company continually assesses the likelihood of recovery of each of its regulatory assets and continues to believe that it is probable that the OEB will factor its regulatory assets and liabilities into the setting of future rates. If, at some future date, the Company judges that it is no longer probable that the OEB will include a specific regulatory asset or liability in future rates, the appropriate carrying amount will be reflected in its results of operations in the period that the assessment is made. The specific regulatory assets and liabilities recognized at December 31, 2011 are disclosed in Note 8.

*Revenue Recognition*

Transmission revenues are collected through OEB-approved rates, which are based on an approved revenue requirement that includes a rate of return. Such revenue is recognized as power is transmitted and delivered to customers.

Revenue also includes amounts related to sales of other services and equipment. Such revenue is recognized as services are rendered or as equipment is delivered.

*Corporate Income and Capital Taxes*

Under the *Electricity Act, 1998*, Hydro One Networks is required to make payments in lieu of corporate taxes to the Ontario Electricity Financial Corporation (OEFC). These payments are calculated in accordance with the rules for computing income and taxable capital and other relevant amounts contained in the *Income Tax Act* (Canada) and the *Taxation Act, 2007* (Ontario) (*Corporations Tax Act* (Ontario), prior to 2009) as modified by the *Electricity Act, 1998*, and related regulations.

*Current Income Taxes*

The provision for current taxes and the assets and liabilities recognized for the current and prior periods are measured at the amounts receivable from, or payable to, the OEFC.

*Future Income Taxes*

Future income taxes are provided for using the liability method and are recognized on temporary differences

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

between the carrying amount of assets and liabilities in the financial statements and the corresponding tax bases used in the computation of taxable income.

Future income tax liabilities are generally recognized on all taxable temporary differences and future tax assets are recognized to the extent that they are more likely than not to be realized from taxable income available against which deductible temporary differences can be utilized.

Future income taxes are calculated at the tax rates that are expected to apply in the period when the liability is settled or the asset is realized, based on the tax rates (and tax laws) that have been enacted or substantively enacted by the balance sheet date. Future income taxes are charged or credited to the Statement of Operations and Comprehensive Income.

The carrying amount of future income tax assets is reviewed at each balance sheet date and reduced to the extent that all or part of the future income tax assets have not met the “more likely than not” criterion. Previously unrecognized future income tax assets are re-evaluated at each balance sheet date and are recognized to the extent that they have become more likely than not of being recovered from future taxable income.

The Company has recognized regulatory assets and liabilities which correspond to future income taxes that flow through the rate-setting process.

***Inter-Company Demand Facility***

Hydro One maintains pooled bank accounts for its use and for the use of its subsidiaries and, implicitly, by the regulated businesses of these subsidiaries. The inter-company demand facility represents the cumulative net effect of all deposits and withdrawals made by the Transmission Business to and from the pooled cash accounts. Interest is earned on positive inter-company balances based on the average of the bankers’ acceptance rate at the beginning and end of the month, less 0.02%. Interest is charged on overdraft inter-company balances based on the same bankers’ acceptance rate, plus 0.15%.

***Materials and Supplies***

Materials and supplies represent consumables, spare parts and construction material held for internal construction and maintenance of fixed assets. These assets are carried at lower of average cost or net realizable value.

***Fixed Assets***

Fixed assets are capitalized at cost, which comprises materials, labour, engineering costs, overheads, depreciation on service equipment and the OEB-approved allowance for funds used during construction applicable to capital construction activities.

Fixed assets in service consist of transmission assets, communication, administration and service assets and easements. Fixed assets also include future use assets such as land, major components and spare parts, and capitalized development costs associated with deferred capital projects.

***Transmission***

Transmission assets include assets used for the transmission of high-voltage electricity, such as transmission lines, support structures, foundations, insulators, connecting hardware, grounding systems, and assets used to step up the voltage of electricity from generating stations for transmission and to step down voltages for distribution, such as transformers, circuit breakers and switches.

***Communication, Administration and Service***

Communication, administration and service assets include telecommunications equipment, towers, buildings



**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

associated with communication assets, administrative buildings, major computer systems, personal computers, transport and work equipment, tools, vehicles and minor fixed assets.

*Easements*

Easements include statutory rights of use to transmission corridors and abutting lands granted under the *Reliable Energy and Consumer Protection Act, 2002*, as well as other amounts related to access rights.

*Intangible Assets*

Intangible assets primarily represent computer applications software. These assets are capitalized at cost, which comprises purchased software, labour and consulting, engineering, overheads and the OEB-approved allowance for funds used during construction applicable to capital construction activities.

*Construction and Development in Progress*

Overhead costs, including corporate functions and services costs, are capitalized on a fully-allocated basis, consistent with an OEB-approved methodology. Financing costs are capitalized on fixed assets under construction and intangible assets under development, based on the OEB's approved allowance for funds used during construction (2011 - 4.20%; 2010 - 4.34%).

*Depreciation and Amortization*

The capital costs of fixed assets and intangible assets are depreciated or amortized on a straight-line basis, except for transport and work equipment, which is depreciated on a declining balance basis.

The Company periodically initiates an external review of its fixed asset and intangible asset depreciation and amortization rates, as required by the OEB and Canadian GAAP. The last review resulted in changes to rates effective January 1, 2007. A summary of depreciation rates for the various classes of assets is included below:

	Depreciation rates (%)	
	Range	Average
Transmission	1% - 2%	2%
Communication, Administration and Service	1% - 15%	6%
Easements	1%	1%

Intangible assets are primarily included within the communication, administration and service classification above and these assets are amortized on a straight-line basis. The amortization rate for computer applications software and other intangible assets is approximately 11%. Depreciation rates for easements are based on their contract lives. The majority of easements are held in perpetuity and are not depreciated.

In accordance with group depreciation practices, the original cost of fixed assets or intangible assets that are normally retired is charged to accumulated depreciation or amortization, with no gain or loss reflected in current results of operations. Gains and losses on sales of fixed assets and losses on premature retirements are charged to results of operations as adjustments to depreciation expense. Depreciation expense also includes the costs incurred to remove fixed assets.

The estimated service lives of fixed or intangible assets are subject to periodic review. Any changes arising out of such a review are implemented on a remaining service life basis consistent with their inclusion in electricity rates.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

*Financial Instruments*

*Recognition and measurement*

All financial instruments are classified into one of the following five categories: held-to-maturity investments; loans and receivables; held-for-trading; other liabilities; or available-for-sale. All financial instruments, including derivatives, are carried at fair value on the Balance Sheets except for loans and receivables, held-to-maturity investments and other financial liabilities, which are measured at amortized cost. Held-for-trading financial instruments are measured at fair value and all gains and losses are included in financing charges in the period which they arise. Available-for-sale financial instruments are measured at fair value with revaluation gains and losses included in other comprehensive income (OCI) until the instrument is derecognized or impaired. The Transmission Business has classified its financial instruments as follows:

Assets / Liabilities	Classification	Measurement
Accounts receivable	Loans and receivables	Amortized cost
Accounts payable	Other liabilities	Amortized cost
Inter-company demand facility	Other liabilities	Amortized cost
Long-term debt (unless otherwise specified)	Other liabilities	Amortized cost
Fixed-to-floating interest rate swaps	Not classified	Fair value
Floating-to-fixed interest rate swaps	Held-for-trading	Fair value
\$150 million of a \$250 million note matured on March 3, 2011	Not classified	Fair value
\$150 million of a \$500 million note due November 19, 2014	Not classified	Fair value
\$150 million of a \$500 million note due September 11, 2015	Not classified	Fair value

In March 2008, January 2010 and January 2011, Hydro One issued notes for long-term financing under its Medium-Term Note (MTN) Program in the amounts of \$250 million, \$500 million and \$250 million, respectively. The first \$250 million issue, \$250 million of the \$500 million issue and the second \$250 million issue were mirrored within Hydro One Networks through the issuance of inter-company debt with \$150 million of each issue allocated to the Transmission Business. These amounts were designated as part of a hedging relationship. As at December 31, 2011, derivative instruments include fixed-to-floating interest-rate swap agreements with a total amount of \$300 million to convert \$300 million of fixed-rate debt into three-month variable-rate debt as well as floating-to-fixed interest-rate swap agreements with a total amount of \$330 million that locks in the rate resets on \$330 million floating-rate debt for 2012. These long-term debt issues, and related hedging instruments, are not classified.

All financial instrument transactions are recorded at trade date.

*Discounts and Premiums on Debt*

Discounts and premiums are amortized over the term of the related debt using the effective interest rate method.

*Transaction Costs*

Transaction costs related to Hydro One Networks' proportionate share of the relevant Hydro One transaction, for financial assets and liabilities that are other than held-for-trading, are added to the carrying value of the asset or liability and amortized over the expected life of the instrument using the effective interest method.

*Derivative Instruments and Hedge Accounting*

All derivative instruments, including embedded derivatives, are carried at fair value on the Balance Sheets unless exempted from derivative treatment as a normal purchase and sale or when it is deemed that the economic characteristics and risks of the embedded derivative are not closely related to the economic characteristics and risks of the host contract. The Company does not have any significant embedded derivatives in contracts that require separate accounting and disclosure.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

All changes in fair value are recorded in financing charges unless cash flow hedge accounting is used, in which case changes in fair value are recorded in OCI to the extent that the hedge is effective. The gain or loss related to the ineffective portion, if any, is recorded in financing charges.

The Company does not engage in derivative trading or speculative activities.

Hydro One periodically develops hedging strategies for execution taking into account risk management objectives. At the inception of a hedging relationship, Hydro One formally documents the hedging relationship between the hedged item and the hedging instrument, its risk management objective for establishing the hedging relationship, the nature of the specific risk exposure being hedged, and the method for assessing effectiveness of the hedging relationship. Hydro One also assesses, both at the inception of the hedge and on an ongoing basis, whether the hedging items that are used are effective in offsetting changes in fair values or cash flows of the hedged items.

*Comprehensive Income*

Comprehensive income is comprised of the Transmission Business' net income and OCI. OCI includes the amortization of net unamortized hedging losses on the Company's proportionate share of Hydro One's discounted cash flow hedges, and the change in fair value on the Company's proportionate share of existing cash flow hedges to the extent that the hedge is effective. The Company amortizes its unamortized hedging losses on discontinued cash flow hedges to financing charges using the effective interest method over the term of the allocated hedged debt.

*Financial Instrument Disclosures*

All financial instruments measured at fair value are categorized into one of the three levels of hierarchy. Each level is based on the transparency of the inputs used to measure the fair values of assets and liabilities:

Level 1 – inputs are unadjusted quoted prices of identical instruments in an active market;

Level 2 – inputs do not have quoted prices but are observable for the asset or liability, either directly or indirectly; and

Level 3 – inputs that are not based on observable market data.

The fair market value of the Company's long-term debt is determined using the fair value hierarchy levels disclosed in Note 10.

*Employee Future Benefits*

Employee future benefits provided by Hydro One and its subsidiaries include pension, group life insurance, health care, and long-term disability.

In accordance with the OEB's rate orders, pension costs are recorded when employer contributions are paid to the pension fund in accordance with the *Pension Benefits Act* (Ontario). Actuarial valuations are conducted at least every three years. Pension costs are also calculated on an accrual basis. Pension costs are actuarially determined using the projected benefit method prorated on service and based on assumptions that reflect management's best estimate of the effect of future events, including future compensation increases, on the actuarial present value of accrued pension benefits. Pension plan assets, consisting primarily of listed equity securities as well as corporate and government debt securities, are valued using fair values. Past service costs from plan amendments and all actuarial gains or losses are amortized on a straight-line basis over the expected average remaining service life of the employees covered.

Employee future benefits other than pension are recorded on an accrual basis. Costs are determined by independent actuaries using the projected benefit method prorated on service and based on assumptions that reflect management's best estimates. Past service costs from plan amendments and actuarial gains or losses are amortized on a straight-line basis over the expected average remaining service life of the employees covered.

Employee future benefit costs are attributed to labour and charged to operations or capitalized as part of the cost of

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

fixed and intangible assets.

***Environmental Costs***

The Transmission Business records a liability for estimated future expenditures associated with the assessment and remediation of contaminated lands and for the phase-out and destruction of polychlorinated biphenyl (PCB) contaminated mineral oil removed from electrical equipment, based on the present value of these estimated future expenditures. As the Company anticipates that the related expenditures will continue to be recoverable in future rates, a regulatory asset has been recorded to reflect the future recovery of these costs from customers. The Transmission Business reviews its estimates of future environmental expenditures on an ongoing basis.

***Asset Retirement Obligations***

When required by force of law or regulation, the Transmission Business records an asset retirement obligation based on the present value of the estimated fair value expenditures to remove certain assets and mitigate related sites. Where the Transmission Business anticipates that the related expenditures will be recoverable in future rates, a corresponding amount is capitalized as a cost of the related fixed assets. Some of the Transmission Business' assets, particularly those located on unowned easements and rights-of-way, may have asset retirement obligations, conditional or otherwise. The majority of the Company's easements and rights-of-way are either of perpetual duration or are automatically renewed annually. Land rights with finite terms are generally subject to extension or renewal. As the Transmission Business expects to use the majority of its facilities in perpetuity, no asset retirement obligation currently exists. If, at some future date, a particular facility is shown not to meet the perpetuity criterion, it will be reviewed to determine whether a measurable asset retirement obligation exists. In such a case, an asset retirement obligation would be recorded at that time. The asset retirement obligations recorded to date are primarily related to the estimated future expenditures associated with the removal and disposal of asbestos-containing materials installed in some of the Company's facilities and the decommissioning of certain switching stations.

***Use of Estimates***

The preparation of financial statements in conformity with Canadian GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the Financial Statements, and the reported amounts of revenues and expenses for the year. Actual results could differ from those estimates, including changes as a result of future decisions made by the OEB or the Province.

***Emerging Accounting Changes***

***Accounting Framework***

The Company previously anticipated it would apply International Financial Reporting Standards (IFRS) to the Financial Statements of its regulated businesses for fiscal periods beginning on or after January 1, 2012. In the absence of a definitive plan for a new project to consider the issuance of a rate-regulated accounting standard by the International Accounting Standards Board, Hydro One began evaluating the option of adopting US GAAP in lieu of IFRS in the first quarter of this year. On July 7, 2011, Hydro One filed an application with the Ontario Securities Commission (OSC) for exemptive relief from the requirements of section 3.2 of National Instrument 52-107 *Acceptable Accounting Policies and Auditing Standards* that would otherwise require it to file Financial Statements based on IFRS starting with reporting periods commencing after January 1, 2012. Hydro One's application requested approval to instead adopt US GAAP, without becoming a Securities and Exchange Commission registrant, for its 2012, 2013 and 2014 fiscal years. On July 21, 2011, the OSC approved Hydro One's application and granted it the requested exemptive relief. Hydro One's Board of Directors has approved a resolution authorizing it to report under US GAAP.

As a result, the Company, as a subsidiary of Hydro One, will prepare its December 31, 2012 Financial Statements prepared based on US GAAP with two years of comparative restatement. The Company's opening US GAAP Balance Sheet will be based on a retrospective application of US GAAP. The Company anticipates that its current application of Canadian GAAP for rate-regulated activities will generally be consistent with US GAAP. Any

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

differences between Canadian and US GAAP and their impact on the Company's Financial Statements will be assessed as part of the Company's US GAAP conversion project.

On September 6, 2011, the Company submitted its evidence to the OEB in support of its request of approval to adopt US GAAP as the approved basis for rate-setting and regulatory accounting and reporting for its Transmission Business in preference to modified IFRS. On November 23, 2011, the OEB approved the Company's request.

**3. DEPRECIATION AND AMORTIZATION**

<i>Years ended December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
Depreciation of fixed assets in service	250	231
Amortization of intangible assets	22	21
Fixed asset removal costs	20	14
Amortization of regulatory and other assets	9	7
	<b>301</b>	<b>273</b>

**4. FINANCING CHARGES**

<i>Years ended December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
Interest on long-term debt payable (Note 16)	242	242
Interest on inter-company demand facility	1	(1)
Other	1	(2)
Less: Interest capitalized on construction and development in progress	(46)	(44)
	<b>198</b>	<b>195</b>

**5. PROVISION FOR PAYMENTS IN LIEU OF CORPORATE INCOME TAXES**

The provision for PILs differs from the amount that would have been recorded using the combined Canadian Federal and Ontario statutory income tax rate. The reconciliation between the statutory and effective tax rates is provided as follows:

<i>(Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
Income before provision for PILs	457	413
Federal and Ontario statutory income tax rate	28.25%	31.00%
Provision for PILs at statutory rate	129	128

Increase (decrease) resulting from:

Net temporary differences included in amounts charged to customers:

Capital cost allowance in excess of depreciation and amortization	(27)	(57)
Interest capitalized for accounting purposes but deducted for tax purposes	(13)	(14)
Overheads capitalized for accounting but deducted for tax purposes	(7)	(8)
Pension contributions in excess of pension expense	(7)	(7)
Environmental expenditures	(2)	(2)
Employee future benefits other than pension expense in excess of cash payments	2	1
Other	1	(2)
Net temporary differences	(53)	(89)
Net permanent differences	1	1
Total income tax provision for PILs	<b>77</b>	<b>40</b>

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

<i>(Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
Current income tax provision for PILs	83	41
Future income tax provision for PILs	(6)	(1)
Total income tax provision for PILs	77	40
Effective income tax rate	16.85%	9.69%

The provision for payments in lieu of current income taxes of \$83 million represents the amount payable to the OEFC with respect to current year income. The outstanding balance due to the OEFC at December 31, 2011 is approximately \$36 million (2010 - \$6 million recoverable).

The payments in lieu of future income taxes recoverable of \$6 million reflects the decrease in the liability for payments in lieu of future income taxes that are not expected to be recovered from the Transmission Business's customers through future rates.

**Future Income Tax Assets and Liabilities**

Payments in lieu of future income tax assets and liabilities arise from differences between the carrying amounts and tax bases of the Transmission Business' assets and liabilities. The tax effects of these differences are as follows:

<i>December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
<b>Future Income Tax Assets</b>		
Employee future benefits other than pension expense in excess of cash payments	155	147
Eligible Capital Expenditure	36	37
Environmental expenditures	25	34
Other	1	4
Total future income tax assets	217	222
Less: current portion	12	19
	205	203
Current future income tax assets	12	19
Current future income tax liabilities	(2)	(3)
Net current future income tax assets	10	16
<b>Future Income Tax Liabilities</b>		
Capital cost allowance in excess of depreciation and amortization	760	698
Amounts paid but not recognized for accounting purposes	17	29
Other	-	1
Total future income tax liabilities	777	728
Less: current portion	2	3
	775	725
Long-term future income tax assets	205	203
Long-term future income tax liabilities	(775)	(725)
Net long-term future income tax liability	(570)	(522)

The increase in the liability for payments in lieu of future income taxes that is expected to be recovered from customers through future rates has resulted in an increase in regulatory assets.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

**6. FIXED ASSETS**

<i>December 31 (Canadian dollars in millions)</i>	Cost	Accumulated Depreciation	Construction in Progress	Total
<b>2011</b>				
Transmission	10,888	3,807	1,078	8,159
Communication, administration and service	1,126	572	45	599
Easements	485	84	-	401
	12,499	4,463	1,123	9,159
<b>2010</b>				
Transmission	10,186	3,623	1,070	7,633
Communication, administration and service	1,086	529	41	598
Easements	483	82	-	401
	11,755	4,234	1,111	8,632

Financing costs are capitalized on fixed assets under construction, including allowance for funds used during construction on regulated assets, and were \$46 million in 2011 (2010 - \$44 million).

**7. INTANGIBLE ASSETS**

<i>December 31 (Canadian dollars in millions)</i>	Cost	Accumulated Amortization	Development in Progress	Total
<b>2011</b>				
Computer applications software	205	99	5	111
Other assets	4	2	-	2
	209	101	5	113
<b>2010</b>				
Computer applications software	190	77	4	117
Other assets	4	2	-	2
	194	79	4	119

**8. REGULATORY ASSETS AND LIABILITIES**

Regulatory assets and liabilities arise as a result of the rate-setting process. The Transmission Business has recorded the following regulatory assets and liabilities:

<i>December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
<b>Regulatory assets:</b>		
Future income tax regulatory asset	583	522
Environmental	100	134
Pension cost variance	13	11
Long-term project development cost	5	7
Other	-	1
Total regulatory assets	701	675
Less: current portion	10	15
	691	660

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

<i>December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
<b>Regulatory liabilities:</b>		
External revenue variance	38	29
Future income tax regulatory liability	7	8
PST savings deferral	3	3
Other	6	4
Total regulatory liabilities	54	44
Less: current portion	7	20
	47	24

***Regulatory Assets***

*Future Income Tax Regulatory Asset and Liability*

Future income taxes are recognized on temporary differences between the carrying amount of assets and liabilities in the financial statements and the corresponding tax bases used in the computation of taxable income. The Company has recognized regulatory assets and liabilities which correspond to future income taxes that flow through the rate-setting process. In the absence of rate-regulated accounting, the Company's provision for PILs would have been recognized using the liability method and there would be no regulatory accounts established for taxes to be recovered through future rates. As a result, the Transmission Business' provision for PILs would have been higher by approximately \$46 million (2010 - \$76 million) including the impact of a change in substantively enacted tax rates.

*Environmental*

The Transmission Business records a liability for the estimated future expenditures required to remediate past environmental contamination (See Note 13). Because such expenditures are expected to be recoverable in future rates, the Transmission Business has recorded an equivalent amount as a regulatory asset. In 2011, this regulatory asset decreased by \$32 million (2010 - \$17 million) to reflect a revaluation adjustment in the Company's PCB liability and decreased by \$1 million (2010 - \$1 million) for a change in the land assessment and remediation (LAR) liability. The environmental regulatory asset is amortized to results of operations based on the pattern of actual expenditures incurred. The OEB has the discretion to examine and assess the prudence and the timing of recovery of all of the Transmission Business's actual environmental expenditures. In the absence of rate-regulated accounting, operation, maintenance and administration expenses would have been lower by \$33 million (2010 - \$18 million). In addition, amortization expense in 2011 would have been lower by \$7 million (2010 - \$7 million) and financing charges would have been higher by \$6 million (2010 - \$8 million).

*Pension cost variance*

The pension cost variance account was established to track the difference between the actual pension costs incurred by the Transmission Business and estimated pension costs approved by the OEB. The balance in this account reflects the excess of pension contributions paid compared to OEB-approved amounts. On May 28, 2009, the OEB announced its decision regarding the Company's rate application in respect of the Transmission Business for 2009 and 2010 rates. As part of this decision, the OEB approved recovery of the proposed balance in this account plus accrued interest for recovery over 18 months ending December 31, 2010. In the December 23, 2010 decision on 2011 and 2012 transmission rates, the OEB approved the December 31, 2009 balance, including accrued interest, to be recovered over a one-year period from January 1, 2011 to December 31, 2011. In the absence of rate-regulated accounting, revenue would have been lower by \$1 million in 2011 (2010 - \$8 million).

*Long-term project development cost*

On May 28, 2009 the OEB approved the creation of a deferral account to record the Transmission Business' costs of preliminary work to advance certain transmission projects identified in its 2009 and 2010 transmission rate



**HYDRO ONE NETWORKS INC.**  
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**NOTES TO FINANCIAL STATEMENTS (continued)**

application. On March 25, 2010, the OEB issued a decision amending the scope of the account to include the 20 major transmission projects identified in the September 21, 2009 request from the Province. In its December 23, 2010 decision, the OEB approved the recovery of the December 31, 2009 balance, including accrued interest, over a one-year period from January 1, 2011 to December 31, 2011. In the absence of rate-regulated accounting, operation, maintenance and administration expenses would have been lower by \$2 million (2010 - higher by \$5 million).

***Regulatory Liabilities***

***External Revenue Variance***

In its May 28, 2009 decision, the OEB approved forecasted amounts related to export service revenue, external revenue from secondary land use and external revenue from station maintenance and engineering and construction work. These revenue sources are an offset to the Company's revenue requirement, and as such, the OEB requested the establishment of new variance accounts to capture any difference between amounts factored into the approved revenue requirement and actual amounts received. The balance reflects the excess of external revenue compared to the OEB-approved amounts. On December 23, 2010, the OEB approved the disposition of the December 31, 2009 balance, including accrued interest, over a one-year period from January 1, 2011 to December 31, 2011.

***PST savings deferral***

The Company is required to record the impact from the implementation of the HST sales tax regime from July 1, 2010 to December 31, 2010. The variance amounts recognized in the account reflect Provincial Sales Tax (PST) amounts in approved revenue requirements after the implementation of the HST. These amounts will be refunded to ratepayers in future years.

**9. DEBT**

Debt represents the Transmission Business' share of various notes payable by Hydro One Networks to Hydro One.

<i>December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
Long-term debt	4,659	4,528
Add: Unrealized marked-to-market loss <sup>1</sup>	14	3
Less: Long-term debt payable within one year	(276)	(324)
Net unamortized premiums	11	13
Unamortized debt issuance costs	(20)	(19)
	<b>4,388</b>	<b>4,201</b>

<sup>1</sup> The unrealized marked-to-market loss relates to the \$150 million note which matured on March 3, 2011; \$150 million of the \$325 million note maturing November 19, 2014; and \$150 million of the \$300 million note maturing September 11, 2015, which are accounted for as fair value hedges. The unrealized marked-to-market loss is offset by a \$14 million (2010 - \$3 million) unrealized gain on the related fixed-to-floating interest rate swap agreements.

The long-term debt is unsecured and denominated in Canadian dollars. Such debt is summarized by the number of years to maturity in Note 10.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

**10. CARRYING AND FAIR VALUE OF FINANCIAL INSTRUMENTS AND RISK MANAGEMENT**

The carrying value of financial instruments as at December 31, 2011 is as follows:

<i>(Canadian dollars in millions)</i>	Derivatives Used for Hedging	Other Financial Instruments Used for Hedging	Loans and Receivables	Other Financial Liabilities
<b><i>Financial Assets</i></b>				
Accounts receivable	-	-	150	-
Other assets	14	-	-	-
<b><i>Financial Liabilities</i></b>				
Inter-company demand facility	-	-	-	181
Accounts payable and accrued charges <sup>1</sup>	-	-	-	236
Long-term debt	-	314	-	4,350

<sup>1</sup> Accounts payable and accrued charges do not include income taxes payable or dividends payable.

The carrying amounts of all financial instruments, except long-term debt, approximate fair value. The fair value of derivative financial instruments reflects the estimated amount that the Transmission Business, if required to settle an outstanding contract, would have been required to pay or would be entitled to receive at year end. The fair value of long-term debt, provided in the table below, is based on unadjusted year-end market prices for the same or similar debt of the same remaining maturities. The fair value measurement of long-term debt is categorized as level 1 as the inputs used reflect quoted prices in an active market.

<i>December 31 (Canadian dollars in millions)</i>	<b>2011</b>		<b>2010</b>	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Long-term debt <sup>1</sup>	4,659	5,497	4,528	4,978

<sup>1</sup> The carrying value of long-term debt represents the par value of the notes and debentures, other than the amounts which are designated as part of a hedging relationship.

Exposure to market risk, credit risk and liquidity risk arises in the normal course of the Company's business.

***Market Risk***

Market risk refers primarily to the risk of loss that results from changes in commodity prices, foreign exchange rates and interest rates. The Company does not have commodity risk. The Company does have foreign exchange risk as it enters into agreements to purchase materials and equipment associated with the Company's capital programs and projects that are settled in foreign currencies. This foreign exchange risk is not material, although Hydro One could in the future decide to issue foreign currency denominated debt which will be hedged back to Canadian dollars consistent with Hydro One's risk management policy. The Company is exposed to fluctuations in interest rates as the regulated rate of return for the Company's Transmission Business is derived using a formulaic approach which is based on the forecast for long-term Government of Canada bond yields and the spread in 30 year "A" rated Canadian utility bonds over the 30 year benchmark Government of Canada bond yield. The Company estimates that a 1% decrease in the forecast long-term Government of Canada bond yield or the "A" rated Canadian utility spread used in determining the Company's rate of return would reduce its Transmission Business' results of operations by approximately \$18 million.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

*Credit Risk*

Financial assets create credit risk that a counter-party will fail to discharge an obligation, causing a financial loss. As at December 31, 2011, there were no significant concentrations of credit risk with respect to any class of financial assets.

In the year, the Transmission Business' provision for bad debts was \$2 million (2010 - \$2 million). Minor adjustments and write-offs were determined on the basis of a review of overdue accounts, taking into consideration historical experience. As at December 31, 2011, approximately 1% of the Transmission Business' accounts receivable was aged more than 60 days.

Hydro One manages its counter-party credit risk through various techniques including, entering into transactions with highly rated counter-parties, limiting total exposure levels with individual counterparties consistent with the Hydro One's Board-approved Credit Risk Policy, entering into master agreements which enable net settlement and the contractual right of offset, and monitoring the financial condition of counterparties. The Company's credit risk for accounts receivable is limited to the carrying amount on the Balance Sheet.

Hydro One uses derivative financial instruments to manage interest rate risk. Hydro One, and the Company, may enter into derivative agreements such as forward interest rate agreements, to hedge against the effect of future interest rate movements on long-term fixed rate borrowing requirements. No such agreements were outstanding as at December 31, 2011.

*Liquidity Risk*

Liquidity risk refers to the Company's ability to meet its financial obligations as they come due. Short-term liquidity is provided through the inter-company demand facility from Hydro One and funds from operations. The short-term liquidity available to the Company should be sufficient to fund normal operating requirements.

As at December 31, 2011, accounts payable and accrued charges in the amount of \$236 million are expected to be settled in cash at their carrying amounts within the next year. Long-term debt maturing over the next twelve months is \$276 million. Interest payments over the next twelve months on the Transmission Business' outstanding debt amount to \$240 million.

As at December 31, 2011, the Transmission Business' share of the long-term debt of Hydro One Networks to Hydro One is \$4,659 million and the required interest payments are \$4,112 million. Principal outstanding, interest payments and related weighted average interest rates are summarized by the number of years to maturity in the following table:

Years to Maturity	Principal Outstanding on Notes and Debentures (Canadian dollars in millions)	Interest Payments (Canadian dollars in millions)	Weighted Average Interest Rate (Percent)
1 year	276	240	5.8
2 years	370	224	5.0
3 years	325	205	3.2
4 years	330	195	2.9
5 years	270	180	4.7
	1,571	1,044	4.3
6 – 10 years	585	771	5.0
Over 10 years	2,503	2,297	5.8
	4,659	4,112	5.2

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

**11. CAPITAL MANAGEMENT**

The Transmission Business' objective is to manage its capital structure consistent with the deemed capital structure for rate-setting purposes as prescribed by the OEB in its August 16, 2007 decision on transmission rates. This deemed capital structure is 60% debt and 40% common equity.

The Transmission Business considers its capital structure to consist of excess assets over liabilities, long-term debt, and the inter-company demand facility. The following table summarizes this capital structure:

<i>(Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
Long-term debt payable within one year	276	324
Add: Inter-company demand facility	181	83
	457	407
Long-term debt	4,388	4,201
Excess of assets over liabilities	3,818	3,576
Total capital	8,663	8,184

**12. EMPLOYEE FUTURE BENEFITS**

***Pension***

Hydro One has a contributory defined benefit pension plan covering all regular employees of Hydro One and its subsidiaries, except Hydro One Brampton Inc. The Hydro One Pension Plan does not segregate assets in a separate account for individual subsidiaries, nor is the cost of the benefit plans allocated to, or funded separately by, entities within the consolidated group. Accordingly, for purposes of these financial statements, the pension plan is accounted for as a defined contribution plan and no deferred pension asset or liability is recorded.

Hydro One's pension plan provides benefits based on highest three-year average pensionable earnings. For new management employees who commenced employment on or after January 1, 2004, and for new employees represented by the Society of Energy Professionals hired after November 17, 2005, benefits are based on highest five-year average pensionable earnings. After retirement, pensions are indexed to inflation. The measurement date used to determine plan assets and the accrued benefit obligation is December 31. Based on the actuarial valuation filed with the Financial Services Commission of Ontario in September 2010, effective for December 31, 2009, Hydro One contributed \$152 million to its pension plan in respect of 2011 (2010 - \$193 million), \$148 million of which is required to satisfy minimum funding requirements (2010 - \$145 million). Hydro One made an additional payment of \$48 million in December 2010 and an additional payment of \$4 million in 2011 related to a partial plan wind-up. Contributions are payable one month in arrears. All of the contributions are expected to be in the form of cash. Future contributions will depend on future investment returns, and changes in benefits or actuarial assumptions.

For Hydro One, the actuarial present value at December 31, 2011 of the accrued pension benefits, based on a projection of the valuation at December 31, 2011, was estimated to be \$5,461 million (2010 - \$4,996 million). Pension plan assets available for these benefits were \$4,682 million (2010 - \$4,699 million).

***Employee Future Benefits other than Pension***

During the year ended December 31, 2011, \$26 million of employee future benefits other than pension costs were charged to the results of operations of the Transmission Business (2010 - \$22 million), and \$18 million was capitalized as part of the cost of fixed assets (2010 - \$15 million). Benefits paid were \$18 million (2010 - \$18 million). The liability associated with employee future benefits other than pension for the Transmission Business at December 31, 2011 was \$463 million (2010 - \$437 million), including the current portion.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

A detailed description of employee future benefits is provided in Note 12 of the Consolidated Financial Statements of Hydro One for the year ended December 31, 2011.

**13. ENVIRONMENTAL LIABILITIES**

<i>December 31 (Canadian dollars in millions)</i>	Polychlorinated Biphenyls (PCB)	Land Assessment and Remediation (LAR)	Total
<b>2011</b>			
Environmental liabilities, January 1	116	18	134
Interest accretion	5	1	6
Expenditures	(6)	(1)	(7)
Revaluation adjustment	(32)	(1)	(33)
Environmental liabilities, December 31	83	17	100
Less: current portion	9	1	10
	74	16	90

<i>December 31 (Canadian dollars in millions)</i>	Polychlorinated Biphenyls (PCB)	Land Assessment and Remediation (LAR)	Total
<b>2010</b>			
Environmental liabilities, January 1	131	20	151
Interest accretion	7	1	8
Expenditures	(5)	(2)	(7)
Revaluation adjustment	(17)	(1)	(18)
Environmental liabilities, December 31	116	18	134
Less: current portion	9	1	10
	107	17	124

Estimated future environmental expenditures for each of the five years subsequent to December 31, 2011 and in total thereafter are as follows: 2012 - \$10 million; 2013 - \$12 million; 2014 - \$13 million; 2015 - \$4 million; 2016 - \$4 million and thereafter - \$78 million. Of the total estimated future expenditures, \$104 million relate to PCB (2010 - \$139 million) and \$17 million to LAR (2010 - \$20 million).

Consistent with the Company's accounting policy for environmental costs, the Transmission Business records a liability for the estimated future expenditures associated with the removal and destruction of PCB-contaminated insulating oils and related electrical equipment and for the assessment and remediation of chemically-contaminated lands.

On September 17, 2008, Environment Canada published its final regulations governing the management, storage and disposal of PCBs. These regulations were enacted under the *Canadian Environmental Protection Act, 1999*. The regulations impose timelines for disposal of PCBs based on criteria including type of equipment, in-use status and PCB-contamination thresholds. All PCBs in concentrations of 500 parts per million (ppm) or more, except for specified equipment, had to be disposed of by the end of 2009. However, in 2009, the Company sought and received an extension until 2014 for the removal of PCBs from certain station equipment that could potentially be contaminated in excess of this threshold. Under the regulations, PCBs in equipment in concentrations greater than 50 ppm and less than 500 ppm, or greater than 50 ppm for light ballasts must be disposed of by the end of 2025.

Management judges that the Company currently has very few PCB-contaminated assets in excess of 500 ppm. Priority will be given to targeting inspection and testing work toward identifying and removing PCBs in assets that

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

must be compliant by 2014. Assets to be disposed of by 2025 primarily consist of light ballasts. Contaminated transmission station equipment will generally be replaced or will be decontaminated by removing PCB-contaminated insulating oil and retrofilling with replacement oil that is less than 2 ppm.

There are uncertainties in estimating future environmental costs due to potential external events such as changes in legislation or regulations and advances in remediation technologies. All factors used in estimating the Transmission Business' environmental liabilities represent management's best estimates of the present value cost required to meet existing legislation or regulations. However, it is reasonably possible that numbers or volumes of contaminated assets, cost estimates to perform work, inflation assumptions and the assumed pattern of annual cash flows may differ significantly from the Transmission Business' current assumptions. In addition, for the PCB program, the availability of critical resources such as skilled labour and replacement assets and the ability to take maintenance outages in critical facilities may influence the timing of expenditures. Estimated environmental liabilities are reviewed annually or more frequently if significant changes in regulation or other relevant factors occur. Estimate changes are accounted for prospectively.

In determining the amounts to be recorded as environmental liabilities, the Company estimates the current cost of completing required work and makes assumptions as to when the future expenditures will actually be incurred, in order to generate future cash flow information. A long-term inflation assumption of approximately 2% has been used to express these current cost estimates as estimated future expenditures. Future environmental expenditures have been discounted using factors ranging from 3.75% to 6.25%, depending on the appropriate rate for the period when increases in the obligations were first recorded.

#### **14. ASSET RETIREMENT OBLIGATIONS**

Consistent with the Company's accounting policy for asset retirement obligations, Hydro One Networks records a liability for the present value of the estimated future expenditures associated with the retirement of tangible long-lived assets that the Company is legally required to remove. A corresponding amount is recorded as an asset retirement cost that is capitalized as part of the carrying amount of the related fixed asset.

The Company has recorded a liability for the estimated future expenditures associated with the removal and disposal of asbestos-containing materials installed in some of its facilities. The Company's liability is based on management's best estimate of the present value of the estimated future expenditures to comply with existing regulations. In 2010, the Company completed a study with the aid of an expert external consultant to estimate the future expenditures required to remove asbestos prior to facility demolition. The present value of the estimated future expenditures is \$4 million. The amount of interest recorded is nominal and there have been no expenditures associated with this obligation.

In 2011, the Company recorded a \$4 million asset retirement obligation related to the future decommissioning and removal of one of its switching stations. Including the obligation recorded in respect of another switching station in 2010, the present value of the estimated future expenditures to discharge these obligations is about \$8 million. Interest recorded on this amount in the year was nominal and there have been no expenditures associated with these obligations to date.

There are uncertainties in estimating future expenditures due to potential external events such as changing legislation or regulations and advances in remediation technologies. All factors used in estimating the Company's asset retirement obligations represent management's best estimates of the costs required to meet existing legislation or regulations. However, it is reasonably possible that numbers or volumes of contaminated assets, cost estimates to perform work, inflation assumptions and the assumed pattern of annual cash flows may differ significantly from the Company's current assumptions. Asset retirement obligations are reviewed annually or more frequently if significant changes in regulation or other relevant factors occur. Estimate changes are accounted for prospectively.

In determining the amounts to be recorded as asset retirement obligations, the Company estimates the current fair value for completing required removal and remediation work and makes assumptions as to when the future

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

expenditures will actually be incurred, in order to generate future cash flow information. A long-term inflation assumption of 2% has been used to express these current cost estimates as estimated future expenditures. Future expenditures have been discounted using factors ranging from approximately 3% to 5%, depending on the appropriate rate for the period when expenditures are expected to be incurred.

**15. HYDRO ONE NETWORKS' SHARE CAPITAL**

Hydro One Networks is authorized to issue an unlimited number of preferred shares and common shares.

**16. RELATED PARTY TRANSACTIONS**

*The Province and Successor Corporations of Ontario Hydro*

The Province, OEFC, IESO, Ontario Power Authority (OPA) and Ontario Power Generation Inc. (OPG) are related parties of the Company and its Transmission Business. In addition, the OEB is related to the Company by virtue of its status as a Provincial Crown Corporation. Transactions between these parties and the Transmission Business were as follows:

The Company received revenue for transmission services from the IESO, based upon uniform transmission rates approved by the OEB. Transmission revenue for 2011 includes \$1,366 million (2010 - \$1,277 million) related to these services.

The Company has service level agreements with Ontario Hydro's successor corporations, primarily OPG. These services include field and engineering, logistics, corporate, telecommunications and information technology services. Revenues related to the provision of construction and equipment maintenance services to the other successor corporations were \$10 million in 2011 (2010 - \$13 million). Operation, maintenance and administration costs related to the purchase of services from these successor corporations were less than \$1 million in both 2011 and 2010.

Under the *Ontario Energy Board Act*, 1998, the OEB is required to recover all of its annual operating costs from gas and electricity distributors and electricity transmitters. In 2011, the Transmission Business incurred \$4 million (2010 - \$3 million) in OEB fees.

PILs, property taxes and capital taxes were paid or payable by the Company to the OEFC (Note 5).

*Hydro One and Subsidiaries*

The Company provides services to, and receives services from, Hydro One and its other subsidiaries. Amounts due to and from Hydro One and its subsidiaries are settled through the inter-company demand facility.

The Company has entered into various agreements with Hydro One and its subsidiaries related to the provision of corporate functions and services, supply management, computer support and operational services such as environmental, forestry and line services. Revenues include \$1 million (2010 - \$2 million) related to the provision of services to Hydro One and its subsidiaries. Operation, maintenance and administration costs include \$15 million (2010 - \$13 million) related to the purchase of services from Hydro One and its subsidiaries.

The Company's debt, including the portion allocated to the Transmission Business, is due to Hydro One. Financing charges include interest expense on this debt in the amount of \$242 million (2010 - \$242 million). In addition, balances payable or receivable under the inter-company demand facility are due to or from Hydro One. Financing charges of the Transmission Business include interest expense on this facility in the amount of \$1 million (2010 - \$1 million earned).

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

The amounts due to and from related parties as a result of the transactions referred to above are as follows:

<i>December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
Accounts receivable	118	110
Accounts payable and accrued charges	(74)	(43)

**17. STATEMENTS OF CASH FLOWS**

The changes in non-cash balances related to operations consist of the following:

<i>Year ended December 31 (Canadian dollars in millions)</i>	<b>2011</b>	<b>2010</b>
Accounts receivable increase	(11)	(14)
Materials and supplies increase	(3)	(1)
Accounts payable and accrued charges increase	40	8
Accrued interest increase	1	5
Long-term accounts payable and other liabilities increase (decrease)	2	(2)
Employee future benefits other than pension increase	26	17
Other	(8)	8
	47	21

<b>Supplementary information:</b>	<b>2011</b>	<b>2010</b>
Interest paid	242	242
Payments in lieu of corporate income taxes	45	26

**18. CONTINGENCIES**

The Company is a wholly-owned subsidiary of Hydro One. As such, the assets of the Company's Transmission Business are available for the satisfaction of the debts, contingent liabilities and commitments of the Company and Hydro One.

**19. COMMITMENTS**

The Company and Hydro One have numerous commitments. These commitments have not been specifically allocated to the Transmission Business. However, the net assets of the Transmission Business are available to satisfy the commitments of Hydro One.

**20. SUBSEQUENT EVENTS**

On January 13, 2012, Hydro One issued \$300 million in 3.20% notes under its MTN program with a maturity date of January 13, 2022. On the same date, Hydro One Networks issued 3.22% notes payable to Hydro One in the amount of \$280 million, with the same maturity date. The Transmission Business' share of the offering was \$154 million.

**21. COMPARATIVE FIGURES**

The comparative Financial Statements have been reclassified from statements previously presented to conform to the presentation of the December 31, 2011 Financial Statements.



**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED**  
**DECEMBER 31, 2010**

# **HYDRO ONE NETWORKS INC. TRANSMISSION BUSINESS INDEPENDENT AUDITORS' REPORT**

To the Directors of Hydro One Networks Inc.

We have audited the accompanying financial statements of the Transmission Business (a business of Hydro One Networks Inc.), which comprise the balance sheet as at December 31, 2010, the statements of operations and comprehensive income, and cash flows for the years then ended, and notes, comprising a summary of significant accounting policies and other explanatory information. The financial statements have been prepared by management in accordance with the basis of accounting in Note 2 to the financial statements.

## *Management's Responsibility for the Financial Statements*

Management of Hydro One Networks Inc. is responsible for the preparation of these financial statements in accordance with basis of accounting in Note 2 to the financial statements; this includes determining that the basis of accounting is an acceptable basis for the preparation of these financial statements in the circumstances, and for such internal control as management determines is necessary to enable the preparation of the financial statements that are free from material misstatement, whether due to fraud or error.

## *Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the entity's preparation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

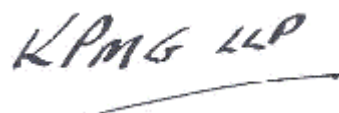
We believe that the audit evidence we have obtained in our audits is sufficient and appropriate to provide a basis for our audit opinion.

## *Opinion*

In our opinion, the financial statements as at December 31, 2010 are prepared, in all material respects, the financial position of the Transmission Business (a business of Hydro One Networks Inc.) in accordance with basis of accounting as set out in Note 2 to the financial statements.

## *Basis of Accounting and Restriction on Use*

Without modifying our opinion, we draw attention to Note 2 to the financial statement, which describes the basis of accounting and composition of the Hydro One Networks Inc. that comprise Transmission Business. In particular, in preparing these financial statements, corporate long-term debt, shared functions and services costs and payments in lieu of corporate income taxes have been allocated to the Transmission Business (a business of Hydro One Networks Inc.) using the method of allocation described in Note 2 to the financial statements. As a result of this basis of accounting, these financial statements may not necessarily be identical to the financial position, results of operations and cash flows that would have resulted had the Transmission Business (a business of Hydro One Networks Inc.) historically operated on a stand-alone basis. The financial statements are prepared to assist Hydro One Networks Inc to comply with its reporting requirements of Ontario Energy Board. As a result, the financial statements may not be suitable for another purpose. Our report is intended solely for Hydro One Networks Inc. and the Ontario Energy Board and should not be used by parties other than Hydro One Networks Inc. or the Ontario Energy Board.



Chartered Accountants, Licensed Public Accountants  
April 18, 2011  
Toronto, Canada

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME**

<i>Year ended December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
<b>Revenues</b>		
Transmission tariff (Note 16)	1,287	1,120
Other	20	27
	<u>1,307</u>	<u>1,147</u>
<b>Costs</b>		
Operation, maintenance and administration (Note 16)	426	436
Depreciation and amortization (Note 3)	273	242
	<u>699</u>	<u>678</u>
<b>Income before financing charges and provision for payments in lieu of corporate income taxes</b>	608	469
Financing charges (Notes 4 and 16)	195	176
<b>Income before provision for payments in lieu of corporate income taxes</b>	413	293
Provision for payments in lieu of corporate income taxes (Notes 5 and 16)	40	5
<b>Net income and comprehensive income</b>	<u>373</u>	<u>288</u>

*See accompanying notes to Financial Statements.*

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**BALANCE SHEETS**

<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
<b>Assets</b>		
Current assets:		
Accounts receivable (net of allowance for doubtful accounts - \$2 million; 2009- \$3 million) ( <i>Notes 13 and 16</i> )	135	114
Regulatory assets ( <i>Note 8</i> )	15	12
Materials and supplies	13	12
Future income tax assets ( <i>Note 5</i> )	16	12
Other	2	7
	181	157
Fixed assets ( <i>Note 6</i> ):		
Fixed assets in service	11,666	10,852
Less: accumulated depreciation	4,234	4,012
	7,432	6,840
Construction in progress	1,111	1,014
Future use land, components and spares	89	97
	8,632	7,951
Other long-term assets:		
Regulatory assets ( <i>Note 8</i> )	660	574
Intangible assets (net of accumulated amortization) ( <i>Note 7</i> )	119	130
Other	2	7
	781	711
<b>Total assets</b>	<b>9,594</b>	<b>8,819</b>


*See accompanying notes to Financial Statements.*

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**BALANCE SHEETS (continued)**

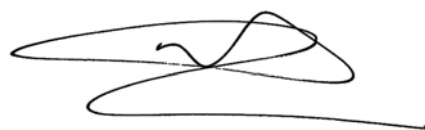
<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
<b>Liabilities</b>		
Current liabilities:		
Inter-company demand facility (Note 16)	83	82
Accounts payable and accrued charges (Notes 13 and 16)	241	227
Regulatory liabilities (Note 8)	20	39
Accrued interest	51	46
Long-term debt payable within one year (Notes 9, 10 and 16)	324	403
	719	797
Long-term debt (Notes 9, 10 and 16)	4,201	3,779
Other long-term liabilities:		
Future income tax liabilities (Note 5)	522	415
Employee future benefits other than pension (Note 12)	416	399
Environmental liabilities (Note 13)	124	144
Regulatory liabilities (Note 8)	24	12
Asset retirement obligations (Note 14)	7	-
Long-term accounts payable and other liabilities	5	7
	1,098	977
<b>Total liabilities</b>	<b>6,018</b>	<b>5,553</b>
Contingencies and commitments (Notes 18 and 19)		
Excess of assets over liabilities (Notes 2, 11 and 15)	3,576	3,266
<b>Total liabilities and excess of assets over liabilities</b>	<b>9,594</b>	<b>8,819</b>

*See accompanying notes to Financial Statements.*

On behalf of the Board:



Laura Formusa  
Chair



Sandy Struthers  
Director

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**STATEMENTS OF CASH FLOWS**

<i>Year ended December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
<b>Operating activities</b>		
Net income	373	288
Environmental expenditures	(7)	(2)
Adjustments for non-cash items:		
Depreciation and amortization (excluding removal costs)	259	232
Regulatory asset and liability accounts	(12)	(1)
Future income taxes	(1)	2
Asset retirement obligation	4	-
	616	519
Changes in non-cash balances related to operations ( <i>Note 17</i> )	14	12
<b>Net cash from operating activities</b>	<b>630</b>	<b>531</b>
<b>Financing activities</b>		
Allocated long-term debt issued	750	775
Allocated long-term debt retired	(403)	(268)
Payments to Hydro One Inc. to finance dividends	(63)	(138)
Other	-	1
<b>Net cash from financing activities</b>	<b>284</b>	<b>370</b>
<b>Investing activities</b>		
Capital expenditures		
Fixed assets	(928)	(866)
Intangible assets	(8)	(52)
	(936)	(918)
Other assets	21	7
<b>Net cash used in investing activities</b>	<b>(915)</b>	<b>(911)</b>
<b>Net change in inter-company demand facility</b>	<b>(1)</b>	<b>(10)</b>
Inter-company demand facility, January 1	(82)	(72)
<b>Inter-company demand facility, December 31</b>	<b>(83)</b>	<b>(82)</b>

*See accompanying notes to Financial Statements.*

# **HYDRO ONE NETWORKS INC.**

## **TRANSMISSION BUSINESS**

### **NOTES TO FINANCIAL STATEMENTS**

#### **1. DESCRIPTION OF THE TRANSMISSION BUSINESS**

Hydro One Inc. (Hydro One) was incorporated on December 1, 1998, under the *Business Corporations Act* (Ontario) and is wholly owned by the Province of Ontario (the Province). The principal businesses of Hydro One are the transmission and distribution of electricity to customers within Ontario. These businesses are regulated by the Ontario Energy Board (OEB).

Hydro One Networks Inc. (Hydro One Networks or the Company) was incorporated on March 4, 1999 under the *Business Corporations Act* (Ontario) and is a wholly owned subsidiary of Hydro One. The Company owns and operates Hydro One's regulated transmission and distribution businesses. The regulated transmission business (the Transmission Business) operates a high-voltage electrical transmission network that represents almost all of the licensed transmission capacity in Ontario.

#### **2. SIGNIFICANT ACCOUNTING POLICIES**

##### ***Basis of Accounting***

The financial statements have been prepared in accordance with the accounting policies summarized below. These policies are consistent with generally accepted accounting principles in Canada (Canadian GAAP) as contained in Part V of the Canadian Institute of Chartered Accountants (CICA) Handbook - Accounting. The financial statements have been prepared for the specific use of the OEB. Consolidated financial statements of Hydro One for the year ended December 31, 2010 have been prepared and are publicly available.

These financial statements have been prepared on a carve-out basis to provide the financial position, results of operations and cash flows of the Company's regulated Transmission Business on a basis approved by the OEB. The financial statements are considered by management to be a reasonable representation, prepared on a rational, systematic and consistent basis, of the financial results of that business. As a result of this basis of accounting, these financial statements may not necessarily be identical to the financial position and results of operations that would have resulted had the Transmission Business historically operated on a stand-alone basis.

The financial statements have been constructed primarily through specific identification of assets, liabilities (other than debt), revenues and expenses that relate to the Transmission Business. The Company's long-term debt is allocated based on the respective borrowing requirements of the Company's transmission and distribution businesses. A portion of the Company's shared functions and services costs is allocated to the Transmission Business on a fully allocated cost basis, consistent with OEB-approved independent studies. Payments in lieu of corporate income taxes (PILs) have been recorded at effective rates based on income taxes as reported in the Statements of Operations as though the Transmission Business was a separate taxpaying entity. Certain other amounts presented in these financial statements represent allocations subject to review and approval by the OEB.

##### ***Rate-setting***

The rates of the Company's electricity Transmission Business are subject to regulation by the OEB.

On August 16, 2007, the OEB issued its decision in respect of Hydro One Networks' 2007 and 2008 transmission rate application. As part of that decision the OEB approved the disposition of export and wheeling fees liability and the transmission market-ready regulatory asset, which was factored into rates and refunded to customers over the four-year period ending December 31, 2010.

On May 30, 2008, Hydro One Networks submitted an application to the OEB to adjust Uniform Transmission Rates (UTRs) effective January 1, 2009.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

To achieve the necessary funding in support of required infrastructure, Hydro One Networks filed a transmission rate application for 2009 and 2010 rates in September 2008. The application sought OEB approval for revenue requirement of approximately \$1,233 million and \$1,341 million, based on a return on equity of 8.53% and 9.35% for 2009 and 2010, respectively. On May 28, 2009, the OEB issued its decision in respect of this application. The decision, which was effective July 1, 2009, resulted in a reduced revenue requirement of \$1,180 million and \$1,240 million in 2009 and 2010, respectively, primarily due to a lower approved return on equity. The OEB decision disallowed development capital expenditures of \$180 million for 2010, but agreed to reconsider the projects if additional evidence was provided. On September 4, 2009, Hydro One Networks filed the additional evidence on two projects amounting to approximately \$160 million in capital expenditures. The OEB approved the supplemental evidence for inclusion in Hydro One Networks' 2010 rates. This resulted in a revised revenue requirement of \$1,257 million for 2010, on the basis of an updated return on equity of 8.39% for 2010.

On May 19, 2010 Hydro One Networks submitted an application for 2011 and 2012 transmission rates in continued support of its aging critical infrastructure and the supply mix objectives for generation, including off-coal initiatives and initiation of investments in support of the Green Energy Act (GEA). This application sought the approval of revenue requirements of approximately \$1,446 million for 2011 and \$1,547 million for 2012.

On December 23, 2010, the OEB issued its decision effective January 1, 2011 which resulted in a revenue requirement of \$1,346 million for 2011 and a revenue requirement of \$1,658 million for 2012. The change in our 2012 revenue requirement resulted in a higher revenue requirement than originally submitted due to the OEB directing Hydro One to adopt International Financial Reporting Standards (IFRS) accounting for overheads capitalized resulting in a \$200 million increase in 2012.

The OEB has the general power to include or exclude costs, revenues, losses or gains in the rates of a specific period, resulting in a change in the timing of accounting recognition from that which would have applied in an unregulated company. Such change in timing involves the application of rate-regulated accounting, giving rise to the recognition of regulatory assets and liabilities. The Transmission Business' regulatory assets represent certain amounts receivable from future customers and costs that have been deferred for accounting purposes because it is probable that they will be recovered in future rates. In addition, the Transmission Business has recorded regulatory liabilities, which represent amounts incurred in different periods than would be the case had the Transmission Business been unregulated. The Company continually assesses the likelihood of recovery of each of its regulatory assets and continues to believe that it is probable that the OEB will factor its regulatory assets and liabilities into the setting of future rates. If, at some future date, the Company judges that it is no longer probable that the OEB will include a specific regulatory asset or liability in future rates, the appropriate carrying amount will be reflected in results of operations in the period that the assessment is made. The specific regulatory assets and liabilities recognized at December 31, 2010 are disclosed in Note 8.

***Revenue Recognition***

Transmission revenues are collected through OEB-approved rates, which are based on an approved revenue requirement that includes a rate of return. Such revenue is recognized as power is transmitted and delivered to customers.

Revenue also includes amounts related to sales of other services and equipment. Such revenue is recognized as services are rendered or as equipment is delivered.

***Corporate Income and Capital Taxes***

Under the *Electricity Act, 1998*, Hydro One Networks is required to make payments in lieu of corporate taxes to the Ontario Electricity Financial Corporation (OEFC). These payments are calculated in accordance with the rules for computing income and taxable capital and other relevant amounts contained in the *Income Tax Act* (Canada) and the *Taxation Act, 2007* (Ontario) (*Corporations Tax Act* (Ontario), prior to 2009) as modified by the *Electricity Act, 1998*, and related regulations.



**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

Effective January 1, 2009, the Company adopted amendments to the Canadian Institute of Chartered Accountants (CICA) Handbook Section 3465, *Income Taxes* and CICA Handbook Section 1100, *Generally Accepted Accounting Principles*. These amended sections establish new standards for the recognition, measurement, presentation and disclosure of future income tax assets and liabilities of rate-regulated enterprises.

For transactions and events that cause temporary differences between the tax basis of assets and liabilities and their carrying amounts for accounting purposes, the Company recognized future income tax assets and liabilities, and corresponding regulatory liabilities and assets, as a result of adopting these amended standards on January 1, 2009.

As a result of adopting these amended standards, an adjustment to the retained earnings of Hydro One Networks of \$15 million was recorded as at January 1, 2009 for the cumulative earnings impact of future income tax assets and liabilities as at December 31, 2008 that are excluded from the rate-setting process. The portion of the adjustment that pertains to the Transmission Business is \$10 million, which is reflected in excess of assets over liabilities.

*Current Income Taxes*

The provision for current taxes and the assets and liabilities recognized for the current and prior periods are measured at the amounts receivable from or payable to the OEFC.

*Future Income Taxes*

Future income taxes are provided for using the liability method and are recognized on temporary differences between the carrying amount of assets and liabilities in the financial statements and the corresponding tax bases used in the computation of taxable profit.

Future income tax liabilities are generally recognized on all taxable temporary differences and future tax assets are recognized to the extent that it is more likely than not to be realized from taxable profits available against which deductible temporary differences can be utilized.

Future income taxes are calculated at the tax rates that are expected to apply in the period when the liability is settled or the asset is realized, based on the tax rates (and tax laws) that have been enacted or substantively enacted by the balance sheet date. Future income taxes are charged or credited to the Statement of Operations and Comprehensive Income.

The carrying amount of future income tax assets is reviewed at each balance sheet date and reduced to the extent that all or part of the future income tax assets have not met the “more likely than not” criterion. Previously unrecognized future income tax assets are reassessed at each balance sheet date and are recognized to the extent that they have become more likely than not of being recovered from future taxable profits.

The Company has recognized regulatory assets and liabilities which correspond to future income taxes that flow through the rate-setting process.

*Inter-Company Demand Facility*

Hydro One maintains pooled bank accounts for its use and for the use of its subsidiaries and, implicitly, by the regulated businesses of these subsidiaries. The inter-company demand facility represents the cumulative net effect of all deposits and withdrawals made by the Transmission Business to and from the pooled cash accounts. Interest is earned on positive inter-company balances based on the average of the bankers’ acceptance rate at the beginning and end of the month, less 0.02%. Interest is charged on overdraft inter-company balances based on the same bankers’ acceptance rate, plus 0.15%.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

***Materials and Supplies***

Materials and supplies represent consumables, spare parts and construction material held for internal construction and maintenance of fixed assets. These assets are carried at lower of average cost or net realizable value.

***Fixed Assets***

Fixed assets are capitalized at cost, which comprises materials, labour, engineering costs, overheads, depreciation on service equipment and the OEB-approved allowance for funds used during construction applicable to capital construction activities.

Fixed assets in service consist of transmission assets, communication, administration and service assets and easements. Fixed assets also include future use assets such as land, major components and spare parts, and capitalized development costs associated with deferred capital projects.

***Transmission***

Transmission assets include assets used for the transmission of high-voltage electricity, such as transmission lines, support structures, foundations, insulators, connecting hardware, grounding systems, and assets used to step up the voltage of electricity from generating stations for transmission and to step down voltages for distribution, such as transformers, circuit breakers and switches.

***Communication, Administration and Service***

Communication, administration and service assets include telecommunications equipment, towers, buildings associated with communication assets, administrative buildings, major computer systems, personal computers, transport and work equipment, tools, vehicles and minor fixed assets.

***Easements***

Easements include statutory rights of use to transmission corridors and abutting lands granted under the *Reliable Energy and Consumer Protection Act, 2002*, as well as other amounts related to access rights.

***Intangible Assets***

Intangible assets represent computer applications software and other assets. These assets are capitalized at cost, which comprises materials, purchased software, labour and consulting, engineering, overheads and the OEB-approved allowance for funds used during construction applicable to capital construction activities within regulated businesses.

***Construction and Development in Progress***

Overhead costs, including corporate functions and services costs, are capitalized on a fully-allocated basis, consistent with an OEB-approved methodology. Financing costs are capitalized on rate-regulated fixed assets under construction and intangible assets under development, based on the OEB's approved allowance for funds used during construction (2010 – 4.34%; 2009 – 5.89%).

***Depreciation and Amortization***

The capital costs of fixed assets and intangible assets, primarily consisting of applications software, are depreciated or amortized on a straight-line basis, except for transport and work equipment, which is depreciated on a declining balance basis.

The Company periodically initiates an external review of its fixed asset and intangible asset depreciation and amortization rates, as required by the OEB. The last review resulted in changes to rates effective January 1, 2007. A summary of depreciation rates for the various classes of assets is included below:

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

	Depreciation rates (%)	
	Range	Average
Transmission	1% - 2%	2%
Communication, Administration and Service	1% -15%	5%
Easements	1%	1%

The costs of intangible assets are primarily included within the communication, administration and service classification above and these assets are amortized on a straight-line basis. The amortization rate for computer applications software and other intangible assets is approximately 11%. Depreciation rates for easements are based on their contract life. The majority of easements are held in perpetuity and are not depreciated.

In accordance with group depreciation practices, the original cost of fixed assets or intangible assets that are normally retired is charged to accumulated depreciation or amortization, with no gain or loss reflected in current results of operations. Gains and losses on sales of fixed assets and losses on premature retirements are charged to results of operations as adjustments to depreciation expense. Depreciation expense also includes the costs incurred to remove fixed assets.

The estimated service lives of fixed or intangible assets are subject to periodic review. Any changes arising out of such a review are implemented on a remaining service life basis consistent with their inclusion in electricity rates.

***Discounts and Premiums on Debt***

Discounts and premiums are amortized over the term of the related debt using the effective interest rate method.

***Financial Instruments***

***Comprehensive Income***

Comprehensive income is comprised of the Transmission Business' net income and other comprehensive income (OCI). OCI includes the amortization of net unamortized hedging losses on the Company's proportionate share of Hydro One's cash flow hedges, and the change in fair value on the Company's proportionate share of existing cash flow hedges to the extent that the hedge is effective. Unamortized hedging losses on discontinued cash flow hedges are amortized to financing charges using the effective interest method over the term of the allocated hedged debt.

***Financial Assets and Liabilities***

All financial instruments are classified into one of the following five categories: held-to-maturity investments, loans and receivables, held-for-trading, other financial liabilities or available-for-sale. All financial instruments, including derivatives, are carried at fair value on the Balance Sheet except for loans and receivables, held-to-maturity investments and other financial liabilities, which are measured at amortized cost. Held-for-trading financial instruments are measured at fair value and all gains and losses are included in financing charges in the period which they arise. Available-for-sale financial instruments are measured at fair value with revaluation gains and losses included in OCI until the instrument is derecognized or impaired. The Transmission Business has classified its financial instruments as follows:

Accounts receivable	Loans and receivables
Fixed-to-floating interest rate swap	Not classified
Inter-company demand facility	Other financial liabilities
Accounts payable	Other financial liabilities
Long-term debt (unless otherwise specified)	Other financial liabilities
\$150 million of a \$250 million note due March 3, 2011	Not classified
\$150 million of a \$500 million note due November 19, 2014	Not classified

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

In March 2008 and January 2010, Hydro One issued notes for long-term financing under its Medium-Term Note (MTN) Program in the amounts of \$250 million and \$500 million, respectively. The \$250 million issue and \$250 million of the \$500 million issue were pushed down to Hydro One Networks through the issuance of inter-company debt with \$150 million of each issue allocated to the Transmission Business. These amounts were designated as part of a hedging relationship. As at December 31, 2010, the derivative instruments include \$300 million fixed-to-floating interest rate swap agreements to convert the \$300 million of debt into three-month variable-rate debt.

All financial instrument transactions are recorded at trade date.

*Derivative Instruments and Hedge Accounting*

All derivative instruments, including embedded derivatives, are carried at fair value on the Balance Sheet unless exempted from derivative treatment as a normal purchase and sale or when it is deemed that the economic characteristics and risks of the embedded derivative are not closely related to the economic characteristics and risks of the host contract. All changes in fair value are recorded in financing charges unless cash flow hedge accounting is used, in which case changes in fair value are recorded in OCI to the extent that the hedge is effective. The gain or loss related to the ineffective portion, if any, is recorded in financing charges.

The Company does not engage in derivative trading or speculative activities.

The Company periodically develops hedging strategies for execution taking into account risk management objectives. At the inception of a hedging relationship, the Company formally documents the hedging relationship between the hedged item and the hedging instrument, its risk management objective for establishing the hedging relationship, the nature of the specific risk exposure being hedged, and the method for assessing effectiveness of the hedging relationship. The Company also assesses, both at the inception of the hedge and on an ongoing basis, whether the hedging items that are used are effective in offsetting changes in fair values or cash flows of hedged items.

*Transaction Costs*

Transaction costs related to Hydro One Networks' proportionate share of the relevant Hydro One transaction, for financial assets and liabilities that are other than held-for-trading, are added to the carrying value of the asset or liability and amortized over the expected life of the instrument using the effective interest method.

*Financial Instrument Disclosures*

The fair market value of the Company's long-term debt is determined using the fair value hierarchy levels disclosed in Note 10.

*Employee Future Benefits*

Employee future benefits provided by Hydro One and its subsidiaries include pension, group life insurance, health care, and long-term disability.

In accordance with the OEB's rate orders, pension costs are recorded when employer contributions are paid to the pension fund in accordance with the *Pension Benefits Act* (Ontario). Actuarial valuations are conducted at least every three years. Pension costs are also calculated on an accrual basis. Pension costs are actuarially determined using the projected benefit method prorated on service and based on assumptions that reflect management's best estimate of the effect of future events, including future compensation increases, on the actuarial present value of accrued pension benefits. Pension plan assets, consisting primarily of listed equity securities as well as corporate and government debt securities, are valued using fair values. Past service costs from plan amendments and all actuarial gains or losses are amortized on a straight-line basis over the expected average remaining service life of the employees covered.

Employee future benefits other than pension are recorded on an accrual basis. Costs are determined by independent

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

actuaries using the projected benefit method prorated on service and based on assumptions that reflect management's best estimates. Past service costs from plan amendments and actuarial gains or losses are amortized on a straight-line basis over the expected average remaining service life of the employees covered.

Employee future benefit costs are attributed to labour and charged to operations or capitalized as part of the cost of fixed assets.

***Environmental Costs***

The Transmission Business records a liability for estimated future expenditures associated with the assessment and remediation of contaminated lands and for the phase-out and destruction of polychlorinated biphenyl (PCBs) contaminated mineral oil removed from electrical equipment, based on the present value of these estimated future expenditures. As the Company anticipates that the related expenditures will continue to be recoverable in future rates, a regulatory asset has been recorded to reflect the future recovery of these costs from customers. The Transmission Business reviews its estimates of future environmental expenditures on an ongoing basis.

***Asset Retirement Obligations***

When required by force of law or regulation, the Transmission Business records an asset retirement obligation based on the present value of the estimated fair value expenditures to remove certain assets and mitigate related sites. Where the Transmission Business anticipates that the related expenditures will be recoverable in future rates, a corresponding amount is capitalized as a cost of the related fixed assets. Some of the Transmission Business' assets, particularly those located on unowned easements and rights-of-way, may have asset retirement obligations, conditional or otherwise. The majority of the Company's easements and rights-of-way are either of perpetual duration or are automatically renewed annually. Land rights with finite terms are generally subject to extension or renewal. As the Transmission Business expects to use the majority of its facilities in perpetuity, no asset retirement obligation currently exists. If, at some future date, a particular facility is shown not to meet the perpetuity criterion, it will be reviewed to determine whether a measurable asset retirement obligation exists. In such a case, an asset retirement obligation would be recorded at that time.

***Use of Estimates***

The preparation of financial statements in conformity with Canadian GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses for the year. Actual results could differ from those estimates, including changes as a result of future decisions made by the OEB or the Province.

***Emerging Accounting Changes***

***IFRS***

On February 13, 2008 the Canadian Accounting Standards Board (AcSB) confirmed that publicly accountable enterprises will be required to adopt IFRS in place of Canadian generally accepted accounting principles for interim and annual reporting purposes for fiscal years beginning on or after January 1, 2011. On October 14, 2009, the Public Sector Accounting Board released a decision summary confirming that government organizations following commercial practices adhere to standards for publicly accountable entities after January 1, 2011. On September 10, 2010, the AcSB decided to permit rate-regulated entities to defer their IFRS implementation date to January 1, 2012. As such, the Company, as a subsidiary of Hydro One, will apply IFRS to its financial statements ending December 31, 2012 with restatement of the amounts recorded on the opening IFRS balance sheet as at January 1, 2011, for comparative purposes. The Company continues to assess the impact of conversion to IFRS on its results of operations.

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

**3. DEPRECIATION AND AMORTIZATION**

<i>Year ended December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
Depreciation of fixed assets in service	231	212
Amortization of intangible assets	21	17
Fixed asset removal costs	14	10
Amortization of regulatory and other assets	7	3
	<b>273</b>	<b>242</b>

**4. FINANCING CHARGES**

<i>Year ended December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
Interest on long-term debt payable	242	223
Interest on inter-company demand facility	(1)	1
Less: Interest capitalized on construction and development in progress	(44)	(46)
Other	(2)	(2)
	<b>195</b>	<b>176</b>

**5. PROVISION FOR PAYMENTS IN LIEU OF CORPORATE INCOME TAXES**

The provision for PILs differs from the amount that would have been recorded using the combined Canadian Federal and Ontario statutory income tax rate. The reconciliation between the statutory and effective tax rates is provided as follows:

<i>(Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
Income before provision for PILs	413	293
Federal and Ontario statutory income tax rate	31.00%	33.00%
Provision for PILs at statutory rate	128	97
Increase (decrease) resulting from:		
Net temporary differences included in amounts charged to customers :		
Capital cost allowance in excess of depreciation and amortization	(57)	(61)
Interest capitalized for accounting purposes but deducted for tax purposes	(14)	(15)
Overheads capitalized for accounting but deducted for tax purposes	(8)	(8)
Pension contributions in excess of pension expense	(7)	(6)
Employee future benefits other than pension expense in excess of cash payments	1	1
Environmental expenditures	(2)	-
Other	(2)	(4)
Net temporary differences	(89)	(93)
Net permanent differences	1	1
Total income tax provision for PILs	40	5
Current income tax provision for PILs	41	3
Future income tax provision for PILs	(1)	2
Total income tax provision for PILs	40	5
Effective income tax rate	9.69%	1.71%

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**NOTES TO FINANCIAL STATEMENTS (continued)**

The provision for payments in lieu of current income taxes of \$41 million represents the amount payable to the OEFC with respect to current year earnings. The outstanding balance due to the OEFC at December 31, 2010 is approximately \$6 million (2009 - \$9 million recoverable).

The payments in lieu of future income taxes recoverable of \$1 million reflects the decrease in the liability for payments in lieu of future income taxes that are not expected to be recovered from the Transmission Business's customers through future rates.

**Future Income Tax Assets and Liabilities**

Payments in lieu of future income tax assets and liabilities arise from differences between the carrying amounts and tax bases of the Transmission Business' assets and liabilities. The tax effects of these differences are as follows:

<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
<b>Future Income Tax Assets</b>		
Eligible Capital Expenditure	37	39
Employee future benefits other than pension expense in excess of cash payments	147	139
Environmental expenditures	34	38
Other	4	1
Total future income tax assets	222	217
Less: current portion	16	12
	206	205

<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
<b>Future Income Tax Liabilities</b>		
Capital cost allowance in excess of depreciation and amortization	698	590
Amounts paid but not recognized for accounting purposes	29	30
Other	1	-
Total future income tax liabilities	728	620
Less: current portion	-	-
	728	620

<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
Long-term future income tax assets	206	205
Long-term future income tax liabilities	(728)	(620)
Net long-term future income tax liability	(522)	(415)

The increase in the liability for payments in lieu of future income taxes that is expected to be recovered from customers through future rates has resulted in an increase in regulatory assets.

**6. FIXED ASSETS**

<i>December 31 (Canadian dollars in millions)</i>	<b>Fixed Assets</b>	<b>Accumulated Depreciation</b>	<b>Construction in Progress</b>	<b>Total</b>
<b>2010</b>				
Transmission	10,186	3,623	1,070	7,633
Communication, administration and service	1,086	529	41	598
Easements	483	82	-	401
	11,755	4,234	1,111	8,632

**HYDRO ONE NETWORKS INC.**  
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**NOTES TO FINANCIAL STATEMENTS (continued)**

<i>December 31 (Canadian dollars in millions)</i>	Fixed Assets	Accumulated Depreciation	Construction in Progress	Total
<b>2009</b>				
Transmission	9,467	3,452	954	6,969
Communication, administration and service	1,004	481	60	583
Easements	478	79	-	399
	10,949	4,012	1,014	7,951

Financing costs are capitalized on fixed assets under construction, including allowance for funds used during construction on regulated assets, and were \$44 million in 2010 (2009 - \$44 million).

**7. INTANGIBLE ASSETS**

<i>December 31 (Canadian dollars in millions)</i>	Intangible Assets	Accumulated Amortization	Development in Progress	Total
<b>2010</b>				
Computer applications software	190	77	4	117
Other assets	4	2	-	2
	194	79	4	119
<b>2009</b>				
Computer applications software	182	56	2	128
Other assets	4	2	-	2
	186	58	2	130

Financing costs are capitalized on intangible assets under development, including allowance for funds used during construction on regulated assets, and were \$nil in 2010 (2009 - \$2 million).

**8. REGULATORY ASSETS AND LIABILITIES**

Regulatory assets and liabilities arise as a result of the rate-setting process. The Transmission Business has recorded the following regulatory assets and liabilities:

<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
<b>Regulatory assets:</b>		
Regulatory future income tax asset	522	425
Environmental	134	151
Pension cost variance account	11	3
Long-term project development cost account	7	2
Other	1	5
Total regulatory assets	675	586
Less: current portion	15	12
	660	574



**HYDRO ONE NETWORKS INC.**  
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<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
<b>Regulatory liabilities:</b>		
External revenue variance account	29	15
Regulatory future income tax liability	8	12
Export and wheeling fees	3	12
Other	4	12
Total regulatory liabilities	44	51
Less: current portion	20	39
	24	12

***Regulatory Assets***

*Regulatory Future Income Tax Asset and Liability*

Future income taxes are recognized on temporary differences between the carrying amount of assets and liabilities in the financial statements and the corresponding tax bases used in the computation of taxable profit. The Company has recognized regulatory assets and liabilities which correspond to future income taxes that flow through the rate-making process. In the absence of rate-regulated accounting, the Company's provision for PILs would have been recognized using the liability method and there would be no regulatory accounts established for taxes to be recovered through future rates. As a result, the Transmission Business' provision for PILs would have been higher by approximately \$76 million (2009 - \$28 million) including the impact of a change in substantively enacted tax rates.

*Environmental*

The Transmission Business records a liability for the estimated future expenditures required to remediate past environmental contamination (See Note 13). Because such expenditures are expected to be recoverable in future rates, the Transmission Business has recorded an equivalent amount as a regulatory asset. In 2010, this regulatory asset decreased by \$17 million (2009 – increased by \$15 million) to reflect related changes in the Company's PCB liability and decreased by \$1 million (2009 – increased by \$14 million) for a change in the land assessment and remediation (LAR) liability. The environmental regulatory asset is amortized to results of operations based on the pattern of actual expenditures incurred. The OEB has the discretion to examine and assess the prudence and the timing of recovery of all of the Transmission Business's actual environmental expenditures. In the absence of rate-regulated accounting, operation, maintenance and administration expenses would have been lower by \$18 million (2009 - higher by \$29 million). In addition, amortization expense in 2010 would have been lower by \$7 million (2009 - \$2 million) and financing charges would have been higher by \$8 million (2009 - \$6 million).

*Pension cost variance account*

The pension cost variance account was established to track the difference between the actual pension costs incurred by the Transmission Business and estimated pension costs approved by the OEB. The balance in this account reflects the excess of pension costs paid compared to OEB-approved amounts. On May 28, 2009, the OEB announced its decision regarding the Company's rate application in respect of the Transmission Business for 2009 and 2010 rates. As part of this decision, the OEB approved recovery of the proposed balance in this account plus accrued interest for recovery over 18 months ending December 31, 2010. In the December 23, 2010 decision on 2011 and 2012 transmission rates, the OEB approved the December 31, 2009 balance, including accrued interest, to be recovered over a one-year period from January 1, 2011 to December 31, 2011. In the absence of rate-regulated accounting, revenue would have been lower by \$8 million in 2010 (2009 - \$3 million).

*Long-term project development cost account*

On May 28, 2009 the OEB approved the creation of a deferral account to record Hydro One's costs of preliminary

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work to advance certain transmission projects identified in its 2009 and 2010 transmission rate application. On March 25, 2010, the OEB issued a decision amending the scope of the account to include the 20 major transmission projects identified in the September 21, 2009 request from the Government of Ontario. In its December 23, 2010 decision, the OEB approved the recovery of the December 31, 2009 balance, including accrued interest, over a one-year period from January 1, 2011 to December 31, 2011. The Company anticipates that it will seek recovery for the remaining balance in its next transmission rate application. In the absence of rate-regulated accounting, operation, maintenance and administration expenses would have been higher by \$5 million (2009 - \$2 million).

***Regulatory Liabilities***

*External Revenue Variance Account*

In its May 28, 2009 decision, the OEB approved forecasted amounts related to export service revenue, external revenue from secondary land use and external revenue from station maintenance and engineering and construction work. These revenue sources are an offset to the Company's revenue requirement, and as such, the OEB requested the establishment of new variance accounts to capture any difference between the approved forecast and actual revenues from these sources of external revenue. The balance reflects the excess of external revenue compared to the OEB-approved forecast. The OEB's December 23, 2010 decision approved the disposition of the December 31, 2009 balance, including accrued interest, over a one-year period from January 1, 2010 to December 31, 2011.

*Export and Wheeling Fees*

Consistent with the Independent Electricity System Operator's (IESO) IESO's Market Rules, an export and wheeling fee is collected by the IESO and remitted to the Company at the rate of \$1 per MWh on electricity exported outside of Ontario. The amounts collected in respect of these export and wheeling fees, plus interest, were taken into consideration in the revenue requirement of Hydro One Networks as part of the Company's transmission rate application filed with the OEB in September, 2006. On August 16, 2007, the OEB issued its decision in respect of the Company's transmission rate application and approved final amounts and disposition treatments for the export and wheeling fees. The export and wheeling fees were factored into rates over a four-year period ending December 31, 2010.

**9. DEBT**

Debt represents the Transmission Business' share of various notes payable by Hydro One Networks to Hydro One.

<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
Long-term debt	4,528	4,181
Add: Unrealized hedged loss <sup>1</sup>	3	7
Less: Long-term debt payable within one year	(324)	(403)
Net unamortized premiums	13	12
Unamortized debt issuance costs	(19)	(18)
	<b>4,201</b>	<b>3,779</b>

<sup>1</sup> The unrealized hedged loss relates to the \$150 million note and to \$150 million of the \$325 million note, which are accounted for as fair value hedges. The unrealized hedged loss is offset by a \$3 million (2009 - \$7 million) unrealized gain on the related fixed-to-floating interest rate swap agreements (see Note 2 – Financial Instruments).

The long-term debt is unsecured and denominated in Canadian dollars. Such debt is summarized by the number of years to maturity in Note 10.

**HYDRO ONE NETWORKS INC.**  
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**NOTES TO FINANCIAL STATEMENTS (continued)**

**10. CARRYING AND FAIR VALUE OF FINANCIAL INSTRUMENTS AND RISK MANAGEMENT**

The carrying value of financial instruments as at December 31, 2010 is as follows:

<i>(Canadian dollars in millions)</i>	Derivatives Used for Hedging	Other Financial Instruments Used for Hedging	Loans and Receivables	Other Financial Liabilities
<b><i>Financial Assets</i></b>				
Accounts receivable	-	-	135	-
Other assets	3	-	-	-
<b><i>Financial Liabilities</i></b>				
Inter-company demand facility	-	-	-	83
Accounts payable and accrued charges <sup>1</sup>	-	-	-	225
Long-term debt	-	303	-	4,222

<sup>1</sup> Accounts payable and accrued charges do not include income taxes payable or dividends payable.

The carrying amounts of all financial instruments, except long-term debt, approximate fair value. The fair value of derivative financial instruments reflects the estimated amount that the Transmission Business, if required to settle an outstanding contract, would have been required to pay or would be entitled to receive at year end. The fair value of long-term debt, provided in the table below, is based on unadjusted year-end market prices for the same or similar debt of the same remaining maturities. The fair value measurement of long-term debt is categorized as level 1 as the inputs used reflect quoted prices in an active market.

<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>		<b>2009</b>	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Long-term debt <sup>1</sup>	4,528	4,978	4,181	4,421

<sup>1</sup> The carrying value of long-term debt represents the par value of the notes and debentures, other than the \$150 million of the \$250 million note and \$150 million of the \$500 million note, both of which are designated as part of a hedging relationship. (see Note 2 – Financial Instruments).

Exposure to market risk, credit risk and liquidity risk arises in the normal course of the Company's business.

***Market Risk***

Market risk refers primarily to the risk of loss that results from changes in commodity prices, foreign exchange rates and interest rates. The Company does not have commodity risk. The Company does have foreign exchange risk as it enters into agreements to purchase materials and equipment associated with the Company's capital programs and projects that are settled in foreign currencies. This foreign exchange risk is not material, although Hydro One could in the future decide to issue foreign currency denominated debt which will be hedged back to Canadian dollars consistent with Hydro One's risk management policy. The Company is exposed to fluctuations in interest rates as the regulated rate of return for the Company's Transmission Business is derived using a formulaic approach which is based on the forecast for long-term Government of Canada bond yields and the spread in 30 year "A" rated Canadian utility bonds over the 30 year benchmark Government of Canada bond yield. The Company estimates that a 1% decrease in the forecast long-term Government of Canada bond yield or the "A" rated Canadian utility spread used in determining the Company's rate of return would reduce its Transmission Business' results of operations by approximately \$16 million.

**HYDRO ONE NETWORKS INC.**  
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**NOTES TO FINANCIAL STATEMENTS (continued)**

*Credit Risk*

Financial assets create credit risk that a counterparty will fail to discharge an obligation, causing a financial loss. As at December 31, 2010, there were no significant concentrations of credit risk with respect to any class of financial assets.

In the year, the Transmission Business' provision for bad debts remained low at \$2 million (2009 - \$3 million). Minor adjustments and write-offs were determined on the basis of a review of overdue accounts, taking into consideration historical experience. As at December 31, 2010, approximately 1.1% of the Transmission Business' accounts receivable was aged more than 60 days.

Hydro One manages its counter-party credit risk through various techniques including, entering into transactions with highly rated counter-parties, limiting total exposure levels with individual counterparties consistent with the Hydro One's Board-approved Credit Risk Policy, entering into master agreements which enable net settlement and the contractual right of offset, and monitoring the financial condition of counterparties. The Company's credit risk for accounts receivable is limited to the carrying amount on the Balance Sheet.

The Company uses derivative financial instruments to manage interest rate risk. The Company may enter into derivative agreements such as forward interest rate agreements, to hedge against the effect of future interest rate movements on long-term fixed rate borrowing requirements. No such agreements were outstanding as at December 31, 2010.

*Liquidity Risk*

Liquidity risk refers to the Company's ability to meet its financial obligations as they come due. Short-term liquidity is provided through the inter-company demand facility with Hydro One and funds from operations. The short-term liquidity available to the Company should be sufficient to fund normal operating requirements.

As at December 31, 2010, accounts payable and accrued charges in the amount of \$241 million are expected to be settled in cash at their carrying amounts within the next year. Long-term debt maturing over the next twelve months is \$324 million. Interest payments over the next twelve months on the Transmission Business' outstanding debt amount to \$238 million.

As at December 31, 2010, the Transmission Business' share of the long-term debt of Hydro One Networks to Hydro One is \$4,528 million and the required interest payments are \$3,948 million. Principal outstanding, interest payments and related weighted average interest rates are summarized by the number of years to maturity in the following table:

Years to Maturity	Principal Outstanding on Notes and Debentures (Canadian dollars in millions)	Interest Payments (Canadian dollars in millions)	Weighted Average Interest Rate (Percent)
	324	238	5.3
2 years	276	223	5.8
3 years	370	207	5.0
4 years	325	189	3.2
5 years	150	179	3.0
	1,445	1,036	4.6
6 – 10 years	855	747	4.9
Over 10 years	2,228	2,165	6.0
	4,528	3,948	5.3

**HYDRO ONE NETWORKS INC.**  
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**NOTES TO FINANCIAL STATEMENTS (continued)**

**11. CAPITAL MANAGEMENT**

The Transmission Business' objective is to manage its capital structure consistent with the deemed capital structure for rate-setting purposes as prescribed by the OEB in its August 16, 2007 decision on transmission rates. This deemed capital structure is 60% debt and 40% common equity.

The Transmission Business considers its capital structure to consist of excess assets over liabilities, long-term debt, and the intercompany demand facility. The Transmission Business's capital structure as at December 31, 2010 and December 31, 2009 was as follows:

<i>(Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
Long-term debt payable within one year	324	403
Add: Inter-company demand facility	83	82
	407	485
Long-term debt	4,201	3,779
Excess of assets over liabilities	3,576	3,266
Total capital	8,184	7,530

**12. EMPLOYEE FUTURE BENEFITS**

***Pension***

Hydro One has a contributory defined benefit pension plan covering all regular employees of Hydro One and its subsidiaries, except Hydro One Brampton Inc. The Hydro One Pension Plan does not segregate assets in a separate account for individual subsidiaries, nor is the cost of the benefit plans allocated to, or funded separately by, entities within the consolidated group. Accordingly, for purposes of these financial statements, the pension plan is accounted for as a defined contribution plan and no deferred pension asset or liability is recorded.

Hydro One's pension plan provides benefits based on highest three-year average pensionable earnings. For new management employees who commenced employment on or after January 1, 2004, and for new employees represented by the Society of Energy Professionals hired after November 17, 2005, benefits are based on highest five-year average pensionable earnings. After retirement, pensions are indexed to inflation. The measurement date used to determine plan assets and the accrued benefit obligation is December 31. Based on the actuarial valuation filed with the Financial Services Commission of Ontario in September 2010, effective for December 31, 2009, Hydro One contributed \$193 million to its pension plan in respect of 2010 (2009 - \$112 million), \$145 million of which is required to satisfy minimum funding requirements. Hydro One made an additional payment of \$48 million in December 2010. Contributions are payable one month in arrears. All of the contributions are expected to be in the form of cash. Contributions after 2012 will be based on an actuarial valuation effective December 31, 2012 and will depend on future investment returns, and changes in benefits or actuarial assumptions.

For Hydro One, the actuarial present value at December 31, 2010 of the accrued pension benefits, based on a projection of the valuation at December 31, 2010, was estimated to be \$4,996 million (2009 - \$4,566 million). Pension plan assets available for these benefits were \$4,699 million (2009 - \$4,336 million).

***Employee Future Benefits other than Pension***

During the year ended December 31, 2010, \$22 million of employee future benefits other than pension costs was charged to the results of operations of the Transmission Business (2009 - \$20 million), and \$15 million was capitalized as part of the cost of fixed assets (2009 - \$12 million). Benefits paid were \$18 million (2009 - \$19 million). The liability associated with employee future benefits other than pension for the Transmission Business at December 31, 2010 was \$437 million (2009 - \$418 million), including the current portion.

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A detailed description of employee future benefits is provided in Note 12 of the Consolidated Financial Statements of Hydro One for the year ended December 31, 2010.

**13. ENVIRONMENTAL LIABILITIES**

<i>December 31 (Canadian dollars in millions)</i>	Polychlorinated Biphenyls (PCB)	Land Assessment and Remediation (LAR)	Total
<b>2010</b>			
Environmental liabilities, January 1	131	20	151
Interest accretion	7	1	8
Expenditures	(5)	(2)	(7)
Revaluation adjustment	(17)	(1)	(18)
Environmental liabilities, December 31	116	18	134
Less: Current portion	9	1	10
	107	17	124
<b>2009</b>			
Environmental liabilities, January 1	111	7	118
Interest accretion	6	-	6
Expenditures	(1)	(1)	(2)
Revaluation adjustment	15	14	29
Environmental liabilities, December 31	131	20	151
Less: Current portion	6	1	7
	125	19	144

Estimated future environmental expenditures for each of the five years subsequent to December 31, 2010 and in total thereafter are as follows: 2011 - \$10 million; 2012 - \$10 million; 2013 - \$20 million; 2014 - \$18 million; 2015 - \$14 million and thereafter - \$87 million. Of the total estimated future expenditures, \$139 million relate to PCB (2009 - \$162 million) and \$20 million to LAR (2009 - \$22 million).

Consistent with the Company's accounting policy for environmental costs, the Transmission Business records a liability for the estimated future expenditures associated with the removal and destruction of PCB-contaminated insulating oils and related electrical equipment and for the assessment and remediation of chemically-contaminated lands. The Transmission Business' recorded liability is based on management's best estimate of the present value of the future expenditures expected to be required to comply with existing regulations.

There are uncertainties in estimating future environmental costs due to potential external events such as changes in legislation or regulations and advances in remediation technologies. All factors used in estimating the Transmission Business' environmental liabilities represent management's best estimates of the present value cost required to meet existing legislation or regulations. However, it is reasonably possible that numbers or volumes of contaminated assets, cost estimates to perform work, inflation assumptions and the assumed pattern of annual cash flows may differ significantly from the Transmission Business' current assumptions. In addition, for the PCB program, the availability of critical resources such as skilled labour and replacement assets and the ability to take maintenance outages in critical facilities may influence the timing of expenditures. Estimated environmental liabilities are reviewed annually or more frequently if significant changes in regulation or other relevant factors occur. Estimate changes are accounted for prospectively.

In determining the amounts to be recorded as environmental liabilities, the Company estimates the current cost of completing required work and makes assumptions as to when the future expenditures will actually be incurred, in order to generate future cash flow information. A long-term inflation assumption of approximately 2% has been used to express these current cost estimates as estimated future expenditures. Future environmental expenditures have

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been discounted using factors ranging from 3.75% to 6.25%, depending on the appropriate rate for the period when increases in the obligations were first recorded.

*PCBs*

On September 17, 2008, Environment Canada published its final regulations governing the management, storage and disposal of PCBs. These regulations were enacted under the *Canadian Environmental Protection Act, 1999*. The regulations impose timelines for disposal of PCBs based on criteria including type of equipment, in-use status and PCB-contamination thresholds. All PCBs in concentrations of 500 parts per million (ppm) or more, except for specified equipment, had to be disposed of by the end of 2009. However, in 2009, the Company sought and received an extension until 2014 for the removal of PCBs from certain station equipment that could potentially be contaminated in excess of this threshold. Under the regulations, PCBs in equipment in concentrations greater than 50 ppm and less than 500 ppm, or greater than 50 ppm for light ballasts must be disposed of by the end of 2025.

Management judges that the Company currently has very few PCB-contaminated assets in excess of 500 ppm. Priority will be given to targeting inspection and testing work toward identifying and removing PCBs in assets that must be compliant by 2014. Assets to be disposed of by 2025 primarily consist of light ballasts. Contaminated transmission station equipment will generally be replaced or will be decontaminated by removing PCB-contaminated insulating oil and retrofitting with replacement oil that is less than 2 ppm.

**14. ASSET RETIREMENT OBLIGATIONS**

Consistent with the Company's accounting policy for asset retirement obligations, Hydro One Networks records a liability for the present value of the estimated future expenditures associated with the retirement of tangible long-lived assets that the Company is legally required to remove. A corresponding amount is recorded as an asset retirement cost that is capitalized as part of the carrying amount of the related fixed asset.

There are uncertainties in estimating future expenditures due to potential external events such as changing legislation or regulations and advances in remediation technologies. All factors used in estimating the Company's asset retirement obligations represent management's best estimates of the costs required to meet existing legislation or regulations. However, it is reasonably possible that numbers or volumes of contaminated assets, cost estimates to perform work, inflation assumptions and the assumed pattern of annual cash flows may differ significantly from the Company's current assumptions. Asset retirement obligations are reviewed annually or more frequently if significant changes in regulation or other relevant factors occur. Estimate changes are accounted for prospectively. In determining the amounts to be recorded as asset retirement obligations, the Company estimates the current fair value for completing required removal and remediation work and makes assumptions as to when the future expenditures will actually be incurred, in order to generate future cash flow information. A long-term inflation assumption of approximately 2% has been used to express these current cost estimates as estimated future expenditures. Future expenditures have been discounted using factors ranging from approximately 3% to 5%, depending on the appropriate rate for the period when expenditures are expected to be incurred.

The Company has recorded a liability for the estimated future expenditures associated with the removal and disposal of asbestos-containing materials installed in some of its facilities. The Company's liability is based on management's best estimate of the present value of the estimated future expenditures to comply with existing regulations. During the year, the Company completed a study with the aid of an expert external consultant to estimate the future expenditures required to remove asbestos prior to facility demolition. The Transmission Business' share of this obligation as at December 31, 2010 is approximately \$3 million. The liability is based on the net present value of the Company's best estimate of the Transmission Business' share of future expenditures of \$9 million to complete its asbestos removal activities.

The Transmission Business has also recorded a \$4 million asset retirement obligation related to the decommissioning and removal of its switching station located at Ontario Power Generation's (OPG's) Abitibi Canyon Generating Station.

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**NOTES TO FINANCIAL STATEMENTS (continued)**

**15. HYDRO ONE NETWORKS' SHARE CAPITAL**

Hydro One Networks is authorized to issue an unlimited number of preferred shares and common shares.

**16. RELATED PARTY TRANSACTIONS**

*The Province and Successor Corporations of Ontario Hydro*

The Province, OEFC, IESO, Ontario Power Authority (OPA) and OPG are related parties of the Company and its Transmission Business. In addition, the OEB is related to the Company by virtue of its status as a Provincial Crown Corporation. Transactions between these parties and the Transmission Business were as follows:

The Company received revenue for transmission services from the IESO, based upon uniform transmission rates approved by the OEB. Transmission revenue for 2010 includes \$1,277 million (2009 - \$1,121 million) related to these services.

The Company has service level agreements with Ontario Hydro's successor corporations, primarily OPG. These services include field and engineering, logistics, corporate, telecommunications and information technology services. Revenues related to the provision of construction and equipment maintenance services to the other successor corporations were \$13 million in 2010 (2009- \$12 million). Operation, maintenance and administration costs related to the purchase of services from these successor corporations were less than \$1 million in 2010 and less than \$2 million in 2009.

Under the *Ontario Energy Board Act*, 1998, the OEB is required to recover all of its annual operating costs from gas and electricity distributors and electricity transmitters. In 2010, the Transmission Business incurred \$3 million (2009 - \$4 million) in OEB fees.

The payments in lieu of corporate income taxes were paid or payable by the Company to the OEFC (Note 5).

*Hydro One and Subsidiaries*

The Company provides services to, and receives services from, Hydro One and its other subsidiaries. Amounts due to and from Hydro One and its subsidiaries are settled through the inter-company demand facility.

The Company has entered into various agreements with Hydro One and its subsidiaries related to the provision of corporate functions and services, supply management, computer support and operational services such as environmental, forestry and line services. Revenues include \$2 million (2009 - \$1 million) related to the provision of services to Hydro One and its subsidiaries. Operation, maintenance and administration costs include \$15 million (2009 - \$14 million) related to the purchase of services from Hydro One and its subsidiaries.

The Company's debt, including the portion allocated to the Transmission Business, is due to Hydro One. Financing charges include interest expense on this debt in the amount of \$242 million (2009 - \$223 million). In addition, balances payable or receivable under the inter-company demand facility are due to or from Hydro One. Financing charges of the Transmission Business include interest earned on this facility in the amount of \$1 million (2009 - \$1 million expense).

The amounts due to and from related parties as a result of the transactions referred to above are as follows:

<i>December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
Accounts receivable	110	108
Accounts payable and accrued charges	(43)	(34)



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**NOTES TO FINANCIAL STATEMENTS (continued)**

**17. STATEMENTS OF CASH FLOWS**

The changes in non-cash balances related to operations consist of the following:

<i>Year ended December 31 (Canadian dollars in millions)</i>	<b>2010</b>	<b>2009</b>
Accounts receivable increase	(21)	5
Materials and supplies increase	(1)	(1)
Accounts payable and accrued charges increase (decrease)	8	(14)
Accrued interest increase	5	7
Long-term accounts payable and other liabilities (decrease)	(2)	-
Employee future benefits other than pension increase	17	13
Other	8	2
	<b>14</b>	<b>12</b>

**Supplementary information:**

Interest paid	242	224
Payments in lieu of corporate income taxes	26	42

**18. CONTINGENCIES**

The Company is a wholly-owned subsidiary of Hydro One. As such, the assets of the Company's Transmission Business are available for the satisfaction of the debts, contingent liabilities and commitments of the Company and Hydro One.

**19. COMMITMENTS**

The Company and Hydro One have numerous commitments. These commitments have not been specifically allocated to the Transmission Business. However, the net assets of the Transmission Business are available to satisfy the commitments of Hydro One.

**20. SUBSEQUENT EVENTS**

On March 3, 2011, Hydro One repaid \$250 million of maturing long-term debt. On the same date, Hydro One Networks repaid \$250 million of maturing mirror debt payable to Hydro One. The Transmission Business' share of the repayment was \$150 million. The related \$150 million inter-company fixed-to-floating interest rate swap agreement also matured on the same day.

On February 2, 2011, the Power Workers' Union (PWU) requested that the Ministry of Labour appoint a Conciliation Officer to assist Hydro One and the PWU in finalizing a new collective agreement. Negotiations on the new agreement began on January 10, 2011. On March 23, 2011, a tentative two-party settlement was reached. The Board of Directors of Hydro One approved the settlement. The PWU is seeking ratification of the settlement by its membership.

On January 24, 2011, Hydro One issued notes under the Company's Medium-Term Note (MTN) Program. The issue consisted of \$50 million floating-rate notes with a maturity date of July 24, 2015. On the same date, Hydro One Networks issued notes payable to Hydro One in the amount of \$50 million with the same maturity date. The Transmission Business' share of the additional offering was \$30 million.

On January 19, 2011, Hydro One issued \$250 million in notes under its MTN Program. The issue was an additional offering of 2.95% notes maturing on September 11, 2015, originally issued on September 13, 2010. The total amount outstanding for this issue for Hydro One is now \$500 million. On the same date, Hydro One Networks issued notes

**HYDRO ONE NETWORKS INC.**  
**TRANSMISSION BUSINESS**  
**NOTES TO FINANCIAL STATEMENTS (continued)**

payable to Hydro One in the amount of \$250 million with the same maturity date. The Transmission Business' share of the additional offering was \$150 million. The total amount outstanding for this issue is now \$500 million of which the Transmission Business' share is \$300 million.

On January 19, 2011, Hydro One entered into two \$125 million notional principal amount fixed-to-floating interest rate swaps to convert \$250 million of Hydro One's 2.95% coupon note maturing September 11, 2015, into three-month variable rate debt. On the same date, Hydro One Networks entered into two \$125 million notional principal amount fixed-to-floating interest rate swaps to convert \$250 million of its note payable maturing September 11, 2015, into three-month variable rate debt. The Transmission Business' share of the swaps is \$150 million.

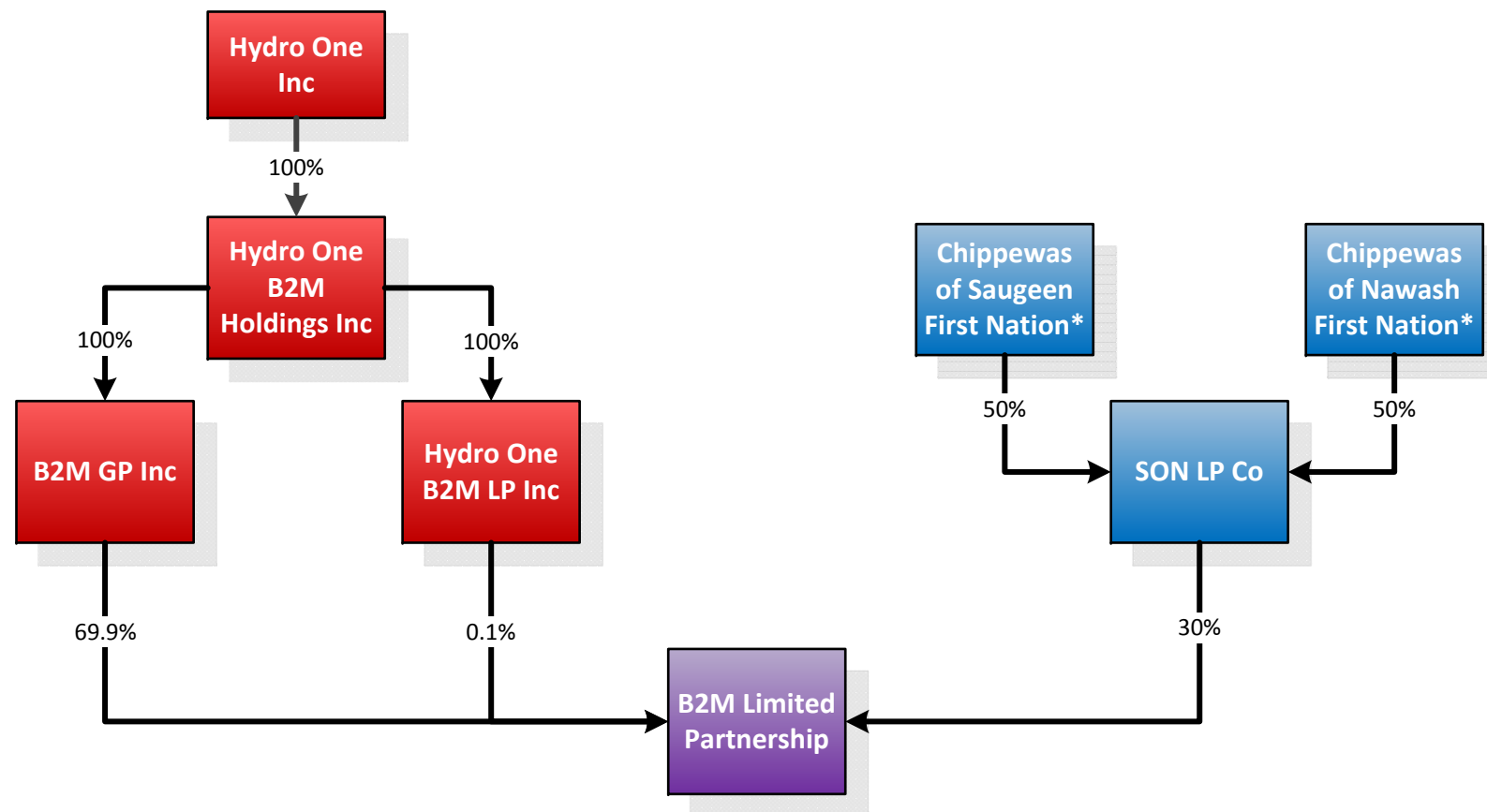
On January 17, 2011, the PWU made an appeal to the Divisional Court of the Supreme Court of Canada under the *Ontario Energy Board Act, 1998* in regard to the OEB's December 23, 2010 decision approving Hydro One Networks' transmission rates for 2011 and 2012. The PWU submitted the appeal on the grounds that the decision failed to identify operations, maintenance and administration costs that the OEB considers imprudent and were therefore omitted in the calculation of the approved revenue requirement. The PWU is requesting that the OEB's determination regarding the revenue requirement and related rates be set aside and that the matter be remitted to a differently constituted panel of the OEB for a new hearing with respect to these issues. The appeal is not anticipated to impact upon the collection of the new 2011 transmission rates during the proceeding. The outcome of this appeal is not determinable at this time.

**21. COMPARATIVE FIGURES**

The comparative Financial Statements have been reclassified from statements previously presented to conform to the presentation of the December 31, 2010 Financial Statements.

The Company has changed the presentation of tax balances associated with certain temporary differences related to intangible assets and other regulatory account balances, to reflect how these balances will ultimately be settled. As a result, the Company reclassified the tax balances associated with these temporary differences, such that the amount of future income tax liabilities and the related net regulatory asset in the interim period balance sheet, and in the comparative December 31, 2009 balance sheet, have been reduced by approximately \$160 million. The change in presentation has no impact on revenue or operating cash flow. The portion pertaining to the Transmission Business is approximately \$130 million.

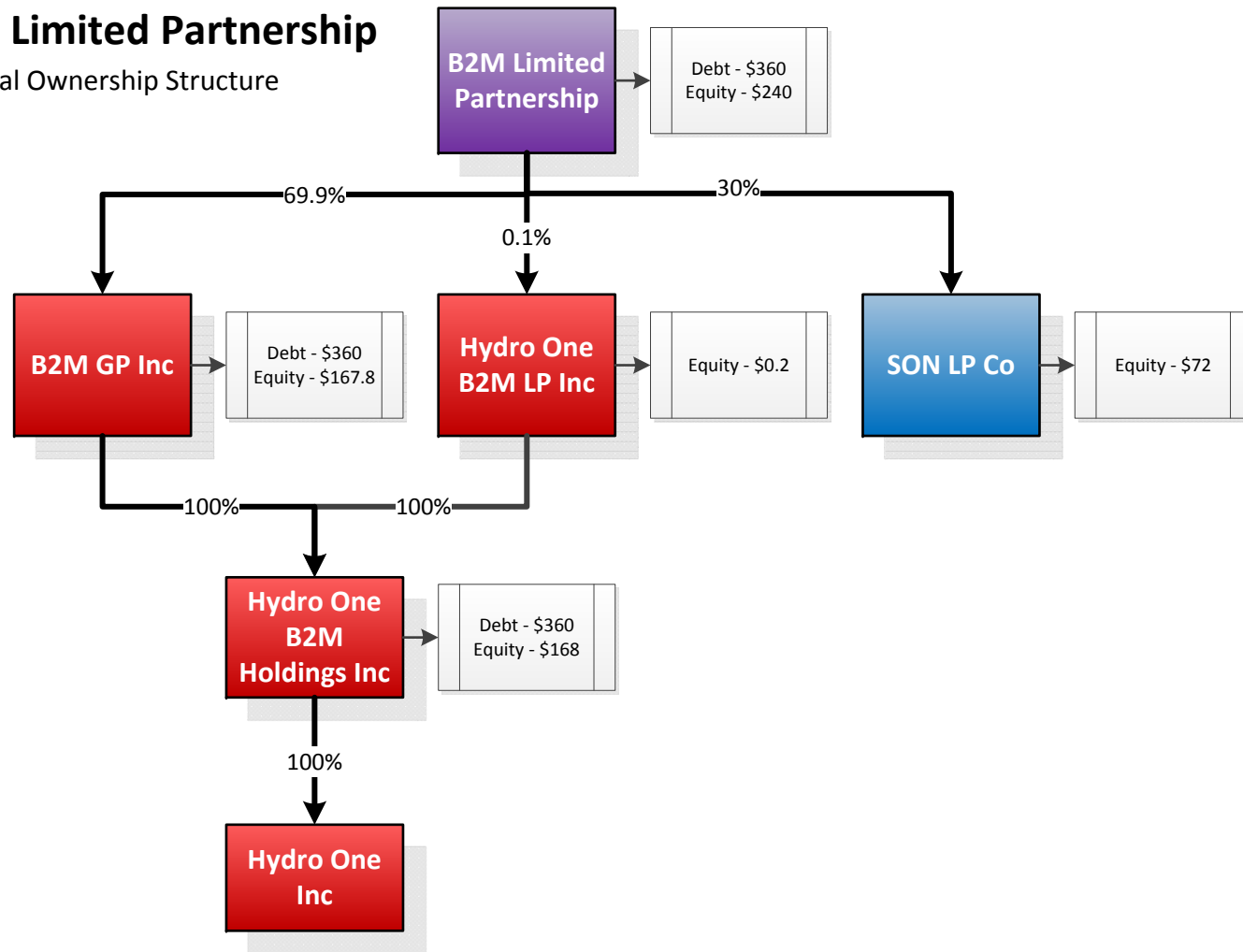
**Appendix 3**  
**Organizational Chart**  
**for**  
**Hydro One Inc. Partnership Interest in B2M LP**



\* a Band within the meaning of Section 2(1) of the *Indian Act* (Canada)

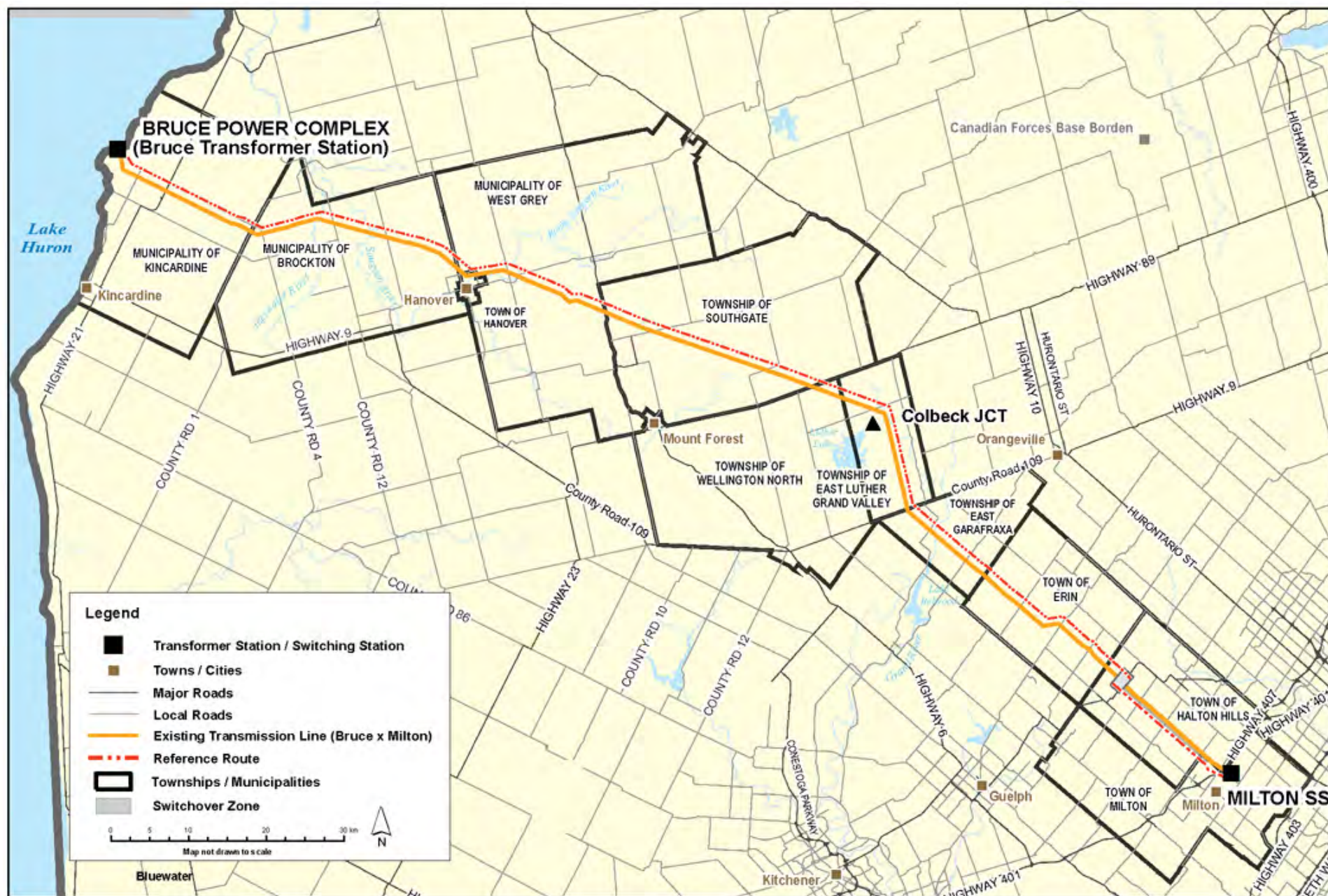
# B2M Limited Partnership

Financial Ownership Structure



\* All numbers in \$Mn, Assumes sale price of \$600Mn which is subject to final valuation

**Appendix 4**  
**Bruce to Milton**  
**Project Map**



## **Appendix 5**

### **AN Agreement**



**ANISHNAABEKIING NAAGNIGEWIN AGREEMENT IN RESPECT  
OF THE BRUCE-TO-MILTON TRANSMISSION LINE LIMITED  
PARTNERSHIP**

BETWEEN:

Chippewas of Saugeen First Nation, a band within the meaning of the *Indian Act* (Canada) represented by the Chippewas of Saugeen First Nation Band Council

and

Chippewas of Nawash First Nation, a band within the meaning of the *Indian Act* (Canada) represented by the Chippewas of Nawash First Nation Band Council

(which parties are collectively referred to as the Saugeen Ojibway Nation (the “SON”))

and

Hydro One Networks Inc. (“HONI”)

Whereas:

1. The Chippewas of Saugeen First Nation and the Chippewas of Nawash First Nation share traditional territories in southwestern Ontario and have engaged in various joint initiatives for commercial purposes.
2. HONI is a provincially licensed transmitter, who was granted leave from the OEB on September 15, 2008 in accordance with Decision 2007-0050 to construct high-voltage transmission facilities from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI’s switchyard in Milton, Ontario (the “Line”).
3. The Line is scheduled to be in-service by January 1, 2013.
4. SON wishes to participate as an investor in the Line and HONI wishes to enter into a commercial partnership with the SON in respect of the Line.
5. HONI and the SON are entering into this Anishnaabekiing Naagnigewin Agreement to provide for the continuation of a limited partnership in which both will invest directly or indirectly (the “Bruce-to-Milton LP”), which partnership will own the BtoM Project Assets to be transferred to it by HONI and HONI will continue to operate the Line under a long term Operating Agreement.
6. The Parties intend that the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP and the execution of the Operating Agreement will occur following the Approvals Date.

## ARTICLE 1 - Definitions

“Agreement” means this Anishnaabekiing Naagnigewin Agreement.

“APA” means the asset purchase agreement in respect of the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP set out in Section 3.2(b).

“Approvals” means the licences, orders and other matters listed in Attachment “A” to this Agreement.

“Approvals Date” means the date that each of the conditions precedent set out in Section 3.2 has been satisfied (or otherwise waived in writing by the Parties) as confirmed in writing by the SON and HONI.

“Bruce-to-Milton LP” means a limited partnership within the meaning of the *Limited Partnerships Act* (Ontario), to be comprised, as of the Closing, of two limited partners, SON LPco and HO LPco and one general partner, GPco.

“BtoM LP Promissory Note” has the meaning given to it in Section 3.4(c).

“BtoM Project Assets” means the assets comprising the Line, including the LP Line Property Rights, but excluding all sub-station facilities and assets relating to the interconnection of the Line to HONI’s remaining transmission system.

“BtoM Project Asset Value” means the net book value of the BtoM Project Assets which, at the time of this Agreement, is anticipated to be approximately \$600,000,000 by the end of 2012 and which value shall be subject to depreciation and HONI’s final construction and development costs as they are incurred and subject to such inclusions or exclusions as may be imposed by the OEB in connection with the transmission rate application filed by the Bruce-to-Milton LP as contemplated herein, all of which shall be confirmed prior to the Closing.

“Closing” has the meaning given to it in Section 3.2.

“Effective HONI Equity Amount” means the amount calculated by multiplying the BtoM Project Asset Value by 40% and multiplying such amount by the HONI Equity Ratio.

“Electricity Act” means the *Electricity Act, 1998* (Ontario).

“GPco” means an OBCA corporation created and owned directly or indirectly by HONI to function as the general partner of the Bruce-to-Milton LP.

“GP Unit” means a general partnership unit in the Bruce-to-Milton LP.

“HO LPco” means the OBCA corporation to be created and owned directly or indirectly by HONI to hold a limited partnership interest in the Bruce-to-Milton LP.

“HO LPco Promissory Note” has the meaning given to it in Section 3.4(b).

“HO LPco Equity Ratio” means the percentage equal to 99.9% minus the SON Equity Ratio.

“HONI Equity Ratio” means the percentage equal to 100% minus the SON Equity Ratio.

“HONI Line Real Property” means all interests in real property or licenses over real property interests in respect of the Line owned or controlled by HONI.

“Initial LPA” means the limited partnership agreement in respect of the Bruce-to-Milton LP among GPco as general partner and HO LPco as the sole limited partner and which shall be replaced with the LPA as contemplated in this Agreement.

“Line” has the meaning given to it in the recitals of this Agreement.

“LPA” means the amended and restated limited partnership agreement in respect of the Bruce-to-Milton LP as may be amended from time to time and which shall be consistent with the terms and conditions set out in Attachment “B” to this Agreement.

“LP Line Property Rights” means the portion of the HONI Line Real Property to be transferred or licensed to the Bruce-to-Milton LP in accordance with this Agreement which are required to operate and maintain the BtoM Project Assets.

“LP Promissory Note” has the meaning given to it in Section 3.4(a).

“LP Units” means the limited partnership units representing the limited partnership interest in the Bruce-to-Milton LP.

“OBCA” means the *Business Corporations Act* (Ontario).

“OEB” means the Ontario Energy Board.

“OEB Act” means the *Ontario Energy Board Act* (Ontario).

“Operating Agreement” means the agreement contemplated in Section 3.1(d).

“Party” means either of HONI or the SON.

“Parties” means both HONI and the SON.  
“Section” means any section of this Agreement.

“SON Equity Contribution Amount” means the amount to be contributed by SON LPco as a capital contribution to the Bruce-to-Milton LP on Closing, which shall be: (i) no less than 5% of the amount which is equal to 40% of the BtoM Project Asset Value and (ii) no greater than 30% of the amount which is equal to 40% of the BtoM Project Asset Value.

“SON Equity Ratio” means the percentage determined by dividing the SON Equity Contribution Amount by the amount which is equal to 40% of the BtoM Project Asset Value (each as finally determined prior to Closing).

“SON LPco” means an OBCA corporation created and owned directly or indirectly by the SON to hold a limited partnership interest in the Bruce-to-Milton LP.

“Target Date” means December 31, 2013 or such later date as HONI and the SON may agree in writing pursuant to Section 3.3.

## **ARTICLE 2- Preliminary Steps**

### **2.1**

The SON will incorporate and organize SON LPco under the OBCA as a single purpose holding company that will participate as a limited partner in the Bruce-to-Milton LP. The constating documents of SON LPco shall restrict the business of the corporation to the holding of the SON’s limited partnership interest in the Bruce-to-Milton LP. SON agrees that it will not permit the issue of any additional securities in SON LPco to any person other than to the Chippewas of Saugeen First Nation or the Chippewas of Nawash First Nation, or an entity that is 100% legally and beneficially owned by such persons, without the prior written consent of HONI, and provided such transferee agrees in writing to be bound by the provisions of this Agreement, the LPA and the documents contemplated herein that apply to the SON or SON LPco, as applicable.

### **2.2**

HONI will incorporate and organize a new subsidiary as HO LPco which will participate as a limited partner in the Bruce-to-Milton LP.

### **2.3**

HONI will incorporate and organize a new subsidiary, GPco, to act as the general partner of the Bruce-to-Milton LP and manage the business and affairs of the Bruce-to-Milton LP, including without limitation, representing the Bruce-to-Milton LP in respect of regulatory matters before the OEB or other regulators and operating and maintaining the BtoM Project Assets under the terms of the Operating Agreement.

## 2.4

HONI will create and organize the Bruce-to-Milton LP pursuant to the *Limited Partnerships Act* (Ontario) wherein GPco shall be the general partner and, other than the 0.1% limited partnership interest to be held by GPco, HO LPco shall initially be the sole limited partner. HONI shall cause HO LPco and GPco to enter into the Initial LPA. The initial partnership capital of the Bruce-to-Milton LP shall be a nominal amount and the limited partnership interest of HO LPco and GPco shall be 99.9% and 0.1% respectively. HO LPco shall receive 999 LP Units and GPco shall receive 1 LP Unit in respect of their respective limited partnership interests (as defined in the LPA).

## 2.5

The Bruce-to-Milton LP will engage GPco to manage the partnership for compensation comprised of distributions payable to the GPco on account of its general partner interest plus reasonable, actual out-of-pocket expenses.

# ARTICLE 3 – Approvals, Acquisitions and Funding

## 3.1

Immediately upon the execution of this Agreement or as soon thereafter as reasonably practicable:

- (a) The SON shall use commercially reasonable efforts to obtain a commitment for financing in an amount sufficient to enable SON to meet the payment and investment obligations set out in Section 3.4 on terms and conditions satisfactory to the SON and HONI, including with respect to security obligations and lender step-in rights.
- (b) HONI shall cause GPco on behalf of the Bruce-to-Milton LP to apply for a transmission licence to operate the BtoM Project Assets following the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP to occur on the Closing;
- (c) HONI shall apply (with the co-operation and support of the Bruce-to-Milton LP and the SON as may be necessary) under s.86 of the OEB Act for approval to transfer the BtoM Project Assets to the Bruce-to-Milton LP effective on the Closing;
- (d) HONI shall cause GPco on behalf of the Bruce-to-Milton LP to enter into an operating agreement with HONI on terms and conditions satisfactory to the SON and HONI (the “Operating Agreement”);
- (e) HONI shall cause GPco on behalf of the Bruce-to-Milton LP (with the co-operation and support of the Parties hereto as may be necessary) to apply for a first transmission rate order from the OEB anticipating the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP on

Closing, seeking recognition in the transmission rates of the debt-to-equity ratio contemplated by the Parties as set out herein and on the basis that the applied-for revenue requirement shall be no greater than the associated revenue requirement of HONI had there been no transfer of the BtoM Project Assets effective on Closing; and

- (f) the Parties shall otherwise apply for and pursue the Approvals as indicated in Attachment "A" with the full co-operation and support of each other Party.

### 3.2

Unless otherwise waived in writing by the Parties, the following shall be conditions precedent to the Closing:

- (a) receipt by the SON of a commitment for financing in an amount sufficient to enable the SON to meet the payment and investment obligations set out in Section 3.4 on terms and conditions satisfactory to the SON and HONI, including with respect to security obligations and lender step-in rights;
- (b) receipt of a ruling under section 86 of the OEB Act approving the transfer of the BtoM Project Assets to the Bruce-to-Milton LP on Closing on terms and conditions satisfactory to HONI and the SON;
- (c) receipt of a transmission licence for the Bruce-to-Milton LP to operate the BtoM Project Assets on terms and conditions satisfactory to HONI and the SON;
- (d) receipt of a transmission rate order from the OEB in respect of the operation of the BtoM Project Assets by the Bruce-to-Milton LP satisfactory to HONI and the SON;
- (e) receipt or confirmation of a tax ruling that SON LPco will not be treated as a taxable entity with respect to its investment and interest in the Bruce-to-Milton LP;
- (f) receipt of a tax ruling from the Ontario Ministry of Finance confirming that, for purposes of the Electricity Act, the SON will not be regarded as a municipality and that neither SON LPco nor the Bruce-to Milton LP will be regarded as a municipal electric utility;
- (g) receipt of a tax ruling confirming that neither the transfer of the BtoM Project Assets, nor any other action taken pursuant to this Agreement will result in any tax greater than \$1,000,000 payable by HONI, Hydro One Inc. or any other subsidiary of Hydro One Inc., other than in respect of land-transfer tax;

- (h) receipt of a tax ruling confirming that payments made by the Bruce-to-Milton LP to HO LPco under the HO LPco Promissory Note and to HONI under the Operating Agreement will be tax-deductible to the Bruce-to-Milton LP;
- (i) receipt of a tax ruling in respect of any other items not identified in this Section 3.2 but which are agreed to in writing between HONI and SON prior to the Target Date as an item requiring determination of favourable tax treatment in accordance with this Section 3.2(h), provided that each Party shall act reasonably in agreeing to any such requests from the other Party and shall not unreasonably withhold, delay or condition such agreement where the tax ruling requested relates to a matter that could result in any tax greater than \$1,000,000 payable by the Bruce-to-Milton LP, HONI, HO LPco, Hydro One Inc., GPco, SON LPco or the SON; and
- (j) agreement by the Parties, acting reasonably, on the terms and conditions of the LPA.

The Parties shall use commercially reasonable efforts to satisfy the foregoing conditions precedent in a timely manner. In the event that any rulings or orders in such conditions precedent are denied or unavailable on terms and conditions acceptable to the Parties, the Parties shall cooperate and negotiate in good faith during the term of this Agreement in an effort to arrive at a mutually acceptable alternative solution or structure to address the financial or regulatory issues applicable in the order or ruling which has been denied or is unavailable.

### 3.3

If the Approvals Date has not occurred on or before September 1, 2013 or 90 days prior to any subsequent revised Target Date, the Parties shall commence good faith negotiations to extend the Target Date to such later date as may be reasonably required to achieve the Approvals Date.

### 3.4

Within 10 Business Days after the Approvals Date, the following transactions shall occur in the following order (the "Closing"):

- (a) HONI and the Bruce-to-Milton LP will enter into the APA pursuant to which HONI will transfer to the Bruce-to-Milton LP the BtoM Project Assets in exchange for the issuance of 1 LP Unit of the Bruce-to-Milton LP (representing a 0.1% limited partnership interest), subject to adjustment, as well as a promissory note from the Bruce-to-Milton LP in the principal amount equal to the BtoM Project Asset Value and bearing interest at a rate equal to HONI's weighted average cost of outstanding debt as may be adjusted from time to time (the "LP Promissory Note"). In

conjunction with the APA, HONI and the Bruce-to-Milton LP shall duly execute and file an election under subsection 97(2) of the *Income Tax Act* (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer will occur on a tax deferred basis to HONI. The APA will contain a price adjustment clause providing for an adjustment to the purchase price, the consideration and/or the elected amount under the tax election in respect of the transfer in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and the Bruce-to-Milton LP. The Parties agree to use commercially reasonable efforts to cause the transfer of the LP Line Property Rights in conjunction with the APA to be effected on a land transfer tax deferred basis provided that the Parties agree that (i) HONI shall hold title to such LP Line Property Rights as bare trustee for and on behalf of the Bruce-to-Milton LP, (ii) no transfer or other notice or registration in respect of the LP Line Property Rights shall be permitted to be registered on title to the applicable real property by HO LPco, SON LPco, any lender to either Party or any third party where it would have an adverse effect on the deferral of land transfer tax, (iii) if such land transfer tax becomes payable in the future it shall be treated in accordance with Section 4.2;

- (b) HONI shall contribute to HO LPco the 1 LP Unit received by HONI pursuant to the APA as well as a cash amount equal to the BtoM Project Asset Value in exchange for additional common shares of HO LPco and a promissory note from HO LPco in the principal amount determined by subtracting from the BtoM Project Asset Value the amount that is equal to 40% multiplied by the BtoM Project Asset Value, less the SON Equity Contribution Amount and bearing interest at a rate equal to HONI's weighted average cost of outstanding debt as may be adjusted from time to time (the "HO LPco Promissory Note"). HONI and HO LPco shall duly execute and file an election under subsection 85(1) of the *Income Tax Act* (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer of the 1 LP Unit will occur on a tax deferred basis to HONI. The terms of HONI's contribution to HO LPco as set out in this Section 3.4(b) will contain a price adjustment clause providing for an adjustment to the subscription price, the consideration and/or the elected amount under the tax election in respect of the transfer to HO LPco in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and HO LPco;
- (c) HO LPco shall transfer a cash amount to the Bruce-to-Milton LP in the amount of the BtoM Project Asset Value and in return shall receive additional LP Units (in accordance with Section 3.4(e)) as well as a promissory note in the principal amount equal to the BtoM Project Asset Value minus the Effective HONI Equity Amount and bearing interest at a rate equal to HONI's weighted average cost of outstanding debt as may be adjusted from time to time (the "BtoM LP Promissory Note");



- (d) the Bruce-to-Milton LP shall pay to HONI a cash amount equal to the BtoM Project Asset Value in full satisfaction of the LP Promissory Note held by HONI in connection with the APA;
- (e) HONI shall cause HO LPco and GPco to enter into the LPA and SON shall cause SON LPco to enter into the LPA, and SON LPco shall make a capital contribution to the Bruce-to-Milton LP in the amount equal to the SON Equity Contribution Amount and in return shall receive such number of LP Units such that (i) the total number of LP Units held by SON LPco shall be equal to the total issued and outstanding LP Units multiplied by the SON Equity Ratio; (ii) the total number of LP Units held by HO LPco (including, for greater certainty, those issued under Section 3.4(c) above) shall be equal to the total issued and outstanding LP Units multiplied by the HO LPco Equity Ratio; and (iii) the total number of LP Units held by GPco shall be equal to 0.1% of the total issued and outstanding LP Units.
- (f) the Bruce-to-Milton LP shall utilize the funds contributed by SON LPco to pay such portion of the BtoM LP Promissory Note such that the principal amount of the BtoM LP Promissory Note shall then be equal to 60% of the BtoM Project Asset Value; and
- (g) HO LPco shall utilize the funds received from the Bruce-to-Milton LP to pay such portion of the HO LPco Promissory Note such that the principal amount of the HO LPco Promissory Note shall then be equal to 60% of the total of the debt liability plus the paid up share capital of HO LPco.

For illustration purposes only, Attachment "C" to this Agreement contains an example of the calculations and descriptions of the steps set out in this Section 3.4 assuming that the BtoM Project Asset Value were equal to \$600,000,000 and the SON Equity Contribution Amount were equal to \$72,000,000 at the Closing.

### **3.5**

All funds required on Closing shall be payable by electronic funds transfer of immediately available funds.

### **3.6**

Closing will take place at the head office of HONI.

## **ARTICLE 4 – Costs**

### **4.1**

The Parties agree to use commercially reasonable efforts to cause all costs incurred up to Closing by HONI or the Bruce-to-Milton LP, in respect of actions required by HONI reasonably connected with the transactions contemplated in this Agreement, reasonably connected with the BtoM Project Assets or otherwise reasonably incurred in respect of

the Bruce-to-Milton LP, to be recovered in the OEB-approved transmission rates in respect of the operation of the BtoM Project Assets by the Bruce-to-Milton LP. In the event that any such costs are not otherwise recoverable or recovered in the OEB-approved transmission rates of the Bruce-to-Milton LP, that part of such costs that: (i) has been incurred by the Bruce-to-Milton LP shall be shared by the limited partners in proportion to their post-Closing LP Unit holdings and (ii) has been incurred by HONI and has not been included in the computation of the BtoM Project Asset Value and has not otherwise been included in computing the equity contributed to the Bruce-to-Milton LP by HO LPco or an affiliate of HO LPco, shall be deemed to be additional equity contributed by HO LPco to the Bruce-to-Milton LP and reflected accordingly in the accounts and records of the Bruce-to-Milton LP, and the limited partnership interests and the LP Units shall be adjusted accordingly in accordance with the LPA to reflect such additional equity contribution. All such costs which are not included in the OEB-approved transmission rates of the Bruce-to-Milton LP shall be provided to the SON for its review, and if disputed, shall be subject to the dispute resolution mechanisms provided in the LPA.

## **4.2**

The Parties agree to use commercially reasonable efforts to cause any land transfer tax (including deferred taxes) imposed on the acquisition of the BtoM Project Assets by the Bruce-to-Milton LP or the acquisition by SON LPco of its LP Units to be recovered in the OEB-approved transmission rates in respect of the operation of the BtoM Project Assets by the Bruce-to-Milton LP. Where the recovery of such land transfer tax costs are included in the OEB-approved transmission rates of the Bruce-to-Milton LP, the amount of any such land transfer tax paid or payable by HO LPco, GPco or SON LPco shall be deemed to be additional equity contributed to the Bruce-to-Milton LP and reflected accordingly in the accounts and records of the Bruce-to-Milton LP, and the limited partnership interests and the LP Units shall be adjusted accordingly in accordance with the LPA to reflect such additional equity contribution. Where the recovery of such land transfer tax costs are not included in the OEB-approved transmission rates of the Bruce-to-Milton LP, each limited partner of the Bruce-to-Milton LP shall be responsible for its share of such land transfer tax costs on a pro rata basis based on their post-Closing LP Unit holdings.

## **ARTICLE 5- Term**

### **5.1**

This Agreement shall remain in force until the earlier of:

- (a) failure of the OEB to give approval to the transfer of the BtoM Project Assets under s. 86 of the OEB Act on proper application as contemplated in Attachment "A";
- (b) the failure of Bruce-to-Milton LP to obtain a transmission licence on proper application to the OEB as contemplated in Attachment "A"; or

- (c) 11:59 p.m. on the date that is 180 days after the Target Date if the Approvals Date has not occurred by such time.

## **5.2**

If this Agreement expires as contemplated in Section 5.1, its provisions shall become null and void and have no further force and effect, and there shall be no liability or further obligation whatsoever on the part of any one Party to the other Party.

## **ARTICLE 6- General**

### **6.1**

The SON acknowledges and agrees that neither HONI, nor any of its affiliates, nor any of the directors, officers, employees, consultants or agents of any of them have made any representation or warranty to the SON regarding the SON's investment as a limited partner in the Bruce-to-Milton LP, including any anticipated return on investment or the associated rights and risks as a limited partner. The SON further acknowledges and agrees that it has made the decision, in its sole discretion, to invest as a limited partner in the Bruce-to-Milton LP and assumes all risks related to this investment in respect of the SON's decision to invest as a limited partner in the Bruce-to-Milton LP, provided that such assumption of risk in no way derogates from any and all contractual rights which the SON may have against HONI under this Agreement or any other agreements related hereto.

### **6.2**

Each Party shall obtain the necessary authorizations contemplated in this Agreement and in the LPA or as otherwise reasonably required or requested to enable the Parties or the entities they control to enter into this Agreement and the agreements contemplated herein and to give effect to the intent of the Parties as evidenced in this Agreement and in the LPA.

### **6.3**

The obligations of SON hereunder are joint and several. The Chippewas of Nawash First Nation and the Chippewas of Saugeen First Nation each agree with HONI that it will not sell, transfer, assign, encumber or pledge as collateral in any way, directly or indirectly, its legal and beneficial interest in SON LPco, or in any rights thereunder, including distributions from Bruce-to-Milton LP, and will not permit its ownership interest in SON LPco to be registered in the name of any other person nor will it permit the issue of any additional securities, except in each case, to an entity that is 100% legally and beneficially owned by such First Nation and such entity agrees in writing to be bound by this Agreement, the LPA and the documents contemplated hereunder that apply to the SON or SON LPco, as applicable, except that the SON may pledge its interest in SON LPco and its rights thereunder and SON LPco may pledge its LP Units, and its rights thereunder, as security for the financing obtained to fund the acquisition by SON LPco of its LP Units.

#### 6.4

Notice under this Agreement shall be given in writing and may be served personally or sent by registered mail or courier to the Parties at the following addresses:

If to Chippewas of Saugeen First Nation and/or Chippewas of Nawash First Nation:

c/o Saugeen Ojibway Nation

Chippewas of Saugeen  
R.R. # 1  
Southampton, Ontario N0H 2L0  
Attention: Chief

Chippewas of Nawash  
135 Lakeshore Blvd, RR#5  
Wiarton ON N0H 2T0  
Attention: Chief

-with a copy to –

Pape, Salter & Teillet LLP  
Harbord House  
546 Euclid Avenue  
Toronto ON, M6G 2T2  
Attention: Colin Jesse Salter  
Email: [colin@salterlaw.ca](mailto:colin@salterlaw.ca)

If to Hydro One Networks Inc:

483 Bay Street,  
15<sup>th</sup> Floor, North Tower,  
Toronto, ON  
M5G 2P5  
Attention: General Counsel  
Email: [joe.agostino@hydroone.com](mailto:joe.agostino@hydroone.com)

-with a copy to –

Osler, Hoskin & Harcourt LLP  
Box 50, 1 First Canadian Place  
Toronto ON, M5X 1B8  
Attention: Rocco Sebastiano  
Email: [rsebastiano@osler.com](mailto:rsebastiano@osler.com)

Agreed this 18<sup>th</sup> day of Jun, 2012.

**HYDRO ONE NETWORKS INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CHIPPEWAS OF NAWASH FIRST  
NATION**

By: [Signature]  
Name: SCOTT LEE  
Title: CHIEF

**CHIPPEWAS OF SAUGEEN FIRST  
NATION**

By: [Signature]  
Name: RANDALL KAHN LEE  
Title: CHIEF

## Attachment "A"

### Approvals

<b><u>Tax Rulings</u></b>	<b><u>Party Responsible</u></b>
Ruling from Canada Revenue Agency that SON LPco will not be treated as a taxable entity with respect to its investment in the Bruce-to-Milton LP	HONI and the SON jointly
Tax ruling from the Ontario Ministry of Finance confirming that, for purposes of the Electricity Act, the SON will not be regarded as a municipality and that neither SON LPco nor the Bruce-to-Milton LP will be regarded as a municipal electric utility.	HONI and the SON jointly
Tax ruling confirming that neither the transfer of the BtoM Project Assets, nor any other action taken pursuant to this Agreement will result in any tax greater than \$1,000,000 payable by HONI, Hydro One Inc. or any other subsidiary of Hydro One Inc., other than in respect of any land transfer tax	HONI
Tax ruling to confirm that the payments made by the Bruce-to-Milton LP to HO LPco under the HO LPco Promissory Note and to HONI under the Operating Agreement will be tax-deductible to the Bruce-to-Milton LP.	HONI and the SON jointly
Tax ruling in respect of any other items as contemplated in Section 3.2(i).	HONI or the SON or jointly, as applicable

<b><u>OEB Matters</u></b>	<b><u>Party Responsible</u></b>
Transmission license for Bruce-to-Milton LP from the OEB	GPco on behalf of Bruce-to-Milton LP
First transmission rate order for the Bruce-to-Milton LP	GPco on behalf of Bruce-to-Milton LP
MADD application (s.86 of the OEB Act)	HONI

<b><u>SON Financing</u></b>	<b><u>Party Responsible</u></b>
ALGP funding of SON LPco partnership interest	SON

<b><u>Internal Governance</u></b>	<b><u>Party Responsible</u></b>
Band Council Resolution(s) of the Chippewas of Saugeen authorizing the transactions contemplated herein and specifically execution of this Anishnaabekiing Naagnigewin Agreement, the LPA and all related documents including those related to financing and the creation and organization of SON LPco	Chippewas of Saugeen First Nation
Band Council Resolution(s) of the Chippewas of Nawash authorizing the transactions contemplated herein and specifically execution of this Anishnaabekiing Naagnigewin Agreement, the LPA and all related documents including those related to financing and the creation and organization of SON LPco	Chippewas of Nawash First Nation
Resolution(s) of the Board of Directors of Hydro One Inc. or HONI, as appropriate, authorizing the transactions contemplated herein and specifically execution of the LPA, the APA, and the Operating Agreement.	HONI

<b><u>Definitive LPA</u></b>	<b><u>Party Responsible</u></b>
Agreement by the Parties on the complete terms and conditions of the LPA	HONI and the SON jointly

## ATTACHMENT “B”

### Heads of Agreement for the Amended and Restated Limited Partnership Agreement of the Bruce-to-Milton LP

[Note: Defined terms used in this document not otherwise defined herein shall have the meaning given to them in the Anishnaabekiing Naagnigewin Agreement.]

	TERM	DESCRIPTION
1.	<b>Description of the BtoM Project Assets:</b>	HONI is a provincially licensed transmitter, who was granted leave from the OEB on September 15, 2008 in accordance with Decision 2007-0050 to construct high-voltage transmission facilities from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI’s switchyard in Milton, Ontario (the “ <b>Line</b> ”). The “ <b>BtoM Project Assets</b> ” are those assets comprising the Line, including the LP Line Property Rights, but excluding all sub-station facilities and assets relating to the interconnection of the Line with HONI’s remaining transmission system.
2.	<b>The Bruce-to-Milton LP:</b>	GPco, a direct or indirect wholly owned subsidiary of HONI (“ <b>GPco</b> ”), as the general partner, and HO LPco, a direct or indirect wholly owned subsidiary of HONI (“ <b>HO LPco</b> ”), and SON LPco, a wholly owned subsidiary of the SON (“ <b>SON LPco</b> ”), which, together with GPco as the limited partners, will form an Ontario limited partnership (the “ <b>Bruce-to-Milton LP</b> ”) to own the BtoM Project Assets and to engage HONI to operate, manage and maintain the BtoM Project Assets in accordance with the Operating Agreement. The Bruce-to-Milton LP shall have a single class of limited partnership units representing the limited partnership interest in the Bruce-to-Milton LP (the “ <b>LP Units</b> ”).
3.	<b>Objective of the Bruce-to-Milton LP:</b>	The objective of the Bruce-to-Milton LP is to formalize a long-term cooperative arrangement between HO LPco and SON LPco to facilitate the SON’s equity participation in the ownership of the BtoM Project Assets and to participate in the economic benefits arising from SON LPco’s ownership of LP Units. Through the Bruce-to-Milton LP, SON LPco will participate in the Distributable Cash (defined per item 9 below) from the operation of the BtoM Project Assets during the operational life of the BtoM Project Assets or until the Bruce-to-Milton LP is dissolved. The Bruce-to-Milton LP shall also be responsible for the decommissioning of the BtoM Project Assets. The Bruce-to-Milton LP shall not engage in any business activities that are not in relation to the BtoM Project Assets.
4.	<b>Transmission Rates:</b>	Revenue in respect of the operation of the BtoM Project Assets is expected to be based on regulated transmission rates determined by the OEB from time to time. GPco will apply for a transmission licence to own and operate the BtoM Project Assets on behalf of the Bruce-to-Milton LP. HONI’s duties under the Operating Agreement will include making transmission rate applications on behalf of the Bruce-to-Milton LP and representing the Bruce-to-Milton LP on all matters before the OEB.
5.	<b>Overview of SON LPco Participation:</b>	<p>The following highlights some of the key elements of the Bruce-to-Milton LP:</p> <ul style="list-style-type: none"> <li>• Through the Bruce-to-Milton LP, SON LPco will be entitled to participate as an equity participant in the BtoM Project Assets.</li> <li>• SON LPco’s limited partnership interest in the Bruce-to-Milton LP will be initially set on Closing in accordance with the “<b>SON Equity Ratio</b>” as defined in the</li> </ul>



	TERM	DESCRIPTION
		<p>Anishnaabekiing Naagnigewin Agreement.</p> <ul style="list-style-type: none"> <li>As an equity holder in the Bruce-to-Milton LP, SON LPco will receive annual payments from the Distributable Cash in proportion to its limited partnership interest in the Bruce-to-Milton LP once the Line is in-service and the BtoM Project Assets have been transferred to the Bruce-to-Milton LP.</li> <li>SON LPco will be required to make commercially reasonable efforts to cause SON and its constituencies to act in the best interests of the Bruce-to-Milton LP and the BtoM Project Assets (such obligations referred to as the "SON Support").</li> <li>In addition to all other laws applicable to the Bruce-to-Milton LP (including its regulation as a licensed transmitter by the OEB), the Bruce-to-Milton LP, being majority owned and controlled by Hydro One, Inc. ("HOI"), may be subject to directives from Her Majesty the Queen in Right of the Province of Ontario as Represented by the Minister of Energy (the "Shareholder") pursuant to the Memorandum of Agreement between HOI and the Shareholder dated March 27, 2008.</li> </ul>
6.	<b>Term:</b>	The " <b>Term</b> " will commence on the date of the execution of the LPA among GPco, HO LPco and SON LPco and will end when the BtoM Project Assets are permanently decommissioned or removed from service, unless terminated earlier by mutual agreement of all partners of the Bruce-to-Milton LP.
7.	<b>Management of the Bruce-to-Milton LP:</b>	GPco will manage the day-to-day functions of the Bruce-to-Milton LP. GPco will keep SON LPco apprised of the operation of the BtoM Project Assets. Effective cooperation and interchange of information on a prompt, commercial and orderly basis will be ensured through an Advisory Committee mechanism described below.
8.	<b>Bruce-to-Milton LP Interests, Capital Calls &amp; Dilution:</b>	<p>SON LPco will not be permitted to purchase any further LP Units that would increase its limited partnership interest in the Bruce-to-Milton LP beyond the SON Equity Ratio determined initially at Closing and as may be adjusted in the future as a result of the failure to make additional contributions required by Capital Requests set out below.</p> <p>From time to time during the Term, there will be additional costs in respect of the BtoM Project Assets, including development, construction, management, upgrading, repair and refurbishment costs, insurance costs, costs for decommissioning and liabilities incurred by the Bruce-to-Milton LP in connection with its engagement of HONI for the operation and maintenance of the BtoM Project Assets under the Operating Agreement. As and when these costs are incurred, to the extent the Bruce-to-Milton LP is unable to fund the equity portion of such expenditure (taking into consideration the deemed debt-to-equity capital structure reflected in the OEB-approved transmission rates of the Bruce-to-Milton LP) from partnership short term credit facilities or other immediately available sources, each of HO LPco and SON LPco will be requested to make additional capital contributions necessary to fund the shortfall (a "<b>Capital Request</b>") in proportion to their existing limited partnership interest in the Bruce-to-Milton LP (such interest, the Limited Partner's "<b>Equity Ratio</b>"). Except in the case of emergencies or unplanned capital requirements, GPco will give HO LPco and SON LPco not less than 180 days advance notice of a Capital Request. A limited partner (the "<b>Non-Contributing Partner</b>") may elect not to contribute all or part of the additional capital requested by a Capital Request and such election shall not be a breach or failure under the LPA and shall have no adverse impact on the Non-Contributing Partner except that the Equity Ratio of such partner shall be adjusted on a prospective basis to reflect the amount of capital provided to the Bruce-to-</p>

	TERM	DESCRIPTION
		<p>Milton LP by each limited partner after the contributions of capital in response to the Capital Request have been made. If a limited partner elects to contribute additional capital requested by a Capital Request and fails to provide such capital to the Bruce-to-Milton LP at the time such capital is required to be delivered, such failure shall constitute a breach under the LPA.</p> <p>Where SON LPco elects to contribute all or part of the additional capital requested by a Capital Request, provided that SON LPco has used commercially reasonable efforts to secure its own funds or third party financing to contribute such additional capital, SON LPco may, prior to the time when the additional capital is required to be contributed in accordance with the Capital Request, by written notice to HO LPco, elect to borrow such additional capital from HO LPco for a period not to exceed one year from the date that the additional capital was required to be contributed in accordance with the Capital Request (such date, the <b>"SON Capital Call Loan Deadline"</b>). In such circumstances SON LPco will be required to repay to HO LPco prior to the SON Capital Call Loan Deadline the principal amount of the loan for such additional capital amount (such principal amount, the <b>"Capital Call Loan Amount"</b>), together with interest on such amount equal to the return-on-equity percentage reflected in the OEB-approved transmission rates of the Bruce-to-Milton LP calculated from the date the additional capital was due under the Capital Request. In the event that any amount of the Capital Call Loan Amount remains outstanding by the SON Capital Call Loan Deadline, then the LP Units which were financed by the unpaid amount of the Capital Call Loan Amount shall immediately be transferred to HO LPco in satisfaction of the unpaid Capital Call Loan Amount and any amount of the unpaid interest on the Capital Call Loan Amount that has not been repaid to HO LPco by the SON Capital Call Loan Deadline shall be paid to HO LPco from SON LPco's entitlement to distributions of Distributable Cash.</p>
9.	<b>Bruce-to-Milton LP Distributions and Payments to Limited Partners:</b>	<p><b>"Distributable Cash"</b> shall mean available cash of the Bruce-to-Milton LP after paying: all amounts owing under the Operating Agreement; debt service obligations in respect of all debt obligations owed by the Bruce-to-Milton LP (including the BtoM LP Promissory Note and any working capital debt facilities); all Payments in Lieu of Taxes (or any future equivalent thereof or actual exigible taxes) by any affiliate of HONI in respect of the Bruce-to-Milton LP's income to the extent such costs are collected in the OEB-approved transmission rates of the Bruce-to-Milton LP; and any transaction costs or other costs borne by HONI in respect of the transactions contemplated in the Anishnaabekling Naagnigewin Agreement, the BtoM Project Assets or the Bruce-to-Milton LP to the extent such costs are collected in the OEB-approved transmission rates of the Bruce-to-Milton LP.</p> <p>Advances in respect of Distributable Cash will be made in proportion to the Equity Ratio of the applicable partner, quarterly, on the basis of a forecast operating budget to be prepared by GPco, acting reasonably, and which quarterly advances shall be reconciled on an annual basis (subsequent to the fiscal year end of the Bruce-to-Milton LP) to actual Distributable Cash of the Bruce-to-Milton LP over the fiscal year. To the extent that such annual reconciliation results in an amount owing from any partner to the Bruce-to-Milton LP in respect of quarterly advances during such fiscal year, such amount shall be set off against future advances and distributions to such partner and such costs are not included in the BtoM Project Asset Value.</p> <p>Each limited partner agrees that distributions distributable to them shall first be subject to set-off for any monies that are due and owing from such limited partner to the Bruce-to-Milton LP or to any of the other limited partners.</p>

	TERM	DESCRIPTION
10.	<b>Threshold SON LPco Interest:</b>	If at any time the limited partnership interest of SON LPco falls below 5%, HO LPco shall have the option to purchase the SON LPco's equity in the Bruce-to-Milton LP at a price equal to the fair market value of such LP Units.
11.	<b>Consent of SON:</b>	For as long as the limited partnership interest of SON LPco is at least 5%, HONI will not be entitled to dissolve or cause the dissolution of the Bruce-to-Milton LP without the consent of SON LPco, acting reasonably.
12.	<b>Unanimous Consent of the Partners:</b>	Certain actions relating to fundamental matters involving a change to the structure, organization or business of the Bruce-to-Milton LP shall require unanimous consent of the limited partners. Such fundamental matters shall include the following: (i) dissolving, liquidating or restructuring the Bruce-to-Milton LP, except where the limited partnership interest of SON LPco has fallen below the minimum threshold as set out in item 11 above; (ii) changing the name of the Bruce-to-Milton LP; (iii) waiving any default on the part of the general partner; (iv) the sale or disposition of any component of the property or assets of the Bruce-to-Milton LP that would reasonably be anticipated to have a material adverse effect on the economic benefits of the LP Units; (v) changing the business of the Bruce-to-Milton LP; (vi) the admission of new limited partners (other than in respect of a HONI Minority Transfer as set out in item 18 below), a transfer to HONI or a HONI subsidiary (as set out in item 19 above) or in accordance with the Mutual ROFO and ROFR provisions set out below; (vii) terminating the Bruce-to-Milton LP's transmission licence before its expiration; (viii) to the extent not governed by or exempted from the OEB's <i>Affiliates Relationship Code</i> (or future equivalent thereof), entering into an agreement with a person that does not deal at arm's length with GPco unless such agreement is on terms no less favourable to the Bruce-to-Milton LP than under an agreement with an arm's length person, and (ix) amending the LPA or any previous action or document that required unanimous consent of the limited partners.
13.	<b>Dispute Resolution:</b>	<p>The Parties will work co-operatively to resolve any dispute, disagreement or difference of opinion concerning the LPA or the performance or interpretation thereof (each a "Dispute"). Following receipt of a written request for a meeting, senior representatives of each Party shall meet to attempt to resolve such Dispute. If the senior representatives are unable to resolve such Dispute within fifteen (15) business days from the date the first written request for a meeting was received, the Parties may thereafter invoke a non-binding mediation procedure to resolve the Dispute.</p> <p>The Parties may refer any Dispute between the Parties to binding arbitration before a single arbitrator. No Party may appeal the decision of the arbitrator in any manner whatsoever, except as permitted by the <i>Arbitration Act, 1991</i> (Ontario). The arbitration will be conducted in English under the <i>Arbitration Act, 1991</i> (Ontario) and will take place in either the City of Toronto or such other place as the Parties may agree. SON LPco shall retain the right to have any dispute as to whether it is required to dispose of its interest in the Bruce-to-Milton LP adjudicated by a court of competent jurisdiction.</p>
14.	<b>SON LPco Audit Rights:</b>	SON LPco shall be entitled to reasonable access to relevant records and data in the possession of GPco related to the operations of the BtoM Project Assets pursuant to the Operating Agreement and any information necessary to verify the income of the Bruce-to-Milton LP and the calculation of the distributions to SON LPco. SON LPco shall also receive audited financial statements and copies of all public filings of Bruce-to-Milton LP.
15.	<b>SON Breach</b>	A breach of a material covenant or representation under the LPA by SON LPco, if not

	TERM	DESCRIPTION
	<b>of Covenants and Events of Default:</b>	<p>cured within any applicable cure periods stipulated therein, will result in a “<b>SON Event of Default</b>”. SON LPco shall be liable for any damages caused by a SON Event of Default which shall be paid by SON LPco within 30 days of notice of such default (subject to any dispute resolution rights with respect to the existence of the SON Event of Default or the extent of damages) and upon the failure of SON LPco to pay such damages the amount of such damages shall be paid from SON LPco’s entitlement to distributions of Distributable Cash.</p> <p>Notwithstanding the foregoing, upon the occurrence of a SON Event of Default or any failure by the SON to act in the best interests of the Bruce-to-Milton LP or the BtoM Project Assets using commercially reasonable efforts, which is not cured within any applicable cure period, that, in either case, causes the Bruce-to-Milton LP to default on a payment obligation under BtoM LP Promissory Note, HO LPco or an affiliate of HONI may, after all dispute resolution mechanisms as set out in item 13 above have been exhausted, acquire SON LPco’s LP Units upon the payment to SON LPco of a termination payment (“<b>Termination Payment</b>”) equal to the fair market value of such LP Units determined as of such time by a qualified independent valuator (the costs of which shall be paid by each limited partner on the basis of their Equity Ratio) which shall be paid to SON LPco in a single payment within 60 days following the determination of such fair market value. SON LPco or the SON shall cause, as part of such acquisition and payment of the Termination Payment, the discharge of any security against its LP Units and provide a full and final release to HO LPco, HONI and any other affiliate of HONI that acquires SON LPco’s LP Units.</p>
16.	<b>HONI Breach of Covenants and Events of Default:</b>	A breach of a material covenant or representation under the LPA by HO LPco, GPco or HONI or a breach of the operation agreement by GPco if not cured within any applicable cure periods stipulated therein, will result in a “ <b>HONI Event of Default</b> ”. HO LPco shall be liable for any damages caused by a HONI Event of Default which shall be paid by HO LPco within 30 days of notice of such default (subject to any dispute resolution rights with respect to the existence of the HONI Event of Default or the extent of damages) and upon the failure of HO LPco to pay such damages the amount of such damages shall be paid from HO LPco’s entitlement to distributions of Distributable Cash.
17.	<b>Transfer by SON LPco and SON Lender Rights:</b>	SON LPco shall not sell, assign, transfer or otherwise dispose of its interest in the Bruce-to-Milton LP other than in accordance with the Mutual ROFO and ROFR provisions set out below. Similarly, SON shall not cause or permit a change of control in SON LPco. Notwithstanding the foregoing, SON LPco shall be permitted to assign its interest in the Bruce-to-Milton LP for the purpose of granting a security interest to lenders in respect of the SON LPco equity investment provided that the terms of such security interest are acceptable to HONI, acting reasonably.
18.	<b>Permitted HONI Transfer of Minority Interest</b>	HO LPco, or any other direct or indirect wholly owned subsidiary of HONI that is or becomes a limited partner, shall at all times be entitled to sell, assign, transfer or otherwise dispose of such number of LP Units to any third party provided that following such sale, assignment, transfer or disposition, at least 50% of the total number of LP Units in the Bruce-to-Milton LP shall continue to be held directly or indirectly by HONI, either through HO LPco or any other direct or indirect wholly owned subsidiary of HONI (such transaction, a “HONI Minority Transfer”). All transaction costs in respect of such transfer shall be borne by HO LPco.
19.	<b>Transfer by HONI and</b>	Except in respect of a HONI Minority Transfer, HO LPco shall be not entitled to sell, assign, transfer or otherwise dispose of its interest in the Bruce-to-Milton LP other than (i)

	TERM	DESCRIPTION
	<b>HONI Lender Rights:</b>	to HONI or any direct or indirect wholly owned subsidiary of HONI; or (ii) in accordance with the Mutual ROFO and ROFR provisions set out below. HONI shall be entitled to sell, transfer or otherwise dispose of its interest in HO LPco or any other affiliate which holds its interest in the Bruce-to-Milton LP provided that following such sale, transfer or disposition, at least 50% of the total number of LP Units in the Bruce-to-Milton LP shall continue to be held directly or indirectly by HONI. HONI shall be entitled to cause or permit a change of control in HONI without the consent of SON LPco, but shall provide notice of such event to SON LPco as soon as reasonably possible thereafter. Notwithstanding the foregoing, HO LPco shall be permitted to assign its interest in the Bruce-to-Milton LP for the purpose of granting a security interest to lenders in respect of the BtoM Project Assets.
20.	<b>Advisory Committee:</b>	There shall be an Advisory Committee in respect of the Bruce-to-Milton LP composed of at least one representative from each of the limited partners (including GPco) which shall meet at least quarterly. The Advisory Committee shall provide a forum for review and consideration of the operations of the Bruce-to-Milton LP, including review of financial operating information, budgets, regulatory developments and other matters in relation to the BtoM Project Assets or the Bruce-to-Milton LP. The reasonable expenses of the Advisory Committee shall be borne by the Bruce-to-Milton LP.
21.	<b>Mutual ROFO and ROFR:</b>	<p>Except in respect of (i) a HONI Minority Transfer (as set out in item 18 above) and (ii) a transfer to HONI or a HONI subsidiary (as set out in item 19 above), HO LPco and SON LPco shall each be prohibited from selling their LP Units without providing the other Party a right of first offer in respect of the subject LP Units. Any Party that is required to give such right of first offer (a “<b>ROFO Offeror</b>”) shall deliver to each applicable offeree (the “<b>ROFO Offeree</b>”) a written notice (the “<b>ROFO Notice</b>”) informing the ROFO Offeree of its desire to sell its LP Units and the price at which it proposes to sell (the “<b>ROFO Price</b>”). The ROFO Offeree may elect to acquire all (but not less than all) of such LP Units at the ROFO Price by written notice to the ROFO Offeror within 30 days after receipt of the ROFO Notice. Should the ROFO Offeree elect not to acquire such LP Units, the ROFO Offeror may then seek an offer from a third party purchaser to acquire the LP Units at a price equal to or higher than the ROFO Price (taking into consideration any terms or other collateral agreements that would be reasonably expected to make the transaction price with such third party less than the ROFO Price).</p> <p>Where a Party receives an offer from a third party purchaser to purchase its LP Units that such Party is prepared to accept, prior to selling such LP Units to such third party purchaser, such Party must provide the other Party with a right of first refusal in respect of the proposed sale of such LP Units, whether such offer was solicited following a ROFO Notice that the ROFO Offeree elected not to accept or whether the offer from such third party was unsolicited. Such Party proposing to sell its LP Units (the “<b>Selling Partner</b>”) shall provide written notice to the other Party informing (the “<b>Non-Selling Partner</b>”) of its intent to accept the third party offer and providing all the terms and conditions of the proposed sale (a “<b>ROFR Notice</b>”). The Non-Selling Partner may elect to acquire all (but not less than all) of such LP Units at the price and on the same terms and conditions as set out in the third party offer by written notice to the Selling Partner within 30 days after receipt of the ROFR Notice. Should the Non-Selling Partner elect not to acquire such LP Units, the Selling Partner may then accept the third party offer provided that such sale takes place at a price and on terms and conditions that are no more favourable to the third party purchaser than as set out in the ROFR and that such transaction closes within 180 days of the ROFR Notice. In the event that such transaction has not closed within 180 days of the ROFR Notice or the terms of the third-party offer are amended to be more favourable to the Selling Partner, the Selling Partner shall be required to provide a further</p>

	TERM	DESCRIPTION
		ROFR Notice to the Non-Selling Partner.

## ATTACHMENT “C”

### Example Closing Steps Calculations and Descriptions

#### 1. Input Assumptions:

- BtoM Project Asset Value = \$600,000,000
- SON Equity Contribution Amount = \$72,000,000

#### 2. Calculations

- (a) SON Equity Ratio = 30.0% ( $\$72\text{m} / (0.4 \times \$600\text{m})$ )
- (b) HO LPco Equity Ratio = 69.9% ( $99.9\% - 30.0\%$ )
- (c) HONI Equity Ratio = 70% (HO LPco Equity Ratio + 0.1%)
- (d) Effective HONI Equity Amount = \$168,000,000 ( $\$600\text{m} \times 0.40 \times 0.70$ )
- (e) The “LP Promissory Note” pursuant to Section 3.4(a) is equal to \$600,000,000.
- (f) The original principal amount of the “HO LPco Promissory Note” pursuant to Section 3.4(b) is equal to \$432,000,000 (determined as follows:  $\$600,000,000 - ((0.40 \times \$600,000,000) - \$72,000,000)$ ).
- (g) The original principal amount of the “BtoM LP Promissory Note” pursuant to Section 3.4(c) is equal to \$432,000,000 (determined as follows:  $\$600,000,000 - (0.40 \times \$600,000,000 \times 0.700)$ ).
- (h) The Bruce-to-Milton LP pays to HONI a cash amount of \$600,000,000 in full satisfaction of the LP Promissory Note held by HONI in connection with the APA pursuant to Section 3.4(d).
- (i) SON LPco contributes \$72,000,000 to the Bruce-to-Milton LP pursuant to Section 3.4(e).
- (j) The Bruce-to-Milton LP applies \$72,000,000 to reduce the BtoM LP Promissory Note to \$360,000,000 such that the principal amount of the BtoM LP Promissory note shall then be equal to 60% of the BtoM Project Asset Value pursuant to Section 3.4(f).
- (k) HO LPco applies \$72,000,000 to reduce the HO LPco Promissory Note to \$360,000,000 pursuant to Section 3.4(g).

#### 3. LP Units Results

The total issued and outstanding LP Units in the Bruce-to-Milton LP following the Closing would be 10,000 LP Units and held as follows: (i) 3,000 LP Units held by SON LPco, (ii) 6,990 LP Units held by HO LPco and (iii) 10 LP Units held by GPco.

**Hydro One Inc.**  
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**Laura Formosa**  
President & CEO



December 18, 2012

Chippewas of Saugeen First Nation  
R.R. #1  
Southampton, Ontario N0H 2L0

and

Chippewas of Nawash First Nation  
135 Lakeshore Blvd, R.R. #5  
Warton, ON N0H 2T0

**Re: Anishnaabeking Naagnigewin Agreement in Respect of the Bruce-to-Milton Transmission Line Limited Partnership dated June 18, 2012 (the "Implementation Agreement") between Chippewas of Saugeen First Nation and Chippewas of Nawash First Nation (collectively, the "SON") and Hydro One Networks Inc. ("HONI")**

Dear Sirs:

This letter agreement (the "Letter Agreement") is being entered into in connection with the establishment of a commercial partnership between the SON and HONI in respect of the Line. Notwithstanding any provision contained in the Implementation Agreement, and in consideration of the mutual covenants contained in the Implementation Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the SON, HONI and Hydro One Inc. ("Hydro One") hereby agree as follows:

1. **Definitions.** Capitalized terms used but not defined herein have the meanings given to them in the Implementation Agreement. In this Letter Agreement, the following terms have the meanings specified below:

**"ARC"** means the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB in accordance with the OEB Act.

**"GP Co Equity Ratio"** means the percentage equal to 99.9% minus the SON Equity Ratio.

**"Initial HONI Equity Investment"** means an amount equal to 40% of the Tax Cost of the BtoM Project Assets to HONI at the time of the transfer by HONI to the Bruce-to-Milton LP of the BtoM Project Assets less an amount equal to the SON Equity Contribution Amount, provided that the Initial



HONI Equity Investment will be increased if necessary to such amount that ensures that the principal amount of the LP Promissory Note does not exceed the Tax Cost of the BtoM Project Assets to HONI at the time of the transfer by HONI to the Bruce-to-Milton LP of the BtoM Project Assets.

**“Initial HO LPco Equity Investment”** means an amount equal to the BtoM Project Asset Value multiplied by 40% times the HO LPco Equity Ratio.

**“Tax Cost”** means the aggregate of all amounts in respect of each BtoM Project Asset that is equal to the lesser of the capital cost of that BtoM Project Asset to HONI (less for greater certainty any capitalized amounts that are deductible when incurred for tax purposes) and the undepreciated capital cost of property of HONI of the capital cost allowance class to which that BtoM Project Asset belongs.

2. **Amendments to Defined Terms.** The definitions of “HO LPco” and “HO LPco Equity Ratio” in the Implementation Agreement are deleted in their entirety and replaced with the following:
  - (a) “HO LPco” means the OBCA corporation to be created and owned directly or indirectly by Hydro One Inc. to hold a limited partnership interest in the Bruce-to-Milton LP.; and
  - (b) “HO LPco Equity Ratio” means 0.1%.
3. **Closing.** The Closing shall occur on the later of: (i) January 1, 2014 and (ii) 10 Business Days after the Approvals Date. If the Approvals Date occurs prior to December 15, 2013, on the date that is 10 Business Days after the Approvals Date, SON LPco may tender to HO LPco (or a related entity) the amount of the SON Equity Contribution Amount as a loan (the “SON Loan”) under the terms of a promissory note bearing interest at a rate equal to the return on equity approved by the OEB for the Line. Upon Closing, HO LPco (or such related entity) shall repay the principal amount of the SON Loan plus any accrued and unpaid interest thereon, and SON LPco shall use such funds to acquire its LP Units in accordance with the Implementation Agreement.
4. **SON LPco.** Hydro One will incorporate SON LPco as a numbered company with minimal share capital. SON LPco shall issue two common shares to Hydro One for an aggregate subscription price of \$2.00. Following such share issuance, Hydro One shall sell the shares of SON LPco to the SON for the fair market value of such shares, equal to the costs of incorporation plus \$2.00.
5. **GPco Promissory Note.** All references in the Implementation Agreement to the HO LPco Promissory Note shall be deemed to be references to the GPco Promissory Note (as defined below).
6. **Interest Rates of Promissory Notes.** Each of the LP Promissory Note, the GPco Promissory Note (as defined below) and the BtoM LP Promissory Note shall bear interest at a rate equal to the weighted average interest rate of the outstanding debt of Hydro One or HONI allocated to the BtoM Project Assets, as may be adjusted from time to time.

**7. Proposed Steps Following Approvals Date.**

- (a) Notwithstanding any other provision of Section 3.4(a) of the Implementation Agreement, HONI will transfer to the Bruce-to-Milton LP the BtoM Project Assets in exchange for the issuance, at one dollar (\$1.00) per unit, of such number of LP Units of the Bruce-to-Milton LP equal to the Initial HONI Equity Investment, subject to adjustment, as well as the LP Promissory Note. The principal amount of the LP Promissory Note will be equal to the BtoM Project Asset Value at the time of the transfer less an amount equal to the Initial HONI Equity Investment;
- (b) Notwithstanding any other provision of Section 3.4(b) of the Implementation Agreement, HONI will contribute to GPco the LP Units received by HONI pursuant to the APA (excluding the number of LP Units with a value equal to the Initial HO LPco Equity Investment, subject to adjustment), as well as the cash HONI received under a daylight loan borrowed from a bank in an amount equal to the BtoM Project Asset Value less the Initial HONI Equity Investment (the “Daylight Loan”) in exchange for (i) additional common shares of GPco having a fair market value equal to the excess of the BtoM Project Asset Value over the SON Equity Contribution Amount, multiplied by 40% (subject to adjustment) and (ii) a promissory note from GPco (the “GPco Promissory Note”). The principal amount of the GPco Promissory Note will be equal to the BtoM Project Asset Value less the fair market value of the common shares received. The principal amount of the GPco Promissory Note will not exceed the amount of the cash amount contributed by HONI to GPco;
- (c) Notwithstanding any other provision of Section 3.4(c) of the Implementation Agreement, GPco will transfer a cash amount to the Bruce-to-Milton LP in the amount that was borrowed by HONI under the Daylight Loan and in return shall receive additional LP Units as well as the BtoM LP Promissory Note. The principal amount of the BtoM LP Promissory Note will be equal to the BtoM Project Asset Value minus the Effective HONI Equity Amount, subject to adjustment;
- (d) Notwithstanding any other provision of Section 3.4(d) of the Implementation Agreement, the Bruce-to-Milton LP will pay to HONI a cash amount equal to the principal amount of the LP Promissory Note in full satisfaction of the LP Promissory Note held by HONI in connection with the APA;
- (e) Notwithstanding the provisions of Section 3.4 of the Implementation Agreement, the transaction contemplated by Section 3.4(d) of the Implementation Agreement will occur after the transaction contemplated by Section 3.4(e) of the Implementation Agreement;
- (f) Notwithstanding any other provision of Section 3.4(e) of the Implementation Agreement, SON LPco shall receive such number of LP Units such that (i) the total number of LP Units held by SON LPco will be equal to the total issued and outstanding LP Units multiplied by the SON Equity Ratio; (ii) the total number of LP Units held by GPco (including, for greater certainty, those issued under Section 3.4(c) of the Implementation

Agreement) will be equal to the total issued and outstanding LP Units multiplied by the GPco Equity Ratio; and (iii) the total number of LP Units held by HO LPco (following the transfer described in Section 6(b) below) will be equal to 0.1% of the total issued and outstanding LP Units; and

- (g) Notwithstanding any other provision of Section 3.4(g) of the Implementation Agreement, GPco shall utilize the funds received from the Bruce-to-Milton LP to pay such portion of the GPco Promissory Note such that the principal amount of the GPco Promissory Note shall then be equal to 60% of the total of the debt liability plus the amount contributed to GPco in respect of the issuance of the shares of GPco as described in paragraph (b) above.

8. **Claim Limitation Clause.** The LPA will include a clause (the “Claim Limitation Clause”) that provides that, provided that the tax ruling referred to in Section 11(a) below has been obtained, the amount that SON LPco will be entitled to claim against GPco with respect to any claim relating to GPco’s obligations under the LPA or arising in relation to GPco’s role as general partner of the Bruce-to-Milton LP shall be limited to the amount SON LPco would have been entitled to if the only asset of GPco were a 0.1% interest in the Bruce-to-Milton LP, provided that such limitation shall not apply to claims which SON LPco would have been entitled to bring against GPco had GPco been a limited partner of the Bruce-to-Milton LP not engaged in the management of the Bruce-to-Milton LP. For greater certainty, SON LPco will have no claim in respect of any rights, interests or payments in connection with the BtoM LP Promissory Note.

9. **Transfer of HO LPco and GPco to Newco.** Hydro One will incorporate a new OBCA corporation to be owned directly or indirectly by Hydro One (“Newco”) with minimal share capital. Following the transaction contemplated by Section 3.4(g) of the Implementation Agreement, the following steps will occur:

- (a) HONI will transfer all of its shares owned in HO LPco and GPco, the GPco Promissory Note and the LP Units that HONI owns to Newco and will receive from Newco preferred shares (“Newco Preferred Shares”) having a fair market value equal to the fair market value of the HO LPco shares, GPco shares, GPco Promissory Note and the LP Units acquired by Newco. HONI and Newco will duly execute and file an election under subsection 85(1) of the Income Tax Act (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer of the HO LPco and GPco shares, the GPco Promissory Note and the LP Units will occur on a tax deferred basis to HONI. In particular, the elected amounts will not exceed the respective adjusted cost bases of the HO LPco shares, GPco shares, the GPco Promissory Note and the LP Units, unless otherwise decided. The terms of the agreement of purchase and sale will contain an adjustment clause providing for an adjustment to the elected amount under the tax election in respect of the transfer to Newco in the event of a reassessment by the tax authorities or otherwise

- upon the agreement of HONI and Newco. In addition, the terms of the Newco Preferred Shares will provide for an adjustment to the redemption price of the Newco Preferred Shares in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and Newco;
- (b) Newco will transfer the LP Units to HO LPco and will receive common shares of HO LPco having a fair market value equal to the fair market value of the LP Units. Newco and HO LPco will duly execute and file an election under subsection 85(1) of the Income Tax Act (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer of the LP Units will occur on a tax deferred basis to Newco. In particular, the elected amount will not exceed the adjusted cost base of the LP Units to Newco, unless otherwise decided. The terms of the agreement of purchase and sale will contain an adjustment clause providing for an adjustment to the elected amount under the tax election in respect of the transfer to HO LPco in the event of a reassessment by the tax authorities or otherwise upon the agreement of Newco and HO LPco;
  - (c) HONI will distribute cash up to an amount equal to the aggregate value of the Newco Preferred Shares ("HONI Distribution") to Hydro One by way of dividend, repayment of debt, or a combination of both, as necessary;
  - (d) Hydro One will transfer the entire amount of cash, if any, received from the HONI Distribution, or to the extent necessary, Hydro One will borrow funds which it will transfer, to Newco and will receive,
    - (i) A note receivable ("Newco Note Receivable") having a fair market value, principal amount equal to, and terms similar or identical to, the GPco Promissory Note held by Newco, as appropriate; and
    - (ii) Common shares in the capital of Newco ("Newco Common Shares") having a fair market value and tax basis equal to the aggregate fair market value of the HO LPco shares and the GPco shares held by Newco;
  - (e) Newco will redeem the Newco Preferred Shares held by HONI utilizing the cash obtained from the Hydro One investment as described in paragraph (d) above; and
  - (f) HONI shall utilize the funds received on the redemption of the Newco Preferred Shares and the amount received as partial repayment of the GPco Promissory Note to repay the Daylight Loan.

For illustrative purposes only, Schedule A to this Letter Agreement sets out an example of the calculations for the steps to be completed pursuant to Section 3.4 of the Implementation Agreement, as amended and supplemented by this Letter Agreement.

10. **Additional Tax Rulings.** HONI shall apply for the following tax rulings (the receipt of which, for greater certainty, shall not be conditions precedent to the Closing), in addition to those set out in Section 3.2(i) of the Implementation Agreement:

- (a) Subsection 84(3) of the Income Tax Act (Canada) will apply to the redemption of the Newco Preferred Shares to deem Newco to have paid and HONI to have received a dividend equal to the amount by which the redemption proceeds exceeds the paid-up capital in respect of such preferred shares immediately before such redemption, and confirming various tax consequences under the Income Tax Act (Canada) with respect to the payment and receipt of such dividend.
- (b) By virtue of paragraph 55(3)(a) of the Income Tax Act (Canada), subsection 55(2) of the Income Tax Act (Canada) will not apply either to the dividend referred to in paragraph (a) above or to the taxable dividend paid by HONI to Hydro One referred to in paragraph 15(1) of the tax ruling to be submitted to the Ministry of Revenue, Ontario (the “Ruling Request”), including a ruling that the proposed transactions described in the ruling will not cause paragraph 55(3)(a) of the Income Tax Act (Canada) to not apply.
- (c) The interest payments made by Newco to Hydro One under the Newco Note Receivable will be deductible in computing the taxable income of Newco.
- (d) None of the debt obligations issued as part of the proposed transactions contemplated by the Implementation Agreement and this Agreement, including the debt obligations issued by HO LPco, will reduce the at-risk amount of HO LPco in respect of the Bruce-to-Milton LP, for purposes of subsection 96(2.2) of the Income Tax Act (Canada).

In the event that the above rulings are denied or unavailable on terms and conditions acceptable to HONI, the Parties shall cooperate and negotiate in good faith during the term of the Implementation Agreement in an effort to arrive at a mutually acceptable alternative solution or structure to address the issues applicable in the ruling which has been denied or is unavailable.

11. **Other Tax Rulings.** HONI shall apply for the following tax rulings (the receipt of which, for greater certainty, shall not be conditions precedent to the Closing):


- (a) GPco will not be deemed to be a limited partner pursuant to paragraphs 96(2.4)(b) and 40(3.14)(b) of the Income Tax Act (Canada) solely by reason of the existence of the Claim Limitation Clause as described in Section 6 above.
- (b) Subsection 12.2(2) of Ontario Regulation 140/09 made under the Electricity Act will not apply in respect of any gain deemed to be realized by HO LPco as a result of the application of subsection 40(3) of the Income Tax Act (Canada), as it applies for purposes of sections 89 and 90 of the Electricity Act.

12. **Fiber Optic Cable.** The fiber optic cable attached to the transmission towers along the Line (the “Fiber”) forms part of the HONI protection and control network and is owned by HONI. The Fiber is excluded from the BtoM Project Assets. In the event that there is any proposed commercial use of the Fiber (other than its use by HONI or any affiliate of HONI for protection and control of electricity transmission and distribution systems or administration and communications to support or ancillary to the operations and/or business of HONI or any of its affiliates (collectively, “Protection and Control”)), subject to the approval of the OEB (if required), SON LPco shall have the right to acquire from HONI an exclusive indefeasible right of use (as dark fiber) in X% of the total number of strands within the Fiber (other than those strands within the Fiber that is used for Protection and Control), where X% is equal to SON LPco’s “Partnership Interest” (as such term is defined in the LPA), at a purchase price equal to the book value of the Fiber multiplied by the ratio of the number of Fiber strands in which an indefeasible right of use is granted to SON LPco to the total number of strands available for use in the Fiber.
13. **LPA.** The form of the LPA attached as Schedule B to this Letter Agreement represents the form and substance of the LPA to be executed on Closing, subject to the completion of the bulleted and bracketed items to be ascertained and inserted at Closing.
14. **Formation of Entities.** On or prior to March 31, 2013, Hydro One shall incorporate and organize GPco, HO LPco and SON LPco and shall create and organize the Bruce-to-Milton LP and cause GPco and HO LPco to enter into the Initial LPA.
15. **Conflicts.** This Letter Agreement supplements and amends the Implementation Agreement and, to the extent of any conflict between the Implementation Agreement and this Letter Agreement, the terms hereof shall supersede those of the Implementation Agreement. Except as amended by this letter, all other terms of the Implementation Agreement remain in full force and effect, unamended hereby.
16. **Governing Law.** The Letter Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.
17. **Entire Agreement.** This Letter Agreement and the Implementation Agreement constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise.
18. **Execution.** This letter may be executed in one or more counterparts and delivered by facsimile signature or portable document format (PDF), each of which when so executed and delivered shall be an original but all of which together shall constitute one and the same instrument.

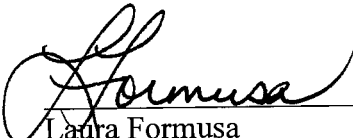
If the foregoing correctly sets forth our understanding of the subject matter hereof, please so indicate by executing this letter in the space provided below, in which event this letter shall constitute a binding agreement between the SON, HONI and Hydro One.

Yours very truly,

**HYDRO ONE NETWORKS INC.**

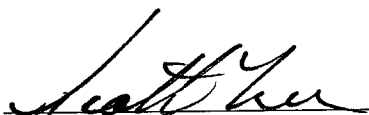
By: \_\_\_\_\_  
Laura Formusa  
President

**HYDRO ONE INC.**

By: \_\_\_\_\_  
Laura Formusa  
President

We accept the terms of your letter this 18th day of December, 2012.

**CHIPPEWAS OF NAWASH FIRST NATION    CHIPPEWAS OF SAUGEEN FIRST NATION**

By: \_\_\_\_\_  
Scott Lee  
Chief

By: \_\_\_\_\_  
Randall Kahgee  
Chief

**SCHEDULE A**  
**EXAMPLE CLOSING STEPS CALCULATIONS**  
**See attached.**



**SCHEDULE B**  
**FORM OF AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT**

**SCHEDULE A TO SIDE LETTER**  
**EXAMPLE OF CLOSING COMPUTATIONS**

**ASSUMPTIONS (in \$million)**

FMV of BtoM Project Assets	\$ 600.00	NBV as of Dec 31, 2013	
UCC of BtoM Project Assets	\$ 480.00	as of Dec 31, 2013	
SON investment	30%	\$ 72.00	30.00%
Deemed debt %	60%		
Deemed equity %	40%		
LP Co equity %	0.10%		
GP Co equity %	69.90%		
Assumed Boot	\$ 480.00	[NTD - formula is lesser of (a) Tax Cost of Assets and (b) NBV/FMV less the excess of 40% of the Tax Cost of B&M Assets over SON's investment]	
LP Units issued (\$1 per unit)	\$ 120.00	[NTD - The formula appears to be THE GREATER OF (a) (Tax Cost of BtoM Assets x 40%) - SON investment]] and (b) NBV less Tax Cost of Assets	
			\$ 480.00
			120.00

**Step 1 -** HONI transfers the BtoM Project Assets to the Bruce to Milton LP for the LP Promissory Note of \$480 million (Interest-bearing) and limited partnership interest of \$120 million represented by 120 million LP units (the "LP Interest").

A section 971(2) election is filed electing proceeds not exceeding the UCC. Excess of UCC over the note amount will be the acb of the LP Interest.

	ACB	FMV
Boot	\$ 480.00	\$ 480.00
ACB of LP interest	\$ -	120.00
Total	\$ 480.00	\$ 600.00
Deferred Gain	\$ 120.00	
FMV of LP Interest	\$ 120.00	
UCC of BtoM Project Assets	\$ 480.00	
LP Units issued	\$ 120.00	

**Step 2 -** HONI incorporates Newco with minimal capital

**Step 3 -** HONI borrows an amount equal to the value of the transferred assets less the LP Interest (currently \$600 million - \$120 million) \$480 million from the bank or from Hydro One.

FMV of BtoM Project Assets	\$600.00
Less FMV of LP interest	<u>(\$120.00)</u>
Loan from bank or from Hydro One	<u>\$480.00</u>

**Step 4 -** HONI transfers \$480 million cash plus the LP Interest (excluding .1% LP Interest comprising 240,000 LP units) to GPco in exchange for shares of \$211.2 million and the GPco Promissory Note (Interest bearing) in the amount of \$388.56 million.  
The acb of the shares will be the aggregate of the acb of the LP Interest transferred (\$nil) + net ACB of funding \$480 million - boot received of \$480 million.

Cash	ACB	FMV
ACB of LP Interest	\$480.00	\$480.00
Less .1% LP Interest retained	\$0.00	\$ 120.00
Total ACB/FMV of transferred assets	\$0.00	<u>(\$0.24)</u>
		\$599.76
GPco Promissory Note to be issued to HONI	\$388.56	
FMV GP Co common shares	<u>\$211.20</u>	
Total FMV	<u>\$599.76</u>	
ACB of GPco Promissory Note issued to HONI	\$388.56	
ACB of GP Co shares issued to HONI	<u>\$91.44</u>	
Total ACB	<u>\$480.00</u>	

Step 5 - GPco invests \$480 million in the Bruce-to-Milton LP in exchange for a limited partnership interest of \$48 million and the BtoM Promissory Note in the amount of \$432 million (i.e. balance of purchase price).

FMV of BtoM Project Assets	\$600.00	
Required LP equity %	40%	
Required LP equity capital	<u>\$240.00</u>	
Required GPco partnership interest	\$167.76	\$48.00 [see step 3 + those unit on initial set-up LP]
Less LP interest already held	<u>(\$119.76)</u>	
Additional partnership interest	\$48.00	
BtoM Promissory Note issued to GPco by Bruce-to-Milton LP	\$432.00	
FMV of assets acquired	<u>\$480.00</u>	
ACB of BtoM Promissory Note	\$ 432.00	
ACB of additional LP interest	<u>\$ 48.00</u>	
Total ACB of assets acquired	<u>\$ 480.00</u>	
ACB of LP interest held by GPco:		
Step 4	\$ -	
Step 5	<u>\$ 48.00</u>	
Total ACB of LP Interest	<u>\$ 48.00</u>	

Step 6 - SON LP Co invests \$72 million in the Bruce-to-Milton LP for a 30% limited partnership interest, diluting HO LPco down to 69.9%.

Step 7 - Bruce-to-Milton LP repays the LP Promissory Note to HONI issued in Step 1.

LP Promissory Note repayment to HONI	<u>\$ 480.00</u>
--------------------------------------	------------------

Step 8 - Bruce-to-Milton LP repays portion of the BtoM Promissory Note issued utilizing cash from the SON LPco investment to GPco.

Bruce-to-Milton LP partial note repayment to GPco	<u>\$72.00</u>
Balance of BtoM Promissory Note	<u>\$360.00</u>
Debt %	<u>60%</u>

Step 9 - GPco repays portion of the GPco Promissory Note to HONI

GPco Promissory Note to HONI	\$388.56
Less repayment utilizing funds received from Bruce-to-Milton LP	<u>(\$72.00)</u>
Balance of GPco Promissory Note payable to HONI	<u>\$316.56</u>
Debt %	<u>60%</u>

Step 10 - HONI enters into an operating agreement with the Bruce-to-Milton LP for operation of its business.

**NTD - Steps 10 and 11 have been left in this sequence to avoid additional changes in steps last reviewed by the SON**

Step 11 - Tax elections to be filed by HONI for sale of assets to the Bruce-to-Milton LP and for transfer to GPco: and possibly by GPco to the LP.

Step 12 - HONI transfers the GP Co and HO LPco shares (\$211.2 mill), the .1% limited partnership interest, i.e 240,000 units, and GPco Promissory Note (\$316.56 mill) to Newco in exchange for [preferred shares or common shares] having a fmV of \$528 million, electing proceeds equal to the acb of transferred assets.  
An 85(1) election is filed electing proceeds equal to the acb of the transferred assets which is expected to be less than their fmV of \$528.00 million.

	FMV	ACB
Assets transferred to Newco:	0	0
HO LPco shares	\$ 211.20	\$ 91.44
GP Co shares	\$ 0.24	\$ -
.1% LP interest	\$ 316.56	\$ 316.56
GPco Promissory Note	<u>\$ 528.00</u>	<u>\$ 408.00</u>
Total		
Newco shares issued to HONI	<u>\$ 528.00</u>	<u>\$ 408.00</u>

Step 13 -	Newco transfers the .1% limited partnership interest to LP Co and receives shares of equal value.	
	An 85(1) election will be filed electing proceeds of disposition of \$1 which is equal to the tax basis of the .1 partnership interest.	
	.1% LP interest transferred to GP Co:	<div> <div>FMV</div> <div>\$0.24</div> </div> <div> <div>ACB</div> <div>\$0.00</div> </div>
Step 14 -	LP Co shares issued to Newco	
	Hydro One receives funds of \$528 million by way of external borrowings, or dividends or debt repayment from HONI, or combination	
	HONI dividend or debt repayment to Hydro One or Hydro One borrowing or combination	<div> <div></div> <div>\$528.00</div> </div>
Step 15 -	Hydro One transfers the cash to Newco in exchange for common shares of \$211.44 million and a note receivable in the amount of \$316.56 million (i.e. balance of purchase price).	
	Hydro One investment in Newco shares and note	<div> <div></div> <div>\$528.00</div> </div>
	Newco Shares Note Rec'd from Newco	<div> <div>FMV</div> <div>\$211.44</div> </div> <div> <div></div> <div>\$316.56</div> </div> <div> <div>ACB</div> <div>\$211.44</div> </div> <div> <div></div> <div>\$316.56</div> </div>
Step 16 -	Total Investment	
	Newco redeems the [preferred shares or common shares] held by HONI for cash of \$528 million. A DEEMED DIVIDEND WILL RESULT.	
	Redemption Price ACB and PUC of shares DEEMED DIVIDEND	<div> <div></div> <div>\$528.00</div> </div> <div> <div></div> <div>\$408.00</div> </div> <div> <div></div> <div>\$120.00</div> </div>

Step 17 - HONI repays the \$480 million loan

Cash received by HONI:	
From Newco share redemption	\$ 528.00
GPco Promissory Note repayment - Step 9	\$ 72.00
LP Promissory Note repayment - Step 7	\$ 480.00
Less Dividend to Hydro One	\$ -
Less repayment of Loan	<u>(\$480.00)</u>
HONI Cash Balance	<u>\$ 600.00</u>

**AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT**

For

**[BRUCE-TO-MILTON L.P.]**

among:

**[BRUCE-TO-MILTON GP INC.]**  
**[NTD: GP ENTITY TO BE DETERMINED]**

- and –

**[HOI BTM HOLDINGS INC.]**  
**[NTD: HOI LP ENTITY TO BE DETERMINED]**

-and-

**[SON BTM HOLDINGS INC.]**  
**[NTD: SON LP ENTITY TO BE DETERMINED]**

Made effective as of the

• day of •, 2014



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## AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT

THIS AGREEMENT is made effective as of the [●] day of [●], 2014

BETWEEN:

**HOI BTM HOLDINGS INC.** a corporation  
incorporated under the laws of the Province of Ontario

(the “**HOI BtM Partner**”)

[NTD: Name of entity to be determined.]

- and -

**[SON BTM HOLDINGS INC.]** a corporation  
incorporated under the laws of the Province of Ontario

(the “**SON BtM Partner**”)

[NTD: Name of entity to be determined.]

- and -

**[BRUCE-TO-MILTON GP INC.]** a corporation  
incorporated under the laws of the Province of Ontario

(the “**General Partner**”)

[NTD: Name of entity to be determined.]

WHEREAS:

- A. **[Bruce-to-Milton L.P.]** (the “**Partnership**”) was formed as a limited partnership under the laws of the Province of Ontario on ●, 2014 by the filing of a declaration pursuant to the *Limited Partnerships Act* (Ontario) (the “**Declaration**”).
- B. **[Bruce-to-Milton GP Inc.]**, as the initial general partner, and HOI BtM Partner as the initial limited partner, entered into a limited partnership agreement dated as of ●, 2013 governing the business and affairs of the Partnership (the “**Initial Partnership Agreement**”).
- C. Subject to the terms of this Agreement, the Parties wish to own and cause to be operated and maintained the second high-voltage electrical transmission tower line spanning approximately 180 kilometres from the Bruce Power nuclear generating facility located in Kincardine, Ontario to HONI’s switchyard in Milton, Ontario (the “**Line**”) for which

HONI was granted leave to construct from the OEB on September 15, 2008 and which was placed in-service on May 14, 2012;

- D. The Parties wish to formalize a long-term cooperative arrangement between the Partners to facilitate the participation of the SON in the ownership of the Line and the participation of the SON in the cash flows from the operation of the Line until it is no longer operated or until the Partnership is terminated; and
- E. In order to undertake the foregoing, the Parties wish to amend and restate the Initial Partnership Agreement to admit SON BtM Partner as a limited partner and to provide for certain changes to the terms and conditions set forth in the Initial Limited Partnership Agreement as set out in this Agreement.

NOW THEREFORE, for value received, the Parties agree as follows:

## **ARTICLE 1 DEFINITIONS**

### **1.1 Definitions**

In this Agreement, the following terms have the respective meanings set out below:

- (a) **“Additional Equity Contribution”** has the meaning given to it in Section 5.9.
- (b) **“Adjusted Annual Distributable Cash”** for a Fiscal Year of the Partnership means an amount equal to the aggregate of (i) the Annual Distributable Cash of the Partnership for that Fiscal Year, and (ii) the Negative Tax Allowance of the Partnership for that Fiscal Year.
- (c) **“Adjusted Forecasted Distributable Cash”** for a fiscal quarter of the Partnership means an amount equal to the aggregate of (i) the forecasted Distributable Cash of the Partnership for that fiscal quarter on the basis of a forecast operating budget of the Partnership to be prepared by the General Partner, acting reasonably, and (ii) the forecasted Negative Tax Allowance of the Partnership for that fiscal quarter.
- (d) **“ADRIC”** has the meaning given to it in Section 13.3.
- (e) **“Advance”** has the meaning given to it in Section 5.13(b)(ii)(1).
- (f) **“Affiliate”** means, with respect to a Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the first Person. For the purposes of this definition, a Person **“controls”** another Person, if that Person directly or indirectly possesses the power to direct or cause the direction of the management and policies of that other Person, whether through the ownership of securities, by contract or by any other means and **“controlled by”** and **“under common control with”** have corresponding meanings.

- (g) **“Agreement”** means this agreement, including any recitals and schedules, as the same may be amended, supplemented or restated from time to time.
- (h) **“Annual Advance Amount”** has the meaning given to it in Section 5.13(f)(i).
- (i) **“Annual Designated Advance Amount”** has the meaning given to it in Section 5.13(e)(i).
- (j) **“Annual Distributable Cash”** has the meaning given to it in Section 5.13(c)(i)(3);
- (k) **“Applicable Laws”** in respect of any Person, property, transaction or event, means all applicable laws, statutes, regulations, by-laws, codes, treaties, judgments and decrees applicable to that Person, property, transaction or event at the applicable time and, whether or not having the force of law, all applicable requirements, requests, directives, rules, consents, approvals, authorizations, guidelines, instructions, circulars, manuals, orders and policies of any Governmental Authority having or purporting to have authority over that Person, property, transaction or event at the applicable time.
- (l) **“Approved Net Income (Loss)”** for a Fiscal Year means (i) the forecasted Net Income, expressed as a positive number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year, or (ii) the forecasted Net Loss, expressed as a negative number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year.
- (m) **“Approved OEB Rates”** for a Fiscal Year means the aggregate amount that the Partnership is entitled to charge for transmission rates for that Fiscal Year, as approved by the OEB.
- (n) **“Approved Tax Amount”** for a Fiscal Year means the total of (i) the amount, if any, expressed as a positive number, that was included in the Approved OEB Rates for that Fiscal Year on account of HOI BtM Taxes, including any additional amount included in such Approved OEB Rates as a gross-up to reflect the fact that such increased amounts will be subject to Taxes, and (ii) the amount, if any, expressed as a negative number, that resulted in a reduction of the Approved OEB Rates for that Fiscal Year on account of any projected savings of Income Taxes or Capital Taxes arising from a forecasted Taxable Loss for that Fiscal Year.
- (o) **“Approved Tax Percentage”** for a Fiscal Year means the percentage obtained by dividing (i) the Approved Tax Amount for that Fiscal Year, by (ii) the Approved Taxable Income (Loss) for that Fiscal Year.

- (p) **“Approved Taxable Income (Loss)”** for a Fiscal Year means (i) the forecasted Taxable Income, expressed as a positive number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year, or (ii) the forecasted Taxable Loss, expressed as a negative number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year.
- (q) **“ARC”** means the *Affiliate Relationships Code for Electricity Distributors and Transmitters* issued by the OEB in accordance with the *Ontario Energy Board Act, 1998*.
- (r) **“Arm’s Length”** has the meaning that it has for purposes of the Income Tax Act.
- (s) **“BtM LP Promissory Note”** means that certain promissory note dated ●, 2014 in the principal amount of \$● issued by the Partnership to the General Partner.
- (t) **“BtM Project Assets”** means the assets comprising the Line, including the Line Property Rights, but excluding the Interconnection Assets and the Fiber.
- (u) **“BtM Project Asset Value”** means the net book value of the BtM Project Assets which are in-service at Closing.
- (v) **“Business Day”** means any day, other than a Saturday or Sunday, on which the Toronto-Dominion Bank in Toronto is open for commercial banking business during normal banking hours.
- (w) **“Buying Partner”** has the meaning given to it in Section 9.4.
- (x) **“Capital Account”** means the capital account for each Partner referred to in Section 5.1.
- (y) **“Capital Taxes”** means any federal, provincial or local capital taxes calculated by reference either directly or indirectly to the assets, liabilities, or working capital of the Partnership, together with any interest, penalties or additions to such taxes and including, for greater certainty, all payments to the Province of Ontario in lieu of any of the foregoing and grants to communities or municipalities in lieu of any of the foregoing.
- (z) **“Change of Control”** means any assignment or other disposition of the shares or units of a Partner or of any Person that controls, directly or indirectly, that Partner that results in a change of control of that Partner or that Person.
- (aa) **“Claims”** means all losses, costs, damages, expenses, injuries, liabilities, claims, demands and penalties, including reasonable legal



fees, experts' fees and court costs, whether incurred through settlement or otherwise, and interest on each of these items, in each case whether arising prior to or after the termination of this Agreement.

- (bb) **"Closing"** means the completion of the transactions set out in Section 3.4 of the Master Implementation Agreement.
- (cc) **"Declaration"** means the declaration filed with the Registrar, forming the Partnership pursuant to the Limited Partnerships Act, as amended from time to time.
- (dd) **"Decommissioning Work"** means all work necessary for the decommissioning of the Line in accordance with Applicable Laws, Project Agreements and Project Approvals.
- (ee) **"Deemed Year End"** has the meaning given to it in Section 5.17.
- (ff) **"Default Amount"** has the meaning given to it in Section 9.3.
- (gg) **"Default Amount Notice"** has the meaning given to it in Section 9.3(a).
- (hh) **"Defaulting Partner"** has the meaning given to it in Section 9.1(a).
- (ii) **"Delta Income"** for a Fiscal Year means the (positive or negative) amount determined by subtracting the Approved Net Income (Loss) for that Fiscal Year, from the Net Income (or, if applicable, the Net Loss expressed as a negative number) for that Fiscal Year.
- (jj) **"Designated Advance"** has the meaning given to it in Section 5.13(c)(ii).
- (kk) **"Designated Distribution"** has the meaning given to it in Section 5.13(c)(i).
- (ll) **"Designated Distribution Net Income Shortfall"** at any time means the amount, if any, by which the aggregate amount of the Designated Distributions that have been paid to the General Partner pursuant to Section 5.13 prior to that time exceed the aggregate amount of the Net Income of the Partnership that has been allocated to the General Partner pursuant to Section 5.16(b)(i) prior to that time.
- (mm) **"Designated Distribution Note"** has the meaning given to it in Section 5.13(c)(i).
- (nn) **"Designated Distribution Taxable Income Shortfall"** at any time means the amount, if any, by which the aggregate amount of the Designated Distributions that have been paid to the General Partner pursuant to Section 5.13 prior to that time exceed the aggregate amount of the Taxable Income of the Partnership that has been allocated to the General Partner pursuant to Section 5.16(a)(i) prior to that time.

- (oo) **“Dispute”** any dispute, disagreement or difference of opinion concerning this Agreement or the performance or interpretation thereof.
- (pp) **“Distributable Cash”** means available cash of the Partnership after paying (i) all amounts owing under the Operations Agreement, (ii) debt service obligations in respect of all debt obligations owed by the Partnership, (iii) Designated Advances and amounts in satisfaction of Designated Distribution Notes pursuant to Section 5.13(e)(i)(2) (and after receiving amounts in satisfaction of Designated Advances due by the General Partner pursuant to Section 5.13(e)(ii)(2)), and (iv) any transaction costs or other costs borne by HONI and the General Partner in respect of the transactions contemplated in the Master Implementation Agreement, the BtM Project Assets or the Partnership to the extent such costs are collected in the Approved OEB Rates.
- (qq) **“Distribution”** has the meaning given to it in Section 5.13(c)(iii).
- (rr) **“Distribution Note”** has the meaning given to it in Section 5.13(c)(iv).
- (ss) **“Dollars”** or **“\$”** means Canadian dollars, being the lawful currency of Canada.
- (tt) **“Due Date”** has the meaning given to it in Section 5.10(a)(iv).
- (uu) **“Effective Date”** means the [●] day of [●], 2014.
- (vv) **“Electricity Act”** means *Electricity Act, 1998* (Ontario).
- (ww) **“Equity Contribution”** means the amount of money, or the value of property or assets (as agreed by the Parties), contributed to the capital of the Partnership by a Partner from time to time.
- (xx) **“Equity Contribution Request”** has the meaning given to it in Section 5.9.
- (yy) **“Event of Default”** has the meaning given to it in Section 9.1(a).
- (zz) **“Excess ARC Costs”** means that portion of the Excess Costs which are incurred or paid as a result of a rate or rates charged by the Affiliate of the General Partner being greater than the rate permitted under the ARC.
- (aaa) **“Excess Costs”** means the amount by which (i) an amount paid by the General Partner on behalf of the Partnership to an Affiliate of the General Partner or a cost incurred by the General Partner under an agreement with an Affiliate of the General Partner, exceeds (ii) the amount recoverable by the Partnership under the Approved OEB Rates.
- (bbb) **“Excess Non-GUP Costs”** means that portion of the Excess Costs which are incurred or paid as a result of services provided by the

Affiliate of the General Partner not being performed in accordance with Good Utility Practice.

- (ccc) **“Fair Market Value”** means, with respect to Units, the price of the Units as determined in an open and unrestricted market between informed prudent parties, acting at Arm’s Length and under no compulsion to act, expressed in terms of money or money’s worth.
- (ddd) **“Fiber”** means the fiber optic cable attached to the transmission towers along the Line which forms part of the HONI protection and control network and is owned by HONI.
- (eee) **“FIPPA”** has the meaning given to it in Section 14.1.
- (fff) **“Fiscal Year”** means the fiscal year of the Partnership determined in accordance with Section 3.5.
- (ggg) **“GAAP”** means generally accepted accounting principles in effect in the United States of America, including those approved or recommended from time to time by the Financial Accounting Standards Board or any successor institution applicable as of the date on which such calculation, position or determination is made, taken or required to be made or taken or such other accounting principles required by any ruling of the OEB applicable to the Partnership.
- (hhh) **“General Partner”** means, at any time, any Party who has executed this Agreement as a general partner or who has otherwise agreed to be bound by the terms of this Agreement as a general partner of the Partnership. The initial General Partner is **[Bruce-to-Milton GP Inc.]**.
- (iii) **“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in North America during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in North America.
- (jjj) **“Governmental Authority”** means any domestic or foreign government, including, any federal, provincial, state, territorial, county, municipal or local government, and any government established court, agency, tribunal, commission or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or respecting, government.

- (kkk) “**GST/HST**” means goods and services tax imposed under Part IX of the *Excise Tax Act* (Canada) as amended, or any successor or parallel legislation, including provincial legislation providing for a value added or ad valorem tax on goods and services.
- (lll) “**HONI**” means Hydro One Networks Inc.
- (mmm) “**HOI BtM Taxes**” means Income Taxes and Capital Taxes attributable to the General Partner or any Affiliate of the General Partner in respect of the Partnership.
- (nnn) “**HONI Initial Costs**” has the meaning given to it in Section 5.7.
- (ooo) “**Hydro One**” means Hydro One Inc.
- (ppp) “**Income Tax Act**” means the *Income Tax Act* (Canada).
- (qqq) “**Income Taxes**” means any federal, provincial, municipal or foreign Taxes (i) based upon, measured by or calculated with respect to, net income, income as specially defined, earnings, profits or selected items of income, earnings or profits, or (ii) based upon, measured by or calculated with respect to multiple bases if one or more of the bases on which such Taxes may be based, measured by or calculated with respect to, is described in paragraph (i) above, in each case together with any interest, penalties or additions to such Taxes and including, for greater certainty, all payments to the Province of Ontario in lieu of any of the foregoing and grants to communities or municipalities in lieu of any of the foregoing.
- (rrr) “**Indemnified Group**” has the meaning given to it in Section 8.3(a).
- (sss) “**Indian Act**” means the *Indian Act* (Canada).
- (ttt) “**Initial Partnership Agreement**” has the meaning given to it in Recital B.
- (uuu) “**Interconnection Assets**” means all sub-station facilities and assets relating to the interconnection of the Line to HONI’s transmission system.
- (vvv) “**Lending Partner**” has the meaning given to it in Section 5.10(f).
- (www) “**Limited Partner**” means, at any time, any Party who has executed this Agreement as a limited partner or who has otherwise agreed to be bound by the terms of this Agreement as a limited partner of the Partnership, including [SON BtM Partner] and [HOI BtM Partner].
- (xxx) “**Limited Partnerships Act**” means the *Limited Partnerships Act* (Ontario).

- (yyy) “**Line**” has the meaning given to it in Recital C, and for greater certainty the Line does not include the Interconnection Assets or the Fiber.
- (zzz) “**Line Property Rights**” means the interests in real property or licenses over real property interests in respect of the Line which are required to operate and maintain the BtM Project Assets and which were transferred or licensed to the Partnership by HONI.
- (aaaa) “**Losses**” means in respect of a Person and in relation to a matter, any and all losses, damages, costs, expenses, charges (including all penalties, assessments and fines) which that Person suffers, sustains, pays or incurs in connection with that matter and includes reasonable costs of legal counsel (on a solicitor and his own client basis) and other professional advisors and consultants and reasonable costs of investigating and defending Claims arising from the matter if those Claims are sustained and also includes interest, penalties, Taxes (other than Income Taxes) on a settlement payment or damage award in respect of that matter but does not include consequential or indirect losses or loss of profit.
- (bbbb) “**Master Implementation Agreement**” means the Anishnaabekiing Naagnigewin Agreement dated June 18, 2012 between the SON and HONI, as amended and supplemented by the Side Letter.
- (cccc) “**Negative Tax Allowance**” for a Fiscal Year means (i) if the Tax Allowance for that Fiscal Year is less than zero, the absolute value of the Tax Allowance for that Fiscal Year; or (ii) if the Tax Allowance for that Fiscal Year is greater than zero, nil.
- (dddd) “**Net Income**” and “**Net Loss**” means net income or net loss of the Partnership in any Fiscal Year determined in accordance with GAAP.
- (eeee) “**Non-Electing Partner**” has the meaning given to it in Section 5.10(d).
- (ffff) “**OEB**” means the Ontario Energy Board.
- (gggg) “**Operating Budget**” means the operating budget of the General Partner for a Fiscal Year which provides for all costs and expenses to be incurred by the General Partner in connection with its performance of its duties under this Agreement.
- (hhhh) “**Operations Agreement**” has the meaning given to it in Section 4.3.
- (iiii) “**Partner**” means, at any time, any Person who has executed this Agreement or who has otherwise agreed to be bound as a Party to this Agreement and includes any General Partner and any Limited Partner.

- (jjjj) **“Partnership”** means **“[Bruce-to-Milton L.P.] [NTD: Confirm name]**, a limited partnership formed under the laws of the Province of Ontario.
- (kkkk) **“Partnership Account”** means the bank account opened in the name of the Partnership by the General Partner pursuant to Section 6.14.
- (llll) **“Partnership Assets”** means the BtM Project Assets, the Project Approvals, the Project Agreements, all rights and benefits received or receivable by the Partnership under the Project Agreements and any other undertaking, property or assets acquired from time to time by or on behalf of the Partnership, including the rights or benefits attached thereto or associated therewith but, for greater clarity, excluding the Interconnection Assets.
- (mmmm) **“Partnership Interest”** means, in respect of a Partner at any time, such Partner’s ownership interest in the Partnership, expressed as a percentage, and calculated from time to time by the General Partner in accordance with Section 5.6.
- (nnnn) **“Partnership Records”** has the meaning given to it in Section 10.2(a).
- (oooo) **“Party”** means a party to this Agreement and **“Parties”** means all of them, as the context requires.
- (pppp) **“Person”** means any individual, sole proprietorship, partnership, corporation or company, with or without share capital, trust, foundation, first nation, Indian band, joint venture, Governmental Authority or any other incorporated or unincorporated entity or association of any nature.
- (qqqq) **“Positive Tax Allowance”** in respect of a Fiscal Year means (i) if the Tax Allowance for that Fiscal Year is greater than zero, the Tax Allowance for that Fiscal Year, or (ii) if the Tax Allowance for that Fiscal Year is less than zero, nil.
- (rrrr) **“Project Agreements”** means this Agreement and all other agreements relating to the BtM Project Assets to which the Partnership (or an authorized agent of the Partnership) is now, or may in the future become, a party, including the Operations Agreement and any other service agreements with Partners.
- (ssss) **“Project Approvals”** means all approvals, authorizations, consents, permits, licences, judgments, rulings, directives, ordinances, decrees, registrations and filings required for the ownership and operation of the BtM Project Assets from any Governmental Authority.
- (tttt) **“Purchasing Partner”** has the meaning given to it in Section 5.10(h).

- (uuuu) “**Registrar**” has the meaning given to that term in the Limited Partnerships Act.
- (vvvv) “**Side Letter**” means the letter agreement dated December ●, 2012 between the SON, HONI and Hydro One.
- (www) “**SON**” means, collectively, Chippewas of Saugeen First Nation and Chippewas of Nawash First Nation.
- (xxxx) “**SON Capital Call Loan Amount**” has the meaning given to it in Section 5.10(f).
- (yyyy) “**SON Capital Call Loan Deadline**” has the meaning given to it in Section 5.10(f).
- (zzzz) “**Tax Allowance**” for a Fiscal Year means the amount determined by the formula:

$$A + (B \times C)$$

where

A is equal to the Approved Tax Amount for that Fiscal Year;

B is equal to the Delta Income for that Fiscal Year; and

C is equal to the Approved Tax Percentage for that Fiscal Year.

- (aaaa) “**Tax Filings**” means all returns, reports, declarations, elections, notices, filings, forms, statements and other documents (whether in tangible, electronic or other form) and including any amendments, schedules, attachments, supplements, appendices and exhibits thereto, made, prepared, filed or required to be made, prepared or filed by applicable law in respect of Taxes.
- (bbbb) “**Taxable Corporation**” in any Fiscal Year means a corporation that is subject to Income Taxes in respect of that Fiscal Year on income from the Partnership, including for greater certainty, under the Electricity Act.
- (cccc) “**Taxable Income**” and “**Taxable Loss**” means the net income or net loss of the Partnership for purposes of the Income Tax Act in any Fiscal Year;
- (dddd) “**Taxes**” means all federal, provincial, state, territorial, municipal or foreign taxes of any nature or kind whatsoever, including Income Taxes, capital taxes, gross receipt taxes, gross revenue charges, environmental taxes, sales taxes, use taxes, ad valorem taxes, goods and services taxes (including the GST/HST), provincial sales and fuel taxes, value added taxes, withholding taxes, excise taxes, transfer taxes (including land transfer taxes), franchise and licence taxes, payroll taxes, employment

taxes, Canada or Quebec pension plan premiums, social security premiums, workers' compensation premiums, stamp taxes, occupation taxes, premium taxes, property taxes, municipal taxes, windfall profits taxes, alternative or add-on minimum taxes, any customs duties or other taxes, fees, imposts, assessments or charges of any kind whatsoever, all payments to the Province of Ontario in lieu of any of the foregoing, grants to communities or municipalities in lieu of any of the foregoing, and all payments required to be made under the Electricity Act, together with any interest and any penalties or additional amounts imposed by any Governmental Authority, and any interest, penalties, fines, additional taxes and additions to tax imposed with respect to the foregoing.

- (eeeeee) **"Term"** has the meaning given to it in Section 2.1.
- (fffff) **"Third Party Transferee"** has the meaning given to it in Section 5.13(d).
- (ggggg) **"Top-Up Equity Contribution"** has the meaning given to it in Section 5.10(d).
- (hhhhh) **"Transfer"** or **"Transferred"** means any transfer, sale, exchange, assignment, gift, bequest, disposition, mortgage, charge, pledge, encumbrance, hypothecation, alienation, grant of security interest or other arrangement by which possession, legal title or beneficial ownership of all or any portion of Units by a Partner to any Person whether voluntary, involuntary, by operation of law or in accordance with this Agreement.
- (iiiiii) **"Unanimous Consent of the Partners"** means the approval of all of the Partners, as expressed by voting at a meeting of the Partnership or by a written instrument signed in one or more counterparts by all of the Partners.
- (jjjjj) **"Unit Certificate"** means a unit certificate issued to a Partner as evidence of its ownership of Units, which certificate shall be in the form approved by the General Partner from time to time.
- (kkkkk) **"Unit"** has the meaning given to it in Section 5.3(a).
- (lllll) **"Unrecovered HONI Costs"** has the meaning given to it in Section 5.7.

## 1.2 Headings and Table of Contents

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.



### **1.3 References**

Unless otherwise specified, references in this Agreement to sections and Schedules are to sections of, and schedules to, this Agreement.

Each reference to a statute in this Agreement is deemed to be a reference to that statute, and to the regulations made under that statute, all as amended or re-enacted from time to time and to any statute or regulation that supplements or supersedes such statute or regulation.

### **1.4 Expanded Definitions**

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term “**including**” means “including without limitation”, and the terms “**include**”, “**includes**” and “**included**” have similar meanings. Any reference in this Agreement to any other agreement is deemed to include a reference to that other agreement as amended, supplemented or restated from time to time.

### **1.5 Time of Day**

Unless otherwise specified, references to the time of day or a date mean the local time or date in Toronto, Ontario.

### **1.6 Schedules**

The following Schedules are attached to and form part of this Agreement:

Schedule 4.3	Operations Agreement Terms
Schedule 5.4	Partnership Interests
Schedule 9.4	Principles of Valuation
Schedule 11.1	Form of Counterpart
Schedule 11.2	Form of Assignment

## **ARTICLE 2 TERM**

### **2.1 Term**

This Agreement will be effective from the Effective Date and, unless terminated earlier in accordance with the terms of this Agreement or by mutual agreement of all of the Partners, will continue until the dissolution of the Partnership in accordance with the terms of this Agreement following the completion of the Decommissioning Work (the “**Term**”).

## **ARTICLE 3 THE PARTNERSHIP**

### **3.1 Formation of the Partnership**

The Partnership has been formed as a limited partnership in accordance with the laws of the Province of Ontario and the provisions of this Agreement. The Partnership is effective as a limited partnership from the date on which the Declaration was registered with the Registrar in accordance with the Limited Partnerships Act. Subject to the terms of this Agreement, the General Partner of the Partnership will be **[Bruce-to-Milton GP Inc.]** and the Limited Partners of the Partnership will be **[HOI BtM Partner and SON BtM Partner]**.

### **3.2 Filing of Changes to the Declaration**

The General Partner will execute and file any changes to the Declaration that may be required from time to time under the Limited Partnerships Act in connection with the Partnership.

### **3.3 Name**

The name of the Partnership will be “**[Bruce-to-Milton L.P.]**” or such other name or names as the General Partner may from time to time select with the Unanimous Consent of the Partners, provided that the General Partner files any change to the Declaration required by the Limited Partnerships Act.

### **3.4 Offices**

The registered and principal offices of the Partnership and the General Partner will be at 483 Bay Street, 15<sup>th</sup> Floor, North Tower, Toronto, Ontario, M5G 2P5 and, thereafter, at such place or at such other place or places as the General Partner may from time to time designate. The General Partner will provide written notice of any change in its or the Partnership’s offices to each other Partner.

### **3.5 Fiscal Year**

The first Fiscal Year of the Partnership will commence on the date of the Declaration and will end on December 31, **[2014]**. Thereafter each Fiscal Year of the Partnership will commence on January 1 in each year during the Term and end on December 31 in that year, unless otherwise established by the General Partner. The last Fiscal Year will end on the date of the dissolution or other termination of the Partnership.

### **3.6 Representations and Warranties of Partners**

Each Partner represents, warrants, covenants and agrees with each of the other Partners with respect to itself only that on the date of this Agreement and for so long as this Agreement is in effect:

- (a) it is a corporation existing under the laws of Ontario;
- (b) that it is not a “non-resident” of Canada for the purposes of the Income Tax Act and, if such Partner is a partnership, that such partnership is a Canadian

partnership for purposes of the Income Tax Act and agrees that it will maintain such status for so long as it retains a Partnership Interest;

- (c) that it has the power and capacity to own or lease its properties and assets and to carry on its business as it is currently being conducted and to perform its obligations under this Agreement and that such obligations do not conflict with nor will they result in a breach of any of its constating documents, by-laws or any agreements or approvals by which it is bound;
- (d) that it has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement, including SON BtM Partner obtaining any approvals which are appropriate, sufficient and consistent with all applicable governance practices of the SON BtM Partner whether under the *Indian Act* or by way of traditional practice, and this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law); and
- (e) that it has made all necessary corporate, partnership and tax filings required to be made by it in accordance with Applicable Laws and it has obtained all necessary approvals of any Governmental Authority in connection with its execution of this Agreement and no consents or approvals are required from any Governmental Authority or any other third party in order for it to enter into and perform its obligations under this Agreement.

Each Partner may, from time to time, request reasonable evidence from any other Partner (including a copy of the resolution specifically authorizing the entering into of this Agreement) in order to confirm that such other Partner is, and continues to remain, in compliance with the above representations and warranties during the term of this Agreement.

#### **ARTICLE 4**

#### **BUSINESS OF THE PARTNERSHIP**

##### **4.1 Powers of the Partnership**

Except as otherwise provided in this Agreement, the Partnership will have the power to do any and every act and thing necessary, proper, convenient, desirable, ancillary or incidental to the pursuit or accomplishment of its business.

##### **4.2 Business of the Partnership**

The business of the Partnership will be:

- (a) the operation, management and maintenance of the BtM Project Assets, including by entering into and performing its obligations under the Project Approvals and the Project Agreements;

- (b) to borrow money, incur debt, guarantee indebtedness and obligations of any Person, grant indemnities, grant mortgages, charges and other security interests, and in connection with the foregoing, enter into loan agreements, guarantees, promissory notes, mortgages, trust deeds, debentures, pledges and other security documents in order to finance the Line and carry on the business;
- (c) investing funds not immediately required for operations;
- (d) engaging in such other activities incidental or ancillary to the foregoing as the General Partner deems advisable or necessary; and
- (e) such Decommissioning Work as may be required from time to time.

#### **4.3 Operations Agreement with Partners**

- (a) The General Partner on behalf of the Partnership, and the General Partner on its own behalf will enter into an operations services and management services agreement (the “**Operations Agreement**”) with an Affiliate of the General Partner, for such Affiliate of the General Partner to operate and maintain the BtM Project Assets and Line, as further described and incorporating terms substantially in accordance with those set out in Schedule 4.3.
- (b) From time to time, the General Partner on behalf of the Partnership, and the General Partner on its own behalf may contract with HONI or its Affiliates for the provision of additional services. Unless the Parties agree otherwise, the Partnership will indemnify and save harmless HONI or such Affiliates providing such additional services from and against any and all Claims that HONI or such Affiliates may suffer, sustain or incur in connection with the provision of such services except to the extent caused or arising from the gross negligence or wilful misconduct of HONI or such Affiliates, as applicable.

#### **4.4 Other Business Interests**

Except as may be expressly set out in this Agreement, the freedom of a Limited Partner or its Affiliates, or of the Affiliates of the General Partner, to conduct any business or activity whatsoever as it sees fit will not be restricted in any way by this Agreement. No Limited Partner owes any other Partner a duty to offer it any business opportunity and nothing in this Agreement confers upon any Partner the right to participate in such opportunity. Each Limited Partner and its Affiliates, and the Affiliates of the General Partner, will be free to engage or invest in any business opportunity including, without limitation, any business opportunity which is similar to or which competes with the business of the Partnership, including any businesses described in the Project Agreements.

## **ARTICLE 5**

### **CONTRIBUTIONS, ALLOCATIONS AND DISTRIBUTIONS**

#### **5.1 Capital Account**

The General Partner will establish and maintain a separate Capital Account for each Partner, reflecting each Partner's total Equity Contributions, in the books of account of the Partnership. Each Partner's Capital Account (a) shall be increased by (i) the amount of any Additional Equity Contribution made pursuant to Section 5.10(a) and (ii) the amount of any allocation of Net Income made to the Partner pursuant to Section 5.16 and (b) shall be decreased by (i) the amount of any Additional Equity Contribution returned to a Partner pursuant to Section 5.10(i), (ii) the amount of any allocation of Net Loss made to the Partner pursuant to Section 5.16 and (iii) the amount of any distribution to that Partner pursuant to Section 5.13.

#### **5.2 Initial Equity Contribution**

Each Partner has made initial Equity Contributions to the capital of the Partnership in the following amounts and the following numbers of Units have been issued to the Partners in respect of such Equity Contributions:

<b>Partner</b>	<b>Initial Equity Contribution</b>	<b>Units</b>
HOI BtM Partner	\$●	●
SON BtM Partner	\$●	●
General Partner	\$●	●

#### **5.3 Partnership Units**

- (a) The interest of the Partners in the Partnership shall be divided into and represented by an unlimited number of units (each a **"Unit"**), each representing a proportionate share of the aggregate interests of the Partners in the Partnership.
- (b) Except as otherwise provided in Sections 5.13, 5.16 and 6.16, each issued and outstanding Unit is identical to each other one with respect to all matters including:
  - (i) the right to receive distributions from the Partnership;
  - (ii) the allocation of net income, net loss, taxable income and tax losses;
  - (iii) voting rights; and
  - (iv) rights on liquidation.

## 5.4 Unit Certificates

Each Partner shall be issued a Unit Certificate specifying the number of Units held by such Partner. Every Unit Certificate must be signed by at least one authorized signatory of the General Partner.

## 5.5 Record of Partnership Interests and Units

The initial Partnership Interests of and Units held by the Partners is set out on Schedule 5.5. The General Partner will amend Schedule 5.5:

- (a) following the deemed contribution of HONI Initial Costs in accordance with Section 5.7;
- (b) following the deemed contribution of land transfer taxes in accordance with Section 5.8;
- (c) following an Additional Equity Contribution in accordance with Section 5.10; and
- (d) following any Transfer of Units as permitted by this Agreement,

to reflect any changes in the Partners, the number of Units they hold or their Partnership Interests, calculated in accordance with Section 5.6. The General Partner will immediately after such amendment provide a copy of the amended Schedule 5.5 to each of the other Partners. Schedule 5.5, as amended from time to time in accordance with the provisions of this Section 5.5, absent error, will indicate the Partnership Interests of the Partners and the number of Units held by the Partners. If at any time a Partner disputes the General Partner's calculation of its Partnership Interest, it will so advise the General Partner and each of the other Partners in writing. Any Dispute with respect to Schedule 5.5 will be resolved in accordance with the provisions set forth in Article 13.

## 5.6 Calculation of Partnership Interests

The Partnership Interest of a Partner at any time will be the percentage that the number of Units held by such Partner is of the aggregate number of Units held by all Partners as at such date.

## 5.7 HONI Initial Costs

Prior to the Effective Date of this Agreement, the General Partner, an Affiliate of the General Partner or the Partnership incurred costs, other than land transfer tax costs, in connection with the Partnership, the BtM Project Assets, and the transactions contemplated in the Master Implementation Agreement (the "**HONI Initial Costs**"). In the event the HONI Initial Costs are not fully recoverable or recovered in the Approved OEB Rates, that part of such HONI Initial Costs that: (i) has been incurred by the Partnership shall be shared by the Partners pro rata to the number of Units held by the Partners as of Closing, and (ii) that has been incurred by the General Partner or an Affiliate of the General Partner and has not been included in the computation of the BtM Project Asset Value and has not otherwise been included in computing the equity contributed to the Partnership by the General Partner or an Affiliate of the General Partner (the "**Unrecovered HONI Costs**"), shall be deemed to be an Equity Contribution by the General

Partner. The General Partner will credit the General Partner's Capital Account with the fair market value of the Unrecovered HONI Costs and issue the appropriate number of Units to the General Partner to reflect such deemed Equity Contribution. All such HONI Initial Costs which are not included in the Approved OEB Rates shall be provided to SON BtM Partner for its review, and if disputed, shall be subject to the Dispute resolution mechanisms provided in Article 13.

## **5.8 Land Transfer Taxes**

The Partners agree to use commercially reasonable efforts to cause any land transfer taxes (including deferred taxes) imposed on the acquisition of the BtM Project Assets by the Partnership or the acquisition by SON BtM Partner of its Units to be recovered in the Approved OEB Rates. Where the recovery of such land transfer tax costs are included in the Approved OEB Rates, the amount of any such land transfer tax paid or payable: (i) by the General Partner or HOI BtM Partner shall be deemed to be an Equity Contribution to the Partnership by the General Partner, and (ii) by SON BtM Partner shall be deemed to be an Equity Contribution to the Partnership by SON BtM Partner, and the General Partner will credit the relevant Partner's Capital Account with the amount of such land transfer tax paid or payable by such Partner and, if applicable, will issue the appropriate number of Units to such Partner to reflect such deemed Equity Contribution. Where the recovery of such land transfer tax costs are not included in the Approved OEB Rates, each Partner shall be responsible for its share of such land transfer tax costs pro rata to the number of Units held by the Partners as of Closing.

## **5.9 Additional Funding Requirements**

From time to time during the Term, the Partnership will require additional funds above any reserves to fund costs incurred by the Partnership, or the General Partner on behalf of the Partnership, for activities in furtherance of the business of the Partnership in respect of the BtM Project Assets, including management, upgrading, repair and refurbishment costs, insurance costs, costs for decommissioning, and liabilities incurred by the Partnership in operating and maintaining the BtM Project Assets (including amounts incurred in connection with its engagement of an Affiliate of the General Partner under the Operations Agreement). If the Partnership is unable to fund the equity portion of such costs (taking into consideration the deemed debt-to-equity capital structure reflected in the Approved OEB Rates) from short term credit facilities or other immediately available sources, the General Partner may issue a notice to the Partners requesting Equity Contributions (an "**Equity Contribution Request**") to provide additional Equity Contributions in proportion to their respective Partnership Interests at the time of the Equity Contribution Request (an "**Additional Equity Contribution**") in accordance with the procedures set out in Section 5.10.

## **5.10 Additional Equity Contributions and Dilution**

Any Additional Equity Contributions required to be made by the Partners will be made as follows:

- (a) the General Partner will request an Additional Equity Contribution simultaneously from each of the Partners by providing each Partner with an Equity Contribution Request setting out:

- (i) the aggregate amount of the Additional Equity Contributions;
  - (ii) the amount of the Partner's Additional Equity Contribution, which amount will be calculated, for each Partner, as that Partner's Partnership Interest multiplied by the total amount of additional funds requested in the Equity Contribution Request;
  - (iii) the number and subscription price of the Units to be issued to that Partner in consideration for its Additional Equity Contribution, such number of Units to be equal to the number of Units (rounded if necessary to the lower whole number) obtained by dividing the amount of the Additional Equity Contribution to be made by such Partner by the subscription price for each Unit, which subscription price will be the Fair Market Value;
  - (iv) the date on which the Additional Equity Contribution is required to be delivered to the Partnership (the "**Due Date**"), provided that the Due Date will be no less than 180 days and no more than 270 days following receipt or deemed receipt of the Equity Contribution Request by the Partner, except in the case of emergencies or otherwise unplanned capital requirements, as determined in the sole discretion of the General Partner, in which case the Due Date will be no less than twenty (20) Business Days and no more than thirty (30) Business Days following receipt or deemed receipt of the Equity Contribution Request by the Partner; and
  - (v) whether the amounts set out in the Equity Contribution Request are to be wired or otherwise deposited to the Partnership Account or to another account;
- (b) upon receipt of a Partner's Additional Equity Contribution, the General Partner will credit that Partner's Capital Account with the amount of its Additional Equity Contribution and issue the appropriate number of Units to such Partner;
- (c) a Partner is free to elect whether or not to make all or part of its Additional Equity Contribution, provided that SON BtM Partner may not make any Additional Equity Contribution to the extent that such Additional Equity Contribution would result in SON BtM Partner having more than a ●% [NTD: to be the initial "**SON Equity Ratio**", as determined in accordance with the Master Implementation Agreement] Partnership Interest in the Partnership, and, for greater certainty, will not be a Defaulting Partner if such Partner elects not to make all or part of its Additional Equity Contribution; however, it will be a Defaulting Partner if it has indicated in a notice to the other Partners that it has elected to make all or part of its Additional Equity Contribution and then fails to do so by the Due Date. A Partner must provide notice of this election to the other Partners within fifteen (15) days of its receipt of an Equity Contribution Request. A Partner who



fails to make an election within fifteen (15) Business Days of its receipt of an Equity Contribution Request will be deemed to have elected not to make its Additional Equity Contribution;

- (d) if any Partner other than the General Partner chooses not to make all or part of its Additional Equity Contribution (a “**Non-Electing Partner**”), then the General Partner, provided that it has elected to make its full Additional Equity Contribution, may within five (5) Business Days of the Due Date make a further payment to fund all or part of the shortfall arising from the Non-Electing Partner’s failure to make its Additional Equity Contribution (a “**Top-Up Equity Contribution**”). The amount of the Top-Up Equity Contribution shall be used to subscribe for additional Units at the subscription price set out in the Equity Contribution Request and will be credited to the General Partner’s Capital Account;
- (e) each Non-Electing Partner acknowledges that in electing not to make its Additional Equity Contribution, provided the other Partners make their Additional Equity Contribution, there will be a dilution of such Non-Electing Partner’s Partnership Interest as between the other Partners and the Non-Electing Partner, and the Non-Electing Partner will be subject to further dilution in the event a Top-Up Equity Contribution is made by the General Partner;
- (f) if SON BtM Partner elects to make all or part of its Additional Equity Contribution, provided that it has used commercially reasonable efforts to secure its own funds or third party financing to make its Additional Equity Contribution, SON BtM Partner may, prior to the Due Date, by written notice to the General Partner and HOI BtM Partner, elect to borrow the amount of its Additional Equity Contribution (the “**SON Capital Call Loan Amount**”) from the General Partner or HOI BtM Partner, as determined by the General Partner (such Partner, the “**Lending Partner**”), for a period ending no later than the date that is one year from the Due Date (the “**SON Capital Call Loan Deadline**”). The SON BtM Partner will be required to repay to the Lending Partner prior to the SON Capital Call Loan Deadline:
  - (i) the SON Capital Call Loan Amount, plus
  - (ii) interest on the SON Capital Call Loan Amount at a rate equal to the return-on-equity percentage reflected in the Approved OEB Rates, calculated from the Due Date to the date of repayment;
- (g) if any amount of the SON Capital Call Loan Amount remains outstanding by the SON Capital Call Loan Deadline:
  - (i) the Units issued to SON BtM Partner which were financed by the unpaid amount of the SON Capital Call Loan Amount will immediately be Transferred to the Lending Partner in full payment

and satisfaction of the unpaid amount of the SON Capital Call Loan Amount and the General Partner will cause the register recording the Units to be amended accordingly, and

- (ii) SON BtM Partner hereby directs the General Partner to pay any Advances payable to SON BtM Partner to the Lending Partner on account of the interest owing on the SON Capital Call Loan Amount pursuant to Section 5.10(f)(ii) that has not been paid by the SON Capital Call Loan Deadline until the aggregate amount of such directed Advances equals the total amount of the interest that is so owed. For greater certainty, amounts so paid to the Lending Partner do not reduce the balance of the SON Capital Call Loan Amount outstanding;
- (h) if at any time SON BtM Partner's Partnership Interest falls below 5%, HOI BtM Partner or the General Partner, as determined by the General Partner (such Partner, the "**Purchasing Partner**"), shall have the option to purchase all, and not less than all, of SON BtM Partner's Units for a price equal to the Fair Market Value of SON BtM Partner's Units at the date such option is exercised, determined in accordance with the principles of valuation set forth in Schedule 9.4. The purchase and sale will be conducted in accordance with the terms of Section 9.5, with all references to the "**Buying Partner**" being deemed to be references to the "**Purchasing Partner**";
- (i) within 75 days following the end of each Fiscal Year, the General Partner shall determine if the Partnership is in compliance with the deemed debt-to-equity capital structure reflected in the Approved OEB Rates. If the General Partner determines that the Partnership has excess capital, each Partner who made an Additional Equity Contribution shall be entitled to the return of the portion of its Additional Equity Contribution necessary for the Partnership to comply with its deemed debt-to-equity capital structure, in proportion to the percentage of the aggregate amount of Additional Equity Contributions made by such Partner. Any such return of Equity Contributions shall be made prior to any Designated Distributions pursuant to Section 5.13(c); and
- (j) notwithstanding anything to the contrary contained in this Section, if the General Partner makes an Equity Contribution Request to the Partners, HOI BtM Partner shall be required to make an Additional Equity Contribution in such amount as shall be necessary to maintain a Partnership Interest of at least 0.10%.

Notwithstanding anything to the contrary contained in this Section, the remedies available under this Section 5.10 are in addition to, and in no way a limitation on, any and all other remedies available under this Agreement or otherwise existing at law or in equity.

### 5.11 No Voluntary Equity Contributions

No Partner will make any additional voluntary Equity Contributions to the Partnership except pursuant to an Equity Contribution Request from the General Partner or pursuant to a deemed Equity Contribution in accordance with Section 5.7 or Section 5.8.

### 5.12 Interest

Except as otherwise provided in this Agreement, no Partner is entitled to interest on its Equity Contributions or its Capital Account.

### 5.13 Distributions

- (a) The General Partner shall determine quarterly on a date to be determined by the General Partner:
  - (i) the forecasted Positive Tax Allowance for that fiscal quarter;
  - (ii) the forecasted Negative Tax Allowance for that fiscal quarter; and
  - (iii) the forecasted Distributable Cash of the Partnership for that fiscal quarter on the basis of a forecast operating budget of the Partnership to be prepared by the General Partner, acting reasonably.
- (b) Forthwith after the determinations referred in Section 5.13(a) have been made, the Partnership shall:
  - (i) make an advance (a “**Designated Advance**”) to the General Partner in an amount equal to the amount determined under Section 5.13(a)(i); and
  - (ii) make advances (an “**Advance**”) to the Partners totalling an amount equal to the amount determined under Section 5.13(a)(iii) as follows:
    - (1) make an Advance to each Partner that is not a Taxable Corporation in an amount equal to such Partner’s pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units, in each case at the time such Advances are made, of the Adjusted Forecasted Distributable Cash for that fiscal quarter; and
    - (2) make an Advance to each Partner that is a Taxable Corporation in an amount equal to the amount by which (A) such Partner’s pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units at the time such Advances are made, of the Adjusted Forecasted Distributable Cash for that fiscal quarter, exceeds (B) such

Partner's pro rata share, based on the number of Units held by such partner as compared to the total number of Units held by Partners that are Taxable Corporations, in each case at the time of such Advances, of the forecasted Negative Tax Allowance for that fiscal quarter.

- (c) Within 75 days following the end of each Fiscal Year:
  - (i) the General Partner shall determine:
    - (1) the Positive Tax Allowance for that Fiscal Year;
    - (2) the Negative Tax Allowance for that Fiscal Year; and
    - (3) the Distributable Cash of the Partnership for that Fiscal Year (the "**Annual Distributable Cash**");
  - (ii) the Partnership shall declare a distribution payable to the General Partner (a "**Designated Distribution**") in an amount equal to the Positive Tax Allowance for that Fiscal Year and shall issue a non-interest bearing demand promissory note with a principal amount equal to the amount of such distribution (a "**Designated Distribution Note**") to the General Partner in absolute payment and satisfaction of such distribution;
  - (iii) the Partnership shall declare a distribution (a "**Distribution**") payable to each of the Partners calculated as follows:
    - (1) The Partnership shall declare a Distribution payable to each Partner that was not a Taxable Corporation in such Fiscal Year in an amount equal to such Partner's pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units, in each case at the end of such Fiscal Year, of the Adjusted Annual Distributable Cash of the Partnership for that Fiscal Year; and
    - (2) The Partnership shall declare a Distribution payable to each Partner that was a Taxable Corporation in such Fiscal Year in an amount equal to the amount by which (A) such Partner's pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units at the end of such Fiscal Year, of the Adjusted Annual Distributable Cash of the Partnership for that Fiscal Year, exceeds (B) such Partner's pro rata share, based on the number of Units held by such partner as compared to the total number of Units held by Partners that were Taxable Corporations, in each case at the end of such

Fiscal Year, of the Negative Tax Allowance of the Partnership for that Fiscal Year; and

- (iv) the Partnership shall issue a non-interest bearing demand promissory note to each Partner with a principal amount equal to the amount of the Distribution payable to such Partner pursuant to this Section 5.13(c) (a “**Distribution Note**”) and shall deliver such Distribution Note in absolute payment and satisfaction of such Distribution;
- (d) In the event of a Transfer by a Partner of its Units to a Person other than an Affiliate (a “**Third Party Transferee**”), the advances and distributions on the Units held by the Third Party Transferee will continue to be the advances and distributions calculated as if the Units were held by the original Partner (subject to any disallowance by the OEB as a result of the Transfer) until the revenue requirements of the Third Party Transferee are reflected as part of the next OEB transmission rate setting process.
- (e) Within 90 days following the end of each Fiscal Year and, for greater certainty, after the declaration of the distributions referred to in Section 5.13(c) and the issuance of the applicable Designated Distribution Note:
  - (i) if the aggregate amount of the Designated Advances made to the General Partner pursuant to Section 5.13(b)(i) in such Fiscal Year (the “**Annual Designated Advance Amount**”) is less than the principal amount owing under the Designated Distribution Note in respect of that Fiscal Year:
    - (1) such Designated Advances shall be deemed to be set off against the portion of the Designated Distribution Note that is equal to the Annual Designated Advance Amount such that such Designated Advances shall be fully paid and settled by such set off and the principal amount owing under the Designated Distribution Note shall be reduced by an amount equal to the Annual Designated Advance Amount as a result of such set off; and
    - (2) the Partnership shall pay an amount to the General Partner equal to remaining amount of the Designated Distribution Note, in full payment and satisfaction thereof; and
  - (ii) if the Annual Designated Advance Amount is greater than the principal amount owing under the Designated Distribution Note in respect of that Fiscal Year:
    - (1) such portion of the Designated Advances as is equal to the principal amount owing under the Designated Distribution Note shall be deemed to be set off against the Designated

Distribution Note such that such Designated Distribution Note shall be fully paid and settled by such set off and the Designated Advances shall be reduced by an amount equal to the amount of the Designated Distribution Note as a result of such set off; and

- (2) the General Partner shall pay an amount to the Partnership equal to remaining amount of the Designated Advances, in full payment and satisfaction thereof.
- (f) Within 90 days following the end of each Fiscal Year and, for greater certainty, after the declaration of the Distributions referred to in Section 5.13(c) and the issuance of the applicable Distribution Notes:
  - (i) if the aggregate amount of the Advances made to a Partner pursuant to Section 5.13(b)(ii) in such Fiscal Year (the “**Annual Advance Amount**”) is less than the principal amount owing under the Distribution Note to that Partner in respect of that Fiscal Year:
    - (1) such Advances shall be deemed to be set off against the portion of the Distribution Note that is equal to the Annual Advance Amount such that such Advances shall be fully paid and settled by such set off and the principal amount owing under the Distribution Note shall be reduced by an amount equal to the Annual Advance Amount as a result of such set off; and
    - (2) the Partnership shall pay an amount to that Partner equal to remaining amount of the Distribution Note, in full payment and satisfaction thereof; and
  - (ii) if the Annual Advance Amount made to a Partner is greater than the Distribution Note to that Partner in respect of that Fiscal Year:
    - (1) such portion of the Advances as is equal to the principal amount owing under the Distribution Note to that Partner shall be deemed to be set off against the Distribution Note to that Partner such that such Distribution Note shall be fully paid and settled by such set off and such Advances shall be reduced by an amount equal to the amount of the Distribution Note to that Partner as a result of such set off; and
    - (2) such Partner shall pay an amount to the Partnership equal to remaining amount of the Advances, in full payment and satisfaction thereof.
- (g) SON BtM Partner shall take all reasonable steps to maintain its tax-exempt status. In the event that SON BtM Partner is found to be taxable

or a Third Party Transferee of the Units of a Limited Partner is taxable, SON BtM Partner or such Third Party Transferee, subject to Section 5.13(d), shall be entitled to the Designated Advances and Designated Distributions contemplated in this Section 5.13 in respect of the Income Taxes and Capital Taxes attributable to SON BtM Partner or such Third Party Transferee, as applicable, in respect of the Partnership, but only to the extent that such Income Taxes and Capital Taxes have been reflected in the Approved OEB Rates.

- (h) Notwithstanding any provision of this Section 5.13, the Partnership will not make any Advances, Designated Advances, Distributions or Designated Distributions to the extent that after the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, is made, the Partnership will not have sufficient assets to pay its liabilities as they become due. To the extent an Advance, Designated Advance, Distribution or Designated Distribution in respect of a particular Fiscal Year is not paid in accordance with this Section 5.13(h), such deferred Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, will be made before any Advance, Designated Advance, Distribution or Designated Distribution is made in respect of any subsequent Fiscal Year.
- (i) Notwithstanding any provision of this Section 5.13, the Partnership will not make any Advances, Designated Advances, Distributions or Designated Distributions to the Partners:
  - (1) if the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, would constitute a breach of the Limited Partnerships Act or any other Applicable Law; or
  - (2) if the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, would be inconsistent with or contrary to the terms of any agreements by which the Partnership is bound or any agreements between the Parties.

#### **5.14 Return of Equity Contributions**

Except as otherwise provided in this Agreement, no Partner is entitled to the return of any part of its Equity Contributions.

#### **5.15 Right to Withdraw Capital**

Except for Distributions, Advances, Designated Advances or Designated Distributions made in accordance with the terms of this Agreement or upon the dissolution of the Partnership in accordance with Section 12.4, no Partner will have the right to withdraw any amount from the Partnership or to receive any advances or distributions from the Partnership or any return, in whole or in part, of any Equity Contribution or any reduction in its Capital Account.

## **5.16 Allocation of Net Income or Net Loss and Taxable Income or Taxable Loss**

- (a) If there is Taxable Income for a Fiscal Year, such Taxable Income shall be allocated as follows:
  - (i) an amount equal to the lesser of:
    - (1) such Taxable Income, and
    - (2) the amount of the Designated Distribution made to the General Partner in respect of that Fiscal Year plus the amount of any Designated Distribution Taxable Income Shortfall outstanding as at the end of that Fiscal Year to the extent not included in a previous allocation of Taxable Income under this Section 5.16,shall be allocated to the General Partner; and
  - (ii) the remainder of such Taxable Income, if any, shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year.
- (b) If there is both Net Income and Taxable Income for a Fiscal Year, such Net Income shall be allocated as follows:
  - (i) an amount equal to the lesser of:
    - (1) such Net Income, and
    - (2) the amount of the Designated Distribution made to the General Partner in respect of that Fiscal Year plus the amount of any Designated Distribution Net Income Shortfall outstanding as at the end of that Fiscal Year to the extent not included in a previous allocation of Net Income under this Section 5.16,shall be allocated to the General Partner; and
  - (ii) the remainder of such Net Income, if any, shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year.
- (c) If there is both Net Income and a Taxable Loss for a Fiscal Year, such Net Income shall be allocated as follows:
  - (i) an amount equal to the aggregate of the Net Income plus the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,



- (ii) less, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (d) If there is a Net Loss and Taxable Income for a Fiscal Year, such Net Loss shall be allocated as follows:
  - (i) an amount equal to the aggregate of the Net Loss plus the Positive Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,
  - (ii) less, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Positive Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (e) If there is a Net Loss and a Taxable Loss for a Fiscal Year, such Net Loss shall be allocated as follows:
  - (i) an amount equal to such Net Loss less the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,
  - (ii) plus, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (f) If there is a Taxable Loss for a Fiscal Year, such Taxable Loss shall be allocated as follows:
  - (i) an amount equal to such Taxable Loss less the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year, and
  - (ii) plus, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.:

- (g) Should a circumstance arise where none of Section 5.16(a) to Section 5.16(f) would apply, then the Partners, acting reasonably, shall allocate the Net Income, Net Loss, Taxable Income, Taxable Loss in accordance with the principles espoused in these Sections.

#### **5.17 Distributions and Allocations on Partner Exit**

Notwithstanding any other provision of Section 5.13 and Section 5.16, if a Partner ceased to be a Partner during a Fiscal Year, the Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners pursuant to Section 5.13 and Section 5.16 shall be calculated as though the Fiscal Year had ended at the end of the month immediately prior to or immediately following the time such Partner ceased to be a Partner, whichever month-end is closer, provided that, in the event a Partner ceased to be a Partner on the 15th day of a month, such allocations and distributions will be calculated as though the Fiscal Year ended at the end of the month immediately prior to the time such Partner ceased to be a Partner (a “**Deemed Year End**”), such that:

- (a) Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners shall be calculated for the period beginning at the beginning of such Fiscal Year and ending at the time of the Deemed Year End and the allocations and distributions (determined on a reasonable basis taking into account the deductions that would have been available had the fiscal period actually ended at the time of the Deemed Year End) shall be made in accordance with the provisions of Section 5.13 and Section 5.16 based on the number of Units held by such Partners immediately before the departing Partner ceased to be a Partner;
- (b) Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners shall be calculated for the period beginning immediately after the Deemed Year End and ending at the end of such Fiscal Year and the allocations and distributions (determined on a reasonable basis taking into account the deductions that would have been available had the fiscal period actually began immediately after the Deemed Year End) shall be made in accordance with the provisions of Section 5.13 and Section 5.16 based on the number of Units held by such Partners at the end of such Fiscal Year;
- (c) provided that reasonable adjustments will be made if such allocations would otherwise result in the allocation of a Taxable Loss in one of such periods and the allocation of Taxable Income in the other such period; and
- (d) provided that all such distributions referred to in this Section 5.17 shall be declared and recorded in the books and records of the Partnership following the end of the relevant Fiscal Year.

### **5.18 Excess Costs**

If the General Partner on behalf of the Partnership pays or incurs an Excess ARC Cost or an Excess Non-GUP Cost, the Net Income or Net Loss (as applicable) allocated to and Distribution payable to, the SON BtM Partner shall be increased by the amount that would have been allocated to or payable to the SON BtM Partner in the absence of such Excess ARC Cost or Excess Non-GUP Cost, without duplication, and the Net Income or Net Loss (as applicable) allocated to and Distributions payable to, the General Partner, shall be decreased by the amount such Net Income or Net Loss (as applicable) and Distributions were increased for the SON BtM Partner. The corresponding adjustments to Taxable Income or Taxable Loss (as applicable) for each of the SON BtM Partner and the General Partner shall be made based on the adjustments to the Distribution, Net Income or Net Loss (as applicable) made under this paragraph. For greater certainty, this provision shall only apply to Excess ARC Costs and Excess Non-GUP Costs and not to other Excess Costs.

## **ARTICLE 6 MANAGEMENT OF THE PARTNERSHIP**

### **6.1 Management of the Partnership**

The General Partner will manage the day-to-day operations of the Partnership. Subject to Section 6.17 and any applicable limitations in the Limited Partnerships Act, the General Partner will have the full and exclusive right, power and authority to make all decisions relating to the management and administration of the Partnership and its business and affairs and to manage, control, administer and operate the Partnership and its business and affairs, and to do any act, take any proceedings, make any decision and execute and deliver any instrument, deed, agreement or document, for and on behalf of and in the name of the Partnership, in connection with the same.

### **6.2 Specific Powers, Duties and Obligations of General Partner**

Without limiting the generality of Section 6.1, the General Partner shall have full power and authority for and on behalf of and in the name of the Partnership, without notice to, or consent of, any Limited Partner, to:

- (a) negotiate, execute and perform all agreements which require execution by or on behalf of the Partnership involving matters or transactions with respect to the business of the Partnership;
- (b) open and manage bank accounts in the name of the Partnership;
- (c) borrow funds in the name of the Partnership from time to time from such Persons as the General Partner may determine without limitation with regard to amount, cost or conditions of reimbursement or such loan;
- (d) mortgage, charge, assign, hypothecate, pledge or otherwise create a security interest in all or any property of the Partnership now owned or

hereafter acquired, to secure any present and future borrowings and related expenses of the Partnership;

- (e) cause title to the property of the Partnership to be held in its name or the name of its designated nominee for the benefit of the Partnership;
- (f) cause Governmental Authorizations to be held in its name or the name of its designated nominee for the benefit of the Partnership and be responsible for the conduct of all regulatory proceedings related thereto and to the business of the Partnership;
- (g) see to the sound management of the Partnership and manage, control and develop all the activities of the Partnership and take all measures necessary or appropriate for the business of the Partnership or ancillary thereto;
- (h) maintain, improve or change any assets, business or undertaking of the Partnership from time to time;
- (i) incur all costs and expenses in connection with the Partnership Business;
- (j) employ, retain, engage or dismiss from employment, personnel, agents, representatives or professionals with the powers and duties upon the terms and for the compensation as in the discretion of the General Partner may be necessary or advisable in the carrying on of the business of the Partnership;
- (k) engage agents, including any Affiliate of the General Partner, to assist the General Partner in carrying out its management obligations and providing management services to the Partnership or subcontract administrative functions to any Affiliate of the General Partner or any other Person;
- (l) invest cash assets of the Partnership that are not immediately required for the business of the Partnership in investments which the General Partner considers appropriate;
- (m) act as attorney in fact or agent of the Partnership in disbursing and collecting monies for the Partnership, paying debts and fulfilling the obligations of the Partnership and handling and settling any claims of the Partnership;
- (n) commence or defend any action or proceeding in connection with the Partnership and make all decisions and execute and deliver all instruments, documents, or agreements related thereto;
- (o) take any actions it deems appropriate in respect of public relations and communications with Governmental Authorities;

- (p) file returns or other documents required by any Governmental Authority;
- (q) make, execute, amend or revoke any Tax Filing on behalf of the Partnership and/or all relevant Partners to the extent the Tax Filing relates to the affairs of the Partnership;
- (r) execute, swear to, acknowledge, deliver, file and record in whatever jurisdictions the Partnership is registered, whatever documents may be required to reflect:
  - (i) a change in the name of the Partnership or the location of the principal place of business of the Partnership;
  - (ii) the admission, substitution, withdrawal or removal of Limited Partners in accordance with the terms of this Agreement;
  - (iii) a change that is reasonable and necessary or appropriate to qualify or continue the qualification of the Partnership as a limited partnership in which the Limited Partners have limited liability under Applicable Laws; and
  - (iv) a change that is reasonable and necessary or appropriate to enable Partners to take advantage of, or not be detrimentally affected by, changes in the Income Tax Act or other taxation laws;and all Partners agree to sign all amendments to the Declaration to give effect to all amendments made in accordance with this Section 6.2(r);
- (s) retain legal counsel, experts, advisors or consultants as the General Partner considers appropriate and rely upon the advice of such Persons;
- (t) do anything that is in furtherance of or incidental to the Partnership Business or that is provided for in this Agreement;
- (u) obtain any insurance coverage; and
- (v) generally carry out the Partnership Business.

No Person dealing with the Partnership will be required to enquire into the authority of the General Partner to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the Partnership.

### **6.3 Operating Budget and Expenses**

The Partnership shall reimburse the General Partner for all reasonable costs and expenses, including professional, legal, accounting and administrative costs and expenses, incurred by the General Partner in the performance of its duties hereunder in accordance with the approved Operating Budget, including reasonable costs and expenses directly incurred for the benefit of the Partnership, and the General Partner's general and administrative expenses, but specifically

excluding expenses of any action, suit or other proceedings in which or in relation to which the General Partner is adjudged to be in breach of any duty or responsibility imposed on it hereunder.

The General Partner shall submit the Operating Budget for each Fiscal Year to the Partners for approval at least two (2) months prior to the commencement of that Fiscal Year. The General Partner shall submit any amendment to an approved Operating Budget for any Fiscal Year in excess of 5% of the total amount of the approved Operating Budget for such Fiscal Year to the Partners for approval.

#### **6.4 Removal and Appointment of General Partner**

The General Partner may be removed at any time by Unanimous Consent of the Partners provided that such Unanimous Consent of the Partners appoints and admits a new general partner to the Partnership and such new general partner agrees to be bound by this Agreement in place of the General Partner so removed and further provided that all acts of the General Partner prior to its removal will continue to bind the Partnership.

#### **6.5 Transfer to New General Partner**

On the admission of a new general partner to the Partnership upon the removal of the General Partner, the removed General Partner will do all things and take all steps to transfer the administration, management, control and operation of the business of the Partnership and the books, records and accounts of the Partnership to the new general partner and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect such transfer in a timely fashion, including the transfer of any title to the Partnership's property held by the removed General Partner or its nominee to such new general partner.

#### **6.6 Release by Partnership**

On the removal of the General Partner, the Partnership shall release and hold harmless the removed General Partner and its directors, officers, shareholders, employees and agents from any costs, expenses, damages or liabilities suffered or incurred by the General Partner as a result of or arising out of events which occur in relation to the Partnership after such removal.

#### **6.7 New General Partner**

A new general partner shall become a party to this Agreement by signing a counterpart hereof and shall agree to be bound by all of the provisions hereof and to assume the obligations, duties and liabilities of the General Partner hereunder as and from the date the new general partner becomes a party to this Agreement.

#### **6.8 Advisory Committee**

- (a) The Partnership shall have a committee (the "**Advisory Committee**") consisting initially of eight members. SON BtM Partner shall be entitled to appoint four individuals to the Advisory Committee, and HOI BtM Partner and the General Partner shall each be entitled to appoint two individuals to the Advisory Committee. Each Partner shall be

entitled to remove and replace its appointees from time to time as provided in Section 6.8(c).

- (b) Members of the Advisory Committee shall be appointed or re-appointed, as the case may be, annually. On or before the Effective Date and each subsequent anniversary of the Effective Date, each Partner shall give notice to each of the other Partners stating the name of the appointees of such Partner for the following year.
- (c) Any Partner entitled to appoint a member of the Advisory Committee shall be entitled to remove and replace any such member by notice to such member and the other Partners. Any vacancy occurring on the Advisory Committee shall be filled only by a further appointee of the Partner whose appointee was so affected so as to maintain an Advisory Committee consisting of the numbers of appointees specified in Section 6.8(a).
- (d) The timing and location of meetings of the Advisory Committee will be determined by the General Partner, provided that the Advisory Committee shall meet at least quarterly and, if a meeting of the Advisory Committee is not called during any quarter by the General Partner, any other Partner may call a meeting of the Advisory Committee. Written notice of any meeting of the Advisory Committee will be given by the General Partner (or in the case of a meeting called by another Partner, by such Partner) to members of the Advisory Committee and to each Partner at least seven (7) Business Days prior to the meeting.
- (e) At each meeting, the Advisory Committee shall review and consider the operations of the Partnership, including financial operating information, budgets, regulatory developments and other matters in relation to the BtM Project Assets or the Partnership. For greater certainty, the General Partner shall retain ultimate responsibility for making all decisions relating to the operation and management of the Partnership.
- (f) A quorum for meetings of the Advisory Committee shall consist of at least one appointee of each Partner being present. If a quorum is not obtained at any meeting, the meeting shall be adjourned and may be reconvened upon two (2) Business Days notice to the members, at which reconvened meeting the quorum shall be a majority of members.
- (g) Any or all members of the Advisory Committee may participate in a meeting of the Advisory Committee by means of such telephone, electronic or other communication facilities as permit all Persons participating in the meeting to hear and communicate with each other simultaneously and a member participating in such a meeting by such means is deemed to be present at the meeting.

- (h) The reasonable expenses of the Advisory Committee shall be borne by the Partnership.

## **6.9 Ratification of Actions**

Any action taken by the General Partner on behalf of the Partnership in accordance with this Agreement is deemed to be an act of the Partnership and binds the Partnership. No Person dealing with the Partnership will be required to inquire into the authority of the General Partner to take any such action.

## **6.10 Powers of Limited Partners**

A Limited Partner may exercise all rights or powers provided to limited partners under the Limited Partnerships Act, except to the extent inconsistent with, or contrary to, this Agreement. A Limited Partner, in its capacity as a limited partner, may not:

- (a) take part in the management or control of the business or affairs of the Partnership or exercise any power in connection therewith;
- (b) transact any business for the Partnership, including executing any document which binds or purports to bind any other Partner or the Partnership or hold itself out as having the power or authority to bind any other Partner or the Partnership;
- (c) have any authority or power to act for or undertake any obligation or responsibility on behalf of any other Partner or the Partnership; or
- (d) partition or seek to partition, whether by order of any court or otherwise, any of the Partnership Assets.

## **6.11 SON Support**

SON BtM Partner will make commercially reasonable efforts to cause SON and its constituencies to act in the best interests of the Partnership and the BtM Project Assets.

## **6.12 Title to Partnership Property**

The Partnership holds legal title to the Partnership Assets. However, if the Partnership is not permitted under Applicable Law to, or if the General Partner determines that it is necessary or expedient for the Partnership not to, hold legal title to any of the Partnership Assets, legal title to such Partnership Assets may be held by the General Partner in trust for the Partnership or in any other manner as the General Partner determines.

## **6.13 Execution of Contracts**

The General Partner will, and any other Person or Persons authorized by the General Partner from time to time may, sign any contracts, documents or instruments in writing requiring the signature of the Partnership, including, without limitation, all documents and agreements necessary to establish and maintain the Partnership Account. All written contracts, documents or instruments so signed will be binding on the Partnership without any further authorization or



formality. The Partners agree that third parties will not be obligated to inquire into the power or authority of the Person or Persons signing such contracts, documents or instruments. All written contracts, documents or instruments will be signed on behalf of the Partnership as follows **“Bruce-to-Milton L.P. by its general partner Bruce-to-Milton GP Inc.”**. [NTD: Confirm names]

#### **6.14 Partnership Account**

The General Partner will open the Partnership Account and will provide the necessary details of the Partnership Account to the Partners. The General Partner will designate from time to time those Persons who are authorized to make deposits to and draw on the Partnership Account and to issue and sign cheques for and on behalf of the Partnership.

#### **6.15 Delegation of General Partner's Authority**

The General Partner may delegate any powers or authorities granted to it under this Agreement to any of its directors, officers and/or employees or to such other Persons as it sees fit, but no such delegation will release the General Partner from any of its obligations hereunder.

#### **6.16 Voting**

For the purposes of voting under this Agreement:

- (a) at any meeting of the Partners, each Partner will be entitled to one vote in respect of each Unit held by such Partner. Every question submitted to a meeting of the Partners, except those that require a Unanimous Consent of the Partners, will be decided by a majority of the votes cast at the meeting. Votes may be cast in person or by proxy and a Person appointed by proxy need not be a Partner; and
- (b) notwithstanding the foregoing, if at any time SON BtM Partner's Partnership Interest falls below 5%, the Partnership Interest of SON BtM Partner may not be voted and will be deemed to be nil in respect of the approval of the dissolution of the Partnership requiring the Unanimous Consent of the Partners in accordance with Section 6.17(a).

#### **6.17 Unanimous Consent of the Partners**

The following actions may only be taken by the Partnership or the General Partner after obtaining the Unanimous Consent of the Partners:

- (a) dissolving or liquidating the Partnership or approving the dissolution or liquidation of the Partnership;
- (b) waiving any default on the part of the General Partner on such terms as the Partners may determine and releasing the General Partner from any Claims with respect thereto;
- (c) the sale, exchange or other disposition of any of the undertaking, property or assets of the Partnership that would reasonably be

anticipated to have a material adverse effect on the economic benefits of the Units;

- (d) changing the name of the Partnership pursuant to Section 3.3;
- (e) changing the business of the Partnership pursuant to Section 4.2;
- (f) terminating the Partnership's transmission licence before its expiration;
- (g) to the extent not governed by or exempted from the OEB's *Affiliates Relationship Code* (or future equivalent thereof), entering into an agreement with a person that does not deal at Arm's Length with the General Partner unless such agreement is on terms no less favourable to the Partnership than under an agreement with an Arm's Length person;
- (h) amending any material term of this Agreement; and
- (i) amending, modifying, altering or repealing any action previously taken pursuant to a Unanimous Consent of the Partners.

#### **6.18 Meetings of the Partnership**

- (a) The timing and location of meetings of the Partners will be determined by the General Partner and, unless otherwise agreed by the Partners, will be held at such place in Ontario as the General Partner, or if called by another Partner in accordance with the terms hereof, as the Partner calling such meeting, designates.
- (b) The General Partner may call a meeting of the Partners at any time. The General Partner will also call a meeting upon the written request of any other Partner. Such request will specify the purpose or purposes for which such meeting is to be called and will include sufficient information to enable the Partners to make a reasoned judgment on each matter to be considered at such meeting. If the General Partner fails to call a meeting upon such a request of another Partner within ten (10) days after the giving of such request, the requesting Partner may call such meeting. Written notice of any meeting of the Partners will be given to all Partners at least fourteen (14) days prior to the meeting, accompanied by an agenda specifying the general nature of the business to be transacted at the meeting.
- (c) The notice requirements for any meeting of the Partners may be waived.
- (d) Except as hereinafter provided, a quorum at a meeting of the Partners will be one duly authorized representative of each of the Partners, present in person or by proxy. If a quorum is not present within thirty (30) minutes after the time appointed for a meeting, the meeting will be adjourned to such date, time and place as the Partners present at the meeting may determine. The Partners present at such meeting will

provide at least five (5) Business Days prior written notice of the date, time and place of the adjourned meeting to all Partners. A quorum at an adjourned meeting will consist of all of the Partners present or represented by proxy at the original meeting.

- (e) A Partner may participate in a meeting of the Partners by means of telephone or other communication facilities that permit all Persons participating in the meeting to hear each other and a Partner participating by those means is deemed to be present at that meeting.
- (f) The chair of all meetings will be chosen by the General Partner.
- (g) Each Partner may bring such appropriate advisors to meetings of the Partners as may be reasonably required.
- (h) Any matter to be voted on or resolution by the Partners may be approved or passed, without prior written notice thereof, by written consent in lieu of a meeting if signed by all of the Partners and such written consent will be as valid and effective as if it had been passed at a meeting of the Partners duly convened and held.
- (i) Minutes and proceedings of every meeting of the Partners will be recorded by the General Partner and, when signed by the chair of the meeting, will be prima facie evidence of the matters therein stated. Until the contrary is proved, every meeting in respect of which minutes have been made will be taken to have been duly held and convened and all proceedings referred to in the minutes will be deemed to have been duly passed.
- (j) A written resolution may consist of one document signed in counterpart by one or more Partners and which may be facsimile or portable document format (PDF) copies of signed originals.

## **ARTICLE 7 INSURANCE**

### **7.1 Insurance**

The General Partner shall consult with the Limited Partners in determining the kind and amount of insurance coverage required for itself and for the Partnership, including limits of insurance and deductible amounts. The General Partner shall implement and maintain an insurance program which (i) will satisfy the minimum insurance coverages reasonably required by the Limited Partners and (ii) will satisfy the minimum insurance coverages required by the Project Agreements, provided that the costs of such insurance coverage is recoverable in the Approved OEB Rates or is available in North American insurance markets on commercially reasonable terms.

## **ARTICLE 8**

### **LIABILITY AND INDEMNIFICATION**

#### **8.1 Liability of the Partners**

- (a) The General Partner has unlimited liability for the debts, liabilities and obligations of the Partnership. Except in cases of gross negligence or wilful misconduct, the General Partner will not be liable to the Limited Partners or the Partnership for a mistake or error in judgment, any act or omission believed by the General Partner in good faith to be within the scope of the authority conferred on the General Partner by this Agreement, or any loss or damage to the property or assets of the Partnership caused by circumstances beyond the control of the General Partner. If the tax ruling referred to in Section 11(a) of the Side Letter has been obtained, the liability of the General Partner to SON BtM Partner resulting from Claims arising from any breach by the General Partner of its obligations under this Agreement shall be limited to the amount SON BtM Partner would have been entitled to if the only asset of the General Partner were a 0.1% Partnership Interest in the Partnership, provided that such limitation shall not apply to Claims which SON BtM Partner would have been entitled to bring against the General Partner had the General Partner been a Limited Partner not engaged in the management of the Partnership. For greater certainty, SON LPCo will have no claim in respect of any rights, interests or payments in connection with the BtM LP Promissory Note.
- (b) Subject to the provisions of the Limited Partnerships Act and except for Claims in respect of the indemnity obligations respecting any guarantees provided by a Limited Partner in respect of the Partnership, the liability of each Limited Partner for the debts, liabilities and obligations of the Partnership is limited to the amount of such Limited Partner's Equity Contributions actually made or agreed to be made plus its share of the undistributed income of the Partnership.
- (c) Subject to the terms of any service agreements or separate guarantees or indemnities, in no event will any Partner be liable to another Partner or its Affiliates or their respective officers, directors, employees, agents, shareholders, partners or any other Person claiming through such Partner or Affiliate, for special, incidental, indirect, consequential, exemplary or punitive damages (even if any such Person has been advised of the possibility of such damage or loss) of any kind in connection with this Agreement.

#### **8.2 Limited Liability**

The General Partner shall take every reasonable action necessary to preserve the limited liability of the Limited Partners and shall not take any action which or omit to take any action the omission of which could reasonably be expected to jeopardize the limited liability of the Limited Partners.

### 8.3 Indemnification

- (a) Subject to the limitations on liability in Section 8.1(a), the General Partner agrees to indemnify the Partnership and each other Partner and its Affiliates, officers, directors and employees (the “**Indemnified Group**”) against all Losses sustained or incurred in connection with any Claims arising from any breach by the General Partner of its obligations under this Agreement.
- (b) Subject to the limitations on liability in Section 8.1(a), the General Partner will indemnify the Limited Partners in respect of any loss, liability or damage incurred or suffered by a Limited Partner by reason of the loss of its limited liability for any reason whatever other than through any action or omission by such Limited Partner.

## ARTICLE 9 EVENTS OF DEFAULT

### 9.1 Defaulting Partner

- (a) A Partner shall be a “**Defaulting Partner**” upon the occurrence of any of the following events (each, an “**Event of Default**”):
  - (i) such Partner, or, in the case of either HOI BtM Partner or the General Partner, either of them has failed to observe and perform any material obligation under this Agreement and such failure continues for more than thirty (30) days after written notice thereof is provided to such Partner by the Partnership or any other Partner;
  - (ii) such Partner has failed to pay when due an Additional Equity Contribution it has elected to make in accordance with Section 5.10 and such failure continues for more than ten (10) Business Days after written notice thereof is provided to such Partner by the Partnership; or
  - (iii) in the case of HOI BtM Partner or the General Partner, the General Partner has failed to observe and perform any material obligation under the Operations Agreement, and such failure continues for more than thirty (30) days after written notice thereof is provided to the General Partner by the Partnership or any other Partner.
- (b) If a Partner is Defaulting Partner and the event or circumstance that caused it to be a Defaulting Partner has been cured or ceased to exist, such Partner shall thereupon cease to be a Defaulting Partner.

## 9.2 Notice of Default

A Partner, or its legal representative, will give notice to the other Partners of any event that has occurred with respect to such Partner which has made, or which would with the passage of time make, it a Defaulting Partner.

## 9.3 Distributions to a Defaulting Partner

- (a) If an Event of Default has not been remedied within the cure period provided in Section 9.1(a), the General Partner shall, in good faith and as soon as reasonably practicable, determine the Losses to the Partnership resulting from such Event of Default (the “**Default Amount**”). The General Partner shall notify each of the Partners of the Default Amount so determined (the “**Default Amount Notice**”). The Defaulting Partner shall wire or otherwise deposit the Default Amount to the Partnership Account within thirty (30) days of receipt of the Default Amount Notice from the General Partner. If the Defaulting Partner fails to do so, such Defaulting Partner shall cease to be entitled to any distributions or Advances pursuant to Section 5.13 until the aggregate amount of the distributions or Advances that would have otherwise been paid by the Partnership to such Defaulting Partner equals such Losses, at which time the Event of Default shall have been cured and such Defaulting Partner shall no longer be a Defaulting Partner hereunder.
- (b) If a Limited Partner in good faith disputes the General Partner’s calculation of the Default Amount or whether it is a Defaulting Partner, it will so advise the General Partner and each of the other Partners in writing within thirty (30) days of receipt of the Default Amount Notice from the General Partner. Any Dispute with respect to the calculation of the Default Amount will be resolved in accordance with the provisions set forth in Article 13. Within **[five (5)]** Business Days after all dispute resolution mechanisms in Article 13 have been exhausted, the Limited Partner or the Partnership, as the case may be, shall pay to the other the amount owing as a result of such resolution.

## 9.4 HOI BtM Partner Buy-Out Option

- (a) If:
  - (i) SON BtM Partner becomes a Defaulting Partner for any one or more reasons, and for so long as SON BtM Partner is a Defaulting Partner, or
  - (ii) SON BtM Partner or any of its Affiliates fails to act in the best interests of the Partnership or the BtM Project Assets using commercially reasonable efforts, and such failure continues for more than thirty (30) days after written notice thereof is provided to SON BtM Partner by the Partnership or any other Partner,

which in either case causes the Partnership to default on a payment obligation under the BtM LP Promissory Note, either the General Partner or HOI BtM Partner, as determined by the General Partner (such Partner, the “**Buying Partner**”), will have the option, exercisable in the Buying Partner’s sole and absolute discretion after all Dispute resolution mechanisms in Article 13 have been exhausted, to require SON BtM Partner to transfer its Units to the Buying Partner upon payment to SON BtM Partner of the Termination Payment (the “**Buy-Out Option**”). The Buying Partner may exercise the Buy-Out Option by way of prior written notice to SON BtM Partner (the “**Buy-Out Notice**”). The Buy-Out Notice will specify the date of the exercise of the Buy-Out Option.

- (b) The “**Termination Payment**” will be equal to the Fair Market Value of SON BtM Partner’s Units as of the date of the Buy Out Notice, determined in accordance with the principles of valuation set forth in Schedule 9.4.

## 9.5 Transfer

- (a) If the Buying Partner exercises the option to purchase SON BtM Partner’s Units pursuant to Section 9.4(a), SON BtM Partner will transfer all of its Units to the Buying Partner in consideration of the payment of the Termination Payment as required by Section 9.4 to SON BtM Partner in accordance with this Section 9.5.
- (b) To the extent there are any amounts owing from SON BtM Partner to the Buying Partner, the amount so owing by SON BtM Partner will be set-off against the Termination Payment (such Termination Payment, as adjusted, the “**Closing Payment**”).
- (c) Upon determining the Closing Payment, SON BtM Partner and the Buying Partner will, within sixty (60) days of such determination, execute and deliver such documents and instruments as the Buying Partner may request, acting reasonably, in order to complete the transfer of SON BtM Partner’s Units to the Buying Partner and to discharge and release any security against SON BtM Partner’s Units and the Buying Partner will pay the Closing Payment. If SON BtM Partner fails to execute and deliver any document or instrument required to be executed and delivered by it in connection with the transfer within the sixty (60) days, the Buying Partner is hereby granted an irrevocable power of attorney with full power of substitution to execute and deliver on behalf of SON BtM Partner all such documents and instruments which may be required in order to complete the transfer of SON BtM Partner’s Units to the Buying Partner.
- (d) Upon the completion of the purchase and sale, SON BtM Partner will cease to be a Partner and will have no further rights or liabilities with respect to the Partnership or under or in connection with the BtM Project Assets, except that it agrees to be bound by the provisions of Section 14.1 for a period of five years from the completion of such

purchase and sale and any indemnities of SON BtM Partner (or its Affiliates) will continue as provided for in this Agreement.

- (e) Notwithstanding the acquisition by the Buying Partner of SON BtM Partner's Units following the exercise of the Buy-Out Option, SON BtM Partner's obligations, if any, pursuant to the Master Implementation Agreement will continue in full force and effect.

## **ARTICLE 10 RECORDS AND AUDIT**

### **10.1 Partner Records**

Each Partner will keep accurate records of amounts owing to, payable by, received by and paid by it in respect of the Partnership.

### **10.2 Partnership Records**

- (a) The General Partner will maintain, or caused to be maintained by a third party or through a service agreement with a Partner, accurate books and records relating to the Partnership and its business, including relating to all relevant permits, studies and reports and of all amounts owing to, payable by, received by and paid in connection with the Partnership (the "**Partnership Records**").
- (b) Where applicable, Partnership Records will be prepared in accordance with GAAP and with those generally accepted accounting principles and specific accounting policies being used by the Partners and will be in such form and detail as will enable the Partners to obtain the information necessary for Partners to prepare and maintain accounting and other records meeting their reasonable requirements.
- (c) Original Partnership Records will be kept at the registered office of the General Partner, unless otherwise agreed by the Partners.

### **10.3 Retention of Records**

Records required to be kept pursuant to Sections 10.1 or 10.2, which are required to be maintained for a stipulated period of time by any Applicable Laws, will be maintained for the period stipulated in such Applicable Laws; otherwise such records will be maintained for a period of seven (7) years after the end of the year to which such record applies or, in the case of records to be maintained pursuant to Section 10.2, such longer period as the General Partner may determine.

### **10.4 Request for Partnership Records**

At the request of a Partner made at any time prior to the expiry of the periods referred to in Section 10.3, the General Partner will provide that Partner with copies of any such Partnership Records maintained pursuant to Section 10.2, provided that if such documents or records are necessary for any judicial or regulatory proceeding, a Partner may have the use of originals.



## **10.5 Audit of Partnership Records**

- (a) During the period of time in which records are to be maintained by the General Partner in accordance with Section 10.3, each Limited Partner will have the right, at its expense, on reasonable prior notice to the General Partner and during normal business hours, to audit, examine and make copies of the Partnership Records and any other records maintained by the General Partner which in any way relate to the Partnership or the BtM Project Assets, including records related to the operation of the BtM Project Assets pursuant to the Operations Agreement. A Limited Partner shall make reasonable efforts to conduct any such audit or examination so as to minimize any inconvenience to the General Partner.
- (b) The costs and expenses incurred in any such inspection, examination or audit made by a Limited Partner shall be for the account of such Limited Partner. The Limited Partner shall use all reasonable efforts to conclude such audit within ninety (90) days after delivery of the initial notice of audit. This right to audit shall continue for a period of sixty (60) Months after the end of the Fiscal Year in which the particular items to be audited occurred.
- (c) Any claims of discrepancies in respect of the matters audited shall be made in writing by a Limited Partner to the General Partner within three (3) Months of its completion of such audit. The General Partner shall notify the auditors of the Partnership and respond in writing to all claims of discrepancies within three (3) months of its receipt of such claim and address such claims of discrepancies in a manner satisfactory to such Limited Partner.

## **10.6 Auditors of the Partnership**

The General Partner will appoint the initial auditors of the Partnership. The General Partner may at its discretion, tender for the auditors, and on this basis may replace the initial auditors at any time.

## **10.7 Financial Statements**

- (a) Within 75 days following the end of each Fiscal Year or within 75 days of dissolution of the Partnership, the General Partner shall cause to be prepared and delivered to each Limited Partner, audited financial statements of the Partnership for such Fiscal Year, including a balance sheet as at the end of the Fiscal Year, an income statement and a statement of cash flows for such Fiscal Year and a statement of each Partner's Equity Contributions and Capital Account as at the end of the Fiscal Year together with comparative financial statements for the prior Fiscal Year, in each case prepared in accordance with GAAP and with those generally accepted accounting principles and specific accounting policies being used by the Partners, together with a report thereon of the auditors of the Partnership, and all such information as may be necessary to enable the Partners to file all required Canadian federal and provincial income tax returns with respect to the income of the Partnership.

- (b) Within ten (10) days after the end of each calendar quarter and of each Fiscal Year, the General Partner shall cause to be prepared and delivered to each Limited Partner, such additional financial reports and information as may be necessary to enable each Limited Partner to prepare its financial statements and calculate its tax provision for such period.

## **ARTICLE 11 TRANSFERS**

### **11.1 Restrictions on Transfer**

- (a) Except as expressly provided in this Agreement, no Partner shall, directly or indirectly, Transfer any Units held by it to any Person or undergo a Change of Control.
- (b) Notwithstanding anything else contained in this Agreement, every Transfer of Units held by a Partner, in addition to the other requirements of this Agreement, shall be subject to the condition that the proposed transferee, if not already bound by the terms of this Agreement, shall first agree, in writing, to become a party to and be bound by the terms of this Agreement, by executing a form of counterpart and acknowledgement acceptable to the Corporation and substantially in the form attached as Schedule 11.1.

### **11.2 Permitted Transferees**

- (a) HOI BtM Partner or the General Partner, or any other direct or indirect wholly owned subsidiary of Hydro One that becomes a Partner, may Transfer all or any of its Units to a third party, provided that immediately after the Transfer, Hydro One, directly or indirectly, holds at least 50% of the total number of Units outstanding and provided that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2.
- (b) HOI BtM Partner or the General Partner may Transfer all or any of its Units to an Affiliate and provided that the General Partner may not Transfer any of its Units if such Transfer would result in the General Partner holding a Partnership Interest of less than 0.10%, and provided further that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2. No such Transfer shall be effective until the transferee executes and delivers to the Partnership a counterpart to this Agreement in compliance with Section 11.1(b).
- (c) SON BtM Partner may Transfer all or any of its Units to an Affiliate or a wholly-owned subsidiary of SON BtM Partner and provided that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2. No such Transfer shall be effective

until the transferee executes and delivers to the Partnership a counterpart to this Agreement in compliance with Section 11.1(b).

- (d) In the event of any Transfer of Units by the General Partner pursuant to Section 11.2(a) or Section 11.2(b), such transferee shall hold such Units only as a Limited Partner and the rights and obligations of the General Partner under this Agreement shall not be transferred to the transferee, but the transferee shall be entitled to the rights and subject to the obligations under this Agreement of a Limited Partner holding the number of Units transferred to the transferee by the General Partner.

### 11.3 Pledge of Units

Notwithstanding any other provision of this Agreement,

- (a) SON BtM Partner shall be permitted to Transfer the Units held by it as security in connection with any financing of any Equity Contribution by SON BtM Partner, provided the terms of such Transfer, including the identity of the Transferee, are acceptable to HOI BtM Partner, acting reasonably, and
- (b) HOI BtM Partner shall be permitted to Transfer the Units held by it as security in connection with any financing in respect of the BtM Project Assets.

### 11.4 Right of First Offer

- (a) Except in respect of a Transfer pursuant to Section 11.2, any Limited Partner (the “**ROFO Offeror**”) who wishes to sell all, but not less than all, of its Units shall first offer to sell such Units to the other Limited Partners. The ROFO Offeror shall deliver a notice in writing of the offer (the “**ROFO Notice**”) to each of the other Limited Partners (the “**ROFO Offerees**”) that shall set out the number of Units then held by the ROFO Offeror (the “**ROFO Offeror’s Units**”) and in the ROFO Notice the ROFO Offeror shall irrevocably offer to sell the ROFO Offeror’s Units, for cash, to the ROFO Offerees at the price (the “**ROFO Price**”) and on terms set forth in the ROFO Notice.
- (b) Upon the ROFO Notice being given, the ROFO Offerees shall have the right to purchase all, but not less than all, of the ROFO Offeror’s Units, pro rata based upon the number of Units beneficially owned by the ROFO Offerees as of the date the ROFO Notice is given (or in such other proportion as the ROFO Offerees may agree in writing).
- (c) Within thirty (30) days after the ROFO Notice is deemed (under Section 17.1) to have been received by the ROFO Offerees (the “**ROFO Offer Period**”) each of the ROFO Offerees may give to the ROFO Offeror a notice in writing (a “**ROFO Acceptance Notice**”) accepting the offer contained in the ROFO Notice and specifying the maximum number of

the ROFO Offeror's Units it wishes to acquire (which number may be greater or less than its pro rata entitlement). If any ROFO Offeree does not give a ROFO Acceptance Notice or specifies in its ROFO Acceptance Notice a number of Units less than its pro rata entitlement, the resulting unaccepted ROFO Offeror's Units shall be deemed to have been offered by the ROFO Offeror to such of the ROFO Offerees who specified in their ROFO Acceptance Notices a wish to acquire a number of the ROFO Offeror's Units greater than their pro rata entitlement, and each such ROFO Offeree shall be, subject to the maximum number of the ROFO Offeror's Units specified in its ROFO Acceptance Notice, entitled to acquire its pro rata entitlement of the unaccepted ROFO Offeror's Units based upon the number of Units beneficially owned (as of the date of the ROFO Notice) by such ROFO Offerees, as between themselves (or in such other proportion as such ROFO Offerees may agree in writing). If, pursuant to the foregoing process, one or more ROFO Offerees agree to purchase, in aggregate, all of the ROFO Offeror's Units, the sale of the ROFO Offeror's Units to such ROFO Offerees shall be completed within twenty (20) Business Days of the expiry of the Offer Period.

- (d) If the ROFO Offeror does not receive ROFO Acceptance Notices from the ROFO Offerees, or any of them, within the ROFO Offer Period confirming their agreement to purchase all of the ROFO Offeror's Units, the rights of the ROFO Offerees to purchase any of the ROFO Offeror's Units shall cease at the end of the ROFO Offer Period and, subject to Section 11.5, the ROFO Offeror may sell the ROFO Offeror's Units to any bona fide Arm's Length third party or parties within five (5) months after the expiry of the ROFO Offer Period, for a price and on other terms and conditions in all material respects taken as a whole no more favourable to such Persons than those set out in the ROFO Notice. If the ROFO Offeror's Units are not sold within such five (5) month period on such terms, the provisions of this Section 11.4 shall again apply to any proposed Transfer of Units, and so on from time to time. For greater clarity, if the ROFO Offeror receives ROFO Acceptance Notices from the ROFO Offerees, or any of them, within the ROFO Offer Period agreeing to purchase less than all of the ROFO Offeror's Units, the rights of the ROFO Offerees to purchase, in aggregate, the ROFO Offeror's Units so accepted shall cease at the end of the ROFO Offer Period and, in accordance with this Section 11.4(d) and subject to Section 11.5, the ROFO Offeror may sell all of the ROFO Offeror's Units to any bona fide Arm's Length third party or parties.
- (e) All ROFO Acceptance Notices or other notices under this Section 11.4 shall be given concurrently to all Limited Partners and to the Partnership.

- (f) To permit the practical implementation of this Section 11.4, no Units may be sold by any Limited Partner as part of or incidental to the sale of any other assets or any other transaction.

## 11.5 Right of First Refusal

- (a) If a Limited Partner (the “**Selling Partner**”) receives from a third party (the “**Third Party**”) that is acting as principal and dealing at Arm’s Length with the Selling Partner, a bona fide written offer (the “**Third Party Offer**”) to purchase any of the Units then held by the Selling Partner (the “**Selling Partner’s Units**”) (whether such Third Party Offer was solicited following a ROFO Notice that the ROFO Offeree elected not to accept or whether such Third Party Offer was unsolicited), the Selling Partner shall only accept such Third Party Offer subject to compliance with the provisions of this Section 11.5. Upon such conditional acceptance, the Selling Partner shall deliver a notice in writing (the “**ROFR Notice**”) to each of the other Limited Partners (the “**Non-Selling Partners**”) irrevocably offering to sell to them the Selling Partner’s Units at the same price and in all other material respects on substantially the same terms and conditions as provided in the Third Party Offer. The Selling Partner shall deliver, with the ROFR Notice, a true copy of the Third Party Offer and, if the Third Party is other than an individual, the names of the principal shareholders or holders of interests in such Third Party (if available), officers and directors (or the equivalent) of the Third Party and any other information with respect to the financial capacity of the Third Party in the possession of the Selling Partner. The offer contained in the ROFR Notice shall be irrevocable except with the consent of the Non-Selling Partners and shall be open for acceptance for a period of thirty (30) days after the date upon which the ROFR Notice is deemed (under Section 17.1) to have been received by the Non-Selling Partners (the “**ROFR Acceptance Period**”).
- (b) Upon the ROFR Notice being given, the Non-Selling Partners shall have the right to purchase all, but not less than all, of the Selling Partner’s Units, pro rata based upon the number of Units beneficially owned by the Non-Selling Partners as of the date the ROFR Notice (or in such other proportion as the Non-Selling Partners may agree in writing).
- (c) Within the ROFR Acceptance Period each of the Non-Selling Partners may give to the Selling Partner a notice in writing (a “**ROFR Acceptance Notice**”) accepting the offer contained in the ROFR Notice and specifying the maximum number of the Selling Partner’s Units it wishes to acquire (which number may be greater or less than its pro rata entitlement). If any of the Non-Selling Partners does not give a ROFR Acceptance Notice or specifies in its ROFR Acceptance Notice a number of Units less than its pro rata entitlement, the resulting unaccepted Selling Partner’s Units shall be deemed to have been offered by the Selling Partner to such of the Non-Selling Partners who specified in their ROFR Acceptance Notices a wish to acquire a number of the

Selling Partner's Units greater than their pro rata entitlement, and each such Non-Selling Partner shall be, subject to the maximum number of the Selling Partner's Units specified in its ROFR Acceptance Notice, entitled to acquire its pro rata entitlement of the unaccepted Selling Partner's Units based upon the number of Units beneficially owned (as of the date of the ROFR Notice) by such Non-Selling Partners, as between themselves (or in such other proportion as such Non-Selling Partners may agree in writing). If the Non-Selling Partners, or any of them, give ROFR Acceptance Notices within the ROFR Acceptance Period confirming their agreement to purchase, in aggregate, all of the Selling Partner's Units, the sale of the Selling Partner's Units to such Non-Selling Partners shall be completed within twenty (20) Business Days of the expiry of the ROFR Acceptance Period.

- (d) If the Selling Partner does not receive ROFR Acceptance Notices from the Non-Selling Partners, or any of them, within the ROFR Acceptance Period confirming their agreement to purchase all of the Selling Partner's Units, the rights of the Non-Selling Partners to purchase any of the Selling Partner's Units shall cease at the end of the ROFR Acceptance Period and the Selling Partner may sell the Selling Partner's Units to the Third Party at the price and upon the terms and conditions specified in the Third Party Offer.
- (e) Any transfer to the Third Party pursuant to this Section 11.5 must be completed within 150 days following the expiry of the ROFR Acceptance Period, failing which the provisions of this Section 11.5 shall again apply to any proposed Transfer of Units, and so on from time to time.
- (f) All ROFR Acceptance Notices or other notices under this Section 11.5 shall be given concurrently to all Limited Partners and to the General Partner.
- (g) To permit the practical implementation of this Section 11.5, no Units may be sold by any Limited Partner as part of or incidental to the sale of any other assets or any other transaction.

## **11.6 Permitted Hydro One Change of Control**

- (a) Hydro One shall be entitled to sell, transfer or otherwise dispose of its interest in HOI BtM Partner or any other Affiliate of Hydro One which becomes a Limited Partner, provided that immediately after such sale, transfer or disposition, Hydro One or an Affiliate of Hydro One, directly or indirectly, continues to hold at least 50% of the total number of Units outstanding and Hydro One provides notice of the Change of Control to SON BtM Partner as soon as reasonably possible after the occurrence of the Change of Control.

- (b) Hydro One shall be entitled to sell, transfer or otherwise dispose of its interest in the General Partner to an Affiliate of Hydro One.
- (c) Notwithstanding any other provision of this Agreement, Hydro One or HONI shall be entitled to undergo a Change of Control, provided that HOI BtM Partner shall notify SON BtM Partner of any such Change of Control as soon as reasonably possible after the occurrence of the Change of Control.

#### **11.7 General Partner Co-operation**

The General Partner will co-operate in all reasonable ways to effect and facilitate a Transfer permitted pursuant to this Article 11, provided that such co-operation will be at the sole expense of the Partner transferring its interest (which expense may include reasonable costs of the General Partner and the Partnership relating to such permitted Transfer).

#### **11.8 Liability After Disposition**

Upon completion of any Transfer permitted pursuant to the terms of this Article 11, the transferee shall be automatically admitted as a Partner in substitution for, or in the case of a partial Transfer, in addition to, the transferor, upon execution of a counterpart of this Agreement and compliance with the terms and conditions of this Article 11. No Transfer shall relieve the transferor of liability under this Agreement, the Limited Partnerships Act or otherwise in respect of the Transferred Partnership Interest for matters arising or events occurring prior to the completion of, or in respect of, the Transfer of the Partnership Interest. Upon the Transfer of a Partner's entire Partnership Interest (except a Transfer by mortgage, lien, pledge or other encumbrance but not excepting a Transfer resulting from a default in connection with such mortgage, lien, pledge or other encumbrance), such Partner shall have no further interest in the Partnership or rights or obligations under this Agreement (other than those expressed as surviving such Transfer) except its rights and obligations under Section 14.1 which shall survive such Transfer.

#### **11.9 Effect of Prohibited Transfers**

Any Transfer by a Partner in violation of the terms of this Agreement shall be void and shall not be recognized by the Partnership; provided, however, that nothing herein shall be deemed to limit any right or remedy that the Partnership or any other Partner may have against such Partner.

#### **11.10 Change in Composition of the Partnership**

The Partners hereby expressly agree that the bankruptcy or insolvency of any Partner, a change in the ownership of Units, the addition or withdrawal of Partners to or from the Partnership as permitted by this Agreement, or any amendment to this Agreement will not dissolve or otherwise alter the legal existence of the Partnership.

#### **11.11 Survival of Other Agreements**

Notwithstanding anything to the contrary contained in this Agreement, a Partner's rights, obligations and liabilities with respect to the other Partners under or in connection with the

Project Agreements, other than this Agreement, including obligations to provide or repay and monies, will continue and remain unaffected by such Partner ceasing to be a Party to this Agreement or as a result of the termination or expiration of this Agreement and will survive any winding-up, liquidation, termination or dissolution of the Partnership.

## **ARTICLE 12 DISSOLUTION**

### **12.1 No Withdrawal Rights**

Except as otherwise specifically provided in this Agreement, no Partner may withdraw from the Partnership or have the right to require dissolution or winding up of the Partnership's affairs or the distribution of the Partnership's assets, without the prior written consent of the other Partners.

### **12.2 Transfer of Partnership Interest at General Partner's Election**

Upon the occurrence of any of the following events in respect of a Limited Partner, the Units of such Limited Partner shall, at the option of the General Partner exercised on notice to such Limited Partner, be deemed to have been Transferred to the Partnership by way of redemption by the Partnership and cancellation of such Units at an aggregate price equal to the Fair Market Value of such Units immediately prior to the occurrence of such event and on such other terms and conditions as may be approved by the General Partner with effect immediately prior to the occurrence of such event:

- (a) the entry by a court of competent jurisdiction of a decree or order for relief, unstayed on final appeal or otherwise, in respect of such Partner in an involuntary case under bankruptcy laws, or any such order adjudicating such Partner as bankrupt or insolvent under any other applicable bankruptcy, insolvency or liquidation law;
- (b) the entry by a court of competent jurisdiction of a decree or order appointing a receiver, custodian, assignee, trustee, liquidator, sequestrator or other similar official of such Partner or of any substantial part of the property of such Partner, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed on final appeal or otherwise, or the commencement by such Partner of a voluntary case under the bankruptcy laws, or under any other insolvency law, seeking reorganization, liquidation, arrangement, adjustment or composition of such Partner under such laws;
- (c) the making by such Partner of an assignment for the benefit of creditors; or the failure of such Partner generally to pay its debts as they become due; or the consenting by such Partner to the appointment of or taking possession by a receiver, custodian, assignee, trustee, liquidator, sequestrator or other similar official of it or of any substantial part of its property, or the taking of corporate action by such Partner in furtherance of any such action;



- (d) the filing by a Partner for dissolution under the laws of the jurisdiction of its incorporation or formation, other than the filing by HOI BtM Partner for voluntary dissolution under the laws of the jurisdiction of its incorporation, or the entering of a final order dissolving that Partner by any court of competent jurisdiction; or
- (e) any event which shall make it unlawful for that Partner to remain a Partner of the Partnership.

The occurrence of any of the foregoing events shall not cause a dissolution of the Partnership and the Partnership shall continue, unless there is only one (1) Partner remaining in the Partnership, whereupon the Partnership shall automatically dissolve by operation of law.

Upon such redemption, the Units of such Limited Partner shall be cancelled, the Partnership Interest of such Limited Partner shall be reduced to zero and the respective Partnership Interests of each of the other Limited Partners shall be increased in the proportion their respective Partnership Interest bears to the aggregate of the remaining Partnership Interests immediately prior to the applicable event.

The Partners acknowledge and agree that under the circumstances specified in this Section 12.2, the Fair Market Value of such Units is fair and reasonable consideration and each Partner hereby waives, for itself, its successors and permitted assigns, including receivables, trustees in bankruptcy or other Persons appointed on its behalf in such circumstances, to the fullest extent permitted by law, any and all right to claim that such redemption is unenforceable or that such consideration is unfair or unreasonable.

### **12.3 Events of Dissolution**

The Partners shall cause the Partnership to be wound up and dissolved forthwith upon the happening of any of the following events:

- (a) the completion of the Decommissioning Work;
- (b) the sale of all or substantially all of the assets of the Partnership or the abandonment and reclamation of all of the Partnership's assets;
- (c) any event which shall make it unlawful for the Partnership Business to be carried on;
- (d) any event which, under Applicable Laws, requires or results in the dissolution or winding up of the Partnership; or
- (e) if the Partners agree to do so by Unanimous Consent of the Partners.

### **12.4 Winding Up And Dissolution**

- (a) On the happening of any event requiring the dissolution of the Partnership as provided in this Agreement, the General Partner shall exercise its powers under this Agreement for the purpose of winding up the business of the Partnership, liquidating the Partnership's assets in an

orderly manner, paying the debts, liabilities and expenses of the Partnership and satisfying its other obligations, distributing any cash or other assets of the Partnership to the Partners in accordance with Section 12.4(b), filing all notices of dissolution prescribed by the Limited Partnerships Act, and filing all elections, determinations or designations required under the Income Tax Act or the Electricity Act which may be necessary or desirable. The Partnership shall not engage in any new business during the period of such winding up and dissolution.

- (b) Upon the dissolution of the Partnership, the proceeds from the liquidation of the Partnership's assets will be distributed, after payment of all of the debts, liabilities, obligations and expenses of the Partnership, to the Partners in proportion to the number of Units held.
- (c) No winding up, liquidation, termination or dissolution of the Partnership or of the business of the Partnership shall relieve a Partner from any obligation accruing or accrued to the date of such winding up, liquidation, termination or dissolution.
- (d) Notwithstanding the foregoing and any other provision of this Agreement, if the Partners agree, the Partnership may be dissolved in a manner to comply with the provisions of Subsections 85(3), 98(3) or 98(5) of the Income Tax Act or in such other tax-efficient manner as the Partners may agree.

## **12.5 Effect of Addition or Withdrawal of Partners on Dissolution**

The Partners hereby expressly agree that the addition or withdrawal of a Partner hereunder shall not cause a dissolution of the Partnership unless there is only one (1) Partner remaining in the Partnership, whereupon the Partnership shall automatically dissolve by operation of law.

## **ARTICLE 13 DISPUTE RESOLUTION**

### **13.1 Dispute Resolution**

The Parties will work co-operatively to resolve any Dispute. Any Dispute which has not been resolved by the Parties will be resolved in accordance with the provisions of this Article 13.

### **13.2 Negotiation**

Following receipt of a written request for a meeting, senior representatives of each Party will meet to attempt to resolve such Dispute. Each Party's senior representative will have sufficient authority to bind the Party they represent.

### **13.3 Mediation**

If the senior representatives are unable to resolve such Dispute within fifteen (15) Business Days from the date the first written request for a meeting was received, the Parties may thereafter invoke the then existing non-binding mediation procedure of the ADR Institute of Canada, Inc.

or its successor (“**ADRIC**”), provided that if no ADRIC mediation procedure is in existence at the time, the most recent mediation procedure of the Canadian Foundation for Dispute Resolution or its successor will be used in the place thereof. The mediator will be chosen by agreement of the Parties.

### **13.4 Arbitration**

A Party may refer any Dispute to arbitration before a single arbitrator. Insofar as they do not conflict with this Section 13.4, the Rules for Procedure for Commercial Arbitration of the Arbitration and Mediation Institute of Canada Inc./International Chamber of Commerce Rules of Arbitration in effect at the date of commencement of any arbitration held under this Agreement will apply to the arbitration. No Party may appeal the decision of the arbitrator in any manner whatsoever, except as permitted by the *Arbitration Act, 1991* (Ontario). A Party may enter any judgment upon any award rendered by the arbitrator in any court having jurisdiction. The arbitration will be conducted in English under the *Arbitration Act, 1991* (Ontario) and will take place in either the City of Toronto or such other place as the Parties may agree and at such time and place as the arbitrator may fix.

### **13.5 Dispute Regarding Transfer of Units**

Notwithstanding any other provision of this Agreement, SON BtM Partner will have the right to have any Dispute as to whether it is required to transfer its Units to HOI BtM Partner pursuant to Section 5.10(g) or Section 9.4 adjudicated by a court of competent jurisdiction.

## **ARTICLE 14 CONFIDENTIALITY**

### **14.1 Confidentiality**

Each of the Parties agrees that it will maintain as confidential all data and information relating to the subject matter hereof, the Partnership and the BtM Project Assets, except and to the extent that:

- (a) such data and information is otherwise in the public domain;
- (b) such data and information is required to be disclosed to Affiliates, rating agencies, advisors or potential lenders (including their agents or trustees) or potential direct or indirect purchasers or transferees of a Partner’s Units and, in the case of HOI BtM Partner, including the Province of Ontario, its employees, representatives, directors, advisors or agents;
- (c) such data and information is required to be disclosed to potential transferees and their respective advisors, rating agencies, potential lenders and Affiliates and each of their respective employees, representatives, directors, advisors or agents; or
- (d) a Party is legally compelled to disclose such data and information to a court or regulatory authority in the proper exercise of its jurisdiction.

Each of the Parties agrees that it will make all reasonable efforts to limit internal disclosure of such data and information to only those of their employees, representatives, directors, officers or agents who will need to have access to the same to fulfill the responsibilities and obligations of the Party under this Agreement or other Project Agreements. If a Party discloses any data or information pursuant to an exception set out in this Section 14.1, it agrees to use commercially reasonable efforts to require the recipient to: keep such information confidential; prevent any further disclosure of such information; abide by the obligation of confidentiality hereunder; and not use any of such confidential data and information in a manner that could be the detrimental to the other Parties or the Partnership.

For greater certainty, the confidentiality obligations pursuant to this Section 14.1 do not apply to the disclosure of the terms of this Agreement and shall not prevent SON BtM Partner from periodically reporting to members of SON on the status of its investment in the Partnership provided such reporting does not include commercially sensitive details relating to the operation of the Line.

Notwithstanding the foregoing, the Parties acknowledge that HOI BtM Partner is subject to the *Freedom of Information and Protection of Privacy Act* (Ontario) (“**FIPPA**”) and the General Partners and HOI BtM Partner’s confidentiality covenants are expressly subject to any and all obligations and requirements that may exist or may in the future arise under FIPPA.

This Section 14.1 will survive the termination of this Agreement for a period of two (2) years thereafter.

## **ARTICLE 15 PRESS RELEASES**

### **15.1 Press Releases**

Press releases and other public announcements in respect of this Agreement, the Partnership or the BtM Project Assets, excepting releases of information required by Applicable Laws or the rules of any stock exchange to which a Party or an Affiliate may be subject, will be made only with the prior written approval of each other Party, such approval not to be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, if a press release or other public announcement is to be made by a Party in order to comply with any Applicable Laws, where possible the other Parties will be given prior notice of such press release and a reasonable opportunity to review and comment thereon.

## **ARTICLE 16 TAXES**

### **16.1 Tax Information and Returns**

The General Partner will send to each Person who was a Partner at any time in a particular Fiscal Year of the Partnership within ninety (90) days of the end of the Fiscal Year all Partnership information relating to such Fiscal Year which is necessary for such Partner or former Partner to prepare its tax or information returns. The General Partner will file, on behalf of the other present and former Partners, any information and tax returns required to be filed by the

Partnership under the Income Tax Act and any other applicable Canadian tax laws, statutes or regulations in respect of the Partnership's activities in the prescribed forms and on a timely basis.

## **16.2 Tax Elections**

The General Partner will have the authority to act, and will act with due diligence, for the Partnership for the purpose of making or executing any agreement, designation or election on behalf of the Partners or the Partnership pursuant to the Income Tax Act or any other relevant taxing legislation in Canada, and each Partner agrees to act reasonably and co-operatively with the other Partners for the purpose of making any tax elections which are required to be made jointly by all of the Partners.

## **16.3 Partner Responsible for Own Income Taxes**

Except as provided in this Article 16, each Partner will be solely responsible for the payment of the Income Taxes imposed on it or payable by it in connection with the Partnership. Without limiting the foregoing, the Partnership, HOI BtM Partner and the General Partner will have no liability to SON BtM Partner in the event that SON BtM Partner or its successors or assigns are found to be taxable. Any Income Taxes which may be levied by any Governmental Authority on a Partner will not be considered to be Partnership obligations.

## **16.4 GST/HST**

The General Partner will pay all GST/HST on behalf of the Partnership, charge, collect and remit GST/HST and make and file all elections and all forms, documents and tax returns and take all other steps required to administer taxes payable under the *Excise Tax Act* (Canada) on behalf of the Partnership.

# **ARTICLE 17 NOTICES**

## **17.1 Notices**

Unless otherwise provided in this Agreement, every notice required or permitted under this Agreement must be in writing and may be delivered in person, by courier or by fax to the applicable Party, as follows:

- (a) if to HOI BtM Partner,

c/o Hydro One Inc.  
483 Bay Street  
15<sup>th</sup> Floor, North Tower  
Toronto, ON M5G 2P5

Attention: General Counsel

Fax: (416) 345-6056

- (b) if to SON BtM Partner,

c/o Saugeen Ojibway Nation  
[insert address for courier service]

Attention: ●

Fax: ●

(c) if to the General Partner,

c/o Hydro One Networks Inc.  
483 Bay Street  
15th Floor, North Tower  
Toronto, ON M5G 2P5

Attention: ●

Fax: ●

or to any other address, fax number or individual that a Party designates. Any notice under this Agreement, if delivered personally or by courier, will be deemed to have been given when actually received, if delivered by fax before 3:00 p.m. on a Business Day, will be deemed to have been delivered on that Business Day and if delivered by fax after 3:00 p.m. on a Business Day or on a day which is not a Business Day, will be deemed to be delivered on the next Business Day.

## **ARTICLE 18 MISCELLANEOUS**

### **18.1 Amendment**

Except as expressly provided in this Agreement, no amendment, supplement, restatement or termination of this Agreement in whole or in part is binding unless it is in writing and signed by each Party.

### **18.2 Waiver**

No waiver of any term of this Agreement is binding unless it is in writing and signed by all the Parties entitled to grant the waiver. No failure to exercise, and no delay in exercising, any right or remedy under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any term of this Agreement will be deemed to be a waiver of any subsequent breach of that term.

### **18.3 Severability**

If any term of this Agreement is or becomes illegal, invalid or unenforceable, the illegality, invalidity or unenforceability of that term will not affect the legality, validity or enforceability of the remaining terms of this Agreement.

#### **18.4 Entire Agreement**

This Agreement, the Master Implementation Agreement and all documents contemplated by or delivered in connection with this Agreement, constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or verbal. This Agreement replaces and supersedes the Initial Partnership Agreement.

#### **18.5 Governing Law**

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in Ontario. Each of the Parties irrevocably submits to the non-exclusive jurisdiction of the courts of Ontario.

#### **18.6 Time of Essence**

For every term of this Agreement, time is of the essence.

#### **18.7 Enurement**

This Agreement will enure to the benefit of and be binding on the Parties and their respective successors and permitted assigns.

#### **18.8 Further Assurances**

Each Party will from time to time, and promptly upon request, sign and deliver all further documents and take all further action reasonably necessary or appropriate to give effect to the terms of this Agreement.

#### **18.9 Execution in Counterparts**

This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be signed and delivered in any number of counterparts, each of which when signed and delivered is an original, but all of which taken together constitute one and the same instrument. This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be delivered by means of facsimile or via e-mail in portable document format (PDF).

The Parties have duly executed this Agreement.

**[SON BtM Partner]**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**[HOI BtM Partner]**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**[GENERAL PARTNER]**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●



**THIS IS SCHEDULE “4.3”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [Bruce-to-Milton GP Inc.].**

**OPERATIONS AGREEMENT TERMS**

**THIS AGREEMENT FOR OPERATIONS SERVICES AND MANAGEMENT SERVICES** effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013

BETWEEN:

Hydro One Networks Inc. (“Hydro One Networks”)

- and -

**[Bruce-to-Milton GPco (“GPco”)]**

- and -

Bruce-to-Milton LP (“BM LP”) by its general partner **[Bruce-to-Milton GPco]**

WHEREAS:

- 1) BM LP is the transmitter licensed under the *Ontario Energy Board Act* (the “Act”) to own and operate the second 500KV electric transmission tower line spanning approximately 180 kilometres from the Bruce Power Nuclear Generating Station in Kincardine, Ontario to Hydro One Networks’ switchyard in Milton, Ontario (the “BXM Line”), which line went into commercial service in May 2012.
- 2) GPco, is an affiliate of Hydro One Networks within the meaning of the ARC.
- 3) BM LP wishes to subcontract the operation of the BXM Line to Hydro One Networks as further set out herein.
- 4) GPco wishes to obtain the assistance of Hydro One Networks, from time to time, in connection with certain management functions associated with the transmission business of BM LP.
- 5) The Parties are entering this Agreement to define their respective rights and obligations with respect to management and operation of the BXM Line.

NOW THEREFORE in consideration of the foregoing and the mutual covenants, agreements, terms and conditions contained herein, the Parties intending to be legally bound hereby agree as follows:

## **ARTICLE I: DEFINITIONS**

### **1.1 Defined Terms**

Capitalized terms which are not otherwise defined herein shall have the meaning given to them in the ARC. The following capitalized terms, wherever used in this Agreement, shall have the following meanings:

**“Agreement”** means this Agreement and all amendments made hereto by written Agreement between the Parties in accordance with the terms of this Agreement;

**“ARC”** means the *Affiliate Relationships Code for Electricity Distributors and Transmitters* issued by the OEB in accordance with the Act, as amended from time to time;

**“BM LP Transmission Licence”** means the licence or licences issued to BM LP by the OEB pursuant to the Act and in effect from time to time;

**“Claims”** means all losses, costs, damages, expenses, injuries, liabilities, claims, demands and penalties, including reasonable legal fees, experts’ fees and court costs, whether incurred through settlement or otherwise, and interest on each of these items, in each case whether arising prior to or after the termination of this Agreement.

**“Connection Agreement”** means the connection agreement which BM LP has or will have entered into with Hydro One Networks governing the interconnection of the BXM Line with the transmission systems owned and operated by Hydro One Networks;

**“Fees”** means the Operations Fees and the Management Fees;

**“Force Majeure Event”** means, in relation to a Person, any event or circumstance, or combination of events or circumstances,

- (i) that is beyond the reasonable control of the Person;
- (ii) that adversely affects the performance by the Person of its obligations under this Agreement; and
- (iii) the adverse effects of which could not have been reasonably foreseen or prevented, overcome, remedied or mitigated in whole or in part by the Person through the exercise of diligence and reasonable care and includes, but is not limited to, acts of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil disobedience or disturbances, vandalism or acts of terrorism, strikes, lockouts,

restrictive work practices or other labour disturbances, unlawful arrests or restraints by government or governmental, administrative or regulatory agencies or authorities unless the result of a violation by the Person of a permit, licence or other authorization or of any applicable law, and acts of God including lightning, earthquake, fire, flood, landslide, unusually heavy or prolonged rain or accumulation of snow or ice or lack of water arising from weather or environmental problems; provided however, for greater certainty, that the lack, insufficiency or non-availability of funds shall not constitute a Force Majeure Event;

**“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in North America during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in North America;

**“IESO”** means the Independent Electricity System Operator established under the *Electricity Act, 1998*, or its successor;

**“IESO-BM LP Operating Agreement”** means the operating agreement which BM LP has or will enter with the IESO through which the IESO ensures that the BXM Line will be operated in a manner which does not compromise the operation or reliability of the IESO-controlled grid to which the BXM Line is connected;

**“OEB”** means the Ontario Energy Board established pursuant to the Act;

**“Operations Fees”** means the fees for the Operations Services, calculated and adjusted in accordance with this Agreement;

**“Operations Services”** means all services required in order to operate the BXM Line, including without limitation, all operating, maintenance, repair and refurbishment matters and including, without limiting the generality of the foregoing, all services in relation to the monitoring and control of the transmission of electricity across the BXM Line in accordance with the BM LP Transmission Licence and all services required to fulfill all of BM LP’s obligations under the Connection Agreement and the IESO-BM LP Operating Agreement;

**“Management Activities”** means the activities to be undertaken by GPco in connection with the management of transmission business of the BM LP which include:

- (i) obtaining (including preparation of applications therefor and submission thereof) licences, permits, approvals and rates required in connection with the BXM Line, the transmission of electricity thereby and the operation, maintenance, repair and replacement thereof;
- (ii) obtaining (including preparation of applications therefor and submission thereof) licences, permits, approvals and rates required in connection with the BXM Line and the transmission of electricity thereby;
- (iii) representation of the BM LP before the OEB;
- (iv) the making or filing of declarations, filings and registrations with, or notices to, governmental authorities;
- (v) filing and managing warranty claims;
- (vi) procuring and maintaining the necessary inventory of replacement parts;
- (vii) maintaining records for the BM LP;
- (viii) defending any litigation commenced against the BM LP; and
- (ix) such other management activities associated with running the transmission business of the BM LP.

**“Management Fees”** means the fees for the Management Services, calculated and adjusted in accordance with this Agreement;

**“Management Services”** means services to be provided by Hydro One Networks to GPco to assist GPco with the performance of the Management Activities, which services will be requested in writing by GPco from time to time;

**“Person”** means any natural person, sole proprietorship, partnership, corporation, trust, joint venture, governmental authority, incorporated or unincorporated entity, or incorporated or unincorporated association of any nature; and

**“Taxes”** means any and all applicable federal, state, provincial, or municipal taxes and duties including, but not limited to, sales, use, excise, value added, gross receipts, privilege or other non-recoverable taxes that are mandated or imposed on (i) Hydro One Networks by any jurisdiction or governmental entity in relation to the Operations Services and Management Services (other than taxes that are imposed upon the income, property, payroll or capital of Hydro One Networks), (ii) BM LP (other than taxes that

are imposed upon the income, property, payroll or capital of BM LP or any of the partners of BM LP) , or GPco (other than taxes that are imposed upon the income, property, payroll or capital of GPco).

## **ARTICLE II: PROVISION OF OPERATIONS AND MANAGEMENT SERVICES**

**2.1** Hydro One Networks shall be the exclusive supplier of Operations Services to BM LP commencing on the effective date of this Agreement, provided that the BM LP may perform any Operations Services or engage another supplier to perform such services if Hydro One Networks is in default in performing its material obligations hereunder or is unable to perform its material obligations hereunder by reason of a Force Majeure Event, to the extent such services are required to ensure the continued operation of the BXM Line.

**2.2** GPco shall be responsible for all Management Activities related to the transmission business of BM LP. GPco may make a request in writing, from time to time, to Hydro One Networks, for Management Services to assist GPco in connection with the Management Activities. Hydro One Networks agrees to provide to GPco those Management Services requested in writing by GPco.

**2.3** Hydro One Networks shall at all times provide Operations Services and Management Services in accordance with Good Utility Practice, the BM LP Transmission Licence, the ARC, all other applicable codes, rules, orders and decisions of the OEB which are binding upon the BXM Line, all applicable law, and provided they are not inconsistent with any of the foregoing, Hydro One Networks' own policies and procedures (which may include government directives), and shall do so in the same manner and to the same extent as it provides similar services in connection with its wholly-owned regulated transmission business. Hydro One Networks shall comply with all applicable laws in providing the Operations Services and Management Services.

**2.4** To the extent that Hydro One Networks also provides services similar to the Operations Services or Management Services in respect of its own assets or business, Hydro One Networks will provide such Operations Services and Management Services in a non-discriminatory manner as if it were providing such services to itself or receiving a similar service in relation to its own transmission assets or business. The Fees for such Operations Services and Management Services shall be consistent with the costs incurred by Hydro One Networks for such similar services in relation to Hydro One Networks' transmission assets or business activities which are substantially similar to the BXM Line and business activities of BM LP.

**2.5** Upon expiration of this Agreement or termination of this Agreement for reasons other than the default of BM LP, and provided that BM LP is not in default of paying the

Fees owing hereunder, Hydro One Networks shall provide, at the request of BM LP, reasonable transition support services to facilitate transition to another operating and management services entity, reimbursable on the basis of the “fully allocated cost” (as defined in the ARC), and otherwise on the terms hereof, for a period of six months following the expiration or effective date of termination of this Agreement, or such shorter period as BM LP may request.

**2.6** Hydro One Networks shall obtain and maintain in force throughout the term of this Agreement, insurance coverage that a reasonable and prudent Person operating a transmission business of a comparable size and scale of Hydro One Networks would carry as part of its business. Hydro One Network’s liability insurance shall name BM LP as an additional insured and include a cross-liability and severability of interest clause and a waiver of subrogation clause by the insurer against BM LP. In addition, such liability insurance policy shall specify that it is primary coverage and not contributory with or in excess of any other insurance that may be maintained by BM LP except in the circumstance where pursuant to Section 2.8, Hydro One Networks chooses to add BM LP as an additional named insured under Hydro One Networks’ insurance program.

**2.7** Subject to the provisions of Section 2.8, BM LP shall obtain and maintain in force throughout the term of this Agreement, insurance coverage that a reasonable and prudent transmitter would carry as part of its transmissions business, including, without limitation, property insurance and commercial general liability insurance. Such liability insurance shall name Hydro One Networks as an additional insured, include a cross-liability and severability of interest clause and a waiver of subrogation clause by the insurer against Hydro One Networks. In addition, the insurance policies shall specify that they are primary coverage and not contributory with or in excess of any other insurance that may be maintained by Hydro One Networks. Hydro One Networks will procure such coverage for BM LP as part of the Operations Services.

**2.8** Notwithstanding the foregoing and in the alternative, in consultation with BM LP, Hydro One Networks may choose to add the BM LP as an additional named insured under Hydro One Networks’ insurance program and allocate to BM LP as Fees, a portion of the premium therefor and any incremental costs borne by Hydro One Networks in accommodating the unique circumstances of BM LP (e.g. reducing deductibles to such reasonable levels requested by BM LP), provided that the amount of the insurance premium allocated to BM LP as Fees (including any incremental costs) shall not exceed the cost of insurance described in Section 2.7 if it were to be obtained as stand-alone insurance coverage.

### **ARTICLE III: FEES**

**3.1** BM LP shall pay, without duplication, the Operations Fees and all applicable Taxes to Hydro One Networks for the performance of the Operations Services.

**3.2** GPco shall pay, without duplication, the Management Fees and all applicable Taxes to Hydro One Networks for the performance of the Management Services.

**3.3** The Fees for Operations Services and Management Services shall be those costs reasonably incurred by Hydro One Networks in connection with the provision of Operations Services and Management Services in the manner and to the extent provided for hereunder and which are allocated to BM LP and GPco in a manner consistent with the ARC.

**3.4** Fees may be set with reference to actual or estimated consumption and may be charged on a flat fee or per unit basis. Hydro One Networks, acting reasonably and in consultation with BM LP or GPco, as applicable, may elect the most convenient bases for setting Fees. Provided that the approach is acceptable to the OEB, Hydro One Networks may allocate a portion of its transmission business-related costs to BM LP, including a portion of certain types of “direct costs” (as defined in the ARC). Hydro One Networks shall, from time to time as required to keep the information current, and in any event, no less frequently than annually, provide BM LP with a breakdown of Hydro One Network’s fully allocated costs of providing the Operations Services.

**3.5** GPco shall use commercially reasonable efforts to recover the Fees payable hereunder by BM LP and GPco in the BM LP transmission rate revenue requirement submissions to the OEB and representations to be made to the OEB in connection therewith.

#### **ARTICLE IV: INVOICING AND PAYMENT**

**4.1** All amounts payable by BM LP and GPco to Hydro One Networks under this Agreement shall be paid in accordance with the invoices rendered by Hydro One Networks to be issued on a periodic basis matching the time period for which BM LP receives payments for the transmission of electricity. BM LP and GPco shall pay Hydro One Networks’ invoices within 30 days of receipt thereof.

#### **ARTICLE V: BUDGETS, ACCOUNTS AND RIGHT TO AUDIT**

**5.1** Hydro One Networks shall, for each fiscal year of the Term hereof, including any extension of the initial Term (other than the first year of the initial term), provide GPco with a proposed annual operating, maintenance and capital improvement budget for the subsequent fiscal year of the BM LP (the “**Budget**”) at least sixty (60) days prior to the commencement of the next fiscal year. Such annual Budget shall be accompanied by an annual operating plan prepared by Hydro One Networks setting forth the underlying assumptions and plans in connection with the Budget, and setting forth a brief description of any major system repairs anticipated to be required in such fiscal year. GPco shall



notify Hydro One Networks as soon as reasonably practicable, but no later than thirty (30) days after receipt of the Budget, of any questions, comments, objections or suggested modifications which it may have with respect to such proposed Budget, and the parties shall cooperate with each other in developing a mutually acceptable Budget within thirty (30) days thereof. If GPco fails to raise any questions, comments, objections or suggested modifications to the proposed Budget within thirty (30) days after receipt of the proposed Budget, the proposed Budget shall be deemed to have been approved. The parties acknowledge that they have agreed to an annual Budget for the first fiscal year (or part thereof) of the initial term of this Agreement.

**5.2** Each Budget will represent Hydro One Networks' estimate of all fully allocated costs for providing the Operations Services under this Agreement during the period to which the Budget relates, and its estimate of all capital improvements required for providing the Operations Services, during the period to which the Budget relates.

**5.3** The parties agree that the Budget may be amended from time to time by mutual agreement to reflect revisions necessitated by unanticipated circumstances including, but not limited to, changes in applicable law, additions or deletions to the scope of the Operations Services hereunder, emergencies and Force Majeure events, provided that Hydro One Networks shall not be required to amend the Budget more frequently than would be required under its normal business and operations practices.

**5.4** The Budget shall reflect anticipated costs of Operations Services by Hydro One Networks on a monthly or quarterly basis and shall be organized by categories mutually agreed upon by the parties. If Hydro One Networks becomes aware that the costs of Operations Services for the current fiscal year may exceed the Budget by 5% or more of the total amount of the Budget, Hydro One Networks shall promptly notify GPco of such anticipated budget overrun and provide GPco a proposed amendment to the Budget. GPco shall notify Hydro One Networks as soon as reasonably practicable, but no later than thirty (30) days after receipt of Hydro One Networks' proposed Budget amendment of any questions, comments, objections or suggested modifications thereto and the parties shall cooperate with each other in developing a mutually acceptable amendment to the Budget. If GPco fails to raise any questions, comments, objections or suggested modifications to the proposed Budget amendment within the specified period, Hydro One Networks' proposed amendment shall be deemed to have been approved. Hydro One Networks shall not, without the written approval of GPco amending the Budget or otherwise authorizing such expenditure, perform any further services or incur any further costs that would result in or increase such Budget overrun, except in the case of an emergency as provided in Section 5.7.

**5.5** If by the start of any fiscal year the parties are unable to reach agreement concerning the Budget for such year, then, until such time as agreement is reached, the Budget for such year shall be based on the corresponding portions of the Budget for the

preceding fiscal year, adjusted as follows: (i) with respect to items of expense that do not involve capital additions or improvements, to reflect the net change, if any, between the most recently published Ontario Consumer Price Index, published by Statistics Canada, not seasonally adjusted and the corresponding index in effect twelve months prior, and (ii) with respect to items of expense involving capital additions or improvements, to reflect the net change, if any, between the most recently published Producer Price Index for Capital Equipment, not seasonally adjusted, and the corresponding index in effect twelve months prior.

**5.6** In the event that Hydro One Networks determines that a capital improvement, addition, alteration, repair or replacement not included in the Budget that has an impact of more than 5% of the total amount of the Budget should be made to the BXM Line in order to operate the BXM Line safely or comply with any laws, regulations or orders of any governmental authority, including laws, regulations or orders relating to environmental compliance or employee safety, Hydro One Networks shall provide GPco with a written notice describing the nature of and reason for the improvement, addition, alteration, repair or replacement. Hydro One Networks shall not make any such improvement, addition, alteration, repair or replacement without GPco's prior consent, which consent shall not be unreasonably withheld or delayed. In the event that GPco refuses to approve of any such Hydro One Networks recommended improvement, addition, alteration, repair or replacement, Hydro One Networks shall have the option to terminate this Agreement in accordance with Section 9.3

**5.7** In the event of an accident or emergency relating to the BXM Line, Hydro One Networks may, without obtaining any approvals of GPco which might otherwise be required hereunder, take any action, including, but not limited to, committing or expending funds, deemed by Hydro One Networks to be reasonably necessary under the circumstances. As promptly as reasonably practicable after Hydro One Networks establishes control over such accident or emergency, Hydro One Networks shall furnish to GPco a reasonably detailed written description of the accident or emergency and the manner in which such accident or emergency was handled by Hydro One Networks. Hydro One Networks shall be entitled to compensation for costs incurred pursuant to this Section 5.7 in addition to all other compensation provided for under this Agreement.

**5.8** Except as provided by Section 5.7 in the case of an emergency, Hydro One Networks shall perform all services hereunder in accordance with the annual operating plan accompanying the Budget.

**5.9** The parties hereby agree to keep all necessary and proper accounts and records relating to the subject matter hereof. Such accounts and records, including invoices, receipts, time cards and vouchers shall at all reasonable times be open to audit, inspection and copying by each Party to this Agreement. Accounts and records shall be preserved and kept available for audit for a period of six years.

## **ARTICLE VI: LIMITATION OF LIABILITY AND FORCE MAJEURE EVENTS**

**6.1** Other than for sums payable under this Agreement, Hydro One Networks shall only be liable to BM LP and GPco and BM LP and GPco shall only be liable to Hydro One Networks for any damages that arise directly out of its gross negligence or willful misconduct in meeting its respective obligations under this Agreement. Notwithstanding the generality of the foregoing, neither party shall be liable to the other party under any circumstances whatsoever for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect, consequential or incidental damages, including but not limited to punitive or exemplary damages, whether any of the said liability, loss or damages arise in statute, contract, tort or otherwise.

**6.2** In any event, except with respect to gross negligence or willful misconduct, the total liability of Hydro One Networks to BM LP and GPco and the total liability of BM LP and GPco to Hydro One Networks in connection with this Agreement whether it arises by statute, contract, tort or otherwise, will not exceed the value of the total amounts payable by BM LP and GPco to Hydro One Networks for the Operations Services and Management Services in the year that such liability is incurred.

**6.3** No party shall be liable to the other for any loss, damage or delay, or inability to perform any obligation under this Agreement in whole or in part due to a Force Majeure Event.

**6.4** BM LP will indemnify and save harmless Hydro One Networks providing Operations Services from and against any and all Claims that Hydro One Networks may suffer, sustain or incur in connection with the provision of the Operations Services except to the extent caused or arising from the gross negligence or wilful misconduct of Hydro One Networks.

**6.5** If a Force Majeure Event prevents a party from performing any of its obligations under this Agreement, such party shall (1) expeditiously, and without delay, notify the other party of the Force Majeure Event and its good faith assessment of the effect that the Force Majeure Event will have on its ability to perform any of its obligations, which notice shall be confirmed in writing as soon as reasonably practicable if such immediate notice is not in writing; (2) not be entitled to suspend performance of any of its obligations under the Agreement to any greater extent or for any longer duration than is caused by the Force Majeure Event; (3) use commercially reasonable efforts to mitigate the effects of such Force Majeure Event and to resume full performance of its obligations hereunder; (4) keep the other party informed of such efforts on a continuing basis; and (5) provide written notice to the other party of the resumption of the performance of any obligations affected by the Force Majeure Event.

**6.6** Notwithstanding any of the foregoing, settlement of any strike, lockout, or labour dispute constituting a Force Majeure Event shall be within the sole discretion of the party to the Agreement involved in such strike, lockout, or labour dispute and the requirement that a party must use commercially reasonable efforts to mitigate the effects of a Force Majeure Event and resume full performance hereunder shall not apply to strikes, lockouts, or labour disputes.

## **ARTICLE VII: DISPUTE RESOLUTION PROCEDURES**

**7.1** Any controversy, dispute, difference, question or claim (collectively “Dispute”), arising between the parties in connection with the interpretation, performance, construction or implementation of this Agreement that cannot be resolved by a conference of senior officers of Hydro One Networks and GPco shall be settled in accordance with this section. The aggrieved party shall send the other party written notice identifying the Dispute, the amount involved, if any, and the remedy sought. The Presidents from each party shall confer in an effort to resolve the Dispute. If the Presidents are unable to resolve the Dispute within 5 business days after receipt of the written notice of the Dispute, then a Party may refer the Dispute to adjudication in court or, if all Parties agree, to arbitration before a single arbitrator. Insofar as they do not conflict with this Section 7.1, the Rules for Procedure for Commercial Arbitration of the Arbitration and Mediation Institute of Canada Inc./International Chamber of Commerce Rules of Arbitration in effect at the date of commencement of any arbitration held under this Agreement will apply to the arbitration. A Party may enter any judgment upon any award rendered by the arbitrator in any court having jurisdiction. The arbitration will be conducted in English under the *Arbitration Act, 1991* (Ontario) and will take place in either the City of Toronto or such other place as the Parties may agree and at such time and place as the arbitrator may fix. Notwithstanding the foregoing, if the subject matter of any Dispute is also the subject matter of a Dispute under Section 13 of the Limited Partnership Agreement governing the BM LP, the resolution of the Dispute under the Section 13 of the Limited Partnership Agreement governing the BM LP shall govern and be applicable to the resolution of the Dispute under this Agreement and such matter shall not be subject to further arbitration or adjudication under this Agreement.

## **ARTICLE VIII: CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

**8.1** Each party (the “Receiving Party”) shall maintain in strict confidence this Agreement and the existence and contents thereof and all confidential or proprietary information of the other party, (the “Disclosing Party”) or any of the Disclosing Party’s directors, officers, employees, consultants, agents or legal, financial or professional advisors (the “Disclosing Party Representatives”) (collectively the “Confidential Information”). Except as permitted herein, the Receiving Party shall not publish, reproduce, or disclose, either directly or indirectly, the said Confidential Information to any third party and shall not use the said Confidential Information for any purpose other

than for purposes of this Agreement without the prior written consent of the Disclosing Party. The Receiving Party may disclose the Confidential Information only to its partners, shareholder, directors, officers, employees, consultants, agents, professional advisors or lenders (the “Receiving Party Representatives”) having a need to know same and who have undertaken a like obligation to maintain its confidentiality. For greater certainty, Confidential Information includes any and all personal information (as that term is defined in the *Freedom of Information and Protection of Privacy Act* (Ontario) and the *Personal Information Protection and Electronic Documents Act* (Canada), as they may be amended) and any and all information regarding a consumer, retailer, wholesale buyer, wholesale supplier, or a generator, provided by the Disclosing Party to the Receiving Party for purposes of this Agreement.

**8.2** The Receiving Party undertakes to protect and safeguard all Confidential Information in its possession or under its control and received by the Disclosing Party, in the manner described in Schedule “A” attached hereto. The Disclosing Party may, on reasonable notice, and during regular business hours, audit the information management practices of the Receiving Party to confirm compliance with the terms and conditions of this Article VIII and all applicable statutes, regulations, by-laws, standards and codes, as amended.

**8.3** The Receiving Party undertakes to notify the Disclosing Party immediately upon discovery of any unauthorized use and/or disclosure of any of the Disclosing Party’s Confidential Information, to co-operate with the Disclosing Party to help regain possession of such Confidential Information, and to prevent its further unauthorized use and/or disclosure.

**8.4** The foregoing obligations with respect to confidentiality, use, reproduction, dissemination, publication and non-disclosure herein shall not apply to any information that:

- (i) is previously known to or lawfully in the possession of the Receiving Party prior to the date of disclosure as evidenced by the Receiving Party’s written record;
- (ii) is independently known to or discovered by the Receiving Party, without any reference to the information or material;
- (iii) is obtained by the Receiving Party from an arm's length third party having a bona fide right to disclose same and who was not otherwise under an obligation of confidence or fiduciary duty to the Disclosing Party or the Disclosing Party Representatives;
- (iv) is or becomes public knowledge through no fault or omission of, or breach of this Agreement by, the Receiving Party or the Receiving Party Representatives; or

- (v) is required to be disclosed pursuant to a final judicial or governmental order or other legal process, including, without limitation, an order of or legal process involving a regulatory authority such as the Ontario Energy Board.

**8.5** The parties acknowledge and agree that the Confidential Information (other than Confidential Information contained in this Agreement which shall be jointly owned by the parties) shall remain the sole and exclusive property of the Disclosing Party that has disclosed the Confidential Information, and the Disclosing Party shall retain all right, title and interest in and to the Confidential Information it has disclosed to the Receiving Party.

**8.6** The Receiving Party agrees that it shall keep a record of written Confidential Information furnished to it by the Disclosing Party in a location separate from those locations where the Receiving Party has stored information in respect of other third parties for which it performs work and it shall advise the Disclosing Party of such location.

**8.7** All Confidential Information furnished by the Disclosing Party (other than this Agreement), including that portion of the Confidential Information which is contained in analyses, compilations, studies or other documents prepared by the Receiving Party or by the Receiving Party Representatives, is the Disclosing Party's property and will be returned immediately to the Disclosing Party upon its request except that any information, plans, layouts, specifications, descriptions or other information necessary to the continued operation and maintenance of the BXM Line and its parts and components, or to the replacement of any such parts or components, need not be returned and may be used or applied in the continued operation and maintenance of the BXM Line.

## **ARTICLE IX: TERM AND TERMINATION**

**9.1** This Agreement shall continue in full force and effect for an initial term of five years and unless terminated in accordance with Section 9.2, shall thereafter be automatically renewed for successive periods of five years upon the same terms and conditions.

**9.2** Either party may terminate this Agreement, effective at the end of the then current five-year term, on at least twelve months' prior written notice.

**9.3** Hydro One Networks may terminate this Agreement on 60 days prior written notice in the event that BM LP refuses to approve a capital improvement, addition, alteration, repair or replacement recommended by Hydro One Networks in accordance with Section 5.6.

**9.4** In the event of termination or expiration of this Agreement: (i) Hydro One Networks shall deliver to GPco all books, records and accounts which it has developed and maintained relating solely to the BXM Line or its operations or the business of BM LP and return all property owned by BM LP, and (ii) the Parties shall take all steps as

may be reasonably required to complete any final accounting between them or to provide for the completion of matters contemplated hereunder.

## **ARTICLE X: GENERAL**

**10.1** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**10.2** The rights and obligations of the parties under this Agreement shall at all times be subject to all applicable laws, regulations, orders and directives of any authority of competent jurisdiction, including the OEB, and shall be deemed to be amended to the extent required to comply with same.

**10.3** This Agreement constitutes the entire Agreement between the parties with respect to the Operations Services and Management Services and supersedes all prior oral or written representations and Agreements concerning the subject matter of this Agreement.

**10.4** This Agreement shall extend to, be binding upon and enure to the benefit of the permitted assigns and the respective successors of BM LP, GPco and Hydro One Networks.

**10.5** Neither this Agreement nor any provision hereof is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

**10.6** If any party determines that in its reasonable discretion that any further instruments or other actions seem necessary or desirable to carry out the terms of this Agreement, the other parties shall execute and deliver all such instruments and do all such actions as such parties agree in their reasonable discretion as necessary or desirable to carry out the terms of this Agreement.

**10.7** No delay or failure in exercising any right under this Agreement or any partial or single exercise of any right, will constitute a waiver of that right or any other rights under this Agreement. No consent to a breach of any express or implied term set out in this Agreement constitutes consent to any subsequent breach.

**10.8** If any term, covenant or condition of this Agreement or the application or effect of any such term, covenant or condition is held to be invalid as to any Person, entity or circumstance or is determined to be not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant or condition shall remain in effect to the maximum extent permitted by law and, all other terms, covenants and conditions of this Agreement and their application shall not be affected, but shall remain in full force and effect and the parties shall be relieved of their respective obligations

under this Agreement only to the extent necessary to comply with the court or government agency holding.

**10.9** This Agreement does not and shall not be construed to create or establish a partnership, agency, joint venture, lease, licence or any other relationship between the parties hereto, nor constitute either party as an agent of the other. Neither party hereto shall hold itself out to others by act or omission, contrary to the terms of this Agreement.

**10.10** This Agreement and the rights and obligations hereunder may not be assigned in whole or in part by Hydro One Networks except with the prior written consent of BM LP, in its sole discretion. This Agreement and the rights and obligations hereunder may not be assigned in whole or in part by BM LP other than (i) to the transferee of the BXM Line approved by the OEB, or (ii) with the prior written consent of Hydro One Networks, in its sole discretion.

**10.11** This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be signed and delivered in any number of counterparts, each of which when signed and delivered is an original, but all of which taken together constitute one and the same instrument. This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be delivered by means of facsimile or via e-mail in portable document format (PDF).

***[Remainder of page intentionally left blank]***



**Appendix 6**  
**Hydro One Inc. Board of Director**  
**And**  
**SON Band Council Resolutions**

Hydro One Inc.  
**ADVICE OF DECISION OF BOARD OF DIRECTORS**  
(excerpt from minutes of Board of Directors)

to \_\_\_\_\_ date of meeting June 14, 2012

copies to: File agenda number 2


subject: Bruce to Milton Limited Partnership

Mr. Mueller reported that immediately prior to the Board meeting, the Audit and Finance Committee accepted management's recommendation (subject to minor changes to the resolutions set out in Attachment "A" to the Memorandum submitted to the Committee and to the Board) and passed a motion recommending that the Board of Directors approve the creation of the Bruce to Milton Limited Partnership which would allow the Saugeen Ojibway Nation (the "SON") to invest in the Bruce to Milton Transmission Line. Mr. Mueller reported that the SON had approved the investment. Mr. Mueller also reported that management had not yet received formal approval of the Minister of Energy and the Minister of Finance but expected that approval would be forthcoming shortly.

Ms. Cameron said that this was the first time to her knowledge that a partnership of this nature between an electric utility and First Nations peoples had been created off reserve in Canada. The Chair of the Board said that this was an historic event and the entire Board congratulated management on its achievement.

After consideration, upon motion duly made by Mr. Mueller, seconded by Mr. Cooke, and unanimously carried, it was RESOLVED:

THAT the Board of Directors approve the transfer of the Bruce to Milton Transmission line from Hydro One Networks Inc. ("HONI") to the Bruce-to-Milton Transmission Line Limited Partnership (the "Limited Partnership"), comprised of two wholly-owned HONI subsidiaries, into which the SON will join as a minority limited partner upon receipt of their investment, as well as the necessary agreements and documents required, among other things, to effect the transaction, operate the Limited Partnership, and fund the Limited Partnership, all as more specifically described in the resolutions attached to the Memorandum as Attachment "A" submitted to the Board, subject to the minor changes noted.

  
\_\_\_\_\_  
SECRETARY  
Issued on March 8, 2013

# Hydro One Inc.

Submission to the Board of Directors



**Date:** June 14, 2012

**Subject:** Bruce to Milton Limited Partnership

**INFORMATION COPY**  
**ORIGINAL SIGNED BY**  
**SANDY STRUTHERS**

**Approved for Submission to the Board by:**

Sandy Struthers  
Executive Vice-President and CFO

**INFORMATION COPY**  
**Original Signed By:**  
**Lee Anne Cameron**

Lee Anne Cameron  
Director, First Nations and  
Metis Relations

**INFORMATION COPY**  
**ORIGINAL SIGNED BY**  
**LAURA I. FORMUSA**

Laura Formusa  
President and Chief Executive Officer

## **RECOMMENDATION**

THAT the Board of Directors of Hydro One Inc. approve the transfer of the Bruce to Milton Transmission line from Hydro One Networks Inc. ("HONI") to a limited partnership (the Bruce-to-Milton Transmission Line Limited Partnership) (the "Limited Partnership"), comprised of two wholly-owned HONI subsidiaries, into which partnership the Saugeen Ojibway Nation (the "SON") will join as a minority limited partner upon receipt of their investment, as well as the necessary agreements and documents required, among other things, to effect the transaction, operate the partnership, and fund the partnership, all as more specifically described in the resolutions attached hereto as Attachment "A".

## **KEY HIGHLIGHTS**

- On June 22, 2011, the Board of Directors approved the negotiation of a partnership agreement with the SON on commercial terms, related to the Bruce to Milton Transmission Reinforcement project.
- A limited partnership structure has been developed which would allow the SON to invest directly through its own wholly-owned limited partner in the Limited Partnership, as described in the Master Implementation Agreement (Attachment "B"). The Limited Partnership, which would have its own transmission licence, would hold the transmission line assets of the Bruce to Milton transmission line.
- The transmission line assets are projected to cost \$600 million upon completion with an equity value of \$240 million. The SON would acquire an equity interest of 30% in those assets in exchange for a \$72 million payment. Private equity financing for \$50 million of the purchase price paid by the SON would be guaranteed under the Aboriginal Loan Guarantee Program administered by the Ministry of Finance. Hydro One will provide the SON with Participation Funding (Attachment "D").

This Board Memorandum was reviewed and approved for submission to the Board of Directors of Hydro One Inc. by the Audit and Finance Committee at its meeting on June 14, 2012.



CHIEFS AND COUNCILS  
SAUGEEN OJIBWAY NATION TERRITORIES  
**RESOLUTION**  
**DONOK-NAH-GAHMIN**

THE COUNCILS OF THE SAUGEEN OJIBWAY NATION TERRITORIES  
OGIMAG MEENWA KEEG-DOH-NINIWAG SAUGEEN DAKEEMNONG

**Chippewas of Nawash First Nation**

**Saugeen First Nation**

ONTARIO

**R. R. # 5, Wiarton, Ontario N0H 2L0**

**R. R. # 1, Southampton, Ontario N0H 2L0**

**17** **December** AD 20 **12**

DAY — KEE-SHI-GAG MONTH — GEESIS

DO HEREBY RESOLVE:  
DONOK-NAH-GAHMIN

Moved by, Randal Roote  
Seconded by, Paul Jones

RECITALS:


A. The Chippewas of Nawash Unceded First Nation (“NFN”) and the Chippewas of Saugeen First Nation (“SFN”) have entered into the Anishnaabekiing Naagnigewin Agreement dated June 18, 2012 (the “Anishnaabekiing Naagnigewin Agreement”) with Hydro One Networks Inc. (“HONI”) in respect of a commercial investment by the NFN and SFN in a limited partnership to be formed, (the “Limited Partnership”) which will own and operate high-voltage transmission facilities from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI’s switchyard in Milton, Ontario (the “Transmission Line”).

B. The terms of the Anishnaabekiing Naagnigewin Agreement contemplate that a new corporation to be owned by NFN and SFN (“SOFC”), will enter into a limited partnership agreement (the “Limited Partnership Agreement”), with a corporation that HONI will cause to be formed to act as a general partner of the Limited Partnership (“GPco”) and another corporation that HONI will cause to be formed to act as the initial limited partner of the Limited Partnership (“HO LPco”).

(“HO LPco”).


  
(Chief — OGIMAH)  
**CHIPPEWAS OF NAWASH**  
  
(Councillor — KEEG-DOH-NINI)

....continued

  
(Chief — OGIMAH)  
**CHIPPEWAS OF SAUGEEN**

(Councillor — KEEG-DOH-NINI)



  
(Councillor — KEEG-DOH-NINI)  
  
(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)  
  
(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)  
(Councillor — KEEG-DOH-NINI)

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(Councillor — KEEG-DOH-NINI)  


(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

Chippewas of Saugeen, R.R. 1, Southampton, Ont. N0H 2L0  
Chippewas of Nawash, R.R. 5, Wiarton, Ont. N0H 2T0

(519) 797-2781  
(519) 534-1689





CHIEFS AND COUNCILS  
SAUGEEN OJIBWAY NATION TERRITORIES  
**RESOLUTION**  
**DONOK-NAH-GAHMIN**

THE COUNCILS OF THE SAUGEEN OJIBWAY NATION TERRITORIES  
OGIMAG MEENWA KEEG-DOH-NINIWAG SAUGEEN DAKHEMNONG

**Chippewas of Nawash First Nation**

**Saugeen First Nation**

ONTARIO

**R. R. # 5, Wiarton, Ontario N0H 2L0**

**R. R. # 1, Southampton, Ontario N0H 2L0**

**17**

**December**

**AD 20**<sup>**12**</sup>

DAY — KEE-SHI-GAG MONTH — GEESIS

DO HEREBY RESOLVE;

DONOK-NAH-GAHMIN

**MOTION NO. 03 (continued)**

C. Under the proposed terms of the Limited Partnership Agreement, SOFC will contribute equity to the Limited Partnership and acquire a limited partnership interest in the Limited Partnership.

D. In the course of negotiating the terms of the Limited Partnership Agreement, HONI, FNF and SFN have agreed that additional matters need to be addressed in the formation of the Limited Partnership, including allowing HONI to transfer GPco and HO LPco to its parent corporation, Hydro One Inc. ("Hydro One") and the seeking of additional tax rulings sought by Hydro One and HONI which should be addressed in an additional letter agreement amongst Hydro One, HONI, FNF and SFN (the "Letter Agreement").

E. Subject to the approval of the Band Councils of each of NFN and SFN and the Board of Directors of Hydro One and HONI, a draft letter to amend the Anishnaabeking Naagnigewin Agreement (the "Letter Agreement") which will attach a draft of the Limited Partnership Agreement, which in turn has attached a draft of the agreement to be entered into between the Limited Partnership and HONI for the operation of the Transmission Line (the "Operations Agreement") have been prepared. It is proposed that the Letter Agreement be signed this week and the Limited Partnership Agreement and the Operations Agreement be signed after the conditions set out in the Anishnaabeking Naagnigewin Agreement are satisfied.

...continued

(Chief — OGIMAH)

**CHIPPEWAS OF NAWASH**

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Chief — OGIMAH)

**CHIPPEWAS OF SAUGEEN**

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

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(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

Chippewas of Saugeen, R.R. 1, Southampton, Ont. N0H 2L0

Chippewas of Nawash, R.R. 5, Wiarton, Ont. N0H 2T0

(519) 797-2781

(519) 534-1689



CHIEFS AND COUNCILS  
SAUGEEN OJIBWAY NATION TERRITORIES  
**RESOLUTION**  
**DONOK-NAH-GAHMIN**

THE COUNCILS OF THE SAUGEEN OJIBWAY NATION TERRITORIES  
OGIMAG MEENWA KEEG-DOH-NINIWAG SAUGEEN DAKEEMNONG

Chippewas of Nawash First Nation	Saugeen First Nation
ONTARIO <b>R. R. # 5, Wiarton, Ontario N0H 2L0</b>	<b>R. R. # 1, Southampton, Ontario N0H 2L0</b>

**17**      **December**    AD 20    **12**  
DAY — KEE-SHI-GAG    MONTH — GEESIS

**MOTION NO. 03(continued)**

DO HEREBY RESOLVE:  
DONOK-NAH-GAHMIN

F.      The Joint Band Council has concluded that it is necessary and desirable for NFN and SFN to enter into and perform their obligations under the Letter Agreement.

BE IT RESOLVED THAT:

1. The Letter Agreement is approved by the Joint Band Council and Chief Scott Lee is authorized and directed to present to the Band Council for NFN and Chief Randall Kahgee is authorized and directed to present to the Band Council for the SFN the Letter Agreement for approval.

The foregoing resolutions are approved and signed by a quorum of the members of the Joint Band Council of the Chippewas of Nawash Unceded First Nation and the Chippewas of Saugeen First Nation in accordance with the Indian Act (Canada).

12 in favor

**Carried**

  
(Chief — OGIMAH)  
**CHIPPEWAS OF NAWASH**

  
(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

  
(Chief — OGIMAH)  
**CHIPPEWAS OF SAUGEEN**

(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

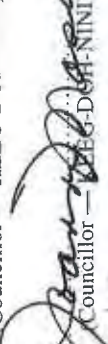
(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

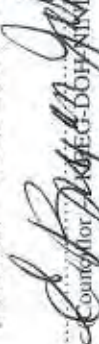
(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

(Councillor — KEEG-DOH-NINI)

  
(Councillor — KEEG-DOH-NINI)

Chippewas of Saugeen, R.R. 1, Southampton, Ont. N0H 2L0  
Chippewas of Nawash, R.R. 5, Wiarton, Ont. N0H 2T0

(519) 797-2781  
(519) 534-1689





**SAUGEEN FIRST NATION # 29  
BAND COUNCIL RESOLUTION  
OGIMAKANUK ENENBAM NOWAD**

**Saugeen Band  
Ph: 519-797-2781  
Fax: 519-797-2978**

The Council of the Saugeen First Nation # 29  
Ogimahkanuk Sauking

Bruce Agency

Ontario, N0H 2L0

17 December AD 2012

Day - Kejick Month - Geesis

MOTION NO. 02(continued)

E. Subject to the approval of the Band Councils of each of NFN and SFN and the Board of Directors of Hydro One and HONI, a draft letter to amend the Anishnaabekiing Naagnigewin Agreement (the "Letter Agreement") which will attach a draft of the Limited Partnership Agreement, which in turn has attached a draft of the agreement to be entered into between the Limited Partnership and HONI for the operation of the Transmission Line (the "Operations Agreement") have been prepared. It is proposed that the Letter Agreement be signed this week and the Limited Partnership Agreement and the Operations Agreement be signed after the conditions set out in the Anishnaabekiing Naagnigewin Agreement are satisfied.

F. The Joint Band Council has concluded that it is necessary and desirable for NFN and SFN to enter into and perform their obligations under the Letter Agreement.

**BE IT RESOLVED THAT:**

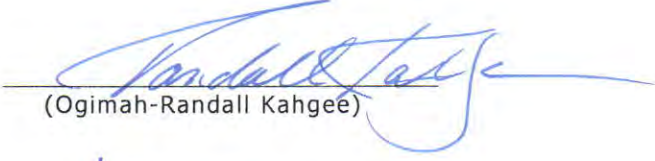
1. The Letter Agreement is approved by the Joint Band Council and Chief Scott Lee is authorized and directed to present to the Band Council for NFN and Chief Randall Kahgee is authorized and directed to present to the Band Council for the SFN the Letter Agreement for approval.

The foregoing resolutions are approved and signed by a quorum of the members of the Joint Band Council of the Chippewas of Nawash Unceded First Nation and the Chippewas of Saugeen First Nation in accordance with the Indian Act (Canada).

G.

5 in favor

Carried

  
(Ogimah-Randall Kahgee)

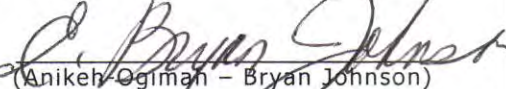
  
(Anikeh-Ogimah-Randal Roote)

  
(Anikeh-Ogimah- Ken Roote)

  
(Anikeh-Ogimah - Vernon Roote)

  
(Anikeh-Ogimah-Sonya Roote)

  
(Anikeh-Ogimah- Stacey John)

  
(Anikeh-Ogimah - Bryan Johnson)

  
(Anikeh-Ogimah-Letitia Thompson)

  
(Anikeh-Ogimah-Clinton Root)

  
(Anikeh-Ogimah - Joanne Mason)





**SAUGEEN FIRST NATION # 29  
BAND COUNCIL RESOLUTION  
OGIMAKANUK ENENBAM NOWAD**

**Saugeen Band  
Ph: (519) 797-2781  
Fax: (519) 797-2978**

The Council of the Saugeen First Nation # 29  
Ogimahkanuk Sauking

Bruce Agency

Ontario, NOH 2L0

17 December AD 2012  
Day - Kejick Month - Geesis

MOTION NO. 02

Moved by, Sonya Roote  
Seconded by, Joanne Mason

RECITALS:

A. The Chippewas of Nawash Unceded First Nation ("NFN") and the Chippewas of Saugeen First Nation ("SFN") have entered into the Anishnaabekiing Naagnigewin Agreement dated June 18, 2012 (the "Anishnaabekiing Naagnigewin Agreement") with Hydro One Networks Inc. ("HONI") in respect of a commercial investment by the NFN and SFN in a limited partnership to be formed, (the "Limited Partnership") which will own and operate high-voltage transmission facilities from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI's switchyard in Milton, Ontario (the "Transmission Line").

B. The terms of the Anishnaabekiing Naagnigewin Agreement contemplate that a new corporation to be owned by NFN and SFN ("SOFC"), will enter into a limited partnership agreement (the "Limited Partnership Agreement"), with a corporation that HONI will cause to be formed to act as a general partner of the Limited Partnership ("GPco") and another corporation that HONI will cause to be formed to act as the initial limited partner of the Limited Partnership ("HO LPco").

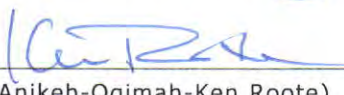
C. Under the proposed terms of the Limited Partnership Agreement. SOFC will contribute equity to the Limited Partnership and acquire a limited partnership interest in the Limited Partnership.

D. In the course of negotiating the terms of the Limited Partnership Agreement, HONI, FNF and SFN have agreed that additional matters need to be addressed in the formation of the Limited Partnership, including allowing HONI to transfer GPco and HO LPco to its parent corporation, Hydro One Inc. ("Hydro One") and the seeking of additional tax rulings sought by Hydro One and HONI which should be addressed in an additional letter agreement amongst Hydro One, HONI, NFN and SFN (the "Letter Agreement").

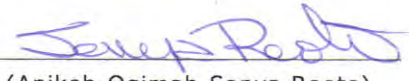
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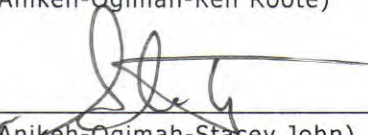
  
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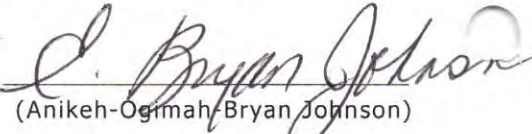
  
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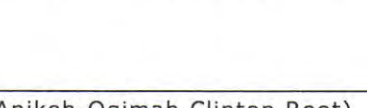
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(Anikeh-Ogimah-Sonya Roote)

  
(Anikeh-Ogimah-Stacey John)

  
(Anikeh-Ogimah-Bryan Johnson)

  
(Anikeh-Ogimah-Letitia Thompson)

  
(Anikeh-Ogimah Clinton Root)

  
(Anikeh-Ogimah-Joanne Mason)





**CHIPPEWAS OF NAWASH**  
**BAND COUNCIL RESOLUTION**  
(DONOK-NAH-GAHMIN)

FILE REFERENCE

The Council of the **CHIPPEWAS OF NAWASH FIRST NATION**  
Of **Southern Ontario/Bruce District**  
In the Province of **Ontario**

On the Fifth of June AD 2012  
(Day) - Kee-shi-gag (Month) - Geezis

Current Capital Balance	\$ _____
Committed	\$ _____
Current Revenue Balance	\$ _____
Committed	\$ _____

DO HEREBY RESOLVE:

**MOTION NO. 135, (page 1 of 2)**

Moved by Paul Jones, Seconded by Isabel Millette,

**RECITALS:**

- A. The Chippewas of Nawash Unceded First Nation ("NFN") and the Chippewas of Saugeen First Nation ("SFN"), propose to enter into a master implementation agreement, a copy of which is attached hereto (the "**Master Agreement**") with Hydro One Network Inc. ("HONI") in respect of a commercial investment by the NFN and SFN in a limited partnership to be formed, ("**Limited Partnership**") which will own and operate high-voltage transmission facilities from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI's switchyard in Milton, Ontario.
- B. The terms of the Master Agreement contemplate that the new corporation formed by the NFN and SFN, the Saugeen Ojibway Finance Corporation, ("SOFC") will enter into a limited partnership agreement (the "**Limited Partnership Agreement**"), with a corporation that HONI will cause to be formed to act as a general partner of the Limited Partnership ("GPco") and another corporation that HONI will cause to be formed to act as the initial limited partner of the Limited Partnership ("HO LPco").
- C. Under the proposed terms of the Limited Partnership Agreement, SOFC will contribute equity to the Limited Partnership and acquire a limited partnership interest in the Limited Partnership.
- D. NFN and SFN propose to enter into a Nominee Agreement (the "**Nominee Agreement**"), pursuant to which SOFC will act as the nominee and agent for and on behalf of the NFN and SFN.
- E. In order to finance the equity contribution contemplated by the Master Agreement, SOFC will seek to borrow money from a lender under a loan agreement (the "Loan Agreement") which SOFC will seek to be guaranteed by Her Majesty the Queen in Right of Ontario as represented by the Minister of Finance under the Aboriginal Loan Guarantee Program administered by the Province of Ontario.
- F. Under the proposed terms of a letter agreement between HONI, NFN and SFN, a copy of which is attached hereto ("the **Funding Letter Agreement**"), HONI will agree to fund the actual costs incurred by NFN and SFN (including the cost of its advisors) concerning the negotiation, financing and acquisition of the partnership interest of NFN and SFN in the Limited Partnership, subject to the budget and other terms set out in the Funding Letter Agreement.

Quorum: 5

(Chief - OGIMAA)

(Councillor - KEEG-DOH-NINI)

(Councillor - KEEG-DOH-NINI)

(Councillor - KEEG-DOH-NINI)

(Councillor - KEEG-DOH-NINI)

(Councillor - KEEG-DOH-NINI)

(Councillor - KEEG-DOH-NINI)

(Councillor - KEEG-DOH-NINI)

(Councillor - KEEG-DOH-NINI)

(Councillor - KEEG-DOH-NINI)

**"CAUTION - - CONFIDENTIAL - - CAUTION"**

This Resolution, and any documents accompanying this Resolution, contain information belonging to the Chippewas of Nawash First Nation, which is CONFIDENTIAL. Any publication or dissemination of this document by any party other than the Chippewas of Nawash First Nation is a breach of confidence and a breach of the privacy rights of this First Nation.

RECOMMENDED

APPROVED

DATE

RECOMMENDING OFFICER

DATE

APPROVING OFFICER





CHIPPEWAS OF NAWASH  
BAND COUNCIL RESOLUTION  
(DONOK-NAH-GAHMIN)

FILE REFERENCE

The Council of the **CHIPPEWAS OF NAWASH FIRST NATION**  
Of **Southern Ontario/Bruce District**  
In the Province of **Ontario**

On the Fifth of June AD 2012  
(Day) - Kee-shi-gag (Month) - Geezis

Current Capital  
Balance \$ \_\_\_\_\_  
Committed \$ \_\_\_\_\_  
Current Revenue  
Balance \$ \_\_\_\_\_  
Committed \$ \_\_\_\_\_

DO HEREBY RESOLVE:

MOTION NO. 135, (page 2 of 2)

- G. The Band Council has concluded that it is necessary and desirable for NFN to enter into and perform its obligations under the Master Agreement and the Funding Letter Agreement.
- H. The Band Council has concluded that it is necessary and desirable for NFN to retain counsel and financial advisors to assist it in negotiating and settling the Limited Partnership Agreement, the Nominee Agreement, the Loan Agreement and such other documents as may be necessary and or incidental to implementing the transactions described in this resolution (the “**Transaction Documents**”), which documents will be presented to Band Council for their review approval.

BE IT RESOLVED THAT:

- NFN is authorized to enter into, execute, deliver and perform its obligations under the Master Agreement and the Funding Letter Agreement and Chief Scott Lee is authorized and directed, for and on behalf of NFN, to sign the Master Agreement amendments or variations thereto as he may approve, his execution of the Master Agreement and the Funding Letter Agreement to be conclusive evidence of such approval, and the document so executed is the Master Agreement and Funding Letter Agreement authorized by this resolution.
- NFN authorizes the law firms of and Pape Salter Teillet, Barristers and Solicitors and McMillian LLP and the financial advisor Yovhan Burega to assist in negotiating and settling the Transaction Documents.
- The Transaction Documents shall be presented to Band Council for their review and approval prior to their execution on behalf of NFN by the person so appointed by the Band Council.

5 for  
Carried.

Quorum: 5

[Signature]  
(Councillor - KEEG-DOH-NINI)

[Signature]  
(Councillor - KEEG-DOH-NINI)

[Signature]  
(Councillor - KEEG-DOH-NINI)

[Signature]  
(Chief - OGIMAA)

[Signature]  
(Councillor - KEEG-DOH-NINI)

[Signature]  
(Councillor - KEEG-DOH-NINI)

[Signature]  
(Councillor - KEEG-DOH-NINI)

[Signature]  
(Councillor - KEEG-DOH-NINI)

[Signature]  
(Councillor - KEEG-DOH-NINI)

[Signature]  
(Councillor - KEEG-DOH-NINI)

**“CAUTION - - CONFIDENTIAL - - CAUTION”**

This Resolution, and any documents accompanying this Resolution, contain information belonging to the Chippewas of Nawash First Nation, which is CONFIDENTIAL. Any publication or dissemination of this document by any party other than the Chippewas of Nawash First Nation is a breach of confidence and a breach of the privacy rights of this First Nation.

RECOMMENDED

APPROVED

DATE

RECOMMENDING OFFICER

DATE

APPROVING OFFICER

**Appendix 7**  
**LP Agreement**

**AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT**

For

**[BRUCE-TO-MILTON L.P.]**

among:

**[BRUCE-TO-MILTON GP INC.]**  
**[NTD: GP ENTITY TO BE DETERMINED]**

- and –

**[HOI BTM HOLDINGS INC.]**  
**[NTD: HOI LP ENTITY TO BE DETERMINED]**

-and-

**[SON BTM HOLDINGS INC.]**  
**[NTD: SON LP ENTITY TO BE DETERMINED]**

Made effective as of the

● day of ●, 2014

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## AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT

THIS AGREEMENT is made effective as of the [●] day of [●], 2014

BETWEEN:

**HOI BTM HOLDINGS INC.** a corporation  
incorporated under the laws of the Province of Ontario

(the “**HOI BtM Partner**”)

[NTD: Name of entity to be determined.]

- and -

**[SON BTM HOLDINGS INC.]** a corporation  
incorporated under the laws of the Province of Ontario

(the “**SON BtM Partner**”)

[NTD: Name of entity to be determined.]

- and -

**[BRUCE-TO-MILTON GP INC.]** a corporation  
incorporated under the laws of the Province of Ontario

(the “**General Partner**”)

[NTD: Name of entity to be determined.]

WHEREAS:

- A. **[Bruce-to-Milton L.P.]** (the “**Partnership**”) was formed as a limited partnership under the laws of the Province of Ontario on ●, 2014 by the filing of a declaration pursuant to the *Limited Partnerships Act* (Ontario) (the “**Declaration**”).
- B. **[Bruce-to-Milton GP Inc.]**, as the initial general partner, and HOI BtM Partner as the initial limited partner, entered into a limited partnership agreement dated as of ●, 2013 governing the business and affairs of the Partnership (the “**Initial Partnership Agreement**”).
- C. Subject to the terms of this Agreement, the Parties wish to own and cause to be operated and maintained the second high-voltage electrical transmission tower line spanning approximately 180 kilometres from the Bruce Power nuclear generating facility located in Kincardine, Ontario to HONI’s switchyard in Milton, Ontario (the “**Line**”) for which

HONI was granted leave to construct from the OEB on September 15, 2008 and which was placed in-service on May 14, 2012;

- D. The Parties wish to formalize a long-term cooperative arrangement between the Partners to facilitate the participation of the SON in the ownership of the Line and the participation of the SON in the cash flows from the operation of the Line until it is no longer operated or until the Partnership is terminated; and
- E. In order to undertake the foregoing, the Parties wish to amend and restate the Initial Partnership Agreement to admit SON BtM Partner as a limited partner and to provide for certain changes to the terms and conditions set forth in the Initial Limited Partnership Agreement as set out in this Agreement.

NOW THEREFORE, for value received, the Parties agree as follows:

## **ARTICLE 1 DEFINITIONS**

### **1.1 Definitions**

In this Agreement, the following terms have the respective meanings set out below:

- (a) **“Additional Equity Contribution”** has the meaning given to it in Section 5.9.
- (b) **“Adjusted Annual Distributable Cash”** for a Fiscal Year of the Partnership means an amount equal to the aggregate of (i) the Annual Distributable Cash of the Partnership for that Fiscal Year, and (ii) the Negative Tax Allowance of the Partnership for that Fiscal Year.
- (c) **“Adjusted Forecasted Distributable Cash”** for a fiscal quarter of the Partnership means an amount equal to the aggregate of (i) the forecasted Distributable Cash of the Partnership for that fiscal quarter on the basis of a forecast operating budget of the Partnership to be prepared by the General Partner, acting reasonably, and (ii) the forecasted Negative Tax Allowance of the Partnership for that fiscal quarter.
- (d) **“ADRIC”** has the meaning given to it in Section 13.3.
- (e) **“Advance”** has the meaning given to it in Section 5.13(b)(ii)(1).
- (f) **“Affiliate”** means, with respect to a Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the first Person. For the purposes of this definition, a Person **“controls”** another Person, if that Person directly or indirectly possesses the power to direct or cause the direction of the management and policies of that other Person, whether through the ownership of securities, by contract or by any other means and **“controlled by”** and **“under common control with”** have corresponding meanings.

- (g) **“Agreement”** means this agreement, including any recitals and schedules, as the same may be amended, supplemented or restated from time to time.
- (h) **“Annual Advance Amount”** has the meaning given to it in Section 5.13(f)(i).
- (i) **“Annual Designated Advance Amount”** has the meaning given to it in Section 5.13(e)(i).
- (j) **“Annual Distributable Cash”** has the meaning given to it in Section 5.13(c)(i)(3);
- (k) **“Applicable Laws”** in respect of any Person, property, transaction or event, means all applicable laws, statutes, regulations, by-laws, codes, treaties, judgments and decrees applicable to that Person, property, transaction or event at the applicable time and, whether or not having the force of law, all applicable requirements, requests, directives, rules, consents, approvals, authorizations, guidelines, instructions, circulars, manuals, orders and policies of any Governmental Authority having or purporting to have authority over that Person, property, transaction or event at the applicable time.
- (l) **“Approved Net Income (Loss)”** for a Fiscal Year means (i) the forecasted Net Income, expressed as a positive number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year, or (ii) the forecasted Net Loss, expressed as a negative number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year.
- (m) **“Approved OEB Rates”** for a Fiscal Year means the aggregate amount that the Partnership is entitled to charge for transmission rates for that Fiscal Year, as approved by the OEB.
- (n) **“Approved Tax Amount”** for a Fiscal Year means the total of (i) the amount, if any, expressed as a positive number, that was included in the Approved OEB Rates for that Fiscal Year on account of HOI BtM Taxes, including any additional amount included in such Approved OEB Rates as a gross-up to reflect the fact that such increased amounts will be subject to Taxes, and (ii) the amount, if any, expressed as a negative number, that resulted in a reduction of the Approved OEB Rates for that Fiscal Year on account of any projected savings of Income Taxes or Capital Taxes arising from a forecasted Taxable Loss for that Fiscal Year.
- (o) **“Approved Tax Percentage”** for a Fiscal Year means the percentage obtained by dividing (i) the Approved Tax Amount for that Fiscal Year, by (ii) the Approved Taxable Income (Loss) for that Fiscal Year.

- (p) **“Approved Taxable Income (Loss)”** for a Fiscal Year means (i) the forecasted Taxable Income, expressed as a positive number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year, or (ii) the forecasted Taxable Loss, expressed as a negative number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year.
- (q) **“ARC”** means the *Affiliate Relationships Code for Electricity Distributors and Transmitters* issued by the OEB in accordance with the *Ontario Energy Board Act, 1998*.
- (r) **“Arm’s Length”** has the meaning that it has for purposes of the Income Tax Act.
- (s) **“BtM LP Promissory Note”** means that certain promissory note dated ●, 2014 in the principal amount of \$● issued by the Partnership to the General Partner.
- (t) **“BtM Project Assets”** means the assets comprising the Line, including the Line Property Rights, but excluding the Interconnection Assets and the Fiber.
- (u) **“BtM Project Asset Value”** means the net book value of the BtM Project Assets which are in-service at Closing.
- (v) **“Business Day”** means any day, other than a Saturday or Sunday, on which the Toronto-Dominion Bank in Toronto is open for commercial banking business during normal banking hours.
- (w) **“Buying Partner”** has the meaning given to it in Section 9.4.
- (x) **“Capital Account”** means the capital account for each Partner referred to in Section 5.1.
- (y) **“Capital Taxes”** means any federal, provincial or local capital taxes calculated by reference either directly or indirectly to the assets, liabilities, or working capital of the Partnership, together with any interest, penalties or additions to such taxes and including, for greater certainty, all payments to the Province of Ontario in lieu of any of the foregoing and grants to communities or municipalities in lieu of any of the foregoing.
- (z) **“Change of Control”** means any assignment or other disposition of the shares or units of a Partner or of any Person that controls, directly or indirectly, that Partner that results in a change of control of that Partner or that Person.
- (aa) **“Claims”** means all losses, costs, damages, expenses, injuries, liabilities, claims, demands and penalties, including reasonable legal

fees, experts' fees and court costs, whether incurred through settlement or otherwise, and interest on each of these items, in each case whether arising prior to or after the termination of this Agreement.

- (bb) **“Closing”** means the completion of the transactions set out in Section 3.4 of the Master Implementation Agreement.
- (cc) **“Declaration”** means the declaration filed with the Registrar, forming the Partnership pursuant to the Limited Partnerships Act, as amended from time to time.
- (dd) **“Decommissioning Work”** means all work necessary for the decommissioning of the Line in accordance with Applicable Laws, Project Agreements and Project Approvals.
- (ee) **“Deemed Year End”** has the meaning given to it in Section 5.17.
- (ff) **“Default Amount”** has the meaning given to it in Section 9.3.
- (gg) **“Default Amount Notice”** has the meaning given to it in Section 9.3(a).
- (hh) **“Defaulting Partner”** has the meaning given to it in Section 9.1(a).
- (ii) **“Delta Income”** for a Fiscal Year means the (positive or negative) amount determined by subtracting the Approved Net Income (Loss) for that Fiscal Year, from the Net Income (or, if applicable, the Net Loss expressed as a negative number) for that Fiscal Year.
- (jj) **“Designated Advance”** has the meaning given to it in Section 5.13(c)(ii).
- (kk) **“Designated Distribution”** has the meaning given to it in Section 5.13(c)(i).
- (ll) **“Designated Distribution Net Income Shortfall”** at any time means the amount, if any, by which the aggregate amount of the Designated Distributions that have been paid to the General Partner pursuant to Section 5.13 prior to that time exceed the aggregate amount of the Net Income of the Partnership that has been allocated to the General Partner pursuant to Section 5.16(b)(i) prior to that time.
- (mm) **“Designated Distribution Note”** has the meaning given to it in Section 5.13(c)(i).
- (nn) **“Designated Distribution Taxable Income Shortfall”** at any time means the amount, if any, by which the aggregate amount of the Designated Distributions that have been paid to the General Partner pursuant to Section 5.13 prior to that time exceed the aggregate amount of the Taxable Income of the Partnership that has been allocated to the General Partner pursuant to Section 5.16(a)(i) prior to that time.

- (oo) **“Dispute”** any dispute, disagreement or difference of opinion concerning this Agreement or the performance or interpretation thereof.
- (pp) **“Distributable Cash”** means available cash of the Partnership after paying (i) all amounts owing under the Operations Agreement, (ii) debt service obligations in respect of all debt obligations owed by the Partnership, (iii) Designated Advances and amounts in satisfaction of Designated Distribution Notes pursuant to Section 5.13(e)(i)(2) (and after receiving amounts in satisfaction of Designated Advances due by the General Partner pursuant to Section 5.13(e)(ii)(2)), and (iv) any transaction costs or other costs borne by HONI and the General Partner in respect of the transactions contemplated in the Master Implementation Agreement, the BtM Project Assets or the Partnership to the extent such costs are collected in the Approved OEB Rates.
- (qq) **“Distribution”** has the meaning given to it in Section 5.13(c)(iii).
- (rr) **“Distribution Note”** has the meaning given to it in Section 5.13(c)(iv).
- (ss) **“Dollars”** or **“\$”** means Canadian dollars, being the lawful currency of Canada.
- (tt) **“Due Date”** has the meaning given to it in Section 5.10(a)(iv).
- (uu) **“Effective Date”** means the [●] day of [●], 2014.
- (vv) **“Electricity Act”** means *Electricity Act, 1998* (Ontario).
- (ww) **“Equity Contribution”** means the amount of money, or the value of property or assets (as agreed by the Parties), contributed to the capital of the Partnership by a Partner from time to time.
- (xx) **“Equity Contribution Request”** has the meaning given to it in Section 5.9.
- (yy) **“Event of Default”** has the meaning given to it in Section 9.1(a).
- (zz) **“Excess ARC Costs”** means that portion of the Excess Costs which are incurred or paid as a result of a rate or rates charged by the Affiliate of the General Partner being greater than the rate permitted under the ARC.
- (aaa) **“Excess Costs”** means the amount by which (i) an amount paid by the General Partner on behalf of the Partnership to an Affiliate of the General Partner or a cost incurred by the General Partner under an agreement with an Affiliate of the General Partner, exceeds (ii) the amount recoverable by the Partnership under the Approved OEB Rates.
- (bbb) **“Excess Non-GUP Costs”** means that portion of the Excess Costs which are incurred or paid as a result of services provided by the

Affiliate of the General Partner not being performed in accordance with Good Utility Practice.

- (ccc) **“Fair Market Value”** means, with respect to Units, the price of the Units as determined in an open and unrestricted market between informed prudent parties, acting at Arm’s Length and under no compulsion to act, expressed in terms of money or money’s worth.
- (ddd) **“Fiber”** means the fiber optic cable attached to the transmission towers along the Line which forms part of the HONI protection and control network and is owned by HONI.
- (eee) **“FIPPA”** has the meaning given to it in Section 14.1.
- (fff) **“Fiscal Year”** means the fiscal year of the Partnership determined in accordance with Section 3.5.
- (ggg) **“GAAP”** means generally accepted accounting principles in effect in the United States of America, including those approved or recommended from time to time by the Financial Accounting Standards Board or any successor institution applicable as of the date on which such calculation, position or determination is made, taken or required to be made or taken or such other accounting principles required by any ruling of the OEB applicable to the Partnership.
- (hhh) **“General Partner”** means, at any time, any Party who has executed this Agreement as a general partner or who has otherwise agreed to be bound by the terms of this Agreement as a general partner of the Partnership. The initial General Partner is [**Bruce-to-Milton GP Inc.**].
- (iii) **“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in North America during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in North America.
- (jjj) **“Governmental Authority”** means any domestic or foreign government, including, any federal, provincial, state, territorial, county, municipal or local government, and any government established court, agency, tribunal, commission or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or respecting, government.

- (kkk) “**GST/HST**” means goods and services tax imposed under Part IX of the *Excise Tax Act* (Canada) as amended, or any successor or parallel legislation, including provincial legislation providing for a value added or ad valorem tax on goods and services.
- (lll) “**HONI**” means Hydro One Networks Inc.
- (mmm) “**HOI BtM Taxes**” means Income Taxes and Capital Taxes attributable to the General Partner or any Affiliate of the General Partner in respect of the Partnership.
- (nnn) “**HONI Initial Costs**” has the meaning given to it in Section 5.7.
- (ooo) “**Hydro One**” means Hydro One Inc.
- (ppp) “**Income Tax Act**” means the *Income Tax Act* (Canada).
- (qqq) “**Income Taxes**” means any federal, provincial, municipal or foreign Taxes (i) based upon, measured by or calculated with respect to, net income, income as specially defined, earnings, profits or selected items of income, earnings or profits, or (ii) based upon, measured by or calculated with respect to multiple bases if one or more of the bases on which such Taxes may be based, measured by or calculated with respect to, is described in paragraph (i) above, in each case together with any interest, penalties or additions to such Taxes and including, for greater certainty, all payments to the Province of Ontario in lieu of any of the foregoing and grants to communities or municipalities in lieu of any of the foregoing.
- (rrr) “**Indemnified Group**” has the meaning given to it in Section 8.3(a).
- (sss) “**Indian Act**” means the *Indian Act* (Canada).
- (ttt) “**Initial Partnership Agreement**” has the meaning given to it in Recital B.
- (uuu) “**Interconnection Assets**” means all sub-station facilities and assets relating to the interconnection of the Line to HONI’s transmission system.
- (vvv) “**Lending Partner**” has the meaning given to it in Section 5.10(f).
- (www) “**Limited Partner**” means, at any time, any Party who has executed this Agreement as a limited partner or who has otherwise agreed to be bound by the terms of this Agreement as a limited partner of the Partnership, including [SON BtM Partner] and [HOI BtM Partner].
- (xxx) “**Limited Partnerships Act**” means the *Limited Partnerships Act* (Ontario).



- (yyy) **“Line”** has the meaning given to it in Recital C, and for greater certainty the Line does not include the Interconnection Assets or the Fiber.
- (zzz) **“Line Property Rights”** means the interests in real property or licenses over real property interests in respect of the Line which are required to operate and maintain the BtM Project Assets and which were transferred or licensed to the Partnership by HONI.
- (aaaa) **“Losses”** means in respect of a Person and in relation to a matter, any and all losses, damages, costs, expenses, charges (including all penalties, assessments and fines) which that Person suffers, sustains, pays or incurs in connection with that matter and includes reasonable costs of legal counsel (on a solicitor and his own client basis) and other professional advisors and consultants and reasonable costs of investigating and defending Claims arising from the matter if those Claims are sustained and also includes interest, penalties, Taxes (other than Income Taxes) on a settlement payment or damage award in respect of that matter but does not include consequential or indirect losses or loss of profit.
- (bbbb) **“Master Implementation Agreement”** means the Anishnaabekiing Naagnigewin Agreement dated June 18, 2012 between the SON and HONI, as amended and supplemented by the Side Letter.
- (cccc) **“Negative Tax Allowance”** for a Fiscal Year means (i) if the Tax Allowance for that Fiscal Year is less than zero, the absolute value of the Tax Allowance for that Fiscal Year; or (ii) if the Tax Allowance for that Fiscal Year is greater than zero, nil.
- (dddd) **“Net Income”** and **“Net Loss”** means net income or net loss of the Partnership in any Fiscal Year determined in accordance with GAAP.
- (eeee) **“Non-Electing Partner”** has the meaning given to it in Section 5.10(d).
- (ffff) **“OEB”** means the Ontario Energy Board.
- (gggg) **“Operating Budget”** means the operating budget of the General Partner for a Fiscal Year which provides for all costs and expenses to be incurred by the General Partner in connection with its performance of its duties under this Agreement.
- (hhhh) **“Operations Agreement”** has the meaning given to it in Section 4.3.
- (iiii) **“Partner”** means, at any time, any Person who has executed this Agreement or who has otherwise agreed to be bound as a Party to this Agreement and includes any General Partner and any Limited Partner.

- (jjjj) **“Partnership”** means **“[Bruce-to-Milton L.P.] [NTD: Confirm name]”**, a limited partnership formed under the laws of the Province of Ontario.
- (kkkk) **“Partnership Account”** means the bank account opened in the name of the Partnership by the General Partner pursuant to Section 6.14.
- (llll) **“Partnership Assets”** means the BtM Project Assets, the Project Approvals, the Project Agreements, all rights and benefits received or receivable by the Partnership under the Project Agreements and any other undertaking, property or assets acquired from time to time by or on behalf of the Partnership, including the rights or benefits attached thereto or associated therewith but, for greater clarity, excluding the Interconnection Assets.
- (mmmm) **“Partnership Interest”** means, in respect of a Partner at any time, such Partner’s ownership interest in the Partnership, expressed as a percentage, and calculated from time to time by the General Partner in accordance with Section 5.6.
- (nnnn) **“Partnership Records”** has the meaning given to it in Section 10.2(a).
- (oooo) **“Party”** means a party to this Agreement and **“Parties”** means all of them, as the context requires.
- (pppp) **“Person”** means any individual, sole proprietorship, partnership, corporation or company, with or without share capital, trust, foundation, first nation, Indian band, joint venture, Governmental Authority or any other incorporated or unincorporated entity or association of any nature.
- (qqqq) **“Positive Tax Allowance”** in respect of a Fiscal Year means (i) if the Tax Allowance for that Fiscal Year is greater than zero, the Tax Allowance for that Fiscal Year, or (ii) if the Tax Allowance for that Fiscal Year is less than zero, nil.
- (rrrr) **“Project Agreements”** means this Agreement and all other agreements relating to the BtM Project Assets to which the Partnership (or an authorized agent of the Partnership) is now, or may in the future become, a party, including the Operations Agreement and any other service agreements with Partners.
- (ssss) **“Project Approvals”** means all approvals, authorizations, consents, permits, licences, judgments, rulings, directives, ordinances, decrees, registrations and filings required for the ownership and operation of the BtM Project Assets from any Governmental Authority.
- (tttt) **“Purchasing Partner”** has the meaning given to it in Section 5.10(h).

- (uuuu) **“Registrar”** has the meaning given to that term in the Limited Partnerships Act.
- (vvvv) **“Side Letter”** means the letter agreement dated December ●, 2012 between the SON, HONI and Hydro One.
- (www) **“SON”** means, collectively, Chippewas of Saugeen First Nation and Chippewas of Nawash First Nation.
- (xxxx) **“SON Capital Call Loan Amount”** has the meaning given to it in Section 5.10(f).
- (yyyy) **“SON Capital Call Loan Deadline”** has the meaning given to it in Section 5.10(f).
- (zzzz) **“Tax Allowance”** for a Fiscal Year means the amount determined by the formula:

$$A + (B \times C)$$

where

A is equal to the Approved Tax Amount for that Fiscal Year;

B is equal to the Delta Income for that Fiscal Year; and

C is equal to the Approved Tax Percentage for that Fiscal Year.

- (aaaaa) **“Tax Filings”** means all returns, reports, declarations, elections, notices, filings, forms, statements and other documents (whether in tangible, electronic or other form) and including any amendments, schedules, attachments, supplements, appendices and exhibits thereto, made, prepared, filed or required to be made, prepared or filed by applicable law in respect of Taxes.
- (bbbbb) **“Taxable Corporation”** in any Fiscal Year means a corporation that is subject to Income Taxes in respect of that Fiscal Year on income from the Partnership, including for greater certainty, under the Electricity Act.
- (ccccc) **“Taxable Income”** and **“Taxable Loss”** means the net income or net loss of the Partnership for purposes of the Income Tax Act in any Fiscal Year;
- (ddddd) **“Taxes”** means all federal, provincial, state, territorial, municipal or foreign taxes of any nature or kind whatsoever, including Income Taxes, capital taxes, gross receipt taxes, gross revenue charges, environmental taxes, sales taxes, use taxes, ad valorem taxes, goods and services taxes (including the GST/HST), provincial sales and fuel taxes, value added taxes, withholding taxes, excise taxes, transfer taxes (including land transfer taxes), franchise and licence taxes, payroll taxes, employment

taxes, Canada or Quebec pension plan premiums, social security premiums, workers' compensation premiums, stamp taxes, occupation taxes, premium taxes, property taxes, municipal taxes, windfall profits taxes, alternative or add-on minimum taxes, any customs duties or other taxes, fees, imposts, assessments or charges of any kind whatsoever, all payments to the Province of Ontario in lieu of any of the foregoing, grants to communities or municipalities in lieu of any of the foregoing, and all payments required to be made under the Electricity Act, together with any interest and any penalties or additional amounts imposed by any Governmental Authority, and any interest, penalties, fines, additional taxes and additions to tax imposed with respect to the foregoing.

- (eeeeee) **"Term"** has the meaning given to it in Section 2.1.
- (fffff) **"Third Party Transferee"** has the meaning given to it in Section 5.13(d).
- (ggggg) **"Top-Up Equity Contribution"** has the meaning given to it in Section 5.10(d).
- (hhhhh) **"Transfer"** or **"Transferred"** means any transfer, sale, exchange, assignment, gift, bequest, disposition, mortgage, charge, pledge, encumbrance, hypothecation, alienation, grant of security interest or other arrangement by which possession, legal title or beneficial ownership of all or any portion of Units by a Partner to any Person whether voluntary, involuntary, by operation of law or in accordance with this Agreement.
- (iiiiii) **"Unanimous Consent of the Partners"** means the approval of all of the Partners, as expressed by voting at a meeting of the Partnership or by a written instrument signed in one or more counterparts by all of the Partners.
- (jjjjj) **"Unit Certificate"** means a unit certificate issued to a Partner as evidence of its ownership of Units, which certificate shall be in the form approved by the General Partner from time to time.
- (kkkkk) **"Unit"** has the meaning given to it in Section 5.3(a).
- (lllll) **"Unrecovered HONI Costs"** has the meaning given to it in Section 5.7.

## 1.2 Headings and Table of Contents

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

### **1.3 References**

Unless otherwise specified, references in this Agreement to sections and Schedules are to sections of, and schedules to, this Agreement.

Each reference to a statute in this Agreement is deemed to be a reference to that statute, and to the regulations made under that statute, all as amended or re-enacted from time to time and to any statute or regulation that supplements or supersedes such statute or regulation.

### **1.4 Expanded Definitions**

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term “**including**” means “including without limitation”, and the terms “**include**”, “**includes**” and “**included**” have similar meanings. Any reference in this Agreement to any other agreement is deemed to include a reference to that other agreement as amended, supplemented or restated from time to time.

### **1.5 Time of Day**

Unless otherwise specified, references to the time of day or a date mean the local time or date in Toronto, Ontario.

### **1.6 Schedules**

The following Schedules are attached to and form part of this Agreement:

Schedule 4.3	Operations Agreement Terms
Schedule 5.4	Partnership Interests
Schedule 9.4	Principles of Valuation
Schedule 11.1	Form of Counterpart
Schedule 11.2	Form of Assignment

## **ARTICLE 2 TERM**

### **2.1 Term**

This Agreement will be effective from the Effective Date and, unless terminated earlier in accordance with the terms of this Agreement or by mutual agreement of all of the Partners, will continue until the dissolution of the Partnership in accordance with the terms of this Agreement following the completion of the Decommissioning Work (the “**Term**”).

## **ARTICLE 3 THE PARTNERSHIP**

### **3.1 Formation of the Partnership**

The Partnership has been formed as a limited partnership in accordance with the laws of the Province of Ontario and the provisions of this Agreement. The Partnership is effective as a limited partnership from the date on which the Declaration was registered with the Registrar in accordance with the Limited Partnerships Act. Subject to the terms of this Agreement, the General Partner of the Partnership will be **[Bruce-to-Milton GP Inc.]** and the Limited Partners of the Partnership will be **[HOI BtM Partner and SON BtM Partner]**.

### **3.2 Filing of Changes to the Declaration**

The General Partner will execute and file any changes to the Declaration that may be required from time to time under the Limited Partnerships Act in connection with the Partnership.

### **3.3 Name**

The name of the Partnership will be “**[Bruce-to-Milton L.P.]**” or such other name or names as the General Partner may from time to time select with the Unanimous Consent of the Partners, provided that the General Partner files any change to the Declaration required by the Limited Partnerships Act.

### **3.4 Offices**

The registered and principal offices of the Partnership and the General Partner will be at 483 Bay Street, 15<sup>th</sup> Floor, North Tower, Toronto, Ontario, M5G 2P5 and, thereafter, at such place or at such other place or places as the General Partner may from time to time designate. The General Partner will provide written notice of any change in its or the Partnership’s offices to each other Partner.

### **3.5 Fiscal Year**

The first Fiscal Year of the Partnership will commence on the date of the Declaration and will end on December 31, **[2014]**. Thereafter each Fiscal Year of the Partnership will commence on January 1 in each year during the Term and end on December 31 in that year, unless otherwise established by the General Partner. The last Fiscal Year will end on the date of the dissolution or other termination of the Partnership.

### **3.6 Representations and Warranties of Partners**

Each Partner represents, warrants, covenants and agrees with each of the other Partners with respect to itself only that on the date of this Agreement and for so long as this Agreement is in effect:

- (a) it is a corporation existing under the laws of Ontario;
- (b) that it is not a “non-resident” of Canada for the purposes of the Income Tax Act and, if such Partner is a partnership, that such partnership is a Canadian

partnership for purposes of the Income Tax Act and agrees that it will maintain such status for so long as it retains a Partnership Interest;

- (c) that it has the power and capacity to own or lease its properties and assets and to carry on its business as it is currently being conducted and to perform its obligations under this Agreement and that such obligations do not conflict with nor will they result in a breach of any of its constating documents, by-laws or any agreements or approvals by which it is bound;
- (d) that it has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement, including SON BtM Partner obtaining any approvals which are appropriate, sufficient and consistent with all applicable governance practices of the SON BtM Partner whether under the *Indian Act* or by way of traditional practice, and this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law); and
- (e) that it has made all necessary corporate, partnership and tax filings required to be made by it in accordance with Applicable Laws and it has obtained all necessary approvals of any Governmental Authority in connection with its execution of this Agreement and no consents or approvals are required from any Governmental Authority or any other third party in order for it to enter into and perform its obligations under this Agreement.

Each Partner may, from time to time, request reasonable evidence from any other Partner (including a copy of the resolution specifically authorizing the entering into of this Agreement) in order to confirm that such other Partner is, and continues to remain, in compliance with the above representations and warranties during the term of this Agreement.

## **ARTICLE 4**

### **BUSINESS OF THE PARTNERSHIP**

#### **4.1 Powers of the Partnership**

Except as otherwise provided in this Agreement, the Partnership will have the power to do any and every act and thing necessary, proper, convenient, desirable, ancillary or incidental to the pursuit or accomplishment of its business.

#### **4.2 Business of the Partnership**

The business of the Partnership will be:

- (a) the operation, management and maintenance of the BtM Project Assets, including by entering into and performing its obligations under the Project Approvals and the Project Agreements;

- (b) to borrow money, incur debt, guarantee indebtedness and obligations of any Person, grant indemnities, grant mortgages, charges and other security interests, and in connection with the foregoing, enter into loan agreements, guarantees, promissory notes, mortgages, trust deeds, debentures, pledges and other security documents in order to finance the Line and carry on the business;
- (c) investing funds not immediately required for operations;
- (d) engaging in such other activities incidental or ancillary to the foregoing as the General Partner deems advisable or necessary; and
- (e) such Decommissioning Work as may be required from time to time.

#### **4.3 Operations Agreement with Partners**

- (a) The General Partner on behalf of the Partnership, and the General Partner on its own behalf will enter into an operations services and management services agreement (the “**Operations Agreement**”) with an Affiliate of the General Partner, for such Affiliate of the General Partner to operate and maintain the BtM Project Assets and Line, as further described and incorporating terms substantially in accordance with those set out in Schedule 4.3.
- (b) From time to time, the General Partner on behalf of the Partnership, and the General Partner on its own behalf may contract with HONI or its Affiliates for the provision of additional services. Unless the Parties agree otherwise, the Partnership will indemnify and save harmless HONI or such Affiliates providing such additional services from and against any and all Claims that HONI or such Affiliates may suffer, sustain or incur in connection with the provision of such services except to the extent caused or arising from the gross negligence or wilful misconduct of HONI or such Affiliates, as applicable.

#### **4.4 Other Business Interests**

Except as may be expressly set out in this Agreement, the freedom of a Limited Partner or its Affiliates, or of the Affiliates of the General Partner, to conduct any business or activity whatsoever as it sees fit will not be restricted in any way by this Agreement. No Limited Partner owes any other Partner a duty to offer it any business opportunity and nothing in this Agreement confers upon any Partner the right to participate in such opportunity. Each Limited Partner and its Affiliates, and the Affiliates of the General Partner, will be free to engage or invest in any business opportunity including, without limitation, any business opportunity which is similar to or which competes with the business of the Partnership, including any businesses described in the Project Agreements.



## **ARTICLE 5**

### **CONTRIBUTIONS, ALLOCATIONS AND DISTRIBUTIONS**

#### **5.1 Capital Account**

The General Partner will establish and maintain a separate Capital Account for each Partner, reflecting each Partner's total Equity Contributions, in the books of account of the Partnership. Each Partner's Capital Account (a) shall be increased by (i) the amount of any Additional Equity Contribution made pursuant to Section 5.10(a) and (ii) the amount of any allocation of Net Income made to the Partner pursuant to Section 5.16 and (b) shall be decreased by (i) the amount of any Additional Equity Contribution returned to a Partner pursuant to Section 5.10(i), (ii) the amount of any allocation of Net Loss made to the Partner pursuant to Section 5.16 and (iii) the amount of any distribution to that Partner pursuant to Section 5.13.

#### **5.2 Initial Equity Contribution**

Each Partner has made initial Equity Contributions to the capital of the Partnership in the following amounts and the following numbers of Units have been issued to the Partners in respect of such Equity Contributions:

<b>Partner</b>	<b>Initial Equity Contribution</b>	<b>Units</b>
HOI BtM Partner	\$●	●
SON BtM Partner	\$●	●
General Partner	\$●	●

#### **5.3 Partnership Units**

- (a) The interest of the Partners in the Partnership shall be divided into and represented by an unlimited number of units (each a **"Unit"**), each representing a proportionate share of the aggregate interests of the Partners in the Partnership.
- (b) Except as otherwise provided in Sections 5.13, 5.16 and 6.16, each issued and outstanding Unit is identical to each other one with respect to all matters including:
  - (i) the right to receive distributions from the Partnership;
  - (ii) the allocation of net income, net loss, taxable income and tax losses;
  - (iii) voting rights; and
  - (iv) rights on liquidation.

## **5.4 Unit Certificates**

Each Partner shall be issued a Unit Certificate specifying the number of Units held by such Partner. Every Unit Certificate must be signed by at least one authorized signatory of the General Partner.

## **5.5 Record of Partnership Interests and Units**

The initial Partnership Interests of and Units held by the Partners is set out on Schedule 5.5. The General Partner will amend Schedule 5.5:

- (a) following the deemed contribution of HONI Initial Costs in accordance with Section 5.7;
- (b) following the deemed contribution of land transfer taxes in accordance with Section 5.8;
- (c) following an Additional Equity Contribution in accordance with Section 5.10; and
- (d) following any Transfer of Units as permitted by this Agreement,

to reflect any changes in the Partners, the number of Units they hold or their Partnership Interests, calculated in accordance with Section 5.6. The General Partner will immediately after such amendment provide a copy of the amended Schedule 5.5 to each of the other Partners. Schedule 5.5, as amended from time to time in accordance with the provisions of this Section 5.5, absent error, will indicate the Partnership Interests of the Partners and the number of Units held by the Partners. If at any time a Partner disputes the General Partner's calculation of its Partnership Interest, it will so advise the General Partner and each of the other Partners in writing. Any Dispute with respect to Schedule 5.5 will be resolved in accordance with the provisions set forth in Article 13.

## **5.6 Calculation of Partnership Interests**

The Partnership Interest of a Partner at any time will be the percentage that the number of Units held by such Partner is of the aggregate number of Units held by all Partners as at such date.

## **5.7 HONI Initial Costs**

Prior to the Effective Date of this Agreement, the General Partner, an Affiliate of the General Partner or the Partnership incurred costs, other than land transfer tax costs, in connection with the Partnership, the BtM Project Assets, and the transactions contemplated in the Master Implementation Agreement (the "**HONI Initial Costs**"). In the event the HONI Initial Costs are not fully recoverable or recovered in the Approved OEB Rates, that part of such HONI Initial Costs that: (i) has been incurred by the Partnership shall be shared by the Partners pro rata to the number of Units held by the Partners as of Closing, and (ii) that has been incurred by the General Partner or an Affiliate of the General Partner and has not been included in the computation of the BtM Project Asset Value and has not otherwise been included in computing the equity contributed to the Partnership by the General Partner or an Affiliate of the General Partner (the "**Unrecovered HONI Costs**"), shall be deemed to be an Equity Contribution by the General

Partner. The General Partner will credit the General Partner's Capital Account with the fair market value of the Unrecovered HONI Costs and issue the appropriate number of Units to the General Partner to reflect such deemed Equity Contribution. All such HONI Initial Costs which are not included in the Approved OEB Rates shall be provided to SON BtM Partner for its review, and if disputed, shall be subject to the Dispute resolution mechanisms provided in Article 13.

## **5.8 Land Transfer Taxes**

The Partners agree to use commercially reasonable efforts to cause any land transfer taxes (including deferred taxes) imposed on the acquisition of the BtM Project Assets by the Partnership or the acquisition by SON BtM Partner of its Units to be recovered in the Approved OEB Rates. Where the recovery of such land transfer tax costs are included in the Approved OEB Rates, the amount of any such land transfer tax paid or payable: (i) by the General Partner or HOI BtM Partner shall be deemed to be an Equity Contribution to the Partnership by the General Partner, and (ii) by SON BtM Partner shall be deemed to be an Equity Contribution to the Partnership by SON BtM Partner, and the General Partner will credit the relevant Partner's Capital Account with the amount of such land transfer tax paid or payable by such Partner and, if applicable, will issue the appropriate number of Units to such Partner to reflect such deemed Equity Contribution. Where the recovery of such land transfer tax costs are not included in the Approved OEB Rates, each Partner shall be responsible for its share of such land transfer tax costs pro rata to the number of Units held by the Partners as of Closing.

## **5.9 Additional Funding Requirements**

From time to time during the Term, the Partnership will require additional funds above any reserves to fund costs incurred by the Partnership, or the General Partner on behalf of the Partnership, for activities in furtherance of the business of the Partnership in respect of the BtM Project Assets, including management, upgrading, repair and refurbishment costs, insurance costs, costs for decommissioning, and liabilities incurred by the Partnership in operating and maintaining the BtM Project Assets (including amounts incurred in connection with its engagement of an Affiliate of the General Partner under the Operations Agreement). If the Partnership is unable to fund the equity portion of such costs (taking into consideration the deemed debt-to-equity capital structure reflected in the Approved OEB Rates) from short term credit facilities or other immediately available sources, the General Partner may issue a notice to the Partners requesting Equity Contributions (an “**Equity Contribution Request**”) to provide additional Equity Contributions in proportion to their respective Partnership Interests at the time of the Equity Contribution Request (an “**Additional Equity Contribution**”) in accordance with the procedures set out in Section 5.10.

## **5.10 Additional Equity Contributions and Dilution**

Any Additional Equity Contributions required to be made by the Partners will be made as follows:

- (a) the General Partner will request an Additional Equity Contribution simultaneously from each of the Partners by providing each Partner with an Equity Contribution Request setting out:

- (i) the aggregate amount of the Additional Equity Contributions;
  - (ii) the amount of the Partner's Additional Equity Contribution, which amount will be calculated, for each Partner, as that Partner's Partnership Interest multiplied by the total amount of additional funds requested in the Equity Contribution Request;
  - (iii) the number and subscription price of the Units to be issued to that Partner in consideration for its Additional Equity Contribution, such number of Units to be equal to the number of Units (rounded if necessary to the lower whole number) obtained by dividing the amount of the Additional Equity Contribution to be made by such Partner by the subscription price for each Unit, which subscription price will be the Fair Market Value;
  - (iv) the date on which the Additional Equity Contribution is required to be delivered to the Partnership (the "**Due Date**"), provided that the Due Date will be no less than 180 days and no more than 270 days following receipt or deemed receipt of the Equity Contribution Request by the Partner, except in the case of emergencies or otherwise unplanned capital requirements, as determined in the sole discretion of the General Partner, in which case the Due Date will be no less than twenty (20) Business Days and no more than thirty (30) Business Days following receipt or deemed receipt of the Equity Contribution Request by the Partner; and
  - (v) whether the amounts set out in the Equity Contribution Request are to be wired or otherwise deposited to the Partnership Account or to another account;
- (b) upon receipt of a Partner's Additional Equity Contribution, the General Partner will credit that Partner's Capital Account with the amount of its Additional Equity Contribution and issue the appropriate number of Units to such Partner;
- (c) a Partner is free to elect whether or not to make all or part of its Additional Equity Contribution, provided that SON BtM Partner may not make any Additional Equity Contribution to the extent that such Additional Equity Contribution would result in SON BtM Partner having more than a ●% **[NTD: to be the initial "SON Equity Ratio", as determined in accordance with the Master Implementation Agreement]** Partnership Interest in the Partnership, and, for greater certainty, will not be a Defaulting Partner if such Partner elects not to make all or part of its Additional Equity Contribution; however, it will be a Defaulting Partner if it has indicated in a notice to the other Partners that it has elected to make all or part of its Additional Equity Contribution and then fails to do so by the Due Date. A Partner must provide notice of this election to the other Partners within fifteen (15) days of its receipt of an Equity Contribution Request. A Partner who

fails to make an election within fifteen (15) Business Days of its receipt of an Equity Contribution Request will be deemed to have elected not to make its Additional Equity Contribution;

- (d) if any Partner other than the General Partner chooses not to make all or part of its Additional Equity Contribution (a “**Non-Electing Partner**”), then the General Partner, provided that it has elected to make its full Additional Equity Contribution, may within five (5) Business Days of the Due Date make a further payment to fund all or part of the shortfall arising from the Non-Electing Partner’s failure to make its Additional Equity Contribution (a “**Top-Up Equity Contribution**”). The amount of the Top-Up Equity Contribution shall be used to subscribe for additional Units at the subscription price set out in the Equity Contribution Request and will be credited to the General Partner’s Capital Account;
- (e) each Non-Electing Partner acknowledges that in electing not to make its Additional Equity Contribution, provided the other Partners make their Additional Equity Contribution, there will be a dilution of such Non-Electing Partner’s Partnership Interest as between the other Partners and the Non-Electing Partner, and the Non-Electing Partner will be subject to further dilution in the event a Top-Up Equity Contribution is made by the General Partner;
- (f) if SON BtM Partner elects to make all or part of its Additional Equity Contribution, provided that it has used commercially reasonable efforts to secure its own funds or third party financing to make its Additional Equity Contribution, SON BtM Partner may, prior to the Due Date, by written notice to the General Partner and HOI BtM Partner, elect to borrow the amount of its Additional Equity Contribution (the “**SON Capital Call Loan Amount**”) from the General Partner or HOI BtM Partner, as determined by the General Partner (such Partner, the “**Lending Partner**”), for a period ending no later than the date that is one year from the Due Date (the “**SON Capital Call Loan Deadline**”). The SON BtM Partner will be required to repay to the Lending Partner prior to the SON Capital Call Loan Deadline:
  - (i) the SON Capital Call Loan Amount, plus
  - (ii) interest on the SON Capital Call Loan Amount at a rate equal to the return-on-equity percentage reflected in the Approved OEB Rates, calculated from the Due Date to the date of repayment;
- (g) if any amount of the SON Capital Call Loan Amount remains outstanding by the SON Capital Call Loan Deadline:
  - (i) the Units issued to SON BtM Partner which were financed by the unpaid amount of the SON Capital Call Loan Amount will immediately be Transferred to the Lending Partner in full payment

and satisfaction of the unpaid amount of the SON Capital Call Loan Amount and the General Partner will cause the register recording the Units to be amended accordingly, and

- (ii) SON BtM Partner hereby directs the General Partner to pay any Advances payable to SON BtM Partner to the Lending Partner on account of the interest owing on the SON Capital Call Loan Amount pursuant to Section 5.10(f)(ii) that has not been paid by the SON Capital Call Loan Deadline until the aggregate amount of such directed Advances equals the total amount of the interest that is so owed. For greater certainty, amounts so paid to the Lending Partner do not reduce the balance of the SON Capital Call Loan Amount outstanding;
- (h) if at any time SON BtM Partner's Partnership Interest falls below 5%, HOI BtM Partner or the General Partner, as determined by the General Partner (such Partner, the "**Purchasing Partner**"), shall have the option to purchase all, and not less than all, of SON BtM Partner's Units for a price equal to the Fair Market Value of SON BtM Partner's Units at the date such option is exercised, determined in accordance with the principles of valuation set forth in Schedule 9.4. The purchase and sale will be conducted in accordance with the terms of Section 9.5, with all references to the "**Buying Partner**" being deemed to be references to the "**Purchasing Partner**";
- (i) within 75 days following the end of each Fiscal Year, the General Partner shall determine if the Partnership is in compliance with the deemed debt-to-equity capital structure reflected in the Approved OEB Rates. If the General Partner determines that the Partnership has excess capital, each Partner who made an Additional Equity Contribution shall be entitled to the return of the portion of its Additional Equity Contribution necessary for the Partnership to comply with its deemed debt-to-equity capital structure, in proportion to the percentage of the aggregate amount of Additional Equity Contributions made by such Partner. Any such return of Equity Contributions shall be made prior to any Designated Distributions pursuant to Section 5.13(c); and
- (j) notwithstanding anything to the contrary contained in this Section, if the General Partner makes an Equity Contribution Request to the Partners, HOI BtM Partner shall be required to make an Additional Equity Contribution in such amount as shall be necessary to maintain a Partnership Interest of at least 0.10%.

Notwithstanding anything to the contrary contained in this Section, the remedies available under this Section 5.10 are in addition to, and in no way a limitation on, any and all other remedies available under this Agreement or otherwise existing at law or in equity.

### 5.11 No Voluntary Equity Contributions

No Partner will make any additional voluntary Equity Contributions to the Partnership except pursuant to an Equity Contribution Request from the General Partner or pursuant to a deemed Equity Contribution in accordance with Section 5.7 or Section 5.8.

### 5.12 Interest

Except as otherwise provided in this Agreement, no Partner is entitled to interest on its Equity Contributions or its Capital Account.

### 5.13 Distributions

- (a) The General Partner shall determine quarterly on a date to be determined by the General Partner:
  - (i) the forecasted Positive Tax Allowance for that fiscal quarter;
  - (ii) the forecasted Negative Tax Allowance for that fiscal quarter; and
  - (iii) the forecasted Distributable Cash of the Partnership for that fiscal quarter on the basis of a forecast operating budget of the Partnership to be prepared by the General Partner, acting reasonably.
- (b) Forthwith after the determinations referred in Section 5.13(a) have been made, the Partnership shall:
  - (i) make an advance (a “**Designated Advance**”) to the General Partner in an amount equal to the amount determined under Section 5.13(a)(i); and
  - (ii) make advances (an “**Advance**”) to the Partners totalling an amount equal to the amount determined under Section 5.13(a)(iii) as follows:
    - (1) make an Advance to each Partner that is not a Taxable Corporation in an amount equal to such Partner’s pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units, in each case at the time such Advances are made, of the Adjusted Forecasted Distributable Cash for that fiscal quarter; and
    - (2) make an Advance to each Partner that is a Taxable Corporation in an amount equal to the amount by which (A) such Partner’s pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units at the time such Advances are made, of the Adjusted Forecasted Distributable Cash for that fiscal quarter, exceeds (B) such

Partner's pro rata share, based on the number of Units held by such partner as compared to the total number of Units held by Partners that are Taxable Corporations, in each case at the time of such Advances, of the forecasted Negative Tax Allowance for that fiscal quarter.

- (c) Within 75 days following the end of each Fiscal Year:
  - (i) the General Partner shall determine:
    - (1) the Positive Tax Allowance for that Fiscal Year;
    - (2) the Negative Tax Allowance for that Fiscal Year; and
    - (3) the Distributable Cash of the Partnership for that Fiscal Year (the “**Annual Distributable Cash**”);
  - (ii) the Partnership shall declare a distribution payable to the General Partner (a “**Designated Distribution**”) in an amount equal to the Positive Tax Allowance for that Fiscal Year and shall issue a non-interest bearing demand promissory note with a principal amount equal to the amount of such distribution (a “**Designated Distribution Note**”) to the General Partner in absolute payment and satisfaction of such distribution;
  - (iii) the Partnership shall declare a distribution (a “**Distribution**”) payable to each of the Partners calculated as follows:
    - (1) The Partnership shall declare a Distribution payable to each Partner that was not a Taxable Corporation in such Fiscal Year in an amount equal to such Partner's pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units, in each case at the end of such Fiscal Year, of the Adjusted Annual Distributable Cash of the Partnership for that Fiscal Year; and
    - (2) The Partnership shall declare a Distribution payable to each Partner that was a Taxable Corporation in such Fiscal Year in an amount equal to the amount by which (A) such Partner's pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units at the end of such Fiscal Year, of the Adjusted Annual Distributable Cash of the Partnership for that Fiscal Year, exceeds (B) such Partner's pro rata share, based on the number of Units held by such partner as compared to the total number of Units held by Partners that were Taxable Corporations, in each case at the end of such



Fiscal Year, of the Negative Tax Allowance of the Partnership for that Fiscal Year; and

- (iv) the Partnership shall issue a non-interest bearing demand promissory note to each Partner with a principal amount equal to the amount of the Distribution payable to such Partner pursuant to this Section 5.13(c) (a “**Distribution Note**”) and shall deliver such Distribution Note in absolute payment and satisfaction of such Distribution;
- (d) In the event of a Transfer by a Partner of its Units to a Person other than an Affiliate (a “**Third Party Transferee**”), the advances and distributions on the Units held by the Third Party Transferee will continue to be the advances and distributions calculated as if the Units were held by the original Partner (subject to any disallowance by the OEB as a result of the Transfer) until the revenue requirements of the Third Party Transferee are reflected as part of the next OEB transmission rate setting process.
- (e) Within 90 days following the end of each Fiscal Year and, for greater certainty, after the declaration of the distributions referred to in Section 5.13(c) and the issuance of the applicable Designated Distribution Note:
  - (i) if the aggregate amount of the Designated Advances made to the General Partner pursuant to Section 5.13(b)(i) in such Fiscal Year (the “**Annual Designated Advance Amount**”) is less than the principal amount owing under the Designated Distribution Note in respect of that Fiscal Year:
    - (1) such Designated Advances shall be deemed to be set off against the portion of the Designated Distribution Note that is equal to the Annual Designated Advance Amount such that such Designated Advances shall be fully paid and settled by such set off and the principal amount owing under the Designated Distribution Note shall be reduced by an amount equal to the Annual Designated Advance Amount as a result of such set off; and
    - (2) the Partnership shall pay an amount to the General Partner equal to remaining amount of the Designated Distribution Note, in full payment and satisfaction thereof; and
  - (ii) if the Annual Designated Advance Amount is greater than the principal amount owing under the Designated Distribution Note in respect of that Fiscal Year:
    - (1) such portion of the Designated Advances as is equal to the principal amount owing under the Designated Distribution Note shall be deemed to be set off against the Designated

Distribution Note such that such Designated Distribution Note shall be fully paid and settled by such set off and the Designated Advances shall be reduced by an amount equal to the amount of the Designated Distribution Note as a result of such set off; and

- (2) the General Partner shall pay an amount to the Partnership equal to remaining amount of the Designated Advances, in full payment and satisfaction thereof.
- (f) Within 90 days following the end of each Fiscal Year and, for greater certainty, after the declaration of the Distributions referred to in Section 5.13(c) and the issuance of the applicable Distribution Notes:
  - (i) if the aggregate amount of the Advances made to a Partner pursuant to Section 5.13(b)(ii) in such Fiscal Year (the “**Annual Advance Amount**”) is less than the principal amount owing under the Distribution Note to that Partner in respect of that Fiscal Year:
    - (1) such Advances shall be deemed to be set off against the portion of the Distribution Note that is equal to the Annual Advance Amount such that such Advances shall be fully paid and settled by such set off and the principal amount owing under the Distribution Note shall be reduced by an amount equal to the Annual Advance Amount as a result of such set off; and
    - (2) the Partnership shall pay an amount to that Partner equal to remaining amount of the Distribution Note, in full payment and satisfaction thereof; and
  - (ii) if the Annual Advance Amount made to a Partner is greater than the Distribution Note to that Partner in respect of that Fiscal Year:
    - (1) such portion of the Advances as is equal to the principal amount owing under the Distribution Note to that Partner shall be deemed to be set off against the Distribution Note to that Partner such that such Distribution Note shall be fully paid and settled by such set off and such Advances shall be reduced by an amount equal to the amount of the Distribution Note to that Partner as a result of such set off; and
    - (2) such Partner shall pay an amount to the Partnership equal to remaining amount of the Advances, in full payment and satisfaction thereof.
- (g) SON BtM Partner shall take all reasonable steps to maintain its tax-exempt status. In the event that SON BtM Partner is found to be taxable

or a Third Party Transferee of the Units of a Limited Partner is taxable, SON BtM Partner or such Third Party Transferee, subject to Section 5.13(d), shall be entitled to the Designated Advances and Designated Distributions contemplated in this Section 5.13 in respect of the Income Taxes and Capital Taxes attributable to SON BtM Partner or such Third Party Transferee, as applicable, in respect of the Partnership, but only to the extent that such Income Taxes and Capital Taxes have been reflected in the Approved OEB Rates.

- (h) Notwithstanding any provision of this Section 5.13, the Partnership will not make any Advances, Designated Advances, Distributions or Designated Distributions to the extent that after the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, is made, the Partnership will not have sufficient assets to pay its liabilities as they become due. To the extent an Advance, Designated Advance, Distribution or Designated Distribution in respect of a particular Fiscal Year is not paid in accordance with this Section 5.13(h), such deferred Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, will be made before any Advance, Designated Advance, Distribution or Designated Distribution is made in respect of any subsequent Fiscal Year.
- (i) Notwithstanding any provision of this Section 5.13, the Partnership will not make any Advances, Designated Advances, Distributions or Designated Distributions to the Partners:
  - (1) if the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, would constitute a breach of the Limited Partnerships Act or any other Applicable Law; or
  - (2) if the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, would be inconsistent with or contrary to the terms of any agreements by which the Partnership is bound or any agreements between the Parties.

#### **5.14 Return of Equity Contributions**

Except as otherwise provided in this Agreement, no Partner is entitled to the return of any part of its Equity Contributions.

#### **5.15 Right to Withdraw Capital**

Except for Distributions, Advances, Designated Advances or Designated Distributions made in accordance with the terms of this Agreement or upon the dissolution of the Partnership in accordance with Section 12.4, no Partner will have the right to withdraw any amount from the Partnership or to receive any advances or distributions from the Partnership or any return, in whole or in part, of any Equity Contribution or any reduction in its Capital Account.

## **5.16 Allocation of Net Income or Net Loss and Taxable Income or Taxable Loss**

- (a) If there is Taxable Income for a Fiscal Year, such Taxable Income shall be allocated as follows:
  - (i) an amount equal to the lesser of:
    - (1) such Taxable Income, and
    - (2) the amount of the Designated Distribution made to the General Partner in respect of that Fiscal Year plus the amount of any Designated Distribution Taxable Income Shortfall outstanding as at the end of that Fiscal Year to the extent not included in a previous allocation of Taxable Income under this Section 5.16,shall be allocated to the General Partner; and
  - (ii) the remainder of such Taxable Income, if any, shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year.
- (b) If there is both Net Income and Taxable Income for a Fiscal Year, such Net Income shall be allocated as follows:
  - (i) an amount equal to the lesser of:
    - (1) such Net Income, and
    - (2) the amount of the Designated Distribution made to the General Partner in respect of that Fiscal Year plus the amount of any Designated Distribution Net Income Shortfall outstanding as at the end of that Fiscal Year to the extent not included in a previous allocation of Net Income under this Section 5.16,shall be allocated to the General Partner; and
  - (ii) the remainder of such Net Income, if any, shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year.
- (c) If there is both Net Income and a Taxable Loss for a Fiscal Year, such Net Income shall be allocated as follows:
  - (i) an amount equal to the aggregate of the Net Income plus the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,

- (ii) less, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (d) If there is a Net Loss and Taxable Income for a Fiscal Year, such Net Loss shall be allocated as follows:
  - (i) an amount equal to the aggregate of the Net Loss plus the Positive Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,
  - (ii) less, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Positive Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (e) If there is a Net Loss and a Taxable Loss for a Fiscal Year, such Net Loss shall be allocated as follows:
  - (i) an amount equal to such Net Loss less the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,
  - (ii) plus, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (f) If there is a Taxable Loss for a Fiscal Year, such Taxable Loss shall be allocated as follows:
  - (i) an amount equal to such Taxable Loss less the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year, and
  - (ii) plus, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.:

- (g) Should a circumstance arise where none of Section 5.16(a) to Section 5.16(f) would apply, then the Partners, acting reasonably, shall allocate the Net Income, Net Loss, Taxable Income, Taxable Loss in accordance with the principles espoused in these Sections.

### **5.17 Distributions and Allocations on Partner Exit**

Notwithstanding any other provision of Section 5.13 and Section 5.16, if a Partner ceased to be a Partner during a Fiscal Year, the Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners pursuant to Section 5.13 and Section 5.16 shall be calculated as though the Fiscal Year had ended at the end of the month immediately prior to or immediately following the time such Partner ceased to be a Partner, whichever month-end is closer, provided that, in the event a Partner ceased to be a Partner on the 15th day of a month, such allocations and distributions will be calculated as though the Fiscal Year ended at the end of the month immediately prior to the time such Partner ceased to be a Partner (a “**Deemed Year End**”), such that:

- (a) Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners shall be calculated for the period beginning at the beginning of such Fiscal Year and ending at the time of the Deemed Year End and the allocations and distributions (determined on a reasonable basis taking into account the deductions that would have been available had the fiscal period actually ended at the time of the Deemed Year End) shall be made in accordance with the provisions of Section 5.13 and Section 5.16 based on the number of Units held by such Partners immediately before the departing Partner ceased to be a Partner;
- (b) Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners shall be calculated for the period beginning immediately after the Deemed Year End and ending at the end of such Fiscal Year and the allocations and distributions (determined on a reasonable basis taking into account the deductions that would have been available had the fiscal period actually began immediately after the Deemed Year End) shall be made in accordance with the provisions of Section 5.13 and Section 5.16 based on the number of Units held by such Partners at the end of such Fiscal Year;
- (c) provided that reasonable adjustments will be made if such allocations would otherwise result in the allocation of a Taxable Loss in one of such periods and the allocation of Taxable Income in the other such period; and
- (d) provided that all such distributions referred to in this Section 5.17 shall be declared and recorded in the books and records of the Partnership following the end of the relevant Fiscal Year.

### **5.18 Excess Costs**

If the General Partner on behalf of the Partnership pays or incurs an Excess ARC Cost or an Excess Non-GUP Cost, the Net Income or Net Loss (as applicable) allocated to and Distribution payable to, the SON BtM Partner shall be increased by the amount that would have been allocated to or payable to the SON BtM Partner in the absence of such Excess ARC Cost or Excess Non-GUP Cost, without duplication, and the Net Income or Net Loss (as applicable) allocated to and Distributions payable to, the General Partner, shall be decreased by the amount such Net Income or Net Loss (as applicable) and Distributions were increased for the SON BtM Partner. The corresponding adjustments to Taxable Income or Taxable Loss (as applicable) for each of the SON BtM Partner and the General Partner shall be made based on the adjustments to the Distribution, Net Income or Net Loss (as applicable) made under this paragraph. For greater certainty, this provision shall only apply to Excess ARC Costs and Excess Non-GUP Costs and not to other Excess Costs.

## **ARTICLE 6 MANAGEMENT OF THE PARTNERSHIP**

### **6.1 Management of the Partnership**

The General Partner will manage the day-to-day operations of the Partnership. Subject to Section 6.17 and any applicable limitations in the Limited Partnerships Act, the General Partner will have the full and exclusive right, power and authority to make all decisions relating to the management and administration of the Partnership and its business and affairs and to manage, control, administer and operate the Partnership and its business and affairs, and to do any act, take any proceedings, make any decision and execute and deliver any instrument, deed, agreement or document, for and on behalf of and in the name of the Partnership, in connection with the same.

### **6.2 Specific Powers, Duties and Obligations of General Partner**

Without limiting the generality of Section 6.1, the General Partner shall have full power and authority for and on behalf of and in the name of the Partnership, without notice to, or consent of, any Limited Partner, to:

- (a) negotiate, execute and perform all agreements which require execution by or on behalf of the Partnership involving matters or transactions with respect to the business of the Partnership;
- (b) open and manage bank accounts in the name of the Partnership;
- (c) borrow funds in the name of the Partnership from time to time from such Persons as the General Partner may determine without limitation with regard to amount, cost or conditions of reimbursement or such loan;
- (d) mortgage, charge, assign, hypothecate, pledge or otherwise create a security interest in all or any property of the Partnership now owned or

hereafter acquired, to secure any present and future borrowings and related expenses of the Partnership;

- (e) cause title to the property of the Partnership to be held in its name or the name of its designated nominee for the benefit of the Partnership;
- (f) cause Governmental Authorizations to be held in its name or the name of its designated nominee for the benefit of the Partnership and be responsible for the conduct of all regulatory proceedings related thereto and to the business of the Partnership;
- (g) see to the sound management of the Partnership and manage, control and develop all the activities of the Partnership and take all measures necessary or appropriate for the business of the Partnership or ancillary thereto;
- (h) maintain, improve or change any assets, business or undertaking of the Partnership from time to time;
- (i) incur all costs and expenses in connection with the Partnership Business;
- (j) employ, retain, engage or dismiss from employment, personnel, agents, representatives or professionals with the powers and duties upon the terms and for the compensation as in the discretion of the General Partner may be necessary or advisable in the carrying on of the business of the Partnership;
- (k) engage agents, including any Affiliate of the General Partner, to assist the General Partner in carrying out its management obligations and providing management services to the Partnership or subcontract administrative functions to any Affiliate of the General Partner or any other Person;
- (l) invest cash assets of the Partnership that are not immediately required for the business of the Partnership in investments which the General Partner considers appropriate;
- (m) act as attorney in fact or agent of the Partnership in disbursing and collecting monies for the Partnership, paying debts and fulfilling the obligations of the Partnership and handling and settling any claims of the Partnership;
- (n) commence or defend any action or proceeding in connection with the Partnership and make all decisions and execute and deliver all instruments, documents, or agreements related thereto;
- (o) take any actions it deems appropriate in respect of public relations and communications with Governmental Authorities;



- (p) file returns or other documents required by any Governmental Authority;
- (q) make, execute, amend or revoke any Tax Filing on behalf of the Partnership and/or all relevant Partners to the extent the Tax Filing relates to the affairs of the Partnership;
- (r) execute, swear to, acknowledge, deliver, file and record in whatever jurisdictions the Partnership is registered, whatever documents may be required to reflect:
  - (i) a change in the name of the Partnership or the location of the principal place of business of the Partnership;
  - (ii) the admission, substitution, withdrawal or removal of Limited Partners in accordance with the terms of this Agreement;
  - (iii) a change that is reasonable and necessary or appropriate to qualify or continue the qualification of the Partnership as a limited partnership in which the Limited Partners have limited liability under Applicable Laws; and
  - (iv) a change that is reasonable and necessary or appropriate to enable Partners to take advantage of, or not be detrimentally affected by, changes in the Income Tax Act or other taxation laws;and all Partners agree to sign all amendments to the Declaration to give effect to all amendments made in accordance with this Section 6.2(r);
- (s) retain legal counsel, experts, advisors or consultants as the General Partner considers appropriate and rely upon the advice of such Persons;
- (t) do anything that is in furtherance of or incidental to the Partnership Business or that is provided for in this Agreement;
- (u) obtain any insurance coverage; and
- (v) generally carry out the Partnership Business.

No Person dealing with the Partnership will be required to enquire into the authority of the General Partner to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the Partnership.

### **6.3 Operating Budget and Expenses**

The Partnership shall reimburse the General Partner for all reasonable costs and expenses, including professional, legal, accounting and administrative costs and expenses, incurred by the General Partner in the performance of its duties hereunder in accordance with the approved Operating Budget, including reasonable costs and expenses directly incurred for the benefit of the Partnership, and the General Partner's general and administrative expenses, but specifically

excluding expenses of any action, suit or other proceedings in which or in relation to which the General Partner is adjudged to be in breach of any duty or responsibility imposed on it hereunder.

The General Partner shall submit the Operating Budget for each Fiscal Year to the Partners for approval at least two (2) months prior to the commencement of that Fiscal Year. The General Partner shall submit any amendment to an approved Operating Budget for any Fiscal Year in excess of 5% of the total amount of the approved Operating Budget for such Fiscal Year to the Partners for approval.

#### **6.4 Removal and Appointment of General Partner**

The General Partner may be removed at any time by Unanimous Consent of the Partners provided that such Unanimous Consent of the Partners appoints and admits a new general partner to the Partnership and such new general partner agrees to be bound by this Agreement in place of the General Partner so removed and further provided that all acts of the General Partner prior to its removal will continue to bind the Partnership.

#### **6.5 Transfer to New General Partner**

On the admission of a new general partner to the Partnership upon the removal of the General Partner, the removed General Partner will do all things and take all steps to transfer the administration, management, control and operation of the business of the Partnership and the books, records and accounts of the Partnership to the new general partner and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect such transfer in a timely fashion, including the transfer of any title to the Partnership's property held by the removed General Partner or its nominee to such new general partner.

#### **6.6 Release by Partnership**

On the removal of the General Partner, the Partnership shall release and hold harmless the removed General Partner and its directors, officers, shareholders, employees and agents from any costs, expenses, damages or liabilities suffered or incurred by the General Partner as a result of or arising out of events which occur in relation to the Partnership after such removal.

#### **6.7 New General Partner**

A new general partner shall become a party to this Agreement by signing a counterpart hereof and shall agree to be bound by all of the provisions hereof and to assume the obligations, duties and liabilities of the General Partner hereunder as and from the date the new general partner becomes a party to this Agreement.

#### **6.8 Advisory Committee**

- (a) The Partnership shall have a committee (the “**Advisory Committee**”) consisting initially of eight members. SON BtM Partner shall be entitled to appoint four individuals to the Advisory Committee, and HOI BtM Partner and the General Partner shall each be entitled to appoint two individuals to the Advisory Committee. Each Partner shall be

entitled to remove and replace its appointees from time to time as provided in Section 6.8(c).

- (b) Members of the Advisory Committee shall be appointed or re-appointed, as the case may be, annually. On or before the Effective Date and each subsequent anniversary of the Effective Date, each Partner shall give notice to each of the other Partners stating the name of the appointees of such Partner for the following year.
- (c) Any Partner entitled to appoint a member of the Advisory Committee shall be entitled to remove and replace any such member by notice to such member and the other Partners. Any vacancy occurring on the Advisory Committee shall be filled only by a further appointee of the Partner whose appointee was so affected so as to maintain an Advisory Committee consisting of the numbers of appointees specified in Section 6.8(a).
- (d) The timing and location of meetings of the Advisory Committee will be determined by the General Partner, provided that the Advisory Committee shall meet at least quarterly and, if a meeting of the Advisory Committee is not called during any quarter by the General Partner, any other Partner may call a meeting of the Advisory Committee. Written notice of any meeting of the Advisory Committee will be given by the General Partner (or in the case of a meeting called by another Partner, by such Partner) to members of the Advisory Committee and to each Partner at least seven (7) Business Days prior to the meeting.
- (e) At each meeting, the Advisory Committee shall review and consider the operations of the Partnership, including financial operating information, budgets, regulatory developments and other matters in relation to the BtM Project Assets or the Partnership. For greater certainty, the General Partner shall retain ultimate responsibility for making all decisions relating to the operation and management of the Partnership.
- (f) A quorum for meetings of the Advisory Committee shall consist of at least one appointee of each Partner being present. If a quorum is not obtained at any meeting, the meeting shall be adjourned and may be reconvened upon two (2) Business Days notice to the members, at which reconvened meeting the quorum shall be a majority of members.
- (g) Any or all members of the Advisory Committee may participate in a meeting of the Advisory Committee by means of such telephone, electronic or other communication facilities as permit all Persons participating in the meeting to hear and communicate with each other simultaneously and a member participating in such a meeting by such means is deemed to be present at the meeting.

- (h) The reasonable expenses of the Advisory Committee shall be borne by the Partnership.

## **6.9 Ratification of Actions**

Any action taken by the General Partner on behalf of the Partnership in accordance with this Agreement is deemed to be an act of the Partnership and binds the Partnership. No Person dealing with the Partnership will be required to inquire into the authority of the General Partner to take any such action.

## **6.10 Powers of Limited Partners**

A Limited Partner may exercise all rights or powers provided to limited partners under the Limited Partnerships Act, except to the extent inconsistent with, or contrary to, this Agreement. A Limited Partner, in its capacity as a limited partner, may not:

- (a) take part in the management or control of the business or affairs of the Partnership or exercise any power in connection therewith;
- (b) transact any business for the Partnership, including executing any document which binds or purports to bind any other Partner or the Partnership or hold itself out as having the power or authority to bind any other Partner or the Partnership;
- (c) have any authority or power to act for or undertake any obligation or responsibility on behalf of any other Partner or the Partnership; or
- (d) partition or seek to partition, whether by order of any court or otherwise, any of the Partnership Assets.

## **6.11 SON Support**

SON BtM Partner will make commercially reasonable efforts to cause SON and its constituencies to act in the best interests of the Partnership and the BtM Project Assets.

## **6.12 Title to Partnership Property**

The Partnership holds legal title to the Partnership Assets. However, if the Partnership is not permitted under Applicable Law to, or if the General Partner determines that it is necessary or expedient for the Partnership not to, hold legal title to any of the Partnership Assets, legal title to such Partnership Assets may be held by the General Partner in trust for the Partnership or in any other manner as the General Partner determines.

## **6.13 Execution of Contracts**

The General Partner will, and any other Person or Persons authorized by the General Partner from time to time may, sign any contracts, documents or instruments in writing requiring the signature of the Partnership, including, without limitation, all documents and agreements necessary to establish and maintain the Partnership Account. All written contracts, documents or instruments so signed will be binding on the Partnership without any further authorization or

formality. The Partners agree that third parties will not be obligated to inquire into the power or authority of the Person or Persons signing such contracts, documents or instruments. All written contracts, documents or instruments will be signed on behalf of the Partnership as follows **“Bruce-to-Milton L.P. by its general partner Bruce-to-Milton GP Inc.”**. [NTD: Confirm names]

#### **6.14 Partnership Account**

The General Partner will open the Partnership Account and will provide the necessary details of the Partnership Account to the Partners. The General Partner will designate from time to time those Persons who are authorized to make deposits to and draw on the Partnership Account and to issue and sign cheques for and on behalf of the Partnership.

#### **6.15 Delegation of General Partner’s Authority**

The General Partner may delegate any powers or authorities granted to it under this Agreement to any of its directors, officers and/or employees or to such other Persons as it sees fit, but no such delegation will release the General Partner from any of its obligations hereunder.

#### **6.16 Voting**

For the purposes of voting under this Agreement:

- (a) at any meeting of the Partners, each Partner will be entitled to one vote in respect of each Unit held by such Partner. Every question submitted to a meeting of the Partners, except those that require a Unanimous Consent of the Partners, will be decided by a majority of the votes cast at the meeting. Votes may be cast in person or by proxy and a Person appointed by proxy need not be a Partner; and
- (b) notwithstanding the foregoing, if at any time SON BtM Partner’s Partnership Interest falls below 5%, the Partnership Interest of SON BtM Partner may not be voted and will be deemed to be nil in respect of the approval of the dissolution of the Partnership requiring the Unanimous Consent of the Partners in accordance with Section 6.17(a).

#### **6.17 Unanimous Consent of the Partners**

The following actions may only be taken by the Partnership or the General Partner after obtaining the Unanimous Consent of the Partners:

- (a) dissolving or liquidating the Partnership or approving the dissolution or liquidation of the Partnership;
- (b) waiving any default on the part of the General Partner on such terms as the Partners may determine and releasing the General Partner from any Claims with respect thereto;
- (c) the sale, exchange or other disposition of any of the undertaking, property or assets of the Partnership that would reasonably be

anticipated to have a material adverse effect on the economic benefits of the Units;

- (d) changing the name of the Partnership pursuant to Section 3.3;
- (e) changing the business of the Partnership pursuant to Section 4.2;
- (f) terminating the Partnership's transmission licence before its expiration;
- (g) to the extent not governed by or exempted from the OEB's *Affiliates Relationship Code* (or future equivalent thereof), entering into an agreement with a person that does not deal at Arm's Length with the General Partner unless such agreement is on terms no less favourable to the Partnership than under an agreement with an Arm's Length person;
- (h) amending any material term of this Agreement; and
- (i) amending, modifying, altering or repealing any action previously taken pursuant to a Unanimous Consent of the Partners.

#### **6.18 Meetings of the Partnership**

- (a) The timing and location of meetings of the Partners will be determined by the General Partner and, unless otherwise agreed by the Partners, will be held at such place in Ontario as the General Partner, or if called by another Partner in accordance with the terms hereof, as the Partner calling such meeting, designates.
- (b) The General Partner may call a meeting of the Partners at any time. The General Partner will also call a meeting upon the written request of any other Partner. Such request will specify the purpose or purposes for which such meeting is to be called and will include sufficient information to enable the Partners to make a reasoned judgment on each matter to be considered at such meeting. If the General Partner fails to call a meeting upon such a request of another Partner within ten (10) days after the giving of such request, the requesting Partner may call such meeting. Written notice of any meeting of the Partners will be given to all Partners at least fourteen (14) days prior to the meeting, accompanied by an agenda specifying the general nature of the business to be transacted at the meeting.
- (c) The notice requirements for any meeting of the Partners may be waived.
- (d) Except as hereinafter provided, a quorum at a meeting of the Partners will be one duly authorized representative of each of the Partners, present in person or by proxy. If a quorum is not present within thirty (30) minutes after the time appointed for a meeting, the meeting will be adjourned to such date, time and place as the Partners present at the meeting may determine. The Partners present at such meeting will

provide at least five (5) Business Days prior written notice of the date, time and place of the adjourned meeting to all Partners. A quorum at an adjourned meeting will consist of all of the Partners present or represented by proxy at the original meeting.

- (e) A Partner may participate in a meeting of the Partners by means of telephone or other communication facilities that permit all Persons participating in the meeting to hear each other and a Partner participating by those means is deemed to be present at that meeting.
- (f) The chair of all meetings will be chosen by the General Partner.
- (g) Each Partner may bring such appropriate advisors to meetings of the Partners as may be reasonably required.
- (h) Any matter to be voted on or resolution by the Partners may be approved or passed, without prior written notice thereof, by written consent in lieu of a meeting if signed by all of the Partners and such written consent will be as valid and effective as if it had been passed at a meeting of the Partners duly convened and held.
- (i) Minutes and proceedings of every meeting of the Partners will be recorded by the General Partner and, when signed by the chair of the meeting, will be prima facie evidence of the matters therein stated. Until the contrary is proved, every meeting in respect of which minutes have been made will be taken to have been duly held and convened and all proceedings referred to in the minutes will be deemed to have been duly passed.
- (j) A written resolution may consist of one document signed in counterpart by one or more Partners and which may be facsimile or portable document format (PDF) copies of signed originals.

## **ARTICLE 7 INSURANCE**

### **7.1 Insurance**

The General Partner shall consult with the Limited Partners in determining the kind and amount of insurance coverage required for itself and for the Partnership, including limits of insurance and deductible amounts. The General Partner shall implement and maintain an insurance program which (i) will satisfy the minimum insurance coverages reasonably required by the Limited Partners and (ii) will satisfy the minimum insurance coverages required by the Project Agreements, provided that the costs of such insurance coverage is recoverable in the Approved OEB Rates or is available in North American insurance markets on commercially reasonable terms.

## **ARTICLE 8**

### **LIABILITY AND INDEMNIFICATION**

#### **8.1 Liability of the Partners**

- (a) The General Partner has unlimited liability for the debts, liabilities and obligations of the Partnership. Except in cases of gross negligence or wilful misconduct, the General Partner will not be liable to the Limited Partners or the Partnership for a mistake or error in judgment, any act or omission believed by the General Partner in good faith to be within the scope of the authority conferred on the General Partner by this Agreement, or any loss or damage to the property or assets of the Partnership caused by circumstances beyond the control of the General Partner. If the tax ruling referred to in Section 11(a) of the Side Letter has been obtained, the liability of the General Partner to SON BtM Partner resulting from Claims arising from any breach by the General Partner of its obligations under this Agreement shall be limited to the amount SON BtM Partner would have been entitled to if the only asset of the General Partner were a 0.1% Partnership Interest in the Partnership, provided that such limitation shall not apply to Claims which SON BtM Partner would have been entitled to bring against the General Partner had the General Partner been a Limited Partner not engaged in the management of the Partnership. For greater certainty, SON LPCo will have no claim in respect of any rights, interests or payments in connection with the BtM LP Promissory Note.
- (b) Subject to the provisions of the Limited Partnerships Act and except for Claims in respect of the indemnity obligations respecting any guarantees provided by a Limited Partner in respect of the Partnership, the liability of each Limited Partner for the debts, liabilities and obligations of the Partnership is limited to the amount of such Limited Partner's Equity Contributions actually made or agreed to be made plus its share of the undistributed income of the Partnership.
- (c) Subject to the terms of any service agreements or separate guarantees or indemnities, in no event will any Partner be liable to another Partner or its Affiliates or their respective officers, directors, employees, agents, shareholders, partners or any other Person claiming through such Partner or Affiliate, for special, incidental, indirect, consequential, exemplary or punitive damages (even if any such Person has been advised of the possibility of such damage or loss) of any kind in connection with this Agreement.

#### **8.2 Limited Liability**

The General Partner shall take every reasonable action necessary to preserve the limited liability of the Limited Partners and shall not take any action which or omit to take any action the omission of which could reasonably be expected to jeopardize the limited liability of the Limited Partners.



### 8.3 Indemnification

- (a) Subject to the limitations on liability in Section 8.1(a), the General Partner agrees to indemnify the Partnership and each other Partner and its Affiliates, officers, directors and employees (the “**Indemnified Group**”) against all Losses sustained or incurred in connection with any Claims arising from any breach by the General Partner of its obligations under this Agreement.
- (b) Subject to the limitations on liability in Section 8.1(a), the General Partner will indemnify the Limited Partners in respect of any loss, liability or damage incurred or suffered by a Limited Partner by reason of the loss of its limited liability for any reason whatever other than through any action or omission by such Limited Partner.

## ARTICLE 9 EVENTS OF DEFAULT

### 9.1 Defaulting Partner

- (a) A Partner shall be a “**Defaulting Partner**” upon the occurrence of any of the following events (each, an “**Event of Default**”):
  - (i) such Partner, or, in the case of either HOI BtM Partner or the General Partner, either of them has failed to observe and perform any material obligation under this Agreement and such failure continues for more than thirty (30) days after written notice thereof is provided to such Partner by the Partnership or any other Partner;
  - (ii) such Partner has failed to pay when due an Additional Equity Contribution it has elected to make in accordance with Section 5.10 and such failure continues for more than ten (10) Business Days after written notice thereof is provided to such Partner by the Partnership; or
  - (iii) in the case of HOI BtM Partner or the General Partner, the General Partner has failed to observe and perform any material obligation under the Operations Agreement, and such failure continues for more than thirty (30) days after written notice thereof is provided to the General Partner by the Partnership or any other Partner.
- (b) If a Partner is Defaulting Partner and the event or circumstance that caused it to be a Defaulting Partner has been cured or ceased to exist, such Partner shall thereupon cease to be a Defaulting Partner.

## 9.2 Notice of Default

A Partner, or its legal representative, will give notice to the other Partners of any event that has occurred with respect to such Partner which has made, or which would with the passage of time make, it a Defaulting Partner.

## 9.3 Distributions to a Defaulting Partner

- (a) If an Event of Default has not been remedied within the cure period provided in Section 9.1(a), the General Partner shall, in good faith and as soon as reasonably practicable, determine the Losses to the Partnership resulting from such Event of Default (the “**Default Amount**”). The General Partner shall notify each of the Partners of the Default Amount so determined (the “**Default Amount Notice**”). The Defaulting Partner shall wire or otherwise deposit the Default Amount to the Partnership Account within thirty (30) days of receipt of the Default Amount Notice from the General Partner. If the Defaulting Partner fails to do so, such Defaulting Partner shall cease to be entitled to any distributions or Advances pursuant to Section 5.13 until the aggregate amount of the distributions or Advances that would have otherwise been paid by the Partnership to such Defaulting Partner equals such Losses, at which time the Event of Default shall have been cured and such Defaulting Partner shall no longer be a Defaulting Partner hereunder.
- (b) If a Limited Partner in good faith disputes the General Partner’s calculation of the Default Amount or whether it is a Defaulting Partner, it will so advise the General Partner and each of the other Partners in writing within thirty (30) days of receipt of the Default Amount Notice from the General Partner. Any Dispute with respect to the calculation of the Default Amount will be resolved in accordance with the provisions set forth in Article 13. Within **[five (5)]** Business Days after all dispute resolution mechanisms in Article 13 have been exhausted, the Limited Partner or the Partnership, as the case may be, shall pay to the other the amount owing as a result of such resolution.

## 9.4 HOI BtM Partner Buy-Out Option

- (a) If:
  - (i) SON BtM Partner becomes a Defaulting Partner for any one or more reasons, and for so long as SON BtM Partner is a Defaulting Partner, or
  - (ii) SON BtM Partner or any of its Affiliates fails to act in the best interests of the Partnership or the BtM Project Assets using commercially reasonable efforts, and such failure continues for more than thirty (30) days after written notice thereof is provided to SON BtM Partner by the Partnership or any other Partner,

which in either case causes the Partnership to default on a payment obligation under the BtM LP Promissory Note, either the General Partner or HOI BtM Partner, as determined by the General Partner (such Partner, the “**Buying Partner**”), will have the option, exercisable in the Buying Partner’s sole and absolute discretion after all Dispute resolution mechanisms in Article 13 have been exhausted, to require SON BtM Partner to transfer its Units to the Buying Partner upon payment to SON BtM Partner of the Termination Payment (the “**Buy-Out Option**”). The Buying Partner may exercise the Buy-Out Option by way of prior written notice to SON BtM Partner (the “**Buy-Out Notice**”). The Buy-Out Notice will specify the date of the exercise of the Buy-Out Option.

- (b) The “**Termination Payment**” will be equal to the Fair Market Value of SON BtM Partner’s Units as of the date of the Buy Out Notice, determined in accordance with the principles of valuation set forth in Schedule 9.4.

## 9.5 Transfer

- (a) If the Buying Partner exercises the option to purchase SON BtM Partner’s Units pursuant to Section 9.4(a), SON BtM Partner will transfer all of its Units to the Buying Partner in consideration of the payment of the Termination Payment as required by Section 9.4 to SON BtM Partner in accordance with this Section 9.5.
- (b) To the extent there are any amounts owing from SON BtM Partner to the Buying Partner, the amount so owing by SON BtM Partner will be set-off against the Termination Payment (such Termination Payment, as adjusted, the “**Closing Payment**”).
- (c) Upon determining the Closing Payment, SON BtM Partner and the Buying Partner will, within sixty (60) days of such determination, execute and deliver such documents and instruments as the Buying Partner may request, acting reasonably, in order to complete the transfer of SON BtM Partner’s Units to the Buying Partner and to discharge and release any security against SON BtM Partner’s Units and the Buying Partner will pay the Closing Payment. If SON BtM Partner fails to execute and deliver any document or instrument required to be executed and delivered by it in connection with the transfer within the sixty (60) days, the Buying Partner is hereby granted an irrevocable power of attorney with full power of substitution to execute and deliver on behalf of SON BtM Partner all such documents and instruments which may be required in order to complete the transfer of SON BtM Partner’s Units to the Buying Partner.
- (d) Upon the completion of the purchase and sale, SON BtM Partner will cease to be a Partner and will have no further rights or liabilities with respect to the Partnership or under or in connection with the BtM Project Assets, except that it agrees to be bound by the provisions of Section 14.1 for a period of five years from the completion of such

purchase and sale and any indemnities of SON BtM Partner (or its Affiliates) will continue as provided for in this Agreement.

- (e) Notwithstanding the acquisition by the Buying Partner of SON BtM Partner's Units following the exercise of the Buy-Out Option, SON BtM Partner's obligations, if any, pursuant to the Master Implementation Agreement will continue in full force and effect.

## **ARTICLE 10 RECORDS AND AUDIT**

### **10.1 Partner Records**

Each Partner will keep accurate records of amounts owing to, payable by, received by and paid by it in respect of the Partnership.

### **10.2 Partnership Records**

- (a) The General Partner will maintain, or caused to be maintained by a third party or through a service agreement with a Partner, accurate books and records relating to the Partnership and its business, including relating to all relevant permits, studies and reports and of all amounts owing to, payable by, received by and paid in connection with the Partnership (the "**Partnership Records**").
- (b) Where applicable, Partnership Records will be prepared in accordance with GAAP and with those generally accepted accounting principles and specific accounting policies being used by the Partners and will be in such form and detail as will enable the Partners to obtain the information necessary for Partners to prepare and maintain accounting and other records meeting their reasonable requirements.
- (c) Original Partnership Records will be kept at the registered office of the General Partner, unless otherwise agreed by the Partners.

### **10.3 Retention of Records**

Records required to be kept pursuant to Sections 10.1 or 10.2, which are required to be maintained for a stipulated period of time by any Applicable Laws, will be maintained for the period stipulated in such Applicable Laws; otherwise such records will be maintained for a period of seven (7) years after the end of the year to which such record applies or, in the case of records to be maintained pursuant to Section 10.2, such longer period as the General Partner may determine.

### **10.4 Request for Partnership Records**

At the request of a Partner made at any time prior to the expiry of the periods referred to in Section 10.3, the General Partner will provide that Partner with copies of any such Partnership Records maintained pursuant to Section 10.2, provided that if such documents or records are necessary for any judicial or regulatory proceeding, a Partner may have the use of originals.

## **10.5 Audit of Partnership Records**

- (a) During the period of time in which records are to be maintained by the General Partner in accordance with Section 10.3, each Limited Partner will have the right, at its expense, on reasonable prior notice to the General Partner and during normal business hours, to audit, examine and make copies of the Partnership Records and any other records maintained by the General Partner which in any way relate to the Partnership or the BtM Project Assets, including records related to the operation of the BtM Project Assets pursuant to the Operations Agreement. A Limited Partner shall make reasonable efforts to conduct any such audit or examination so as to minimize any inconvenience to the General Partner.
- (b) The costs and expenses incurred in any such inspection, examination or audit made by a Limited Partner shall be for the account of such Limited Partner. The Limited Partner shall use all reasonable efforts to conclude such audit within ninety (90) days after delivery of the initial notice of audit. This right to audit shall continue for a period of sixty (60) Months after the end of the Fiscal Year in which the particular items to be audited occurred.
- (c) Any claims of discrepancies in respect of the matters audited shall be made in writing by a Limited Partner to the General Partner within three (3) Months of its completion of such audit. The General Partner shall notify the auditors of the Partnership and respond in writing to all claims of discrepancies within three (3) months of its receipt of such claim and address such claims of discrepancies in a manner satisfactory to such Limited Partner.

## **10.6 Auditors of the Partnership**

The General Partner will appoint the initial auditors of the Partnership. The General Partner may at its discretion, tender for the auditors, and on this basis may replace the initial auditors at any time.

## **10.7 Financial Statements**

- (a) Within 75 days following the end of each Fiscal Year or within 75 days of dissolution of the Partnership, the General Partner shall cause to be prepared and delivered to each Limited Partner, audited financial statements of the Partnership for such Fiscal Year, including a balance sheet as at the end of the Fiscal Year, an income statement and a statement of cash flows for such Fiscal Year and a statement of each Partner's Equity Contributions and Capital Account as at the end of the Fiscal Year together with comparative financial statements for the prior Fiscal Year, in each case prepared in accordance with GAAP and with those generally accepted accounting principles and specific accounting policies being used by the Partners, together with a report thereon of the auditors of the Partnership, and all such information as may be necessary to enable the Partners to file all required Canadian federal and provincial income tax returns with respect to the income of the Partnership.

- (b) Within ten (10) days after the end of each calendar quarter and of each Fiscal Year, the General Partner shall cause to be prepared and delivered to each Limited Partner, such additional financial reports and information as may be necessary to enable each Limited Partner to prepare its financial statements and calculate its tax provision for such period.

## **ARTICLE 11 TRANSFERS**

### **11.1 Restrictions on Transfer**

- (a) Except as expressly provided in this Agreement, no Partner shall, directly or indirectly, Transfer any Units held by it to any Person or undergo a Change of Control.
- (b) Notwithstanding anything else contained in this Agreement, every Transfer of Units held by a Partner, in addition to the other requirements of this Agreement, shall be subject to the condition that the proposed transferee, if not already bound by the terms of this Agreement, shall first agree, in writing, to become a party to and be bound by the terms of this Agreement, by executing a form of counterpart and acknowledgement acceptable to the Corporation and substantially in the form attached as Schedule 11.1.

### **11.2 Permitted Transferees**

- (a) HOI BtM Partner or the General Partner, or any other direct or indirect wholly owned subsidiary of Hydro One that becomes a Partner, may Transfer all or any of its Units to a third party, provided that immediately after the Transfer, Hydro One, directly or indirectly, holds at least 50% of the total number of Units outstanding and provided that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2.
- (b) HOI BtM Partner or the General Partner may Transfer all or any of its Units to an Affiliate and provided that the General Partner may not Transfer any of its Units if such Transfer would result in the General Partner holding a Partnership Interest of less than 0.10%, and provided further that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2. No such Transfer shall be effective until the transferee executes and delivers to the Partnership a counterpart to this Agreement in compliance with Section 11.1(b).
- (c) SON BtM Partner may Transfer all or any of its Units to an Affiliate or a wholly-owned subsidiary of SON BtM Partner and provided that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2. No such Transfer shall be effective

until the transferee executes and delivers to the Partnership a counterpart to this Agreement in compliance with Section 11.1(b).

- (d) In the event of any Transfer of Units by the General Partner pursuant to Section 11.2(a) or Section 11.2(b), such transferee shall hold such Units only as a Limited Partner and the rights and obligations of the General Partner under this Agreement shall not be transferred to the transferee, but the transferee shall be entitled to the rights and subject to the obligations under this Agreement of a Limited Partner holding the number of Units transferred to the transferee by the General Partner.

### 11.3 Pledge of Units

Notwithstanding any other provision of this Agreement,

- (a) SON BtM Partner shall be permitted to Transfer the Units held by it as security in connection with any financing of any Equity Contribution by SON BtM Partner, provided the terms of such Transfer, including the identity of the Transferee, are acceptable to HOI BtM Partner, acting reasonably, and
- (b) HOI BtM Partner shall be permitted to Transfer the Units held by it as security in connection with any financing in respect of the BtM Project Assets.

### 11.4 Right of First Offer

- (a) Except in respect of a Transfer pursuant to Section 11.2, any Limited Partner (the “**ROFO Offeror**”) who wishes to sell all, but not less than all, of its Units shall first offer to sell such Units to the other Limited Partners. The ROFO Offeror shall deliver a notice in writing of the offer (the “**ROFO Notice**”) to each of the other Limited Partners (the “**ROFO Offerees**”) that shall set out the number of Units then held by the ROFO Offeror (the “**ROFO Offeror’s Units**”) and in the ROFO Notice the ROFO Offeror shall irrevocably offer to sell the ROFO Offeror’s Units, for cash, to the ROFO Offerees at the price (the “**ROFO Price**”) and on terms set forth in the ROFO Notice.
- (b) Upon the ROFO Notice being given, the ROFO Offerees shall have the right to purchase all, but not less than all, of the ROFO Offeror’s Units, pro rata based upon the number of Units beneficially owned by the ROFO Offerees as of the date the ROFO Notice is given (or in such other proportion as the ROFO Offerees may agree in writing).
- (c) Within thirty (30) days after the ROFO Notice is deemed (under Section 17.1) to have been received by the ROFO Offerees (the “**ROFO Offer Period**”) each of the ROFO Offerees may give to the ROFO Offeror a notice in writing (a “**ROFO Acceptance Notice**”) accepting the offer contained in the ROFO Notice and specifying the maximum number of

the ROFO Offeror's Units it wishes to acquire (which number may be greater or less than its pro rata entitlement). If any ROFO Offeree does not give a ROFO Acceptance Notice or specifies in its ROFO Acceptance Notice a number of Units less than its pro rata entitlement, the resulting unaccepted ROFO Offeror's Units shall be deemed to have been offered by the ROFO Offeror to such of the ROFO Offerees who specified in their ROFO Acceptance Notices a wish to acquire a number of the ROFO Offeror's Units greater than their pro rata entitlement, and each such ROFO Offeree shall be, subject to the maximum number of the ROFO Offeror's Units specified in its ROFO Acceptance Notice, entitled to acquire its pro rata entitlement of the unaccepted ROFO Offeror's Units based upon the number of Units beneficially owned (as of the date of the ROFO Notice) by such ROFO Offerees, as between themselves (or in such other proportion as such ROFO Offerees may agree in writing). If, pursuant to the foregoing process, one or more ROFO Offerees agree to purchase, in aggregate, all of the ROFO Offeror's Units, the sale of the ROFO Offeror's Units to such ROFO Offerees shall be completed within twenty (20) Business Days of the expiry of the Offer Period.

- (d) If the ROFO Offeror does not receive ROFO Acceptance Notices from the ROFO Offerees, or any of them, within the ROFO Offer Period confirming their agreement to purchase all of the ROFO Offeror's Units, the rights of the ROFO Offerees to purchase any of the ROFO Offeror's Units shall cease at the end of the ROFO Offer Period and, subject to Section 11.5, the ROFO Offeror may sell the ROFO Offeror's Units to any bona fide Arm's Length third party or parties within five (5) months after the expiry of the ROFO Offer Period, for a price and on other terms and conditions in all material respects taken as a whole no more favourable to such Persons than those set out in the ROFO Notice. If the ROFO Offeror's Units are not sold within such five (5) month period on such terms, the provisions of this Section 11.4 shall again apply to any proposed Transfer of Units, and so on from time to time. For greater clarity, if the ROFO Offeror receives ROFO Acceptance Notices from the ROFO Offerees, or any of them, within the ROFO Offer Period agreeing to purchase less than all of the ROFO Offeror's Units, the rights of the ROFO Offerees to purchase, in aggregate, the ROFO Offeror's Units so accepted shall cease at the end of the ROFO Offer Period and, in accordance with this Section 11.4(d) and subject to Section 11.5, the ROFO Offeror may sell all of the ROFO Offeror's Units to any bona fide Arm's Length third party or parties.
- (e) All ROFO Acceptance Notices or other notices under this Section 11.4 shall be given concurrently to all Limited Partners and to the Partnership.



- (f) To permit the practical implementation of this Section 11.4, no Units may be sold by any Limited Partner as part of or incidental to the sale of any other assets or any other transaction.

## 11.5 Right of First Refusal

- (a) If a Limited Partner (the “**Selling Partner**”) receives from a third party (the “**Third Party**”) that is acting as principal and dealing at Arm’s Length with the Selling Partner, a bona fide written offer (the “**Third Party Offer**”) to purchase any of the Units then held by the Selling Partner (the “**Selling Partner’s Units**”) (whether such Third Party Offer was solicited following a ROFO Notice that the ROFO Offeree elected not to accept or whether such Third Party Offer was unsolicited), the Selling Partner shall only accept such Third Party Offer subject to compliance with the provisions of this Section 11.5. Upon such conditional acceptance, the Selling Partner shall deliver a notice in writing (the “**ROFR Notice**”) to each of the other Limited Partners (the “**Non-Selling Partners**”) irrevocably offering to sell to them the Selling Partner’s Units at the same price and in all other material respects on substantially the same terms and conditions as provided in the Third Party Offer. The Selling Partner shall deliver, with the ROFR Notice, a true copy of the Third Party Offer and, if the Third Party is other than an individual, the names of the principal shareholders or holders of interests in such Third Party (if available), officers and directors (or the equivalent) of the Third Party and any other information with respect to the financial capacity of the Third Party in the possession of the Selling Partner. The offer contained in the ROFR Notice shall be irrevocable except with the consent of the Non-Selling Partners and shall be open for acceptance for a period of thirty (30) days after the date upon which the ROFR Notice is deemed (under Section 17.1) to have been received by the Non-Selling Partners (the “**ROFR Acceptance Period**”).
- (b) Upon the ROFR Notice being given, the Non-Selling Partners shall have the right to purchase all, but not less than all, of the Selling Partner’s Units, pro rata based upon the number of Units beneficially owned by the Non-Selling Partners as of the date the ROFR Notice (or in such other proportion as the Non-Selling Partners may agree in writing).
- (c) Within the ROFR Acceptance Period each of the Non-Selling Partners may give to the Selling Partner a notice in writing (a “**ROFR Acceptance Notice**”) accepting the offer contained in the ROFR Notice and specifying the maximum number of the Selling Partner’s Units it wishes to acquire (which number may be greater or less than its pro rata entitlement). If any of the Non-Selling Partners does not give a ROFR Acceptance Notice or specifies in its ROFR Acceptance Notice a number of Units less than its pro rata entitlement, the resulting unaccepted Selling Partner’s Units shall be deemed to have been offered by the Selling Partner to such of the Non-Selling Partners who specified in their ROFR Acceptance Notices a wish to acquire a number of the

Selling Partner's Units greater than their pro rata entitlement, and each such Non-Selling Partner shall be, subject to the maximum number of the Selling Partner's Units specified in its ROFR Acceptance Notice, entitled to acquire its pro rata entitlement of the unaccepted Selling Partner's Units based upon the number of Units beneficially owned (as of the date of the ROFR Notice) by such Non-Selling Partners, as between themselves (or in such other proportion as such Non-Selling Partners may agree in writing). If the Non-Selling Partners, or any of them, give ROFR Acceptance Notices within the ROFR Acceptance Period confirming their agreement to purchase, in aggregate, all of the Selling Partner's Units, the sale of the Selling Partner's Units to such Non-Selling Partners shall be completed within twenty (20) Business Days of the expiry of the ROFR Acceptance Period.

- (d) If the Selling Partner does not receive ROFR Acceptance Notices from the Non-Selling Partners, or any of them, within the ROFR Acceptance Period confirming their agreement to purchase all of the Selling Partner's Units, the rights of the Non-Selling Partners to purchase any of the Selling Partner's Units shall cease at the end of the ROFR Acceptance Period and the Selling Partner may sell the Selling Partner's Units to the Third Party at the price and upon the terms and conditions specified in the Third Party Offer.
- (e) Any transfer to the Third Party pursuant to this Section 11.5 must be completed within 150 days following the expiry of the ROFR Acceptance Period, failing which the provisions of this Section 11.5 shall again apply to any proposed Transfer of Units, and so on from time to time.
- (f) All ROFR Acceptance Notices or other notices under this Section 11.5 shall be given concurrently to all Limited Partners and to the General Partner.
- (g) To permit the practical implementation of this Section 11.5, no Units may be sold by any Limited Partner as part of or incidental to the sale of any other assets or any other transaction.

## **11.6 Permitted Hydro One Change of Control**

- (a) Hydro One shall be entitled to sell, transfer or otherwise dispose of its interest in HOI BtM Partner or any other Affiliate of Hydro One which becomes a Limited Partner, provided that immediately after such sale, transfer or disposition, Hydro One or an Affiliate of Hydro One, directly or indirectly, continues to hold at least 50% of the total number of Units outstanding and Hydro One provides notice of the Change of Control to SON BtM Partner as soon as reasonably possible after the occurrence of the Change of Control.

- (b) Hydro One shall be entitled to sell, transfer or otherwise dispose of its interest in the General Partner to an Affiliate of Hydro One.
- (c) Notwithstanding any other provision of this Agreement, Hydro One or HONI shall be entitled to undergo a Change of Control, provided that HOI BtM Partner shall notify SON BtM Partner of any such Change of Control as soon as reasonably possible after the occurrence of the Change of Control.

### **11.7 General Partner Co-operation**

The General Partner will co-operate in all reasonable ways to effect and facilitate a Transfer permitted pursuant to this Article 11, provided that such co-operation will be at the sole expense of the Partner transferring its interest (which expense may include reasonable costs of the General Partner and the Partnership relating to such permitted Transfer).

### **11.8 Liability After Disposition**

Upon completion of any Transfer permitted pursuant to the terms of this Article 11, the transferee shall be automatically admitted as a Partner in substitution for, or in the case of a partial Transfer, in addition to, the transferor, upon execution of a counterpart of this Agreement and compliance with the terms and conditions of this Article 11. No Transfer shall relieve the transferor of liability under this Agreement, the Limited Partnerships Act or otherwise in respect of the Transferred Partnership Interest for matters arising or events occurring prior to the completion of, or in respect of, the Transfer of the Partnership Interest. Upon the Transfer of a Partner's entire Partnership Interest (except a Transfer by mortgage, lien, pledge or other encumbrance but not excepting a Transfer resulting from a default in connection with such mortgage, lien, pledge or other encumbrance), such Partner shall have no further interest in the Partnership or rights or obligations under this Agreement (other than those expressed as surviving such Transfer) except its rights and obligations under Section 14.1 which shall survive such Transfer.

### **11.9 Effect of Prohibited Transfers**

Any Transfer by a Partner in violation of the terms of this Agreement shall be void and shall not be recognized by the Partnership; provided, however, that nothing herein shall be deemed to limit any right or remedy that the Partnership or any other Partner may have against such Partner.

### **11.10 Change in Composition of the Partnership**

The Partners hereby expressly agree that the bankruptcy or insolvency of any Partner, a change in the ownership of Units, the addition or withdrawal of Partners to or from the Partnership as permitted by this Agreement, or any amendment to this Agreement will not dissolve or otherwise alter the legal existence of the Partnership.

### **11.11 Survival of Other Agreements**

Notwithstanding anything to the contrary contained in this Agreement, a Partner's rights, obligations and liabilities with respect to the other Partners under or in connection with the

Project Agreements, other than this Agreement, including obligations to provide or repay and monies, will continue and remain unaffected by such Partner ceasing to be a Party to this Agreement or as a result of the termination or expiration of this Agreement and will survive any winding-up, liquidation, termination or dissolution of the Partnership.

## **ARTICLE 12 DISSOLUTION**

### **12.1 No Withdrawal Rights**

Except as otherwise specifically provided in this Agreement, no Partner may withdraw from the Partnership or have the right to require dissolution or winding up of the Partnership's affairs or the distribution of the Partnership's assets, without the prior written consent of the other Partners.

### **12.2 Transfer of Partnership Interest at General Partner's Election**

Upon the occurrence of any of the following events in respect of a Limited Partner, the Units of such Limited Partner shall, at the option of the General Partner exercised on notice to such Limited Partner, be deemed to have been Transferred to the Partnership by way of redemption by the Partnership and cancellation of such Units at an aggregate price equal to the Fair Market Value of such Units immediately prior to the occurrence of such event and on such other terms and conditions as may be approved by the General Partner with effect immediately prior to the occurrence of such event:

- (a) the entry by a court of competent jurisdiction of a decree or order for relief, unstayed on final appeal or otherwise, in respect of such Partner in an involuntary case under bankruptcy laws, or any such order adjudicating such Partner as bankrupt or insolvent under any other applicable bankruptcy, insolvency or liquidation law;
- (b) the entry by a court of competent jurisdiction of a decree or order appointing a receiver, custodian, assignee, trustee, liquidator, sequestrator or other similar official of such Partner or of any substantial part of the property of such Partner, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed on final appeal or otherwise, or the commencement by such Partner of a voluntary case under the bankruptcy laws, or under any other insolvency law, seeking reorganization, liquidation, arrangement, adjustment or composition of such Partner under such laws;
- (c) the making by such Partner of an assignment for the benefit of creditors; or the failure of such Partner generally to pay its debts as they become due; or the consenting by such Partner to the appointment of or taking possession by a receiver, custodian, assignee, trustee, liquidator, sequestrator or other similar official of it or of any substantial part of its property, or the taking of corporate action by such Partner in furtherance of any such action;

- (d) the filing by a Partner for dissolution under the laws of the jurisdiction of its incorporation or formation, other than the filing by HOI BtM Partner for voluntary dissolution under the laws of the jurisdiction of its incorporation, or the entering of a final order dissolving that Partner by any court of competent jurisdiction; or
- (e) any event which shall make it unlawful for that Partner to remain a Partner of the Partnership.

The occurrence of any of the foregoing events shall not cause a dissolution of the Partnership and the Partnership shall continue, unless there is only one (1) Partner remaining in the Partnership, whereupon the Partnership shall automatically dissolve by operation of law.

Upon such redemption, the Units of such Limited Partner shall be cancelled, the Partnership Interest of such Limited Partner shall be reduced to zero and the respective Partnership Interests of each of the other Limited Partners shall be increased in the proportion their respective Partnership Interest bears to the aggregate of the remaining Partnership Interests immediately prior to the applicable event.

The Partners acknowledge and agree that under the circumstances specified in this Section 12.2, the Fair Market Value of such Units is fair and reasonable consideration and each Partner hereby waives, for itself, its successors and permitted assigns, including receivables, trustees in bankruptcy or other Persons appointed on its behalf in such circumstances, to the fullest extent permitted by law, any and all right to claim that such redemption is unenforceable or that such consideration is unfair or unreasonable.

### **12.3 Events of Dissolution**

The Partners shall cause the Partnership to be wound up and dissolved forthwith upon the happening of any of the following events:

- (a) the completion of the Decommissioning Work;
- (b) the sale of all or substantially all of the assets of the Partnership or the abandonment and reclamation of all of the Partnership's assets;
- (c) any event which shall make it unlawful for the Partnership Business to be carried on;
- (d) any event which, under Applicable Laws, requires or results in the dissolution or winding up of the Partnership; or
- (e) if the Partners agree to do so by Unanimous Consent of the Partners.

### **12.4 Winding Up And Dissolution**

- (a) On the happening of any event requiring the dissolution of the Partnership as provided in this Agreement, the General Partner shall exercise its powers under this Agreement for the purpose of winding up the business of the Partnership, liquidating the Partnership's assets in an

orderly manner, paying the debts, liabilities and expenses of the Partnership and satisfying its other obligations, distributing any cash or other assets of the Partnership to the Partners in accordance with Section 12.4(b), filing all notices of dissolution prescribed by the Limited Partnerships Act, and filing all elections, determinations or designations required under the Income Tax Act or the Electricity Act which may be necessary or desirable. The Partnership shall not engage in any new business during the period of such winding up and dissolution.

- (b) Upon the dissolution of the Partnership, the proceeds from the liquidation of the Partnership's assets will be distributed, after payment of all of the debts, liabilities, obligations and expenses of the Partnership, to the Partners in proportion to the number of Units held.
- (c) No winding up, liquidation, termination or dissolution of the Partnership or of the business of the Partnership shall relieve a Partner from any obligation accruing or accrued to the date of such winding up, liquidation, termination or dissolution.
- (d) Notwithstanding the foregoing and any other provision of this Agreement, if the Partners agree, the Partnership may be dissolved in a manner to comply with the provisions of Subsections 85(3), 98(3) or 98(5) of the Income Tax Act or in such other tax-efficient manner as the Partners may agree.

## **12.5 Effect of Addition or Withdrawal of Partners on Dissolution**

The Partners hereby expressly agree that the addition or withdrawal of a Partner hereunder shall not cause a dissolution of the Partnership unless there is only one (1) Partner remaining in the Partnership, whereupon the Partnership shall automatically dissolve by operation of law.

## **ARTICLE 13 DISPUTE RESOLUTION**

### **13.1 Dispute Resolution**

The Parties will work co-operatively to resolve any Dispute. Any Dispute which has not been resolved by the Parties will be resolved in accordance with the provisions of this Article 13.

### **13.2 Negotiation**

Following receipt of a written request for a meeting, senior representatives of each Party will meet to attempt to resolve such Dispute. Each Party's senior representative will have sufficient authority to bind the Party they represent.

### **13.3 Mediation**

If the senior representatives are unable to resolve such Dispute within fifteen (15) Business Days from the date the first written request for a meeting was received, the Parties may thereafter invoke the then existing non-binding mediation procedure of the ADR Institute of Canada, Inc.

or its successor (“**ADRIC**”), provided that if no ADRIC mediation procedure is in existence at the time, the most recent mediation procedure of the Canadian Foundation for Dispute Resolution or its successor will be used in the place thereof. The mediator will be chosen by agreement of the Parties.

### **13.4 Arbitration**

A Party may refer any Dispute to arbitration before a single arbitrator. Insofar as they do not conflict with this Section 13.4, the Rules for Procedure for Commercial Arbitration of the Arbitration and Mediation Institute of Canada Inc./International Chamber of Commerce Rules of Arbitration in effect at the date of commencement of any arbitration held under this Agreement will apply to the arbitration. No Party may appeal the decision of the arbitrator in any manner whatsoever, except as permitted by the *Arbitration Act, 1991* (Ontario). A Party may enter any judgment upon any award rendered by the arbitrator in any court having jurisdiction. The arbitration will be conducted in English under the *Arbitration Act, 1991* (Ontario) and will take place in either the City of Toronto or such other place as the Parties may agree and at such time and place as the arbitrator may fix.

### **13.5 Dispute Regarding Transfer of Units**

Notwithstanding any other provision of this Agreement, SON BtM Partner will have the right to have any Dispute as to whether it is required to transfer its Units to HOI BtM Partner pursuant to Section 5.10(g) or Section 9.4 adjudicated by a court of competent jurisdiction.

## **ARTICLE 14 CONFIDENTIALITY**

### **14.1 Confidentiality**

Each of the Parties agrees that it will maintain as confidential all data and information relating to the subject matter hereof, the Partnership and the BtM Project Assets, except and to the extent that:

- (a) such data and information is otherwise in the public domain;
- (b) such data and information is required to be disclosed to Affiliates, rating agencies, advisors or potential lenders (including their agents or trustees) or potential direct or indirect purchasers or transferees of a Partner's Units and, in the case of HOI BtM Partner, including the Province of Ontario, its employees, representatives, directors, advisors or agents;
- (c) such data and information is required to be disclosed to potential transferees and their respective advisors, rating agencies, potential lenders and Affiliates and each of their respective employees, representatives, directors, advisors or agents; or
- (d) a Party is legally compelled to disclose such data and information to a court or regulatory authority in the proper exercise of its jurisdiction.

Each of the Parties agrees that it will make all reasonable efforts to limit internal disclosure of such data and information to only those of their employees, representatives, directors, officers or agents who will need to have access to the same to fulfill the responsibilities and obligations of the Party under this Agreement or other Project Agreements. If a Party discloses any data or information pursuant to an exception set out in this Section 14.1, it agrees to use commercially reasonable efforts to require the recipient to: keep such information confidential; prevent any further disclosure of such information; abide by the obligation of confidentiality hereunder; and not use any of such confidential data and information in a manner that could be the detrimental to the other Parties or the Partnership.

For greater certainty, the confidentiality obligations pursuant to this Section 14.1 do not apply to the disclosure of the terms of this Agreement and shall not prevent SON BtM Partner from periodically reporting to members of SON on the status of its investment in the Partnership provided such reporting does not include commercially sensitive details relating to the operation of the Line.

Notwithstanding the foregoing, the Parties acknowledge that HOI BtM Partner is subject to the *Freedom of Information and Protection of Privacy Act* (Ontario) (“**FIPPA**”) and the General Partners and HOI BtM Partner’s confidentiality covenants are expressly subject to any and all obligations and requirements that may exist or may in the future arise under FIPPA.

This Section 14.1 will survive the termination of this Agreement for a period of two (2) years thereafter.

## **ARTICLE 15**

### **PRESS RELEASES**

#### **15.1 Press Releases**

Press releases and other public announcements in respect of this Agreement, the Partnership or the BtM Project Assets, excepting releases of information required by Applicable Laws or the rules of any stock exchange to which a Party or an Affiliate may be subject, will be made only with the prior written approval of each other Party, such approval not to be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, if a press release or other public announcement is to be made by a Party in order to comply with any Applicable Laws, where possible the other Parties will be given prior notice of such press release and a reasonable opportunity to review and comment thereon.

## **ARTICLE 16**

### **TAXES**

#### **16.1 Tax Information and Returns**

The General Partner will send to each Person who was a Partner at any time in a particular Fiscal Year of the Partnership within ninety (90) days of the end of the Fiscal Year all Partnership information relating to such Fiscal Year which is necessary for such Partner or former Partner to prepare its tax or information returns. The General Partner will file, on behalf of the other present and former Partners, any information and tax returns required to be filed by the



Partnership under the Income Tax Act and any other applicable Canadian tax laws, statutes or regulations in respect of the Partnership's activities in the prescribed forms and on a timely basis.

## **16.2 Tax Elections**

The General Partner will have the authority to act, and will act with due diligence, for the Partnership for the purpose of making or executing any agreement, designation or election on behalf of the Partners or the Partnership pursuant to the Income Tax Act or any other relevant taxing legislation in Canada, and each Partner agrees to act reasonably and co-operatively with the other Partners for the purpose of making any tax elections which are required to be made jointly by all of the Partners.

## **16.3 Partner Responsible for Own Income Taxes**

Except as provided in this Article 16, each Partner will be solely responsible for the payment of the Income Taxes imposed on it or payable by it in connection with the Partnership. Without limiting the foregoing, the Partnership, HOI BtM Partner and the General Partner will have no liability to SON BtM Partner in the event that SON BtM Partner or its successors or assigns are found to be taxable. Any Income Taxes which may be levied by any Governmental Authority on a Partner will not be considered to be Partnership obligations.

## **16.4 GST/HST**

The General Partner will pay all GST/HST on behalf of the Partnership, charge, collect and remit GST/HST and make and file all elections and all forms, documents and tax returns and take all other steps required to administer taxes payable under the *Excise Tax Act* (Canada) on behalf of the Partnership.

# **ARTICLE 17 NOTICES**

## **17.1 Notices**

Unless otherwise provided in this Agreement, every notice required or permitted under this Agreement must be in writing and may be delivered in person, by courier or by fax to the applicable Party, as follows:

- (a) if to HOI BtM Partner,

c/o Hydro One Inc.  
483 Bay Street  
15<sup>th</sup> Floor, North Tower  
Toronto, ON M5G 2P5

Attention: General Counsel

Fax: (416) 345-6056

- (b) if to SON BtM Partner,

c/o Saugeen Ojibway Nation  
[insert address for courier service]

Attention: ●

Fax: ●

(c) if to the General Partner,

c/o Hydro One Networks Inc.  
483 Bay Street  
15th Floor, North Tower  
Toronto, ON M5G 2P5

Attention: ●

Fax: ●

or to any other address, fax number or individual that a Party designates. Any notice under this Agreement, if delivered personally or by courier, will be deemed to have been given when actually received, if delivered by fax before 3:00 p.m. on a Business Day, will be deemed to have been delivered on that Business Day and if delivered by fax after 3:00 p.m. on a Business Day or on a day which is not a Business Day, will be deemed to be delivered on the next Business Day.

## **ARTICLE 18 MISCELLANEOUS**

### **18.1 Amendment**

Except as expressly provided in this Agreement, no amendment, supplement, restatement or termination of this Agreement in whole or in part is binding unless it is in writing and signed by each Party.

### **18.2 Waiver**

No waiver of any term of this Agreement is binding unless it is in writing and signed by all the Parties entitled to grant the waiver. No failure to exercise, and no delay in exercising, any right or remedy under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any term of this Agreement will be deemed to be a waiver of any subsequent breach of that term.

### **18.3 Severability**

If any term of this Agreement is or becomes illegal, invalid or unenforceable, the illegality, invalidity or unenforceability of that term will not affect the legality, validity or enforceability of the remaining terms of this Agreement.

#### **18.4 Entire Agreement**

This Agreement, the Master Implementation Agreement and all documents contemplated by or delivered in connection with this Agreement, constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or verbal. This Agreement replaces and supersedes the Initial Partnership Agreement.

#### **18.5 Governing Law**

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in Ontario. Each of the Parties irrevocably submits to the non-exclusive jurisdiction of the courts of Ontario.

#### **18.6 Time of Essence**

For every term of this Agreement, time is of the essence.

#### **18.7 Enurement**

This Agreement will enure to the benefit of and be binding on the Parties and their respective successors and permitted assigns.

#### **18.8 Further Assurances**

Each Party will from time to time, and promptly upon request, sign and deliver all further documents and take all further action reasonably necessary or appropriate to give effect to the terms of this Agreement.

#### **18.9 Execution in Counterparts**

This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be signed and delivered in any number of counterparts, each of which when signed and delivered is an original, but all of which taken together constitute one and the same instrument. This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be delivered by means of facsimile or via e-mail in portable document format (PDF).

The Parties have duly executed this Agreement.

**[SON BtM Partner]**

By: \_\_\_\_\_

Name: ●

Title: ●

By: \_\_\_\_\_

Name: ●

Title: ●

**[HOI BtM Partner]**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**[GENERAL PARTNER]**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**THIS IS SCHEDULE “4.3”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [Bruce-to-Milton GP Inc.].**

**OPERATIONS AGREEMENT TERMS**

**THIS IS SCHEDULE “5.5”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [the General Partner].**

**PARTNERSHIP INTERESTS AND UNITS**

	% Interest	Number of Units
HOI BtM Partner	●%	●
SON BtM Partner	●%	●
General Partner	●%	●

**THIS IS SCHEDULE “9.4”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [the General Partner].**

### **PRINCIPLES OF VALUATION**

#### **(a) Valuation Procedure**

Upon the provisions of this Schedule becoming applicable (but subject to subsection (d)), the Parties shall agree upon an independent business valuator and shall cause such independent business valuator to determine the Fair Market Value of all of the issued and outstanding Units as at the Valuation Date.

If the Parties fail to choose an independent business valuator within fifteen (15) days following the event giving rise to the valuation, or if an agreed-upon valuator shall not have consented to act as valuator within ten (10) Business Days following the expiry of the fifteen (15) day period, a business valuator shall be chosen by a Judge of the Ontario Superior Court, upon the application of any of the Parties.

In determining the Fair Market Value of all of the issued and outstanding Units, the independent business valuator shall take into account and apply generally accepted accounting and valuation principles, and the valuator shall not have regard to whether the Units subject to the transaction of purchase and sale constitute a minority block or a majority block of all of the issued and outstanding Units and no minority or majority discount or premium shall be applied to its valuation.

The valuation arrived at by the valuator, made as an expert and not as an umpire or arbitrator, shall be conclusive and binding on the Parties and none of the Parties shall have any right to or shall seek any appeal or review from or of such valuation.

#### **(b) Calculation of Fair Market Value Per Unit**

The Fair Market Value of the Units being purchased and sold shall be determined by dividing the Fair Market Value of all of the issued and outstanding Units as at the Valuation Date, as determined by the independent business valuator in accordance with the provisions of subsection (a), by the number of Units then issued and outstanding and multiplying the resulting amount by the number of Units being purchased and sold.

#### **(c) Costs of Valuation**

All costs and expenses relating to the determination of the Fair Market Value of any of the Units of the Corporation pursuant to this Schedule shall be shared equally between the vendors and purchasers in the subject transaction and, among multiple vendors or purchasers, shall be shared pro rata based on the number of Units being sold or purchased.

#### **(d) Prior Valuation Date**

Notwithstanding anything to the contrary contained in this Schedule, if an independent business valuator shall have determined the Fair Market Value of all of the issued and outstanding Units pursuant to this Agreement as at a valuation date which is within 12 months prior to the

occurrence of a subsequent valuation date, the Fair Market Value of each Unit determined as at the prior valuation date shall be deemed to be the Fair Market Value of each Unit as at the subsequent valuation date.



**THIS IS SCHEDULE “11.1”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [the General Partner].**

**FORM OF COUNTERPART AND ACKNOWLEDGEMENT**

**RE: The Amended and Restated Limited Partnership Agreement of [Bruce-to-Milton L.P.] made effective as of ●, 2014**

The undersigned acknowledges that it has received a copy of the Agreement and has had an opportunity to review the Agreement. Pursuant to Section 11.1 of the Agreement, the undersigned agrees to be bound, as a party to and as a Partner in the Partnership, by the terms (including all covenants, agreements and obligations) of the Agreement, as from time to time amended, as fully and effectively as though the undersigned had executed the Agreement together with the other parties to the Agreement.

Dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**[NAME OF TRANSFEREE]**

By:

\_\_\_\_\_  
Authorized Signatory

**THIS IS SCHEDULE “11.2”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [the General Partner].**

**FORM OF ASSIGNMENT**

**ASSIGNMENT OF UNITS IN  
ENPOWER DEVELOPMENT LIMITED PARTNERSHIP**

In accordance with Section 11.2 of the Amended and Restated Limited Partnership Agreement of **[Bruce-to-Milton L.P.]** (the “**Partnership**”) made effective as of ●, 2014 (the “**Partnership Agreement**”), the undersigned, a Partner of the Partnership, hereby transfers to \_\_\_\_\_ (Name of Assignee) all of the undersigned’s right, title and interest in and to \_\_\_\_ Units in the Partnership and assigns to the aforesaid assignee all of the interest of the undersigned in the Partnership that is represented thereby. The undersigned agrees to furnish to the General Partner such documents, certificates, assurances and other instruments as the General Partner may require to effect this assignment and to continue and keep in good standing the Partnership as a limited partnership. The undersigned agrees that the power of attorney previously granted by the undersigned to the General Partner shall continue in full force and effect, and shall be irrevocable, until all instruments required to effect this assignment and to continue and keep in good standing the Partnership as a limited partnership have been furnished to the General Partner as aforesaid and have been recorded or filed as and where required. Capitalized terms used herein and below which are not defined herein shall have the meaning ascribed thereto in the Partnership Agreement.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**[NAME OF ASSIGNING PARTNER]**

By:

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, Province and Postal Code)

## **LIMITED PARTNERSHIP AGREEMENT**

**THIS AGREEMENT** is made as of the 22<sup>nd</sup> day of March, 2013

### **B E T W E E N:**

**B2M GP INC.**, a corporation incorporated under the laws of the Province of Ontario  
(the “**General Partner**”)

- and -

**HYDRO ONE B2M LP INC.**, a corporation incorporated under the laws of the Province of Ontario  
(the “**Limited Partner**”)

### **RECITALS:**

- A. The Partnership is being formed by the filing of a declaration (the “**Declaration**”) under the *Limited Partnerships Act* (Ontario) to register the Partnership as a limited partnership under the laws of the Province of Ontario;
- B. The Partners wish to enter into this Agreement for the purpose of governing their respective rights and obligations with respect to the Partnership;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto covenant and agree as follows:

## **ARTICLE 1 THE PARTNERSHIP**

### **1.1 Definitions**

In this Agreement, the following terms shall have the meanings as set out below and grammatical variations of such terms shall have corresponding meanings:

“**Act**” means the *Limited Partnerships Act* (Ontario), as amended from time to time.

“**Affiliate**” means, with respect to any Person (other than an individual), any other Person (other than an individual), directly or indirectly controlling, controlled by, or under direct or indirect common control with, such other Person.

“**Agreement**” means this agreement, as amended from time to time.

“**Declaration**” has the meaning set out in the recitals of this Agreement.

**“Event of Insolvency”** means, in respect of a Partner:

- (a) the institution by the Partner of any proceeding to be adjudicated a bankrupt or insolvent or to be dissolved or wound-up;
- (b) the consent of the Partner to the institution of bankruptcy, insolvency, dissolution or winding-up proceedings against it; or
- (c) the filing of a petition or consent seeking dissolution or winding-up under any bankruptcy, insolvency or analogous laws (including, without limitation, the *Companies’ Creditors Arrangement Act* (Canada) and the *Bankruptcy and Insolvency Act* (Canada)) and the failure by the Partner to contest in good faith any such proceeding within 45 days of becoming aware of the proceeding.

**“General Partner”** means B2M GP Inc. or, subject to the provisions of Section 6.2, any other Person who has executed this Agreement as a general partner or who has otherwise agreed to be bound by the terms of this Agreement as a general partner of the Partnership.

**“HONI”** means Hydro One Networks Inc.

**“Initial Capital”** has the meaning set out in Section 2.1.

**“Limited Partners”** means (i) Hydro One B2M LP Inc. and (ii) such other Person(s) from time to time who have executed this Agreement as a limited partner or who have otherwise agreed to be bound by the terms of this Agreement as a limited partner of the Partnership, and each shall be a **“Limited Partner”**.

**“Line”** means the second high-voltage electrical transmission tower line spanning approximately 180 kilometres from the Bruce Power nuclear generating facility located in Kincardine, Ontario to HONI’s switchyard in Milton, Ontario.

**“Losses”** has the meaning set out in Section 3.1.

**“Partner”** means any one of the General Partner or the Limited Partners.

**“Partnership”** means the limited partnership formed between the Partners in accordance with this Agreement.

**“Partnership Activities”** has the meaning set out in Section 1.6.

**“Partnership Interest”** has the meaning set out in Section 2.4.

**“Person”** means an individual, partnership, limited partnership, corporation, unlimited liability company, trust, unincorporated organization, association, government, or any department or agency thereof and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

**“Profits”** has the meaning set out in Section 3.1.

**“Receiver”** has the meaning set out in Section 6.3.

**“Resolution”** means a resolution passed by the Limited Partners, at a meeting of Limited Partners duly called for the purpose or by instrument in writing, the aggregate number of whose votes represents more than 66 2/3% of the aggregate number of votes entitled to be cast.

**“SON”** means collectively Chippewas of Nawash First Nation and Chippewas of Saugeen First Nation.

**“Unit”** has the meaning set out in Section 2.2.

**“Unit Certificate”** means a unit certificate issued to a Partner as evidence of its ownership of Units, which certificate shall be in the form approved by the General Partner from time to time.

## **1.2 Formation of Limited Partnership**

- (a) The Partnership is hereby formed effective as of the date of this Agreement, being the date on which the Declaration was filed as required under the Act. Nothing contained in this Agreement shall be construed to constitute any Partner the agent, partner or legal representative of any other Partner for any purpose other than in respect of the purpose set out herein, nor shall any Partner have any authority to act for or to undertake any obligation or responsibility on behalf of any other Partner or the Partnership except as otherwise provided in this Agreement.
- (b) The Partnership shall, subject to the Act, continue until terminated or dissolved in accordance with the provisions of this Agreement and the Act.

## **1.3 Name**

The Partnership shall carry on business under the name “Bruce-to-Milton L.P.”.

## **1.4 Principal Office**

The principal office of the Partnership shall be located at 483 Bay Street, 15<sup>th</sup> floor, North Tower, Toronto, ON M5G 2P5. The business of the Partnership may be conducted at such other place or places as may from time to time be selected or approved by the General Partner.

## **1.5 Fiscal Year End**

The fiscal year of the Partnership shall end on December 31 or such other date in each year as the General Partner in its absolute discretion shall determine.

## **1.6 Purpose of the Partnership**

The purpose of the Partnership is to acquire and operate, manage and maintain the Line (the **“Partnership Activities”**).

### **1.7 Filing of Certificates**

- (a) In any circumstance as may from time to time be required to preserve the nature of the Partnership as a limited partnership under the laws of the Province of Ontario or to permit the Partnership to carry on the Partnership Activities in the Province of Ontario, the General Partner shall cause to be executed and filed such certificates, instruments, declarations and documents as may be so required.
- (b) Each Partner shall execute and deliver as promptly as possible any documents that may be necessary or desirable to accomplish the purposes of this Agreement or to comply with the Act.
- (c) The General Partner shall take all necessary actions on the basis of information available to it in order to maintain the status of the Partnership as a limited partnership and to comply with the Act.

### **1.8 Title and Contracts**

Legal title to the assets of the Partnership shall be held in the name of the Partnership. However, if the Partnership is not permitted under applicable law to, or if the General Partner determines that it is necessary or expedient for the Partnership not to, hold legal title to any of the assets of the Partnership, legal title to such assets may be held by the General Partner in trust for the Partnership or in any other manner as the General Partner determines. All contracts, documents or instruments in writing which the Partnership may be a party to or bound by shall be signed on behalf of the Partnership as follows “Bruce-to-Milton L.P. by its general partner B2M GP Inc.”.

### **1.9 Partnership Property**

All of the properties, real or personal, tangible or intangible, used in carrying on the Partnership Activities shall be assets of the Partnership. For greater certainty, notwithstanding Section 1.8 above, the General Partner will not receive or hold any of the assets of the Partnership on its own account but shall, except as otherwise agreed, receive and hold all assets of the Partnership in the name and on behalf of the Partnership.

### **1.10 The Limited Partnerships Act (Ontario)**

All restrictions, limitations and prohibitions set forth in the Act which apply to limited partnerships shall be deemed to be set forth in this Agreement and are hereby incorporated by reference.

## **ARTICLE 2 PARTNERSHIP INTEREST AND CAPITAL**

### **2.1 Initial Capital of the Partnership**

The initial capital of the Partnership (the “**Initial Capital**”) shall consist of \$1,000.00. The Partners agree to contribute the following amount of money or value of property as Initial Capital on such date as the Partners shall determine:

<u>Name</u>	<u>Initial Capital</u>	<u>% of Initial Capital</u>	<u>Initial Units</u>
B2M GP Inc.	\$999	99.9%	999 Units
Hydro One B2M LP Inc.	\$1	0.1%	1 Unit

## 2.2 Partnership Units

- (a) The interest of the Partners in the Partnership shall be divided into and represented by an unlimited number of units (each a “**Unit**”), each representing a proportionate share of the aggregate interests of the Partners in the Partnership. B2M GP Inc. is hereby issued 999 Units representing its contribution to the Initial Capital and Hydro One B2M LP Inc. is hereby issued one (1) Unit representing its contribution to the Initial Capital.
- (b) Each issued and outstanding Unit is identical to each other one with respect to all matters including:
  - (i) the right to receive distributions from the Partnership;
  - (ii) the allocation of net income, net loss, taxable income and tax losses;
  - (iii) voting rights; and
  - (iv) rights on liquidation.

## 2.3 Unit Certificates

Each Partner shall be issued a Unit Certificate specifying the number of Units held by such Partner. Every Unit Certificate must be signed by at least one authorized signatory of the General Partner.

## 2.4 Partnership Interest

- (a) The interest of a Partner in each item of income, gain, loss, deduction and credit of the Partnership (“**Partnership Interest**”) shall at any time be the percentage that the number of Units held by such Partner is of the aggregate number of Units held by all Partners as at such date.
- (b) Subject to the restrictions in Section 4.2, at any meeting of the Partners, each Partner will be entitled to one vote in respect of each Unit held by such Partner.
- (c) The Partners may, from time to time, contribute to the Partnership either in the form of cash or, with the agreement of the General Partner and the Limited Partners, other property or additional amounts of capital which are in addition to the Initial Capital at such time or times in such additional amounts as such Partner may determine, in the case of the General Partner, in its sole discretion, or, in the case of the Limited Partners, after consultation with the General Partner in return for additional Units and the increase in interest in the Partnership as agreed by the General Partner and the Limited Partners. The

Partners shall not be entitled to interest on the amount of such additional capital contributions. Notwithstanding any term or provision of this Agreement, including this Section, the Partners shall not be obligated to advance any such additional capital contributions to the Partnership.

## **2.5 Transfer of Units**

- (a) No Partner shall transfer, sell, assign, mortgage, charge, pledge or otherwise dispose of or encumber its Units, in whole or in part, (such an act being referred to in this Section as a “**disposition**”) unless (i) the requirements of the Act have been complied with, (ii) in the case of such a disposition by a Limited Partner, the General Partner provides its prior written consent thereto, and (iii) in the case of such a disposition by the General Partner, the Limited Partners approve such disposition. For the purpose of this subsection, an amalgamation or a winding-up is deemed not to be a disposition.

Notwithstanding (ii) and (iii) above, any Partner may transfer, sell or assign its Units to an Affiliate of such Partner without the prior written consent of any other Partner.

- (b) A disposition of Units in whole or in part made in compliance herewith shall not cause a dissolution of the Partnership unless there is only one Partner remaining in the Partnership, whereupon the Partnership shall automatically dissolve by operation of law.

## **2.6 New Partners**

The General Partner shall have the exclusive authority to admit any Person as a Limited Partner. Any Person may contribute to the Partnership by delivering to the General Partner a completed and executed contribution agreement in the form provided by the General Partner, an originally executed copy of this Agreement, a certified cheque, bank draft or money order immediately payable to the Partnership (or a transfer of other property to the Partnership of a type and value which are acceptable to the General Partner) for its contributed capital and such other documents and instruments as the General Partner may request.

The General Partner may, in its sole and absolute discretion, refuse to accept, in whole or in part, any contribution of capital to the Partnership.

Upon acceptance by the General Partner of any contribution of capital, all Partners shall be deemed to consent to the admission of the subscriber as a Limited Partner. The General Partner shall also cause the register recording the Partners and the register recording the Units to be amended and shall file with the appropriate authority all such other documents as may be required by the Act and shall cause the admission of the new Partner to be reflected in all other relevant Partnership books and records.

## **2.7 Individual Capital Accounts**

- (a) A capital account shall be maintained for each Partner. Such capital account shall be credited with (i) the amount of capital contributed from time to time by that Partner (and where such contribution to capital is made by way of a transfer of property, the amount of such capital shall be equal to the value as agreed upon with the General Partner as at the



time of the contribution of such property to capital) and (ii) the amount of any income allocated to that Partner by the Partnership, and shall be reduced by (iii) the amount of any distribution to or withdrawal of capital by that Partner and (iv) the amount of any loss allocated to that Partner by the Partnership.

- (b) No Partner shall be entitled to withdraw any part of its contributed capital except upon (i) the dissolution of the Partnership, (ii) the liquidation of the assets of the Partnership, or (iii) receiving the consent of the General Partner, and such withdrawal shall be in the form of cash unless the General Partner elects to distribute such capital in the form of property, in which case the value of such property shall be as determined by the General Partner as at the date of such distribution.
- (c) No Partner shall be entitled to receive any distribution except as permitted by the Act, other applicable laws and this Agreement.

## **2.8 Interest on Capital Contributions**

The Partners shall not be entitled to interest on the amount of their capital accounts.

# **ARTICLE 3 PROFITS, LOSSES AND DISTRIBUTIONS**

## **3.1 Determination and Allocation of Profits and Losses**

The net profits (the “**Profits**”) and net losses (the “**Losses**”) of the Partnership will be determined in accordance with generally accepted accounting principles consistently applied and shall include any gains and/or losses realized on the disposition of capital assets and other extraordinary items of the Partnership. The General Partner shall have the right for income tax purposes to adopt different treatment of particular items and to make and revoke elections on behalf of the Partnership, as the General Partner may deem appropriate and in the best interests of the Partners not inconsistent with this Agreement. The aggregate Profits or Losses of the Partnership for a fiscal year shall be allocated among the persons that are Partners at the end of that fiscal year pro rata based on their respective Partnership Interests at the end of that fiscal year.

## **3.2 Allocation of Taxable Income or Taxable Loss**

The taxable income or taxable loss of the Partnership, as determined under the *Income Tax Act* (Canada) and any applicable provincial or territorial income tax legislation, for a fiscal year shall be allocated among the persons that are Partners at the end of that fiscal year pro rata based on their respective Partnership Interests at the end of that fiscal year.

## **3.3 Distributions of Profits to Partners**

The General Partner shall determine at such times as the General Partner deems appropriate the amount of cash on hand of the Partnership that is derived from any source and that is determined by the General Partner not to be required for use in connection with the Partnership Activities (“**Distributable Income**”).

The Distributable Income shall be distributed by the Partnership to the Partners forthwith after such determinations in the following manner and in the following order:

- (a) the amounts to be reimbursed to the General Partner pursuant to section 4.5 shall be distributed to the General Partner; and
- (b) an amount equal to the balance of the Distributable Income shall be distributed to the Partners pro rata based on their respective Partnership Interests.

#### **ARTICLE 4 MANAGEMENT OF THE PARTNERSHIP**

##### **4.1 Powers and Duties of the General Partner**

Subject to the Act, the business and affairs of the Partnership shall be managed and controlled exclusively by the General Partner. The General Partner shall have all the necessary powers to manage, control and operate the business and affairs of the Partnership and to do or cause to be done any and all acts necessary, appropriate, convenient or incidental thereto. The power of the General Partner to represent the Partnership to third parties is unrestricted and no Person dealing with the Partnership will be required to inquire into the authority of the General Partner to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the Partnership.

##### **4.2 Limitations on Authority of the Limited Partner**

Other than as expressly permitted under the Act, no Limited Partner shall take part in the management or control of the business or affairs of the Partnership nor shall any Limited Partner have the power to bind the Partnership. However, any Limited Partner may from time to time:

- (a) examine into the state and progress of the business of the Partnership and advise as to its management;
- (b) act as a contractor for or an agent or employee of the Partnership or of a General Partner;  
or
- (c) act as a surety for the Partnership.

Each Limited Partner shall comply with the provisions of the Act in force or in effect from time to time and shall not take any action which will jeopardize or eliminate the status of the Partnership as a limited partnership.

##### **4.3 Services**

The duties of the General Partner in its capacity as general partner of the Partnership shall be carried out by the General Partner, by employees of the General Partner or by agents or independent contractors retained by the General Partner for such purposes. The General Partner may cause the Partnership to

employ or retain any Person (including, without limitation, the General Partner) to provide services to the Partnership in connection with the Partnership Activities.

#### **4.4 Delegation**

The General Partner may contract with any Person to carry out any of the duties of the General Partner and may delegate to such Person any power and authority of the General Partner hereunder, but no such contract or delegation shall relieve the General Partner of any of its obligations hereunder.

#### **4.5 Reimbursement of General Partner**

The General Partner is entitled to reimbursement by the Partnership for all costs and expenses that are incurred by the General Partner on behalf of the Partnership, and, at any time that its sole activity consists of acting as General Partner for the Partnership, shall be entitled to be reimbursed for all legal and audit expenses, capital taxes, filing and reporting fees and expenses incurred solely for the purpose of maintaining its corporate existence.

#### **4.6 Power of Attorney**

Each Limited Partner (subject to the *Powers of Attorney Act* (Ontario)) hereby irrevocably nominates, constitutes and appoints the General Partner to act, with full power of substitution, as its true and lawful attorney and agent, with full power and authority in its name, place and stead, to:

- (a) execute, swear to and record in the appropriate public offices any certificates, declarations, amendments to certificates and other instruments necessary to form, qualify or continue the Partnership as a limited partnership in Ontario and, subject to Section 7.3, all instruments and certificates necessary to reflect any amendment of this Agreement or change in the Partnership;
- (b) execute and file with any governmental body or agency, division, department or instrumentality thereof, whether of the Government of Canada or a Province or any municipality or other governmental division, any documents necessary to be filed in connection with the business, property, assets and undertaking of the Partnership; and
- (c) execute and deliver such documents on behalf and in the name of the Partnership as may be necessary to give effect to the purpose of the Partnership as described in Section 1.6.

Subject to the provisions of the *Powers of Attorney Act* (Ontario), as from time to time amended, the power of attorney granted herein is irrevocable and is a power coupled with an interest and will survive the death, dissolution, disability or incapacity of the Limited Partner or any member thereof, as the case may be, and extends to the legal representatives, heirs, executors, administrators, successors and assigns of the Limited Partner and each member thereof, and may be exercised by the General Partner on behalf of the Limited Partner.

#### **4.7 Transactions Including Affiliates**

The validity of any transaction, agreement or payment involving the Partnership and the General Partner or any affiliate (within the meaning of the *Business Corporations Act* (Ontario)) of the General Partner shall not be invalidated or otherwise affected by reason of the relationship between the General Partner and the Partnership or the General Partner and such affiliate or by reason of the approval of the said transaction, agreement or payment by the directors of the General Partner, all or some of whom may be officers, directors or shareholders of or otherwise interested in or related to such affiliate.

### **ARTICLE 5 OBLIGATIONS OF THE PARTNERS**

#### **5.1 Unlimited Liability of General Partner**

The General Partner shall have unlimited liability for the debts, liabilities and obligations of the Partnership.

#### **5.2 Limitation of Liability of Limited Partners**

Subject to the provisions of the Act and this Agreement, no Limited Partner shall be obliged to make any contribution to the capital of the Partnership in excess of the capital it has agreed to contribute, nor shall a Limited Partner be required to restore a negative capital account, nor shall it have any personal liability for any of the debts, liabilities or obligations of the Partnership or for any of the losses of the Partnership, beyond the value of money and other property such Limited Partner contributes, or agrees to contribute, to the Partnership, as stated in the record of Limited Partners.

### **ARTICLE 6 DISSOLUTION OF THE PARTNERSHIP**

#### **6.1 Dissolution**

Subject to the Act, the Partnership may be dissolved or terminated only with the unanimous written consent of the General Partner and the Limited Partners. Notwithstanding any rule of law or equity to the contrary, the Partnership shall not be dissolved or terminated except as provided herein. In particular, the Partnership shall continue notwithstanding the amendment and restatement of this Agreement, the admission of a new Partner, the withdrawal of a Partner (unless there is only one Partner remaining), and the dissolution of, death of or Event of Insolvency in respect of any Partner unless the Partnership is dissolved or terminated as aforesaid.

#### **6.2 Deemed Resignation**

- (a) The General Partner shall be deemed to have resigned as General Partner immediately upon the occurrence of any Event of Insolvency in respect of the General Partner and, as soon as possible, a successor General Partner shall be admitted to the Partnership by Resolution.

- (b) The General Partner may be removed as General Partner by Resolution, which resolution must also admit a successor General Partner.
- (c) Subject to Section 6.2(a), the deemed resignation or removal of the General Partner pursuant to this Section shall be effective upon the date specified in such Resolution.
- (d) On the effective date of the resignation or removal of the General Partner, the Partnership shall return to the departing General Partner the amount, if any, that it contributed to the capital of the Partnership.
- (e) If a successor General Partner is admitted, the Units of the departing General Partner shall be automatically transferred and assigned from the departing General Partner to the successor General Partner in consideration for the successor General Partner assuming the obligations and duties of the departing General Partner under this Agreement, the successor General Partner shall become a party to this Agreement and shall forthwith contribute to the Partnership an amount of capital equal to the amount returned to the departing General Partner pursuant to Section 6.2(d) and assume the obligations and duties of the departing General Partner hereunder, and the departing General Partner shall do all things and take all steps necessary or advisable to transfer: (i) title to all the real property and other assets in which the Partnership has an interest, (ii) management of the business of the Partnership and (iii) the books, records and accounts of the Partnership to the successor General Partner and shall execute and deliver all documents and instruments necessary or advisable to effect such transfers.

### **6.3 Liquidation of Partnership Assets**

In the event of the dissolution of the Partnership, the General Partner (or in the event of an Event of Insolvency in respect of the General Partner, a receiver (the “**Receiver**”) selected by the Limited Partners by Resolution) shall commence to wind up the affairs of the Partnership and to liquidate its assets. The Partners shall continue to share profits and losses during the period of liquidation in the same proportion as before the dissolution. The General Partner (or the Receiver) shall have full right and unlimited discretion to determine the time, manner and terms of any sale or sales of the assets of the Partnership pursuant to such liquidation, having due regard to the activity and condition of the relevant market and general financial economic conditions.

### **6.4 Distributions of Capital on Liquidation or Dissolution**

Following the payment of or provision for all debts and liabilities of the Partnership and all expenses of liquidation, the proceeds of the liquidation and any other funds of the Partnership shall be applied and distributed in the following order:

- (a) first, to the setting up of any reserves which the General Partner (or the Receiver) may deem necessary for any contingent or unforeseen liabilities or obligations of the Partnership; said reserves may be paid over by the Partnership to a bank or trust company acceptable to the General Partner (or the Receiver) in escrow to be held by it for the purpose of distributing such reserves in payment of any such liabilities or obligations, and at the expiration of such period as the General Partner (or the Receiver) shall deem

advisable, distributing the balance, if any, thereafter remaining, in the manner hereinafter provided;

- (b) second, to each Partner with a positive balance in its capital account (determined after giving effect to all contributions, distributions and allocations for all periods) in proportion to such balances until such balances are reduced to zero; and
- (c) third, any balance remaining shall be distributed to the Partners in accordance with their respective Partnership Interests at the time of such distribution.

Other than as aforesaid, there shall be no distributions of capital unless agreed to by the Partners by Resolution.

## **6.5 Dissolution**

Notwithstanding the above, if the Limited Partners and the General Partner (or the Receiver) agree, the dissolution may be undertaken in a manner to comply with the provisions of Subsections 85(3), 98(3) or 98(5) of the *Income Tax Act* (Canada) or in such other tax-efficient manner as the Limited Partners and the General Partner (or the Receiver) may agree.

## **ARTICLE 7 MISCELLANEOUS**

### **7.1 Competing Interests**

Any Partner shall be entitled to carry on, engage in and participate in, whether financially or otherwise, any business of the same nature as, or competing with that of, the Partnership, and shall not be liable to account to any Partner or the Partnership therefor and all Partners are deemed to consent to all such activities by any Partner.

### **7.2 Limited Partner Not a General Partner**

In the event any provision of this Agreement should have the effect of imposing upon a Limited Partner any of the obligations of a General Partner, such provision shall be of no force or effect and shall not be considered a part of this Agreement, but the remainder of this Agreement shall continue in effect.

### **7.3 Amendments**

- (a) Save and except for amendments which affect or amend Section 1.6, 1.9, 2.7, 3.3, 6.1 or 6.2 (which shall require the consent of all Partners), this Agreement may be amended by the General Partner by instrument in writing signed by the General Partner without the consent of or notice to the Partners:
  - (i) to add covenants, restrictions or provisions which, in the opinion of the General Partner, are for the protection or benefit of the Limited Partners;

- (ii) to cure any ambiguity or error, provided that in the opinion of the General Partner, such amendment does not and shall not materially adversely affect the interest of the Limited Partners; or
  - (iii) to make such other provisions in regard to matters or questions arising under this Agreement which in the opinion of the General Partner do not and shall not materially adversely affect the interest of the Limited Partners.
- (b) This Agreement may be amended to make any other amendment not referred to in Section 7.3(a) with the unanimous consent of the Partners.

#### **7.4 Section Headings**

Section headings have been inserted for convenience of reference only and are not intended to be full or accurate descriptions of the contents thereof.

#### **7.5 Quantity and Gender**

In construing this Agreement, words in the singular shall include the plural and vice-versa and words importing the feminine shall include the masculine and the neuter and vice-versa and words importing persons shall include corporations and vice-versa.

#### **7.6 Severability**

Whenever possible, each provision or portion of any provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or portion of any provision in such jurisdiction, and this Agreement will be revised, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

#### **7.7 Assignment**

Subject to the restrictions on assignment and transfer herein contained, this Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective legal representatives, successors and permitted assigns.

#### **7.8 Counterparts**

This Agreement may be executed by the Partners in separate counterparts each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

#### **7.9 Entire Agreement**

Except as expressly stated herein, this Agreement, the Anishnaabekiing Naagnigewin Agreement in respect of the Bruce to Milton Transmission Line Limited Partnership dated June 18, 2012 between the

SON and HONI and the Letter Agreement dated December 18, 2012 between HONI, Hydro One Inc. and the SON constitute the entire agreement between the Partners pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Partners pertaining to the subject matter hereof. No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Partner to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

#### **7.10 Further Assurances**

The parties hereto agree that they will from time to time at the reasonable request of any of them execute and deliver such instruments, conveyances and assignments and take such further action as may be required pursuant to the terms hereof to accomplish the purposes of this Agreement.

#### **7.11 Governing Law**

This Agreement shall be governed by and shall be performed, construed and enforced exclusively in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Any action or proceeding contemplated by any of the parties hereto for the purpose of enforcing this Agreement shall be commenced and continued only in Ontario before the appropriate tribunal having jurisdiction and each of the parties hereto hereby attorns to such jurisdiction.



IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date first above written.

**B2M GP INC.**

By: \_\_\_\_\_

Name: *Sandy Struthers*

Title: *Director*

**HYDRO ONE B2M LP INC.**

By: \_\_\_\_\_

Name: *Sandy Struthers*

Title: *Director*

**Appendix 8**  
**Tax Ruling Applications**

January 25, 2013

**SENT BY COURIER**

**STRICTLY PRIVATE & CONFIDENTIAL**

Tax and Benefits Administration  
Income Tax Rulings  
Ministry of Revenue, Ontario  
Michael Starr Building, 3<sup>rd</sup> Floor  
33 King Street West  
OSHAWA ON  
L1H 8H5  
Attention: Mr. Craig Blackwood  
Senior Manager (Acting) – CT Programs/Analysis and Planning

Dear Mr. Blackwood:

Re: Request for Advance Income Tax Ruling

We are writing on behalf of Hydro One Inc. (“Hydro One” as defined below), Hydro One Networks Inc. (“HONI”, as defined below) the Chippewas of Saugeen First Nation and the Chippewas of Nawash First Nation (collectively referred to as the “First Nations”) to request an advance income tax ruling with respect to the application of the *Electricity Act, 1998*, the *Taxation Act, 2007* (Ontario) and the provisions of the *Income Tax Act* (Canada) (the “ITA”) incorporated by reference into the *Electricity Act, 1998* and the *Taxation Act, 2007*, (collectively referred to as the “Tax Statutes”) to the transactions proposed herein.

In this regard, we enclose the following:

- (i) chart summarizing the Proposed Transactions referred to herein (“Appendix A”);
- (ii) authorizations of Hydro One, HONI and the First Nations to permit the Ministry of Revenue of Ontario (the “MRO”) to communicate with Osler, Hoskin, & Harcourt LLP regarding this advance income tax ruling request and any issues related thereto;
- (iii) a copy of the original version of the Agreement (as defined below); and

- (iv) an amendment to the Agreement dated December 18, 2012 which includes a copy of the current draft of the LPA (as defined below), which is attached as Schedule B to such amendment.

Hydro One and HONI have each adopted a December 31 year end for financial reporting and taxation purposes and each of the First Nations have adopted a March 31 fiscal period for financial reporting purposes.

We are providing the information in this application in confidence for the purposes of the Tax Statutes. Disclosure of this information is restricted pursuant to section 98 of the *Corporations Tax Act* (Ontario), as made applicable by section 95 of the *Electricity Act*, and, as such, is exempt from disclosure under the *Freedom of Information Protection of Privacy Act* (Ontario).

In respect of any ruling that is issued in respect of our request, we request that the severed form of the ruling that is prepared for release to the public delete all references to, or which might directly or indirectly identify, any of the taxpayers named herein. We understand that you will submit to us a draft of the severed form of the ruling for our review and approval before releasing it to the public. At that time, we may request that specific additional information be severed from the ruling prior to its release to the public.

To the best of the knowledge of HONI and the First Nations, none of the issues contained herein:

- (a) is in an earlier return of HONI or the First Nations or a related person;
- (b) is being considered by the Ministry of Revenue in connection with a previously filed return of HONI, the First Nations or a related person;
- (c) is under objection or appeal by HONI, the First Nations or a related person;
- (d) is before the courts or if a judgment has been issued, the time limit for appeal to a higher court has not expired; and
- (e) is the subject of a ruling previously issued by the Ministry of Revenue.

## **DEFINED TERMS**

In this letter, the following terms have the meanings specified below:

“Agreement” means the Anishnaabekiing Naagnigewin Agreement made between HONI and the First Nations dated June 18, 2012, as such agreement may be amended from time to time by letter agreement or otherwise;

“APA” means the asset purchase agreement providing for the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP;

“Approvals” means the licences, orders and other matters listed in Attachment “A” to the Agreement;

“Approvals Date” means the date that each of the conditions precedent set out in Section 3.2 of the Agreement has been satisfied (or otherwise waived in writing by the Parties) as confirmed in writing by the First Nations and HONI;

“Bruce-to-Milton LP” means a limited partnership within the meaning of the *Limited Partnerships Act* (Ontario), to be comprised, as of the Closing, of two limited partners, SON LPco and HO LPco and one general partner, GPco;

“BtoM LP Promissory Note” has the meaning given to it in paragraph 14(e) of this letter;

“BtoM Project Assets” means the assets comprising the Line, including the LP Line Property Rights, but excluding all sub-station facilities and assets relating to the interconnection of the Line to HONI’s remaining transmission system;

“BtoM Project Asset Value” means the net book value (which is equal to the fair market value) of the BtoM Project Assets which was estimated to be approximately \$600,000,000 at the end of 2012 and which value shall be subject to depreciation and HONI’s final construction and development costs as they are incurred and subject to such inclusions or exclusions as may be imposed by the OEB in connection with the transmission rate application filed by the Bruce-to-Milton LP as contemplated in the Agreement, all of which shall be confirmed prior to the Closing;

“Claim Limitation Clause” has the meaning given to it in paragraph 14(f) of this letter;

“Closing” has the meaning given to it in the first sentence of paragraph 14 of this letter;

“CRA” means the Canada Revenue Agency;

“Daylight Loan” has the meaning given to it in paragraph 14(c) of this letter;

“Deemed Dividend” has the meaning given to it in paragraph G of the Rulings Requested in this letter;

“Dividends” has the meaning given to it in paragraph H of the Rulings Requested in this letter;

“Effective Hydro One Equity Amount” means the amount calculated by multiplying the BtoM Project Asset Value by 40% and multiplying such amount by the Hydro One Equity Ratio;

“Electricity Act” means the *Electricity Act, 1998* (Ontario);

“GPco” means an OBCA corporation to be created and owned directly or indirectly by Hydro One to function as the general partner of the Bruce-to-Milton LP;

“GPco Equity Ratio” means the percentage equal to 99.9% minus the SON Equity Ratio;

“GPco Promissory Note” has the meaning given to it in paragraph 14(d) of this letter;

“HO LPco” means the OBCA corporation to be created and owned directly or indirectly by Hydro One to hold a limited partnership interest in the Bruce-to-Milton LP;

“HONI” means Hydro One Networks Inc., a corporation with share capital incorporated under, and governed by, the provisions of the OBCA, all of the issued and outstanding shares of which are owned by Hydro One;

“HONI Dividend” has the meaning given to it in paragraph 14(l) of this letter;

“HONI Line Real Property” means all interests in real property or licenses over real property interests in respect of the Line owned or controlled by HONI;

“Hydro One” means Hydro One Inc., a corporation with share capital incorporated under, and governed by, the provisions of the OBCA;

“Hydro One Debt” has the meaning given to it in paragraph 14(l) of this letter;

“Hydro One Equity Ratio” means the percentage equal to 100% minus the SON Equity Ratio;

“ITA” means the *Income Tax Act*, R.S.C. 1985 (5<sup>th</sup> Supp.) c.1, as amended to the date hereof, and unless otherwise indicated, every reference herein to a part, section, subsection, paragraph, subparagraph or clause is a reference to the relevant provision of the ITA;

“Initial HONI Equity Investment” means an amount equal to 40% of the Tax Cost of the BtoM Project Assets to HONI at the time of the transfer described in paragraph 14(a) less an amount equal to the SON Equity Contribution Amount;

“Initial LPco Equity Investment” means an amount equal to the BtM Project Asset Value multiplied by 40% times the LPco Equity Ratio;

“Initial Note Amount” means an amount equal to the BtM Project Asset Value at the time of the transfer described in paragraph 14(a) less an amount equal to the Initial HONI Equity Investment;

“Interim Loan” has the meaning given to it in paragraph 14(p) of this letter;

“Line” means the second transmission tower line from the Bruce Power facility in Kincardine to HONI’s switchyard in Milton Ontario which HONI was granted leave on September 15, 2008 to construct;

“LP Line Property Rights” means the portion of the HONI Line Real Property to be transferred or licensed to the Bruce-to-Milton LP in accordance with the Agreement which are required to operate and maintain the BtoM Project Assets;

“LP Promissory Note” has the meaning given to it in paragraph 14(a) of this letter;

“LP Units” means the partnership units representing the partnership interests in the Bruce-to-Milton LP;

“LPA” means the amended and restated limited partnership agreement in respect of the Bruce-to-Milton LP as may be amended from time to time and which shall be consistent with the terms and conditions set out in Attachment “B” to the Agreement;

“LPco Equity Ratio” means 0.1%;

“Newco” means the OBCA corporation to be created and owned directly or indirectly by Hydro One to hold the shares in HO LPco and GPco;

“OBCA” means the *Business Corporations Act* (Ontario);

“OEB” means the Ontario Energy Board;

“OEB Act” means the *Ontario Energy Board Act* (Ontario);

“Operating Agreement” means the agreement to be entered into between GPco on behalf of the Bruce to Milton LP and HONI for the operation of the Line;

“Party” means either of HONI or the First Nations;

“Parties” means both HONI and the First Nations;

“PILs” has the meaning given to it in paragraph 3 of this letter;

“Proposed Transactions” means the transactions described in paragraphs 8 through 14 below;

“Province” means Her Majesty in right of Ontario;

“series of transactions or events” has the meaning assigned by subsection 248(10) of the ITA;

“SON Equity Contribution Amount” means the amount to be contributed by SON LPco as a capital contribution to the Bruce-to-Milton LP on Closing, which shall be: (i) no less than 5% of the amount which is equal to 40% of the BtoM Project Asset Value and (ii) no greater than 30% of the amount which is equal to 40% of the BtoM Project Asset Value;

“SON Equity Ratio” means the percentage determined by dividing the SON Equity Contribution Amount by the amount which is equal to 40% of the BtoM Project Asset Value (each as finally determined prior to Closing);

“SON LPco” means the Saugeen Ojibway Nation Finance Corporation, an OBCA corporation to be owned directly by the First Nations to hold a limited partnership interest in the Bruce-to-Milton LP, as bare trustee for the First Nations;



“Tax Cost” means the aggregate of all amounts in respect of each BtoM Project Asset that is equal to the lesser of the capital cost of that BtoM Project Asset to HONI and the undepreciated capital cost of property of HONI of the capital cost allowance class to which that BtoM Project Asset belongs;

“Unrelated Person”, with respect to a disposition of property or a significant increase in a person’s or partnership’s interest in a corporation, means a person or partnership that is an “unrelated person” with reference to HONI or Hydro One, as applicable, within the meaning of paragraph 55(3.01)(a) of the ITA immediately before that disposition or significant increase (as the case may be);

## **FACTS**

### **HYDRO ONE AND HONI**

1. Hydro One is a corporation that has been created by the Province pursuant to and for the purposes of the Electricity Act. Hydro One is principally a holding corporation, owning shares in a number of wholly-owned subsidiaries which carry on electricity transmission, distribution, energy services and telecommunications services businesses. HONI, Hydro One’s direct wholly-owned subsidiary, carries on the electricity transmission and distribution business in Ontario that was previously carried on by the former Ontario Hydro.
2. All of the issued and outstanding shares of Hydro One are held by the Province. As a result, Hydro One is currently exempt from tax under Part I of the ITA by virtue of paragraph 149(1)(d). In addition, because all of the issued and outstanding shares of HONI are owned by Hydro One, HONI is currently exempt from tax under Part I of the ITA by virtue of paragraph 149(1)(d.2).
3. Hydro One and HONI are subject to subsections 89(1) and 90(1) of the Electricity Act and as such make payments in lieu of federal corporate tax and provincial corporate tax (“PILs”) respectively.

### **THE FIRST NATIONS**

4. The Chippewas of Saugeen First Nation are a band within the meaning of the *Indian Act* (Canada) represented by the Chippewas of Saugeen First Nation Band Council. The Chippewas of Nawash First Nation are a band within the meaning of the *Indian Act* (Canada) represented by the Chippewas of Nawash First Nation Band Council. Collectively, these parties are referred to as the First Nations.

5. Each First Nation is governed by a democratically elected Chief and band councillors. The Chief and band councillors for each First Nation represent the First Nations in all matters. The First Nations provides and administers an extensive list of public works, social services and infrastructure programs.
6. Each of the First Nations have passed by-laws pursuant to section 81 of the Indian Act. Each First Nation has an Order –in-council under Section 69 of the Indian Act, giving it permission to control, manage or expend its revenues.
7. As a public body performing a function of government in Canada, each First Nation is exempt from tax levied under Part I of the ITA by virtue of paragraph 149(1)(c) of the ITA.

## **PROPOSED TRANSACTIONS**

8. Hydro One has incorporated a new corporation, SON LPco which it will capitalize with one dollar. Hydro One will sell all of its shares in SON LPco to the First Nations, for a price equal to the fair market value of SON LPco at the time of transfer (such fair market value being equal to the costs of incorporation plus one dollar), subject to adjustment in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and the First Nations. SON LPco will be used by the First Nations as a single purpose holding company through which the First Nations will participate as a limited partner in the Bruce-to-Milton LP. The business of SON LPco will be restricted to the holding of the First Nation's limited partnership interest in the Bruce-to-Milton LP. SON LPco will act as a bare trustee for the First Nations.
9. HONI will incorporate and organize a new subsidiary as HO LPco, through which HONI will participate as a limited partner in the Bruce-to-Milton LP. As a wholly-owned subsidiary of HONI, and later, indirectly as a wholly-owned subsidiary of Hydro One, HO LPco is subject to the PILs tax regime.
10. HONI will incorporate and organize a new subsidiary, GPco, to act as the general partner in the Bruce-to-Milton LP and manage and operate the Line. As a wholly-owned subsidiary of HONI, and later, indirectly as a wholly-owned subsidiary of Hydro One, GPco is subject to the PILs tax regime.
11. HO LPco and GPco will create and organize a limited partnership (the "Bruce-to-Milton LP") pursuant to the Limited Partnerships Act, Ontario wherein HO LPco is the sole limited partner and GPco is the general partner. The initial capital shall

be \$1,000 and the partnership interests of GPco and HO LPco shall be 99.9% and 0.1% respectively, represented by 999 LP Units and 1 LP Unit, respectively.

12. Following the execution of the Agreement:

- a. The First Nations shall use commercially reasonable efforts to obtain a commitment for financing in an amount sufficient to enable the First Nations to meet the payment and investment obligations set out in Section 3.4 of the Agreement on terms and conditions satisfactory to the First Nations and HONI, including with respect to security obligations and lender step-in rights.
- b. GPco, on behalf of the Bruce-to-Milton LP, will apply for a transmission licence to operate the BtoM Project Assets following the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP to occur on the Closing;
- c. HONI shall apply (with the co-operation and support of the Bruce-to-Milton LP and the First Nations as may be necessary) under s.86 of the OEB Act for approval to transfer the BtoM Project Assets to the Bruce-to-Milton LP effective on the Closing;
- d. GPco, on behalf of the Bruce-to-Milton LP, will enter into an operating agreement with HONI on terms and conditions satisfactory to the First Nations and HONI (the "Operating Agreement");
- e. GPco, on behalf of the Bruce-to-Milton LP, (with the co-operation and support of the Parties hereto as may be necessary) will apply for a first transmission rate order from the OEB anticipating the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP on Closing, seeking recognition in the transmission rates of the debt-to-equity ratio contemplated by the Parties as set out herein and on the basis that the applied-for revenue requirement shall be no greater than the associated revenue requirement of HONI had there been no transfer of the BtoM Project Assets effective on Closing; and

the Parties shall otherwise apply for and pursue the Approvals as indicated in the Agreement with the full co-operation and support of each other Party.

13. The completion of the transactions contemplated by this ruling request are, unless otherwise waived in writing by the parties, subject to a number of conditions

precedent, including the receipt of rulings from the Ministry of Revenue in respect of the taxation of the Proposed Transactions under the Tax Statutes.

14. After the Approvals Date, the following transactions shall occur in the following order (the "Closing"):
  - a. HONI and the Bruce-to-Milton LP will enter into the APA pursuant to which HONI will transfer to the Bruce-to-Milton LP the BtoM Project Assets in exchange for the issuance of LP Units of the Bruce-to-Milton LP, at a price of one dollar (\$1.00) per unit, subject to adjustment, as well as a promissory note from the Bruce-to-Milton LP. The number and amount of LP Units to be issued will equal the Initial HONI Equity Investment. The principal amount of the promissory note will be equal to the Initial Note Amount and bear interest at a rate equal to HONI's weighted average interest rate of outstanding debt for the period in which the Line was constructed, as has been allocated to the BtoM Project Assets, such rate as may be adjusted from time to time (the "LP Promissory Note"), provided that, in any event, the principal amount of the LP Promissory Note will not exceed the aggregate Tax Cost of the BtoM Project Assets to HONI. In conjunction with the APA, HONI and the Bruce-to-Milton LP shall duly execute and file an election under subsection 97(2) of the *Income Tax Act* (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer will occur on a tax deferred basis to HONI. In particular, the portion of the LP Promissory Note allocated to any particular asset or class of assets, and the elected amount for each particular asset or class of assets, will not exceed the Tax Cost of such asset or class of assets to HONI. The APA will contain a price adjustment clause providing for an adjustment to the purchase price, the consideration and/or the elected amount under the tax election in respect of the transfer in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and the Bruce-to-Milton LP. The Parties agree to use commercially reasonable efforts to cause the transfer of the LP Line Property Rights in conjunction with the APA to be effected on a land transfer tax deferred basis provided that the Parties agree that (i) HONI shall hold title to such LP Line Property Rights as nominee for and on behalf of the Bruce-to-Milton LP, (ii) no transfer or other notice or registration in respect of the LP Line Property Rights shall be permitted to be registered on title to the applicable real property by HO LPco, SON LPco, any lender to either Party or any third party where it would have an adverse effect on the deferral of land transfer tax, (iii) if such land transfer tax becomes payable in the future it shall be treated in accordance with Section 4.2 of the Agreement;

- b. Hydro One will incorporate Newco with minimal share capital.
- c. HONI will borrow from a bank, on a daylight basis, cash in an amount equal to the Initial Note Amount (the "Daylight Loan"). The Daylight Loan will not be convertible into shares of HONI and it will bear interest at a fixed rate that does not vary with the profits of HONI.
- d. HONI will contribute to GPco (i) the cash it received under the Daylight Loan (equal to the Initial Note Amount) and (ii) the LP Units received by HONI pursuant to the APA, (excluding the number of LP Units with a value equal to the Initial LPco Equity Investment), in exchange for (iii) additional common shares of GPco having a fair market value equal to the excess of the BtM Project Asset Value over the SON Equity Contribution Amount, multiplied by 40%, and (iv) a promissory note from GPco in the principal amount equal to the BtM Project Asset Value less the fair market value of the common shares received and bearing interest at same rate as the rate as applicable to the LP Promissory Note, less an interest rate spread, if any, to be determined by HONI and GPco, as it may be adjusted from time to time (the "GPco Promissory Note"), provided that, in any event, the principal amount of the GPco Promissory Note will not exceed the amount of the cash amount contributed by HONI to GPco. HONI and GPco shall duly execute and file an election under subsection 85(1) of the *Income Tax Act* (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer of the LP Units will occur on a tax deferred basis to HONI. In particular, the elected amount for the LP Units will not exceed the adjusted cost base of those LP Units to HONI. The terms of HONI's contribution to GPco will contain a price adjustment clause providing for an adjustment to the subscription price, the consideration and/or the elected amount under the tax election in respect of the transfer to GPco in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and GPco;
- e. GPco will transfer a cash amount to the Bruce-to-Milton LP in the amount that was borrowed by HONI under the Daylight Loan and in return shall receive additional LP Units as well as a promissory note in the principal amount equal to the BtoM Project Asset Value minus the Effective Hydro One Equity Amount and bearing interest at a rate equal the same rate as applicable to the LP Promissory Note as may be adjusted from time to time (the "BtoM LP Promissory Note");
- f. HONI will cause HO LPco and GPco to enter into the LPA and First Nations will cause SON LPco (as bare trustee for First Nations) to enter

into the LPA, and SON LPco (as bare trustee for First Nations) will make a capital contribution to the Bruce-to-Milton LP in the amount equal to the SON Equity Contribution Amount and in return shall receive (as bare trustee for First Nations) such number of LP Units such that (i) the total number of LP Units held by SON LPco (as bare trustee for First Nations) will be equal to the total issued and outstanding LP Units multiplied by the SON Equity Ratio; (ii) the total number of LP Units held by GPco (including, for greater certainty, those issued under Section 3.4(c) of the Agreement) will be equal to the total issued and outstanding LP Units multiplied by the GPco Equity Ratio; and (iii) the total number of LP Units held by LPco (following the transfer described in paragraph 14(k) below) will be equal to 0.1% of the total issued and outstanding LP Units. The LPA will include a clause (the "Claim Limitation Clause") that provides that the amount that SON LPco (as bare trustee for First Nations) will be entitled to claim against GPco with respect to any claim relating to GPco's obligations under the LPA or arising in relation to GPco's role as general partner of the Bruce-to-Milton LP shall be limited to the amount SON LPco (as bare trustee for First Nations) would have been entitled to if the only asset of GPco were a 0.1% interest in the Bruce-to-Milton LP, provided that such limitation will not apply to claims which SON LPco (as bare trustee for the First Nations) would have been entitled to bring against GPco had GPco been a limited partner of the Bruce-to-Milton LP. For greater certainty, SON LPco will have no claim in respect of any rights, interests or payments in connection with the BtoM LP Promissory Note.

- g. the Bruce-to-Milton LP will pay to HONI a cash amount equal to the principal amount of the LP Promissory Note (equal to the Initial Note Amount) in full satisfaction of the LP Promissory Note held by HONI in connection with the APA;
- h. the Bruce-to-Milton LP will pay such portion of the BtoM LP Promissory Note such that the principal amount of the BtoM LP Promissory Note will, after such payment, be equal to 60% of the BtoM Project Asset Value;
- i. GPco will utilize the funds received from the Bruce-to-Milton LP to pay a portion of the GPco Promissory Note;
- j. HONI will transfer all of its shares owned in HO LPco and GPco, the GPco Promissory Note and the LP Units that HONI owns to Newco and will receive from Newco preferred shares ("Newco Preferred Shares") having a fair market value equal to the aggregate fair market value of the

HO LPco shares, GPco shares, LP Units and GPco Promissory Note acquired by Newco;

HONI and Newco will duly execute and file an election under subsection 85(1) of the ITA (which provision applies for purposes of the Electricity Act) so that such transfer of the HO LPco and GPco shares, the GPco Promissory Note and the LP Units will occur on a tax deferred basis to HONI. In particular, the elected amounts will not exceed the respective adjusted cost bases of the HO LPco shares, GPco shares, the GPco Promissory Note and the LP Units transferred to Newco. The terms of the Agreement of Purchase and Sale will contain an adjustment clause providing for an adjustment to the elected amount under the tax election in respect of the transfer to Newco in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and Newco. In addition, the terms of the Newco Preferred Shares will provide for an adjustment to the redemption price of the Newco Preferred Shares in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and Newco;

- k. Newco will transfer the LP Units to LPco and will receive common shares of LPco having a fair market value equal to the fair market value of the LP Units.

Newco and LPco will duly execute and file an election under subsection 85(1) of the ITA (which provision applies for purposes of the Electricity Act) so that such transfer of the LP Units will occur on a tax deferred basis to Newco. In particular, the elected amount will not exceed the adjusted cost base of the LP Units to Newco. The terms of the Agreement of Purchase and Sale will contain an adjustment clause providing for an adjustment to the elected amount under the tax election in respect of the transfer to LPco in the event of a reassessment by the tax authorities or otherwise upon the agreement of Newco and LPco.;

- l. HONI will pay cash to Hydro One in an amount to the aggregate value of the Newco Preferred Shares in the form of a dividend (the "HONI Dividend") and/or as a repayment of debt owing by HONI to Hydro One. Alternatively, Hydro One may borrow all or a portion of the amount it requires to fund the payment described in paragraph 14(m) below from one or more third parties (the "Hydro One Debt"). The Hydro One Debt will not be convertible and will bear interest at a fixed rate that does not vary based on Hydro One's profits.

- m. Hydro One will transfer the entire amount of cash received from HONI and/or as proceeds from the Hydro One Debt to Newco and will receive,
  - i. A note receivable ("Newco Note Receivable") having a fair market value, principal amount equal to, and terms identical to, the GPco Promissory Note held by Newco, except that the interest rate may be lower than the interest rate under the GPco Promissory Note by an interest rate spread to be determined by Hydro One and Newco; and
  - ii. Common shares in the capital of Newco ("Newco Common Shares") having a fair market value and tax basis equal to the aggregate fair market value of the LPco shares and the GPco shares held by Newco.
- n. Newco will redeem the Newco Preferred Shares held by HONI utilizing the cash obtained from the Hydro One investment as described in paragraph 14(m) above.
- o. HONI will utilize the funds received on the redemption of the Newco Preferred Shares and the amount received as partial repayment of the GPco Promissory Note to repay the daylight borrowing referred to in paragraph 14(c) above.
- p. If the Approvals Date occurs prior to November 15, 2013, the transactions described in paragraphs 14(a) through (o) will be deferred until January 1, 2014 and on the date that is 10 Business Days after the Approvals Date, SON LPco (as bare trustee for the First Nations) will make a loan (the "Interim Loan") to HO LPco (or another corporation that is related to HO LPco, other than Hydro One) in an amount equal to the SON Equity Contribution Amount. The Interim Loan will not be convertible and will bear interest at a fixed rate that will be equal to the return on equity rate approved by the OEB for the BtoM Project Assets and such rate will not vary with the profits of the applicable borrower. On January 1, 2014, the applicable borrower will repay the Interim Loan and SON LPco (as bare trustee for the First Nations) will use the proceeds from that repayment to make the capital contribution to the Bruce-to-Milton LP described in paragraph 14(f) above.

For illustration purposes only, Appendix A to this letter contains an example of the calculations and descriptions of the steps set out in paragraphs 14(a) to (o) of this letter



assuming that the BtoM Project Asset Value were equal to \$600,000,000 and the SON Equity Contribution Amount were equal to \$72,000,000 at the Closing.

### **PURPOSE OF THE PROPOSED TRANSACTIONS**

The purpose of the Proposed Transactions is to allow the First Nations to invest in, and to earn income through the acquisition of an equity participation in the Bruce to Milton electricity transmission line, an important infrastructure project which traverses the traditional lands of the First Nations; establish the relationship between HONI and the First Nations with respect to the operation and ownership of the Bruce to Milton electricity transmission line; establish the appropriate regulatory debt to equity ratio; and to retain the taxable income allocated to LPco and GPco within the PILs tax regime.

### **RULINGS REQUESTED**

- A. The First Nations will not be regarded as municipal corporations for purposes of Part VI of the Electricity Act.
- B. None of the First Nations, SON LPco or the Bruce-to-Milton LP will be regarded as a "municipal electric utility" as defined in Section 88 of the Electricity Act.
- C. Subsection 97(2) of the ITA will apply to the asset transfer described in paragraph 14(a) above and section 85 of the ITA will apply to the transfers described in paragraphs 14(d), 14(j) and 14(k) above.
- D. Provided that joint elections under subsection 97(2) are filed in prescribed form within the prescribed time in subsection 96(4) or 96(5) in respect of the asset transfers described in paragraph 14(a) above and provided that a joint election under subsection 85(1) is filed in prescribed form within the prescribed time in subsection 85(6) or 85(7) in respect of the transfers described in paragraph 14(d), (j) and (k) above, the transactions described in paragraphs 12 and 14 (a) through and including (i) above will not result in any tax liability under Sections 89 and 90 of the Electricity Act as a consequence of the actions described therein for Hydro One, HONI, HO LPco, GPco or Newco.
- E. The interest payments made by the Bruce-to-Milton LP to GPco under the GPco Promissory Note will be deductible in computing the income of the Bruce-to-Milton LP.

- F.** The payments made by the Bruce-to-Milton LP to HONI under the Operating Agreement will be deductible in computing the income of the Bruce-to-Milton LP.
- G.** Subsection 84(3) of the ITA will apply to the redemption of the Newco Preferred Shares, described in paragraph 14(n), to deem Newco to have paid and HONI to have received a dividend equal to the amount, if any, by which the amount paid upon such redemption exceeds the paid-up capital in respect of such shares immediately before such redemption, and any such dividend (“Deemed Dividend”):
- (a) will be included in computing the income of HONI pursuant to subsection 82(1) and paragraph 12(1)(j) of the ITA;
  - (b) will be deductible by HONI pursuant to subsection 112(1) of the ITA in computing its taxable income for the year in which such dividend is deemed to have been received, and such deduction will not be prohibited by any of subsections 112(2.1), (2.2), (2.3) and (2.4) of the ITA;
  - (c) will be excluded in determining the proceeds of disposition, to HONI, of the shares so redeemed pursuant to paragraph (j) of the definition of “proceeds of disposition” in section 54 of the ITA;
  - (d) will, by virtue of subsection 112(3) of the ITA, reduce the loss, if any, in respect of the disposition of the shares on which such dividend is deemed to have been received;
  - (e) will not be subject to tax under Part IV of the ITA, except to the extent that paragraph 186(1)(b) applies to impose such tax; and
  - (f) will not be subject to tax under Parts IV.1 and Part VI.1 of the ITA.
- H.** Provided that there is no disposition or increase in interest described in any of subparagraphs 55(3)(a)(i) to (v) of the ITA as part of a series of transactions or events that includes the Proposed Transactions, then by virtue of paragraph 55(3)(a), the provisions of subsection 55(2) will not apply to the Deemed Dividend, if any, or to the HONI Dividend (collectively, the “Dividends”). For greater certainty, the Proposed Transactions described herein, in and by themselves, will not be considered to result in any disposition or increase in interest described in any of subparagraphs 55(3)(a)(i) to (v).

- I. The interest payments made by Newco to Hydro One under the Newco Note Receivable will be deductible in computing the income of Newco.
- J. None of the debt obligations described in the Proposed Transactions will be an amount described in paragraph 96(2.2)(c) for purposes of computing the at-risk amount of HO LPco in respect of the Bruce-to-Milton LP.
- K. GPco will not be deemed to be a limited partner pursuant to paragraphs 96(2.4)(b) and 40(3.14)(b) solely by reason of the existence of the Claim Limitation Clause as described in paragraph 14(f) above.
- L. Subsection 12.2(2) of Ontario Regulation 140/09 made under the Electricity Act will not apply in respect of any gain deemed to be realized by LPco as a result of the application of subsection 40(3) of the ITA, as it applies for purposes of sections 89 and 90 of the Electricity Act.

## **REASONS IN SUPPORT OF REQUESTED RULINGS**

- A. The Electricity Act does not define the term “municipal corporation”. However, the decision by the Court of Quebec (Civil Division), *Tawich Development Corporation v Deputy Minister of Revenue of Quebec*, [1997] 2 C.N.L.R. 187, may be of assistance in making a determination as to whether the First Nations are municipal corporations for purposes of the Electricity Act. The Court stated as follows:

*“Analysis of the laws indicate that, generally in Canada, a municipality or municipal corporation can only be constituted by an official act [or] proclamation creating it or bringing it into existence, whether by a law, letters patent [or] an order-in-council issued by a higher government, delegating to the local corporation certain government powers.”<sup>1</sup>*

*“A Canadian municipality cannot be created implicitly or by judicial interpretation. The status of municipality cannot be acquired by analogy.”<sup>2</sup>*

<sup>1</sup> *Tawich Development Corporation v Deputy Minister of Revenue of Quebec*, [1997] 2 C.N.L.R. 187, page 23, paragraph 16.

<sup>2</sup> *Tawich Development Corporation v Deputy Minister of Revenue of Quebec*, [1997] 2 C.N.L.R. 187, page 24, paragraph 16.

*"An organism may exercise many functions similar to those normally carried out by a municipality; that does not make it a municipality if it has not been granted this status. A formal act is required."*<sup>3</sup>

*"A review of the municipal doctrine and municipal laws in Canada leads the Court to suggest the following definition of a municipality in Canada:*

*A corporation constituted or created as a municipality by an official, published document of the competent sovereign authority for a specified territory and group of persons to which the authority has delegated the powers of exercising legislative and administrative functions of subordinate local government"*<sup>4</sup>

The Court in the above decision performed a detailed analysis of a conflicting decision, *"Otineka Development Corp. Ltd. v. Canada 94 D.T.C. 1234"* and stated as follows:

*"The Court, with respect for the opinions expressed therein, does not agree with the decision in Otineka."*<sup>5</sup>

*"It should be noted that the Otineka decision was not followed in Re Canadian Pacific Ltd. and Matsqui Indian Band."*<sup>6</sup>

Finally, it should be noted that following the *Tawich* decision, the Federal government has proposed that paragraph 149(1)(d.5) of the ITA be amended to add the words "public body performing a function of government in Canada". The comfort letter dated September 10, 2002 issued by the Federal Department of Finance stated that "However, as a result of the decision in *Tawich*, in which the court held that an entity can only attain the status of a municipality through constituting documents of a province, the Canada Customs and Revenue Agency (CCRA) has advised us that it could no longer treat *Indian Act* bands as municipalities for income tax purposes. Therefore, without legislative changes,

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<sup>3</sup> *Tawich Development Corporation v Deputy Minister of Revenue of Quebec*, [1997] 2 C.N.L.R. 187, page 24.

<sup>4</sup> *Tawich Development Corporation v Deputy Minister of Revenue of Quebec*, [1997] 2 C.N.L.R. 187, page 27.

<sup>5</sup> *Tawich Development Corporation v Deputy Minister of Revenue of Quebec*, [1997] 2 C.N.L.R. 187, page 21, paragraph 2.

<sup>6</sup> *Tawich Development Corporation v Deputy Minister of Revenue of Quebec*, [1997] 2 C.N.L.R. 187, page 21, paragraph 4.

corporations owned by *Indian Act* bands would no longer be exempt from Part I tax under paragraph 149(1)(d.5)."

In conclusion, it is our view that the First Nations are not municipal corporations for purposes of Part VI of the Electricity Act, since the two bands have not been constituted as a municipal corporation by any applicable Ontario statute.

**B.** Section 88 of the Electricity Act defines a "municipal electric utility as follows:

"municipal electricity utility" means,

- (a) a municipal corporation that generates, transmits, distributes or retails electricity directly,
- (b) a commission established under the *Public Utilities Act* or any other general or special Act through which a municipal corporation generates, transmits, distributes or retails electricity,
- (c) any other body, however established, through which a municipal corporation generates, transmits, distributes or retails electricity,
- (d) a corporation established pursuant to section 142 or a subsidiary of such a corporation, if a municipal corporation holds an interest, directly or indirectly, in one or more shares of such a corporation or subsidiary,
- (d.1) a corporation established after May 1, 2003 under sections 9, 10 and 11 of the *Municipal Act, 2001* in accordance with section 203 of that Act or established under sections 7 and 8 of the *City of Toronto Act, 2006* in accordance with sections 148 and 154 of that Act or a predecessor of those sections in either Act, for the purpose of acquiring, holding, disposing of and otherwise dealing with shares of a corporation incorporated by the municipal corporation under section 142 of this Act,
- (d.2) any corporation or other entity through which, pursuant to subsection 144 (2), a municipal corporation, municipal service board, a city board or municipal services corporation generates electricity,
- (e) a police village that generates, transmits, distributes or retails electricity directly or indirectly, or a corporation or other entity owned by the members of a police village for the purpose of generating, transmitting, distributing or retailing electricity, or
- (f) a person or entity prescribed by the regulations; ("service municipal d'électricité")

Since, for the reasons noted above, the First Nations do not meet the requirements of being a “municipal corporation”, none of the First Nations, SON LPco or the Bruce-to-Milton LP should be regarded as a “municipal electric utility” as defined in Section 88 of the Electricity Act.

C. Section 12.1 of Regulation 207/99 to the Electricity Act provides that,

“Section 85 and subsection 97(2) of the Federal Act do not apply on a disposition of property unless,

- a. the transfer occurs in a taxation year of the transferor that ends after October 1, 2001; and
- b. the transferee is an eligible corporation or eligible partnership immediately before and immediately after the disposition.”

Subsections 2(2) and 2(3) respectively of the Regulation then provide that,

“A corporation is an eligible corporation at a particular time in a taxation year for the purposes of subsection (3) and sections 12.1 and 12.2 if the corporation is liable to make a pay under section 89, 90, or 93 of the Act for the taxation year.

“A partnership is an eligible partnership at a particular time for the purposes of sections 12.1 and 12.2 if each member of the partnership is, at that time,

- a. an eligible corporation; or
- b. a partnership in which all of the partnership interests are held directly or indirectly by corporations that are eligible corporations.”

As wholly-owned subsidiaries of HONI, GPco, HO LPco and Newco will be subject to make payments under sections 89 and 90 of the Electricity Act and accordingly qualify as eligible corporations as defined by subsection 2(2) of Regulation 207/99 to the Electricity Act. Accordingly, it is our view that section 85 of the ITA will apply to the transfers described in paragraph 14(d), (j) and (k) above.

The Bruce-to-Milton LP will be an eligible partnership since each member of the partnership at the time of the asset transfer described in paragraph 14(a) above is

an eligible corporation. Accordingly, it is our view that subsection 97(2) of the ITA will apply to the asset transfer described in paragraph 14(a) above.

**D. Actions and Transactions Described in Paragraphs 12 and 14**

*Paragraph 12 Transactions*

Paragraph 12 describes the actions to be taken by the Bruce-to-Milton LP in connection with the start-up of its business. In particular, the Bruce-to-Milton LP will apply for approvals from the OEB which, if given, will allow the Bruce-to-Milton LP to acquire the BtoM Project Assets and to charge rates to consumers in respect of the transmission of electricity over the Bruce-to-Milton transmission line. Upon receipt of such approvals, the value of the business of the Bruce-to-Milton LP will increase substantially because the Bruce-to-Milton LP will, as a result of the receipt of such approvals, become entitled to carry on its intended business from which it will earn significant revenues.

Nevertheless, the receipt of such approvals, and any actions taken in connection with obtaining them should not be considered to give rise to any taxable event. This situation is comparable to the signing of a significant supply agreement, the registration of a patent or other similar events that often occur at the early stage of carrying on a business. Although such events can result in the creation of significant value for the owners of such business, the creation of such value does not arise as a result of a disposition of any property by the owners or any other similar taxable event. Rather such value arises as a result of actions taken in the course of carrying on the business, in the same way that goodwill is often created over time. Therefore, the actions to be undertaken taken by the Bruce-to-Milton LP as described in paragraph 12 should not give rise to any tax liability for Hydro One, HONI, HO LPco, GPco under sections 89 or 90 of the Electricity Act.

*Paragraph 14 Transactions*

As discussed above in respect of Ruling C, subsection 97(2) should apply to the transfer described in paragraph 14(a). As a result, provided a paragraph 97(2) election is duly and timely filed in respect of such transfer, and provided the elected amount in respect of each transferred asset or class of assets does not exceed the cost amount to HONI of such transferred asset or class of assets, HONI should not realize any gains as a result of such transfer.

As discussed above in respect of Ruling C, subsection 85(1) should apply to the transfers described in paragraphs 14(d), (j) and (k). As a result, provided a

subsection 85(1) election is duly and timely filed in respect of each such transfer, and provided that the elected amount in respect of the transferred property does not exceed the adjusted cost base to HONI of such transferred property, HONI should not realize any gain as a result of such transfer. In addition, the transfer of the cash by HONI to GPco as part of the transaction described in paragraph 14(d) is simply the making of a loan to, and the payment of the subscription price for common shares of, GPco which should not give rise to any tax liability for either HONI or GPco.

Similarly, the transactions described in paragraph 14(e) and (f) are simply the payment of a subscription price for LP units (and the making of a loan in the case of paragraph 14(e)). As a result, such transactions should not give rise to any tax liability for HO LPco or GPco.

Finally, the transactions described in paragraphs 14(g), (h) and (i) simply involve the repayment of debts and therefore such transactions should not give rise to any tax liability for HONI, HO LPco or GPco.

#### *Summary*

Based on the foregoing, none of the transactions described in paragraphs 12 or 14 will result in any tax liability under sections 89 or 90 of the Electricity Act for Hydro One Inc., HONI, HO LPco or GPco.

- E.** As outlined in paragraph 14 above, the LP Promissory Note will be issued by the Bruce-to-Milton LP as consideration for the acquisition by the Bruce-to-Milton LP of the BtoM Project Assets. As a result, the LP Promissory Note will be an amount payable for property acquired by the Bruce-to-Milton LP for the purpose of gaining or producing income from property or a business, being the BtoM Project Assets and therefore interest payable under the LP Promissory Note would be deductible by the Bruce-to-Milton LP under subparagraph 20(1)(c)(ii) of the ITA.

As further described in paragraph 14, the Bruce-to-Milton LP will subsequently borrow money from GPco which will be evidenced by the GPco Promissory Note. The Bruce-to-Milton LP will use this borrowed money to repay the LP Promissory Note. Pursuant to subsection 20(3) of the ITA, such borrowed money will be deemed to have been used for the same purpose as the purpose for which the LP Promissory Note was incurred, being the acquisition of the BtoM Project Assets which will have been acquired by the Bruce-to-Milton Partnership for the purpose of gaining or producing income. As a result, interest payable under the



GPco Promissory Note will be deductible by the Bruce-to-Milton LP pursuant to subparagraph 20(1)(c)(i) of the ITA.

Moreover, the fact that the interest payable by the Bruce-to-Milton LP under the GPco Promissory Note is payable to a partner of the Bruce-to-Milton LP should not affect the deductibility of that interest by the Bruce-to-Milton LP. Pursuant to subsection 96(1), the income of the Bruce-to-Milton LP is to be computed as if it were a separate person resident in Canada. Given that the deductibility of interest is directly part of the income computation of the Bruce-to-Milton LP, such deductibility of interest payable under the GPco Promissory Note should be analyzed as if the Bruce-to-Milton LP were a separate person resident in Canada. This is consistent with the case law<sup>7</sup> and the CRA's published administrative practice.<sup>8</sup>

**F.** CRA has stated that,

"There are circumstances in which we would allow a partnership to deduct an amount paid to a partner. For example, we would be prepared to allow a deduction in computing the income of a partnership for fees paid to a partner if the fees are paid in consideration for services provided to the partnership by the partner acting other than in his or her capacity as a partner (i.e. the services are not related to the ownership of the partnership interest). That is, the services are provided by the partner in the course of carrying on a business separate from the business carried on by the partnership. Accordingly, the problem of deriving two sources of income from one business does not arise since the amount paid to the partner is included in that partner's income from the separate business. In addition, in the circumstances where a partner is providing services to the partnership other than in the capacity as a partner, we would be willing to accept that the agreement under which the services are provided does not offend the rule against contracting with oneself. However, to avoid uncertainty as to the deductibility of these payments, we would encourage taxpayers not to enter into service contracts directly with the partnership but to enter into these contracts through a separate entity."<sup>9</sup>

It is our view that the payments made by the Bruce-to-Milton LP to HONI are deductible in computing the taxable income of the Bruce-to-Milton LP for the following reasons:

<sup>7</sup> See, for example, *Metro-Can Construction Ltd. v. The Queen*, 2002 DTC 6495 (FCA).

<sup>8</sup> See, for example, CRA technical interpretations 2001-0103605 dated May 15, 2002, 9229210 dated November 1, 1992.

<sup>9</sup> Income Tax Technical News, ITTC-30 – Income Tax Technical News, page 6, response 4.

- HONI is not a partner in the Bruce-to-Milton LP
- HONI is providing the services to the Bruce-to-Milton LP in the course of carrying on a transmission business separate from the business carried on by the partnership.

**G.** Subsection 84(3) applies on a redemption of a share and provides that any amount paid to a shareholder on such redemption in excess of the paid-up capital is deemed to be a dividend paid by the corporation on the redeemed share. In this situation, Newco is redeeming the Newco Preferred Shares. As a result, pursuant to subsection 84(3), any amount paid by Newco on such redemption in excess of the paid-up capital of the Newco Preferred Shares will be deemed to be a dividend paid by Newco on the Newco Preferred Shares. Paragraph (a) through (f) of Ruling G confirm that various provisions that apply in respect of dividends are applicable in respect of any Deemed Dividend that arises on the redemption of the Newco Preferred Shares.

**H.** In general terms, the Proposed Transactions described in paragraphs 14(j) through (o) constitute an internal divisive reorganization of the kind contemplated by paragraph 55(3)(a), and the rulings requested are those generally requested in respect of such transactions. In particular, subsection 55(2) will not apply to the Dividends, by virtue of paragraph 55(3)(a). The transactions described in paragraphs 9 through 11, paragraph 12 (other than paragraph 12(a)) and paragraph 14 (other than paragraphs 14(c), (f), (g), (h), (l), (o) and (p)) involve exclusively persons who are not Unrelated Persons, and as such are in compliance with paragraph 55(3)(a). We have outlined the analysis under paragraph 55(3)(a) with respect to the remaining transactions below.

## *Paragraph 8 – Transfer of Shares of SON LPCo to the First Nations*

Although the transfer of the shares of SON LPCo is to an Unrelated Person:

(a) subparagraphs 55(3)(a)(i) and (ii) should not apply in respect of such transfer because such transfer constitutes a disposition for fair market value proceeds of disposition;

(b) subparagraphs 55(3)(a)(iii) and (iv) should not apply in respect of such transfer because such transfer is not a disposition of shares of Newco, HONI or Hydro One or of property that will derive more than 10% of its fair market value from shares of Newco, HONI or Hydro One at any time during the series of transactions that includes the Dividends; and

(c) subparagraph 55(3)(a)(v) should not apply in respect of such transfer because such transfer does not result in a significant increase in the direct interest of an Unrelated Person in a dividend payer (Newco and HONI).

## *Paragraph 12(a) – Financing of the First Nations*

Although the financing to be obtained by the First Nations involves Unrelated Persons, such financing is unrelated to the transactions that give rise to the Dividends and beyond the control of HONI and its affiliates. Therefore, such financing should not be considered to fall within the same series of transactions or events as the series of transactions that includes the Dividends.

In any event, even if such financing were considered to fall within the series of transactions or events that includes the Dividends:

(a) subparagraphs 55(3)(a)(i) should not apply because the issuance of debt by the First Nations should not give rise to a disposition of property to a Unrelated Person and, even if it did, any such disposition should be for fair market value proceeds of disposition;

(b) subparagraphs 55(3)(a)(iii) and (iv) should not apply because the issuance of debt by the First Nations should not give rise to a disposition of property to an Unrelated Person and, even if it did, such property would not be shares of Newco, HONI or Hydro One or property that will, at any time during the series of transactions or events that includes the Dividends, derive its value from shares of Newco, HONI or Hydro One; and

(c) subparagraphs 55(3)(a)(ii) and (v) should not apply because the issuance of debt by the First Nations does not result in an increase in the direct interest in any corporation given that the First Nations is not a corporation.

## *Paragraphs 14(c), (l) and (p) – Third Party Borrowings*

Although the third party borrowings described in paragraphs 14(c), (l) and (p) involve Unrelated Persons:

(a) subparagraphs 55(3)(a)(i) should not apply because the issuance of debt by the applicable borrower should not give rise to a disposition of property to a Unrelated Person and, even if it did, any such disposition should be for fair market value proceeds of disposition;

(b) subparagraphs 55(3)(a)(iii) and (iv) should not apply because the issuance of debt by the applicable borrower should not give rise to a disposition of property; and

(c) subparagraphs 55(3)(a)(ii) and (v) should not apply because the issuance of debt by the applicable borrower does not result in an increase in the direct interest in any corporation. In this regard, we understand that the Canada Revenue Agency has accepted that non-convertible, non-participating debt is not an “interest” in a corporation for purposes of subparagraphs 55(3)(a)(ii) and (v).

*Paragraph 14(f) – Subscription for LP Units by the First Nations*

Immediately prior to this subscription, all of the partners of the Bruce-to-Milton LP will be persons that are related to HONI and Hydro One and therefore, immediately prior to this subscription, the Bruce-to-Milton LP will not be an Unrelated Person. Although the First Nations will be an Unrelated Person:

(a) subparagraphs 55(3)(a)(i) should not apply because the issuance of the LP Units should not give rise to a disposition of property to an Unrelated Person and, even if it did, any such disposition should be for fair market value proceeds of disposition;

(b) subparagraphs 55(3)(a)(iii) and (iv) should not apply because the issuance of the LP Units should not give rise to a disposition of property and, even if did, such property would not be shares of Newco, HONI or Hydro One or property that will, at any time during the series of transactions or events that includes the Dividends, derive its value from shares of Newco, HONI or Hydro One; and

(c) subparagraphs 55(3)(a)(ii) and (v) should not apply because the issuance of the LP Units does not result an increase in the direct interest in any corporation of an Unrelated Person.

*Paragraphs 14(g) and (h) – Repayment of the LP Promissory Note and the BtoM Promissory Note*

Although the Bruce-to-Milton LP will be an Unrelated Person at the time it repays the LP Promissory Note and the BtoM Promissory Note:

(a) subparagraphs 55(3)(a)(i) should not apply because the repayment of the LP Promissory Note and the BtoM Promissory Note by the Bruce-to-Milton LP should not give rise to a disposition of property to a Unrelated Person and, even if it did, any such disposition should be for fair market value proceeds of disposition;

(b) subparagraphs 55(3)(a)(iii) and (iv) should not apply because the repayment of the LP Promissory Note and the BtoM Promissory Note by the Bruce-to-Milton LP should not give rise to a disposition of property to an Unrelated Person and, even if did, such property would not be shares of Newco, HONI or Hydro One or property that will, at any time during the series of transactions or events that includes the Dividends, derive its value from shares of Newco, HONI or Hydro One; and

(c) subparagraphs 55(3)(a)(ii) and (v) should not apply because the repayment of the LP Promissory Note and the BtoM Promissory Note by the Bruce-to-Milton LP will not result in an increase in the direct interest in any corporation of an Unrelated Person.

*Paragraphs 14(o) and (p) – Repayment of the HONI Bank Debt and the Interim Loan*

Although the lenders will be Unrelated Persons:

(a) subparagraphs 55(3)(a)(i) should not apply because the repayment of the bank debt by the applicable borrower should not give rise to a disposition of property to a Unrelated Person and, even if it did, any such disposition should be for fair market value proceeds of disposition;

(b) subparagraphs 55(3)(a)(iii) and (iv) should not apply because the repayment of the bank debt by the applicable borrower should not give rise to a disposition of property to an Unrelated Person other than a disposition of cash which would not be property that will, at any time during the series of transactions or events that includes the Dividends, derive its value from shares of Newco, HONI or Hydro One; and

(c) subparagraphs 55(3)(a)(ii) and (v) should not apply because the repayment of the bank debt by the applicable borrower will not result in an increase in the direct interest in any corporation of an Unrelated Person.

*Summary*

Based on the foregoing, none of the Proposed Transactions should be considered to result in any disposition or increase in interest described in any of subparagraphs 55(3)(a)(i) to (v). As a result, by virtue of paragraph 55(3)(a), the provisions of subsection 55(2) will not apply to the Dividends.

**I.** The Newco Note Receivable will be issued by Newco in respect of borrowed money used by Newco to redeem the Newco Preferred Shares. Paragraph 23 of Interpretation Bulletin IT-533 states as follows with respect to borrowed money that is used to redeem shares:

23. Interest expense on borrowed money used to redeem shares or return capital can be an exception to the direct use test. In connection with this use, the purpose test will be met if the borrowed money replaces capital (contributed capital or accumulated profits) that was being used for purposes that would have qualified for interest deductibility had the capital been borrowed money (eligible purposes). Consistent with the concept of filling the hole, contributed capital generally means the funds provided by the shareholders to commence, or otherwise further, the carrying on of the business. While in most situations the legal or stated capital for corporate law purposes would be the best measurement of contributed capital for this purpose, other measurements may be more appropriate depending on the circumstances. In situations where some proportion of shares is being replaced with borrowed money, only the capital of those shares, computed on a pro-rata basis, would be considered to be replaced with the borrowed money. A corporation's deficit does not reduce contributed capital for purposes of this exception.

In this situation, the Newco Preferred Shares were issued in consideration for the acquisition by Newco of the shares of HO LPCo and GPco and the GPco Promissory Note. Thus, the Newco Preferred Shares were issued in order to earn income from property, being dividends on such shares and interest on the GPco Promissory Note. As a result, if the Newco Preferred Shares had been borrowed money, the interest on such borrowed money would be deductible under paragraph 20(1)(c). Consequently, interest on the borrowed money evidenced by the Newco Note Receivable, which replaces the capital represented by the Newco Preferred Shares, should be deductible under paragraph 20(1)(c).

In addition, even if the interest rate on the GPco Promissory Note does not exceed the interest rate on the Newco Note Receivable, there should not be an issue in terms of the deductibility of the interest on the Newco Note Receivable. Paragraph 25 of Interpretation Bulletin IT-533 states as follows:

25. Interest expense on borrowed money used to make an interest-free loan is not generally deductible since the direct use is to acquire a property that cannot generate any income. However, where it can be shown that this direct use can nonetheless have an effect on the taxpayer's income-earning capacity, the interest may be deductible. Such was the case in *Canadian Helicopters* wherein the court found that there was a reasonable expectation on the part of the taxpayer of an income-earning capacity from the indirect use of the borrowed money directly used to make an interest-free loan. Generally, a deduction for interest would be allowed where borrowed money is used to make an interest-free loan to a wholly-owned corporation (or in cases of multiple shareholders, where shareholders make an interest-free loan in proportion to their shareholdings) and the proceeds have an effect on the corporation's income-earning capacity, thereby increasing the potential dividends to be received. These comments are equally applicable to interest on borrowed money used to make a contribution of capital to a corporation of which the borrower is a shareholder (or to a partnership of which the borrower is a partner). A deduction for interest in other situations involving interest-free loans may also be warranted depending upon the particular facts of a given situation.

In this situation, GPco will be a wholly-owned subsidiary of Newco. Therefore, even though Newco will not earn a greater amount of interest on the GPco Promissory Note than it is required to pay under the Newco Note Receivable, GPco will have the capacity to pay more dividends to Newco on its common shares by virtue of having less interest expense. As a result, interest on the Newco Note Receivable should be deductible by Newco pursuant to paragraph 20(1)(c).

**J.** The CRA has stated as follows:

Concerns have been expressed that the at-risk amount of a limited partner may be reduced because of loans outstanding between corporations that are in the same corporate group as the limited partner and which do not deal at arm's length with the limited partnership, notwithstanding that the loan is completely unrelated to the financing of the limited partnership. Similar concerns have been expressed in the situation where a limited partner has bona fide trade receivables owing to the partnership. In this regard, it is the department's opinion that paragraph 96(2.2)(c) of the Act generally does not apply to amounts owing by a limited partner, or a person with whom the limited partner does not deal at arm's length, to a partnership or to a person or partnership with whom the partnership does not deal at arm's length, to the extent that such amounts arose as a result of legitimate commercial transactions that are unrelated to the limited partner's acquisition of his interest in the partnership, and to the extent that the terms of payment conform to normal commercial arrangements comparable to those between parties dealing at arm's length.<sup>10</sup>

In this situation, none of the debt obligations described in the Proposed Transactions are amounts that relate to the acquisition of HO LPco's partnership interest in the Bruce-to-Milton LP and each of them are issued for commercial reasons and on commercial terms. In particular, although the HO LPco Promissory Note will be issued as part of the capitalization of HO LPco, such capitalization will include a significant issuance of equity by HO LPco and the proceeds from that equity issuance will exceed the amount contributed by HO LPco to the Bruce-to-Milton LP as the subscription price for HO LPco's LP Units. Therefore, it is clear that the amount that HO LPco will actually have at risk in respect of its investment in the Bruce-to-Milton LP will not be less than the subscription price it has paid for its LP Units. We therefore submit that the debt obligations described in the Proposed Transactions, including the HO LPco Promissory Note, should be considered to fall within the CRA's published administrative practice set out above and should not reduce HO LPco's at-risk amount in respect of the Bruce-to-Milton LP, as determined under subsection 96(2.2).

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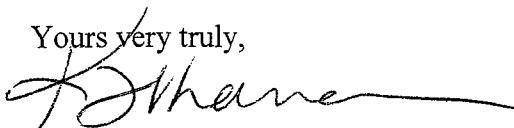
<sup>10</sup> See, for example, "Revenue Canada Round Table" in Report of the Proceedings of the Fortieth Tax Conference, 1988 Conference Report (Toronto: Canadian Tax Foundation, 1989) at page 55:11 and CRA documents 9309805 dated July 27, 1993 and 2008-029613117 dated December 21, 2009.

**K.** The Claim Limitation Clause is an agreement solely between the partners of the Bruce-to-Milton LP and deals solely with claims as between those partners. It does not deal with any claim that a third party may have in relation to the operation or management of the Bruce-to-Milton LP and GPco will remain fully at-risk with respect to any such claims. GPco will have significant capital at risk in the Bruce-to-Milton LP and the Claim Limitation Clause will not prevent the loss of such capital except in the very narrow circumstance where SON LPco (as bare trustee for First Nations) has a claim against GPco. We submit that such a clause should not be considered to be the type of benefit to which paragraph 96(2.2)(d) applies and therefore the existence of the Claim Limitation Clause should not, in and of itself, cause GPco to be deemed to be a limited partner pursuant to paragraphs 96(2.4)(b) and 40(3.14)(b).

**L.** Subsection 12.2(2) of Ontario Regulation 140/09 applies only if there has been a disposition of an interest in a partnership *to* any person or partnership that is not an eligible corporation or eligible partnership, as defined in the Electricity Act. While subsection 40(3) of the ITA deems a limited partner to have a gain from the disposition of an interest in the particular partnership if such partner's adjusted cost base in that partnership interest has become negative, subsection 40(3) does not deem such disposition to have been *to* any person or partnership. Therefore, based on the wording of subsection 40(3) and subsection 12.2(2), subsection 12.2(2) should not apply in respect of a deemed gain that arises under subsection 40(3).

Such interpretation is also entirely consistent with the purpose of subsection 12.2(2) which is to prevent the transfer of a partnership interest to an entity that would not be subject to taxation under the PILs regime in the Electricity Act, thereby allowing the accrued gains and recapture inherent in the assets of the partnership to escape taxation under the PILs regime. A deemed disposition that arises under subsection 40(3) of the ITA does not in any way involve a transfer of a partnership interest to an entity that is not subject to the PILs regime. Rather, LPco, who is subject to the PILs regime, will continue to own the partnership interest at all relevant times. On this basis, we submit that subsection 12.2(2) should not apply in respect of any deemed gain that arises as a result of the application of subsection 40(3) of the ITA, as it applies for purposes of sections 89 and 90 of the Electricity Act.

Yours very truly,



Kimberley J. Wharram,  
Osler, Hoskin & Harcourt LLP

c: Giovanna Baragetti, *Hydro One Networks Inc.*  
Michael Templeton, *McMillan LLP*



# APPENDIX A

B&M

## ASSUMPTIONS (in \$million)

FMV of BtoM Project Assets	\$ 600.00	NBV as of Dec 31, 2013
UCC of BtoM Project Assets	\$ 480.00	as of Dec 31, 2013
SON Investment	30%	\$ 72.00 30.00%
Deemed debt %	60%	
Deemed equity %	40%	
LP Co equity %	0.10%	
GP Co equity %	69.90%	
Assumed Boot	\$ 480.00	

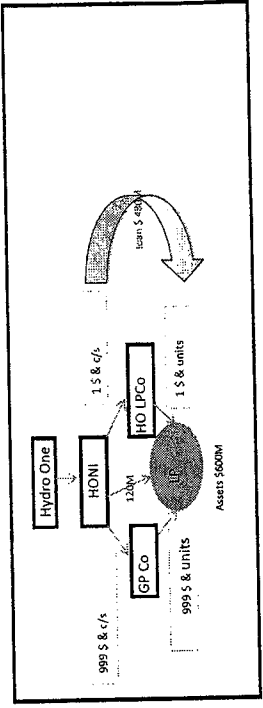
LP Units Issued (\$1 per unit)	\$ 120.00
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## Tax Ruling Request - Steps:

**Step 14(a) -** HONI transfers the BtoM Project Assets to the Bruce to Milton LP for the LP Promissory Note of \$480 million (interest-bearing) and limited partnership interest of \$120 million. represented by 120 million LP units (the "LP Interest").

A section 9712 election is filed electing proceeds equal to the UCC. Excess of UCC over the note amount will be the acb of the LP interest.

	ACB	FMV
Boot	\$ 480.00	\$ 480.00
ACB of LP Interest	\$ -	120.00
Total	\$ 480.00	\$ 600.00
Deferred Gain	\$ 120.00	
FMV of LP Interest	\$ 120.00	
UCC of BtoM Project Assets	\$ 480.00	
LP Units issued	\$ 120.00	



**Step 14(b) -** HOI incorporates Newco with minimal capital

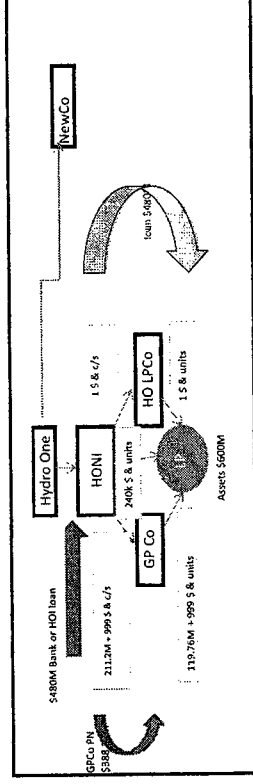
**Step 14(c) -** HONI borrows an amount equal to the value of the transferred assets, less the LP interest (currently \$600 million - \$120 million) \$480 million from the bank or from Hydro One.

FMV of BioM Project Assets	\$600.00
Less FMV of LP interest	(\$120.00)
Loan from bank or from Hydro One	\$480.00

**Step 14 (d) -** HONI transfers \$480 million cash plus the LP interest (excluding .1% LP interest comprising 240,000 LP units) to GPco in exchange for shares of \$211.2 million and the GPco Promissory Note (interest bearing) in the amount of \$388.56 million. The act of the shares will be the aggregate of the act of the LP interest transferred (\$nil) + net ACB of funding \$480 million - boot received of \$480 million.

	ACB	FMV
Cash	\$480.00	\$480.00
ACB of LP interest	\$0.00	\$ 120.00
Less .1% LP interest retained	\$0.00	(\$0.24)
Total ACB/FMV of transferred assets	\$480.00	\$599.76
GPco Promissory Note to be issued to HONI	\$388.56 *	
FMV GP Co common shares	\$211.20 *	
Total FMV	\$599.76	
ACB of GPco Promissory Note issued to HONI	\$388.56 *	
ACB of GP Co shares issued to HONI	\$91.44 *	
Total ACB	\$480.00	

\* The amount of the GPco Promissory Note may be different that the one stated herein. For example, it may instead be equal to the amount of the BioM promissory Note in step 14(e) below, which would impact the value of the GPco shares



GPCo invests \$480 million in the Bruce-to-Milton LP in exchange for a limited partnership interest of 448 million and the Brown Promissory Note in the amount of \$452 million (the balance of purchase price).

Diagram illustrating the financing structure for NewCo:

- NewCo** is connected to **Hydro One** via a dotted line.
- Hydro One** is connected to **HONI** via a solid arrow.
- HONI** is connected to **GP Co** via a solid arrow.
- GP Co** is connected to **HO LPCO** via a solid arrow.
- HO LPCO** is connected to a central circle (representing the project) via a solid arrow.
- The central circle is connected to **Assets \$600M** via a solid arrow.
- A curved arrow labeled **BANK \$480M** points from the central circle back to **NewCo**.
- A curved arrow labeled **GP Co PN \$380M** points from the central circle back to **GP Co**.
- A curved arrow labeled **Biom PN \$432M** points from the central circle back to **Biom**.
- A curved arrow labeled **48M + 110.76M + 995 \$ & units** points from the central circle back to **GP Co**.
- A curved arrow labeled **240M \$ & units** points from the central circle back to **HONI**.
- A curved arrow labeled **15 \$ & units** points from the central circle back to **HO LPCO**.
- A curved arrow labeled **15 \$ & units** points from the central circle back to **NewCo**.

SON LP Co invests \$72 million in the Bruce-to-Milton LP for a 30% limited partnership interest, diluting HO LPco down to 69.9%.

Bruce-to-Milton LP repays the LP Promissory Note to HONI issued in Step 14(a).

1 p Promissory Note repayment to HONI

Bruce-to-Milton LP repays portion of the BtoM Promissory Note issued utilizing cash from the SON LPco investment to GPco.

Bruce-to-Milton LP partial note repayment to GPco	\$720.00
Balance of BlotM Promissory Note	\$360.00
Debt %	60%

GPco repays portion of the GPco Promissory Note to HONI thereby reducing its debt and establishing a 60:40 debt/equity ratio.

[illegible]

## If the example in the comment in step 14(d) applies, the balance of the GPCo Promissory Note would correspond to the amount of the

Atom Promissory Note outlined in 14(h)

JOHN transferred the GP Co and HQ LP Co shares (\$711.2 mill) the 1% limited partnership interest, i.e. 240,000 units, and GP Co Promissory Note (\$316.56 mill) to Newco.

An 85(1) election is filed electing proceeds equal to the acb of the transferred assets which is expected to be less than their fmv of \$528 million.

An 85(1) election is filed electing proceeds equal to the acb of the transferred assets which is expected to be less than their fmv of \$528 million.

\* Amount of GP Co Promissory Note may be different - refer to step 14(i). Would impact value of GP Co shares

Newco transfers the .1% limited partnership interest to LP Co and receives shares of equal value. An 85(1) election will be filed electing proceeds of disposition of \$1 which is equal to the tax basis of the .1 partnership interest.

1% LP interest transferred to LP Co:	\$0.24	\$0.00
LP Co shares issued to Neuro	\$0.24	\$0.00

Hydro One receives funds of \$528 million by way of borrowings, or dividends or debt repayment from HONI, or combination.

**HONI dividend or debt repayment to Hydro One or Hydro One borrowing or combination**

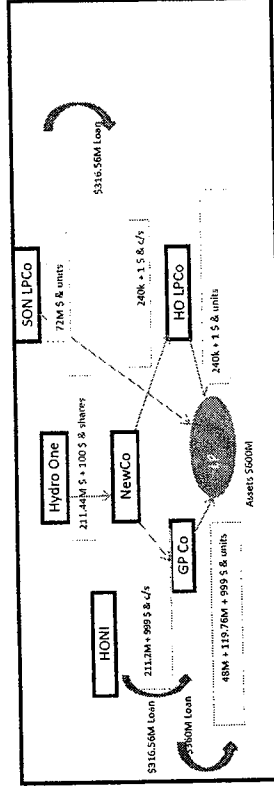
Hydro One transfers the cash to Newco. In exchange for common shares of \$211.44 million and a note receivable in the amount of \$316.56 million (i.e. balance of purchase price).

Hydro One investment in Newco shares and note		\$528.00
	<u>FMV</u>	
Newco Shares	* \$211.44	* ACB
Note Rec'd from Newco	\$ 316.56 *	* \$216.56 *
Total Investment		<u>\$528.00</u>

\* Amount could differ - refer to 14(i)

Newco redeems the preferred shares held by HONI for cash of \$52.8 million.

HON1 repays the \$480 million loan





**Hydro One Inc.**  
483 Bay Street  
North Tower, 15th Floor  
Toronto, Ontario M5G 2P5  
www.HydroOne.com

Tel: (416) 345 6140  
Fax: (416) 345 6058

**Sandy Struthers, CA**  
Chief Financial Officer



January 24, 2013

Tax and Benefits Administration  
Income Tax Rulings  
Ministry of Revenue, Ontario  
Michael Starr Building, 3<sup>rd</sup> Floor  
33 King Street West  
OSHAWA ON  
L1H 8H5

Attention: Mr. Craig Blackwood  
Senior Manager (Acting) – CT Programs/Analysis and Planning

**Advance Income Tax Rule Request**

Hydro One Inc. ("Hydro One") hereby authorizes the firm of Osler, Hoskin & Harcourt LLP to meet with and otherwise communicate with the Ministry of Revenue, Ontario (the "Ministry") in connection with the enclosed request for an advance income tax ruling (the "Ruling"), including any related matters which arise therefrom. Hydro One also hereby authorizes the Ministry to communicate any information or issues concerning the Ruling to representatives of Osler, Hoskin & Harcourt LLP.

Hydro One hereby authorizes the Ministry to fax or email correspondence concerning the Ruling to Osler, Hoskin & Harcourt LLP. Hydro One accepts the risks inherent in sending information by fax or email. Hydro One agrees not to hold the Ministry or its employees liable for any damage or loss, however caused, arising out of the facsimile or email transmissions of correspondence related to the Ruling request.

Yours very truly,

**HYDRO ONE INC.**

By: 

Name: Sandy Struthers

Title: Chief Administration Officer and Chief Financial Officer

**Hydro One Inc.**  
483 Bay Street  
North Tower, 15th Floor  
Toronto, Ontario M5G 2P5  
www.HydroOne.com

Tel: (416) 345 6140  
Fax: (416) 345 6058

**Sandy Struthers, CA**  
Chief Financial Officer



January 24, 2013

Tax and Benefits Administration  
Income Tax Rulings  
Ministry of Revenue, Ontario  
Michael Starr Building, 3<sup>rd</sup> Floor  
33 King Street West  
OSHAWA ON  
L1H 8H5

Attention: Mr. Craig Blackwood  
Senior Manager (Acting) – CT Programs/Analysis and Planning

**Advance Income Tax Rule Request**

Hydro One Networks Inc. ("HONI") hereby authorizes the firm of Osler, Hoskin & Harcourt LLP to meet with and otherwise communicate with the Ministry of Revenue, Ontario (the "Ministry") in connection with the enclosed request for an advance income tax ruling (the "Ruling"), including any related matters which arise therefrom. HONI also hereby authorizes the Ministry to communicate any information or issues concerning the Ruling to representatives of Osler, Hoskin & Harcourt LLP.

HONI hereby authorizes the Ministry to fax or email correspondence concerning the Ruling to Osler, Hoskin & Harcourt LLP. HONI accepts the risks inherent in sending information by fax or email. HONI agrees not to hold the Ministry or its employees liable for any damage or loss, however caused, arising out of the facsimile or email transmissions of correspondence related to the Ruling request.

Yours very truly,

**HYDRO ONE NETWORKS INC.**

By: 

Name: Sandy Struthers

Title: Chief Administration Officer and Chief Financial Officer





September 17, 2012

Tax and Benefits Administration  
Income Tax rulings  
Ministry of Revenue, Ontario  
Michael Starr Building, 3<sup>rd</sup> Floor  
33 King Street West  
Oshawa, Ontario L1H 8H5

Dear Sirs/Mesdames :

**Re: Advance Tax Ruling Request for Hydro One Networks Inc.  
Chippewas of Saugeen First Nation and Chippewas of Nawash First  
Nation**

### **Authorization for Ruling Request**

The undersigned, Chippewas of Nawash First Nation hereby authorizes Osler, Hoskin & Harcourt LLP to act on its behalf in connection with its application for an advance income tax ruling (the "**Ruling**").

### **Issues Involved in Ruling Request**

To the best of undersigned's knowledge none of the issues raised in the Ruling request:

- (i) is in any previously filed tax return of the undersigned or a related person;
- (ii) is being considered by a tax services office or taxation centre in connection with a previously filed tax return of undersigned or a related person;
- (iii) is under objection by undersigned or a related person;
- (iv) is before the courts; or
- (v) is the subject of a ruling previously issued by the Directorate in respect of undersigned or a related person.

### **Authorization for Electronic (email and facsimile) Correspondence**

The undersigned hereby authorizes the Ministry of Revenue (the "**Ministry**") to email and/or fax all correspondence concerning the Ruling request. The email and facsimile correspondence is to be sent to the undersigned's solicitors, Osler Hoskin & Harcourt LLP, to the attention of Kimberly Wharram (email: [kwharram@osler.com](mailto:kwharram@osler.com); fax: (416) 862-6666).



The undersigned is aware that the Ministry does not provide assurance with respect to the protection of email and facsimile correspondence. The undersigned accepts the risk inherent in sending information by email and fax and agrees not to hold the Ministry or its employees liable for any damage or loss, however caused, arising out of email and facsimile correspondence related to the Ruling request.

The undersigned's address is as follows:

Chippewas of Nawash First Nation  
135 Lakeshore Blvd., RR #5  
Wiarton, Ontario, N0H 2T0  
Attn. Chief

### **Authorization for Release of Ruling**

The hereby requests that, prior to the Ruling being released to the public, its name, address and identification number and that of any other taxpayers identified in the Ruling, be deleted. In addition, the undersigned requests that all descriptions of businesses and properties that are the subject matter of the Ruling (including any other identifying facts) be deleted when the Ruling is released to the public. This request is made in order to protect the privacy of the entities involved in the transactions described in the Ruling request. The undersigned believes that it is reasonable to conclude that failure to delete such information could reveal the identity of such taxpayers.

The undersigned understands that a Ruling issued in respect of the request will be submitted in severed form to Osler, Hoskin & Harcourt LLP for review and approval and that at that time the undersigned may request that specific additional information be severed from the Ruling prior to the release of the Ruling to the public.

The undersigned hereby authorizes the Ministry to release the severed Ruling to the public in accordance with the procedures stated in this consent.

Yours truly,

CHIPPEWAS OF NAWASH FIRST  
NATION.

By: 

Name: SCOTT LEE.

Title: CHIEF





# *Saugeen First Nation*

September 17, 2012

## *Administration*

Tax and Benefits Administration  
Income Tax rulings  
Ministry of Revenue, Ontario  
Michael Starr Building, 3<sup>rd</sup> Floor  
33 King Street West  
Oshawa, Ontario L1H 8H5

Dear Sirs/Mesdames :

**Re: Advance Tax Ruling Request for Hydro One Networks Inc.  
Chippewas of Saugeen First Nation and Chippewas of Nawash First  
Nation**

### **Authorization for Ruling Request**

The undersigned, Chippewas of Saugeen First Nation hereby authorizes Osler, Hoskin & Harcourt LLP to act on its behalf in connection with its application for an advance income tax ruling (the "**Ruling**").

### **Issues Involved in Ruling Request**

To the best of undersigned's knowledge none of the issues raised in the Ruling request:

- (i) is in any previously filed tax return of the undersigned or a related person;
- (ii) is being considered by a tax services office or taxation centre in connection with a previously filed tax return of undersigned or a related person;
- (iii) is under objection by undersigned or a related person;
- (iv) is before the courts; or
- (v) is the subject of a ruling previously issued by the Directorate in respect of undersigned or a related person.

*R.R. 1*

*Southampton, Ontario N0H 2L0*

*(519) 797-2781 / Fax (519) 797-2978*



### **Authorization for Electronic (email and facsimile) Correspondence**

The undersigned hereby authorizes the Ministry of Revenue (the “**Ministry**”) to email and/or fax all correspondence concerning the Ruling request. The email and facsimile correspondence is to be sent to the undersigned’s solicitors, Osler Hoskin & Harcourt LLP, to the attention of Kimberly Wharram (email: [kwharram@osler.com](mailto:kwharram@osler.com); fax: (416) 862-6666).

The undersigned is aware that the Ministry does not provide assurance with respect to the protection of email and facsimile correspondence. The undersigned accepts the risk inherent in sending information by email and fax and agrees not to hold the Ministry or its employees liable for any damage or loss, however caused, arising out of email and facsimile correspondence related to the Ruling request.

The undersigned’s address is as follows:

Chippewas of Saugeen First Nation  
RR #1  
Southampton, Ontario, N0H 2L0  
Attn. Chief

### **Authorization for Release of Ruling**

The hereby requests that, prior to the Ruling being released to the public, its name, address and identification number and that of any other taxpayers identified in the Ruling, be deleted. In addition, the undersigned requests that all descriptions of businesses and properties that are the subject matter of the Ruling (including any other identifying facts) be deleted when the Ruling is released to the public. This request is made in order to protect the privacy of the entities involved in the transactions described in the Ruling request. The undersigned believes that it is reasonable to conclude that failure to delete such information could reveal the identity of such taxpayers.

The undersigned understands that a Ruling issued in respect of the request will be submitted in severed form to Osler, Hoskin & Harcourt LLP for review and approval and that at that time the undersigned may request that specific additional information be severed from the Ruling prior to the release of the Ruling to the public.





The undersigned hereby authorizes the Ministry to release the severed Ruling to the public in accordance with the procedures stated in this consent.

Yours truly,

CHIPPEWAS OF SAUGEEN FIRST  
NATION.

By: 

Name: RANDALL KAHBEE

Title: CHIEF



**ANISHNAABEKIING NAAGNIGEWIN AGREEMENT IN RESPECT  
OF THE BRUCE-TO-MILTON TRANSMISSION LINE LIMITED  
PARTNERSHIP**

BETWEEN:

Chippewas of Saugeen First Nation, a band within the meaning of the *Indian Act* (Canada) represented by the Chippewas of Saugeen First Nation Band Council

and

Chippewas of Nawash First Nation, a band within the meaning of the *Indian Act* (Canada) represented by the Chippewas of Nawash First Nation Band Council

(which parties are collectively referred to as the Saugeen Ojibway Nation (the “SON”))

and

Hydro One Networks Inc. (“HONI”)

Whereas:

1. The Chippewas of Saugeen First Nation and the Chippewas of Nawash First Nation share traditional territories in southwestern Ontario and have engaged in various joint initiatives for commercial purposes.
2. HONI is a provincially licensed transmitter, who was granted leave from the OEB on September 15, 2008 in accordance with Decision 2007-0050 to construct high-voltage transmission facilities from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI’s switchyard in Milton, Ontario (the “Line”).
3. The Line is scheduled to be in-service by January 1, 2013.
4. SON wishes to participate as an investor in the Line and HONI wishes to enter into a commercial partnership with the SON in respect of the Line.
5. HONI and the SON are entering into this Anishnaabekiing Naagnigewin Agreement to provide for the continuation of a limited partnership in which both will invest directly or indirectly (the “Bruce-to-Milton LP”), which partnership will own the BtoM Project Assets to be transferred to it by HONI and HONI will continue to operate the Line under a long term Operating Agreement.
6. The Parties intend that the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP and the execution of the Operating Agreement will occur following the Approvals Date.

## ARTICLE 1 - Definitions

“Agreement” means this Anishnaabekiing Naagnigewin Agreement.

“APA” means the asset purchase agreement in respect of the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP set out in Section 3.2(b).

“Approvals” means the licences, orders and other matters listed in Attachment “A” to this Agreement.

“Approvals Date” means the date that each of the conditions precedent set out in Section 3.2 has been satisfied (or otherwise waived in writing by the Parties) as confirmed in writing by the SON and HONI.

“Bruce-to-Milton LP” means a limited partnership within the meaning of the *Limited Partnerships Act* (Ontario), to be comprised, as of the Closing, of two limited partners, SON LPco and HO LPco and one general partner, GPco.

“BtoM LP Promissory Note” has the meaning given to it in Section 3.4(c).

“BtoM Project Assets” means the assets comprising the Line, including the LP Line Property Rights, but excluding all sub-station facilities and assets relating to the interconnection of the Line to HONI’s remaining transmission system.

“BtoM Project Asset Value” means the net book value of the BtoM Project Assets which, at the time of this Agreement, is anticipated to be approximately \$600,000,000 by the end of 2012 and which value shall be subject to depreciation and HONI’s final construction and development costs as they are incurred and subject to such inclusions or exclusions as may be imposed by the OEB in connection with the transmission rate application filed by the Bruce-to-Milton LP as contemplated herein, all of which shall be confirmed prior to the Closing.

“Closing” has the meaning given to it in Section 3.2.

“Effective HONI Equity Amount” means the amount calculated by multiplying the BtoM Project Asset Value by 40% and multiplying such amount by the HONI Equity Ratio.

“Electricity Act” means the *Electricity Act, 1998* (Ontario).

“GPco” means an OBCA corporation created and owned directly or indirectly by HONI to function as the general partner of the Bruce-to-Milton LP.

“GP Unit” means a general partnership unit in the Bruce-to-Milton LP.

“HO LPco” means the OBCA corporation to be created and owned directly or indirectly by HONI to hold a limited partnership interest in the Bruce-to-Milton LP.

“HO LPco Promissory Note” has the meaning given to it in Section 3.4(b).

“HO LPco Equity Ratio” means the percentage equal to 99.9% minus the SON Equity Ratio.

“HONI Equity Ratio” means the percentage equal to 100% minus the SON Equity Ratio.

“HONI Line Real Property” means all interests in real property or licenses over real property interests in respect of the Line owned or controlled by HONI.

“Initial LPA” means the limited partnership agreement in respect of the Bruce-to-Milton LP among GPco as general partner and HO LPco as the sole limited partner and which shall be replaced with the LPA as contemplated in this Agreement.

“Line” has the meaning given to it in the recitals of this Agreement.

“LPA” means the amended and restated limited partnership agreement in respect of the Bruce-to-Milton LP as may be amended from time to time and which shall be consistent with the terms and conditions set out in Attachment “B” to this Agreement.

“LP Line Property Rights” means the portion of the HONI Line Real Property to be transferred or licensed to the Bruce-to-Milton LP in accordance with this Agreement which are required to operate and maintain the BtoM Project Assets.

“LP Promissory Note” has the meaning given to it in Section 3.4(a).

“LP Units” means the limited partnership units representing the limited partnership interest in the Bruce-to-Milton LP.

“OBCA” means the *Business Corporations Act* (Ontario).

“OEB” means the Ontario Energy Board.

“OEB Act” means the *Ontario Energy Board Act* (Ontario).

“Operating Agreement” means the agreement contemplated in Section 3.1(d).

“Party” means either of HONI or the SON.

“Parties” means both HONI and the SON.

“Section” means any section of this Agreement.

“SON Equity Contribution Amount” means the amount to be contributed by SON LPco as a capital contribution to the Bruce-to-Milton LP on Closing, which shall be: (i) no less than 5% of the amount which is equal to 40% of the BtoM Project Asset Value and (ii) no greater than 30% of the amount which is equal to 40% of the BtoM Project Asset Value.

“SON Equity Ratio” means the percentage determined by dividing the SON Equity Contribution Amount by the amount which is equal to 40% of the BtoM Project Asset Value (each as finally determined prior to Closing).

“SON LPco” means an OBCA corporation created and owned directly or indirectly by the SON to hold a limited partnership interest in the Bruce-to-Milton LP.

“Target Date” means December 31, 2013 or such later date as HONI and the SON may agree in writing pursuant to Section 3.3.

## **ARTICLE 2- Preliminary Steps**

### **2.1**

The SON will incorporate and organize SON LPco under the OBCA as a single purpose holding company that will participate as a limited partner in the Bruce-to-Milton LP. The constating documents of SON LPco shall restrict the business of the corporation to the holding of the SON’s limited partnership interest in the Bruce-to-Milton LP. SON agrees that it will not permit the issue of any additional securities in SON LPco to any person other than to the Chippewas of Saugeen First Nation or the Chippewas of Nawash First Nation, or an entity that is 100% legally and beneficially owned by such persons, without the prior written consent of HONI, and provided such transferee agrees in writing to be bound by the provisions of this Agreement, the LPA and the documents contemplated herein that apply to the SON or SON LPco, as applicable.

### **2.2**

HONI will incorporate and organize a new subsidiary as HO LPco which will participate as a limited partner in the Bruce-to-Milton LP.

### **2.3**

HONI will incorporate and organize a new subsidiary, GPco, to act as the general partner of the Bruce-to-Milton LP and manage the business and affairs of the Bruce-to-Milton LP, including without limitation, representing the Bruce-to-Milton LP in respect of regulatory matters before the OEB or other regulators and operating and maintaining the BtoM Project Assets under the terms of the Operating Agreement.

## 2.4

HONI will create and organize the Bruce-to-Milton LP pursuant to the *Limited Partnerships Act* (Ontario) wherein GPco shall be the general partner and, other than the 0.1% limited partnership interest to be held by GPco, HO LPco shall initially be the sole limited partner. HONI shall cause HO LPco and GPco to enter into the Initial LPA. The initial partnership capital of the Bruce-to-Milton LP shall be a nominal amount and the limited partnership interest of HO LPco and GPco shall be 99.9% and 0.1% respectively. HO LPco shall receive 999 LP Units and GPco shall receive 1 LP Unit in respect of their respective limited partnership interests (as defined in the LPA).

## 2.5

The Bruce-to-Milton LP will engage GPco to manage the partnership for compensation comprised of distributions payable to the GPco on account of its general partner interest plus reasonable, actual out-of-pocket expenses.

### **ARTICLE 3 – Approvals, Acquisitions and Funding**

## 3.1

Immediately upon the execution of this Agreement or as soon thereafter as reasonably practicable:

- (a) The SON shall use commercially reasonable efforts to obtain a commitment for financing in an amount sufficient to enable SON to meet the payment and investment obligations set out in Section 3.4 on terms and conditions satisfactory to the SON and HONI, including with respect to security obligations and lender step-in rights.
- (b) HONI shall cause GPco on behalf of the Bruce-to-Milton LP to apply for a transmission licence to operate the BtoM Project Assets following the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP to occur on the Closing;
- (c) HONI shall apply (with the co-operation and support of the Bruce-to-Milton LP and the SON as may be necessary) under s.86 of the OEB Act for approval to transfer the BtoM Project Assets to the Bruce-to-Milton LP effective on the Closing;
- (d) HONI shall cause GPco on behalf of the Bruce-to-Milton LP to enter into an operating agreement with HONI on terms and conditions satisfactory to the SON and HONI (the “Operating Agreement”);
- (e) HONI shall cause GPco on behalf of the Bruce-to-Milton LP (with the co-operation and support of the Parties hereto as may be necessary) to apply for a first transmission rate order from the OEB anticipating the transfer of the BtoM Project Assets from HONI to the Bruce-to-Milton LP on

Closing, seeking recognition in the transmission rates of the debt-to-equity ratio contemplated by the Parties as set out herein and on the basis that the applied-for revenue requirement shall be no greater than the associated revenue requirement of HONI had there been no transfer of the BtoM Project Assets effective on Closing; and

- (f) the Parties shall otherwise apply for and pursue the Approvals as indicated in Attachment "A" with the full co-operation and support of each other Party.

### 3.2

Unless otherwise waived in writing by the Parties, the following shall be conditions precedent to the Closing:

- (a) receipt by the SON of a commitment for financing in an amount sufficient to enable the SON to meet the payment and investment obligations set out in Section 3.4 on terms and conditions satisfactory to the SON and HONI, including with respect to security obligations and lender step-in rights;
- (b) receipt of a ruling under section 86 of the OEB Act approving the transfer of the BtoM Project Assets to the Bruce-to-Milton LP on Closing on terms and conditions satisfactory to HONI and the SON;
- (c) receipt of a transmission licence for the Bruce-to-Milton LP to operate the BtoM Project Assets on terms and conditions satisfactory to HONI and the SON;
- (d) receipt of a transmission rate order from the OEB in respect of the operation of the BtoM Project Assets by the Bruce-to-Milton LP satisfactory to HONI and the SON;
- (e) receipt or confirmation of a tax ruling that SON LPco will not be treated as a taxable entity with respect to its investment and interest in the Bruce-to-Milton LP;
- (f) receipt of a tax ruling from the Ontario Ministry of Finance confirming that, for purposes of the Electricity Act, the SON will not be regarded as a municipality and that neither SON LPco nor the Bruce-to-Milton LP will be regarded as a municipal electric utility;
- (g) receipt of a tax ruling confirming that neither the transfer of the BtoM Project Assets, nor any other action taken pursuant to this Agreement will result in any tax greater than \$1,000,000 payable by HONI, Hydro One Inc. or any other subsidiary of Hydro One Inc., other than in respect of land-transfer tax;



- (h) receipt of a tax ruling confirming that payments made by the Bruce-to-Milton LP to HO LPco under the HO LPco Promissory Note and to HONI under the Operating Agreement will be tax-deductible to the Bruce-to-Milton LP;
- (i) receipt of a tax ruling in respect of any other items not identified in this Section 3.2 but which are agreed to in writing between HONI and SON prior to the Target Date as an item requiring determination of favourable tax treatment in accordance with this Section 3.2(h), provided that each Party shall act reasonably in agreeing to any such requests from the other Party and shall not unreasonably withhold, delay or condition such agreement where the tax ruling requested relates to a matter that could result in any tax greater than \$1,000,000 payable by the Bruce-to-Milton LP, HONI, HO LPco, Hydro One Inc., GPco, SON LPco or the SON; and
- (j) agreement by the Parties, acting reasonably, on the terms and conditions of the LPA.

The Parties shall use commercially reasonable efforts to satisfy the foregoing conditions precedent in a timely manner. In the event that any rulings or orders in such conditions precedent are denied or unavailable on terms and conditions acceptable to the Parties, the Parties shall cooperate and negotiate in good faith during the term of this Agreement in an effort to arrive at a mutually acceptable alternative solution or structure to address the financial or regulatory issues applicable in the order or ruling which has been denied or is unavailable.

### 3.3

If the Approvals Date has not occurred on or before September 1, 2013 or 90 days prior to any subsequent revised Target Date, the Parties shall commence good faith negotiations to extend the Target Date to such later date as may be reasonably required to achieve the Approvals Date.

### 3.4

Within 10 Business Days after the Approvals Date, the following transactions shall occur in the following order (the "Closing"):

- (a) HONI and the Bruce-to-Milton LP will enter into the APA pursuant to which HONI will transfer to the Bruce-to-Milton LP the BtoM Project Assets in exchange for the issuance of 1 LP Unit of the Bruce-to-Milton LP (representing a 0.1% limited partnership interest), subject to adjustment, as well as a promissory note from the Bruce-to-Milton LP in the principal amount equal to the BtoM Project Asset Value and bearing interest at a rate equal to HONI's weighted average cost of outstanding debt as may be adjusted from time to time (the "LP Promissory Note"). In

conjunction with the APA, HONI and the Bruce-to-Milton LP shall duly execute and file an election under subsection 97(2) of the *Income Tax Act* (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer will occur on a tax deferred basis to HONI. The APA will contain a price adjustment clause providing for an adjustment to the purchase price, the consideration and/or the elected amount under the tax election in respect of the transfer in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and the Bruce-to-Milton LP. The Parties agree to use commercially reasonable efforts to cause the transfer of the LP Line Property Rights in conjunction with the APA to be effected on a land transfer tax deferred basis provided that the Parties agree that (i) HONI shall hold title to such LP Line Property Rights as bare trustee for and on behalf of the Bruce-to-Milton LP, (ii) no transfer or other notice or registration in respect of the LP Line Property Rights shall be permitted to be registered on title to the applicable real property by HO LPco, SON LPco, any lender to either Party or any third party where it would have an adverse effect on the deferral of land transfer tax, (iii) if such land transfer tax becomes payable in the future it shall be treated in accordance with Section 4.2;

- (b) HONI shall contribute to HO LPco the 1 LP Unit received by HONI pursuant to the APA as well as a cash amount equal to the BtoM Project Asset Value in exchange for additional common shares of HO LPco and a promissory note from HO LPco in the principal amount determined by subtracting from the BtoM Project Asset Value the amount that is equal to 40% multiplied by the BtoM Project Asset Value, less the SON Equity Contribution Amount and bearing interest at a rate equal to HONI's weighted average cost of outstanding debt as may be adjusted from time to time (the "HO LPco Promissory Note"). HONI and HO LPco shall duly execute and file an election under subsection 85(1) of the *Income Tax Act* (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer of the 1 LP Unit will occur on a tax deferred basis to HONI. The terms of HONI's contribution to HO LPco as set out in this Section 3.4(b) will contain a price adjustment clause providing for an adjustment to the subscription price, the consideration and/or the elected amount under the tax election in respect of the transfer to HO LPco in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and HO LPco;
- (c) HO LPco shall transfer a cash amount to the Bruce-to-Milton LP in the amount of the BtoM Project Asset Value and in return shall receive additional LP Units (in accordance with Section 3.4(e)) as well as a promissory note in the principal amount equal to the BtoM Project Asset Value minus the Effective HONI Equity Amount and bearing interest at a rate equal to HONI's weighted average cost of outstanding debt as may be adjusted from time to time (the "BtoM LP Promissory Note");

- (d) the Bruce-to-Milton LP shall pay to HONI a cash amount equal to the BtoM Project Asset Value in full satisfaction of the LP Promissory Note held by HONI in connection with the APA;
- (e) HONI shall cause HO LPco and GPco to enter into the LPA and SON shall cause SON LPco to enter into the LPA, and SON LPco shall make a capital contribution to the Bruce-to-Milton LP in the amount equal to the SON Equity Contribution Amount and in return shall receive such number of LP Units such that (i) the total number of LP Units held by SON LPco shall be equal to the total issued and outstanding LP Units multiplied by the SON Equity Ratio; (ii) the total number of LP Units held by HO LPco (including, for greater certainty, those issued under Section 3.4(c) above) shall be equal to the total issued and outstanding LP Units multiplied by the HO LPco Equity Ratio; and (iii) the total number of LP Units held by GPco shall be equal to 0.1% of the total issued and outstanding LP Units.
- (f) the Bruce-to-Milton LP shall utilize the funds contributed by SON LPco to pay such portion of the BtoM LP Promissory Note such that the principal amount of the BtoM LP Promissory Note shall then be equal to 60% of the BtoM Project Asset Value; and
- (g) HO LPco shall utilize the funds received from the Bruce-to-Milton LP to pay such portion of the HO LPco Promissory Note such that the principal amount of the HO LPco Promissory Note shall then be equal to 60% of the total of the debt liability plus the paid up share capital of HO LPco.

For illustration purposes only, Attachment "C" to this Agreement contains an example of the calculations and descriptions of the steps set out in this Section 3.4 assuming that the BtoM Project Asset Value were equal to \$600,000,000 and the SON Equity Contribution Amount were equal to \$72,000,000 at the Closing.

### **3.5**

All funds required on Closing shall be payable by electronic funds transfer of immediately available funds.

### **3.6**

Closing will take place at the head office of HONI.

## **ARTICLE 4 – Costs**

### **4.1**

The Parties agree to use commercially reasonable efforts to cause all costs incurred up to Closing by HONI or the Bruce-to-Milton LP, in respect of actions required by HONI reasonably connected with the transactions contemplated in this Agreement, reasonably connected with the BtoM Project Assets or otherwise reasonably incurred in respect of

the Bruce-to-Milton LP, to be recovered in the OEB-approved transmission rates in respect of the operation of the BtoM Project Assets by the Bruce-to-Milton LP. In the event that any such costs are not otherwise recoverable or recovered in the OEB-approved transmission rates of the Bruce-to-Milton LP, that part of such costs that: (i) has been incurred by the Bruce-to-Milton LP shall be shared by the limited partners in proportion to their post-Closing LP Unit holdings and (ii) has been incurred by HONI and has not been included in the computation of the BtoM Project Asset Value and has not otherwise been included in computing the equity contributed to the Bruce-to-Milton LP by HO LPco or an affiliate of HO LPco, shall be deemed to be additional equity contributed by HO LPco to the Bruce-to-Milton LP and reflected accordingly in the accounts and records of the Bruce-to-Milton LP, and the limited partnership interests and the LP Units shall be adjusted accordingly in accordance with the LPA to reflect such additional equity contribution. All such costs which are not included in the OEB-approved transmission rates of the Bruce-to-Milton LP shall be provided to the SON for its review, and if disputed, shall be subject to the dispute resolution mechanisms provided in the LPA.

## **4.2**

The Parties agree to use commercially reasonable efforts to cause any land transfer tax (including deferred taxes) imposed on the acquisition of the BtoM Project Assets by the Bruce-to-Milton LP or the acquisition by SON LPco of its LP Units to be recovered in the OEB-approved transmission rates in respect of the operation of the BtoM Project Assets by the Bruce-to-Milton LP. Where the recovery of such land transfer tax costs are included in the OEB-approved transmission rates of the Bruce-to-Milton LP, the amount of any such land transfer tax paid or payable by HO LPco, GPco or SON LPco shall be deemed to be additional equity contributed to the Bruce-to-Milton LP and reflected accordingly in the accounts and records of the Bruce-to-Milton LP, and the limited partnership interests and the LP Units shall be adjusted accordingly in accordance with the LPA to reflect such additional equity contribution. Where the recovery of such land transfer tax costs are not included in the OEB-approved transmission rates of the Bruce-to-Milton LP, each limited partner of the Bruce-to-Milton LP shall be responsible for its share of such land transfer tax costs on a pro rata basis based on their post-Closing LP Unit holdings.

## **ARTICLE 5- Term**

### **5.1**

This Agreement shall remain in force until the earlier of:

- (a) failure of the OEB to give approval to the transfer of the BtoM Project Assets under s. 86 of the OEB Act on proper application as contemplated in Attachment "A";
- (b) the failure of Bruce-to-Milton LP to obtain a transmission licence on proper application to the OEB as contemplated in Attachment "A"; or

- (c) 11:59 p.m. on the date that is 180 days after the Target Date if the Approvals Date has not occurred by such time.

## **5.2**

If this Agreement expires as contemplated in Section 5.1, its provisions shall become null and void and have no further force and effect, and there shall be no liability or further obligation whatsoever on the part of any one Party to the other Party.

## **ARTICLE 6- General**

### **6.1**

The SON acknowledges and agrees that neither HONI, nor any of its affiliates, nor any of the directors, officers, employees, consultants or agents of any of them have made any representation or warranty to the SON regarding the SON's investment as a limited partner in the Bruce-to-Milton LP, including any anticipated return on investment or the associated rights and risks as a limited partner. The SON further acknowledges and agrees that it has made the decision, in its sole discretion, to invest as a limited partner in the Bruce-to-Milton LP and assumes all risks related to this investment in respect of the SON's decision to invest as a limited partner in the Bruce-to-Milton LP, provided that such assumption of risk in no way derogates from any and all contractual rights which the SON may have against HONI under this Agreement or any other agreements related hereto.

### **6.2**

Each Party shall obtain the necessary authorizations contemplated in this Agreement and in the LPA or as otherwise reasonably required or requested to enable the Parties or the entities they control to enter into this Agreement and the agreements contemplated herein and to give effect to the intent of the Parties as evidenced in this Agreement and in the LPA.

### **6.3**

The obligations of SON hereunder are joint and several. The Chippewas of Nawash First Nation and the Chippewas of Saugeen First Nation each agree with HONI that it will not sell, transfer, assign, encumber or pledge as collateral in any way, directly or indirectly, its legal and beneficial interest in SON LPco, or in any rights thereunder, including distributions from Bruce-to-Milton LP, and will not permit its ownership interest in SON LPco to be registered in the name of any other person nor will it permit the issue of any additional securities, except in each case, to an entity that is 100% legally and beneficially owned by such First Nation and such entity agrees in writing to be bound by this Agreement, the LPA and the documents contemplated hereunder that apply to the SON or SON LPco, as applicable, except that the SON may pledge its interest in SON LPco and its rights thereunder and SON LPco may pledge its LP Units, and its rights thereunder, as security for the financing obtained to fund the acquisition by SON LPco of its LP Units.

#### 6.4

Notice under this Agreement shall be given in writing and may be served personally or sent by registered mail or courier to the Parties at the following addresses:

If to Chippewas of Saugeen First Nation and/or Chippewas of Nawash First Nation:

c/o Saugeen Ojibway Nation

Chippewas of Saugeen  
R.R. # 1  
Southampton, Ontario N0H 2L0  
Attention: Chief

Chippewas of Nawash  
135 Lakeshore Blvd, RR#5  
Wiarton ON N0H 2T0  
Attention: Chief

-with a copy to –

Pape, Salter & Teillet LLP  
Harbord House  
546 Euclid Avenue  
Toronto ON, M6G 2T2  
Attention: Colin Jesse Salter  
Email: [colin@salterlaw.ca](mailto:colin@salterlaw.ca)

If to Hydro One Networks Inc:

483 Bay Street,  
15<sup>th</sup> Floor, North Tower,  
Toronto, ON  
M5G 2P5  
Attention: General Counsel  
Email: [joe.agostino@hydroone.com](mailto:joe.agostino@hydroone.com)

-with a copy to –

Osler, Hoskin & Harcourt LLP  
Box 50, 1 First Canadian Place  
Toronto ON, M5X 1B8  
Attention: Rocco Sebastiano  
Email: [rsebatiano@osler.com](mailto:rsebatiano@osler.com)

Agreed this 18<sup>th</sup> day of Jun, 2012.

**HYDRO ONE NETWORKS INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CHIPPEWAS OF NAWASH FIRST  
NATION**

By: Scott Lee  
Name: SCOTT LEE  
Title: CHIEF

**CHIPPEWAS OF SAUGEEN FIRST  
NATION**

By: Randall Kahgee  
Name: RANDALL KAHGEE  
Title: CHIEF

## Attachment "A"

### Approvals

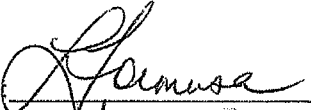
<b><u>Tax Rulings</u></b>	<b><u>Party Responsible</u></b>
Ruling from Canada Revenue Agency that SON LPco will not be treated as a taxable entity with respect to its investment in the Bruce-to-Milton LP	HONI and the SON jointly
Tax ruling from the Ontario Ministry of Finance confirming that, for purposes of the Electricity Act, the SON will not be regarded as a municipality and that neither SON LPco nor the Bruce-to-Milton LP will be regarded as a municipal electric utility.	HONI and the SON jointly
Tax ruling confirming that neither the transfer of the BtoM Project Assets, nor any other action taken pursuant to this Agreement will result in any tax greater than \$1,000,000 payable by HONI, Hydro One Inc. or any other subsidiary of Hydro One Inc., other than in respect of any land transfer tax	HONI
Tax ruling to confirm that the payments made by the Bruce-to-Milton LP to HO LPco under the HO LPco Promissory Note and to HONI under the Operating Agreement will be tax-deductible to the Bruce-to-Milton LP.	HONI and the SON jointly
Tax ruling in respect of any other items as contemplated in Section 3.2(i).	HONI or the SON or jointly, as applicable

<b><u>OEB Matters</u></b>	<b><u>Party Responsible</u></b>
Transmission license for Bruce-to-Milton LP from the OEB	GPco on behalf of Bruce-to-Milton LP
First transmission rate order for the Bruce-to-Milton LP	GPco on behalf of Bruce-to-Milton LP
MADD application (s.86 of the OEB Act)	HONI



Agreed this 18<sup>th</sup> day of June, 2012.

**HYDRO ONE NETWORKS INC.**

By:   
Name: Laura Formosa  
Title: President & CEO

**CHIPPEWAS OF NAWASH FIRST NATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CHIPPEWAS OF SAUGEEN FIRST NATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



<b><u>SON Financing</u></b>	<b><u>Party Responsible</u></b>
ALGP funding of SON LPco partnership interest	SON

<b><u>Internal Governance</u></b>	<b><u>Party Responsible</u></b>
Band Council Resolution(s) of the Chippewas of Saugeen authorizing the transactions contemplated herein and specifically execution of this Anishnaabekiing Naagnigewin Agreement, the LPA and all related documents including those related to financing and the creation and organization of SON LPco	Chippewas of Saugeen First Nation
Band Council Resolution(s) of the Chippewas of Nawash authorizing the transactions contemplated herein and specifically execution of this Anishnaabekiing Naagnigewin Agreement, the LPA and all related documents including those related to financing and the creation and organization of SON LPco	Chippewas of Nawash First Nation
Resolution(s) of the Board of Directors of Hydro One Inc. or HONI, as appropriate, authorizing the transactions contemplated herein and specifically execution of the LPA, the APA, and the Operating Agreement.	HONI

<b><u>Definitive LPA</u></b>	<b><u>Party Responsible</u></b>
Agreement by the Parties on the complete terms and conditions of the LPA	HONI and the SON jointly

## ATTACHMENT “B”

### Heads of Agreement for the Amended and Restated Limited Partnership Agreement of the Bruce-to-Milton LP

[Note: Defined terms used in this document not otherwise defined herein shall have the meaning given to them in the Anishnaabekiing Naagnigewin Agreement.]

	TERM	DESCRIPTION
1.	<b>Description of the BtoM Project Assets:</b>	HONI is a provincially licensed transmitter, who was granted leave from the OEB on September 15, 2008 in accordance with Decision 2007-0050 to construct high-voltage transmission facilities from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI's switchyard in Milton, Ontario (the “Line”). The “BtoM Project Assets” are those assets comprising the Line, including the LP Line Property Rights, but excluding all sub-station facilities and assets relating to the interconnection of the Line with HONI's remaining transmission system.
2.	<b>The Bruce-to-Milton LP:</b>	GPco, a direct or indirect wholly owned subsidiary of HONI (“GPco”), as the general partner, and HO LPco, a direct or indirect wholly owned subsidiary of HONI (“HO LPco”), and SON LPco, a wholly owned subsidiary of the SON (“SON LPco”), which, together with GPco as the limited partners, will form an Ontario limited partnership (the “Bruce-to-Milton LP”) to own the BtoM Project Assets and to engage HONI to operate, manage and maintain the BtoM Project Assets in accordance with the Operating Agreement. The Bruce-to-Milton LP shall have a single class of limited partnership units representing the limited partnership interest in the Bruce-to-Milton LP (the “LP Units”).
3.	<b>Objective of the Bruce-to-Milton LP:</b>	The objective of the Bruce-to-Milton LP is to formalize a long-term cooperative arrangement between HO LPco and SON LPco to facilitate the SON's equity participation in the ownership of the BtoM Project Assets and to participate in the economic benefits arising from SON LPco's ownership of LP Units. Through the Bruce-to-Milton LP, SON LPco will participate in the Distributable Cash (defined per item 9 below) from the operation of the BtoM Project Assets during the operational life of the BtoM Project Assets or until the Bruce-to-Milton LP is dissolved. The Bruce-to-Milton LP shall also be responsible for the decommissioning of the BtoM Project Assets. The Bruce-to-Milton LP shall not engage in any business activities that are not in relation to the BtoM Project Assets.
4.	<b>Transmission Rates:</b>	Revenue in respect of the operation of the BtoM Project Assets is expected to be based on regulated transmission rates determined by the OEB from time to time. GPco will apply for a transmission licence to own and operate the BtoM Project Assets on behalf of the Bruce-to-Milton LP. HONI's duties under the Operating Agreement will include making transmission rate applications on behalf of the Bruce-to-Milton LP and representing the Bruce-to-Milton LP on all matters before the OEB.
5.	<b>Overview of SON LPco Participation:</b>	<p>The following highlights some of the key elements of the Bruce-to-Milton LP:</p> <ul style="list-style-type: none"> <li>Through the Bruce-to-Milton LP, SON LPco will be entitled to participate as an equity participant in the BtoM Project Assets.</li> <li>SON LPco's limited partnership interest in the Bruce-to-Milton LP will be initially set on Closing in accordance with the “SON Equity Ratio” as defined in the</li> </ul>

	TERM	DESCRIPTION
		<p>Anishnaabekiing Naagnigewin Agreement.</p> <ul style="list-style-type: none"> <li>As an equity holder in the Bruce-to-Milton LP, SON LPco will receive annual payments from the Distributable Cash in proportion to its limited partnership interest in the Bruce-to-Milton LP once the Line is in-service and the BtoM Project Assets have been transferred to the Bruce-to-Milton LP.</li> <li>SON LPco will be required to make commercially reasonable efforts to cause SON and its constituencies to act in the best interests of the Bruce-to-Milton LP and the BtoM Project Assets (such obligations referred to as the "SON Support").</li> <li>In addition to all other laws applicable to the Bruce-to-Milton LP (including its regulation as a licensed transmitter by the OEB), the Bruce-to-Milton LP, being majority owned and controlled by Hydro One, Inc. ("HOI"), may be subject to directives from Her Majesty the Queen in Right of the Province of Ontario as Represented by the Minister of Energy (the "Shareholder") pursuant to the Memorandum of Agreement between HOI and the Shareholder dated March 27, 2008.</li> </ul>
6.	<b>Term:</b>	The " <b>Term</b> " will commence on the date of the execution of the LPA among GPco, HO LPco and SON LPco and will end when the BtoM Project Assets are permanently decommissioned or removed from service, unless terminated earlier by mutual agreement of all partners of the Bruce-to-Milton LP.
7.	<b>Management of the Bruce-to-Milton LP:</b>	GPco will manage the day-to-day functions of the Bruce-to-Milton LP. GPco will keep SON LPco apprised of the operation of the BtoM Project Assets. Effective cooperation and interchange of information on a prompt, commercial and orderly basis will be ensured through an Advisory Committee mechanism described below.
8.	<b>Bruce-to-Milton LP Interests, Capital Calls &amp; Dilution:</b>	<p>SON LPco will not be permitted to purchase any further LP Units that would increase its limited partnership interest in the Bruce-to-Milton LP beyond the SON Equity Ratio determined initially at Closing and as may be adjusted in the future as a result of the failure to make additional contributions required by Capital Requests set out below.</p> <p>From time to time during the Term, there will be additional costs in respect of the BtoM Project Assets, including development, construction, management, upgrading, repair and refurbishment costs, insurance costs, costs for decommissioning and liabilities incurred by the Bruce-to-Milton LP in connection with its engagement of HONI for the operation and maintenance of the BtoM Project Assets under the Operating Agreement. As and when these costs are incurred, to the extent the Bruce-to-Milton LP is unable to fund the equity portion of such expenditure (taking into consideration the deemed debt-to-equity capital structure reflected in the OEB-approved transmission rates of the Bruce-to-Milton LP) from partnership short term credit facilities or other immediately available sources, each of HO LPco and SON LPco will be requested to make additional capital contributions necessary to fund the shortfall (a "<b>Capital Request</b>") in proportion to their existing limited partnership interest in the Bruce-to-Milton LP (such interest, the Limited Partner's "<b>Equity Ratio</b>"). Except in the case of emergencies or unplanned capital requirements, GPco will give HO LPco and SON LPco not less than 180 days advance notice of a Capital Request. A limited partner (the "<b>Non-Contributing Partner</b>") may elect not to contribute all or part of the additional capital requested by a Capital Request and such election shall not be a breach or failure under the LPA and shall have no adverse impact on the Non-Contributing Partner except that the Equity Ratio of such partner shall be adjusted on a prospective basis to reflect the amount of capital provided to the Bruce-to-</p>

	TERM	DESCRIPTION
		<p>Milton LP by each limited partner after the contributions of capital in response to the Capital Request have been made. If a limited partner elects to contribute additional capital requested by a Capital Request and fails to provide such capital to the Bruce-to-Milton LP at the time such capital is required to be delivered, such failure shall constitute a breach under the LPA.</p> <p>Where SON LPco elects to contribute all or part of the additional capital requested by a Capital Request, provided that SON LPco has used commercially reasonable efforts to secure its own funds or third party financing to contribute such additional capital, SON LPco may, prior to the time when the additional capital is required to be contributed in accordance with the Capital Request, by written notice to HO LPco, elect to borrow such additional capital from HO LPco for a period not to exceed one year from the date that the additional capital was required to be contributed in accordance with the Capital Request (such date, the <b>"SON Capital Call Loan Deadline"</b>). In such circumstances SON LPco will be required to repay to HO LPco prior to the SON Capital Call Loan Deadline the principal amount of the loan for such additional capital amount (such principal amount, the <b>"Capital Call Loan Amount"</b>), together with interest on such amount equal to the return-on-equity percentage reflected in the OEB-approved transmission rates of the Bruce-to-Milton LP calculated from the date the additional capital was due under the Capital Request. In the event that any amount of the Capital Call Loan Amount remains outstanding by the SON Capital Call Loan Deadline, then the LP Units which were financed by the unpaid amount of the Capital Call Loan Amount shall immediately be transferred to HO LPco in satisfaction of the unpaid Capital Call Loan Amount and any amount of the unpaid interest on the Capital Call Loan Amount that has not been repaid to HO LPco by the SON Capital Call Loan Deadline shall be paid to HO LPco from SON LPco's entitlement to distributions of Distributable Cash.</p>
9.	<b>Bruce-to-Milton LP Distributions and Payments to Limited Partners:</b>	<p><b>"Distributable Cash"</b> shall mean available cash of the Bruce-to-Milton LP after paying: all amounts owing under the Operating Agreement; debt service obligations in respect of all debt obligations owed by the Bruce-to-Milton LP (including the BtoM LP Promissory Note and any working capital debt facilities); all Payments in Lieu of Taxes (or any future equivalent thereof or actual exigible taxes) by any affiliate of HONI in respect of the Bruce-to-Milton LP's income to the extent such costs are collected in the OEB-approved transmission rates of the Bruce-to-Milton LP; and any transaction costs or other costs borne by HONI in respect of the transactions contemplated in the Anishnaabekiing Naagnigewin Agreement, the BtoM Project Assets or the Bruce-to-Milton LP to the extent such costs are collected in the OEB-approved transmission rates of the Bruce-to-Milton LP.</p> <p>Advances in respect of Distributable Cash will be made in proportion to the Equity Ratio of the applicable partner, quarterly, on the basis of a forecast operating budget to be prepared by GPco, acting reasonably, and which quarterly advances shall be reconciled on an annual basis (subsequent to the fiscal year end of the Bruce-to-Milton LP) to actual Distributable Cash of the Bruce-to-Milton LP over the fiscal year. To the extent that such annual reconciliation results in an amount owing from any partner to the Bruce-to-Milton LP in respect of quarterly advances during such fiscal year, such amount shall be set off against future advances and distributions to such partner and such costs are not included in the BtoM Project Asset Value.</p> <p>Each limited partner agrees that distributions distributable to them shall first be subject to set-off for any monies that are due and owing from such limited partner to the Bruce-to-Milton LP or to any of the other limited partners.</p>

	TERM	DESCRIPTION
10.	<b>Threshold SON LPco Interest:</b>	If at any time the limited partnership interest of SON LPco falls below 5%, HO LPco shall have the option to purchase the SON LPco's equity in the Bruce-to-Milton LP at a price equal to the fair market value of such LP Units.
11.	<b>Consent of SON:</b>	For as long as the limited partnership interest of SON LPco is at least 5%, HONI will not be entitled to dissolve or cause the dissolution of the Bruce-to-Milton LP without the consent of SON LPco, acting reasonably.
12.	<b>Unanimous Consent of the Partners:</b>	Certain actions relating to fundamental matters involving a change to the structure, organization or business of the Bruce-to-Milton LP shall require unanimous consent of the limited partners. Such fundamental matters shall include the following: (i) dissolving, liquidating or restructuring the Bruce-to-Milton LP, except where the limited partnership interest of SON LPco has fallen below the minimum threshold as set out in item 11 above; (ii) changing the name of the Bruce-to-Milton LP; (iii) waiving any default on the part of the general partner; (iv) the sale or disposition of any component of the property or assets of the Bruce-to-Milton LP that would reasonably be anticipated to have a material adverse effect on the economic benefits of the LP Units; (v) changing the business of the Bruce-to-Milton LP; (vi) the admission of new limited partners (other than in respect of a HONI Minority Transfer as set out in item 18 below), a transfer to HONI or a HONI subsidiary (as set out in item 19 above) or in accordance with the Mutual ROFO and ROFR provisions set out below); (vii) terminating the Bruce-to-Milton LP's transmission licence before its expiration; (viii) to the extent not governed by or exempted from the OEB's <i>Affiliates Relationship Code</i> (or future equivalent thereof), entering into an agreement with a person that does not deal at arm's length with GPco unless such agreement is on terms no less favourable to the Bruce-to-Milton LP than under an agreement with an arm's length person, and (ix) amending the LPA or any previous action or document that required unanimous consent of the limited partners.
13.	<b>Dispute Resolution:</b>	<p>The Parties will work co-operatively to resolve any dispute, disagreement or difference of opinion concerning the LPA or the performance or interpretation thereof (each a "<b>Dispute</b>"). Following receipt of a written request for a meeting, senior representatives of each Party shall meet to attempt to resolve such Dispute. If the senior representatives are unable to resolve such Dispute within fifteen (15) business days from the date the first written request for a meeting was received, the Parties may thereafter invoke a non-binding mediation procedure to resolve the Dispute.</p> <p>The Parties may refer any Dispute between the Parties to binding arbitration before a single arbitrator. No Party may appeal the decision of the arbitrator in any manner whatsoever, except as permitted by the <i>Arbitration Act, 1991</i> (Ontario). The arbitration will be conducted in English under the <i>Arbitration Act, 1991</i> (Ontario) and will take place in either the City of Toronto or such other place as the Parties may agree. SON LPco shall retain the right to have any dispute as to whether it is required to dispose of its interest in the Bruce-to-Milton LP adjudicated by a court of competent jurisdiction.</p>
14.	<b>SON LPco Audit Rights:</b>	SON LPco shall be entitled to reasonable access to relevant records and data in the possession of GPco related to the operations of the BtoM Project Assets pursuant to the Operating Agreement and any information necessary to verify the income of the Bruce-to-Milton LP and the calculation of the distributions to SON LPco. SON LPco shall also receive audited financial statements and copies of all public filings of Bruce-to-Milton LP.
15.	<b>SON Breach</b>	A breach of a material covenant or representation under the LPA by SON LPco, if not

	TERM	DESCRIPTION
	<b>of Covenants and Events of Default:</b>	<p>cured within any applicable cure periods stipulated therein, will result in a <b>"SON Event of Default"</b>. SON LPco shall be liable for any damages caused by a SON Event of Default which shall be paid by SON LPco within 30 days of notice of such default (subject to any dispute resolution rights with respect to the existence of the SON Event of Default or the extent of damages) and upon the failure of SON LPco to pay such damages the amount of such damages shall be paid from SON LPco's entitlement to distributions of Distributable Cash.</p> <p>Notwithstanding the foregoing, upon the occurrence of a SON Event of Default or any failure by the SON to act in the best interests of the Bruce-to-Milton LP or the BtoM Project Assets using commercially reasonable efforts, which is not cured within any applicable cure period, that, in either case, causes the Bruce-to-Milton LP to default on a payment obligation under BtoM LP Promissory Note, HO LPco or an affiliate of HONI may, after all dispute resolution mechanisms as set out in item 13 above have been exhausted, acquire SON LPco's LP Units upon the payment to SON LPco of a termination payment ("<b>Termination Payment</b>") equal to the fair market value of such LP Units determined as of such time by a qualified independent valuator (the costs of which shall be paid by each limited partner on the basis of their Equity Ratio) which shall be paid to SON LPco in a single payment within 60 days following the determination of such fair market value. SON LPco or the SON shall cause, as part of such acquisition and payment of the Termination Payment, the discharge of any security against its LP Units and provide a full and final release to HO LPco, HONI and any other affiliate of HONI that acquires SON LPco's LP Units.</p>
16.	<b>HONI Breach of Covenants and Events of Default:</b>	A breach of a material covenant or representation under the LPA by HO LPco, GPco or HONI or a breach of the operation agreement by GPco if not cured within any applicable cure periods stipulated therein, will result in a <b>"HONI Event of Default"</b> . HO LPco shall be liable for any damages caused by a HONI Event of Default which shall be paid by HO LPco within 30 days of notice of such default (subject to any dispute resolution rights with respect to the existence of the HONI Event of Default or the extent of damages) and upon the failure of HO LPco to pay such damages the amount of such damages shall be paid from HO LPco's entitlement to distributions of Distributable Cash.
17.	<b>Transfer by SON LPco and SON Lender Rights:</b>	SON LPco shall not sell, assign, transfer or otherwise dispose of its interest in the Bruce-to-Milton LP other than in accordance with the Mutual ROFO and ROFR provisions set out below. Similarly, SON shall not cause or permit a change of control in SON LPco. Notwithstanding the foregoing, SON LPco shall be permitted to assign its interest in the Bruce-to-Milton LP for the purpose of granting a security interest to lenders in respect of the SON LPco equity investment provided that the terms of such security interest are acceptable to HONI, acting reasonably.
18.	<b>Permitted HONI Transfer of Minority Interest</b>	HO LPco, or any other direct or indirect wholly owned subsidiary of HONI that is or becomes a limited partner, shall at all times be entitled to sell, assign, transfer or otherwise dispose of such number of LP Units to any third party provided that following such sale, assignment, transfer or disposition, at least 50% of the total number of LP Units in the Bruce-to-Milton LP shall continue to be held directly or indirectly by HONI, either through HO LPco or any other direct or indirect wholly owned subsidiary of HONI (such transaction, a "HONI Minority Transfer"). All transaction costs in respect of such transfer shall be borne by HO LPco.
19.	<b>Transfer by HONI and</b>	Except in respect of a HONI Minority Transfer, HO LPco shall be not entitled to sell, assign, transfer or otherwise dispose of its interest in the Bruce-to-Milton LP other than (i)



	TERM	DESCRIPTION
	<b>HONI Lender Rights:</b>	to HONI or any direct or indirect wholly owned subsidiary of HONI; or (ii) in accordance with the Mutual ROFO and ROFR provisions set out below. HONI shall be entitled to sell, transfer or otherwise dispose of its interest in HO LPco or any other affiliate which holds its interest in the Bruce-to-Milton LP provided that following such sale, transfer or disposition, at least 50% of the total number of LP Units in the Bruce-to-Milton LP shall continue to be held directly or indirectly by HONI. HONI shall be entitled to cause or permit a change of control in HONI without the consent of SON LPco, but shall provide notice of such event to SON LPco as soon as reasonably possible thereafter. Notwithstanding the foregoing, HO LPco shall be permitted to assign its interest in the Bruce-to-Milton LP for the purpose of granting a security interest to lenders in respect of the BtoM Project Assets.
20.	<b>Advisory Committee:</b>	There shall be an Advisory Committee in respect of the Bruce-to-Milton LP composed of at least one representative from each of the limited partners (including GPco) which shall meet at least quarterly. The Advisory Committee shall provide a forum for review and consideration of the operations of the Bruce-to-Milton LP, including review of financial operating information, budgets, regulatory developments and other matters in relation to the BtoM Project Assets or the Bruce-to-Milton LP. The reasonable expenses of the Advisory Committee shall be borne by the Bruce-to-Milton LP.
21.	<b>Mutual ROFO and ROFR:</b>	<p>Except in respect of (i) a HONI Minority Transfer (as set out in item 18 above) and (ii) a transfer to HONI or a HONI subsidiary (as set out in item 19 above), HO LPco and SON LPco shall each be prohibited from selling their LP Units without providing the other Party a right of first offer in respect of the subject LP Units. Any Party that is required to give such right of first offer (a “<b>ROFO Offeror</b>”) shall deliver to each applicable offeree (the “<b>ROFO Offeree</b>”) a written notice (the “<b>ROFO Notice</b>”) informing the ROFO Offeree of its desire to sell its LP Units and the price at which it proposes to sell (the “<b>ROFO Price</b>”). The ROFO Offeree may elect to acquire all (but not less than all) of such LP Units at the ROFO Price by written notice to the ROFO Offeror within 30 days after receipt of the ROFO Notice. Should the ROFO Offeree elect not to acquire such LP Units, the ROFO Offeror may then seek an offer from a third party purchaser to acquire the LP Units at a price equal to or higher than the ROFO Price (taking into consideration any terms or other collateral agreements that would be reasonably expected to make the transaction price with such third party less than the ROFO Price).</p> <p>Where a Party receives an offer from a third party purchaser to purchase its LP Units that such Party is prepared to accept, prior to selling such LP Units to such third party purchaser, such Party must provide the other Party with a right of first refusal in respect of the proposed sale of such LP Units, whether such offer was solicited following a ROFO Notice that the ROFO Offeree elected not to accept or whether the offer from such third party was unsolicited. Such Party proposing to sell its LP Units (the “<b>Selling Partner</b>”) shall provide written notice to the other Party informing (the “<b>Non-Selling Partner</b>”) of its intent to accept the third party offer and providing all the terms and conditions of the proposed sale (a “<b>ROFR Notice</b>”). The Non-Selling Partner may elect to acquire all (but not less than all) of such LP Units at the price and on the same terms and conditions as set out in the third party offer by written notice to the Selling Partner within 30 days after receipt of the ROFR Notice. Should the Non-Selling Partner elect not to acquire such LP Units, the Selling Partner may then accept the third party offer provided that such sale takes place at a price and on terms and conditions that are no more favourable to the third party purchaser than as set out in the ROFR and that such transaction closes within 180 days of the ROFR Notice. In the event that such transaction has not closed within 180 days of the ROFR Notice or the terms of the third-party offer are amended to be more favourable to the Selling Partner, the Selling Partner shall be required to provide a further</p>

	TERM	DESCRIPTION
		ROFR Notice to the Non-Selling Partner.

## ATTACHMENT “C”

### Example Closing Steps Calculations and Descriptions

#### 1. Input Assumptions:

- BtoM Project Asset Value = \$600,000,000
- SON Equity Contribution Amount = \$72,000,000

#### 2. Calculations

- (a) SON Equity Ratio = 30.0% ( $\$72\text{m} / (0.4 \times \$600\text{m})$ )
- (b) HO LPco Equity Ratio = 69.9% ( $99.9\% - 30.0\%$ )
- (c) HONI Equity Ratio = 70% ( $\text{HO LPco Equity Ratio} + 0.1\%$ )
- (d) Effective HONI Equity Amount = \$168,000,000 ( $\$600\text{m} \times 0.40 \times 0.70$ )
- (e) The “LP Promissory Note” pursuant to Section 3.4(a) is equal to \$600,000,000.
- (f) The original principal amount of the “HO LPco Promissory Note” pursuant to Section 3.4(b) is equal to \$432,000,000 (determined as follows:  $\$600,000,000 - ((0.40 \times \$600,000,000) - \$72,000,000)$ ).
- (g) The original principal amount of the “BtoM LP Promissory Note” pursuant to Section 3.4(c) is equal to \$432,000,000 (determined as follows:  $\$600,000,000 - (0.40 \times \$600,000,000 \times 0.700)$ ).
- (h) The Bruce-to-Milton LP pays to HONI a cash amount of \$600,000,000 in full satisfaction of the LP Promissory Note held by HONI in connection with the APA pursuant to Section 3.4(d).
- (i) SON LPco contributes \$72,000,000 to the Bruce-to-Milton LP pursuant to Section 3.4(e).
- (j) The Bruce-to-Milton LP applies \$72,000,000 to reduce the BtoM LP Promissory Note to \$360,000,000 such that the principal amount of the BtoM LP Promissory note shall then be equal to 60% of the BtoM Project Asset Value pursuant to Section 3.4(f).
- (k) HO LPco applies \$72,000,000 to reduce the HO LPco Promissory Note to \$360,000,000 pursuant to Section 3.4(g).

#### 3. LP Units Results

The total issued and outstanding LP Units in the Bruce-to-Milton LP following the Closing would be 10,000 LP Units and held as follows: (i) 3,000 LP Units held by SON LPco, (ii) 6,990 LP Units held by HO LPco and (iii) 10 LP Units held by GPco.



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**Laura Formosa**  
President & CEO



December 18, 2012

Chippewas of Saugeen First Nation  
R.R. #1  
Southampton, Ontario N0H 2L0

and

Chippewas of Nawash First Nation  
135 Lakeshore Blvd, R.R. #5  
Wiarton, ON N0H 2T0

**Re: Anishnaabekiing Naagnigewin Agreement in Respect of the Bruce-to-Milton Transmission Line Limited Partnership dated June 18, 2012 (the "Implementation Agreement") between Chippewas of Saugeen First Nation and Chippewas of Nawash First Nation (collectively, the "SON") and Hydro One Networks Inc. ("HONI")**

Dear Sirs:

This letter agreement (the "Letter Agreement") is being entered into in connection with the establishment of a commercial partnership between the SON and HONI in respect of the Line. Notwithstanding any provision contained in the Implementation Agreement, and in consideration of the mutual covenants contained in the Implementation Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the SON, HONI and Hydro One Inc. ("Hydro One") hereby agree as follows:

1. **Definitions.** Capitalized terms used but not defined herein have the meanings given to them in the Implementation Agreement. In this Letter Agreement, the following terms have the meanings specified below:

**"ARC" means** the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB in accordance with the OEB Act.

**"GP Co Equity Ratio" means** the percentage equal to 99.9% minus the SON Equity Ratio.

**"Initial HONI Equity Investment" means** an amount equal to 40% of the Tax Cost of the BtoM Project Assets to HONI at the time of the transfer by HONI to the Bruce-to-Milton LP of the BtoM Project Assets less an amount equal to the SON Equity Contribution Amount, provided that the Initial

HONI Equity Investment will be increased if necessary to such amount that ensures that the principal amount of the LP Promissory Note does not exceed the Tax Cost of the BtoM Project Assets to HONI at the time of the transfer by HONI to the Bruce-to-Milton LP of the BtoM Project Assets.

**“Initial HO LPco Equity Investment”** means an amount equal to the BtoM Project Asset Value multiplied by 40% times the HO LPco Equity Ratio.

**“Tax Cost”** means the aggregate of all amounts in respect of each BtoM Project Asset that is equal to the lesser of the capital cost of that BtoM Project Asset to HONI (less for greater certainty any capitalized amounts that are deductible when incurred for tax purposes) and the undepreciated capital cost of property of HONI of the capital cost allowance class to which that BtoM Project Asset belongs.

2. **Amendments to Defined Terms.** The definitions of “HO LPco” and “HO LPco Equity Ratio” in the Implementation Agreement are deleted in their entirety and replaced with the following:
  - (a) “HO LPco” means the OBCA corporation to be created and owned directly or indirectly by Hydro One Inc. to hold a limited partnership interest in the Bruce-to-Milton LP.; and
  - (b) “HO LPco Equity Ratio” means 0.1%.
3. **Closing.** The Closing shall occur on the later of: (i) January 1, 2014 and (ii) 10 Business Days after the Approvals Date. If the Approvals Date occurs prior to December 15, 2013, on the date that is 10 Business Days after the Approvals Date, SON LPco may tender to HO LPco (or a related entity) the amount of the SON Equity Contribution Amount as a loan (the “SON Loan”) under the terms of a promissory note bearing interest at a rate equal to the return on equity approved by the OEB for the Line. Upon Closing, HO LPco (or such related entity) shall repay the principal amount of the SON Loan plus any accrued and unpaid interest thereon, and SON LPco shall use such funds to acquire its LP Units in accordance with the Implementation Agreement.
4. **SON LPco.** Hydro One will incorporate SON LPco as a numbered company with minimal share capital. SON LPco shall issue two common shares to Hydro One for an aggregate subscription price of \$2.00. Following such share issuance, Hydro One shall sell the shares of SON LPco to the SON for the fair market value of such shares, equal to the costs of incorporation plus \$2.00.
5. **GPco Promissory Note.** All references in the Implementation Agreement to the HO LPco Promissory Note shall be deemed to be references to the GPco Promissory Note (as defined below).
6. **Interest Rates of Promissory Notes.** Each of the LP Promissory Note, the GPco Promissory Note (as defined below) and the BtoM LP Promissory Note shall bear interest at a rate equal to the weighted average interest rate of the outstanding debt of Hydro One or HONI allocated to the BtoM Project Assets, as may be adjusted from time to time.

## 7. **Proposed Steps Following Approvals Date.**

- (a) Notwithstanding any other provision of Section 3.4(a) of the Implementation Agreement, HONI will transfer to the Bruce-to-Milton LP the BtoM Project Assets in exchange for the issuance, at one dollar (\$1.00) per unit, of such number of LP Units of the Bruce-to-Milton LP equal to the Initial HONI Equity Investment, subject to adjustment, as well as the LP Promissory Note. The principal amount of the LP Promissory Note will be equal to the BtoM Project Asset Value at the time of the transfer less an amount equal to the Initial HONI Equity Investment;
- (b) Notwithstanding any other provision of Section 3.4(b) of the Implementation Agreement, HONI will contribute to GPco the LP Units received by HONI pursuant to the APA (excluding the number of LP Units with a value equal to the Initial HO LPco Equity Investment, subject to adjustment), as well as the cash HONI received under a daylight loan borrowed from a bank in an amount equal to the BtoM Project Asset Value less the Initial HONI Equity Investment (the "Daylight Loan") in exchange for (i) additional common shares of GPco having a fair market value equal to the excess of the BtoM Project Asset Value over the SON Equity Contribution Amount, multiplied by 40% (subject to adjustment) and (ii) a promissory note from GPco (the "GPco Promissory Note"). The principal amount of the GPco Promissory Note will be equal to the BtoM Project Asset Value less the fair market value of the common shares received. The principal amount of the GPco Promissory Note will not exceed the amount of the cash amount contributed by HONI to GPco;
- (c) Notwithstanding any other provision of Section 3.4(c) of the Implementation Agreement, GPco will transfer a cash amount to the Bruce-to-Milton LP in the amount that was borrowed by HONI under the Daylight Loan and in return shall receive additional LP Units as well as the BtoM LP Promissory Note. The principal amount of the BtoM LP Promissory Note will be equal to the BtoM Project Asset Value minus the Effective HONI Equity Amount, subject to adjustment;
- (d) Notwithstanding any other provision of Section 3.4(d) of the Implementation Agreement, the Bruce-to-Milton LP will pay to HONI a cash amount equal to the principal amount of the LP Promissory Note in full satisfaction of the LP Promissory Note held by HONI in connection with the APA;
- (e) Notwithstanding the provisions of Section 3.4 of the Implementation Agreement, the transaction contemplated by Section 3.4(d) of the Implementation Agreement will occur after the transaction contemplated by Section 3.4(e) of the Implementation Agreement;
- (f) Notwithstanding any other provision of Section 3.4(e) of the Implementation Agreement, SON LPco shall receive such number of LP Units such that (i) the total number of LP Units held by SON LPco will be equal to the total issued and outstanding LP Units multiplied by the SON Equity Ratio; (ii) the total number of LP Units held by GPco (including, for greater certainty, those issued under Section 3.4(c) of the Implementation

Agreement) will be equal to the total issued and outstanding LP Units multiplied by the GPco Equity Ratio; and (iii) the total number of LP Units held by HO LPco (following the transfer described in Section 6(b) below) will be equal to 0.1% of the total issued and outstanding LP Units; and

- (g) Notwithstanding any other provision of Section 3.4(g) of the Implementation Agreement, GPco shall utilize the funds received from the Bruce-to-Milton LP to pay such portion of the GPco Promissory Note such that the principal amount of the GPco Promissory Note shall then be equal to 60% of the total of the debt liability plus the amount contributed to GPco in respect of the issuance of the shares of GPco as described in paragraph (b) above.

8. **Claim Limitation Clause.** The LPA will include a clause (the “Claim Limitation Clause”) that provides that, provided that the tax ruling referred to in Section 11(a) below has been obtained, the amount that SON LPco will be entitled to claim against GPco with respect to any claim relating to GPco’s obligations under the LPA or arising in relation to GPco’s role as general partner of the Bruce-to-Milton LP shall be limited to the amount SON LPco would have been entitled to if the only asset of GPco were a 0.1% interest in the Bruce-to-Milton LP, provided that such limitation shall not apply to claims which SON LPco would have been entitled to bring against GPco had GPco been a limited partner of the Bruce-to-Milton LP not engaged in the management of the Bruce-to-Milton LP. For greater certainty, SON LPco will have no claim in respect of any rights, interests or payments in connection with the BtoM LP Promissory Note.

9. **Transfer of HO LPco and GPco to Newco.** Hydro One will incorporate a new OBCA corporation to be owned directly or indirectly by Hydro One (“Newco”) with minimal share capital. Following the transaction contemplated by Section 3.4(g) of the Implementation Agreement, the following steps will occur:

- (a) HONI will transfer all of its shares owned in HO LPco and GPco, the GPco Promissory Note and the LP Units that HONI owns to Newco and will receive from Newco preferred shares (“Newco Preferred Shares”) having a fair market value equal to the fair market value of the HO LPco shares, GPco shares, GPco Promissory Note and the LP Units acquired by Newco. HONI and Newco will duly execute and file an election under subsection 85(1) of the Income Tax Act (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer of the HO LPco and GPco shares, the GPco Promissory Note and the LP Units will occur on a tax deferred basis to HONI. In particular, the elected amounts will not exceed the respective adjusted cost bases of the HO LPco shares, GPco shares, the GPco Promissory Note and the LP Units, unless otherwise decided. The terms of the agreement of purchase and sale will contain an adjustment clause providing for an adjustment to the elected amount under the tax election in respect of the transfer to Newco in the event of a reassessment by the tax authorities or otherwise



upon the agreement of HONI and Newco. In addition, the terms of the Newco Preferred Shares will provide for an adjustment to the redemption price of the Newco Preferred Shares in the event of a reassessment by the tax authorities or otherwise upon the agreement of HONI and Newco;

- (b) Newco will transfer the LP Units to HO LPco and will receive common shares of HO LPco having a fair market value equal to the fair market value of the LP Units. Newco and HO LPco will duly execute and file an election under subsection 85(1) of the Income Tax Act (Canada) (which provision applies for purposes of the Electricity Act) so that such transfer of the LP Units will occur on a tax deferred basis to Newco. In particular, the elected amount will not exceed the adjusted cost base of the LP Units to Newco, unless otherwise decided. The terms of the agreement of purchase and sale will contain an adjustment clause providing for an adjustment to the elected amount under the tax election in respect of the transfer to HO LPco in the event of a reassessment by the tax authorities or otherwise upon the agreement of Newco and HO LPco;
- (c) HONI will distribute cash up to an amount equal to the aggregate value of the Newco Preferred Shares (“HONI Distribution”) to Hydro One by way of dividend, repayment of debt, or a combination of both, as necessary;
- (d) Hydro One will transfer the entire amount of cash, if any, received from the HONI Distribution, or to the extent necessary, Hydro One will borrow funds which it will transfer, to Newco and will receive,
  - (i) A note receivable (“Newco Note Receivable”) having a fair market value, principal amount equal to, and terms similar or identical to, the GPco Promissory Note held by Newco, as appropriate; and
  - (ii) Common shares in the capital of Newco (“Newco Common Shares”) having a fair market value and tax basis equal to the aggregate fair market value of the HO LPco shares and the GPco shares held by Newco;
- (e) Newco will redeem the Newco Preferred Shares held by HONI utilizing the cash obtained from the Hydro One investment as described in paragraph (d) above; and
- (f) HONI shall utilize the funds received on the redemption of the Newco Preferred Shares and the amount received as partial repayment of the GPco Promissory Note to repay the Daylight Loan.

For illustrative purposes only, Schedule A to this Letter Agreement sets out an example of the calculations for the steps to be completed pursuant to Section 3.4 of the Implementation Agreement, as amended and supplemented by this Letter Agreement.

10. **Additional Tax Rulings.** HONI shall apply for the following tax rulings (the receipt of which, for greater certainty, shall not be conditions precedent to the Closing), in addition to those set out in Section 3.2(i) of the Implementation Agreement:

- (a) Subsection 84(3) of the Income Tax Act (Canada) will apply to the redemption of the Newco Preferred Shares to deem Newco to have paid and HONI to have received a dividend equal to the amount by which the redemption proceeds exceeds the paid-up capital in respect of such preferred shares immediately before such redemption, and confirming various tax consequences under the Income Tax Act (Canada) with respect to the payment and receipt of such dividend.
- (b) By virtue of paragraph 55(3)(a) of the Income Tax Act (Canada), subsection 55(2) of the Income Tax Act (Canada) will not apply either to the dividend referred to in paragraph (a) above or to the taxable dividend paid by HONI to Hydro One referred to in paragraph 15(1) of the tax ruling to be submitted to the Ministry of Revenue, Ontario (the "Ruling Request"), including a ruling that the proposed transactions described in the ruling will not cause paragraph 55(3)(a) of the Income Tax Act (Canada) to not apply.
- (c) The interest payments made by Newco to Hydro One under the Newco Note Receivable will be deductible in computing the taxable income of Newco.
- (d) None of the debt obligations issued as part of the proposed transactions contemplated by the Implementation Agreement and this Agreement, including the debt obligations issued by HO LPco, will reduce the at-risk amount of HO LPco in respect of the Bruce-to-Milton LP, for purposes of subsection 96(2.2) of the Income Tax Act (Canada).

In the event that the above rulings are denied or unavailable on terms and conditions acceptable to HONI, the Parties shall cooperate and negotiate in good faith during the term of the Implementation Agreement in an effort to arrive at a mutually acceptable alternative solution or structure to address the issues applicable in the ruling which has been denied or is unavailable.

11. **Other Tax Rulings.** HONI shall apply for the following tax rulings (the receipt of which, for greater certainty, shall not be conditions precedent to the Closing):


- (a) GPco will not be deemed to be a limited partner pursuant to paragraphs 96(2.4)(b) and 40(3.14)(b) of the Income Tax Act (Canada) solely by reason of the existence of the Claim Limitation Clause as described in Section 6 above.
- (b) Subsection 12.2(2) of Ontario Regulation 140/09 made under the Electricity Act will not apply in respect of any gain deemed to be realized by HO LPco as a result of the application of subsection 40(3) of the Income Tax Act (Canada), as it applies for purposes of sections 89 and 90 of the Electricity Act.

12. **Fiber Optic Cable.** The fiber optic cable attached to the transmission towers along the Line (the “Fiber”) forms part of the HONI protection and control network and is owned by HONI. The Fiber is excluded from the BtoM Project Assets. In the event that there is any proposed commercial use of the Fiber (other than its use by HONI or any affiliate of HONI for protection and control of electricity transmission and distribution systems or administration and communications to support or ancillary to the operations and/or business of HONI or any of its affiliates (collectively, “Protection and Control”)), subject to the approval of the OEB (if required), SON LPco shall have the right to acquire from HONI an exclusive indefeasible right of use (as dark fiber) in X% of the total number of strands within the Fiber (other than those strands within the Fiber that is used for Protection and Control), where X% is equal to SON LPco’s “Partnership Interest” (as such term is defined in the LPA), at a purchase price equal to the book value of the Fiber multiplied by the ratio of the number of Fiber strands in which an indefeasible right of use is granted to SON LPco to the total number of strands available for use in the Fiber.
13. **LPA.** The form of the LPA attached as Schedule B to this Letter Agreement represents the form and substance of the LPA to be executed on Closing, subject to the completion of the bulleted and bracketed items to be ascertained and inserted at Closing.
14. **Formation of Entities.** On or prior to March 31, 2013, Hydro One shall incorporate and organize GPco, HO LPco and SON LPco and shall create and organize the Bruce-to-Milton LP and cause GPco and HO LPco to enter into the Initial LPA.
15. **Conflicts.** This Letter Agreement supplements and amends the Implementation Agreement and, to the extent of any conflict between the Implementation Agreement and this Letter Agreement, the terms hereof shall supersede those of the Implementation Agreement. Except as amended by this letter, all other terms of the Implementation Agreement remain in full force and effect, unamended hereby.
16. **Governing Law.** The Letter Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.
17. **Entire Agreement.** This Letter Agreement and the Implementation Agreement constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise.
18. **Execution.** This letter may be executed in one or more counterparts and delivered by facsimile signature or portable document format (PDF), each of which when so executed and delivered shall be an original but all of which together shall constitute one and the same instrument.

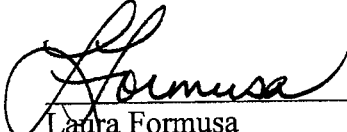
If the foregoing correctly sets forth our understanding of the subject matter hereof, please so indicate by executing this letter in the space provided below, in which event this letter shall constitute a binding agreement between the SON, HONI and Hydro One.

Yours very truly,

**HYDRO ONE NETWORKS INC.**


By:   
Laura Formusa  
President


**HYDRO ONE INC.**

By:   
Laura Formusa  
President

We accept the terms of your letter this 18th day of December, 2012.

**CHIPPEWAS OF NAWASH FIRST NATION    CHIPPEWAS OF SAUGEEN FIRST NATION**

By:   
Scott Lee  
Chief

By:   
Randall Kahgee  
Chief

**SCHEDULE A**  
**EXAMPLE CLOSING STEPS CALCULATIONS**  
**See attached.**

**SCHEDULE B**  
**FORM OF AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT**

**SCHEDULE A TO SIDE LETTER**  
**EXAMPLE OF CLOSING COMPUTATIONS**

**ASSUMPTIONS (in \$million)**

FMV of BtoM Project Assets	\$ 600.00	NBV as of Dec 31, 2013	
UCC of BtoM Project Assets	\$ 480.00	as of Dec 31, 2013	
SON investment 30%	\$ 72.00	30.00%	
Deemed debt %	60%		
Deemed equity %	40%		
LP Co equity %	0.10%		
GP Co equity %	69.90%		
Assumed Boot	\$ 480.00	[NTD - formula is lesser of (a) Tax Cost of Assets and (b) NBV/FMV less the excess of 40% of the Tax Cost of B&M Assets over SON's investment]	\$ 480.00
LP Units Issued (\$1 per unit)	\$ 120.00	[NTD - The formula appears to be THE GREATER OF (a) (Tax Cost of BtoM Assets x 40%) - SON investment]] and (b) NBV less Tax Cost of Assets	120.00

**Step 1 -** HONI transfers the BtoM Project Assets to the Bruce to Milton LP for the LP Promissory Note of \$480 million (interest-bearing) and limited partnership interest of \$120 million represented by 120 million LP units (the "LP Interest").  
A section 97(2) election is filed electing proceeds not exceeding the UCC. Excess of UCC over the note amount will be the acb of the LP Interest.

	ACB	FMV
Boot	\$ 480.00	\$ 480.00
ACB of LP interest	\$ -	120.00
Total	\$ 480.00	\$ 600.00
Deferred Gain	\$ 120.00	
FMV of LP Interest	\$ 120.00	
UCC of BtoM Project Assets	\$ 480.00	
LP Units issued	\$ 120.00	

**Step 2 -** HOI incorporates Newco with minimal capital

**Step 3 -** HONI borrows an amount equal to the value of the transferred assets less the LP interest (currently \$600 million - \$120 million) \$480 million from the bank or from Hydro One.

FMV of BtoM Project Assets	\$600.00
Less FMV of LP interest	<u>(\$120.00)</u>
Loan from bank or from Hydro One	<u>\$480.00</u>

**Step 4 -** HONI transfers \$480 million cash plus the LP interest (excluding .1% LP interest comprising 240,000 LP units) to GPco in exchange for shares of \$211.2 million and the GPco Promissory Note (interest bearing) in the amount of \$388.56 million. The acb of the shares will be the aggregate of the acb of the LP interest transferred (\$nil) + net ACB of funding \$480 million - boot received of \$480 million.

Cash	ACB	FMV
ACB of LP Interest	\$480.00	\$480.00
Less .1% LP Interest retained	\$0.00	\$ 120.00
Total ACB/FMV of transferred assets	<u>\$0.00</u>	<u>(\$0.24)</u>
		\$599.76

GPco Promissory Note to be issued to HONI	\$388.56
FMV GP Co common shares	<u>\$211.20</u>
Total FMV	<u>\$599.76</u>

ACB of GPco Promissory Note issued to HONI	\$388.56
ACB of GP Co shares issued to HONI	<u>\$91.44</u>
Total ACB	<u>\$480.00</u>



Step 5 - GPco invests \$480 million in the Bruce-to-Milton LP in exchange for a limited partnership interest of \$48 million and the BtoM Promissory Note in the amount of \$432 million (i.e., balance of purchase price).

FMV of BtoM Project Assets			\$600.00
Required LP equity %		40%	
Required LP equity capital			<u>\$240.00</u>
Required GPco partnership interest	69.90%		\$167.76
Less LP interest already held			(\$119.76)
Additional partnership interest			<u>\$48.00</u>
BtoM Promissory Note issued to GPco by Bruce-to-Milton LP			\$432.00
FMV of assets acquired			<u>\$480.00</u>
ACB of BtoM Promissory Note			\$ 432.00
ACB of additional LP interest			\$ 48.00
Total ACB of assets acquired			<u>\$ 480.00</u>
ACB of LP interest held by GPco:			
Step 4			\$ -
Step 5			\$ 48.00
Total ACB of LP Interest			<u>\$ 48.00</u>

Step 6 - SON LP Co invests \$72 million in the Bruce-to-Milton LP for a 30% limited partnership interest, diluting HO LPco down to 69.9%.

Step 7 - Bruce-to-Milton LP repays the LP Promissory Note to HONI issued in Step 1.

LP Promissory Note repayment to HONI	\$ 480.00
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Step 8 - Bruce-to-Milton LP repays portion of the BtoM Promissory Note issued utilizing cash from the SON LPco investment to GPco.

Bruce-to-Milton LP partial note repayment to GPco	<u>\$72.00</u>
Balance of BtoM Promissory Note	<u>\$360.00</u>
Debt %	<u>60%</u>

Step 9 - GPco repays portion of the GPco Promissory Note to HONI

GPco Promissory Note to HONI	\$388.56
Less repayment utilizing funds received from Bruce-to-Milton LP	<u>(\$72.00)</u>
Balance of GPco Promissory Note payable to HONI	<u>\$316.56</u>
Debt %	<u>60%</u>

Step 10 - HONI enters into an operating agreement with the Bruce-to-Milton LP for operation of its business.

**NTD - Steps 10 and 11 have been left in this sequence to avoid additional changes in steps last reviewed by the SON**

Step 11 - Tax elections to be filed by HONI for sale of assets to the Bruce-to-Milton LP and for transfer to GPco, and possibly by GPco to the LP.

Step 12 - HONI transfers the GP Co and HO LPco shares (\$211.2 mill), the .1% limited partnership interest, i.e 240,000 units, and GPco Promissory Note (\$316.56 mill) to Newco in exchange for [preferred shares or common shares] having a fmV of \$528 million, electing proceeds equal to the acb of transferred assets.  
An 85(1) election is filed electing proceeds equal to the acb of the transferred assets which is expected to be less than their fmV of \$528.00 million.

	FMV	ACB
Assets transferred to Newco:		
HO LPco shares	0	0
GP Co shares	\$ 211.20	\$ 91.44
.1% LP interest	\$ 0.24	\$ -
GPco Promissory Note	\$ 316.56	\$ 316.56
Total	<u>\$ 528.00</u>	<u>\$ 408.00</u>

Newco shares issued to HONI	<u>\$ 528.00</u>	<u>\$ 408.00</u>
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Step 13 -	Newco transfers the .1% limited partnership interest to LP Co and receives shares of equal value. An 85(1) election will be filed electing proceeds of disposition of \$1 which is equal to the tax basis of the .1 partnership interest.			
		FMV	ACB	
	.1% LP interest transferred to GP Co:	\$0.24	\$0.00	
	LP Co shares issued to Newco	\$0.24	\$0.00	
Step 14 -	Hydro One receives funds of \$528 million by way of external borrowings, or dividends or debt repayment from HONI, or combination			
	HONI dividend or debt repayment to Hydro One or Hydro One borrowing or combination	\$528.00		
Step 15 -	Hydro One transfers the cash to Newco in exchange for common shares of \$211.44 million and a note receivable in the amount of \$316.56 million (i.e. balance of purchase price).			
	Hydro One investment in Newco shares and note	\$528.00		
	Newco Shares	FMV	ACB	
	Note Rec'd from Newco	\$211.44	\$211.44	
		\$ 316.56	\$316.56	
	Total Investment	\$528.00	\$528.00	
Step 16 -	Newco redeems the [preferred shares or common shares] held by HONI for cash of \$528 million. A DEEMED DIVIDEND WILL RESULT.			
	Redemption Price	\$528.00		
	ACB and PUC of shares	\$408.00		
	DEEMED DIVIDEND	\$120.00		

Step 17 - HONI repays the \$480 million loan.

Cash received by HONI:	
From Newco share redemption	\$ 528.00
GPco Promissory Note repayment - Step 9	\$ 72.00
LP Promissory Note repayment - Step 7	\$ 480.00
Less Dividend to Hydro One	\$ -
Less repayment of Loan	<u>(\$480.00)</u>
HONI Cash Balance	<u>\$ 600.00</u>

**AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT**

For

**[BRUCE-TO-MILTON L.P.]**

among:

**[BRUCE-TO-MILTON GP INC.]**  
**[NTD: GP ENTITY TO BE DETERMINED]**

- and -

**[HOI BTM HOLDINGS INC.]**  
**[NTD: HOI LP ENTITY TO BE DETERMINED]**

-and-

**[SON BTM HOLDINGS INC.]**  
**[NTD: SON LP ENTITY TO BE DETERMINED]**

Made effective as of the

• day of •, 2014

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## AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT

THIS AGREEMENT is made effective as of the [●] day of [●], 2014

BETWEEN:

**HOI BTM HOLDINGS INC.**, a corporation  
incorporated under the laws of the Province of Ontario

(the “**HOI BtM Partner**”)

[NTD: Name of entity to be determined.]

- and -

**[SON BTM HOLDINGS INC.]** a corporation  
incorporated under the laws of the Province of Ontario

(the “**SON BtM Partner**”)

[NTD: Name of entity to be determined.]

- and -

**[BRUCE-TO-MILTON GP INC.]** a corporation  
incorporated under the laws of the Province of Ontario

(the “**General Partner**”)

[NTD: Name of entity to be determined.]

### WHEREAS:

- A. **[Bruce-to-Milton L.P.]** (the “**Partnership**”) was formed as a limited partnership under the laws of the Province of Ontario on ●, 2014 by the filing of a declaration pursuant to the *Limited Partnerships Act* (Ontario) (the “**Declaration**”).
- B. **[Bruce-to-Milton GP Inc.]**, as the initial general partner, and HOI BtM Partner as the initial limited partner, entered into a limited partnership agreement dated as of ●, 2013 governing the business and affairs of the Partnership (the “**Initial Partnership Agreement**”).
- C. Subject to the terms of this Agreement, the Parties wish to own and cause to be operated and maintained the second high-voltage electrical transmission tower line spanning approximately 180 kilometres from the Bruce Power nuclear generating facility located in Kincardine, Ontario to HONI’s switchyard in Milton, Ontario (the “**Line**”) for which

HONI was granted leave to construct from the OEB on September 15, 2008 and which was placed in-service on May 14, 2012;

- D. The Parties wish to formalize a long-term cooperative arrangement between the Partners to facilitate the participation of the SON in the ownership of the Line and the participation of the SON in the cash flows from the operation of the Line until it is no longer operated or until the Partnership is terminated; and
- E. In order to undertake the foregoing, the Parties wish to amend and restate the Initial Partnership Agreement to admit SON BtM Partner as a limited partner and to provide for certain changes to the terms and conditions set forth in the Initial Limited Partnership Agreement as set out in this Agreement.

NOW THEREFORE, for value received, the Parties agree as follows:

## ARTICLE 1 DEFINITIONS

### 1.1 Definitions

In this Agreement, the following terms have the respective meanings set out below:

- (a) **“Additional Equity Contribution”** has the meaning given to it in Section 5.9.
- (b) **“Adjusted Annual Distributable Cash”** for a Fiscal Year of the Partnership means an amount equal to the aggregate of (i) the Annual Distributable Cash of the Partnership for that Fiscal Year, and (ii) the Negative Tax Allowance of the Partnership for that Fiscal Year.
- (c) **“Adjusted Forecasted Distributable Cash”** for a fiscal quarter of the Partnership means an amount equal to the aggregate of (i) the forecasted Distributable Cash of the Partnership for that fiscal quarter on the basis of a forecast operating budget of the Partnership to be prepared by the General Partner, acting reasonably, and (ii) the forecasted Negative Tax Allowance of the Partnership for that fiscal quarter.
- (d) **“ADRIC”** has the meaning given to it in Section 13.3.
- (e) **“Advance”** has the meaning given to it in Section 5.13(b)(ii)(1).
- (f) **“Affiliate”** means, with respect to a Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the first Person. For the purposes of this definition, a Person **“controls”** another Person, if that Person directly or indirectly possesses the power to direct or cause the direction of the management and policies of that other Person, whether through the ownership of securities, by contract or by any other means and **“controlled by”** and **“under common control with”** have corresponding meanings.

- (g) **“Agreement”** means this agreement, including any recitals and schedules, as the same may be amended, supplemented or restated from time to time.
- (h) **“Annual Advance Amount”** has the meaning given to it in Section 5.13(f)(i).
- (i) **“Annual Designated Advance Amount”** has the meaning given to it in Section 5.13(e)(i).
- (j) **“Annual Distributable Cash”** has the meaning given to it in Section 5.13(c)(i)(3);
- (k) **“Applicable Laws”** in respect of any Person, property, transaction or event, means all applicable laws, statutes, regulations, by-laws, codes, treaties, judgments and decrees applicable to that Person, property, transaction or event at the applicable time and, whether or not having the force of law, all applicable requirements, requests, directives, rules, consents, approvals, authorizations, guidelines, instructions, circulars, manuals, orders and policies of any Governmental Authority having or purporting to have authority over that Person, property, transaction or event at the applicable time.
- (l) **“Approved Net Income (Loss)”** for a Fiscal Year means (i) the forecasted Net Income, expressed as a positive number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year, or (ii) the forecasted Net Loss, expressed as a negative number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year.
- (m) **“Approved OEB Rates”** for a Fiscal Year means the aggregate amount that the Partnership is entitled to charge for transmission rates for that Fiscal Year, as approved by the OEB.
- (n) **“Approved Tax Amount”** for a Fiscal Year means the total of (i) the amount, if any, expressed as a positive number, that was included in the Approved OEB Rates for that Fiscal Year on account of HOI BtM Taxes, including any additional amount included in such Approved OEB Rates as a gross-up to reflect the fact that such increased amounts will be subject to Taxes, and (ii) the amount, if any, expressed as a negative number, that resulted in a reduction of the Approved OEB Rates for that Fiscal Year on account of any projected savings of Income Taxes or Capital Taxes arising from a forecasted Taxable Loss for that Fiscal Year.
- (o) **“Approved Tax Percentage”** for a Fiscal Year means the percentage obtained by dividing (i) the Approved Tax Amount for that Fiscal Year, by (ii) the Approved Taxable Income (Loss) for that Fiscal Year.

- (p) **“Approved Taxable Income (Loss)”** for a Fiscal Year means (i) the forecasted Taxable Income, expressed as a positive number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year, or (ii) the forecasted Taxable Loss, expressed as a negative number, considered by the OEB in determining the Approved OEB Rates for that Fiscal Year.
- (q) **“ARC”** means the *Affiliate Relationships Code for Electricity Distributors and Transmitters* issued by the OEB in accordance with the *Ontario Energy Board Act, 1998*.
- (r) **“Arm’s Length”** has the meaning that it has for purposes of the Income Tax Act.
- (s) **“BtM LP Promissory Note”** means that certain promissory note dated ●, 2014 in the principal amount of \$● issued by the Partnership to the General Partner.
- (t) **“BtM Project Assets”** means the assets comprising the Line, including the Line Property Rights, but excluding the Interconnection Assets and the Fiber.
- (u) **“BtM Project Asset Value”** means the net book value of the BtM Project Assets which are in-service at Closing.
- (v) **“Business Day”** means any day, other than a Saturday or Sunday, on which the Toronto-Dominion Bank in Toronto is open for commercial banking business during normal banking hours.
- (w) **“Buying Partner”** has the meaning given to it in Section 9.4.
- (x) **“Capital Account”** means the capital account for each Partner referred to in Section 5.1.
- (y) **“Capital Taxes”** means any federal, provincial or local capital taxes calculated by reference either directly or indirectly to the assets, liabilities, or working capital of the Partnership, together with any interest, penalties or additions to such taxes and including, for greater certainty, all payments to the Province of Ontario in lieu of any of the foregoing and grants to communities or municipalities in lieu of any of the foregoing.
- (z) **“Change of Control”** means any assignment or other disposition of the shares or units of a Partner or of any Person that controls, directly or indirectly, that Partner that results in a change of control of that Partner or that Person.
- (aa) **“Claims”** means all losses, costs, damages, expenses, injuries, liabilities, claims, demands and penalties, including reasonable legal

fees, experts' fees and court costs, whether incurred through settlement or otherwise, and interest on each of these items, in each case whether arising prior to or after the termination of this Agreement.

- (bb) **"Closing"** means the completion of the transactions set out in Section 3.4 of the Master Implementation Agreement.
- (cc) **"Declaration"** means the declaration filed with the Registrar, forming the Partnership pursuant to the Limited Partnerships Act, as amended from time to time.
- (dd) **"Decommissioning Work"** means all work necessary for the decommissioning of the Line in accordance with Applicable Laws, Project Agreements and Project Approvals.
- (ee) **"Deemed Year End"** has the meaning given to it in Section 5.17.
- (ff) **"Default Amount"** has the meaning given to it in Section 9.3.
- (gg) **"Default Amount Notice"** has the meaning given to it in Section 9.3(a).
- (hh) **"Defaulting Partner"** has the meaning given to it in Section 9.1(a).
- (ii) **"Delta Income"** for a Fiscal Year means the (positive or negative) amount determined by subtracting the Approved Net Income (Loss) for that Fiscal Year, from the Net Income (or, if applicable, the Net Loss expressed as a negative number) for that Fiscal Year.
- (jj) **"Designated Advance"** has the meaning given to it in Section 5.13(c)(ii).
- (kk) **"Designated Distribution"** has the meaning given to it in Section 5.13(c)(i).
- (ll) **"Designated Distribution Net Income Shortfall"** at any time means the amount, if any, by which the aggregate amount of the Designated Distributions that have been paid to the General Partner pursuant to Section 5.13 prior to that time exceed the aggregate amount of the Net Income of the Partnership that has been allocated to the General Partner pursuant to Section 5.16(b)(i) prior to that time.
- (mm) **"Designated Distribution Note"** has the meaning given to it in Section 5.13(c)(i).
- (nn) **"Designated Distribution Taxable Income Shortfall"** at any time means the amount, if any, by which the aggregate amount of the Designated Distributions that have been paid to the General Partner pursuant to Section 5.13 prior to that time exceed the aggregate amount of the Taxable Income of the Partnership that has been allocated to the General Partner pursuant to Section 5.16(a)(i) prior to that time.

- (oo) **“Dispute”** any dispute, disagreement or difference of opinion concerning this Agreement or the performance or interpretation thereof.
- (pp) **“Distributable Cash”** means available cash of the Partnership after paying (i) all amounts owing under the Operations Agreement, (ii) debt service obligations in respect of all debt obligations owed by the Partnership, (iii) Designated Advances and amounts in satisfaction of Designated Distribution Notes pursuant to Section 5.13(e)(i)(2) (and after receiving amounts in satisfaction of Designated Advances due by the General Partner pursuant to Section 5.13(e)(ii)(2)), and (iv) any transaction costs or other costs borne by HONI and the General Partner in respect of the transactions contemplated in the Master Implementation Agreement, the BtM Project Assets or the Partnership to the extent such costs are collected in the Approved OEB Rates.
- (qq) **“Distribution”** has the meaning given to it in Section 5.13(c)(iii).
- (rr) **“Distribution Note”** has the meaning given to it in Section 5.13(c)(iv).
- (ss) **“Dollars”** or **“\$”** means Canadian dollars, being the lawful currency of Canada.
- (tt) **“Due Date”** has the meaning given to it in Section 5.10(a)(iv).
- (uu) **“Effective Date”** means the [●] day of [●], 2014.
- (vv) **“Electricity Act”** means *Electricity Act, 1998* (Ontario).
- (ww) **“Equity Contribution”** means the amount of money, or the value of property or assets (as agreed by the Parties), contributed to the capital of the Partnership by a Partner from time to time.
- (xx) **“Equity Contribution Request”** has the meaning given to it in Section 5.9.
- (yy) **“Event of Default”** has the meaning given to it in Section 9.1(a).
- (zz) **“Excess ARC Costs”** means that portion of the Excess Costs which are incurred or paid as a result of a rate or rates charged by the Affiliate of the General Partner being greater than the rate permitted under the ARC.
- (aaa) **“Excess Costs”** means the amount by which (i) an amount paid by the General Partner on behalf of the Partnership to an Affiliate of the General Partner or a cost incurred by the General Partner under an agreement with an Affiliate of the General Partner, exceeds (ii) the amount recoverable by the Partnership under the Approved OEB Rates.
- (bbb) **“Excess Non-GUP Costs”** means that portion of the Excess Costs which are incurred or paid as a result of services provided by the

Affiliate of the General Partner not being performed in accordance with Good Utility Practice.

- (ccc) **“Fair Market Value”** means, with respect to Units, the price of the Units as determined in an open and unrestricted market between informed prudent parties, acting at Arm’s Length and under no compulsion to act, expressed in terms of money or money’s worth.
- (ddd) **“Fiber”** means the fiber optic cable attached to the transmission towers along the Line which forms part of the HONI protection and control network and is owned by HONI.
- (eee) **“FIPPA”** has the meaning given to it in Section 14.1.
- (fff) **“Fiscal Year”** means the fiscal year of the Partnership determined in accordance with Section 3.5.
- (ggg) **“GAAP”** means generally accepted accounting principles in effect in the United States of America, including those approved or recommended from time to time by the Financial Accounting Standards Board or any successor institution applicable as of the date on which such calculation, position or determination is made, taken or required to be made or taken or such other accounting principles required by any ruling of the OEB applicable to the Partnership.
- (hhh) **“General Partner”** means, at any time, any Party who has executed this Agreement as a general partner or who has otherwise agreed to be bound by the terms of this Agreement as a general partner of the Partnership. The initial General Partner is **[Bruce-to-Milton GP Inc.]**.
- (iii) **“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in North America during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in North America.
- (jjj) **“Governmental Authority”** means any domestic or foreign government, including, any federal, provincial, state, territorial, county, municipal or local government, and any government established court, agency, tribunal, commission or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or respecting, government.



- (kkk) “**GST/HST**” means goods and services tax imposed under Part IX of the *Excise Tax Act* (Canada) as amended, or any successor or parallel legislation, including provincial legislation providing for a value added or ad valorem tax on goods and services.
- (lll) “**HONI**” means Hydro One Networks Inc.
- (mmm) “**HOI BtM Taxes**” means Income Taxes and Capital Taxes attributable to the General Partner or any Affiliate of the General Partner in respect of the Partnership.
- (nnn) “**HONI Initial Costs**” has the meaning given to it in Section 5.7.
- (ooo) “**Hydro One**” means Hydro One Inc.
- (ppp) “**Income Tax Act**” means the *Income Tax Act* (Canada).
- (qqq) “**Income Taxes**” means any federal, provincial, municipal or foreign Taxes (i) based upon, measured by or calculated with respect to, net income, income as specially defined, earnings, profits or selected items of income, earnings or profits, or (ii) based upon, measured by or calculated with respect to multiple bases if one or more of the bases on which such Taxes may be based, measured by or calculated with respect to, is described in paragraph (i) above, in each case together with any interest, penalties or additions to such Taxes and including, for greater certainty, all payments to the Province of Ontario in lieu of any of the foregoing and grants to communities or municipalities in lieu of any of the foregoing.
- (rrr) “**Indemnified Group**” has the meaning given to it in Section 8.3(a).
- (sss) “**Indian Act**” means the *Indian Act* (Canada).
- (ttt) “**Initial Partnership Agreement**” has the meaning given to it in Recital B.
- (uuu) “**Interconnection Assets**” means all sub-station facilities and assets relating to the interconnection of the Line to HONI’s transmission system.
- (vvv) “**Lending Partner**” has the meaning given to it in Section 5.10(f).
- (www) “**Limited Partner**” means, at any time, any Party who has executed this Agreement as a limited partner or who has otherwise agreed to be bound by the terms of this Agreement as a limited partner of the Partnership, including [SON BtM Partner] and [HOI BtM Partner].
- (xxx) “**Limited Partnerships Act**” means the *Limited Partnerships Act* (Ontario).

- (yyy) **“Line”** has the meaning given to it in Recital C, and for greater certainty the Line does not include the Interconnection Assets or the Fiber.
- (zzz) **“Line Property Rights”** means the interests in real property or licenses over real property interests in respect of the Line which are required to operate and maintain the BtM Project Assets and which were transferred or licensed to the Partnership by HONI.
- (aaaa) **“Losses”** means in respect of a Person and in relation to a matter, any and all losses, damages, costs, expenses, charges (including all penalties, assessments and fines) which that Person suffers, sustains, pays or incurs in connection with that matter and includes reasonable costs of legal counsel (on a solicitor and his own client basis) and other professional advisors and consultants and reasonable costs of investigating and defending Claims arising from the matter if those Claims are sustained and also includes interest, penalties, Taxes (other than Income Taxes) on a settlement payment or damage award in respect of that matter but does not include consequential or indirect losses or loss of profit.
- (bbbb) **“Master Implementation Agreement”** means the Anishnaabeking Naagnigewin Agreement dated June 18, 2012 between the SON and HONI, as amended and supplemented by the Side Letter.
- (cccc) **“Negative Tax Allowance”** for a Fiscal Year means (i) if the Tax Allowance for that Fiscal Year is less than zero, the absolute value of the Tax Allowance for that Fiscal Year; or (ii) if the Tax Allowance for that Fiscal Year is greater than zero, nil.
- (dddd) **“Net Income”** and **“Net Loss”** means net income or net loss of the Partnership in any Fiscal Year determined in accordance with GAAP.
- (eeee) **“Non-Electing Partner”** has the meaning given to it in Section 5.10(d).
- (ffff) **“OEB”** means the Ontario Energy Board.
- (gggg) **“Operating Budget”** means the operating budget of the General Partner for a Fiscal Year which provides for all costs and expenses to be incurred by the General Partner in connection with its performance of its duties under this Agreement.
- (hhhh) **“Operations Agreement”** has the meaning given to it in Section 4.3.
- (iiii) **“Partner”** means, at any time, any Person who has executed this Agreement or who has otherwise agreed to be bound as a Party to this Agreement and includes any General Partner and any Limited Partner.

- (jjjj) **“Partnership”** means “[Bruce-to-Milton L.P.]” [NTD: Confirm name], a limited partnership formed under the laws of the Province of Ontario.
- (kkkk) **“Partnership Account”** means the bank account opened in the name of the Partnership by the General Partner pursuant to Section 6.14.
- (llll) **“Partnership Assets”** means the BtM Project Assets, the Project Approvals, the Project Agreements, all rights and benefits received or receivable by the Partnership under the Project Agreements and any other undertaking, property or assets acquired from time to time by or on behalf of the Partnership, including the rights or benefits attached thereto or associated therewith but, for greater clarity, excluding the Interconnection Assets.
- (mmmm) **“Partnership Interest”** means, in respect of a Partner at any time, such Partner’s ownership interest in the Partnership, expressed as a percentage, and calculated from time to time by the General Partner in accordance with Section 5.6.
- (nnnn) **“Partnership Records”** has the meaning given to it in Section 10.2(a).
- (oooo) **“Party”** means a party to this Agreement and **“Parties”** means all of them, as the context requires.
- (pppp) **“Person”** means any individual, sole proprietorship, partnership, corporation or company, with or without share capital, trust, foundation, first nation, Indian band, joint venture, Governmental Authority or any other incorporated or unincorporated entity or association of any nature.
- (qqqq) **“Positive Tax Allowance”** in respect of a Fiscal Year means (i) if the Tax Allowance for that Fiscal Year is greater than zero, the Tax Allowance for that Fiscal Year, or (ii) if the Tax Allowance for that Fiscal Year is less than zero, nil.
- (rrrr) **“Project Agreements”** means this Agreement and all other agreements relating to the BtM Project Assets to which the Partnership (or an authorized agent of the Partnership) is now, or may in the future become, a party, including the Operations Agreement and any other service agreements with Partners.
- (ssss) **“Project Approvals”** means all approvals, authorizations, consents, permits, licences, judgments, rulings, directives, ordinances, decrees, registrations and filings required for the ownership and operation of the BtM Project Assets from any Governmental Authority.
- (tttt) **“Purchasing Partner”** has the meaning given to it in Section 5.10(h).

- (uuuu) “**Registrar**” has the meaning given to that term in the Limited Partnerships Act.
- (vvvv) “**Side Letter**” means the letter agreement dated December ●, 2012 between the SON, HONI and Hydro One.
- (www) “**SON**” means, collectively, Chippewas of Saugeen First Nation and Chippewas of Nawash First Nation.
- (xxxx) “**SON Capital Call Loan Amount**” has the meaning given to it in Section 5.10(f).
- (yyyy) “**SON Capital Call Loan Deadline**” has the meaning given to it in Section 5.10(f).
- (zzzz) “**Tax Allowance**” for a Fiscal Year means the amount determined by the formula:

$$A + (B \times C)$$

where

A is equal to the Approved Tax Amount for that Fiscal Year;

B is equal to the Delta Income for that Fiscal Year; and

C is equal to the Approved Tax Percentage for that Fiscal Year.

- (aaaaa) “**Tax Filings**” means all returns, reports, declarations, elections, notices, filings, forms, statements and other documents (whether in tangible, electronic or other form) and including any amendments, schedules, attachments, supplements, appendices and exhibits thereto, made, prepared, filed or required to be made, prepared or filed by applicable law in respect of Taxes.
- (bbbbb) “**Taxable Corporation**” in any Fiscal Year means a corporation that is subject to Income Taxes in respect of that Fiscal Year on income from the Partnership, including for greater certainty, under the Electricity Act.
- (ccccc) “**Taxable Income**” and “**Taxable Loss**” means the net income or net loss of the Partnership for purposes of the Income Tax Act in any Fiscal Year;
- (ddddd) “**Taxes**” means all federal, provincial, state, territorial, municipal or foreign taxes of any nature or kind whatsoever, including Income Taxes, capital taxes, gross receipt taxes, gross revenue charges, environmental taxes, sales taxes, use taxes, ad valorem taxes, goods and services taxes (including the GST/HST), provincial sales and fuel taxes, value added taxes, withholding taxes, excise taxes, transfer taxes (including land transfer taxes), franchise and licence taxes, payroll taxes, employment

taxes, Canada or Quebec pension plan premiums, social security premiums, workers' compensation premiums, stamp taxes, occupation taxes, premium taxes, property taxes, municipal taxes, windfall profits taxes, alternative or add-on minimum taxes, any customs duties or other taxes, fees, imposts, assessments or charges of any kind whatsoever, all payments to the Province of Ontario in lieu of any of the foregoing, grants to communities or municipalities in lieu of any of the foregoing, and all payments required to be made under the Electricity Act, together with any interest and any penalties or additional amounts imposed by any Governmental Authority, and any interest, penalties, fines, additional taxes and additions to tax imposed with respect to the foregoing.

- (eeee) **"Term"** has the meaning given to it in Section 2.1.
- (ffff) **"Third Party Transferee"** has the meaning given to it in Section 5.13(d).
- (ggggg) **"Top-Up Equity Contribution"** has the meaning given to it in Section 5.10(d).
- (hhhhh) **"Transfer"** or **"Transferred"** means any transfer, sale, exchange, assignment, gift, bequest, disposition, mortgage, charge, pledge, encumbrance, hypothecation, alienation, grant of security interest or other arrangement by which possession, legal title or beneficial ownership of all or any portion of Units by a Partner to any Person whether voluntary, involuntary, by operation of law or in accordance with this Agreement.
- (iiii) **"Unanimous Consent of the Partners"** means the approval of all of the Partners, as expressed by voting at a meeting of the Partnership or by a written instrument signed in one or more counterparts by all of the Partners.
- (jjjjj) **"Unit Certificate"** means a unit certificate issued to a Partner as evidence of its ownership of Units, which certificate shall be in the form approved by the General Partner from time to time.
- (kkkkk) **"Unit"** has the meaning given to it in Section 5.3(a).
- (lllll) **"Unrecovered HONI Costs"** has the meaning given to it in Section 5.7.

## 1.2 Headings and Table of Contents

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

### 1.3 References

Unless otherwise specified, references in this Agreement to sections and Schedules are to sections of, and schedules to, this Agreement.

Each reference to a statute in this Agreement is deemed to be a reference to that statute, and to the regulations made under that statute, all as amended or re-enacted from time to time and to any statute or regulation that supplements or supersedes such statute or regulation.

### 1.4 Expanded Definitions

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term “**including**” means “including without limitation”, and the terms “**include**”, “**includes**” and “**included**” have similar meanings. Any reference in this Agreement to any other agreement is deemed to include a reference to that other agreement as amended, supplemented or restated from time to time.

### 1.5 Time of Day

Unless otherwise specified, references to the time of day or a date mean the local time or date in Toronto, Ontario.

### 1.6 Schedules

The following Schedules are attached to and form part of this Agreement:

Schedule 4.3	Operations Agreement Terms
Schedule 5.4	Partnership Interests
Schedule 9.4	Principles of Valuation
Schedule 11.1	Form of Counterpart
Schedule 11.2	Form of Assignment

## ARTICLE 2 TERM

### 2.1 Term

This Agreement will be effective from the Effective Date and, unless terminated earlier in accordance with the terms of this Agreement or by mutual agreement of all of the Partners, will continue until the dissolution of the Partnership in accordance with the terms of this Agreement following the completion of the Decommissioning Work (the “**Term**”).

## **ARTICLE 3 THE PARTNERSHIP**

### **3.1 Formation of the Partnership**

The Partnership has been formed as a limited partnership in accordance with the laws of the Province of Ontario and the provisions of this Agreement. The Partnership is effective as a limited partnership from the date on which the Declaration was registered with the Registrar in accordance with the Limited Partnerships Act. Subject to the terms of this Agreement, the General Partner of the Partnership will be **[Bruce-to-Milton GP Inc.]** and the Limited Partners of the Partnership will be **[HOI BtM Partner and SON BtM Partner]**.

### **3.2 Filing of Changes to the Declaration**

The General Partner will execute and file any changes to the Declaration that may be required from time to time under the Limited Partnerships Act in connection with the Partnership.

### **3.3 Name**

The name of the Partnership will be “**[Bruce-to-Milton L.P.]**” or such other name or names as the General Partner may from time to time select with the Unanimous Consent of the Partners, provided that the General Partner files any change to the Declaration required by the Limited Partnerships Act.

### **3.4 Offices**

The registered and principal offices of the Partnership and the General Partner will be at 483 Bay Street, 15<sup>th</sup> Floor, North Tower, Toronto, Ontario, M5G 2P5 and, thereafter, at such place or at such other place or places as the General Partner may from time to time designate. The General Partner will provide written notice of any change in its or the Partnership’s offices to each other Partner.

### **3.5 Fiscal Year**

The first Fiscal Year of the Partnership will commence on the date of the Declaration and will end on December 31, **[2014]**. Thereafter each Fiscal Year of the Partnership will commence on January 1 in each year during the Term and end on December 31 in that year, unless otherwise established by the General Partner. The last Fiscal Year will end on the date of the dissolution or other termination of the Partnership.

### **3.6 Representations and Warranties of Partners**

Each Partner represents, warrants, covenants and agrees with each of the other Partners with respect to itself only that on the date of this Agreement and for so long as this Agreement is in effect:

- (a) it is a corporation existing under the laws of Ontario;
- (b) that it is not a “non-resident” of Canada for the purposes of the Income Tax Act and, if such Partner is a partnership, that such partnership is a Canadian

partnership for purposes of the Income Tax Act and agrees that it will maintain such status for so long as it retains a Partnership Interest;

- (c) that it has the power and capacity to own or lease its properties and assets and to carry on its business as it is currently being conducted and to perform its obligations under this Agreement and that such obligations do not conflict with nor will they result in a breach of any of its constating documents, by-laws or any agreements or approvals by which it is bound;
- (d) that it has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement, including SON BtM Partner obtaining any approvals which are appropriate, sufficient and consistent with all applicable governance practices of the SON BtM Partner whether under the *Indian Act* or by way of traditional practice, and this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law); and
- (e) that it has made all necessary corporate, partnership and tax filings required to be made by it in accordance with Applicable Laws and it has obtained all necessary approvals of any Governmental Authority in connection with its execution of this Agreement and no consents or approvals are required from any Governmental Authority or any other third party in order for it to enter into and perform its obligations under this Agreement.

Each Partner may, from time to time, request reasonable evidence from any other Partner (including a copy of the resolution specifically authorizing the entering into of this Agreement) in order to confirm that such other Partner is, and continues to remain, in compliance with the above representations and warranties during the term of this Agreement.

## **ARTICLE 4**

### **BUSINESS OF THE PARTNERSHIP**

#### **4.1 Powers of the Partnership**

Except as otherwise provided in this Agreement, the Partnership will have the power to do any and every act and thing necessary, proper, convenient, desirable, ancillary or incidental to the pursuit or accomplishment of its business.

#### **4.2 Business of the Partnership**

The business of the Partnership will be:

- (a) the operation, management and maintenance of the BtM Project Assets, including by entering into and performing its obligations under the Project Approvals and the Project Agreements;



- (b) to borrow money, incur debt, guarantee indebtedness and obligations of any Person, grant indemnities, grant mortgages, charges and other security interests, and in connection with the foregoing, enter into loan agreements, guarantees, promissory notes, mortgages, trust deeds, debentures, pledges and other security documents in order to finance the Line and carry on the business;
- (c) investing funds not immediately required for operations;
- (d) engaging in such other activities incidental or ancillary to the foregoing as the General Partner deems advisable or necessary; and
- (e) such Decommissioning Work as may be required from time to time.

#### **4.3 Operations Agreement with Partners**

- (a) The General Partner on behalf of the Partnership, and the General Partner on its own behalf will enter into an operations services and management services agreement (the “**Operations Agreement**”) with an Affiliate of the General Partner, for such Affiliate of the General Partner to operate and maintain the BtM Project Assets and Line, as further described and incorporating terms substantially in accordance with those set out in Schedule 4.3.
- (b) From time to time, the General Partner on behalf of the Partnership, and the General Partner on its own behalf may contract with HONI or its Affiliates for the provision of additional services. Unless the Parties agree otherwise, the Partnership will indemnify and save harmless HONI or such Affiliates providing such additional services from and against any and all Claims that HONI or such Affiliates may suffer, sustain or incur in connection with the provision of such services except to the extent caused or arising from the gross negligence or wilful misconduct of HONI or such Affiliates, as applicable.

#### **4.4 Other Business Interests**

Except as may be expressly set out in this Agreement, the freedom of a Limited Partner or its Affiliates, or of the Affiliates of the General Partner, to conduct any business or activity whatsoever as it sees fit will not be restricted in any way by this Agreement. No Limited Partner owes any other Partner a duty to offer it any business opportunity and nothing in this Agreement confers upon any Partner the right to participate in such opportunity. Each Limited Partner and its Affiliates, and the Affiliates of the General Partner, will be free to engage or invest in any business opportunity including, without limitation, any business opportunity which is similar to or which competes with the business of the Partnership, including any businesses described in the Project Agreements.

## **ARTICLE 5**

### **CONTRIBUTIONS, ALLOCATIONS AND DISTRIBUTIONS**

#### **5.1 Capital Account**

The General Partner will establish and maintain a separate Capital Account for each Partner, reflecting each Partner's total Equity Contributions, in the books of account of the Partnership. Each Partner's Capital Account (a) shall be increased by (i) the amount of any Additional Equity Contribution made pursuant to Section 5.10(a) and (ii) the amount of any allocation of Net Income made to the Partner pursuant to Section 5.16 and (b) shall be decreased by (i) the amount of any Additional Equity Contribution returned to a Partner pursuant to Section 5.10(i), (ii) the amount of any allocation of Net Loss made to the Partner pursuant to Section 5.16 and (iii) the amount of any distribution to that Partner pursuant to Section 5.13.

#### **5.2 Initial Equity Contribution**

Each Partner has made initial Equity Contributions to the capital of the Partnership in the following amounts and the following numbers of Units have been issued to the Partners in respect of such Equity Contributions:

<b>Partner</b>	<b>Initial Equity Contribution</b>	<b>Units</b>
HOI BtM Partner	\$●	●
SON BtM Partner	\$●	●
General Partner	\$●	●

#### **5.3 Partnership Units**

- (a) The interest of the Partners in the Partnership shall be divided into and represented by an unlimited number of units (each a "Unit"), each representing a proportionate share of the aggregate interests of the Partners in the Partnership.
- (b) Except as otherwise provided in Sections 5.13, 5.16 and 6.16, each issued and outstanding Unit is identical to each other one with respect to all matters including:
  - (i) the right to receive distributions from the Partnership;
  - (ii) the allocation of net income, net loss, taxable income and tax losses;
  - (iii) voting rights; and
  - (iv) rights on liquidation.

## 5.4 Unit Certificates

Each Partner shall be issued a Unit Certificate specifying the number of Units held by such Partner. Every Unit Certificate must be signed by at least one authorized signatory of the General Partner.

## 5.5 Record of Partnership Interests and Units

The initial Partnership Interests of and Units held by the Partners is set out on Schedule 5.5. The General Partner will amend Schedule 5.5:

- (a) following the deemed contribution of HONI Initial Costs in accordance with Section 5.7;
- (b) following the deemed contribution of land transfer taxes in accordance with Section 5.8;
- (c) following an Additional Equity Contribution in accordance with Section 5.10; and
- (d) following any Transfer of Units as permitted by this Agreement,

to reflect any changes in the Partners, the number of Units they hold or their Partnership Interests, calculated in accordance with Section 5.6. The General Partner will immediately after such amendment provide a copy of the amended Schedule 5.5 to each of the other Partners. Schedule 5.5, as amended from time to time in accordance with the provisions of this Section 5.5, absent error, will indicate the Partnership Interests of the Partners and the number of Units held by the Partners. If at any time a Partner disputes the General Partner's calculation of its Partnership Interest, it will so advise the General Partner and each of the other Partners in writing. Any Dispute with respect to Schedule 5.5 will be resolved in accordance with the provisions set forth in Article 13.

## 5.6 Calculation of Partnership Interests

The Partnership Interest of a Partner at any time will be the percentage that the number of Units held by such Partner is of the aggregate number of Units held by all Partners as at such date.

## 5.7 HONI Initial Costs

Prior to the Effective Date of this Agreement, the General Partner, an Affiliate of the General Partner or the Partnership incurred costs, other than land transfer tax costs, in connection with the Partnership, the BtM Project Assets, and the transactions contemplated in the Master Implementation Agreement (the "**HONI Initial Costs**"). In the event the HONI Initial Costs are not fully recoverable or recovered in the Approved OEB Rates, that part of such HONI Initial Costs that: (i) has been incurred by the Partnership shall be shared by the Partners pro rata to the number of Units held by the Partners as of Closing, and (ii) that has been incurred by the General Partner or an Affiliate of the General Partner and has not been included in the computation of the BtM Project Asset Value and has not otherwise been included in computing the equity contributed to the Partnership by the General Partner or an Affiliate of the General Partner (the "**Unrecovered HONI Costs**"), shall be deemed to be an Equity Contribution by the General

Partner. The General Partner will credit the General Partner's Capital Account with the fair market value of the Unrecovered HONI Costs and issue the appropriate number of Units to the General Partner to reflect such deemed Equity Contribution. All such HONI Initial Costs which are not included in the Approved OEB Rates shall be provided to SON BtM Partner for its review, and if disputed, shall be subject to the Dispute resolution mechanisms provided in Article 13.

## **5.8 Land Transfer Taxes**

The Partners agree to use commercially reasonable efforts to cause any land transfer taxes (including deferred taxes) imposed on the acquisition of the BtM Project Assets by the Partnership or the acquisition by SON BtM Partner of its Units to be recovered in the Approved OEB Rates. Where the recovery of such land transfer tax costs are included in the Approved OEB Rates, the amount of any such land transfer tax paid or payable: (i) by the General Partner or HOI BtM Partner shall be deemed to be an Equity Contribution to the Partnership by the General Partner, and (ii) by SON BtM Partner shall be deemed to be an Equity Contribution to the Partnership by SON BtM Partner, and the General Partner will credit the relevant Partner's Capital Account with the amount of such land transfer tax paid or payable by such Partner and, if applicable, will issue the appropriate number of Units to such Partner to reflect such deemed Equity Contribution. Where the recovery of such land transfer tax costs are not included in the Approved OEB Rates, each Partner shall be responsible for its share of such land transfer tax costs pro rata to the number of Units held by the Partners as of Closing.

## **5.9 Additional Funding Requirements**

From time to time during the Term, the Partnership will require additional funds above any reserves to fund costs incurred by the Partnership, or the General Partner on behalf of the Partnership, for activities in furtherance of the business of the Partnership in respect of the BtM Project Assets, including management, upgrading, repair and refurbishment costs, insurance costs, costs for decommissioning, and liabilities incurred by the Partnership in operating and maintaining the BtM Project Assets (including amounts incurred in connection with its engagement of an Affiliate of the General Partner under the Operations Agreement). If the Partnership is unable to fund the equity portion of such costs (taking into consideration the deemed debt-to-equity capital structure reflected in the Approved OEB Rates) from short term credit facilities or other immediately available sources, the General Partner may issue a notice to the Partners requesting Equity Contributions (an "**Equity Contribution Request**") to provide additional Equity Contributions in proportion to their respective Partnership Interests at the time of the Equity Contribution Request (an "**Additional Equity Contribution**") in accordance with the procedures set out in Section 5.10.

## **5.10 Additional Equity Contributions and Dilution**

Any Additional Equity Contributions required to be made by the Partners will be made as follows:

- (a) the General Partner will request an Additional Equity Contribution simultaneously from each of the Partners by providing each Partner with an Equity Contribution Request setting out:

- (i) the aggregate amount of the Additional Equity Contributions;
  - (ii) the amount of the Partner's Additional Equity Contribution, which amount will be calculated, for each Partner, as that Partner's Partnership Interest multiplied by the total amount of additional funds requested in the Equity Contribution Request;
  - (iii) the number and subscription price of the Units to be issued to that Partner in consideration for its Additional Equity Contribution, such number of Units to be equal to the number of Units (rounded if necessary to the lower whole number) obtained by dividing the amount of the Additional Equity Contribution to be made by such Partner by the subscription price for each Unit, which subscription price will be the Fair Market Value;
  - (iv) the date on which the Additional Equity Contribution is required to be delivered to the Partnership (the "**Due Date**"), provided that the Due Date will be no less than 180 days and no more than 270 days following receipt or deemed receipt of the Equity Contribution Request by the Partner, except in the case of emergencies or otherwise unplanned capital requirements, as determined in the sole discretion of the General Partner, in which case the Due Date will be no less than twenty (20) Business Days and no more than thirty (30) Business Days following receipt or deemed receipt of the Equity Contribution Request by the Partner; and
  - (v) whether the amounts set out in the Equity Contribution Request are to be wired or otherwise deposited to the Partnership Account or to another account;
- (b) upon receipt of a Partner's Additional Equity Contribution, the General Partner will credit that Partner's Capital Account with the amount of its Additional Equity Contribution and issue the appropriate number of Units to such Partner;
- (c) a Partner is free to elect whether or not to make all or part of its Additional Equity Contribution, provided that SON BtM Partner may not make any Additional Equity Contribution to the extent that such Additional Equity Contribution would result in SON BtM Partner having more than a ●% [NTD: to be the initial "SON Equity Ratio", as determined in accordance with the Master Implementation Agreement] Partnership Interest in the Partnership, and, for greater certainty, will not be a Defaulting Partner if such Partner elects not to make all or part of its Additional Equity Contribution; however, it will be a Defaulting Partner if it has indicated in a notice to the other Partners that it has elected to make all or part of its Additional Equity Contribution and then fails to do so by the Due Date. A Partner must provide notice of this election to the other Partners within fifteen (15) days of its receipt of an Equity Contribution Request. A Partner who

fails to make an election within fifteen (15) Business Days of its receipt of an Equity Contribution Request will be deemed to have elected not to make its Additional Equity Contribution;

- (d) if any Partner other than the General Partner chooses not to make all or part of its Additional Equity Contribution (a “**Non-Electing Partner**”), then the General Partner, provided that it has elected to make its full Additional Equity Contribution, may within five (5) Business Days of the Due Date make a further payment to fund all or part of the shortfall arising from the Non-Electing Partner’s failure to make its Additional Equity Contribution (a “**Top-Up Equity Contribution**”). The amount of the Top-Up Equity Contribution shall be used to subscribe for additional Units at the subscription price set out in the Equity Contribution Request and will be credited to the General Partner’s Capital Account;
- (e) each Non-Electing Partner acknowledges that in electing not to make its Additional Equity Contribution, provided the other Partners make their Additional Equity Contribution, there will be a dilution of such Non-Electing Partner’s Partnership Interest as between the other Partners and the Non-Electing Partner, and the Non-Electing Partner will be subject to further dilution in the event a Top-Up Equity Contribution is made by the General Partner;
- (f) if SON BtM Partner elects to make all or part of its Additional Equity Contribution, provided that it has used commercially reasonable efforts to secure its own funds or third party financing to make its Additional Equity Contribution, SON BtM Partner may, prior to the Due Date, by written notice to the General Partner and HOI BtM Partner, elect to borrow the amount of its Additional Equity Contribution (the “**SON Capital Call Loan Amount**”) from the General Partner or HOI BtM Partner, as determined by the General Partner (such Partner, the “**Lending Partner**”), for a period ending no later than the date that is one year from the Due Date (the “**SON Capital Call Loan Deadline**”). The SON BtM Partner will be required to repay to the Lending Partner prior to the SON Capital Call Loan Deadline:
  - (i) the SON Capital Call Loan Amount, plus
  - (ii) interest on the SON Capital Call Loan Amount at a rate equal to the return-on-equity percentage reflected in the Approved OEB Rates, calculated from the Due Date to the date of repayment;
- (g) if any amount of the SON Capital Call Loan Amount remains outstanding by the SON Capital Call Loan Deadline:
  - (i) the Units issued to SON BtM Partner which were financed by the unpaid amount of the SON Capital Call Loan Amount will immediately be Transferred to the Lending Partner in full payment

and satisfaction of the unpaid amount of the SON Capital Call Loan Amount and the General Partner will cause the register recording the Units to be amended accordingly, and

- (ii) SON BtM Partner hereby directs the General Partner to pay any Advances payable to SON BtM Partner to the Lending Partner on account of the interest owing on the SON Capital Call Loan Amount pursuant to Section 5.10(f)(ii) that has not been paid by the SON Capital Call Loan Deadline until the aggregate amount of such directed Advances equals the total amount of the interest that is so owed. For greater certainty, amounts so paid to the Lending Partner do not reduce the balance of the SON Capital Call Loan Amount outstanding;
- (h) if at any time SON BtM Partner's Partnership Interest falls below 5%, HOI BtM Partner or the General Partner, as determined by the General Partner (such Partner, the "**Purchasing Partner**"), shall have the option to purchase all, and not less than all, of SON BtM Partner's Units for a price equal to the Fair Market Value of SON BtM Partner's Units at the date such option is exercised, determined in accordance with the principles of valuation set forth in Schedule 9.4. The purchase and sale will be conducted in accordance with the terms of Section 9.5, with all references to the "**Buying Partner**" being deemed to be references to the "**Purchasing Partner**";
- (i) within 75 days following the end of each Fiscal Year, the General Partner shall determine if the Partnership is in compliance with the deemed debt-to-equity capital structure reflected in the Approved OEB Rates. If the General Partner determines that the Partnership has excess capital, each Partner who made an Additional Equity Contribution shall be entitled to the return of the portion of its Additional Equity Contribution necessary for the Partnership to comply with its deemed debt-to-equity capital structure, in proportion to the percentage of the aggregate amount of Additional Equity Contributions made by such Partner. Any such return of Equity Contributions shall be made prior to any Designated Distributions pursuant to Section 5.13(c); and
- (j) notwithstanding anything to the contrary contained in this Section, if the General Partner makes an Equity Contribution Request to the Partners, HOI BtM Partner shall be required to make an Additional Equity Contribution in such amount as shall be necessary to maintain a Partnership Interest of at least 0.10%.

Notwithstanding anything to the contrary contained in this Section, the remedies available under this Section 5.10 are in addition to, and in no way a limitation on, any and all other remedies available under this Agreement or otherwise existing at law or in equity.

### 5.11 No Voluntary Equity Contributions

No Partner will make any additional voluntary Equity Contributions to the Partnership except pursuant to an Equity Contribution Request from the General Partner or pursuant to a deemed Equity Contribution in accordance with Section 5.7 or Section 5.8.

### 5.12 Interest

Except as otherwise provided in this Agreement, no Partner is entitled to interest on its Equity Contributions or its Capital Account.

### 5.13 Distributions

- (a) The General Partner shall determine quarterly on a date to be determined by the General Partner:
  - (i) the forecasted Positive Tax Allowance for that fiscal quarter;
  - (ii) the forecasted Negative Tax Allowance for that fiscal quarter; and
  - (iii) the forecasted Distributable Cash of the Partnership for that fiscal quarter on the basis of a forecast operating budget of the Partnership to be prepared by the General Partner, acting reasonably.
- (b) Forthwith after the determinations referred in Section 5.13(a) have been made, the Partnership shall:
  - (i) make an advance (a “**Designated Advance**”) to the General Partner in an amount equal to the amount determined under Section 5.13(a)(i); and
  - (ii) make advances (an “**Advance**”) to the Partners totalling an amount equal to the amount determined under Section 5.13(a)(iii) as follows:
    - (1) make an Advance to each Partner that is not a Taxable Corporation in an amount equal to such Partner’s pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units, in each case at the time such Advances are made, of the Adjusted Forecasted Distributable Cash for that fiscal quarter; and
    - (2) make an Advance to each Partner that is a Taxable Corporation in an amount equal to the amount by which (A) such Partner’s pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units at the time such Advances are made, of the Adjusted Forecasted Distributable Cash for that fiscal quarter, exceeds (B) such



Partner's pro rata share, based on the number of Units held by such partner as compared to the total number of Units held by Partners that are Taxable Corporations, in each case at the time of such Advances, of the forecasted Negative Tax Allowance for that fiscal quarter.

- (c) Within 75 days following the end of each Fiscal Year:
  - (i) the General Partner shall determine:
    - (1) the Positive Tax Allowance for that Fiscal Year;
    - (2) the Negative Tax Allowance for that Fiscal Year; and
    - (3) the Distributable Cash of the Partnership for that Fiscal Year (the "**Annual Distributable Cash**");
  - (ii) the Partnership shall declare a distribution payable to the General Partner (a "**Designated Distribution**") in an amount equal to the Positive Tax Allowance for that Fiscal Year and shall issue a non-interest bearing demand promissory note with a principal amount equal to the amount of such distribution (a "**Designated Distribution Note**") to the General Partner in absolute payment and satisfaction of such distribution;
  - (iii) the Partnership shall declare a distribution (a "**Distribution**") payable to each of the Partners calculated as follows:
    - (1) The Partnership shall declare a Distribution payable to each Partner that was not a Taxable Corporation in such Fiscal Year in an amount equal to such Partner's pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units, in each case at the end of such Fiscal Year, of the Adjusted Annual Distributable Cash of the Partnership for that Fiscal Year; and
    - (2) The Partnership shall declare a Distribution payable to each Partner that was a Taxable Corporation in such Fiscal Year in an amount equal to the amount by which (A) such Partner's pro rata share, determined based on the number of Units held by such Partner as compared to the total issued and outstanding Units at the end of such Fiscal Year, of the Adjusted Annual Distributable Cash of the Partnership for that Fiscal Year, exceeds (B) such Partner's pro rata share, based on the number of Units held by such partner as compared to the total number of Units held by Partners that were Taxable Corporations, in each case at the end of such

Fiscal Year, of the Negative Tax Allowance of the Partnership for that Fiscal Year; and

- (iv) the Partnership shall issue a non-interest bearing demand promissory note to each Partner with a principal amount equal to the amount of the Distribution payable to such Partner pursuant to this Section 5.13(c) (a “**Distribution Note**”) and shall deliver such Distribution Note in absolute payment and satisfaction of such Distribution;
- (d) In the event of a Transfer by a Partner of its Units to a Person other than an Affiliate (a “**Third Party Transferee**”), the advances and distributions on the Units held by the Third Party Transferee will continue to be the advances and distributions calculated as if the Units were held by the original Partner (subject to any disallowance by the OEB as a result of the Transfer) until the revenue requirements of the Third Party Transferee are reflected as part of the next OEB transmission rate setting process.
- (e) Within 90 days following the end of each Fiscal Year and, for greater certainty, after the declaration of the distributions referred to in Section 5.13(c) and the issuance of the applicable Designated Distribution Note:
  - (i) if the aggregate amount of the Designated Advances made to the General Partner pursuant to Section 5.13(b)(i) in such Fiscal Year (the “**Annual Designated Advance Amount**”) is less than the principal amount owing under the Designated Distribution Note in respect of that Fiscal Year:
    - (1) such Designated Advances shall be deemed to be set off against the portion of the Designated Distribution Note that is equal to the Annual Designated Advance Amount such that such Designated Advances shall be fully paid and settled by such set off and the principal amount owing under the Designated Distribution Note shall be reduced by an amount equal to the Annual Designated Advance Amount as a result of such set off; and
    - (2) the Partnership shall pay an amount to the General Partner equal to remaining amount of the Designated Distribution Note, in full payment and satisfaction thereof; and
  - (ii) if the Annual Designated Advance Amount is greater than the principal amount owing under the Designated Distribution Note in respect of that Fiscal Year:
    - (1) such portion of the Designated Advances as is equal to the principal amount owing under the Designated Distribution Note shall be deemed to be set off against the Designated

Distribution Note such that such Designated Distribution Note shall be fully paid and settled by such set off and the Designated Advances shall be reduced by an amount equal to the amount of the Designated Distribution Note as a result of such set off; and

- (2) the General Partner shall pay an amount to the Partnership equal to remaining amount of the Designated Advances, in full payment and satisfaction thereof.
- (f) Within 90 days following the end of each Fiscal Year and, for greater certainty, after the declaration of the Distributions referred to in Section 5.13(c) and the issuance of the applicable Distribution Notes:
  - (i) if the aggregate amount of the Advances made to a Partner pursuant to Section 5.13(b)(ii) in such Fiscal Year (the “**Annual Advance Amount**”) is less than the principal amount owing under the Distribution Note to that Partner in respect of that Fiscal Year:
    - (1) such Advances shall be deemed to be set off against the portion of the Distribution Note that is equal to the Annual Advance Amount such that such Advances shall be fully paid and settled by such set off and the principal amount owing under the Distribution Note shall be reduced by an amount equal to the Annual Advance Amount as a result of such set off; and
    - (2) the Partnership shall pay an amount to that Partner equal to remaining amount of the Distribution Note, in full payment and satisfaction thereof; and
  - (ii) if the Annual Advance Amount made to a Partner is greater than the Distribution Note to that Partner in respect of that Fiscal Year:
    - (1) such portion of the Advances as is equal to the principal amount owing under the Distribution Note to that Partner shall be deemed to be set off against the Distribution Note to that Partner such that such Distribution Note shall be fully paid and settled by such set off and such Advances shall be reduced by an amount equal to the amount of the Distribution Note to that Partner as a result of such set off; and
    - (2) such Partner shall pay an amount to the Partnership equal to remaining amount of the Advances, in full payment and satisfaction thereof.
- (g) SON BtM Partner shall take all reasonable steps to maintain its tax-exempt status. In the event that SON BtM Partner is found to be taxable

or a Third Party Transferee of the Units of a Limited Partner is taxable, SON BtM Partner or such Third Party Transferee, subject to Section 5.13(d), shall be entitled to the Designated Advances and Designated Distributions contemplated in this Section 5.13 in respect of the Income Taxes and Capital Taxes attributable to SON BtM Partner or such Third Party Transferee, as applicable, in respect of the Partnership, but only to the extent that such Income Taxes and Capital Taxes have been reflected in the Approved OEB Rates.

- (h) Notwithstanding any provision of this Section 5.13, the Partnership will not make any Advances, Designated Advances, Distributions or Designated Distributions to the extent that after the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, is made, the Partnership will not have sufficient assets to pay its liabilities as they become due. To the extent an Advance, Designated Advance, Distribution or Designated Distribution in respect of a particular Fiscal Year is not paid in accordance with this Section 5.13(h), such deferred Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, will be made before any Advance, Designated Advance, Distribution or Designated Distribution is made in respect of any subsequent Fiscal Year.
- (i) Notwithstanding any provision of this Section 5.13, the Partnership will not make any Advances, Designated Advances, Distributions or Designated Distributions to the Partners:
  - (1) if the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, would constitute a breach of the Limited Partnerships Act or any other Applicable Law; or
  - (2) if the Advance, Designated Advance, Distribution or Designated Distribution, as the case may be, would be inconsistent with or contrary to the terms of any agreements by which the Partnership is bound or any agreements between the Parties.

#### **5.14 Return of Equity Contributions**

Except as otherwise provided in this Agreement, no Partner is entitled to the return of any part of its Equity Contributions.

#### **5.15 Right to Withdraw Capital**

Except for Distributions, Advances, Designated Advances or Designated Distributions made in accordance with the terms of this Agreement or upon the dissolution of the Partnership in accordance with Section 12.4, no Partner will have the right to withdraw any amount from the Partnership or to receive any advances or distributions from the Partnership or any return, in whole or in part, of any Equity Contribution or any reduction in its Capital Account.

## **5.16 Allocation of Net Income or Net Loss and Taxable Income or Taxable Loss**

- (a) If there is Taxable Income for a Fiscal Year, such Taxable Income shall be allocated as follows:
  - (i) an amount equal to the lesser of:
    - (1) such Taxable Income, and
    - (2) the amount of the Designated Distribution made to the General Partner in respect of that Fiscal Year plus the amount of any Designated Distribution Taxable Income Shortfall outstanding as at the end of that Fiscal Year to the extent not included in a previous allocation of Taxable Income under this Section 5.16,shall be allocated to the General Partner; and
  - (ii) the remainder of such Taxable Income, if any, shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year.
- (b) If there is both Net Income and Taxable Income for a Fiscal Year, such Net Income shall be allocated as follows:
  - (i) an amount equal to the lesser of:
    - (1) such Net Income, and
    - (2) the amount of the Designated Distribution made to the General Partner in respect of that Fiscal Year plus the amount of any Designated Distribution Net Income Shortfall outstanding as at the end of that Fiscal Year to the extent not included in a previous allocation of Net Income under this Section 5.16,shall be allocated to the General Partner; and
  - (ii) the remainder of such Net Income, if any, shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year.
- (c) If there is both Net Income and a Taxable Loss for a Fiscal Year, such Net Income shall be allocated as follows:
  - (i) an amount equal to the aggregate of the Net Income plus the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,

- (ii) less, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (d) If there is a Net Loss and Taxable Income for a Fiscal Year, such Net Loss shall be allocated as follows:
  - (i) an amount equal to the aggregate of the Net Loss plus the Positive Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,
  - (ii) less, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Positive Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (e) If there is a Net Loss and a Taxable Loss for a Fiscal Year, such Net Loss shall be allocated as follows:
  - (i) an amount equal to such Net Loss less the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year,
  - (ii) plus, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.
- (f) If there is a Taxable Loss for a Fiscal Year, such Taxable Loss shall be allocated as follows:
  - (i) an amount equal to such Taxable Loss less the Negative Tax Allowance for that Fiscal Year shall be allocated to the Partners pro rata based on the number of Units held by the Partners at the end of such Fiscal Year, and
  - (ii) plus, only in the case of each Partner that is a Taxable Corporation at the end of such Fiscal Year, an amount equal to the proportion of the Negative Tax Allowance that the number of Units held by such Partner bears to the total number of Units held by all Partners that are Taxable Corporations.:

- (g) Should a circumstance arise where none of Section 5.16(a) to Section 5.16(f) would apply, then the Partners, acting reasonably, shall allocate the Net Income, Net Loss, Taxable Income, Taxable Loss in accordance with the principles espoused in these Sections.

#### **5.17 Distributions and Allocations on Partner Exit**

Notwithstanding any other provision of Section 5.13 and Section 5.16, if a Partner ceased to be a Partner during a Fiscal Year, the Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners pursuant to Section 5.13 and Section 5.16 shall be calculated as though the Fiscal Year had ended at the end of the month immediately prior to or immediately following the time such Partner ceased to be a Partner, whichever month-end is closer, provided that, in the event a Partner ceased to be a Partner on the 15th day of a month, such allocations and distributions will be calculated as though the Fiscal Year ended at the end of the month immediately prior to the time such Partner ceased to be a Partner (a “**Deemed Year End**”), such that:

- (a) Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners shall be calculated for the period beginning at the beginning of such Fiscal Year and ending at the time of the Deemed Year End and the allocations and distributions (determined on a reasonable basis taking into account the deductions that would have been available had the fiscal period actually ended at the time of the Deemed Year End) shall be made in accordance with the provisions of Section 5.13 and Section 5.16 based on the number of Units held by such Partners immediately before the departing Partner ceased to be a Partner;
- (b) Net Income or Net Loss, Taxable Income or Taxable Loss and distributions payable to the Partners shall be calculated for the period beginning immediately after the Deemed Year End and ending at the end of such Fiscal Year and the allocations and distributions (determined on a reasonable basis taking into account the deductions that would have been available had the fiscal period actually began immediately after the Deemed Year End) shall be made in accordance with the provisions of Section 5.13 and Section 5.16 based on the number of Units held by such Partners at the end of such Fiscal Year;
- (c) provided that reasonable adjustments will be made if such allocations would otherwise result in the allocation of a Taxable Loss in one of such periods and the allocation of Taxable Income in the other such period; and
- (d) provided that all such distributions referred to in this Section 5.17 shall be declared and recorded in the books and records of the Partnership following the end of the relevant Fiscal Year.

### **5.18 Excess Costs**

If the General Partner on behalf of the Partnership pays or incurs an Excess ARC Cost or an Excess Non-GUP Cost, the Net Income or Net Loss (as applicable) allocated to and Distribution payable to, the SON BtM Partner shall be increased by the amount that would have been allocated to or payable to the SON BtM Partner in the absence of such Excess ARC Cost or Excess Non-GUP Cost, without duplication, and the Net Income or Net Loss (as applicable) allocated to and Distributions payable to, the General Partner, shall be decreased by the amount such Net Income or Net Loss (as applicable) and Distributions were increased for the SON BtM Partner. The corresponding adjustments to Taxable Income or Taxable Loss (as applicable) for each of the SON BtM Partner and the General Partner shall be made based on the adjustments to the Distribution, Net Income or Net Loss (as applicable) made under this paragraph. For greater certainty, this provision shall only apply to Excess ARC Costs and Excess Non-GUP Costs and not to other Excess Costs.

## **ARTICLE 6 MANAGEMENT OF THE PARTNERSHIP**

### **6.1 Management of the Partnership**

The General Partner will manage the day-to-day operations of the Partnership. Subject to Section 6.17 and any applicable limitations in the Limited Partnerships Act, the General Partner will have the full and exclusive right, power and authority to make all decisions relating to the management and administration of the Partnership and its business and affairs and to manage, control, administer and operate the Partnership and its business and affairs, and to do any act, take any proceedings, make any decision and execute and deliver any instrument, deed, agreement or document, for and on behalf of and in the name of the Partnership, in connection with the same.

### **6.2 Specific Powers, Duties and Obligations of General Partner**

Without limiting the generality of Section 6.1, the General Partner shall have full power and authority for and on behalf of and in the name of the Partnership, without notice to, or consent of, any Limited Partner, to:

- (a) negotiate, execute and perform all agreements which require execution by or on behalf of the Partnership involving matters or transactions with respect to the business of the Partnership;
- (b) open and manage bank accounts in the name of the Partnership;
- (c) borrow funds in the name of the Partnership from time to time from such Persons as the General Partner may determine without limitation with regard to amount, cost or conditions of reimbursement or such loan;
- (d) mortgage, charge, assign, hypothecate, pledge or otherwise create a security interest in all or any property of the Partnership now owned or



hereafter acquired, to secure any present and future borrowings and related expenses of the Partnership;

- (e) cause title to the property of the Partnership to be held in its name or the name of its designated nominee for the benefit of the Partnership;
- (f) cause Governmental Authorizations to be held in its name or the name of its designated nominee for the benefit of the Partnership and be responsible for the conduct of all regulatory proceedings related thereto and to the business of the Partnership;
- (g) see to the sound management of the Partnership and manage, control and develop all the activities of the Partnership and take all measures necessary or appropriate for the business of the Partnership or ancillary thereto;
- (h) maintain, improve or change any assets, business or undertaking of the Partnership from time to time;
- (i) incur all costs and expenses in connection with the Partnership Business;
- (j) employ, retain, engage or dismiss from employment, personnel, agents, representatives or professionals with the powers and duties upon the terms and for the compensation as in the discretion of the General Partner may be necessary or advisable in the carrying on of the business of the Partnership;
- (k) engage agents, including any Affiliate of the General Partner, to assist the General Partner in carrying out its management obligations and providing management services to the Partnership or subcontract administrative functions to any Affiliate of the General Partner or any other Person;
- (l) invest cash assets of the Partnership that are not immediately required for the business of the Partnership in investments which the General Partner considers appropriate;
- (m) act as attorney in fact or agent of the Partnership in disbursing and collecting monies for the Partnership, paying debts and fulfilling the obligations of the Partnership and handling and settling any claims of the Partnership;
- (n) commence or defend any action or proceeding in connection with the Partnership and make all decisions and execute and deliver all instruments, documents, or agreements related thereto;
- (o) take any actions it deems appropriate in respect of public relations and communications with Governmental Authorities;

- (p) file returns or other documents required by any Governmental Authority;
- (q) make, execute, amend or revoke any Tax Filing on behalf of the Partnership and/or all relevant Partners to the extent the Tax Filing relates to the affairs of the Partnership;
- (r) execute, swear to, acknowledge, deliver, file and record in whatever jurisdictions the Partnership is registered, whatever documents may be required to reflect:
  - (i) a change in the name of the Partnership or the location of the principal place of business of the Partnership;
  - (ii) the admission, substitution, withdrawal or removal of Limited Partners in accordance with the terms of this Agreement;
  - (iii) a change that is reasonable and necessary or appropriate to qualify or continue the qualification of the Partnership as a limited partnership in which the Limited Partners have limited liability under Applicable Laws; and
  - (iv) a change that is reasonable and necessary or appropriate to enable Partners to take advantage of, or not be detrimentally affected by, changes in the Income Tax Act or other taxation laws;and all Partners agree to sign all amendments to the Declaration to give effect to all amendments made in accordance with this Section 6.2(r);
- (s) retain legal counsel, experts, advisors or consultants as the General Partner considers appropriate and rely upon the advice of such Persons;
- (t) do anything that is in furtherance of or incidental to the Partnership Business or that is provided for in this Agreement;
- (u) obtain any insurance coverage; and
- (v) generally carry out the Partnership Business.

No Person dealing with the Partnership will be required to enquire into the authority of the General Partner to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the Partnership.

### **6.3 Operating Budget and Expenses**

The Partnership shall reimburse the General Partner for all reasonable costs and expenses, including professional, legal, accounting and administrative costs and expenses, incurred by the General Partner in the performance of its duties hereunder in accordance with the approved Operating Budget, including reasonable costs and expenses directly incurred for the benefit of the Partnership, and the General Partner's general and administrative expenses, but specifically

excluding expenses of any action, suit or other proceedings in which or in relation to which the General Partner is adjudged to be in breach of any duty or responsibility imposed on it hereunder.

The General Partner shall submit the Operating Budget for each Fiscal Year to the Partners for approval at least two (2) months prior to the commencement of that Fiscal Year. The General Partner shall submit any amendment to an approved Operating Budget for any Fiscal Year in excess of 5% of the total amount of the approved Operating Budget for such Fiscal Year to the Partners for approval.

#### **6.4 Removal and Appointment of General Partner**

The General Partner may be removed at any time by Unanimous Consent of the Partners provided that such Unanimous Consent of the Partners appoints and admits a new general partner to the Partnership and such new general partner agrees to be bound by this Agreement in place of the General Partner so removed and further provided that all acts of the General Partner prior to its removal will continue to bind the Partnership.

#### **6.5 Transfer to New General Partner**

On the admission of a new general partner to the Partnership upon the removal of the General Partner, the removed General Partner will do all things and take all steps to transfer the administration, management, control and operation of the business of the Partnership and the books, records and accounts of the Partnership to the new general partner and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect such transfer in a timely fashion, including the transfer of any title to the Partnership's property held by the removed General Partner or its nominee to such new general partner.

#### **6.6 Release by Partnership**

On the removal of the General Partner, the Partnership shall release and hold harmless the removed General Partner and its directors, officers, shareholders, employees and agents from any costs, expenses, damages or liabilities suffered or incurred by the General Partner as a result of or arising out of events which occur in relation to the Partnership after such removal.

#### **6.7 New General Partner**

A new general partner shall become a party to this Agreement by signing a counterpart hereof and shall agree to be bound by all of the provisions hereof and to assume the obligations, duties and liabilities of the General Partner hereunder as and from the date the new general partner becomes a party to this Agreement.

#### **6.8 Advisory Committee**

- (a) The Partnership shall have a committee (the “**Advisory Committee**”) consisting initially of eight members. SON BtM Partner shall be entitled to appoint four individuals to the Advisory Committee, and HOI BtM Partner and the General Partner shall each be entitled to appoint two individuals to the Advisory Committee. Each Partner shall be

entitled to remove and replace its appointees from time to time as provided in Section 6.8(c).

- (b) Members of the Advisory Committee shall be appointed or re-appointed, as the case may be, annually. On or before the Effective Date and each subsequent anniversary of the Effective Date, each Partner shall give notice to each of the other Partners stating the name of the appointees of such Partner for the following year.
- (c) Any Partner entitled to appoint a member of the Advisory Committee shall be entitled to remove and replace any such member by notice to such member and the other Partners. Any vacancy occurring on the Advisory Committee shall be filled only by a further appointee of the Partner whose appointee was so affected so as to maintain an Advisory Committee consisting of the numbers of appointees specified in Section 6.8(a).
- (d) The timing and location of meetings of the Advisory Committee will be determined by the General Partner, provided that the Advisory Committee shall meet at least quarterly and, if a meeting of the Advisory Committee is not called during any quarter by the General Partner, any other Partner may call a meeting of the Advisory Committee. Written notice of any meeting of the Advisory Committee will be given by the General Partner (or in the case of a meeting called by another Partner, by such Partner) to members of the Advisory Committee and to each Partner at least seven (7) Business Days prior to the meeting.
- (e) At each meeting, the Advisory Committee shall review and consider the operations of the Partnership, including financial operating information, budgets, regulatory developments and other matters in relation to the BtM Project Assets or the Partnership. For greater certainty, the General Partner shall retain ultimate responsibility for making all decisions relating to the operation and management of the Partnership.
- (f) A quorum for meetings of the Advisory Committee shall consist of at least one appointee of each Partner being present. If a quorum is not obtained at any meeting, the meeting shall be adjourned and may be reconvened upon two (2) Business Days notice to the members, at which reconvened meeting the quorum shall be a majority of members.
- (g) Any or all members of the Advisory Committee may participate in a meeting of the Advisory Committee by means of such telephone, electronic or other communication facilities as permit all Persons participating in the meeting to hear and communicate with each other simultaneously and a member participating in such a meeting by such means is deemed to be present at the meeting.

- (h) The reasonable expenses of the Advisory Committee shall be borne by the Partnership.

## **6.9 Ratification of Actions**

Any action taken by the General Partner on behalf of the Partnership in accordance with this Agreement is deemed to be an act of the Partnership and binds the Partnership. No Person dealing with the Partnership will be required to inquire into the authority of the General Partner to take any such action.

## **6.10 Powers of Limited Partners**

A Limited Partner may exercise all rights or powers provided to limited partners under the Limited Partnerships Act, except to the extent inconsistent with, or contrary to, this Agreement. A Limited Partner, in its capacity as a limited partner, may not:

- (a) take part in the management or control of the business or affairs of the Partnership or exercise any power in connection therewith;
- (b) transact any business for the Partnership, including executing any document which binds or purports to bind any other Partner or the Partnership or hold itself out as having the power or authority to bind any other Partner or the Partnership;
- (c) have any authority or power to act for or undertake any obligation or responsibility on behalf of any other Partner or the Partnership; or
- (d) partition or seek to partition, whether by order of any court or otherwise, any of the Partnership Assets.

## **6.11 SON Support**

SON BtM Partner will make commercially reasonable efforts to cause SON and its constituencies to act in the best interests of the Partnership and the BtM Project Assets.

## **6.12 Title to Partnership Property**

The Partnership holds legal title to the Partnership Assets. However, if the Partnership is not permitted under Applicable Law to, or if the General Partner determines that it is necessary or expedient for the Partnership not to, hold legal title to any of the Partnership Assets, legal title to such Partnership Assets may be held by the General Partner in trust for the Partnership or in any other manner as the General Partner determines.

## **6.13 Execution of Contracts**

The General Partner will, and any other Person or Persons authorized by the General Partner from time to time may, sign any contracts, documents or instruments in writing requiring the signature of the Partnership, including, without limitation, all documents and agreements necessary to establish and maintain the Partnership Account. All written contracts, documents or instruments so signed will be binding on the Partnership without any further authorization or

formality. The Partners agree that third parties will not be obligated to inquire into the power or authority of the Person or Persons signing such contracts, documents or instruments. All written contracts, documents or instruments will be signed on behalf of the Partnership as follows “**Bruce-to-Milton L.P. by its general partner Bruce-to-Milton GP Inc.**”. [NTD: Confirm names]

#### **6.14 Partnership Account**

The General Partner will open the Partnership Account and will provide the necessary details of the Partnership Account to the Partners. The General Partner will designate from time to time those Persons who are authorized to make deposits to and draw on the Partnership Account and to issue and sign cheques for and on behalf of the Partnership.

#### **6.15 Delegation of General Partner’s Authority**

The General Partner may delegate any powers or authorities granted to it under this Agreement to any of its directors, officers and/or employees or to such other Persons as it sees fit, but no such delegation will release the General Partner from any of its obligations hereunder.

#### **6.16 Voting**

For the purposes of voting under this Agreement:

- (a) at any meeting of the Partners, each Partner will be entitled to one vote in respect of each Unit held by such Partner. Every question submitted to a meeting of the Partners, except those that require a Unanimous Consent of the Partners, will be decided by a majority of the votes cast at the meeting. Votes may be cast in person or by proxy and a Person appointed by proxy need not be a Partner; and
- (b) notwithstanding the foregoing, if at any time SON BtM Partner’s Partnership Interest falls below 5%, the Partnership Interest of SON BtM Partner may not be voted and will be deemed to be nil in respect of the approval of the dissolution of the Partnership requiring the Unanimous Consent of the Partners in accordance with Section 6.17(a).

#### **6.17 Unanimous Consent of the Partners**

The following actions may only be taken by the Partnership or the General Partner after obtaining the Unanimous Consent of the Partners:

- (a) dissolving or liquidating the Partnership or approving the dissolution or liquidation of the Partnership;
- (b) waiving any default on the part of the General Partner on such terms as the Partners may determine and releasing the General Partner from any Claims with respect thereto;
- (c) the sale, exchange or other disposition of any of the undertaking, property or assets of the Partnership that would reasonably be

anticipated to have a material adverse effect on the economic benefits of the Units;

- (d) changing the name of the Partnership pursuant to Section 3.3;
- (e) changing the business of the Partnership pursuant to Section 4.2;
- (f) terminating the Partnership's transmission licence before its expiration;
- (g) to the extent not governed by or exempted from the OEB's *Affiliates Relationship Code* (or future equivalent thereof), entering into an agreement with a person that does not deal at Arm's Length with the General Partner unless such agreement is on terms no less favourable to the Partnership than under an agreement with an Arm's Length person;
- (h) amending any material term of this Agreement; and
- (i) amending, modifying, altering or repealing any action previously taken pursuant to a Unanimous Consent of the Partners.

#### **6.18 Meetings of the Partnership**

- (a) The timing and location of meetings of the Partners will be determined by the General Partner and, unless otherwise agreed by the Partners, will be held at such place in Ontario as the General Partner, or if called by another Partner in accordance with the terms hereof, as the Partner calling such meeting, designates.
- (b) The General Partner may call a meeting of the Partners at any time. The General Partner will also call a meeting upon the written request of any other Partner. Such request will specify the purpose or purposes for which such meeting is to be called and will include sufficient information to enable the Partners to make a reasoned judgment on each matter to be considered at such meeting. If the General Partner fails to call a meeting upon such a request of another Partner within ten (10) days after the giving of such request, the requesting Partner may call such meeting. Written notice of any meeting of the Partners will be given to all Partners at least fourteen (14) days prior to the meeting, accompanied by an agenda specifying the general nature of the business to be transacted at the meeting.
- (c) The notice requirements for any meeting of the Partners may be waived.
- (d) Except as hereinafter provided, a quorum at a meeting of the Partners will be one duly authorized representative of each of the Partners, present in person or by proxy. If a quorum is not present within thirty (30) minutes after the time appointed for a meeting, the meeting will be adjourned to such date, time and place as the Partners present at the meeting may determine. The Partners present at such meeting will

provide at least five (5) Business Days prior written notice of the date, time and place of the adjourned meeting to all Partners. A quorum at an adjourned meeting will consist of all of the Partners present or represented by proxy at the original meeting.

- (e) A Partner may participate in a meeting of the Partners by means of telephone or other communication facilities that permit all Persons participating in the meeting to hear each other and a Partner participating by those means is deemed to be present at that meeting.
- (f) The chair of all meetings will be chosen by the General Partner.
- (g) Each Partner may bring such appropriate advisors to meetings of the Partners as may be reasonably required.
- (h) Any matter to be voted on or resolution by the Partners may be approved or passed, without prior written notice thereof, by written consent in lieu of a meeting if signed by all of the Partners and such written consent will be as valid and effective as if it had been passed at a meeting of the Partners duly convened and held.
- (i) Minutes and proceedings of every meeting of the Partners will be recorded by the General Partner and, when signed by the chair of the meeting, will be prima facie evidence of the matters therein stated. Until the contrary is proved, every meeting in respect of which minutes have been made will be taken to have been duly held and convened and all proceedings referred to in the minutes will be deemed to have been duly passed.
- (j) A written resolution may consist of one document signed in counterpart by one or more Partners and which may be facsimile or portable document format (PDF) copies of signed originals.

## **ARTICLE 7**

### **INSURANCE**

#### **7.1 Insurance**

The General Partner shall consult with the Limited Partners in determining the kind and amount of insurance coverage required for itself and for the Partnership, including limits of insurance and deductible amounts. The General Partner shall implement and maintain an insurance program which (i) will satisfy the minimum insurance coverages reasonably required by the Limited Partners and (ii) will satisfy the minimum insurance coverages required by the Project Agreements, provided that the costs of such insurance coverage is recoverable in the Approved OEB Rates or is available in North American insurance markets on commercially reasonable terms.



## **ARTICLE 8**

### **LIABILITY AND INDEMNIFICATION**

#### **8.1 Liability of the Partners**

- (a) The General Partner has unlimited liability for the debts, liabilities and obligations of the Partnership. Except in cases of gross negligence or wilful misconduct, the General Partner will not be liable to the Limited Partners or the Partnership for a mistake or error in judgment, any act or omission believed by the General Partner in good faith to be within the scope of the authority conferred on the General Partner by this Agreement, or any loss or damage to the property or assets of the Partnership caused by circumstances beyond the control of the General Partner. If the tax ruling referred to in Section 11(a) of the Side Letter has been obtained, the liability of the General Partner to SON BtM Partner resulting from Claims arising from any breach by the General Partner of its obligations under this Agreement shall be limited to the amount SON BtM Partner would have been entitled to if the only asset of the General Partner were a 0.1% Partnership Interest in the Partnership, provided that such limitation shall not apply to Claims which SON BtM Partner would have been entitled to bring against the General Partner had the General Partner been a Limited Partner not engaged in the management of the Partnership. For greater certainty, SON LPCo will have no claim in respect of any rights, interests or payments in connection with the BtM LP Promissory Note.
- (b) Subject to the provisions of the Limited Partnerships Act and except for Claims in respect of the indemnity obligations respecting any guarantees provided by a Limited Partner in respect of the Partnership, the liability of each Limited Partner for the debts, liabilities and obligations of the Partnership is limited to the amount of such Limited Partner's Equity Contributions actually made or agreed to be made plus its share of the undistributed income of the Partnership.
- (c) Subject to the terms of any service agreements or separate guarantees or indemnities, in no event will any Partner be liable to another Partner or its Affiliates or their respective officers, directors, employees, agents, shareholders, partners or any other Person claiming through such Partner or Affiliate, for special, incidental, indirect, consequential, exemplary or punitive damages (even if any such Person has been advised of the possibility of such damage or loss) of any kind in connection with this Agreement.

#### **8.2 Limited Liability**

The General Partner shall take every reasonable action necessary to preserve the limited liability of the Limited Partners and shall not take any action which or omit to take any action the omission of which could reasonably be expected to jeopardize the limited liability of the Limited Partners.

### 8.3 Indemnification

- (a) Subject to the limitations on liability in Section 8.1(a), the General Partner agrees to indemnify the Partnership and each other Partner and its Affiliates, officers, directors and employees (the “**Indemnified Group**”) against all Losses sustained or incurred in connection with any Claims arising from any breach by the General Partner of its obligations under this Agreement.
- (b) Subject to the limitations on liability in Section 8.1(a), the General Partner will indemnify the Limited Partners in respect of any loss, liability or damage incurred or suffered by a Limited Partner by reason of the loss of its limited liability for any reason whatever other than through any action or omission by such Limited Partner.

## ARTICLE 9 EVENTS OF DEFAULT

### 9.1 Defaulting Partner

- (a) A Partner shall be a “**Defaulting Partner**” upon the occurrence of any of the following events (each, an “**Event of Default**”):
  - (i) such Partner, or, in the case of either HOI BtM Partner or the General Partner, either of them has failed to observe and perform any material obligation under this Agreement and such failure continues for more than thirty (30) days after written notice thereof is provided to such Partner by the Partnership or any other Partner;
  - (ii) such Partner has failed to pay when due an Additional Equity Contribution it has elected to make in accordance with Section 5.10 and such failure continues for more than ten (10) Business Days after written notice thereof is provided to such Partner by the Partnership; or
  - (iii) in the case of HOI BtM Partner or the General Partner, the General Partner has failed to observe and perform any material obligation under the Operations Agreement, and such failure continues for more than thirty (30) days after written notice thereof is provided to the General Partner by the Partnership or any other Partner.
- (b) If a Partner is Defaulting Partner and the event or circumstance that caused it to be a Defaulting Partner has been cured or ceased to exist, such Partner shall thereupon cease to be a Defaulting Partner.

## 9.2 Notice of Default

A Partner, or its legal representative, will give notice to the other Partners of any event that has occurred with respect to such Partner which has made, or which would with the passage of time make, it a Defaulting Partner.

## 9.3 Distributions to a Defaulting Partner

- (a) If an Event of Default has not been remedied within the cure period provided in Section 9.1(a), the General Partner shall, in good faith and as soon as reasonably practicable, determine the Losses to the Partnership resulting from such Event of Default (the “**Default Amount**”). The General Partner shall notify each of the Partners of the Default Amount so determined (the “**Default Amount Notice**”). The Defaulting Partner shall wire or otherwise deposit the Default Amount to the Partnership Account within thirty (30) days of receipt of the Default Amount Notice from the General Partner. If the Defaulting Partner fails to do so, such Defaulting Partner shall cease to be entitled to any distributions or Advances pursuant to Section 5.13 until the aggregate amount of the distributions or Advances that would have otherwise been paid by the Partnership to such Defaulting Partner equals such Losses, at which time the Event of Default shall have been cured and such Defaulting Partner shall no longer be a Defaulting Partner hereunder.
- (b) If a Limited Partner in good faith disputes the General Partner’s calculation of the Default Amount or whether it is a Defaulting Partner, it will so advise the General Partner and each of the other Partners in writing within thirty (30) days of receipt of the Default Amount Notice from the General Partner. Any Dispute with respect to the calculation of the Default Amount will be resolved in accordance with the provisions set forth in Article 13. Within [**five (5)**] Business Days after all dispute resolution mechanisms in Article 13 have been exhausted, the Limited Partner or the Partnership, as the case may be, shall pay to the other the amount owing as a result of such resolution.

## 9.4 HOI BtM Partner Buy-Out Option

- (a) If:
  - (i) SON BtM Partner becomes a Defaulting Partner for any one or more reasons, and for so long as SON BtM Partner is a Defaulting Partner, or
  - (ii) SON BtM Partner or any of its Affiliates fails to act in the best interests of the Partnership or the BtM Project Assets using commercially reasonable efforts, and such failure continues for more than thirty (30) days after written notice thereof is provided to SON BtM Partner by the Partnership or any other Partner,

which in either case causes the Partnership to default on a payment obligation under the BtM LP Promissory Note, either the General Partner or HOI BtM Partner, as determined by the General Partner (such Partner, the “**Buying Partner**”), will have the option, exercisable in the Buying Partner’s sole and absolute discretion after all Dispute resolution mechanisms in Article 13 have been exhausted, to require SON BtM Partner to transfer its Units to the Buying Partner upon payment to SON BtM Partner of the Termination Payment (the “**Buy-Out Option**”). The Buying Partner may exercise the Buy-Out Option by way of prior written notice to SON BtM Partner (the “**Buy-Out Notice**”). The Buy-Out Notice will specify the date of the exercise of the Buy-Out Option.

- (b) The “**Termination Payment**” will be equal to the Fair Market Value of SON BtM Partner’s Units as of the date of the Buy Out Notice, determined in accordance with the principles of valuation set forth in Schedule 9.4.

## 9.5 Transfer

- (a) If the Buying Partner exercises the option to purchase SON BtM Partner’s Units pursuant to Section 9.4(a), SON BtM Partner will transfer all of its Units to the Buying Partner in consideration of the payment of the Termination Payment as required by Section 9.4 to SON BtM Partner in accordance with this Section 9.5.
- (b) To the extent there are any amounts owing from SON BtM Partner to the Buying Partner, the amount so owing by SON BtM Partner will be set-off against the Termination Payment (such Termination Payment, as adjusted, the “**Closing Payment**”).
- (c) Upon determining the Closing Payment, SON BtM Partner and the Buying Partner will, within sixty (60) days of such determination, execute and deliver such documents and instruments as the Buying Partner may request, acting reasonably, in order to complete the transfer of SON BtM Partner’s Units to the Buying Partner and to discharge and release any security against SON BtM Partner’s Units and the Buying Partner will pay the Closing Payment. If SON BtM Partner fails to execute and deliver any document or instrument required to be executed and delivered by it in connection with the transfer within the sixty (60) days, the Buying Partner is hereby granted an irrevocable power of attorney with full power of substitution to execute and deliver on behalf of SON BtM Partner all such documents and instruments which may be required in order to complete the transfer of SON BtM Partner’s Units to the Buying Partner.
- (d) Upon the completion of the purchase and sale, SON BtM Partner will cease to be a Partner and will have no further rights or liabilities with respect to the Partnership or under or in connection with the BtM Project Assets, except that it agrees to be bound by the provisions of Section 14.1 for a period of five years from the completion of such

purchase and sale and any indemnities of SON BtM Partner (or its Affiliates) will continue as provided for in this Agreement.

- (e) Notwithstanding the acquisition by the Buying Partner of SON BtM Partner's Units following the exercise of the Buy-Out Option, SON BtM Partner's obligations, if any, pursuant to the Master Implementation Agreement will continue in full force and effect.

## **ARTICLE 10 RECORDS AND AUDIT**

### **10.1 Partner Records**

Each Partner will keep accurate records of amounts owing to, payable by, received by and paid by it in respect of the Partnership.

### **10.2 Partnership Records**

- (a) The General Partner will maintain, or caused to be maintained by a third party or through a service agreement with a Partner, accurate books and records relating to the Partnership and its business, including relating to all relevant permits, studies and reports and of all amounts owing to, payable by, received by and paid in connection with the Partnership (the "**Partnership Records**").
- (b) Where applicable, Partnership Records will be prepared in accordance with GAAP and with those generally accepted accounting principles and specific accounting policies being used by the Partners and will be in such form and detail as will enable the Partners to obtain the information necessary for Partners to prepare and maintain accounting and other records meeting their reasonable requirements.
- (c) Original Partnership Records will be kept at the registered office of the General Partner, unless otherwise agreed by the Partners.

### **10.3 Retention of Records**

Records required to be kept pursuant to Sections 10.1 or 10.2, which are required to be maintained for a stipulated period of time by any Applicable Laws, will be maintained for the period stipulated in such Applicable Laws; otherwise such records will be maintained for a period of seven (7) years after the end of the year to which such record applies or, in the case of records to be maintained pursuant to Section 10.2, such longer period as the General Partner may determine.

### **10.4 Request for Partnership Records**

At the request of a Partner made at any time prior to the expiry of the periods referred to in Section 10.3, the General Partner will provide that Partner with copies of any such Partnership Records maintained pursuant to Section 10.2, provided that if such documents or records are necessary for any judicial or regulatory proceeding, a Partner may have the use of originals.

## **10.5 Audit of Partnership Records**

- (a) During the period of time in which records are to be maintained by the General Partner in accordance with Section 10.3, each Limited Partner will have the right, at its expense, on reasonable prior notice to the General Partner and during normal business hours, to audit, examine and make copies of the Partnership Records and any other records maintained by the General Partner which in any way relate to the Partnership or the BtM Project Assets, including records related to the operation of the BtM Project Assets pursuant to the Operations Agreement. A Limited Partner shall make reasonable efforts to conduct any such audit or examination so as to minimize any inconvenience to the General Partner.
- (b) The costs and expenses incurred in any such inspection, examination or audit made by a Limited Partner shall be for the account of such Limited Partner. The Limited Partner shall use all reasonable efforts to conclude such audit within ninety (90) days after delivery of the initial notice of audit. This right to audit shall continue for a period of sixty (60) Months after the end of the Fiscal Year in which the particular items to be audited occurred.
- (c) Any claims of discrepancies in respect of the matters audited shall be made in writing by a Limited Partner to the General Partner within three (3) Months of its completion of such audit. The General Partner shall notify the auditors of the Partnership and respond in writing to all claims of discrepancies within three (3) months of its receipt of such claim and address such claims of discrepancies in a manner satisfactory to such Limited Partner.

## **10.6 Auditors of the Partnership**

The General Partner will appoint the initial auditors of the Partnership. The General Partner may at its discretion, tender for the auditors, and on this basis may replace the initial auditors at any time.

## **10.7 Financial Statements**

- (a) Within 75 days following the end of each Fiscal Year or within 75 days of dissolution of the Partnership, the General Partner shall cause to be prepared and delivered to each Limited Partner, audited financial statements of the Partnership for such Fiscal Year, including a balance sheet as at the end of the Fiscal Year, an income statement and a statement of cash flows for such Fiscal Year and a statement of each Partner's Equity Contributions and Capital Account as at the end of the Fiscal Year together with comparative financial statements for the prior Fiscal Year, in each case prepared in accordance with GAAP and with those generally accepted accounting principles and specific accounting policies being used by the Partners, together with a report thereon of the auditors of the Partnership, and all such information as may be necessary to enable the Partners to file all required Canadian federal and provincial income tax returns with respect to the income of the Partnership.

- (b) Within ten (10) days after the end of each calendar quarter and of each Fiscal Year, the General Partner shall cause to be prepared and delivered to each Limited Partner, such additional financial reports and information as may be necessary to enable each Limited Partner to prepare its financial statements and calculate its tax provision for such period.

## **ARTICLE 11 TRANSFERS**

### **11.1 Restrictions on Transfer**

- (a) Except as expressly provided in this Agreement, no Partner shall, directly or indirectly, Transfer any Units held by it to any Person or undergo a Change of Control.
- (b) Notwithstanding anything else contained in this Agreement, every Transfer of Units held by a Partner, in addition to the other requirements of this Agreement, shall be subject to the condition that the proposed transferee, if not already bound by the terms of this Agreement, shall first agree, in writing, to become a party to and be bound by the terms of this Agreement, by executing a form of counterpart and acknowledgement acceptable to the Corporation and substantially in the form attached as Schedule 11.1.

### **11.2 Permitted Transferees**

- (a) HOI BtM Partner or the General Partner, or any other direct or indirect wholly owned subsidiary of Hydro One that becomes a Partner, may Transfer all or any of its Units to a third party, provided that immediately after the Transfer, Hydro One, directly or indirectly, holds at least 50% of the total number of Units outstanding and provided that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2.
- (b) HOI BtM Partner or the General Partner may Transfer all or any of its Units to an Affiliate and provided that the General Partner may not Transfer any of its Units if such Transfer would result in the General Partner holding a Partnership Interest of less than 0.10%, and provided further that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2. No such Transfer shall be effective until the transferee executes and delivers to the Partnership a counterpart to this Agreement in compliance with Section 11.1(b).
- (c) SON BtM Partner may Transfer all or any of its Units to an Affiliate or a wholly-owned subsidiary of SON BtM Partner and provided that any such Transfer shall be accompanied by an assignment in the form attached hereto as Schedule 11.2. No such Transfer shall be effective

until the transferee executes and delivers to the Partnership a counterpart to this Agreement in compliance with Section 11.1(b).

- (d) In the event of any Transfer of Units by the General Partner pursuant to Section 11.2(a) or Section 11.2(b), such transferee shall hold such Units only as a Limited Partner and the rights and obligations of the General Partner under this Agreement shall not be transferred to the transferee, but the transferee shall be entitled to the rights and subject to the obligations under this Agreement of a Limited Partner holding the number of Units transferred to the transferee by the General Partner.

### 11.3 Pledge of Units

Notwithstanding any other provision of this Agreement,

- (a) SON BtM Partner shall be permitted to Transfer the Units held by it as security in connection with any financing of any Equity Contribution by SON BtM Partner, provided the terms of such Transfer, including the identity of the Transferee, are acceptable to HOI BtM Partner, acting reasonably, and
- (b) HOI BtM Partner shall be permitted to Transfer the Units held by it as security in connection with any financing in respect of the BtM Project Assets.

### 11.4 Right of First Offer

- (a) Except in respect of a Transfer pursuant to Section 11.2, any Limited Partner (the “**ROFO Offeror**”) who wishes to sell all, but not less than all, of its Units shall first offer to sell such Units to the other Limited Partners. The ROFO Offeror shall deliver a notice in writing of the offer (the “**ROFO Notice**”) to each of the other Limited Partners (the “**ROFO Offerees**”) that shall set out the number of Units then held by the ROFO Offeror (the “**ROFO Offeror’s Units**”) and in the ROFO Notice the ROFO Offeror shall irrevocably offer to sell the ROFO Offeror’s Units, for cash, to the ROFO Offerees at the price (the “**ROFO Price**”) and on terms set forth in the ROFO Notice.
- (b) Upon the ROFO Notice being given, the ROFO Offerees shall have the right to purchase all, but not less than all, of the ROFO Offeror’s Units, pro rata based upon the number of Units beneficially owned by the ROFO Offerees as of the date the ROFO Notice is given (or in such other proportion as the ROFO Offerees may agree in writing).
- (c) Within thirty (30) days after the ROFO Notice is deemed (under Section 17.1) to have been received by the ROFO Offerees (the “**ROFO Offer Period**”) each of the ROFO Offerees may give to the ROFO Offeror a notice in writing (a “**ROFO Acceptance Notice**”) accepting the offer contained in the ROFO Notice and specifying the maximum number of



the ROFO Offeror's Units it wishes to acquire (which number may be greater or less than its pro rata entitlement). If any ROFO Offeree does not give a ROFO Acceptance Notice or specifies in its ROFO Acceptance Notice a number of Units less than its pro rata entitlement, the resulting unaccepted ROFO Offeror's Units shall be deemed to have been offered by the ROFO Offeror to such of the ROFO Offerees who specified in their ROFO Acceptance Notices a wish to acquire a number of the ROFO Offeror's Units greater than their pro rata entitlement, and each such ROFO Offeree shall be, subject to the maximum number of the ROFO Offeror's Units specified in its ROFO Acceptance Notice, entitled to acquire its pro rata entitlement of the unaccepted ROFO Offeror's Units based upon the number of Units beneficially owned (as of the date of the ROFO Notice) by such ROFO Offerees, as between themselves (or in such other proportion as such ROFO Offerees may agree in writing). If, pursuant to the foregoing process, one or more ROFO Offerees agree to purchase, in aggregate, all of the ROFO Offeror's Units, the sale of the ROFO Offeror's Units to such ROFO Offerees shall be completed within twenty (20) Business Days of the expiry of the Offer Period.

- (d) If the ROFO Offeror does not receive ROFO Acceptance Notices from the ROFO Offerees, or any of them, within the ROFO Offer Period confirming their agreement to purchase all of the ROFO Offeror's Units, the rights of the ROFO Offerees to purchase any of the ROFO Offeror's Units shall cease at the end of the ROFO Offer Period and, subject to Section 11.5, the ROFO Offeror may sell the ROFO Offeror's Units to any bona fide Arm's Length third party or parties within five (5) months after the expiry of the ROFO Offer Period, for a price and on other terms and conditions in all material respects taken as a whole no more favourable to such Persons than those set out in the ROFO Notice. If the ROFO Offeror's Units are not sold within such five (5) month period on such terms, the provisions of this Section 11.4 shall again apply to any proposed Transfer of Units, and so on from time to time. For greater clarity, if the ROFO Offeror receives ROFO Acceptance Notices from the ROFO Offerees, or any of them, within the ROFO Offer Period agreeing to purchase less than all of the ROFO Offeror's Units, the rights of the ROFO Offerees to purchase, in aggregate, the ROFO Offeror's Units so accepted shall cease at the end of the ROFO Offer Period and, in accordance with this Section 11.4(d) and subject to Section 11.5, the ROFO Offeror may sell all of the ROFO Offeror's Units to any bona fide Arm's Length third party or parties.
- (e) All ROFO Acceptance Notices or other notices under this Section 11.4 shall be given concurrently to all Limited Partners and to the Partnership.

- (f) To permit the practical implementation of this Section 11.4, no Units may be sold by any Limited Partner as part of or incidental to the sale of any other assets or any other transaction.

## 11.5 Right of First Refusal

- (a) If a Limited Partner (the “**Selling Partner**”) receives from a third party (the “**Third Party**”) that is acting as principal and dealing at Arm’s Length with the Selling Partner, a bona fide written offer (the “**Third Party Offer**”) to purchase any of the Units then held by the Selling Partner (the “**Selling Partner’s Units**”) (whether such Third Party Offer was solicited following a ROFO Notice that the ROFO Offeree elected not to accept or whether such Third Party Offer was unsolicited), the Selling Partner shall only accept such Third Party Offer subject to compliance with the provisions of this Section 11.5. Upon such conditional acceptance, the Selling Partner shall deliver a notice in writing (the “**ROFR Notice**”) to each of the other Limited Partners (the “**Non-Selling Partners**”) irrevocably offering to sell to them the Selling Partner’s Units at the same price and in all other material respects on substantially the same terms and conditions as provided in the Third Party Offer. The Selling Partner shall deliver, with the ROFR Notice, a true copy of the Third Party Offer and, if the Third Party is other than an individual, the names of the principal shareholders or holders of interests in such Third Party (if available), officers and directors (or the equivalent) of the Third Party and any other information with respect to the financial capacity of the Third Party in the possession of the Selling Partner. The offer contained in the ROFR Notice shall be irrevocable except with the consent of the Non-Selling Partners and shall be open for acceptance for a period of thirty (30) days after the date upon which the ROFR Notice is deemed (under Section 17.1) to have been received by the Non-Selling Partners (the “**ROFR Acceptance Period**”).
- (b) Upon the ROFR Notice being given, the Non-Selling Partners shall have the right to purchase all, but not less than all, of the Selling Partner’s Units, pro rata based upon the number of Units beneficially owned by the Non-Selling Partners as of the date the ROFR Notice (or in such other proportion as the Non-Selling Partners may agree in writing).
- (c) Within the ROFR Acceptance Period each of the Non-Selling Partners may give to the Selling Partner a notice in writing (a “**ROFR Acceptance Notice**”) accepting the offer contained in the ROFR Notice and specifying the maximum number of the Selling Partner’s Units it wishes to acquire (which number may be greater or less than its pro rata entitlement). If any of the Non-Selling Partners does not give a ROFR Acceptance Notice or specifies in its ROFR Acceptance Notice a number of Units less than its pro rata entitlement, the resulting unaccepted Selling Partner’s Units shall be deemed to have been offered by the Selling Partner to such of the Non-Selling Partners who specified in their ROFR Acceptance Notices a wish to acquire a number of the

Selling Partner's Units greater than their pro rata entitlement, and each such Non-Selling Partner shall be, subject to the maximum number of the Selling Partner's Units specified in its ROFR Acceptance Notice, entitled to acquire its pro rata entitlement of the unaccepted Selling Partner's Units based upon the number of Units beneficially owned (as of the date of the ROFR Notice) by such Non-Selling Partners, as between themselves (or in such other proportion as such Non-Selling Partners may agree in writing). If the Non-Selling Partners, or any of them, give ROFR Acceptance Notices within the ROFR Acceptance Period confirming their agreement to purchase, in aggregate, all of the Selling Partner's Units, the sale of the Selling Partner's Units to such Non-Selling Partners shall be completed within twenty (20) Business Days of the expiry of the ROFR Acceptance Period.

- (d) If the Selling Partner does not receive ROFR Acceptance Notices from the Non-Selling Partners, or any of them, within the ROFR Acceptance Period confirming their agreement to purchase all of the Selling Partner's Units, the rights of the Non-Selling Partners to purchase any of the Selling Partner's Units shall cease at the end of the ROFR Acceptance Period and the Selling Partner may sell the Selling Partner's Units to the Third Party at the price and upon the terms and conditions specified in the Third Party Offer.
- (e) Any transfer to the Third Party pursuant to this Section 11.5 must be completed within 150 days following the expiry of the ROFR Acceptance Period, failing which the provisions of this Section 11.5 shall again apply to any proposed Transfer of Units, and so on from time to time.
- (f) All ROFR Acceptance Notices or other notices under this Section 11.5 shall be given concurrently to all Limited Partners and to the General Partner.
- (g) To permit the practical implementation of this Section 11.5, no Units may be sold by any Limited Partner as part of or incidental to the sale of any other assets or any other transaction.

## **11.6 Permitted Hydro One Change of Control**

- (a) Hydro One shall be entitled to sell, transfer or otherwise dispose of its interest in HOI BtM Partner or any other Affiliate of Hydro One which becomes a Limited Partner, provided that immediately after such sale, transfer or disposition, Hydro One or an Affiliate of Hydro One, directly or indirectly, continues to hold at least 50% of the total number of Units outstanding and Hydro One provides notice of the Change of Control to SON BtM Partner as soon as reasonably possible after the occurrence of the Change of Control.

- (b) Hydro One shall be entitled to sell, transfer or otherwise dispose of its interest in the General Partner to an Affiliate of Hydro One.
- (c) Notwithstanding any other provision of this Agreement, Hydro One or HONI shall be entitled to undergo a Change of Control, provided that HOI BtM Partner shall notify SON BtM Partner of any such Change of Control as soon as reasonably possible after the occurrence of the Change of Control.

#### **11.7 General Partner Co-operation**

The General Partner will co-operate in all reasonable ways to effect and facilitate a Transfer permitted pursuant to this Article 11, provided that such co-operation will be at the sole expense of the Partner transferring its interest (which expense may include reasonable costs of the General Partner and the Partnership relating to such permitted Transfer).

#### **11.8 Liability After Disposition**

Upon completion of any Transfer permitted pursuant to the terms of this Article 11, the transferee shall be automatically admitted as a Partner in substitution for, or in the case of a partial Transfer, in addition to, the transferor, upon execution of a counterpart of this Agreement and compliance with the terms and conditions of this Article 11. No Transfer shall relieve the transferor of liability under this Agreement, the Limited Partnerships Act or otherwise in respect of the Transferred Partnership Interest for matters arising or events occurring prior to the completion of, or in respect of, the Transfer of the Partnership Interest. Upon the Transfer of a Partner's entire Partnership Interest (except a Transfer by mortgage, lien, pledge or other encumbrance but not excepting a Transfer resulting from a default in connection with such mortgage, lien, pledge or other encumbrance), such Partner shall have no further interest in the Partnership or rights or obligations under this Agreement (other than those expressed as surviving such Transfer) except its rights and obligations under Section 14.1 which shall survive such Transfer.

#### **11.9 Effect of Prohibited Transfers**

Any Transfer by a Partner in violation of the terms of this Agreement shall be void and shall not be recognized by the Partnership; provided, however, that nothing herein shall be deemed to limit any right or remedy that the Partnership or any other Partner may have against such Partner.

#### **11.10 Change in Composition of the Partnership**

The Partners hereby expressly agree that the bankruptcy or insolvency of any Partner, a change in the ownership of Units, the addition or withdrawal of Partners to or from the Partnership as permitted by this Agreement, or any amendment to this Agreement will not dissolve or otherwise alter the legal existence of the Partnership.

#### **11.11 Survival of Other Agreements**

Notwithstanding anything to the contrary contained in this Agreement, a Partner's rights, obligations and liabilities with respect to the other Partners under or in connection with the

Project Agreements, other than this Agreement, including obligations to provide or repay and monies, will continue and remain unaffected by such Partner ceasing to be a Party to this Agreement or as a result of the termination or expiration of this Agreement and will survive any winding-up, liquidation, termination or dissolution of the Partnership.

## **ARTICLE 12 DISSOLUTION**

### **12.1 No Withdrawal Rights**

Except as otherwise specifically provided in this Agreement, no Partner may withdraw from the Partnership or have the right to require dissolution or winding up of the Partnership's affairs or the distribution of the Partnership's assets, without the prior written consent of the other Partners.

### **12.2 Transfer of Partnership Interest at General Partner's Election**

Upon the occurrence of any of the following events in respect of a Limited Partner, the Units of such Limited Partner shall, at the option of the General Partner exercised on notice to such Limited Partner, be deemed to have been Transferred to the Partnership by way of redemption by the Partnership and cancellation of such Units at an aggregate price equal to the Fair Market Value of such Units immediately prior to the occurrence of such event and on such other terms and conditions as may be approved by the General Partner with effect immediately prior to the occurrence of such event:

- (a) the entry by a court of competent jurisdiction of a decree or order for relief, unstayed on final appeal or otherwise, in respect of such Partner in an involuntary case under bankruptcy laws, or any such order adjudicating such Partner as bankrupt or insolvent under any other applicable bankruptcy, insolvency or liquidation law;
- (b) the entry by a court of competent jurisdiction of a decree or order appointing a receiver, custodian, assignee, trustee, liquidator, sequestrator or other similar official of such Partner or of any substantial part of the property of such Partner, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed on final appeal or otherwise, or the commencement by such Partner of a voluntary case under the bankruptcy laws, or under any other insolvency law, seeking reorganization, liquidation, arrangement, adjustment or composition of such Partner under such laws;
- (c) the making by such Partner of an assignment for the benefit of creditors; or the failure of such Partner generally to pay its debts as they become due; or the consenting by such Partner to the appointment of or taking possession by a receiver, custodian, assignee, trustee, liquidator, sequestrator or other similar official of it or of any substantial part of its property, or the taking of corporate action by such Partner in furtherance of any such action;

- (d) the filing by a Partner for dissolution under the laws of the jurisdiction of its incorporation or formation, other than the filing by HOI BtM Partner for voluntary dissolution under the laws of the jurisdiction of its incorporation, or the entering of a final order dissolving that Partner by any court of competent jurisdiction; or
- (e) any event which shall make it unlawful for that Partner to remain a Partner of the Partnership.

The occurrence of any of the foregoing events shall not cause a dissolution of the Partnership and the Partnership shall continue, unless there is only one (1) Partner remaining in the Partnership, whereupon the Partnership shall automatically dissolve by operation of law.

Upon such redemption, the Units of such Limited Partner shall be cancelled, the Partnership Interest of such Limited Partner shall be reduced to zero and the respective Partnership Interests of each of the other Limited Partners shall be increased in the proportion their respective Partnership Interest bears to the aggregate of the remaining Partnership Interests immediately prior to the applicable event.

The Partners acknowledge and agree that under the circumstances specified in this Section 12.2, the Fair Market Value of such Units is fair and reasonable consideration and each Partner hereby waives, for itself, its successors and permitted assigns, including receivables, trustees in bankruptcy or other Persons appointed on its behalf in such circumstances, to the fullest extent permitted by law, any and all right to claim that such redemption is unenforceable or that such consideration is unfair or unreasonable.

### **12.3 Events of Dissolution**

The Partners shall cause the Partnership to be wound up and dissolved forthwith upon the happening of any of the following events:

- (a) the completion of the Decommissioning Work;
- (b) the sale of all or substantially all of the assets of the Partnership or the abandonment and reclamation of all of the Partnership's assets;
- (c) any event which shall make it unlawful for the Partnership Business to be carried on;
- (d) any event which, under Applicable Laws, requires or results in the dissolution or winding up of the Partnership; or
- (e) if the Partners agree to do so by Unanimous Consent of the Partners.

### **12.4 Winding Up And Dissolution**

- (a) On the happening of any event requiring the dissolution of the Partnership as provided in this Agreement, the General Partner shall exercise its powers under this Agreement for the purpose of winding up the business of the Partnership, liquidating the Partnership's assets in an

orderly manner, paying the debts, liabilities and expenses of the Partnership and satisfying its other obligations, distributing any cash or other assets of the Partnership to the Partners in accordance with Section 12.4(b), filing all notices of dissolution prescribed by the Limited Partnerships Act, and filing all elections, determinations or designations required under the Income Tax Act or the Electricity Act which may be necessary or desirable. The Partnership shall not engage in any new business during the period of such winding up and dissolution.

- (b) Upon the dissolution of the Partnership, the proceeds from the liquidation of the Partnership's assets will be distributed, after payment of all of the debts, liabilities, obligations and expenses of the Partnership, to the Partners in proportion to the number of Units held.
- (c) No winding up, liquidation, termination or dissolution of the Partnership or of the business of the Partnership shall relieve a Partner from any obligation accruing or accrued to the date of such winding up, liquidation, termination or dissolution.
- (d) Notwithstanding the foregoing and any other provision of this Agreement, if the Partners agree, the Partnership may be dissolved in a manner to comply with the provisions of Subsections 85(3), 98(3) or 98(5) of the Income Tax Act or in such other tax-efficient manner as the Partners may agree.

## **12.5 Effect of Addition or Withdrawal of Partners on Dissolution**

The Partners hereby expressly agree that the addition or withdrawal of a Partner hereunder shall not cause a dissolution of the Partnership unless there is only one (1) Partner remaining in the Partnership, whereupon the Partnership shall automatically dissolve by operation of law.

## **ARTICLE 13 DISPUTE RESOLUTION**

### **13.1 Dispute Resolution**

The Parties will work co-operatively to resolve any Dispute. Any Dispute which has not been resolved by the Parties will be resolved in accordance with the provisions of this Article 13.

### **13.2 Negotiation**

Following receipt of a written request for a meeting, senior representatives of each Party will meet to attempt to resolve such Dispute. Each Party's senior representative will have sufficient authority to bind the Party they represent.

### **13.3 Mediation**

If the senior representatives are unable to resolve such Dispute within fifteen (15) Business Days from the date the first written request for a meeting was received, the Parties may thereafter invoke the then existing non-binding mediation procedure of the ADR Institute of Canada, Inc.

or its successor (“**ADRIC**”), provided that if no ADRIC mediation procedure is in existence at the time, the most recent mediation procedure of the Canadian Foundation for Dispute Resolution or its successor will be used in the place thereof. The mediator will be chosen by agreement of the Parties.

### **13.4 Arbitration**

A Party may refer any Dispute to arbitration before a single arbitrator. Insofar as they do not conflict with this Section 13.4, the Rules for Procedure for Commercial Arbitration of the Arbitration and Mediation Institute of Canada Inc./International Chamber of Commerce Rules of Arbitration in effect at the date of commencement of any arbitration held under this Agreement will apply to the arbitration. No Party may appeal the decision of the arbitrator in any manner whatsoever, except as permitted by the *Arbitration Act, 1991* (Ontario). A Party may enter any judgment upon any award rendered by the arbitrator in any court having jurisdiction. The arbitration will be conducted in English under the *Arbitration Act, 1991* (Ontario) and will take place in either the City of Toronto or such other place as the Parties may agree and at such time and place as the arbitrator may fix.

### **13.5 Dispute Regarding Transfer of Units**

Notwithstanding any other provision of this Agreement, SON BtM Partner will have the right to have any Dispute as to whether it is required to transfer its Units to HOI BtM Partner pursuant to Section 5.10(g) or Section 9.4 adjudicated by a court of competent jurisdiction.

## **ARTICLE 14 CONFIDENTIALITY**

### **14.1 Confidentiality**

Each of the Parties agrees that it will maintain as confidential all data and information relating to the subject matter hereof, the Partnership and the BtM Project Assets, except and to the extent that:

- (a) such data and information is otherwise in the public domain;
- (b) such data and information is required to be disclosed to Affiliates, rating agencies, advisors or potential lenders (including their agents or trustees) or potential direct or indirect purchasers or transferees of a Partner’s Units and, in the case of HOI BtM Partner, including the Province of Ontario, its employees, representatives, directors, advisors or agents;
- (c) such data and information is required to be disclosed to potential transferees and their respective advisors, rating agencies, potential lenders and Affiliates and each of their respective employees, representatives, directors, advisors or agents; or
- (d) a Party is legally compelled to disclose such data and information to a court or regulatory authority in the proper exercise of its jurisdiction.



Each of the Parties agrees that it will make all reasonable efforts to limit internal disclosure of such data and information to only those of their employees, representatives, directors, officers or agents who will need to have access to the same to fulfill the responsibilities and obligations of the Party under this Agreement or other Project Agreements. If a Party discloses any data or information pursuant to an exception set out in this Section 14.1, it agrees to use commercially reasonable efforts to require the recipient to: keep such information confidential; prevent any further disclosure of such information; abide by the obligation of confidentiality hereunder; and not use any of such confidential data and information in a manner that could be the detrimental to the other Parties or the Partnership.

For greater certainty, the confidentiality obligations pursuant to this Section 14.1 do not apply to the disclosure of the terms of this Agreement and shall not prevent SON BtM Partner from periodically reporting to members of SON on the status of its investment in the Partnership provided such reporting does not include commercially sensitive details relating to the operation of the Line.

Notwithstanding the foregoing, the Parties acknowledge that HOI BtM Partner is subject to the *Freedom of Information and Protection of Privacy Act* (Ontario) (“**FIPPA**”) and the General Partners and HOI BtM Partner’s confidentiality covenants are expressly subject to any and all obligations and requirements that may exist or may in the future arise under FIPPA.

This Section 14.1 will survive the termination of this Agreement for a period of two (2) years thereafter.

## **ARTICLE 15 PRESS RELEASES**

### **15.1 Press Releases**

Press releases and other public announcements in respect of this Agreement, the Partnership or the BtM Project Assets, excepting releases of information required by Applicable Laws or the rules of any stock exchange to which a Party or an Affiliate may be subject, will be made only with the prior written approval of each other Party, such approval not to be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, if a press release or other public announcement is to be made by a Party in order to comply with any Applicable Laws, where possible the other Parties will be given prior notice of such press release and a reasonable opportunity to review and comment thereon.

## **ARTICLE 16 TAXES**

### **16.1 Tax Information and Returns**

The General Partner will send to each Person who was a Partner at any time in a particular Fiscal Year of the Partnership within ninety (90) days of the end of the Fiscal Year all Partnership information relating to such Fiscal Year which is necessary for such Partner or former Partner to prepare its tax or information returns. The General Partner will file, on behalf of the other present and former Partners, any information and tax returns required to be filed by the

Partnership under the Income Tax Act and any other applicable Canadian tax laws, statutes or regulations in respect of the Partnership's activities in the prescribed forms and on a timely basis.

## **16.2 Tax Elections**

The General Partner will have the authority to act, and will act with due diligence, for the Partnership for the purpose of making or executing any agreement, designation or election on behalf of the Partners or the Partnership pursuant to the Income Tax Act or any other relevant taxing legislation in Canada, and each Partner agrees to act reasonably and co-operatively with the other Partners for the purpose of making any tax elections which are required to be made jointly by all of the Partners.

## **16.3 Partner Responsible for Own Income Taxes**

Except as provided in this Article 16, each Partner will be solely responsible for the payment of the Income Taxes imposed on it or payable by it in connection with the Partnership. Without limiting the foregoing, the Partnership, HOI BtM Partner and the General Partner will have no liability to SON BtM Partner in the event that SON BtM Partner or its successors or assigns are found to be taxable. Any Income Taxes which may be levied by any Governmental Authority on a Partner will not be considered to be Partnership obligations.

## **16.4 GST/HST**

The General Partner will pay all GST/HST on behalf of the Partnership, charge, collect and remit GST/HST and make and file all elections and all forms, documents and tax returns and take all other steps required to administer taxes payable under the *Excise Tax Act* (Canada) on behalf of the Partnership.

# **ARTICLE 17 NOTICES**

## **17.1 Notices**

Unless otherwise provided in this Agreement, every notice required or permitted under this Agreement must be in writing and may be delivered in person, by courier or by fax to the applicable Party, as follows:

- (a) if to HOI BtM Partner,

c/o Hydro One Inc.  
483 Bay Street  
15<sup>th</sup> Floor, North Tower  
Toronto, ON M5G 2P5

Attention: General Counsel

Fax: (416) 345-6056

- (b) if to SON BtM Partner,

c/o Saugeen Ojibway Nation  
[insert address for courier service]

Attention: ●

Fax: ●

(c) if to the General Partner,

c/o Hydro One Networks Inc.  
483 Bay Street  
15th Floor, North Tower  
Toronto, ON M5G 2P5

Attention: ●

Fax: ●

or to any other address, fax number or individual that a Party designates. Any notice under this Agreement, if delivered personally or by courier, will be deemed to have been given when actually received, if delivered by fax before 3:00 p.m. on a Business Day, will be deemed to have been delivered on that Business Day and if delivered by fax after 3:00 p.m. on a Business Day or on a day which is not a Business Day, will be deemed to be delivered on the next Business Day.

## **ARTICLE 18 MISCELLANEOUS**

### **18.1 Amendment**

Except as expressly provided in this Agreement, no amendment, supplement, restatement or termination of this Agreement in whole or in part is binding unless it is in writing and signed by each Party.

### **18.2 Waiver**

No waiver of any term of this Agreement is binding unless it is in writing and signed by all the Parties entitled to grant the waiver. No failure to exercise, and no delay in exercising, any right or remedy under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any term of this Agreement will be deemed to be a waiver of any subsequent breach of that term.

### **18.3 Severability**

If any term of this Agreement is or becomes illegal, invalid or unenforceable, the illegality, invalidity or unenforceability of that term will not affect the legality, validity or enforceability of the remaining terms of this Agreement.

#### **18.4 Entire Agreement**

This Agreement, the Master Implementation Agreement and all documents contemplated by or delivered in connection with this Agreement, constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or verbal. This Agreement replaces and supersedes the Initial Partnership Agreement.

#### **18.5 Governing Law**

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in Ontario. Each of the Parties irrevocably submits to the non-exclusive jurisdiction of the courts of Ontario.

#### **18.6 Time of Essence**

For every term of this Agreement, time is of the essence.

#### **18.7 Enurement**

This Agreement will enure to the benefit of and be binding on the Parties and their respective successors and permitted assigns.

#### **18.8 Further Assurances**

Each Party will from time to time, and promptly upon request, sign and deliver all further documents and take all further action reasonably necessary or appropriate to give effect to the terms of this Agreement.

#### **18.9 Execution in Counterparts**

This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be signed and delivered in any number of counterparts, each of which when signed and delivered is an original, but all of which taken together constitute one and the same instrument. This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be delivered by means of facsimile or via e-mail in portable document format (PDF).

The Parties have duly executed this Agreement.

**[SON BtM Partner]**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**[HOI BtM Partner]**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**[GENERAL PARTNER]**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**THIS IS SCHEDULE “4.3”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [Bruce-to-Milton GP Inc.].**

**OPERATIONS AGREEMENT TERMS**

**THIS AGREEMENT FOR OPERATIONS SERVICES AND MANAGEMENT SERVICES** effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013

BETWEEN:

Hydro One Networks Inc. (“Hydro One Networks”)

- and –

**[Bruce-to-Milton GPco (“GPco”)]**

- and -

Bruce-to-Milton LP (“BM LP”) by its general partner **[Bruce-to-Milton GPco]**

WHEREAS:

- 1) BM LP is the transmitter licensed under the *Ontario Energy Board Act* (the “Act”) to own and operate the second 500KV electric transmission tower line spanning approximately 180 kilometres from the Bruce Power Nuclear Generating Station in Kincardine, Ontario to Hydro One Networks’ switchyard in Milton, Ontario (the “BXM Line”), which line went into commercial service in May 2012.
- 2) GPco, is an affiliate of Hydro One Networks within the meaning of the ARC.
- 3) BM LP wishes to subcontract the operation of the BXM Line to Hydro One Networks as further set out herein.
- 4) GPco wishes to obtain the assistance of Hydro One Networks, from time to time, in connection with certain management functions associated with the transmission business of BM LP.
- 5) The Parties are entering this Agreement to define their respective rights and obligations with respect to management and operation of the BXM Line.

NOW THEREFORE in consideration of the foregoing and the mutual covenants, agreements, terms and conditions contained herein, the Parties intending to be legally bound hereby agree as follows:

## **ARTICLE I: DEFINITIONS**

### **1.1 Defined Terms**

Capitalized terms which are not otherwise defined herein shall have the meaning given to them in the ARC. The following capitalized terms, wherever used in this Agreement, shall have the following meanings:

**“Agreement”** means this Agreement and all amendments made hereto by written Agreement between the Parties in accordance with the terms of this Agreement;

**“ARC”** means the *Affiliate Relationships Code for Electricity Distributors and Transmitters* issued by the OEB in accordance with the Act, as amended from time to time;

**“BM LP Transmission Licence”** means the licence or licences issued to BM LP by the OEB pursuant to the Act and in effect from time to time;

**“Claims”** means all losses, costs, damages, expenses, injuries, liabilities, claims, demands and penalties, including reasonable legal fees, experts’ fees and court costs, whether incurred through settlement or otherwise, and interest on each of these items, in each case whether arising prior to or after the termination of this Agreement.

**“Connection Agreement”** means the connection agreement which BM LP has or will have entered into with Hydro One Networks governing the interconnection of the BXM Line with the transmission systems owned and operated by Hydro One Networks;

**“Fees”** means the Operations Fees and the Management Fees;

**“Force Majeure Event”** means, in relation to a Person, any event or circumstance, or combination of events or circumstances,

- (i) that is beyond the reasonable control of the Person;
- (ii) that adversely affects the performance by the Person of its obligations under this Agreement; and
- (iii) the adverse effects of which could not have been reasonably foreseen or prevented, overcome, remedied or mitigated in whole or in part by the Person through the exercise of diligence and reasonable care and includes, but is not limited to, acts of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil disobedience or disturbances, vandalism or acts of terrorism, strikes, lockouts,



restrictive work practices or other labour disturbances, unlawful arrests or restraints by government or governmental, administrative or regulatory agencies or authorities unless the result of a violation by the Person of a permit, licence or other authorization or of any applicable law, and acts of God including lightning, earthquake, fire, flood, landslide, unusually heavy or prolonged rain or accumulation of snow or ice or lack of water arising from weather or environmental problems; provided however, for greater certainty, that the lack, insufficiency or non-availability of funds shall not constitute a Force Majeure Event;

**“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in North America during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in North America;

**“IESO”** means the Independent Electricity System Operator established under the *Electricity Act, 1998*, or its successor;

**“IESO-BM LP Operating Agreement”** means the operating agreement which BM LP has or will enter with the IESO through which the IESO ensures that the BXM Line will be operated in a manner which does not compromise the operation or reliability of the IESO-controlled grid to which the BXM Line is connected;

**“OEB”** means the Ontario Energy Board established pursuant to the Act;

**“Operations Fees”** means the fees for the Operations Services, calculated and adjusted in accordance with this Agreement;

**“Operations Services”** means all services required in order to operate the BXM Line, including without limitation, all operating, maintenance, repair and refurbishment matters and including, without limiting the generality of the foregoing, all services in relation to the monitoring and control of the transmission of electricity across the BXM Line in accordance with the BM LP Transmission Licence and all services required to fulfill all of BM LP’s obligations under the Connection Agreement and the IESO-BM LP Operating Agreement;

**“Management Activities”** means the activities to be undertaken by GPco in connection with the management of transmission business of the BM LP which include:

- (i) obtaining (including preparation of applications therefor and submission thereof) licences, permits, approvals and rates required in connection with the BXM Line, the transmission of electricity thereby and the operation, maintenance, repair and replacement thereof;
- (ii) obtaining (including preparation of applications therefor and submission thereof) licences, permits, approvals and rates required in connection with the BXM Line and the transmission of electricity thereby;
- (iii) representation of the BM LP before the OEB;
- (iv) the making or filing of declarations, filings and registrations with, or notices to, governmental authorities;
- (v) filing and managing warranty claims;
- (vi) procuring and maintaining the necessary inventory of replacement parts;
- (vii) maintaining records for the BM LP;
- (viii) defending any litigation commenced against the BM LP; and
- (ix) such other management activities associated with running the transmission business of the BM LP.

**“Management Fees”** means the fees for the Management Services, calculated and adjusted in accordance with this Agreement;

**“Management Services”** means services to be provided by Hydro One Networks to GPco to assist GPco with the performance of the Management Activities, which services will be requested in writing by GPco from time to time;

**“Person”** means any natural person, sole proprietorship, partnership, corporation, trust, joint venture, governmental authority, incorporated or unincorporated entity, or incorporated or unincorporated association of any nature; and

**“Taxes”** means any and all applicable federal, state, provincial, or municipal taxes and duties including, but not limited to, sales, use, excise, value added, gross receipts, privilege or other non-recoverable taxes that are mandated or imposed on (i) Hydro One Networks by any jurisdiction or governmental entity in relation to the Operations Services and Management Services (other than taxes that are imposed upon the income, property, payroll or capital of Hydro One Networks), (ii) BM LP (other than taxes that

are imposed upon the income, property, payroll or capital of BM LP or any of the partners of BM LP) , or GPco (other than taxes that are imposed upon the income, property, payroll or capital of GPco).

## **ARTICLE II: PROVISION OF OPERATIONS AND MANAGEMENT SERVICES**

**2.1** Hydro One Networks shall be the exclusive supplier of Operations Services to BM LP commencing on the effective date of this Agreement, provided that the BM LP may perform any Operations Services or engage another supplier to perform such services if Hydro One Networks is in default in performing its material obligations hereunder or is unable to perform its material obligations hereunder by reason of a Force Majeure Event, to the extent such services are required to ensure the continued operation of the BXM Line.

**2.2** GPco shall be responsible for all Management Activities related to the transmission business of BM LP. GPco may make a request in writing, from time to time, to Hydro One Networks, for Management Services to assist GPco in connection with the Management Activities. Hydro One Networks agrees to provide to GPco those Management Services requested in writing by GPco.

**2.3** Hydro One Networks shall at all times provide Operations Services and Management Services in accordance with Good Utility Practice, the BM LP Transmission Licence, the ARC, all other applicable codes, rules, orders and decisions of the OEB which are binding upon the BXM Line, all applicable law, and provided they are not inconsistent with any of the foregoing, Hydro One Networks' own policies and procedures (which may include government directives), and shall do so in the same manner and to the same extent as it provides similar services in connection with its wholly-owned regulated transmission business. Hydro One Networks shall comply with all applicable laws in providing the Operations Services and Management Services.

**2.4** To the extent that Hydro One Networks also provides services similar to the Operations Services or Management Services in respect of its own assets or business, Hydro One Networks will provide such Operations Services and Management Services in a non-discriminatory manner as if it were providing such services to itself or receiving a similar service in relation to its own transmission assets or business. The Fees for such Operations Services and Management Services shall be consistent with the costs incurred by Hydro One Networks for such similar services in relation to Hydro One Networks' transmission assets or business activities which are substantially similar to the BXM Line and business activities of BM LP.

**2.5** Upon expiration of this Agreement or termination of this Agreement for reasons other than the default of BM LP, and provided that BM LP is not in default of paying the

Fees owing hereunder, Hydro One Networks shall provide, at the request of BM LP, reasonable transition support services to facilitate transition to another operating and management services entity, reimbursable on the basis of the “fully allocated cost” (as defined in the ARC), and otherwise on the terms hereof, for a period of six months following the expiration or effective date of termination of this Agreement, or such shorter period as BM LP may request.

**2.6** Hydro One Networks shall obtain and maintain in force throughout the term of this Agreement, insurance coverage that a reasonable and prudent Person operating a transmission business of a comparable size and scale of Hydro One Networks would carry as part of its business. Hydro One Network’s liability insurance shall name BM LP as an additional insured and include a cross-liability and severability of interest clause and a waiver of subrogation clause by the insurer against BM LP. In addition, such liability insurance policy shall specify that it is primary coverage and not contributory with or in excess of any other insurance that may be maintained by BM LP except in the circumstance where pursuant to Section 2.8, Hydro One Networks chooses to add BM LP as an additional named insured under Hydro One Networks’ insurance program.

**2.7** Subject to the provisions of Section 2.8, BM LP shall obtain and maintain in force throughout the term of this Agreement, insurance coverage that a reasonable and prudent transmitter would carry as part of its transmissions business, including, without limitation, property insurance and commercial general liability insurance. Such liability insurance shall name Hydro One Networks as an additional insured, include a cross-liability and severability of interest clause and a waiver of subrogation clause by the insurer against Hydro One Networks. In addition, the insurance policies shall specify that they are primary coverage and not contributory with or in excess of any other insurance that may be maintained by Hydro One Networks. Hydro One Networks will procure such coverage for BM LP as part of the Operations Services.

**2.8** Notwithstanding the foregoing and in the alternative, in consultation with BM LP, Hydro One Networks may choose to add the BM LP as an additional named insured under Hydro One Networks’ insurance program and allocate to BM LP as Fees, a portion of the premium therefor and any incremental costs borne by Hydro One Networks in accommodating the unique circumstances of BM LP (e.g. reducing deductibles to such reasonable levels requested by BM LP), provided that the amount of the insurance premium allocated to BM LP as Fees (including any incremental costs) shall not exceed the cost of insurance described in Section 2.7 if it were to be obtained as stand-alone insurance coverage.

### **ARTICLE III: FEES**

**3.1** BM LP shall pay, without duplication, the Operations Fees and all applicable Taxes to Hydro One Networks for the performance of the Operations Services.

**3.2** GPco shall pay, without duplication, the Management Fees and all applicable Taxes to Hydro One Networks for the performance of the Management Services.

**3.3** The Fees for Operations Services and Management Services shall be those costs reasonably incurred by Hydro One Networks in connection with the provision of Operations Services and Management Services in the manner and to the extent provided for hereunder and which are allocated to BM LP and GPco in a manner consistent with the ARC.

**3.4** Fees may be set with reference to actual or estimated consumption and may be charged on a flat fee or per unit basis. Hydro One Networks, acting reasonably and in consultation with BM LP or GPco, as applicable, may elect the most convenient bases for setting Fees. Provided that the approach is acceptable to the OEB, Hydro One Networks may allocate a portion of its transmission business-related costs to BM LP, including a portion of certain types of “direct costs” (as defined in the ARC). Hydro One Networks shall, from time to time as required to keep the information current, and in any event, no less frequently than annually, provide BM LP with a breakdown of Hydro One Network’s fully allocated costs of providing the Operations Services.

**3.5** GPco shall use commercially reasonable efforts to recover the Fees payable hereunder by BM LP and GPco in the BM LP transmission rate revenue requirement submissions to the OEB and representations to be made to the OEB in connection therewith.

#### **ARTICLE IV: INVOICING AND PAYMENT**

**4.1** All amounts payable by BM LP and GPco to Hydro One Networks under this Agreement shall be paid in accordance with the invoices rendered by Hydro One Networks to be issued on a periodic basis matching the time period for which BM LP receives payments for the transmission of electricity. BM LP and GPco shall pay Hydro One Networks’ invoices within 30 days of receipt thereof.

#### **ARTICLE V: BUDGETS, ACCOUNTS AND RIGHT TO AUDIT**

**5.1** Hydro One Networks shall, for each fiscal year of the Term hereof, including any extension of the initial Term (other than the first year of the initial term), provide GPco with a proposed annual operating, maintenance and capital improvement budget for the subsequent fiscal year of the BM LP (the “**Budget**”) at least sixty (60) days prior to the commencement of the next fiscal year. Such annual Budget shall be accompanied by an annual operating plan prepared by Hydro One Networks setting forth the underlying assumptions and plans in connection with the Budget, and setting forth a brief description of any major system repairs anticipated to be required in such fiscal year. GPco shall

notify Hydro One Networks as soon as reasonably practicable, but no later than thirty (30) days after receipt of the Budget, of any questions, comments, objections or suggested modifications which it may have with respect to such proposed Budget, and the parties shall cooperate with each other in developing a mutually acceptable Budget within thirty (30) days thereof. If GPco fails to raise any questions, comments, objections or suggested modifications to the proposed Budget within thirty (30) days after receipt of the proposed Budget, the proposed Budget shall be deemed to have been approved. The parties acknowledge that they have agreed to an annual Budget for the first fiscal year (or part thereof) of the initial term of this Agreement.

**5.2** Each Budget will represent Hydro One Networks' estimate of all fully allocated costs for providing the Operations Services under this Agreement during the period to which the Budget relates, and its estimate of all capital improvements required for providing the Operations Services, during the period to which the Budget relates.

**5.3** The parties agree that the Budget may be amended from time to time by mutual agreement to reflect revisions necessitated by unanticipated circumstances including, but not limited to, changes in applicable law, additions or deletions to the scope of the Operations Services hereunder, emergencies and Force Majeure events, provided that Hydro One Networks shall not be required to amend the Budget more frequently than would be required under its normal business and operations practices.

**5.4** The Budget shall reflect anticipated costs of Operations Services by Hydro One Networks on a monthly or quarterly basis and shall be organized by categories mutually agreed upon by the parties. If Hydro One Networks becomes aware that the costs of Operations Services for the current fiscal year may exceed the Budget by 5% or more of the total amount of the Budget, Hydro One Networks shall promptly notify GPco of such anticipated budget overrun and provide GPco a proposed amendment to the Budget. GPco shall notify Hydro One Networks as soon as reasonably practicable, but no later than thirty (30) days after receipt of Hydro One Networks' proposed Budget amendment of any questions, comments, objections or suggested modifications thereto and the parties shall cooperate with each other in developing a mutually acceptable amendment to the Budget. If GPco fails to raise any questions, comments, objections or suggested modifications to the proposed Budget amendment within the specified period, Hydro One Networks' proposed amendment shall be deemed to have been approved. Hydro One Networks shall not, without the written approval of GPco amending the Budget or otherwise authorizing such expenditure, perform any further services or incur any further costs that would result in or increase such Budget overrun, except in the case of an emergency as provided in Section 5.7.

**5.5** If by the start of any fiscal year the parties are unable to reach agreement concerning the Budget for such year, then, until such time as agreement is reached, the Budget for such year shall be based on the corresponding portions of the Budget for the

preceding fiscal year, adjusted as follows: (i) with respect to items of expense that do not involve capital additions or improvements, to reflect the net change, if any, between the most recently published Ontario Consumer Price Index, published by Statistics Canada, not seasonally adjusted and the corresponding index in effect twelve months prior, and (ii) with respect to items of expense involving capital additions or improvements, to reflect the net change, if any, between the most recently published Producer Price Index for Capital Equipment, not seasonally adjusted, and the corresponding index in effect twelve months prior.

**5.6** In the event that Hydro One Networks determines that a capital improvement, addition, alteration, repair or replacement not included in the Budget that has an impact of more than 5% of the total amount of the Budget should be made to the BXM Line in order to operate the BXM Line safely or comply with any laws, regulations or orders of any governmental authority, including laws, regulations or orders relating to environmental compliance or employee safety, Hydro One Networks shall provide GPco with a written notice describing the nature of and reason for the improvement, addition, alteration, repair or replacement. Hydro One Networks shall not make any such improvement, addition, alteration, repair or replacement without GPco's prior consent, which consent shall not be unreasonably withheld or delayed. In the event that GPco refuses to approve of any such Hydro One Networks recommended improvement, addition, alteration, repair or replacement, Hydro One Networks shall have the option to terminate this Agreement in accordance with Section 9.3

**5.7** In the event of an accident or emergency relating to the BXM Line, Hydro One Networks may, without obtaining any approvals of GPco which might otherwise be required hereunder, take any action, including, but not limited to, committing or expending funds, deemed by Hydro One Networks to be reasonably necessary under the circumstances. As promptly as reasonably practicable after Hydro One Networks establishes control over such accident or emergency, Hydro One Networks shall furnish to GPco a reasonably detailed written description of the accident or emergency and the manner in which such accident or emergency was handled by Hydro One Networks. Hydro One Networks shall be entitled to compensation for costs incurred pursuant to this Section 5.7 in addition to all other compensation provided for under this Agreement.

**5.8** Except as provided by Section 5.7 in the case of an emergency, Hydro One Networks shall perform all services hereunder in accordance with the annual operating plan accompanying the Budget.

**5.9** The parties hereby agree to keep all necessary and proper accounts and records relating to the subject matter hereof. Such accounts and records, including invoices, receipts, time cards and vouchers shall at all reasonable times be open to audit, inspection and copying by each Party to this Agreement. Accounts and records shall be preserved and kept available for audit for a period of six years.

## **ARTICLE VI: LIMITATION OF LIABILITY AND FORCE MAJEURE EVENTS**

**6.1** Other than for sums payable under this Agreement, Hydro One Networks shall only be liable to BM LP and GPco and BM LP and GPco shall only be liable to Hydro One Networks for any damages that arise directly out of its gross negligence or willful misconduct in meeting its respective obligations under this Agreement. Notwithstanding the generality of the foregoing, neither party shall be liable to the other party under any circumstances whatsoever for any loss of profits or revenues, business interruption losses, loss of contract or loss of goodwill, or for any indirect, consequential or incidental damages, including but not limited to punitive or exemplary damages, whether any of the said liability, loss or damages arise in statute, contract, tort or otherwise.

**6.2** In any event, except with respect to gross negligence or willful misconduct, the total liability of Hydro One Networks to BM LP and GPco and the total liability of BM LP and GPco to Hydro One Networks in connection with this Agreement whether it arises by statute, contract, tort or otherwise, will not exceed the value of the total amounts payable by BM LP and GPco to Hydro One Networks for the Operations Services and Management Services in the year that such liability is incurred.

**6.3** No party shall be liable to the other for any loss, damage or delay, or inability to perform any obligation under this Agreement in whole or in part due to a Force Majeure Event.

**6.4** BM LP will indemnify and save harmless Hydro One Networks providing Operations Services from and against any and all Claims that Hydro One Networks may suffer, sustain or incur in connection with the provision of the Operations Services except to the extent caused or arising from the gross negligence or wilful misconduct of Hydro One Networks.

**6.5** If a Force Majeure Event prevents a party from performing any of its obligations under this Agreement, such party shall (1) expeditiously, and without delay, notify the other party of the Force Majeure Event and its good faith assessment of the effect that the Force Majeure Event will have on its ability to perform any of its obligations, which notice shall be confirmed in writing as soon as reasonably practicable if such immediate notice is not in writing; (2) not be entitled to suspend performance of any of its obligations under the Agreement to any greater extent or for any longer duration than is caused by the Force Majeure Event; (3) use commercially reasonable efforts to mitigate the effects of such Force Majeure Event and to resume full performance of its obligations hereunder; (4) keep the other party informed of such efforts on a continuing basis; and (5) provide written notice to the other party of the resumption of the performance of any obligations affected by the Force Majeure Event.



**6.6** Notwithstanding any of the foregoing, settlement of any strike, lockout, or labour dispute constituting a Force Majeure Event shall be within the sole discretion of the party to the Agreement involved in such strike, lockout, or labour dispute and the requirement that a party must use commercially reasonable efforts to mitigate the effects of a Force Majeure Event and resume full performance hereunder shall not apply to strikes, lockouts, or labour disputes.

## **ARTICLE VII: DISPUTE RESOLUTION PROCEDURES**

**7.1** Any controversy, dispute, difference, question or claim (collectively “Dispute”), arising between the parties in connection with the interpretation, performance, construction or implementation of this Agreement that cannot be resolved by a conference of senior officers of Hydro One Networks and GPco shall be settled in accordance with this section. The aggrieved party shall send the other party written notice identifying the Dispute, the amount involved, if any, and the remedy sought. The Presidents from each party shall confer in an effort to resolve the Dispute. If the Presidents are unable to resolve the Dispute within 5 business days after receipt of the written notice of the Dispute, then a Party may refer the Dispute to adjudication in court or, if all Parties agree, to arbitration before a single arbitrator. Insofar as they do not conflict with this Section 7.1, the Rules for Procedure for Commercial Arbitration of the Arbitration and Mediation Institute of Canada Inc./International Chamber of Commerce Rules of Arbitration in effect at the date of commencement of any arbitration held under this Agreement will apply to the arbitration. A Party may enter any judgment upon any award rendered by the arbitrator in any court having jurisdiction. The arbitration will be conducted in English under the *Arbitration Act, 1991* (Ontario) and will take place in either the City of Toronto or such other place as the Parties may agree and at such time and place as the arbitrator may fix. Notwithstanding the foregoing, if the subject matter of any Dispute is also the subject matter of a Dispute under Section 13 of the Limited Partnership Agreement governing the BM LP, the resolution of the Dispute under the Section 13 of the Limited Partnership Agreement governing the BM LP shall govern and be applicable to the resolution of the Dispute under this Agreement and such matter shall not be subject to further arbitration or adjudication under this Agreement.

## **ARTICLE VIII: CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

**8.1** Each party (the “Receiving Party”) shall maintain in strict confidence this Agreement and the existence and contents thereof and all confidential or proprietary information of the other party, (the “Disclosing Party”) or any of the Disclosing Party’s directors, officers, employees, consultants, agents or legal, financial or professional advisors (the “Disclosing Party Representatives”) (collectively the “Confidential Information”). Except as permitted herein, the Receiving Party shall not publish, reproduce, or disclose, either directly or indirectly, the said Confidential Information to any third party and shall not use the said Confidential Information for any purpose other

than for purposes of this Agreement without the prior written consent of the Disclosing Party. The Receiving Party may disclose the Confidential Information only to its partners, shareholder, directors, officers, employees, consultants, agents, professional advisors or lenders (the “Receiving Party Representatives”) having a need to know same and who have undertaken a like obligation to maintain its confidentiality. For greater certainty, Confidential Information includes any and all personal information (as that term is defined in the *Freedom of Information and Protection of Privacy Act* (Ontario) and the *Personal Information Protection and Electronic Documents Act* (Canada), as they may be amended) and any and all information regarding a consumer, retailer, wholesale buyer, wholesale supplier, or a generator, provided by the Disclosing Party to the Receiving Party for purposes of this Agreement.

**8.2** The Receiving Party undertakes to protect and safeguard all Confidential Information in its possession or under its control and received by the Disclosing Party, in the manner described in Schedule “A” attached hereto. The Disclosing Party may, on reasonable notice, and during regular business hours, audit the information management practices of the Receiving Party to confirm compliance with the terms and conditions of this Article VIII and all applicable statutes, regulations, by-laws, standards and codes, as amended.

**8.3** The Receiving Party undertakes to notify the Disclosing Party immediately upon discovery of any unauthorized use and/or disclosure of any of the Disclosing Party’s Confidential Information, to co-operate with the Disclosing Party to help regain possession of such Confidential Information, and to prevent its further unauthorized use and/or disclosure.

**8.4** The foregoing obligations with respect to confidentiality, use, reproduction, dissemination, publication and non-disclosure herein shall not apply to any information that:

- (i) is previously known to or lawfully in the possession of the Receiving Party prior to the date of disclosure as evidenced by the Receiving Party’s written record;
- (ii) is independently known to or discovered by the Receiving Party, without any reference to the information or material;
- (iii) is obtained by the Receiving Party from an arm's length third party having a bona fide right to disclose same and who was not otherwise under an obligation of confidence or fiduciary duty to the Disclosing Party or the Disclosing Party Representatives;
- (iv) is or becomes public knowledge through no fault or omission of, or breach of this Agreement by, the Receiving Party or the Receiving Party Representatives; or

- (v) is required to be disclosed pursuant to a final judicial or governmental order or other legal process, including, without limitation, an order of or legal process involving a regulatory authority such as the Ontario Energy Board.

**8.5** The parties acknowledge and agree that the Confidential Information (other than Confidential Information contained in this Agreement which shall be jointly owned by the parties) shall remain the sole and exclusive property of the Disclosing Party that has disclosed the Confidential Information, and the Disclosing Party shall retain all right, title and interest in and to the Confidential Information it has disclosed to the Receiving Party.

**8.6** The Receiving Party agrees that it shall keep a record of written Confidential Information furnished to it by the Disclosing Party in a location separate from those locations where the Receiving Party has stored information in respect of other third parties for which it performs work and it shall advise the Disclosing Party of such location.

**8.7** All Confidential Information furnished by the Disclosing Party (other than this Agreement), including that portion of the Confidential Information which is contained in analyses, compilations, studies or other documents prepared by the Receiving Party or by the Receiving Party Representatives, is the Disclosing Party's property and will be returned immediately to the Disclosing Party upon its request except that any information, plans, layouts, specifications, descriptions or other information necessary to the continued operation and maintenance of the BXM Line and its parts and components, or to the replacement of any such parts or components, need not be returned and may be used or applied in the continued operation and maintenance of the BXM Line.

## **ARTICLE IX: TERM AND TERMINATION**

**9.1** This Agreement shall continue in full force and effect for an initial term of five years and unless terminated in accordance with Section 9.2, shall thereafter be automatically renewed for successive periods of five years upon the same terms and conditions.

**9.2** Either party may terminate this Agreement, effective at the end of the then current five-year term, on at least twelve months' prior written notice.

**9.3** Hydro One Networks may terminate this Agreement on 60 days prior written notice in the event that BM LP refuses to approve a capital improvement, addition, alteration, repair or replacement recommended by Hydro One Networks in accordance with Section 5.6.

**9.4** In the event of termination or expiration of this Agreement: (i) Hydro One Networks shall deliver to GPco all books, records and accounts which it has developed and maintained relating solely to the BXM Line or its operations or the business of BM LP and return all property owned by BM LP, and (ii) the Parties shall take all steps as

may be reasonably required to complete any final accounting between them or to provide for the completion of matters contemplated hereunder.

#### **ARTICLE X: GENERAL**

**10.1** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**10.2** The rights and obligations of the parties under this Agreement shall at all times be subject to all applicable laws, regulations, orders and directives of any authority of competent jurisdiction, including the OEB, and shall be deemed to be amended to the extent required to comply with same.

**10.3** This Agreement constitutes the entire Agreement between the parties with respect to the Operations Services and Management Services and supersedes all prior oral or written representations and Agreements concerning the subject matter of this Agreement.

**10.4** This Agreement shall extend to, be binding upon and enure to the benefit of the permitted assigns and the respective successors of BM LP, GPco and Hydro One Networks.

**10.5** Neither this Agreement nor any provision hereof is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

**10.6** If any party determines that in its reasonable discretion that any further instruments or other actions seem necessary or desirable to carry out the terms of this Agreement, the other parties shall execute and deliver all such instruments and do all such actions as such parties agree in their reasonable discretion as necessary or desirable to carry out the terms of this Agreement.

**10.7** No delay or failure in exercising any right under this Agreement or any partial or single exercise of any right, will constitute a waiver of that right or any other rights under this Agreement. No consent to a breach of any express or implied term set out in this Agreement constitutes consent to any subsequent breach.

**10.8** If any term, covenant or condition of this Agreement or the application or effect of any such term, covenant or condition is held to be invalid as to any Person, entity or circumstance or is determined to be not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant or condition shall remain in effect to the maximum extent permitted by law and, all other terms, covenants and conditions of this Agreement and their application shall not be affected, but shall remain in full force and effect and the parties shall be relieved of their respective obligations

under this Agreement only to the extent necessary to comply with the court or government agency holding.

**10.9** This Agreement does not and shall not be construed to create or establish a partnership, agency, joint venture, lease, licence or any other relationship between the parties hereto, nor constitute either party as an agent of the other. Neither party hereto shall hold itself out to others by act or omission, contrary to the terms of this Agreement.

**10.10** This Agreement and the rights and obligations hereunder may not be assigned in whole or in part by Hydro One Networks except with the prior written consent of BM LP, in its sole discretion. This Agreement and the rights and obligations hereunder may not be assigned in whole or in part by BM LP other than (i) to the transferee of the BXM Line approved by the OEB, or (ii) with the prior written consent of Hydro One Networks, in its sole discretion.

**10.11** This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be signed and delivered in any number of counterparts, each of which when signed and delivered is an original, but all of which taken together constitute one and the same instrument. This Agreement and any amendment, supplement, restatement or termination of this Agreement in whole or in part may be delivered by means of facsimile or via e-mail in portable document format (PDF).

***[Remainder of page intentionally left blank]***

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the signatures of their proper officers duly authorized in that behalf as of this \_\_\_\_ day of \_\_\_\_\_, 2013.

**HYDRO ONE NETWORKS INC.**

**BRUCE-TO-MILTON LP, by its general partner [Bruce-to-Milton GPco]**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

I have the authority to bind the Corporation.

I have the authority to bind the Corporation.

<p><b><u>[BRUCE-TO-MILTON GPCO.]</u></b></p>     <p>_____ Name: Title:</p> <p>I have the authority to bind the Corporation.</p>	
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### **Schedule “A”**

#### Receiving Party Security Safeguards Regarding Confidential Information Received from the Disclosing Party

*The Receiving Party shall protect the Confidential Information by security safeguards appropriate to the sensitivity of the information.*

- 1) The Receiving Party shall protect the Confidential Information against such risks as loss or theft, unauthorized access, disclosure, copying, use, modification or destruction, through appropriate security measures, regardless of the format in which it is held.
- 2) All of the Receiving Party’s Representatives with access to the Confidential Information shall be contractually required to respect the confidentiality of that information.
- 3) The Receiving Party acknowledges and agrees that the nature of the safeguards will vary depending on the sensitivity, amount, distribution and format of the information, and the method of storage. The Receiving Party shall ensure that more sensitive information will be safeguarded by a higher level of protection.
- 4) The Receiving Party shall ensure that methods of protection will include:
  - (a) physical measures, for example, locked filing cabinets and restricted access to offices;
  - (b) organizational measures, for example, controlling entry to data centers and limiting access to information on a “need-to-know” basis;
  - (c) technological measures, for example, the use of passwords and encryption;  
and
  - (d) investigative measures, in cases where the Receiving Party has reasonable grounds to believe that the Confidential Information is being inappropriately collected, used or disclosed by anyone whom in law the Receiving Party is responsible.





**THIS IS SCHEDULE “5.5”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [the General Partner].**

**PARTNERSHIP INTERESTS AND UNITS**

	% Interest	Number of Units
HOI BtM Partner	●%	●
SON BtM Partner	●%	●
General Partner	●%	●

**THIS IS SCHEDULE “9.4”, attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [the General Partner].**

### **PRINCIPLES OF VALUATION**

#### **(a) Valuation Procedure**

Upon the provisions of this Schedule becoming applicable (but subject to subsection (d)), the Parties shall agree upon an independent business valuator and shall cause such independent business valuator to determine the Fair Market Value of all of the issued and outstanding Units as at the Valuation Date.

If the Parties fail to choose an independent business valuator within fifteen (15) days following the event giving rise to the valuation, or if an agreed-upon valuator shall not have consented to act as valuator within ten (10) Business Days following the expiry of the fifteen (15) day period, a business valuator shall be chosen by a Judge of the Ontario Superior Court, upon the application of any of the Parties.

In determining the Fair Market Value of all of the issued and outstanding Units, the independent business valuator shall take into account and apply generally accepted accounting and valuation principles, and the valuator shall not have regard to whether the Units subject to the transaction of purchase and sale constitute a minority block or a majority block of all of the issued and outstanding Units and no minority or majority discount or premium shall be applied to its valuation.

The valuation arrived at by the valuator, made as an expert and not as an umpire or arbitrator, shall be conclusive and binding on the Parties and none of the Parties shall have any right to or shall seek any appeal or review from or of such valuation.

#### **(b) Calculation of Fair Market Value Per Unit**

The Fair Market Value of the Units being purchased and sold shall be determined by dividing the Fair Market Value of all of the issued and outstanding Units as at the Valuation Date, as determined by the independent business valuator in accordance with the provisions of subsection (a), by the number of Units then issued and outstanding and multiplying the resulting amount by the number of Units being purchased and sold.

#### **(c) Costs of Valuation**

All costs and expenses relating to the determination of the Fair Market Value of any of the Units of the Corporation pursuant to this Schedule shall be shared equally between the vendors and purchasers in the subject transaction and, among multiple vendors or purchasers, shall be shared pro rata based on the number of Units being sold or purchased.

#### **(d) Prior Valuation Date**

Notwithstanding anything to the contrary contained in this Schedule, if an independent business valuator shall have determined the Fair Market Value of all of the issued and outstanding Units pursuant to this Agreement as at a valuation date which is within 12 months prior to the

occurrence of a subsequent valuation date, the Fair Market Value of each Unit determined as at the prior valuation date shall be deemed to be the Fair Market Value of each Unit as at the subsequent valuation date.

**THIS IS SCHEDULE "11.1", attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [the General Partner].**

**FORM OF COUNTERPART AND ACKNOWLEDGEMENT**

**RE: The Amended and Restated Limited Partnership Agreement of [Bruce-to-Milton L.P.] made effective as of ●, 2014**

The undersigned acknowledges that it has received a copy of the Agreement and has had an opportunity to review the Agreement. Pursuant to Section 11.1 of the Agreement, the undersigned agrees to be bound, as a party to and as a Partner in the Partnership, by the terms (including all covenants, agreements and obligations) of the Agreement, as from time to time amended, as fully and effectively as though the undersigned had executed the Agreement together with the other parties to the Agreement.

Dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**[NAME OF TRANSFEREE]**

By:

\_\_\_\_\_  
Authorized Signatory

**THIS IS SCHEDULE "11.2", attached to and forming part of the AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT made as of the [INSERT DATE], 2014 between [HOI BtM Partner], [SON BtM Partner] and [the General Partner].**

**FORM OF ASSIGNMENT**

**ASSIGNMENT OF UNITS IN  
ENPOWER DEVELOPMENT LIMITED PARTNERSHIP**

In accordance with Section 11.2 of the Amended and Restated Limited Partnership Agreement of [Bruce-to-Milton L.P.] (the "**Partnership**") made effective as of ●, 2014 (the "**Partnership Agreement**"), the undersigned, a Partner of the Partnership, hereby transfers to \_\_\_\_\_ (Name of Assignee) all of the undersigned's right, title and interest in and to \_\_\_\_ Units in the Partnership and assigns to the aforesaid assignee all of the interest of the undersigned in the Partnership that is represented thereby. The undersigned agrees to furnish to the General Partner such documents, certificates, assurances and other instruments as the General Partner may require to effect this assignment and to continue and keep in good standing the Partnership as a limited partnership. The undersigned agrees that the power of attorney previously granted by the undersigned to the General Partner shall continue in full force and effect, and shall be irrevocable, until all instruments required to effect this assignment and to continue and keep in good standing the Partnership as a limited partnership have been furnished to the General Partner as aforesaid and have been recorded or filed as and where required. Capitalized terms used herein and below which are not defined herein shall have the meaning ascribed thereto in the Partnership Agreement.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**[NAME OF ASSIGNING PARTNER]**

By:

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, Province and Postal Code)



**THIS NOMINEE AGREEMENT** made this       day of       , 2013

**BETWEEN:**

**CHIPPEWAS OF NAWASH FIRST NATION,**  
a band established under the *Indian Act* (Canada),  
  
(the “**Nawash First Nation**”)

**OF THE FIRST PART,**

and

**CHIPPEWAS OF SAUGEEN FIRST NATION,**  
a band established under the *Indian Act* (Canada),  
  
(the “**Saugeen First Nation**”)

**OF THE SECOND PART,**

and

**SAUGEEN OJIBWAY NATIONS FINANCE CORPORATION,**  
a corporation duly incorporated under the laws of the  
Province of Ontario,  
  
(the “**Agent**”)

**OF THE THIRD PART,**

**WHEREAS** the Nawash First Nation and the Saugeen First Nation (collectively, the “**First Nations**”) each own [one (1)] common share(s) in the capital of the Agent, collectively being all of the issued and outstanding shares in the capital of the Agent;

**AND WHEREAS** the parties have agreed that the Agent will act as the nominee and agent for and on behalf of the First Nations;

**AND WHEREAS** the parties have agreed that the Agent will not carry on any operations or activities except as nominee and agent for and on behalf of the First Nations;

**AND WHEREAS** the Agent does not and will not have any assets (other than such assets as it may hold as nominee and agent for and on behalf of the First Nations other than a nominal amount of cash representing the sum paid up on its issued shares and its organization costs);

**AND WHEREAS** the Agent will invest in and acquire for and on behalf of the First Nations a limited partnership interest in the Bruce-to-Milton LP (a “**BMLP Interest**”);

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the sum of ONE (\$1.00) DOLLAR and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties do hereby agree as follows:

#### **ARTICLE 1 AGENCY RELATIONSHIP**

- 1.1 The Agent will at all times act as the nominee and agent for and on behalf of the First Nations and will exclusively carry on operations and activities as nominee and agent for and on behalf of the First Nations and not otherwise ("**First Nation Activities**").
- 1.2 All profits, losses, rights and obligations arising from the First Nation Activities are, and will be, profits, losses, rights and obligations, as the case may be, of the First Nations.
- 1.3 The Agent will account to the First Nations for all such profits, losses, rights and assets and the First Nations will satisfy all obligations and liabilities arising out of such operations carried on by the Agent as nominee and agent for and on behalf of the First Nations under this Agreement. The First Nations acknowledges and agrees that it is responsible for all expenses, losses or liabilities related to the operations carried on by the Agent for and on behalf of the First Nations.
- 1.4 The Agent acknowledges and agrees that, in respect of First Nation Activities, it is and at all times will be subject to the direction and control of the First Nations and that it does not and will not have any authority to make or take any decision or action, except on the express direction of the First Nations. The Agent will take such actions and execute and deliver such documents and instructions in relation to the operations carried on by the Agent as nominee and agent for the First Nations as the First Nations may from time to time direct or request.

#### **ARTICLE 2 ASSETS HELD AS NOMINEE AND AGENT**

- 2.1 The Agent acknowledges and agrees that all assets held or to be held by it in respect of First Nation Activities are and will be beneficially owned by the First Nations, that the Agent holds and will hold all legal title to such assets as nominee and agent for and behalf of the First Nations, and that all consideration for such assets has been, or will be, provided by the First Nations.
- 2.2 At the request of the First Nations, the Agent will assign, transfer, convey or set over to the First Nations or at its direction all or any of the assets held by the Agent in respect of First Nation Activities without receiving any consideration therefor.

#### **ARTICLE 3 FINANCING AND DISTRIBUTIONS**

- 3.1 Applications and requests for loans, financing, guarantees and other contracts that the First Nations determines are desirable will, on the direction of the First Nations, be submitted in the name of the Agent as nominee and agent for and on



behalf of the First Nations, and any such loans, financings, loans or other contracts which are awarded to the Agent will be carried out by the Agent as nominee and agent for and on behalf of the First Nations.

- 3.2 All investments made by the Agent in respect of First Nation Activities from time to time will be made by it as nominee and agent for and on behalf of, and for the account of, the First Nations and all revenue, income, receipts and distributions received by the Agent in respect thereof from time to time will be received by it as nominee and agent for and on behalf of, and for the account of, the First Nations.

#### **ARTICLE 4 EMPLOYEES**

- 4.1 On the direction of the First Nations, the Agent will hire and employ as nominee and agent for and on behalf of the First Nations, whether pursuant to collective agreements or otherwise, the personnel that the First Nations may determine are required to maintain and monitor the investment in the BMLP Interest and other activities in connection therewith for the account of the First Nations under this Agreement.
- 4.2 The Agent as nominee and agent for and on behalf of the First Nations will maintain payroll and accounting records relating to the employment of such personnel and will file all requisite returns with governmental departments and agencies relating to such employment.

#### **ARTICLE 5 LICENCES**

- 5.1 The Agent will apply for and maintain in good standing as nominee and agent for and on behalf of the First Nations all licenses and franchises as the First Nations may determine are required in connection with the investment in the BMLP Interest to be held by the Agent as nominee and agent for and on behalf of the First Nations under this Agreement.

#### **ARTICLE 6 GENERAL**

- 6.1 The provisions of this Agreement shall be binding upon and enure to the benefit of the respective successors and assigns of the parties.
- 6.2 Each party shall from time to time promptly execute and deliver all further documents and take all further action reasonably necessary to give effect to the provisions and intent of this Agreement.
- 6.3 This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.

*– Signature Page Follows –*

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date and year first above written.

**CHIPPEWAS OF NAWASH FIRST  
NATION**

Per: \_\_\_\_\_  
Name:  
Title: Chief

**CHIPPEWAS OF SAUGEEN FIRST  
NATION**

Per: \_\_\_\_\_  
Name:  
Title: Chief

**SAUGEEN OJIBWAY NATIONS  
FINANCE CORPORATION**

Per: \_\_\_\_\_  
Name:  
Title: President

Reply to the Attention of	Michael Templeton
Direct Line	416.865.7837
Email Address	michael.templeton@mcmillan.ca
Our File No.	208204
Date	February 14, 2013

## DELIVERED

Income Tax Rulings Directorate  
Policy and Legislation Branch  
Canada Revenue Agency  
16<sup>th</sup> Floor, Tower A, Place de Ville  
320 Queen Street  
Ottawa, ON K1A 0L5

Dear Sirs/Mesdames:

**Re: Advance Income Tax Ruling - Chippewas of Nawash  
Unceded First Nation (Business No. 106916414RP0001)**

We are writing on behalf of the Chippewas of Nawash Unceded First Nation (the “**Nawash First Nation**”) to request an advance income tax ruling with respect to the consequences under the *Income Tax Act* (Canada) (the “**Tax Act**”) of the proposed transactions described below. This ruling request is submitted on behalf of the Nawash First Nation by Michael Templeton of McMillan LLP.

To the best of our knowledge, none of the issues involved in this ruling request:

- (a) are in earlier returns of the Nawash First Nation or related persons;
- (b) are being considered by a tax services office or taxation centre in connection with previously filed tax returns of the Nawash First Nation or related persons;
- (c) are under objection by the Nawash First Nation or a related person;
- (d) are before the courts or, if a judgement has been issued, the time limit for appeal to a higher court has expired; or
- (e) are the subject of a ruling previously considered by the Income Tax Rulings Directorate.

In connection with this ruling application, we enclose:

- (a) a letter from the Nawash First Nation:

- (i) undertaking to pay such fees as may be payable in connection with this ruling application under the provisions of Information Circular 70-6R5 or any other public notification; and
- (ii) authorizing:
  - (1) McMillan LLP to act on behalf of the Nawash First Nation in connection with this application;
  - (2) the Canada Revenue Agency (the “**CRA**”) to communicate with McMillan LLP by facsimile or e-mail; and
  - (3) the CRA to publish the ruling in a mutually-agreeable, severed form; and
- (b) payment of the ruling application fee by way of cheque in the amount of \$500, payable to the Receiver General for Canada.

We will transmit an electronic copy of this letter (MS Word format) to the rulings officer who is assigned responsibility for this application.

The address and Business Number of the Nawash First Nation are as follows:

Chippewas of Nawash Unceded First Nation  
135 Lakeshore Blvd. RR#5, Wiarton, Ontario N0H 2T0

Business No.: 106916414RP0001

The Shawinigan-Sud Tax Centre Taxation Centre is responsible for managing and processing the tax returns filed by the Nawash First Nation.

Except as otherwise noted, all statutory references in this ruling request are references to the provisions of the *Tax Act*, as amended to the date of this letter, and all terms and conditions used herein that are defined in the *Tax Act* have the meaning given in such definition unless otherwise indicated.

## **I. FACTS**

1. The Nawash First Nation’s mailing address is

Chippewas of Nawash Unceded First Nation  
135 Lakeshore Blvd. RR#5,  
Warton, Ontario  
N0H 2T0

2. The Nawash First Nation files its income tax return with the Shawinigan-Sud Tax Centre Tax Centre.
3. The Nawash First Nation is a “band” as defined in subsection 2(1) of the *Indian Act* (Canada) (the “**Indian Act**”).
4. The Nawash First Nation's reserve land, Neyaashiinigmiing Indian Reserve No. 27 (the “**Reserve**”), is a “reserve” for purposes the *Indian Act*. The Reserve is located north of Wiarton Ontario, in Georgian Bay.
5. In addition to the Reserve, land has been set aside for the use and benefit of the Nawash First Nation known as the Cape Croker Hunting Ground Indian Reserve Number 60B. This land is located 70 kilometres north of the Reserve along Highway 6 and is approximately 2199.04 acres in size.
6. The Nawash First Nation has approximately 2471 “band members”, as defined in subsection 2(1) of the *Indian Act*, of whom approximately 702 live on the Reserve.
7. A democratically elected Chief and 9 elected councillors govern the Nawash First Nation. The Chief and Band Council are responsible for governance of the Nawash First Nation and represent the Nawash First Nation in all matters.
8. The Nawash First Nation has a comprehensive funding arrangement in place with the Department of Aboriginal Affairs and Northern Development Canada, which helps to fund the Nawash First Nation's public works, social services and infrastructure programs.
9. The Nawash First Nation has a funding arrangement in place with the Canada Mortgage and Housing Corporation to finance rental units and a seniors apartment complex construction for members of the Nawash First Nation.
10. The Nawash First Nation has passed various by-laws pursuant to section 81 of the *Indian Act*, and section 83 of the *Indian Act* for which the Nawash First Nation has received ministerial approval. These by-laws include:
  - (a) Animal Control By-law
  - (b) Finance By-law
  - (c) Fisheries By-law
11. The Nawash First Nation provides or administers, as applicable, an extensive list of public works, social services and infrastructure programs, including, but not limited to programs serviced by the following departments/areas:
  - (a) Social Services Department
  - (b) Education Department
  - (c) Health Department
  - (d) Housing Department
  - (e) Public Works Department

- (f) Lands Department
- (g) Fisheries Department
- (h) Finance Department
- (i) Language Department
- (j) Employment and Training Department
- (k) Membership Department
- (l) Treaty Department
- (m) Preschool/Daycare
- (n) Economic/Business Development
- (o) Police Department – OPP
- (p) Band Representative Program
- (q) Forestry Department
- (r) Family Support Services – Native Child Welfare Program
- (s) Library Services
- (t) Youth Services

12. Facilities maintained or financed by the Nawash First Nation include:

- (a) Nawash First Nation offices located on the Reserve used for Nawash First Nation meetings
- (b) Pump station
- (c) Roads and bridges on the Reserve
- (d) Residential housing for Nawash First Nation members on the Reserve
- (e) Gymnasium
- (f) Adult education centre
- (g) Computer lab
- (h) Health station
- (i) Landfill
- (j) Playgrounds
- (k) Tourism facilities
- (l) Community complex
- (m) Ice rink
- (n) Sewage Lagoon / Water infrastructure

13. The Nawash First Nation has developed a community 5 year plan to manage the development of community lots, housing, commercial development and economic development strategies. All land in the Reserve is held in a traditional manner and owned by the membership as a whole. The Nawash First Nation allows people and businesses to use the land and any improvements to the land. Approximately 4,035 hectares (64%) of the reserve lands are unallocated lands ('Band lands') which are controlled by the Band Council. The use and occupation rights to the remaining lands, approximately 2,218 hectares (36%), have been allocated to individual band members and are held under Certificates of Possession. Most of the housing offered to band members has been built by the Nawash First Nation or its agents. Residents may construct their own buildings on

land to which they hold a Certificate of Possession but are encouraged to secure approval from the Nawash First Nation.

14. The Nawash First Nation makes band-provided housing available to eligible members of the Nawash First Nation. Allocations of band-provided housing are based on a Housing Policy established by the Nawash First Nation.
15. Certain buildings are available for use by the Nawash First Nation members. User fees and rental charges are levied for the use of recreational and meeting facilities for certain activities. The Nawash First Nation establishes the user fees.
16. The Nawash First Nation has entered into a Health Services Consolidated Contribution Agreement with Health Canada whereby the Nawash First Nation has accepted responsibility to provide certain health programs and services to its members. The services to be provided are set out in the Community Health Plan. Programs include those related to prenatal care, infant development, health education, substance abuse and addiction services, mental health, home care and other community health issues. The Nawash First Nation recently negotiated with Health Canada to renew its Health Services Transfer Agreement for a 3 year period commencing April of 2012.
17. The Nawash First Nation provides garbage collection services and the infrastructure for water services for most members living on the Reserve.
18. An Order in Council issued pursuant to section 69 of the *Indian Act* permits the Nawash First Nation to control, manage and expend its revenue moneys.
19. All areas of the Reserve are serviced with electricity supplied by Hydro One Inc. (“**Hydro One**”). The Nawash First Nation monitors this service on behalf of its members to ensure an appropriate level of service. When service issues arise, the Nawash First Nation resolves these issues with Hydro One on behalf of the members.
20. The Nawash First Nation has an agreement with an internet services provider which has installed a communications tower on the Reserve that offers wireless internet access on the Reserve. Normal telephone services are available throughout the reserve.
21. The Nawash First Nation owns and operates a school and education centre for its residents. This building provides the services of primary education, a library and an Internet lab. The Nawash First Nation also provides adult education services to its members such as computer training, an entrepreneurship course, academic upgrading, professional development, wellness and health promotion.
22. The Nawash First Nation employs a First Nation Administrator who, under the direction of the Chief and Band Council, is responsible for administrative management of the Nawash First Nation.

23. The Nawash First Nation owns and operates a sports centre for its residents. Various activities are held in the centre such as bingos, dances, bazaars and local or regional tournaments.

## II. PROPOSED TRANSACTIONS

24. Hydro One Networks Inc. ("**HONI**") has constructed an electrical transmission line from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI's switchyard in Milton, Ontario (the "**Transmission Line**") which traverses the traditional territory of the Nawash First Nation and the Chippewas of Saugeen First Nation (the "**Saugeen First Nation**"). HONI is a wholly owned subsidiary of Hydro One, which is itself wholly owned by the Province of Ontario.
25. The Saugeen First Nation together with the Nawash First Nation (collectively, the "**First Nations**") have reached an agreement with HONI under which the First Nations will acquire an interest in a limited partnership (the "**Limited Partnership**") to be formed to own and operate the recently constructed Transmission Line.
26. An affiliate of HONI will be the initial limited partner of the Limited Partnership ("**HONI LP Co**") and another affiliate of HONI will be the general partner of the Limited Partnership ("**HONI GP Co**"). HONI will transfer the Transmission Line to the Limited Partnership.
27. A new corporation, Saugeen Ojibway Nations Finance Corporation ("**SON Finance Co**") will be incorporated for the purposes of holding legal title to an interest in the Limited Partnership on behalf of the Nawash First Nation and the Saugeen First Nation. SON Finance Co will agree to hold title to the partnership interest as bare trustee and agent for and on behalf of the First Nations. The shares of SON Finance Co will be legally registered in the names of the Chiefs of each of the Nawash First Nation and the Saugeen First Nation, whom will hold the shares as bare trustees for the Nawash First Nation and the Saugeen First Nation, respectively.
28. Attached is a copy of the form of the bare trustee agreement that will be signed by SON Finance Co and the First Nations.
29. The First Nations will contribute approximately \$72 million to the Limited Partnership for approximately a 30% interest in the Limited Partnership and HONI LP Co and HONI GP Co will contribute approximately \$168 million to the Limited Partnership for approximately a 70% interest in the Limited Partnership. Attached is a copy of the limited partnership agreement which the parties have agreed will govern the Limited Partnership.
30. HONI GP Co will negotiate, on behalf of the Limited Partnership, all contracts and manage all projects and operations to which the Limited Partnership is a party in respect of the Transmission Line.



31. The Limited Partnership will make distributions and allocate income and loss to its partners from time-to-time in accordance with the Partnership Agreement.

### **III. PURPOSE OF PROPOSED TRANSACTIONS**

32. The purposes of the Proposed Transactions are as follows:
- (a) to generate a long-term source of income for the Nawash First Nation and the Saugeen First Nation to support the governance, public works and infrastructure needs of each community and to promote economic development such that the Nawash First Nation and the Saugeen First Nation will become economically self-sufficient while maintaining a stewardship role over their lands;
  - (b) to protect the Nawash First Nation and the Saugeen First Nation from liability arising from activities related to the Transmission Line;
  - (c) to provide employment and job training for members of the Nawash First Nation; and the Saugeen First Nation and
  - (d) to support projects and activities for the general benefit of the Nawash First Nation and the Saugeen First Nation.

### **IV. Rulings Requested.**

On behalf of the Nawash First Nation, we request that the CRA confirm, in the context of a ruling that it will apply the terms of the *Tax Act* in a manner that:

- 1. Because the Nawash First Nation is a public body performing a function of government in Canada within the meaning of paragraph 149(1)(c) of the *Tax Act*, and therefore exempt from tax under Part I of the *Tax Act*, no tax will be payable under Part I of the *Tax Act* by the Nawash First Nation on the Nawash First Nation's partnership income from the Transmission Line.
- 2. SON LPco, as agent for the Nawash First Nation and Saugeen First Nation will not be subject to taxation with respect to the income allocated to it by the Limited Partnership and such income will be treated as the income of the Nawash First Nation and Saugeen First Nation.

### **V. Submissions.**

SON Finance Co will hold the Nawash First Nation's limited partnership interest in the Limited Partnership as a bare trustee. The bare trustee relationship between SON Finance Co and the Nawash First Nation is evidenced in writing and is attached hereto as Exhibit A. Under this agreement, SON Finance Co will act as an agent for the Nawash First Nation. Accordingly, (i) SON Finance Co will not hold the Nawash First Nation's limited partnership interest in the Limited Partnership in a trust relationship that is recognized under subsection

104(1) of the *Tax Act*, and (ii) the Nawash First Nation will be characterized as the holder of said limited partnership interest for purposes of assessing tax under the *Tax Act*.

The Nawash First Nation is a public body performing a function of government in Canada. As described in greater detail in the “Facts” section above, an elected Chief and Band Council exercises control over the administration and development of the reserve, represents the members in dealing with third parties, and has power to make by-laws in accordance with the *Indian Act*. The Nawash First Nation provides or administers, as applicable, an extensive list of public works, social services and infrastructure programs.<sup>1</sup> A portion of the revenues used to fund such programs is derived from the Nawash First Nation’s powers under the *Indian Act* to charge user fees in accordance with policies derived by the Nawash First Nation, and through inter-governmental funding agreements with the governments of Canada and Ontario.<sup>2</sup>

As a public body performing a function of government in Canada, the Nawash First Nation is exempt from tax under Part I of the *Tax Act* pursuant to paragraph 149(1)(c) of the *Tax Act*. Accordingly, income from the Transmission Line that is allocated by the Limited Partnership to the Nawash First Nation pursuant to subsection 96(1) of the *Tax Act*, as described in paragraph 31 above, will not be subject to tax under Part I of the *Tax Act*.

We are aware that the CRA has in the past considered some of the issues raised by the proposed transactions and has issued positive determination letters in respect thereof. We draw your attention to CRA Rulings # 2005-0136981R3 (2005) and 2008-0272731R3 (2009), among others, as examples of when the CRA has previously considered analogous proposals.

\* \* \*

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<sup>1</sup> As noted in CRA Interpretation # 2009-0306281I7 (May 12, 2009), the CRA has traditionally accepted that “... providing municipal-type services, such as water, sewage removal, the pick-up of garbage and the maintenance of infrastructure such as roads, sewers and public buildings is a function of government. Further, providing a key service traditionally offered by the provinces or territories such as social services, overseeing of the environment, health services, and education is generally considered to constitute performing a function of government.”

<sup>2</sup> The definition of “public body” in the Dictionary of Canadian Law (3rd Edition, Carswell), includes “...a body elected or appointed under an act: (A) to develop, administer or regulate schools, hospitals, health facilities, libraries, water utilities, drainage and irrigation works, sewage works, local improvements or public utilities; or (B) to levy and collect taxes.

In Interpretation # 2009-0306281I7 (May 12, 2009) it was observed that “[g]enerally, the CRA has accepted that Indian bands or Indian organizations that clearly provide government services and are accountable to either the federal, or a provincial or territorial government, or directly to the band members they represent, are public bodies.”

Please contact Michael Templeton ([michael.templeton@mcmillan.ca](mailto:michael.templeton@mcmillan.ca) 416 865-7837) with any questions or should you require additional information respecting the Proposed Transactions.

Yours truly,

A handwritten signature in black ink, appearing to read "Michael Templeton", with a long horizontal flourish extending to the right.

Michael Templeton

Attach.

<b>Reply to the Attention of</b>	Michael Templeton
<b>Direct Line</b>	416.865.7837
<b>Email Address</b>	michael.templeton@mcmillan.ca
<b>Our File No.</b>	208204
<b>Date</b>	February 14, 2013

## DELIVERED

Income Tax Rulings Directorate  
Policy and Legislation Branch  
Canada Revenue Agency  
16<sup>th</sup> Floor, Tower A, Place de Ville  
320 Queen Street  
Ottawa, ON K1A 0L5

Dear Sirs/Mesdames:

**Re: Advance Income Tax Ruling - Chippewas of Saugeen  
First Nation (Business No. 107957938 RT0001)**

We are writing on behalf of the Chippewas of Saugeen First Nation (the “**Saugeen First Nation**”) to request an advance income tax ruling with respect to the consequences under the *Income Tax Act* (Canada) (the “**Tax Act**”) of the proposed transactions described below. This ruling request is submitted on behalf of the Saugeen First Nation by McMillan LLP.

To the best of our knowledge, none of the issues involved in this ruling request:

- (a) are in earlier returns of the Saugeen First Nation or related persons;
- (b) are being considered by a tax services office or taxation centre in connection with previously filed tax returns of the Saugeen First Nation or related persons;
- (c) are under objection by the Saugeen First Nation or a related person;
- (d) are before the courts or, if a judgement has been issued, the time limit for appeal to a higher court has expired; or
- (e) are the subject of a ruling previously considered by the Income Tax Rulings Directorate.

In connection with this ruling application, we enclose:

- (a) a letter from the Saugeen First Nation:

- (i) undertaking to pay such fees as may be payable in connection with this ruling application under the provisions of Information Circular 70-6R5 or any other public notification; and
- (ii) authorizing:
  - (1) McMillan LLP to act on behalf of the Saugeen First Nation in connection with this application;
  - (2) the Canada Revenue Agency (the “CRA”) to communicate with McMillan LLP by facsimile or e-mail; and
  - (3) the CRA to publish the ruling in a mutually-agreeable, severed form; and
- (b) payment of the ruling application fee by way of cheque in the amount of \$500, payable to the Receiver General for Canada.

We will transmit an electronic copy of this letter (MS Word format) to the rulings officer who is assigned responsibility for this application.

The address and Business Number of the Saugeen First Nation are as follows:

Chippewas of Saugeen First Nation  
Fire # 6493, Highway 21,  
R. R. # 1,  
Southampton, Ontario  
N0H 2L0

Business No.: 10757938 RT0001

The Ottawa Tax Services Office and the Ottawa Taxation Centre are responsible for managing and processing the tax returns filed by the Saugeen First Nation.

Except as otherwise noted, all statutory references in this ruling request are references to the provisions of the Tax Act, as amended to the date of this letter, and all terms and conditions used herein that are defined in the Tax Act have the meaning given in such definition unless otherwise indicated.

## **I. FACTS**

1. The Saugeen First Nation’s mailing address is 6493, Highway 21, R. R. # 1, Southampton, Ontario, N0H 2L0.

2. The Saugeen First Nation is served by the Ottawa Tax Services Office and files its income tax return with the Ottawa Tax Centre.
3. The Saugeen First Nation is a “band” as defined in subsection 2(1) of the *Indian Act* (Canada) (the “**Indian Act**”).
4. The Saugeen First Nation’s reserve lands are Chief’s Point Reserve No 28, Saugeen Reserve No. 29, Saugeen Hunting Grounds No 60A and Saugeen & Cape Croker Fishing Island Indian Reserve No. 1. The Saugeen First Nation’s reserve lands (collectively, the “**Reserves**”) are each a “reserve” for purposes the Indian Act. The Reserves are located on the shores of Lake Huron at the base of the Bruce Peninsula in Ontario.
5. The Saugeen First Nation has approximately 1676 “band members”, as defined in subsection 2(1) of the Indian Act, of whom approximately 774 live on the Reserves.
6. A democratically elected chief and 9 elected councillors govern the Saugeen First Nation. The chief and band council are responsible for governance of the Saugeen First Nation and represent the Saugeen First Nation in all matters.
7. The Saugeen First Nation has a comprehensive funding arrangement in place with the Department of Aboriginal Affairs and Northern Development Canada, which helps to fund the Saugeen First Nation’s public works, social services and infrastructure programs.
8. The Saugeen First Nation has a funding arrangement in place with the Canada Mortgage and Housing Corporation to finance personal residence construction for members of the Saugeen First Nation.
9. The Saugeen First Nation has passed various by-laws pursuant to section 81 of the Indian Act, and section 83 of the Indian Act for which the Saugeen First Nation has received ministerial approval. These by-laws include:
  - (a) Animal Control By-law
  - (b) Building By-law
  - (c) Children’s Curfew By-law
  - (d) Nuisance By-law
  - (e) Rates By-law
  - (f) Streets and Traffic By-law
  - (g) Waste Management By-law
  - (h) Firearms Regulation By-law
  - (i) Use of Public Wells By-law
  - (j) Control of Snow Vehicles By-law
  - (k) Establish Police Force By-law
  - (l) Establish Police Committee By-law
  - (m) Establish Fire Department By-law
  - (n) Control of Motor Vehicles By-law
  - (o) Sauble Park By-law

- (p) Polls and Election By-law
  - (q) Construction of Residential By-law
  - (r) Public Games By-law
  - (s) Control of Campgrounds By-law
  - (t) Garbage Bag Tag Collection By-law
10. The Saugeen First Nation assesses and charges property tax on the Reserves in accordance with its by-laws.
11. The Saugeen First Nation provides or administers, as applicable, an extensive list of public works, social services and infrastructure programs, including but not limited to programs serviced by the following departments/areas:
- (a) Social Services Department
  - (b) Education Department
  - (c) Health Department
  - (d) Housing Department
  - (e) Public Works Department
  - (f) Lands Department
  - (g) Recreation Department
  - (h) Fisheries Department
  - (i) Finance Department
  - (j) Language Department
  - (k) Employment and Training Department
  - (l) Membership Department
  - (m) Preschool/Daycare
  - (n) Economic/Business Development
  - (o) Family Support Services
  - (p) Library Services
  - (q) Youth Services
12. Facilities maintained or financed by the Saugeen First Nation include:
- (a) Saugeen First Nation offices located on the Reserves used for Saugeen First Nation meetings
  - (b) Roads and bridges on the Reserves
  - (c) Residential housing for Saugeen First Nation members on the Reserves
  - (d) Gymnasium
  - (e) Adult education centre
  - (f) Computer lab
  - (g) Health station
  - (h) Landfill
  - (i) Playgrounds
  - (j) Tourism facilities
  - (k) Community complex
  - (l) Water Treatment plant

13. The Saugeen First Nation has developed a community 20-year plan to manage the development of community lots, housing, commercial development and economic development strategies. All land in the Reserve is held in a traditional manner and owned by the membership as a whole. The Saugeen First Nation allows people and businesses to use the land and any improvements to the land. Most of the housing offered to band members has been built by the Saugeen First Nation or its agents. Residents may construct their own buildings as long as approval is obtained from the Saugeen First Nation.
14. The Saugeen First Nation makes band-provided housing available to eligible members of the Saugeen First Nation. Allocations of band-provided housing are based on a Housing Policy established by the Saugeen First Nation.
15. Certain buildings are available for use by the Saugeen First Nation members. User fees and rental charges are levied for the use of recreational and meeting facilities for certain activities. The Saugeen First Nation establishes the user fees.
16. The Saugeen First Nation has entered into a Health Services Consolidated Contribution Agreement with Health Canada whereby the Saugeen First Nation has accepted responsibility to provide certain health programs and services to its members. The services to be provided are set out in the Community Health Plan. Programs include those related to prenatal care, infant development, health education, substance abuse and addiction services, mental health, home care and other community health issues. The Saugeen First Nation negotiated with Health Canada to renew its Health Services Transfer Agreement for a 20-year period commencing 2005.
17. The Saugeen First Nation provides garbage collection services and the infrastructure for water services for members living on the Reserves.
18. An Order in Council issued pursuant to section 69 of the Indian Act permits the Saugeen First Nation to control, manage and expend its revenue moneys
19. All areas of the Reserve are serviced with electricity supplied by Hydro One Inc. ("**Hydro One**"). The Saugeen First Nation monitors this service on behalf of its members to ensure an appropriate level of service. When service issues arise, the Saugeen First Nation resolves these issues with Hydro One on behalf of the members.
20. The Saugeen First Nation has installed a communications system on the Reserve, which provides for constant telephone and Internet access.
21. The Saugeen First Nation owns and operates a school and education centre for its residents. This building provides the services of primary and secondary education, a library and an internet lab. The Saugeen First Nation also provides adult education services to its members such as computer training, an entrepreneurship course, academic upgrading, professional development, wellness and health promotion.



22. The Saugeen First Nation employs a Chief Executive Officer who, under the direction of the chief and council, is responsible for administrative management of the Saugeen First Nation.
23. The Saugeen First Nation owns and operates a sports centre for its residents. Various activities are held in the centre such as bingos, dances, bazaars and local or regional tournaments.

## II. PROPOSED TRANSACTIONS

24. Hydro One Networks Inc. ("**HONI**") has constructed an electrical transmission line from the Bruce Power Nuclear Generating Facility in Kincardine, Ontario to HONI's switchyard in Milton, Ontario (the "**Transmission Line**") which traverses the traditional territory of the Saugeen First Nation and the Chippewas of Nawash First Nation (the "**Nawash First Nation**"). HONI is a wholly owned subsidiary of Hydro One, which is itself wholly owned by the Province of Ontario.
25. The Nawash First Nation together with the Saugeen First Nation (collectively, the "**First Nations**") have reached an agreement with Hydro One under which the First Nations will acquire an interest in a limited partnership (the "**Limited Partnership**") to be formed to own and operate the recently constructed Transmission Line.
26. An affiliate of Hydro One will be the initial limited partner of the Limited Partnership ("**HOI LP Co**") and another affiliate of Hydro One will be the general partner of the Limited Partnership ("**HOI GP Co**"). HONI will transfer the Transmission Line to the Limited Partnership.
27. A new corporation, Saugeen Ojibway Nations Finance Corporation ("**SON Finance Co**") will be incorporated for the purposes of holding legal title to an interest in the Limited Partnership on behalf of the Saugeen First Nation and the Nawash First Nation. SON Finance Co will agree to hold title to the partnership interest as bare trustee and agent for and on behalf of the First Nations. The shares of SON Finance Co will be legally registered in the names of the Chiefs of each of the Saugeen First Nation and the Nawash First Nation, whom will hold the shares as bare trustees for the Saugeen First Nation and the Nawash First Nation, respectively.
28. Attached is a copy of the form of the bare trustee agreement that will be signed by SON Finance Co and the First Nations.
29. The First Nations will contribute approximately \$72 million to the Limited Partnership for approximately a 30% interest in the Limited Partnership and HOI LP Co and HOI GP Co will contribute approximately \$168 million to the Limited Partnership for approximately a 70% interest in the Limited Partnership. Attached is a copy of the limited partnership agreement which the parties have agreed will govern the Limited Partnership.

30. HOI GP Co will negotiate, on behalf of the Limited Partnership, all contracts and manage all projects and operations to which the Limited Partnership is a party in respect of the Transmission Line.
31. The Limited Partnership will make distributions and allocate income and loss to its partners from time-to-time in accordance with the Partnership Agreement.

### **III. PURPOSE OF PROPOSED TRANSACTIONS**

32. The purposes of the Proposed Transactions are as follows:
  - (a) to generate a long-term source of income for the Saugeen First Nation and the Nawash First Nation to support the governance, public works and infrastructure needs of each community and to promote economic development such that the Saugeen First Nation and the Nawash First Nation will become economically self-sufficient while maintaining a stewardship role over their lands;
  - (b) to protect the Saugeen First Nation and the Nawash First Nation from liability arising from activities related to the Transmission Line;
  - (c) to provide employment and job training for members of the Saugeen First Nation and the Nawash First Nation; and
  - (d) to support projects and activities for the general benefit of the Saugeen First Nation and the Nawash First Nation.

### **IV. Rulings Requested.**

On behalf of the Saugeen First Nation, we request that the CRA confirm, in the context of a ruling that it will apply the terms of the Tax Act in a manner that:

1. Because the Saugeen First Nation is a public body performing a function of government in Canada within the meaning of paragraph 149(1)(c) of the Tax Act, and therefore exempt from tax under Part I of the Tax Act, no tax will be payable under Part I of the Tax Act by the Saugeen First Nation on the Saugeen First Nation's partnership income from the Transmission Line.
2. SON LPco, as agent for the Saugeen First Nation and Nawash First Nation will not be subject to taxation with respect to the income allocated to it by the Limited Partnership and such income will be treated as the income of the Saugeen First Nation and Nawash First Nation.

### **V. Submissions.**

SON Finance Co will hold the Saugeen First Nation's limited partnership interest in the Limited Partnership as a bare trustee. The bare trustee relationship between SON Finance Co and the Saugeen First Nation is evidenced in writing and is attached hereto as Exhibit A.

Under this agreement, SON Finance Co will act as an agent for the Saugeen First Nation. Accordingly, (i) SON Finance Co will not hold the Saugeen First Nation's limited partnership interest in the Limited Partnership in a trust relationship that is recognized under subsection 104(1) of the Tax Act, and (ii) the Saugeen First Nation will be characterized as the holder of said limited partnership interest for purposes of assessing tax under the Tax Act.

The Saugeen First Nation is a public body performing a function of government in Canada. As described in greater detail in the "Facts" section above, an elected chief and council exercises control over the administration and development of the reserve, represents the members in dealing with third parties, and has power to make by-laws in accordance with the Indian Act. The Saugeen First Nation provides or administers, as applicable, an extensive list of public works, social services and infrastructure programs.<sup>1</sup> A portion of the revenues used to fund such programs is derived from the Saugeen First Nation's taxation powers under the Indian Act, authority to charge user fees in accordance with policies derived by the Saugeen First Nation, and through inter-governmental funding agreements with the governments of Canada and Ontario.<sup>2</sup>

As a public body performing a function of government in Canada, the Saugeen First Nation is exempt from tax under Part I of the Tax Act pursuant to paragraph 149(1)(c) of the Tax Act. Accordingly, income from the Transmission Line that is allocated by the Limited Partnership to the Saugeen First Nation pursuant to subsection 96(1) of the Tax Act, as described in paragraph 31 above, will not be subject to tax under Part I of the Tax Act.

We are aware that the CRA has in the past considered some of the issues raised by the proposed transactions and has issued positive determination letters in respect thereof. We draw your attention to CRA Rulings # 2005-0136981R3 (2005) and 2008-0272731R3 (2009), among others, as examples of when the CRA has previously considered analogous proposals.

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<sup>1</sup> As noted in CRA Interpretation # 2009-030628117 (May 12, 2009), the CRA has traditionally accepted that "... providing municipal-type services, such as water, sewage removal, the pick-up of garbage and the maintenance of infrastructure such as roads, sewers and public buildings is a function of government. Further, providing a key service traditionally offered by the provinces or territories such as social services, overseeing of the environment, health services, and education is generally considered to constitute performing a function of government."

<sup>2</sup> The definition of "public body" in the Dictionary of Canadian Law (3rd Edition, Carswell), includes "...a body elected or appointed under an act: (A) to develop, administer or regulate schools, hospitals, health facilities, libraries, water utilities, drainage and irrigation works, sewage works, local improvements or public utilities; or (B) to levy and collect taxes.

In Interpretation # 2009-030628117 (May 12, 2009) it was observed that "[g]enerally, the CRA has accepted that Indian bands or Indian organizations that clearly provide government services and are accountable to either the federal, or a provincial or territorial government, or directly to the band members they represent, are public bodies."

Please contact the Michael Templeton ([michael.templeton@mcmillan.ca](mailto:michael.templeton@mcmillan.ca) 416 865-7837) with any questions or should you require additional information respecting the Proposed Transactions.

Yours truly,

A handwritten signature in black ink, appearing to read "Michael Templeton", with a long horizontal flourish extending to the right.

Michael Templeton

Attach.

**Appendix 9**  
**Post-Closing Pro Forma Financial Statements**  
**For**  
**HONI Transmission and the B2M LP**

## 2013-2017 HYDRO ONE BUSINESS PLAN

	HONI - Transmission				
	2013	2014	2015	2016	2017
<b>STATEMENT OF FINANCIAL POSITION (\$M)</b>					
<b>Assets</b>					
<b>Fixed assets</b>					
Fixed assets in service	14,480.7	14,702.4	15,373.8	16,327.9	17,059.6
Less: Accumulated depreciation	5,021.3	5,302.0	5,599.4	5,924.5	6,261.7
	9,459.4	9,400.4	9,774.4	10,403.4	10,798.0
Construction in progress	873.9	1,111.9	1,309.1	1,186.6	1,294.4
	10,333.3	10,512.3	11,083.6	11,590.0	12,092.3
<b>Current assets</b>					
Cash and short-term investments	(361.4)	(189.0)	(242.5)	(221.5)	(240.2)
Accounts receivable	150.1	151.1	159.7	167.2	173.4
Fuel for electric generation	-	-	-	-	-
Materials and supplies	3.4	3.5	3.4	3.4	3.4
Future income tax asset	-	-	-	-	-
Other current assets	3.3	3.3	3.3	3.3	3.3
	(204.5)	(31.1)	(76.0)	(47.5)	(60.1)
<b>Other assets</b>					
OPEB regulatory asset	(0.0)	(0.0)	(0.0)	(0.0)	(0.0)
Other regulatory assets	102.2	95.4	92.7	90.4	88.0
Deferred pension asset	-	-	-	-	-
Goodwill	-	-	-	-	-
Intangibles (net of amortization)	111.5	111.5	111.5	111.5	111.5
Future income tax asset	778.7	870.8	965.3	1,058.9	1,160.9
Long-term accounts receivable & other assets	15.0	624.4	624.2	624.0	623.9
	1,007.4	1,702.1	1,793.7	1,884.9	1,984.3
<b>Total Assets</b>	<b>11,136.2</b>	<b>12,183.2</b>	<b>12,801.3</b>	<b>13,427.4</b>	<b>14,016.5</b>
<b>Liabilities &amp; Equity</b>					
<b>Long-term debt</b>					
Long-term debt	5,265.1	6,049.0	6,454.2	6,852.3	7,187.9
Unamortized debt costs	(12.7)	(17.1)	(19.4)	(21.5)	(23.5)
Less: Payable within one year	325.0	337.2	270.0	405.0	221.2
	4,927.5	5,694.6	6,164.8	6,425.8	6,943.2
<b>Current liabilities</b>					
Accounts payable and accrued charges	217.4	219.4	220.1	230.3	242.2
Income tax payable	3.0	3.2	17.3	12.9	5.5
Dividends payable	3.3	3.3	3.3	3.3	3.3
Accrued interest	57.8	66.8	71.1	74.5	79.0
Long-term debt payable within one year	325.0	337.2	270.0	405.0	221.2
	606.5	629.9	581.8	725.9	551.2
<b>Other liabilities</b>					
Other post-employment benefits	507.5	529.7	509.4	502.0	506.1
Regulatory liabilities	43.8	9.8	9.2	8.7	9.1
Environmental liability	90.5	88.1	86.0	83.8	81.4
Future income tax liability	757.5	859.3	954.5	1,048.8	1,151.1
Long-term accounts payable & accrued charges	8.2	7.9	7.7	7.4	7.1
	1,407.6	1,494.8	1,566.8	1,650.6	1,754.8
<b>Equity</b>					
Preferred equity	239.0	239.0	239.0	239.0	239.0
Common equity	2,083.0	2,083.0	2,083.0	2,083.0	2,083.0
Retained earnings	1,878.8	2,047.9	2,171.8	2,308.7	2,450.7
Accumulated other comprehensive income	(6.3)	(6.1)	(5.9)	(5.6)	(5.4)
	4,194.6	4,363.8	4,488.0	4,625.0	4,767.3
<b>Total Liabilities &amp; Equity</b>	<b>11,136.2</b>	<b>12,183.2</b>	<b>12,801.3</b>	<b>13,427.4</b>	<b>14,016.5</b>

2013-2017 HYDRO ONE BUSINESS PLAN

HONI - Transmission

OPERATING STATEMENT (\$M)

Revenues

External	1,435.1	1,481.4	1,547.8	1,634.6	1,706.1
Inter-BU	5.9	5.9	5.9	5.9	5.9
	1,441.0	1,487.2	1,553.7	1,640.6	1,712.1

Costs

OM&A	440.5	448.8	460.2	462.5	462.3
Cost contingency / (reduction)	7.5	5.0	5.0	5.0	5.0
Cost of power	-	-	-	-	-
Depreciation	344.5	367.6	369.0	389.5	411.3
Interest	213.2	224.4	251.9	281.2	299.8
Capital tax	-	-	-	-	-
	1,005.7	1,045.7	1,086.1	1,138.3	1,178.4

Income Before Income Tax

	435.3	441.5	467.6	502.3	533.7
Current income tax	41.8	39.7	53.8	63.7	66.1
Future income tax	0.6	9.7	0.7	0.7	0.4
Total Income tax	42.3	49.4	54.5	64.3	66.5

Income Before Write-offs

	393.0	392.1	413.0	437.9	467.2
Write-offs (before income tax)	-	-	-	-	-
Income tax on write-offs	-	-	-	-	-
Net write-offs	-	-	-	-	-

Net Income

	393.0	392.1	413.0	437.9	467.2
Other comprehensive income	0.2	0.2	0.2	0.2	0.2

Comprehensive Income

	393.2	392.3	413.2	438.1	467.4
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Net Income

	393.0	392.1	413.0	437.9	467.2
Less:					
Preferred dividends	13.1	13.1	13.1	13.1	13.1
Common dividends	222.0	210.0	276.0	288.0	312.0
	235.1	223.1	289.1	301.1	325.1

Change in Retained Earnings

	157.9	169.0	123.9	136.8	142.1
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CASH FLOW STATEMENT (\$M)

Cash Flow from Operations

Net income (before write-offs)	393.0	392.1	413.0	437.9	467.2
Depreciation (net of asset removal costs)	310.3	327.1	338.0	355.4	375.0
Change in working capital	14.4	10.2	10.4	1.6	2.8
	717.8	729.4	761.4	794.9	844.9

Less:

Capital expenditures	982.4	1,114.9	913.1	866.8	883.0
Changes in other assets & liabilities	(51.3)	2.9	17.9	4.1	(8.7)
Dividends	235.1	223.1	289.1	301.1	325.1
	1,166.2	1,340.9	1,220.1	1,172.0	1,199.4

Net Cash Flow

	(448.5)	(611.5)	(458.7)	(377.1)	(354.4)
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**B2M Limited Partnership Model**  
**LP Financials**  
in \$M

	2014	2015	2016	2017	2018
<b>Balance Sheet</b>					
<b>Assets</b>					
Gross Fixed Assets	616.2	619.4	622.7	625.9	629.2
Accumulated Depreciation	(6.3)	(12.6)	(18.9)	(25.3)	(31.8)
<b>Total Assets</b>	<b>609.9</b>	<b>606.9</b>	<b>603.7</b>	<b>600.6</b>	<b>597.4</b>
<b>Liabilities</b>					
Note Payable to GPCo	365.9	364.1	362.2	360.4	358.5
Equity	243.8	243.8	243.8	243.8	243.8
Distributions	(22.3)	(47.0)	(72.6)	(98.4)	(124.0)
Retained Earnings	22.5	46.0	70.3	94.8	119.2
<b>Total Liabilities &amp; Equity</b>	<b>609.9</b>	<b>606.9</b>	<b>603.7</b>	<b>600.6</b>	<b>597.4</b>
<b>Profit Loss Statement</b>					
Revenue (Revenue Requirement including tax allc	47.9	48.2	49.9	49.5	49.5
<b>Expenses</b>					
OM&A	(2.3)	(1.2)	(1.8)	(1.2)	(1.7)
Depreciation	(6.3)	(6.3)	(6.4)	(6.4)	(6.4)
Interest	(16.3)	(16.5)	(16.8)	(16.7)	(16.6)
Total Expenses	(24.8)	(24.0)	(25.0)	(24.3)	(24.8)
Net Income Before Taxes	<b>23.1</b>	<b>24.1</b>	<b>24.9</b>	<b>25.2</b>	<b>24.8</b>
Calculated Taxes	0.6	0.6	0.6	0.7	0.4
Net Income	<b>22.5</b>	<b>23.5</b>	<b>24.3</b>	<b>24.5</b>	<b>24.4</b>
<b>Statement of Cash Flow</b>					
<b>Net Income</b>	<b>22.5</b>	<b>23.5</b>	<b>24.3</b>	<b>24.5</b>	<b>24.4</b>
Less: Repayment of Debt	0.2	(1.8)	(1.9)	(1.9)	(1.9)
Less: Distributions to Partners	(22.3)	(24.7)	(25.5)	(25.8)	(25.7)
Add: Depreciation	6.3	6.3	6.4	6.4	6.4
Less: Capex	(6.6)	(3.3)	(3.2)	(3.2)	(3.2)
Cash Flow	-	-	-	-	-



**Appendix 10**

**SON LP Co. Loan Term Sheets**

**SAUGEEN OJIBWAY NATION**  
**Debt Private Placement**

**Summary of Terms and Conditions of the Offering**

<b>Loan Amount:</b>	Up to \$50,000,000 referred to herein as the “ <b>Loan</b> ” to be issued under a credit agreement related to Saugeen Ojibway Nation (“ <b>SON</b> ”) equity contribution to the Bruce to Milton Transmission Reinforcement Project (the “ <b>Project</b> ”).
<b>Sponsor:</b>	Saugeen Ojibway Nation
<b>Issuer:</b>	SON (the “ <b>Issuer</b> ”). The Loan will be direct full recourse obligations of the Issuer subject to the Security.
<b>Issue Date:</b>	[June 1, 2013]
<b>Loan Guarantee:</b>	The Loan will be fully guaranteed, unconditionally and irrevocably, by the Province of Ontario under the Aboriginal Loan Guarantee Program.
<b>Recourse:</b>	The Loan will be direct full recourse obligations of the Issuer subject to the Security. The loan will be non-recourse to the Sponsor.
<b>Credit Rating:</b>	The Loan will be unrated
<b>Term:</b>	Up to [15] years (fully amortizing over the term)
<b>Maturity Date:</b>	•, [2028]
<b>Average Life:</b>	The average life of the loan is approximately [8.4] years
<b>Loan Margin:</b>	[100] basis points plus the Province of Ontario semi-annual yield of [2.619]%, as calculated by interpolation of semi-annual yields on the 3.15% June 2, 2022 Province of Ontario bond and 2.85% June 2, 2023 Province of Ontario bond, to most closely match the Average Life of the Loan.
<b>Interest Rate:</b>	[3.619]% per annum calculated semi-annually, not in advance.
<b>Payments:</b>	[Monthly] blended payments of interest and principal will be due and payable each [month], commencing on • until and including • as setout in Schedule A. The Loan will be fully amortizing over the term of the Loan.
<b>Maturity:</b>	Unless previously purchased or redeemed, the Issuer will repay the aggregate outstanding principal amount of the Loan on the Maturity Date
<b>Use of Proceeds:</b>	The proceeds of the Loan will initially be advanced to the Project and will subsequently be converted to the Issuer's equity contribution in the Bruce to Milton Transmission Reinforcement Project.
<b>Optional Redemption:</b>	The Issuer will have the right to redeem the Loan at any time and from time to time, in whole or in part, upon payment of a redemption amount equal to the sum of the principal amount then outstanding on the Loan so called for redemption and the Make-Whole Amount, together with accrued and unpaid interest up to but excluding the date fixed for redemption.
<b>Prospectus Exemption:</b>	The Loan will be exempt from the prospectus requirements of the securities laws of all of the provinces and territories of Canada
<b>Governing Law:</b>	All documentation will be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.
<b>Advance Date:</b>	On • or such other date as may be agreed upon

<b>Placement Agent:</b>	TD Securities Inc. (100%)
<b>Legal Counsel for the Issuer:</b>	McMillan LLP
<b>Legal Counsel for the Lender:</b>	McCarthy Tétrault LLP
<b>Account Bank / Administrative Agent:</b>	First Nations Bank of Canada
<b>Trustee:</b>	•

### Schedule A - Summary Loan Amortization Table

Period	Date	Opening Balance	Payment	Interest	Principal	Ending Balance
0	1-Jun-13					
1	1-Dec-13	\$ 50,000,000	\$ 2,174,444	\$ 904,750	\$ 1,269,694	\$ 48,730,306
2	1-Jun-14	48,730,306	2,174,444	881,775	1,292,669	47,437,637
3	1-Dec-14	47,437,637	2,174,444	858,384	1,316,060	46,121,576
4	1-Jun-15	46,121,576	2,174,444	834,570	1,339,874	44,781,702
5	1-Dec-15	44,781,702	2,174,444	810,325	1,364,119	43,417,583
6	1-Jun-16	43,417,583	2,174,444	785,641	1,388,803	42,028,780
7	1-Dec-16	42,028,780	2,174,444	760,511	1,413,933	40,614,847
8	1-Jun-17	40,614,847	2,174,444	734,926	1,439,519	39,175,328
9	1-Dec-17	39,175,328	2,174,444	708,878	1,465,567	37,709,761
10	1-Jun-18	37,709,761	2,174,444	682,358	1,492,086	36,217,675
11	1-Dec-18	36,217,675	2,174,444	655,359	1,519,085	34,698,590
12	1-Jun-19	34,698,590	2,174,444	627,871	1,546,573	33,152,017
13	1-Dec-19	33,152,017	2,174,444	599,886	1,574,558	31,577,458
14	1-Jun-20	31,577,458	2,174,444	571,394	1,603,050	29,974,408
15	1-Dec-20	29,974,408	2,174,444	542,387	1,632,057	28,342,351
16	1-Jun-21	28,342,351	2,174,444	512,855	1,661,589	26,680,762
17	1-Dec-21	26,680,762	2,174,444	482,788	1,691,656	24,989,106
18	1-Jun-22	24,989,106	2,174,444	452,178	1,722,266	23,266,840
19	1-Dec-22	23,266,840	2,174,444	421,013	1,753,431	21,513,409
20	1-Jun-23	21,513,409	2,174,444	389,285	1,785,159	19,728,250
21	1-Dec-23	19,728,250	2,174,444	356,983	1,817,461	17,910,789
22	1-Jun-24	17,910,789	2,174,444	324,096	1,850,348	16,060,440
23	1-Dec-24	16,060,440	2,174,444	290,614	1,883,830	14,176,610
24	1-Jun-25	14,176,610	2,174,444	256,526	1,917,918	12,258,691
25	1-Dec-25	12,258,691	2,174,444	221,821	1,952,623	10,306,068
26	1-Jun-26	10,306,068	2,174,444	186,488	1,987,956	8,318,112
27	1-Dec-26	8,318,112	2,174,444	150,516	2,023,928	6,294,184
28	1-Jun-27	6,294,184	2,174,444	113,893	2,060,551	4,233,633
29	1-Dec-27	4,233,633	2,174,444	76,608	2,097,837	2,135,797
30	1-Jun-28	2,135,797	2,174,444	38,647	2,135,797	-

**SAUGEEN OJIBWAY NATION**  
**Debt Private Placement**

**Summary of Terms and Conditions of the Offering**

<b>Loan Amount:</b>	Up to \$[22,000,000] referred to herein as the “ <b>Loan</b> ” to be issued under a credit agreement related to Saugeen Ojibway Nation (“ <b>SON</b> ”) equity contribution to the Bruce to Milton Transmission Reinforcement Project (the “ <b>Project</b> ”).
<b>Sponsor:</b>	Saugeen Ojibway Nation
<b>Issuer:</b>	[New Partnership] (the “ <b>Issuer</b> ”). The Loan will be direct full recourse obligations of the Issuer subject to the Security.
<b>Issue Date:</b>	[June 1, 2013]
<b>Recourse:</b>	The Loan will be direct full recourse obligations of the Issuer subject to the Security. The loan will be non-recourse to the Sponsor.
<b>Credit Rating:</b>	The Loan will be unrated
<b>Term:</b>	Up to [15] years (fully amortizing over the term)
<b>Maturity Date:</b>	•, [2028]
<b>Average Life:</b>	The average life of the loan is approximately [8.7] years
<b>Loan Margin:</b>	[250] basis points plus the Province of Ontario semi-annual yield of [2.665]%, as calculated by interpolation of semi-annual yields on the 3.15% June 2, 2022 Province of Ontario bond and 2.85% June 2, 2023 Province of Ontario bond, to most closely match the Average Life of the Loan.
<b>Interest Rate:</b>	[5.119]% per annum calculated semi-annually, not in advance.
<b>Payments:</b>	[Monthly] blended payments of interest and principal will be due and payable each [month], commencing on • until and including • as setout in Schedule A. The Loan will be fully amortizing over the term of the Loan.
<b>Maturity:</b>	Unless previously purchased or redeemed, the Issuer will repay the aggregate outstanding principal amount of the Loan on the Maturity Date
<b>Use of Proceeds:</b>	The proceeds of the Loan will initially be advanced to the Project and will subsequently be converted to the Issuer’s equity contribution in the Bruce to Milton Transmission Reinforcement Project.
<b>Optional Redemption:</b>	The Issuer will have the right to redeem the Loan at any time and from time to time, in whole or in part, upon payment of a redemption amount equal to the sum of the principal amount then outstanding on the Loan so called for redemption and the Make-Whole Amount, together with accrued and unpaid interest up to but excluding the date fixed for redemption.
<b>Prospectus Exemption:</b>	The Loan will be exempt from the prospectus requirements of the securities laws of all of the provinces and territories of Canada
<b>Governing Law:</b>	All documentation will be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.
<b>Advance Date:</b>	On • or such other date as may be agreed upon
<b>Placement Agent:</b>	TD Securities Inc. (100%)

**Legal Counsel for  
the Issuer:**

McMillan LLP

**Legal Counsel for  
the Lender:**

McCarthy Tétrault LLP

**Account Bank /  
Administrative  
Agent:**

First Nations Bank of Canada

**Trustee:**

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### Schedule A - Summary Loan Amortization Table

Period	Date	Opening Balance	Payment	Interest	Principal	Ending Balance
0	1-Jun-13					
1	1-Dec-13	\$ 22,000,000	\$ 1,059,465	\$ 563,090	\$ 496,375	\$ 21,503,625
2	1-Jun-14	21,503,625	1,059,465	550,385	509,079	20,994,546
3	1-Dec-14	20,994,546	1,059,465	537,355	522,109	20,472,437
4	1-Jun-15	20,472,437	1,059,465	523,992	535,473	19,936,964
5	1-Dec-15	19,936,964	1,059,465	510,287	549,178	19,387,786
6	1-Jun-16	19,387,786	1,059,465	496,230	563,234	18,824,551
7	1-Dec-16	18,824,551	1,059,465	481,814	577,650	18,246,901
8	1-Jun-17	18,246,901	1,059,465	467,029	592,435	17,654,466
9	1-Dec-17	17,654,466	1,059,465	451,866	607,599	17,046,867
10	1-Jun-18	17,046,867	1,059,465	436,315	623,150	16,423,717
11	1-Dec-18	16,423,717	1,059,465	420,365	639,100	15,784,617
12	1-Jun-19	15,784,617	1,059,465	404,007	655,457	15,129,160
13	1-Dec-19	15,129,160	1,059,465	387,231	672,234	14,456,926
14	1-Jun-20	14,456,926	1,059,465	370,025	689,440	13,767,486
15	1-Dec-20	13,767,486	1,059,465	352,379	707,086	13,060,400
16	1-Jun-21	13,060,400	1,059,465	334,281	725,184	12,335,217
17	1-Dec-21	12,335,217	1,059,465	315,720	743,745	11,591,472
18	1-Jun-22	11,591,472	1,059,465	296,684	762,781	10,828,691
19	1-Dec-22	10,828,691	1,059,465	277,160	782,304	10,046,386
20	1-Jun-23	10,046,386	1,059,465	257,137	802,327	9,244,059
21	1-Dec-23	9,244,059	1,059,465	236,602	822,863	8,421,196
22	1-Jun-24	8,421,196	1,059,465	215,541	843,924	7,577,272
23	1-Dec-24	7,577,272	1,059,465	193,940	865,524	6,711,747
24	1-Jun-25	6,711,747	1,059,465	171,787	887,678	5,824,070
25	1-Dec-25	5,824,070	1,059,465	149,067	910,398	4,913,672
26	1-Jun-26	4,913,672	1,059,465	125,765	933,699	3,979,973
27	1-Dec-26	3,979,973	1,059,465	101,867	957,597	3,022,376
28	1-Jun-27	3,022,376	1,059,465	77,358	982,107	2,040,268
29	1-Dec-27	2,040,268	1,059,465	52,221	1,007,244	1,033,024
30	1-Jun-28	1,033,024	1,059,465	26,440	1,033,024	(0)