**EB-2011-0140**

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** sections 70 and 78 of the *Ontario Energy Board Act 1998*, S.O. 1998, c.15 (Schedule B);

**AND IN THE MATTER** OF a Board-initiated proceeding to designate an electricity transmitter to undertake development work for a new electricity transmission line between Northeast and Northwest Ontario: the East-West Tie Line.

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# PHASE 2 FINAL ARGUMENT
# ON BEHALF OF THE
# SCHOOL ENERGY COALITION

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**Jay Shepherd P.C.**
2300 Yonge Street, Suite 806
Toronto, Ontario M4P 1E4

**Mark Rubenstein**
mark.rubenstein@canadianenergylawyers.com
Tel: 416-483-3300
Fax: 416-483-3305

**Counsel to the School Energy Coalition**

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# 1 GENERAL COMMENTS

## 1.1 *Overview*

***1.1.1*** The Ontario Energy Board's ("OEB" or the "Board") *Framework for Transmission Project Development Plans* developed in 2010, laid out a competitive regulatory process for the development of new transmission projects in Ontario. The policy's aim is to, i) allow transmitters to move ahead on development work in a timely manner; ii) encourage new entrants to transmission in Ontario bringing additional resources for project development; and iii) support competition in transmission in Ontario to drive economic efficiency for the benefit of ratepayers.[1]

***1.1.2*** On March 9th 2011, the then Minister of Energy wrote the Chair of the Board and suggested that the Board could utilize its *Framework for Transmission Project Development Plans* to select "the most qualified and cost-effective transmission company to develop the East-West Tie."[2] The East-West Tie Line is one of the five priority transmission projects the Government of Ontario identified in its Long-Term Energy Plan released in 2011. It runs between Northeast and Northwest Ontario.

***1.1.3*** The Board then initiated this proceeding, pursuant to its licensing and rate-setting authority under the *Ontario Energy Board Act, 1998* ("*OEB Act*"), to designate an electricity transmitter to undertake development work for the East-West Tie Line.[3] Seven potential designated transmitters and 23 other parties intervened in this proceeding, including the School Energy Coalition ("SEC"). The Board released its decision on Phase 1 of this proceeding on July 12, 2012 ("Phase 1 Decision") wherein it set out, among other things, the filing guidelines and decision criteria for Phase 2.

***1.1.4*** On January 6th 2013, the Board received designation applications from AltaLink Ontario L.P. ("AOLP"), Canadian Niagara Power Inc. ("CNPI"), EWT L.P. ("EWTLP"), RES Canada Transmission L.P. ("RES"), Upper Canada Transmission Inc. ("UCT") and a joint application from Iccon Transmission Inc. and TransCanada Power Transmission (Ontario) L.P ("Iccon/TPT").

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[1] Ontario Energy Board, *Framework for Transmission Project Development Plans* (EB-2010-0059), dated August 26, 2010
[2] Letter from the Minister of Energy to the Chair of the Ontario Energy Board, dated March 9, 2011
[3] *Ontario Energy Board Act, 1998*, SO 1998, c 15, Sch B, ss. 74, 78 ("*OEB Act*")

***1.1.5*** This is the Phase 2 Final Argument of the School Energy Coalition ("SEC").

## 1.2 ***The Interest of Schools in the Proceeding***

***1.2.1*** In Phase 1 of this proceeding, SEC's focus was promoting a robust competition between applicants to ensure that Ontario ratepayers benefit from the process to develop the East-West Tie Line. Encouraging competition in the development and ownership of transmission assets can lower the cost to consumers, likely in the short term but more importantly, in the long term. In Phase 2, SEC's interest is to ensure that the most cost-effective and qualified transmitter is selected to develop, and ultimately construct and operate, the East-West Tie Line. The transmitter that is designated must not only have demonstrated through their application and evidence that the plan they have proposed is the most cost-effective, technically sound, and operationally capable, but that it can be executed on budget, on schedule and includes the appropriate arrangements for First Nations and Métis participation.

***1.2.2*** While the Board is selecting an applicant to carry out development work with the expectation that it will bring forth a leave to construct application, it is also approving their development budget. In doing so it must assess the prudence of those costs when exercising its statutory obligations in setting just and reasonable rates pursuant to section 78 of the *OEB Act*. While the development budget is small compared to the construction and life-time operations costs, it still represents a significant amount to ratepayers.

***1.2.3*** The Board can be satisfied that at this point in the process, six sophisticated and serious applications have been submitted to develop the East-West Tie Line. This is an important milestone for the Ontario transmission sector and demonstrates the initial success of the Board's *Framework for Transmission Project Development Plans*.

***1.2.4*** In its Phase 1 Decision, the Board declined to articulate a specific assessment methodology to be applied to the decision criteria, or provide a weighting system to ascribe any relative importance to them. SEC submits that the Board, when evaluating the applications, must be guided by its statutory objectives for electricity which include protecting consumers with respect to prices and the adequacy, reliability and quality of electricity service, and the promotion of cost-effectiveness and economic efficiency in the transmission of electricity.[5]

[5] *OEB Act*, s.1(1)1,2

Each of the Board's criteria will have an impact, directly or in-directly, in the short or long-term, on the cost that will borne by ratepayers. It should use this as a primary lens when determining which applicant to designate.

***1.2.5*** SEC has reviewed the extensive applications, including interrogatory responses, and also the transcripts from the oral sessions held in Thunder Bay. While SEC has not provided a recommendation on which applicant should be designated, these submissions provide detailed comments on the various applications and the Board's criteria in order to assist the Board in reaching a conclusion on the selection of an applicant.

# 2 ORGANIZATIONAL, TECHNICAL AND FINANCIAL CAPABILITY

## 2.1 *Organizational, Technical and Financial Capability*

***2.1.1*** All six of the applicants are sophisticated and experienced entities who either directly, or indirectly through their partners or affiliates, have substantial experience developing and constructing large power infrastructure projects, including transmission lines.

***2.1.2*** Each of the six applicants have significant financial resources to finance the development and construction of the East-West Tie Line. While the specific credit ratings of each entity (or partners or affiliates) differ, each is strong enough that there *should* not be a material difference in their abilities to finance the debt necessary for the development and construction. Further, each applicant themselves, through an affiliate, or their proposed contractor have the technical capability to undertake the development, construction and operation of the East-West Tie Line.

***2.1.3*** SEC does have a minor concern in this regard with respect to CNPI. While they are relying on the experience and financial capabilities of their parent Fortis Inc. who have significant experience in developing and operating transmission assets in North American, the actual project team is made up primarily of CNPI staff who do not have experience managing a project of this type or size. While CNPI does own transmission assets in Ontario, they are quite limited, and the individual project members do not have sufficient experience managing the development or construction of similar high-voltage transmission lines to what will be required for the East-West Tie Line.[6] This may be resolved by a close working relationship with the parent company in the development and implementation of this project. Therefore, SEC requests that CNPI clarify in its reply argument how it intends to draw on the experience and expertise of Fortis Inc.

***2.1.4*** Iccon/TPT application raises some practical questions because Iccon Transmission Inc. and TransCanada Power Transmission (Ontario) L.P. have not yet formally entered into a legal partnership.[7] First, since there are two transmission licenses, one for each entity, what is the entity that will be designated, with conditions placed in their license? Second, what would

[6] CNPI's transmission system consists of 36 km of double and single circuit 115kV line connected to three transmission stations. (CNPI Application, Appendix B, p.1)
[7] ICCON/TPT Response to Board Interrogatory #1 to all Applicants

happen if no such partnership agreement were reached? SEC assumes that a governing memorandum or letter of intent was created for the purposes of this application, but there is nothing on the record in this proceeding.

***2.1.5*** The lack of a partnership arrangement also raises some other concerns. The creation of a legal partnership requires significant negotiation on the terms of the partnership agreement. That task has not been included in the development schedule of Iccon/TPT. Also, since no partnership currently exists, there is no detailed organizational chart for the Board and intervenors to review, so it is difficult to understand the governance and project management structure for the development, construction and operation of an Iccon/TPT East-West Tie Line.

# 3 SCHEDULE

## 3.1 *Proposed Schedules*

***3.1.1*** Bringing the East-West Tie Line into service quicker can provide benefits both to the grid and to ratepayers, but the development and construction schedule must be realistic.

***3.1.2*** Schedules that are too short will expose ratepayers to significantly higher costs than would otherwise be the case due to the inevitable costs associated with delays and complications. SEC submits the Board must ensure that the development and construction schedules are realistic and take into account all necessary tasks, and that each applicant has identified reasonably foreseeable risks and proposed adequate mitigation strategies.

***3.1.3*** CNPI proposes a schedule that includes a very long time frame for completion of the development and construction phase. Its scheduled in-service date is Q4 2019, a year later than any other applicant. It is critical that the Board assess and determine whether the CNPI time frame is overly conservative, or is more realistic than the other proposals. SEC believes that, in order to assist the Board in such an assessment – for each of the proposals – each applicant should in their reply submissions advise the Board the underlying forecasting philosophy used in setting out the proposed schedule, e.g. setting an aggressive target vs. not making commitments unless you are sure you can meet them.

***3.1.4*** After reviewing the schedules in each of the applications, the most significant concern are regarding applicants who have provided wholly unrealistic time frames for completing various parts of the Environmental Assessment ("EA") process.

## 3.2 *Environmental Assessment Process*

***3.2.1*** Both AOLP and UCT have proposed development schedules that may be unlikely to be feasible considering the significant EA process required for a project of the size and magnitude of the East-West Tie Line under the *Environmental Assessment Act* regime.[8]

***3.2.2*** ***EA Terms of Reference***. AOLP's schedule provides for approximately two months to prepare their EA Terms of Reference for submission, and a further two months for the Ministry's

[8] *Environmental Assessment Act,* RSO 1990, c E.18

review and approval.[9] SEC submits that these timelines will be difficult if not impossible to achieve. According to the Ministry of the Environment, preparing Terms of Reference for an EA usually take between 6 to 9 months depending on the complexity.

***3.2.3*** AOLP's schedule regarding the Ministry of the Environment's review and approval is also very optimistic. Due to the size, complexity and potential First Nations and Métis impact, it is likely to take much longer than AOLP has forecasted.[10] It is SEC's understanding that approval for Terms of Reference for EA's are generally taking considerably longer than 12 weeks, and even longer still if there is *any* opposition.

***3.2.4*** SEC agrees with the concerns identified by EWTLP about UCT's schedule, most importantly that the completion of all environmental studies before completion of consultations on the EA Terms of Reference is ill-advised.[11] UCT's plan may easily lead to opposition, which could increase the likelihood that the Ministry of the Environment will not accept the Terms of Reference, thus leading to a delay in the development and construction of the East-West Tie Line.

***3.2.5*** While both AOLP and UCT might be able expeditiously to conclude parts of the EA process under their control, they cannot force the decision maker – the Ministry of the Environment - to move any faster than normal.

***3.2.6*** ***EA Process Will Take A While.*** SEC also has concerns with both AOLP's and UCT's proposed time frame to prepare and file a competed EA. AOLP and UCT have estimated 15 and 17 months respectively which is shorter than the Ministry of the Environment's estimates, which indicate that it takes between 21 and 36 months to submit a completed EA.[12,13]

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[9] AOLP Application, Appendix 16 at p.2 (April 30, 2013 designated to July 2nd 2013 submission, September 30th 2013 for Ministry of the Environment Approval review and approval.)
[10] AOLP Application, Appendix 16 at p.2
[11] UCT Application, Appendix 15, EA ToR Consultation and EA Tor Finalization. EWTLP Argument-in-Chief at 71-72.
[12]AOLP Designation Application, Appendix 16 (Designation April 30, 2013 designated to July 2014 submission of completed EA.) UCT Designation Application p.99-100 (Designation May 2013 to Submission of EA to Ministry of the Environment October 2014)
[13] This number is an estimate derived from combining te following: 1) According to the Ministry of the Environment, *Code of Practice- Preparing and Reviewing Terms of Reference for Environmental Assessment sin Ontario* at p.8, should take between 6 and 9 months to prepare the EA Terms of Reference, 2) Ontario Regulation 616/98 provides for 12 weeks (3 months) to for the Ministry of the Environment to review the Terms of Reference,

Considering the size, complexity and potential First Nations and Métis impact, it is in our view likely to be on the longer end of the Ministry's own estimates.

## 3.3 ***Important Activities Not Included in the Schedule***

***3.3.1*** A number of applicants have not included in their proposed schedules important activities that must be undertaken during the development phase of the East-West Tie Line.

***3.3.2*** AOLP has not included the preparation of an IESO system impact assessment, HONI connection assessment, and crown land rights acquisitions. UCT has not provided allowances for necessary reviews by the IESO and OPA on its proposed tower structure. As indicated previously, Iccon/TPT have not included in their development schedule time required to form their legal partnership and get the necessary Board license amendments.

***3.3.3*** These activities will still need to occur and, if not already embedded in the other steps in their schedules, will lengthen the time required for development.

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3) According to the Ministry of the Environment, *Code of Practice- Preparing and Reviewing Environmental Assessments in Ontario* at p.13 it takes between 12 to 24 months to prepare the environmental assessment

# 4 DESIGN

## 4.1 *Proposed Design*

***4.1.1*** One the aims of this designation process was that while the IESO presented a reference option (the "Reference Option") with a specific route, circuit configuration, and tower design, applicants were encouraged to provide alternatives that were innovative and cost-effective.[14] A number of different designs, some very innovative, have been proposed, and the Board should consider that a positive development.

***4.1.2*** RES, UCT, EWTLP and CNPI have all proposed different tower designs, circuit configurations, and/or routes, compared to the Reference Option. SEC recognises that this leaves the Board with a difficult task in assessing the various options, especially at this stage in the process.

***4.1.3*** This task is only made more difficult since various arguments of the applicants in their Arguments-in-Chief explaining the flaws in each other's designs and describing the benefits of their own, are very similar. As an example, EWTLP has proposed guyed tower structures while RES has proposed lattice and H-Frame tower designs. Both argue that each other's proposals are not viable and are ill-suited for the terrain that the East-West Tie Line will traverse, while their own design is better.[15]

## 4.2 *Tower Options*

***4.2.1*** Multiple tower designs and configurations have been proposed. Applicants took issue with each other's designs primarily on the basis of technical weakness[16], lack of a track record in similar terrain and environmental conditions[17], and/or potential public safety risk.[18]

***4.2.2*** The only professional analysis provided is by way of affidavit of Peter Catchpole of Power Engineers Inc., retained on behalf of EWTLP, who provided a critique of RES' H-Frame tower design. It should be noted that this evidence is not an independent evaluation; Power

[14] OEB Presentation: Technical Requirements: East-West Tie Line, dated January 10, 2012 at slide 5
[15] RES Argument-in-Chief at p.86, EWTLP Argument-in-Chief at p.48
[16] EWTLP Argument-in-Chief at p.64
[17] EWTLP Argument-in-Chief at p.47-48, Iccon/TPT Argument-in-Chief at para 61, RES Argument-in-Chief at p.87 and 94
[18] CNPI Argument-in-Chief at p.39, RES Argument-in-Chief at p.86 and 98

Engineers is part of the EWTLP team.[19] Further, the affidavit evidence was filed as an Appendix to EWTLP's Argument-in-Chief, which was inappropriate since the Board's process does not provide an opportunity for applicants to file evidence in response other applications. As a result of this being filed late in the process, it is untested evidence, and therefore in SEC's opinion is of no real value to the Board.

***4.2.3*** SEC realizes it would impossible to determine with certainty the perfect tower design at this point. Testing will need to be done by the designated transmitter regardless of who is selected. RES and UCT, though, are relying on their tower designs as a significant cost-saving measure. If their design is inappropriate then, if still used, it will result in added annual maintenance costs and other negative impacts. If they are not used, then those cost-savings will not materialize. The Board's difficult task at this stage of the proceeding is to ensure the proposed designs are reasonable, or the proposed cost advantage should be ignored.

***4.2.4*** At the same time, the Board should be wary of arguments in opposition to alternative designs that are solely premised on the basis that a certain tower is unproven because there are no examples of its use in similar terrains to that which the East-West Tie Line will traverse. There are simply very few examples of large transmission lines that have traversed similar terrain, so that should not, in and of itself, demonstrate they are not suitable.

## 4.3 ***Single Circuit Option***

***4.3.1*** Both RES and EWTLP (as one of its alternatives) have proposed a single-circuit option as an alternative to the Reference Option which includes a double-circuit design. Both RES and EWTLP claim that there will be significant cost savings by constructing a single-circuit line, and that it will not materially affect reliability. In its report filed with the Board in 2011 on the East-West Tie Expansion, the Ontario Power Authority ("OPA") wrote:

> A single-circuit 230 kV line would likely have a similar cost to a double-circuit 230 kV line, but would have reduced operability during planned and forced outages. Therefore, the OPA believes that the double-circuit 230 kV line is preferred, but other options could be proposed to the extent that they meet the other project scope criteria outlined below.[20]

[19] EWTLP Application at p.22.
[20] Ontario Power Authority, *Long Term Electricity Outlook for the Northwest and Context for the East-West Tie Expansion,* dated June 30, 2011 at p.20

***4.3.2*** While both RES and EWTLP claim that a single-circuit line will reduce development and construction costs, they have not shown how the overall costs to ratepayers will be reduced. Single-circuit designs create additional costs for other entities which will have to be paid by the ratepayers. A single-circuit design will require the IESO to procure certain control actions, at a cost estimated to be about $7 million a year.[21] It would also require upgrades to HONI substations. A single-circuit design also has increased line losses which are a cost borne by ratepayers.

***4.3.3*** Double-circuits provide greater reliability and superior flexibility for grid operators. One of the ways that the reduced reliability (even if it is within acceptable bounds) of a single-circuit line adds cost to ratepayers is through increased OM&A expenses. SEC realizes it is hard to quantify these costs at this time, but they are important for the Board to consider. No party proposing a single-circuit design has provided a lifecycle cost projection, so it is hard for SEC to determine if in the long-term, when all costs are considered, it is a more cost-effective transmission solution than a double-circuit design. We suspect it is not.

***4.3.4*** SEC therefore agrees with the OPA that a double-circuit line is preferable.

## 4.4 ***Routing***

***4.4.1*** While it may be both appropriate and preferable to deviate from the route set out in the Reference Option, that choice will likely will have a material impact on the cost of the construction phase of the East-West Tie Line. SEC submits that the Board must satisfy itself that any proposed alternative route is in the best interest of ratepayers. That inquiry should not be limited to the construction costs. There may be significant ratepayer benefits including mitigation of landowner, environmental, First Nation and Métis impacts, and lower lifecycle maintenance costs. Applicants considering an alternative route must provide a thorough analysis of why it believes its alternative route is more cost-effective. As the Board stated in its Phase 1 Decision:[23]

> The Board will adopt the proposal of the OPA (supported by SEC) for a requirement to outline how a proposed plan leads to a lower cost solution than other alternative while meeting the project requirements. The Board is not, at

[21] EWTLP Response to Interrogatory #5 to EWTLP, RES Response to Interrogatory #8 to RES
[23] *Phase 1 Decision* at p.11

> this stage, asking applicants to compare their plans to those of other applicants, but to some other options for the East-West Tie line that could reasonably be considered to satisfy the need of the line.

***4.4.2*** SEC submits that no applicant proposing an alternate route has met this burden. CNPI asserts that its alternative route will be cost-effective because the added benefits will offset the additional tower and conductor costs. Yet, it has not provided even a rudimentary cost comparison for the Board to make an assessment.[24] UCT has similarly provided a potential route that differs in some respects from the Reference Options but does not provide all of the cost implications of the proposal.

***4.4.3*** Our conclusion is that the Board will not really be able to assess routing choices and costs until the leave to construct phase. As a practical matter, this means that at this stage the Board must discount the savings or impacts of alternative routing in selecting a preferred applicant.

[24] CNPI Response to Board Interrogatory #7 to CNPI, CNPI Application, p.43-44.

# 5 FIRST NATION AND MÉTIS PARTICPATION

## 5.1 *Introduction*

***5.1.1*** SEC supports "significant aboriginal participation" in the delivery of the East-West Tie Line, as set out in the March 29, 2011 letter to the Chair by the then Minister of Energy.[25] Each of the applicants has provided a number of different ways to incorporate and include First Nations and Métis participation into their plan for the East-West Tie Line. These participation options fall into three broad categories, i) equity; ii) preferential employment and supplier arrangements; and iii) various forms of direct financial benefits.

***5.1.2*** SEC does not believe a certain method of participation is inherently superior. Each has their own benefits and drawbacks. The Board will be required to balance them, including in particular how they work in combination as many applicants have proposed.

## 5.2 *Equity*

***5.2.1*** All but ICCON/TPT are offering some form of equity participation to First Nations and/or Métis communities. The maximum percentage of equity offered varies from 20% (RES) to 49% (CNPI, AOLP), while the amount UCT is willing to provide has not be stated.

***5.2.2*** Two of the applicants, EWTLP and CNPI, have formal arrangements already in place with various First Nations organizations, while others do not. Some applicants are providing the opportunity to only First Nations and Métis groups that are directly affected[26], while others do not make such a distinction.

***5.2.3*** One of EWTLP's three equal partners, Bamkushwada LP, is made up of is six directly affected First Nations communities, but no Métis communities. While EWTLP's aboriginal equity participation is already formalized, which should provide Board with a strong level of comfort, not including any Métis communities is a significant issue. While SEC takes no position on

[25] Letter from the Minister of Energy to the Chair of the Ontario Energy Board, dated March 9, 2011
[26] Affected community are defined by the Ontario Power Authority, *First Nation and Métis Community Consultation List*, May 10, 2011

the legal impact of approving EWTLP's participation plan[27], as a matter of principle and government policy aboriginal participation should include both First Nations and Métis communities.

***5.2.4*** Equity participation is an effective way for First Nations and Métis communities to participate in the East-West Tie Line. This is because equity participation not only provides them with the economic stake in its success, but if structured right involvement in its governance. Iccon/TPT has not offered equity participation at this time. Further, UCT has not provided the amount of equity available or who would and would not qualify, while all the other applicants have provided the percentage of equity available and specifics about who would qualify.

***5.2.5*** It should be recognized that besides EWTLP and in some respects CNPI[28], applications that provide an opportunity for First Nations and Métis communities to enter into equity arrangements, are at this point just opportunities. Ultimately agreements need to be made on commercially reasonable terms and there is no guarantee, or Board oversight mechanism, that the designated transmitter will follow through in good faith on its participation plan. Unlike applicants who may understate their costs, and would be at risk for any amounts in excess of the budget, there may not be financial risk for a designated transmitter who does not follow through on their participation plan. The Board must ensure that the commitments are followed through in good faith, especially if the designated transmitter's overall costs are higher than other applicants, but were selected in part because of their participation proposals.

***5.2.6*** At the same time it would be ill advised for the Board to require through a license amendment that the designated transmitter must provide a certain amount of equity to First Nations and Métis communities. Those relationships must be developed through good faith negotiations and formalized through agreements on commercially reasonable terms; they cannot be forced upon the designated transmitter. SEC submits that the Board can provide some level oversight by setting a milestone for the designated transmitter entering into an equity participation

[27] During the oral sessions in this proceeding, the Métis Nation of Ontario stated that selecting the EWTLP would discriminate against Métis and would lead to further litigation (Transcript, Oral Sessions, March 3 2013, at pp. 68-70). RES states that it could be susceptible to a Charter challenge (RES Argument-in-Chief at para 46).

[28] CNPI (through its parent FortisOntario) has entered into a binding MOU with the Lake Huron Anishinabek Transmission Company Inc. (LHATC) which was formed by 21 First Nations communities to enter into equity arrangements to develop transmission assets, including the East-West Tie Line. CNPI states it is willing to enter into additional equity arrangements with further interested First Nations and Métis communities. (CNPI Application,p.38-39. CNPI Argument-in-Chief p.14)

arrangement with First Nations and Métis communities or providing to the Board with reasons why no arrangement materialized. In our view, if the designated transmitter does not follow through fully, and implement in a reasonable way, their participation proposals, they should be at risk at the leave to construct phase for financial penalties, or the selection of a new designated transmitter.

***5.2.7*** One of the potential barriers to equity participation for many interested First Nations and Métis communities may be the inability to raise the necessary upfront capital to fund their equity stake. In light of this, an important component of an applicant's First Nations and Métis participation plan must be their willingness to provide assistance through loans (directly or through an affiliates) or other arrangements with financial institutions, so that the necessary capital can be raised on reasonable terms. All applicants who are offering equity participation arrangements have offered to provide assistance in arranging financing through traditional sources or government programs, but only CNPI, AOLP and EWTLP are willing, if necessary, to provide financing themselves.[29] Being willing to provide financing directly, if necessary, is an important way for the Board to have comfort that the equity components of the designated transmitter's participation plan will be followed through successfully.

## 5.3 ***Employment and Supplier Benefits***

***5.3.1*** While equity participation seems to be the focus of most applicants, SEC submits employment and training opportunities should be just as important to a successful participation plan. SEC is disappointed with the lack of detailed proposals for employment and training opportunities for First Nations and Métis individuals and communities from many of the applicants.

***5.3.2*** The Province of Ontario made clear in the Long-Term Energy Plan that an important component to aboriginal participation, especially with regards to projects that cross their traditional territories, would include, i) opportunities for providing job training and skills upgrade to encourage employment on the transmission project development and construction; ii) further aboriginal employment in the project; and iii) ways to enable aboriginal participation in the procurement of supplies and contractor services.[30]

***5.3.3*** All the applicants mention offering some form of employment and supplier opportunities to

[29] Responses to Interrogatory to All Applicants #8
[30] *Ontario's Long-Term Energy Plan* at p.49

members of First Nations and Métis communities, but the Board should look more favorably on applications that provided specifics. As an example, CNPI discusses specific ways of providing employment training opportunities, including its apprentice training fund and Skills Builder Program.[31] EWTLP has committed to providing holding workshops for First Nations and Métis communities to help them qualify and bid effectively on contracts for services and supplies.[32]

***5.3.4*** SEC submits that robust training, employment and supplier opportunities must be made available for there to be an effective and meaningful First Nations and Métis participation plan.

## 5.4 ***Direct Financial Benefits***

***5.4.1*** Some applicants have outlined other First Nations and Métis participation arrangements which involve some form of direct financial benefits to various communities. SEC has concerns with those described by RES and UCT. While these specific arrangements or those similar may be appropriate, they require a larger discussion since they may lead to significant ratepayer impacts, and are a very significant policy decision that has not been considered by the Board to date and could have a wide ranging impact beyond this proceeding.

***5.4.2*** RES has offered as one of the potential options for First Nations and Métis participation an Impact Benefits Agreement ("IBA"), with affected communities.[33,34] SEC takes no issue with the applicants entering into IBAs with affected communities, but would not favor, as RES has proposed, that the cost of the IBA be recovered from ratepayers as an OM&A expense.[35] While it may be appropriate that capacity funding for First Nations and Métis communities be considered a cost that should be borne by ratepayers, an IBA that is based on a percentage of project proceeds or similar metric should not. Participation of First Nations and Métis communities in the development, construction and operations of the East-West Tie Line is part of the "social license" that is required by the successful applicant. It should be treated as an

[31] CNPI Application, p.39-41
[32] EWTLP Application, Ex.3/pp.7-9
[33] RES Application, Ex.D/2/1., First Nation and Métis Participation Plan Report, p. 6
[34] Iccon/TPT reference in their *Aboriginal and Stakeholder Engagement Plan (*Iccon/TPT Application, Section 4, Appendix A, p.13) discusses potentially a similar concept, that of entering into Project Agreement's which usually includes but is not limited to financial benfits (short or long term or both). As far as the concept is similar to what RES is offering, SEC's comments also apply to Iccon/TPT.
[35] RES Application, Ex.P/6/2/p.1

alternate or additional form of equity participation, and thus a sharing of benefits by the transmitter.

***5.4.3*** SEC is unaware of any other IBAs put in place with First Nations and Métis communities for an electricity transmission project. As the RES plan is currently proposed, the Board will be put in an almost impossible situation, as it will eventually have to determine the prudence of an amount agreed upon between those communities and RES in its first cost of service application. There may even be a presumption of prudence at that point, effectively tying the Board's hands.

***5.4.4*** Further, there is no principled reason why such an approach to First Nations and Métis participation would be limited to this project. If the Board believes that this *may* be an approach it is willing to see undertaken for the construction of facilities it regulates, then a broader discussion should occur through a generic consultation or hearing with a wider range of stakeholders.

***5.4.5*** SEC has a similar concern with UCT's 'First Nations and Métis Adder' proposal. While just one of many different participation arrangements that may be considered by UCT, they propose a similar concept to what is part of the Feed-in-Tariff program, where projects who meet certain First Nations and Métis participation requirements, receive a rate adder.[36] The cost of the rate adder would be passed on to ratepayers. This is creative, to be sure. However, the Board has never considered such a proposal before and there are far ranging impacts to all other transmission projects that invariably traverse First Nations and Métis traditional lands and communities. SEC submits that this should only be considered in the context of a broader discussion with a wider range of stakeholders through a Board consultation or generic hearing process. In fact, potentially it is an issue that should be left to be determined by the policy decisions of the Government of Ontario, just as the FIT adder was determined.

[36] UCT Application, Appendix 5 UCT Response to Interrogatory #9 to UCT.

# 6 CONSULTATIONS

## 6.1 *Consultations*

***6.1.1*** Both landowner and First Nations and Métis consultation are very important aspects of any successful transmission line development plan, especially one the size of the East-West Tie Line. As SEC argued in its Phase 1 submissions, the Board should assess this criterion flexibly, taking into account the variety of the applicants and factors such as past experience and conduct, internal and external expertise, and their specific consultation plan. In cases of First Nation and Métis consultation, where an applicant does not have specific experience the Board will have to place greater emphasis on the proposed plan, the willingness to meaningfully consult, and the external expertise that they are planning to obtain for the purposes of the East-West Tie Line. At the same time applicants who do have significant past experience should not have that discounted.

***6.1.2*** SEC has always taken the view that any type of consultations, be it First Nations and Métis, landowner, or other stakeholders, should not be seen as simply "ticking the box", but must be proactive and meaningful. Consultation is not just a legal or regulatory duty. It is about working as closely with those who may be impacted by the project, something that is especially important with affected First Nations and Métis communities.

## 6.2 *First Nations and Métis Consultation*

***6.2.1*** One of the most important ways that a First Nation or Métis community can provide meaningful project feedback is in the routing and EA process. As discussed earlier with regards to the proposed schedules, AOLP and UCT have proposed very short schedules, with almost impossible timelines to allow for meaningful feedback to be incorporated into their EA process, especially the Terms of Reference. This suggests the possibility that consultation might be less thorough in these cases.

***6.2.2*** AOLP's First Nations and Métis consultation budget is roughly one quarter the size of other applicants. That is unlikely to benefit ratepayers. Inadequate resources directed at consultation activities increases the risk of oppositions and delays quite significantly. Experience has shown that this leads to greater long-term costs for ratepayers.

## 6.3 ***Landowner Consultation and Land Acquisition***

***6.3.1*** UCT has not provided any information on which external resources it will use for land acquisition and consultation activities. While it did state that those activities will be led by staff from one of the affiliates of its partner Enbridge Pipelines Inc., they are not located in Ontario and it is not clear they have the necessary capability and experience to undertake consultation of this type and scope, in Ontario, alone.[37]

***6.3.2*** UCT is also the only applicant to have failed to identify any external resources that it will use for environmental public consultation and land acquisition services. This omission means that SEC - and the Board - are unable to do a proper review of the experience and capabilities of the entities who will actually be implementing UCT's environmental, public consultation and land acquisition plans.

[37] See Iccon/TPT Response to Board Interrogatory #3 to All Applicants. Leads are Kara Green and Dan O'Neill of Enbridge Pipelines Inc.

# 7 COSTS

## 7.1 *Development Costs*

***7.1.1*** In its Phase 1 Decision, the Board wrote with regards to determining the prudence of development costs: [38]

> The Board agrees with the general tenor of parties' submissions that the time to review the budgeted development costs put forward in applications for designation is during Phase 2 of this designation proceeding. The level of development costs, which are expected to be recovered from ratepayers, will be a factor in the Board's selection of a designated transmitter. In this light, the Board does not foresee a circumstance, as suggested by SEC, in which it would adjust the amount of development costs proposed by a transmitter at the time the Board designates that transmitter.
>
> The level of development costs is only one aspect of the proposal put forward by a transmitter. The Board does not intend to adjust this part of the proposal any more than it would adjust the proposed organization, design, financing or any other aspect. Unlike an application for rates or approval of a facility, this proceeding concerns itself with choosing from among several competing proposals. The Board will compare these proposals to each other and will determine which proposal is best overall. It would be inappropriate and unfair to the applicants to expect any of them to adjust their applications once they have been filed.
>
> This does not mean that the development costs proposed in applications for designation cannot be questioned. The Board will receive and consider interrogatories and submissions regarding the level of these budgeted costs during Phase 2 and will take that evidence into account in assessing the applications. The selection of a transmitter for designation will indicate that the Board has found the development costs to be reasonable as part of an overall development plan. This selection will also establish that the development costs are approved for recovery. The Board will not select a transmitter for designation if it cannot find that the development costs are reasonable.

***7.1.2*** SEC is concerned that the Board does not at this stage have enough information to determine with any accuracy the prudence of the proposed development costs for the purposes of setting "just and reasonable" rates, which will be recovered when the East-West Tie Line comes into service through disposition of a deferral account. While interrogatories were posed by the Board in an attempt to seek clarification, the questions and responses have not provided enough information for SEC, at least, to feel comfortable that any of the budgets are

[38] *Phase 1 Decision* at p.17

reasonable.

***7.1.3*** While the comparison between the six applications may assist in determining the prudence of the various development budgets, different applicants have interpreted the various cost categories differently, making it very hard to compare them head to head. Further, a number of applicants in their Arguments-in-Chief have tried to provide cost comparisons on an "apples to apples" basis by excluding certain cost categories. This leads to a fair amount of arbitrariness and self-interest.

***7.1.4*** SEC is specifically concerned with Iccon/TPT's development budget. Both the budget included in its application, and the re-statement in response to Board Interrogatory to all Applicants No. 26, are *significantly* higher than all other applicants. SEC cannot find anything in their application, or Argument-in-Chief, that would justify such a high total development budget. Iccon/TPT does attempt to demonstrate that its development budget is prudent and cost-competitive by creating a cost comparison table.[40] The comparison is in our view totally meaningless, given that one of the categories it removes is First Nations and Métis consultation. That category is both a very important part of the development phase and, at $11 million dollars in the Iccon/TPT application, more than five times the size of any other applicant's budget.

***7.1.5*** SEC submits a further complication in determining the prudence of the various budgets is that it is not entirely clear, in all cases, what specific amount each applicant is seeking to have the Board determine is just and reasonable and be set as the maximum recoverable amount through the deferral account. Some applicants state their budgets in ranges, some include escalation amounts, others include specific accounting requests, and some made material changes as a result of their responses to Board Interrogatory to All Parties No. 26. SEC requests that in their respective reply arguments, each applicant state clearly the amount for which it is seeking Board approval in this proceeding, including the calculation of that amount. Further, if that amount is different from its application, they should detail how that change was derived.

[40] Iccon/TPT Argument-in-Chief at para 72-73.

***7.1.6*** SEC submits that, in addition, a detailed Draft Accounting Order process will be required after the issuance of the Board's Phase 2 decision.

## 7.2 ***Development Costs Deferral Accounting Treatment and Recovery***

***7.2.1*** ***Accounting Treatment.*** RES is seeking a unique approach to the treatment of its development costs. It is proposing that instead of the usual prescribed interest rates for regulatory accounts, it would receive a weighted average cost of capital to apply to all of its development costs.[41]

***7.2.2*** SEC submits this is inappropriate as it treats the development costs as being part of rate base from the start – before the underlying asset, the East-West Tie Line is put in-service. SEC notes that usually development costs do not even attract Board prescribed interest rates because they are not placed in a deferral account. The deferral account approach in this proceeding was put in place because of the unique situation – the Board is approving a development budget years before the designated transmitter will be able to recover those costs. RES though has not provided an adequate explanation of why this unique situation warrants any change from usual practice. If there are precedents or other rationale for this proposal, SEC believes RES should provide details in their reply argument.

***7.2.3*** ***Cost Overages***. In its Phase 1 Decision, the Board warned potential applicants that costs in excess of the budgeted amounts that are put forward for recovery from ratepayers will be subject to a further prudence review, which would consider the reasons for the overages.[42] The Board is seeking in this proceeding an accurate forecast of development costs, not a lowball bid that can be inflated in the future. The Board should in our view warn the designated transmitter that if it seeks recovery of development amounts in excess of what has been approved in this proceeding, one way in which the Board will test prudence will be to review the applications of the unsuccessful applicants to determine if the costs that drove the overage were foreseeable.

***7.2.4*** SEC does not agree with Board Staff that a materiality threshold of 10% for an application by the designated transmitter for recovery of any development costs in excess of what has been approved is appropriate. The Board should have realistic development budgets, and the designate transmitter should be expected to live within that budget. If a budget needs a

[41] RES Application Ex. B/1/1/p.16
[42] *Phase 1 Decision* at p.17

contingency, that should be built into the budget, as is the normal practice and a cost competent that most applicants have included. Adding an additional 10%, in effect as of right, is in our view not appropriate.

## 7.3 ***Construction Costs***

***7.3.1*** SEC argued during Phase 1 that while it would not be fair to require the designated transmitter to provide a binding commitment to a specific construction cost. What is required is an estimate that is objectively determined to be fair, and is reasonable given the facts known at the time. While the prudence of those costs will not be determined in this proceeding, since there are multiple applications, the difference in projected costs will be important criteria in the Board's decision.

***7.3.2*** There will, of course, be a subsequent review of the construction costs in the leave to construct proceeding and then again at the designated transmitter's first cost of service proceeding. At this stage, the Board must satisfy itself that the construction costs while not prudent per se, are still reasonable in both magnitude and accuracy. It would be unfair to both ratepayers, and the unsuccessful applicants, if at a later stage the designated transmitter brought forward a construction budget that was significantly higher than put forth in this proceeding – and the reasons for the difference should have been known at the time and were considered in other applications. While SEC understands that at this stage construction budgets are truly just estimates, the various applicants have are relying in significant part on arguments that their plan is the most cost-effective. Therefore, it is submitted that the designated transmitter should be "at risk" for foreseeable construction phase costs that they did not include in their budgets.

***7.3.3*** ***Proposed Budgets.*** SEC has had a hard time comparing the construction budgets between applicants, since different applications either included or did not include certain cost categories. As an example, a number of applications included IDC or AFUDC costs, while others did not, and some parties included project management, and financing costs as a separate category, while others would appear to have embedded them within other categories.

***7.3.4*** The conclusions that can be drawn are that CNPI has the highest overall construction budget by a significant margin, and UCT followed by RES have the lowest. When comparing the

Reference Options, UCT followed by RES has the lowest overall cost.

***7.3.5*** The Board should be concerned with the wide ranges between applications, of certain cost categories such as 'Permitting and Licensing', 'Land Rights', 'Site Clearing and Preparation' and 'Site Remediation'. Since the applicants don't provide supporting information to justify these costs, it is impossible to understand the basis for the differences.

***7.3.6*** As recognized by the Board in its Phase 1 Decision, an applicant's demonstration of its ability to manage complex projects and control all costs is a very important consideration in determining who the Board should designate.[43] The Board included in its interrogatories to all parties, a modified version of one of SEC's proposed interrogatories that attempted to determine the accuracy of the applicant's budget estimates by looking at their previous transmission project construction.[44] Applicants were asked in Board Interrogatory #32(a) to complete a Budget Variance Table for transmission projects greater than 100km in length, undertaken by themselves, their partners, shareholders, affiliates or other entities which the applicant is relying on for the purposes of its application, in the past 10 years regardless of jurisdiction.

***7.3.7*** A review of the responses shows that, for each of their completed projects that fall within the scope of the interrogatory, AOLP and EWTLP have come in significantly over-budget. EWTLP, which has direct experience in Ontario through its partners Hydro One Networks Inc. and Great Lakes Power Transmission shows that all three of their projects in the past 10 years that are greater than 100km have come in over-budget. SEC submits this suggests either a) that both AOLP and EWTLP have problems managing significant transmission projects on budget or b) their budgeting approach does not start with realistic cost estimates. In contrast, RES, CNPI and UCT have generally had their final costs come in at or below budget. SEC understands the limitations of this measure since the budgets are determined at different time, but it is still a useful indicator of how accurate the various budgets are likely to be. In light of this, as noted earlier SEC believes it would be helpful if the applicants in their reply arguments each commented on their specific budgeting philosophy. This may allow the Board to have a better sense of how to compare budgets that may be prepared on different basis.

[43] *Phase 1 Decision* at p.12
[44] SEC Proposed Interrogatory to all Applicants #1(a), Board Interrogatory to All Applicants #32(a)

| **Applicant Budget Variances** (Information from Responses to Board IR to All Parties #32(a) | | | | | | | |
|---|---|---|---|---|---|---|---|
| Applicant | # of Projects | # Over Budget | # On Budget[1] | # Under Budget | Total Budget (000) | Total Actual Costs (000) | Total Actual Costs/Total Budget |
| UCT | 4 | 1 | 1 | 2 | $1,159 | $1,115 | 0.96 |
| RES | 2 | 0 | 0 | 2 | $1,286 | $1,215 | 0.94 |
| EWTLP | 3 | 3 | 0 | 0 | $1,341 | $1,574 | 1.17 |
| AOLP | 1 | 1 | 0 | 0 | $133 | $216 | 1.62 |
| Iccon/TPT | 6 | 2 | 2 | 2 | $8,360 | $9000 | 1.08 |
| CNPI | 2 | 0 | 1 | 1 | $326 | $277 | 0.85 |
| [1] within 5% of project budget | | | | | | | |

***7.3.8*** ***Affiliate Relationship Code Compliance.*** SEC has a concern with applicants that are relying on their own affiliates, or those of partners, to conduct the engineering and construction work. Specifically, AOLP is relying on its affiliate SNC Lavalin and Iccon/TPT is relying on Iccon Transmission Inc.'s affiliate Isolux Ingernieria. Since neither of these applicants will tender the design, materials and construction contracts for the East-West Tie Line, they will be *prima facie* in contravention of the *Affiliate Relationship Code for Electricity Distributions and Transmitters ("*ARC").[45] The ARC requires that in competitive markets, such as for design, materials and construction services, if a transmitter pays affiliates for services, that amount can be no more than the market price for that service.[46] That market price is determined by conducting a tendering process.[47] Further, the ARC states that where the value of the proposed contract over its term exceeds $500,000 or 0.5% of the utility's utility revenue, whichever is greater, a utility shall not award the contract to an affiliate before an independent evaluator retained by the utility has reported to the utility on how the competing bids meet the criteria established by the utility for the competitive bidding process.[48] While Iccon/TPT have stated that their construction contract with Isolux Ingernieria will be at "market based rates", they like AOLP have not provided any information about how they will objectively determine that in order to comply with the ARC.[49] The ARC is not a guideline that *should* be followed, but a binding instrument aimed to protect ratepayers, made pursuant to the Board's code-making authority under the *OEB Act* that *must* be followed. [50]

[45] Ontario Energy Board, *Affiliate Relationship Code for Electricity Distributors and Transmitters* ("ARC")
[46] *ARC*, ss.2.3.3.1
[47] *ARC*, ss.2.3.3.2
[48] *ARC*, ss.2.3.3.4
[49] Iccon/TPT Argument-in-Chief, at para 26.
[50] *OEB Act*, ss.70.1-70.3

***7.3.9*** ***Incentive Schemes***. RES has proposed an incentive scheme which provides it with a higher return on equity ("ROE") if it constructs the East-West Tie Line at a cost less than what it has budgeted in its designation application. At the time same its ROE will be lower if it constructs the East-West Tie Line at a cost greater than what is has budged in its development application. SEC commends RES for thinking outside of the box and providing an innovative idea for parties and the Board to consider. However, SEC does have numerous concerns with its proposal.

***7.3.10*** RES' scheme excludes a number of cost categories, including aboriginal participation (and accommodation), land acquisition, environmental and permitting costs, and line costs in respect of a total line that exceeds 410km. RES rationale is that these are costs over which it has little or no control, yet it is seeking to limit its exposure to budget overages. RES would still be eligible for the increased ROE if the actual costs are less than its designation budget including the excluded categories.[51] This is an unfair and one-sided incentive scheme that favors the RES at the expense of ratepayers. A fair incentive scheme protects both parties equally. RES has also overstated the lack of control it has over those budget categories. At some level all the construction phase costs have some elements that that are outside of the control of the designated transmitter. An applicant with considerable transmission construction experience will be able to mitigate and control for these uncertainties.

***7.3.11*** Lastly, as a practical matter, if the Board does designate RES and implements its scheme, then it will be setting "just and reasonable" rates pursuant to section 78 of the *OEB Act* as it will be determining the prudence of its construction budget. It will have done so without a comprehensive and detailed inquiry into those costs.

***7.3.12*** UCT has proposed to develop with the Board Staff and other stakeholders a premium ROE if it achieves "superior performance", but has not proposed a corresponding ROE reduction if it fails to meet such performance.[52]

[51] RES Application Ex. B/1/1/p.17-21, Ex. P/1/1/3/p.4-6
[52] UCT Application at p.58, UCT Response to Board Interrogatory #11 to UCT

***7.3.13*** SEC submits that a proper all-encompassing, balanced, and fair incentive scheme may be appropriate but neither RES nor UCT have presented such a proposal.

## 7.4 ***OM&A Costs***

***7.4.1*** The designated transmitter will eventually have their rates set through a cost of service application, and that will provide an opportunity for the Board to review in detail OM&A expenses,

***7.4.2*** SEC has concerns with the wide range of OM&A costs that have been forecast. The estimated OM&A costs per year range from CNPI's $1.7M to EWTLPs $7.1M. The Board should be particularly concerned with EWTLP's significantly higher OM&A forecast compared to all other applicants. Over the life cycle of the East-West Tie Line that will be a very significant cost to ratepayers.

***7.4.3*** In our view, each applicant should, in their reply argument, convert their cost estimates into a lifecycle cost summary, with an appropriate present value, so that the OM&A differences can be integrated into the capital cost estimates for comparison purposes.

# 8 MILESTONES AND REPORTING REQUIREMENTS

***8.1.1*** SEC submits that the milestones and reporting requirements set out in Board Staff's submissions are appropriate.

***8.1.2*** In addition and as discussed earlier, SEC believes it would be appropriate to include as a milestone entering into its proposed equity arrangement (if applicable) with First Nations and Métis communities, or providing an explanation of why one could not be reached. Recognizing that it will take time for most designated transmitters to enter into such arrangements, and that no party has included that in their development schedule, the date of the milestone could be the same as for filing the leave to construct application.

***8.1.3*** In its on-going reporting obligations, the designated transmitter should also provide information regarding First Nations and Métis participation including any concluded agreements/MOUs and details about employment and training programs that are being undertaken.

***8.1.4*** SEC agrees with Board staff that it would beneficial for the designated transmitter to report to the Board as soon as possible details of any sources of failure and delay that it cannot mitigate. This would allow the Board to step in if it felt it necessary, e.g. because the issue could prevent completion of the development phase and filing of a leave to construct.

***8.1.5*** There are two primary reasons that an "early warning system" is required. First, even though it is small compared to what will be spent in the construction phase, the amount of ratepayer funds being approved for use in the development phase by the designated transmitter is still significant. The Board must be kept updated on the progress and any factors that may lead to the project not going forward so that the Board can protect ratepayer funds that have not yet been spent. Second, ratepayers are depending on timely completion of the East West Tie Line for the reliability and other benefits that it will generate. If the Board is informed early about problems, it has maximum ability to make changes that will keep the project moving forward.

***8.1.6*** SEC submits that after the Board has issued its Phase 2 Decision and Order, in addition to filing a draft Accounting Order reflecting the approval of the development budget deferral account, the designated transmitter should be required to file with the Board draft license

conditions that reflect the Board's decision. Those draft license conditions would include a schedule of milestones that reflects what was in designated transmitter's application.

***8.1.7*** Board Staff suggests that the schedule be adjusted to recognize the actual date of the Board's designation order. SEC understands EWTLP's reluctance for the Board to do so, as EWTLP was the only applicant who provided a reasonable designated date in their schedule. The Board should consider that as it relates to the reasonableness of the proposed development schedule, but insofar as another applicant is designated, they should allowed adjust their schedule to account for that actual date of the designation order, to avoid having the designated transmitter likely to miss milestones right from the start.[53]

***8.1.8*** SEC agrees with a number of applicants who argue that it would not be appropriate for the Board to set a generic development milestone. The development schedules are an important part of the applications and are inherently intertwined with the proposals themselves. There are inevitably cost implications for changing the schedules that could be very different for each applicant, and this is something that has not been explored in this proceeding. If the Board believes that the designated transmitter's proposed schedule is realistic, then it should be required to comply with the corresponding milestone dates.

[53] Projected designation dates: AOLP April 30 (AOLP Application, Appendix 15), UCT May 2013 (UCT Application, p..99-100), CNPI end of Q2 (CNPI Application Ex.B/1/1/p.25), EWTLP August 31 (Ex.B/7/p.4], RES June 6 (Ex. N/2/1/p.2), Iccon/TPT July 1 (Ex.7/Appendix 1).

# 9 SUMMARY

***9.1.1*** ***Summary.*** The Board must choose an applicant to be designated who appears to be the most cost-effective and qualified transmitter to not just develop but ultimately to construct and operate the East-West Tie Line. In doing so, the SEC submits that the Board should not just select the transmitter who has presented the lowest budgeted cost, but the experienced and qualified applicant whose likely actual cost will be the lowest. This requires that the Board to be satisfied that the designated transmitter has proposed not only an accurate budget, but also an executable and reasonable schedule, design and consultation and participation plan.

***9.1.2*** SEC submits that such an approach would be consistent with the Board's statutory objectives for electricity which include protecting consumers with respect to prices and the adequacy, reliability and quality of electricity service, and the promotion of cost-effectiveness and economic efficiency in the transmission of electricity.

***9.1.3*** ***Costs.*** SEC hereby requests that the Board order payment of our reasonably incurred costs in connection with our participation in this proceeding. It is submitted that the School Energy Coalition has participated responsibly in all aspects of the process, in a manner designed to assist the Board as efficiently as possible.

All of which is respectfully submitted on this 9th day of May, 2013

*Original signed by*

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Mark Rubenstein
Counsel to the School Energy Coalition