Joint Comments from Wikwemikong First Nation, and the Ontario Sustainable Energy Association (WFN/OSEA)

Comments on OEB Staff Discussion Paper on Transmission Connection Cost Responsibility Review - Board File No.: EB-2008-0003

Summary

We are pleased to submit the following comments with respect to the above noted review.

Our overriding comment on the Staff Paper is that it does not thoroughly investigate all of the options and opportunities for transmission to enable renewable energy development and that certain objectives defined in Ministerial Directives and the Electricity Act have not been adequately addressed in the Staff Paper.

We are concerned that the Staff Paper has not adequately focussed on presenting options which reflect the needs of emerging renewable energy proponents to the electricity sector.

We suspect that all four options for transmission cost allocation as presented may be discriminatory to some degree against proponents of smaller renewable energy projects because of project scale requirements and the excessively long duration of the development, approval and completion cycles.

We urge the Staff to embrace innovative thinking in respect of this issue and we recommend a potentially transformative measure consisting of a **Standard Offer Program for Transmission Lines** designed for smaller enabler line projects. Under this program the cost of the enabler projects would be absorbed by the ratepayer.

General Comments

This set of comments is a compilation of ideas and concerns developed and identified through the combined efforts of Wikwemikong First Nation (WFN) and the Ontario Sustainable Energy Association (OSEA).

We are pleased that the Ontario Energy Board (OEB) is conducting this review of Transmission Connection Cost Responsibility and appreciate the efforts of OEB staff in preparing this discussion paper. It is no secret that transmission constraints are the single greatest barrier to the development of renewable energy in Ontario. As you are aware, the current Transmission System Code was written with the expectation of an open and competitive market for generation, transmission and the sale of electricity. Clearly those are not the market conditions that are present in Ontario today and a re-thinking of the regulatory instruments and processes is required.

We are also cognizant that the Ontario government has demonstrated its interest in stimulating the development of renewable energy as an emissions' free source of electricity and instructed the Ontario Power Authority (OPA) and the OEB, through a variety of policy statements, programs and directives to carry out this mandate. We ask that Board staff be mindful of these directives and guiding principles in making its recommendations for Transmission.

The important role that hydro system infrastructure development plays in sustaining economic development cannot be ignored in this policy development process. The Board's January 4, 2008 reiterates the need for *"transmission connection cost responsibility policies to ensure the rational and*

optimal development of transmission infrastructure ***in a manner that reflects the evolving needs of the electricity sector*** *and the Province as a whole"* (emphasis added)

Mandate for Review

The Staff Paper presents four options for generation connection qualified on the extent to which they promote economic efficiency, regulatory predictability and administrative efficiency. While we do not disagree with the use of these objectives in principle, we feel that the evaluative scope must be broader to show how the policies meet the purposive sections of the Electricity Act, 1998 (the "Act"). We also feel that the Supply Mix Directive should be the source of mandate for this exercise.

The Supply Mix Directive called for the strengthening of the transmission system to:

- Enable of the achievement of the supply mix goals set out in this directive;
- Facilitate the development and use of renewable energy resources such as wind power, hydroelectric power and biomass in parts of the province where the most significant development opportunities exist;
- Promote system efficiency and congestion reduction and facilitate the integration of new supply, all in a manner consistent with the need to cost effectively maintain system reliability.

In the IPSP Issues list decision, the Board was called upon to confirm its jurisdiction to review the IPSP since it was submitted by other intervenors that Section 1 of the OEB Act should apply to the Board's exercise of its jurisdiction in this proceeding. The Board found that Section 1 was not to be used as a "source of independent or incremental responsibility"1[1] that can override its jurisdictional mandate. Accordingly, the mandate for this policy review is derived from the Board's January 4, 2008 letter, which was initiated as a result of the Supply Mix Directive. On that basis, Section 1 of the OEB Act should not be used to override the task of facilitating the objectives of the Supply Mix Directive, rather the Staff Paper, in its evaluation of options should look principally to fulfilling the directive requirements for strengthening the transmission system and should only be guided by the principals set out in Section 1 of the OEB Act.

In view of the facts that 1/ generators are entitled to non-discriminatory access to transmission and distribution systems in Ontario and 2/ that the 2004 amendments to the Electricity Act, 1998 (the "Act"), confirmed "sustainability" was to also be an explicit purpose of the Act, any proposed policy changes for Transmission development should have regard to these purposive sections of the Act, and to Section 26 in particular.

Evaluation of Options

With three of the four options, namely the Status Quo, the Hybrid Option and the Shared Option, generating plants that require transmission upgrades to accommodate their construction or refurbishment are required to bear the costs of such upgrades. In contrast the Pooling option presents one significant virtue in allowing an enabler line to be built by a transmitter but at the ratepayer's expense

It is our view that all four of the suggested options do not ensure non-discriminatory access to the transmission system because they are geared to large projects which only an entitled few entities can undertake. There is no option which provides a level playing field between centralized and distribution connected generation. The process of enabler line selection happens through interaction between large transmitter proponents and the OPA and OEB. Small generation proponents have no market power to engage in the long term discussions and planning processes currently instituted in Ontario.

1[1] EB 2007-0707 - Issues List Decision Dated March 26, 2008, pg 7

The OPA uses Unit Electricity Costs Comparisons (LUEC) analysis in its enabler line assessment process and as a result in the current IPSP there is only a small number of proposed enabler lines. We feel that localized economic development potential, a sustainability consideration, is not included sufficiently in the current planning process of designating enabler lines. Furthermore the OPA is excessively concerned with LUEC issues, claiming that economic development benefits are outside its mandate. We feel that other appropriate enabler line opportunities were missed and will be missed in the future and so we caution against policies that are tied to the IPSP results.

We have concerns about the choices that the OPA has made based on its qualifying criteria. OPA has circled for consideration potential enabler lines that are 230kv and up, capable of carrying 400 MW or more. What about smaller lines? What if a local cluster of developers wants to build a 69KV line to service a smaller quantity of generation? What if new clusters were to be identified either as a result of advances in technology or driven by political will?

Currently the only choice for proponents of smaller enabling lines not included within the IPSP vision is the Status Quo and we believe the permitting processes associated with it as well as the other proposed options are too complex for smaller clusters of proponents to manage. The Staff Paper completely ignores a category of transmission development or aggregate activity that bridges generation occurring at the distribution scale and the transmission resources needed to carry those resources to market.

This situation is contrary to the goal of facilitating development of renewables as set out in the Supply Mix Directive.

Timing and Complexity Issues

The Staff Paper appears to assume that changes to the process of enhancing Ontario's transmission facilities would only take place after approval of the initial Integrated Power System Plan, seemingly ignoring the fact that government directives in advance of the approval of the IPSP have the same weight as approval of the IPSP. In this regard, we would like to cite an excerpt from the Minister's letter to the Ontario Energy Board and the Ontario Power Authority of August 18, 2005 which requested these agencies to:

> *…work together to address the barriers to small generators through a standard offer program. This program should reflect the costs and benefits of renewable energy as well as the government's stated objectives with respect to renewable energy. The Ontario Energy Board, in accordance with its authority over connection policies and delivery obligations of distributors,* ***will focus on the necessary changes to codes and connection requirements****, and on ensuring non discriminatory access to the electricity system. (Emphasis added)*

Another significant concern is the time required to develop the enabler lines. .

The current process of developing enabler lines is clogged with permission events and according to the discussion paper, completion of an enabler line is predicted to take 7 years. The process is excessively complex. Firstly, the OEB must agree with the vision of the enabler lines via the IPSP process. Next the OPA decides on the qualifications of the enabler line proponents and agrees to do business with them. Next the enabler line development process involves discussion with local stakeholders and a decision by the Ministry of Environment and possibly by the Ontario Municipal Board. Somewhere in the middle of all this activity, the IPSP gets reviewed and the vision for the enabler line may become affected by the new IPSP's perspective (which might have experienced political influence). Once this is done, the proponent needs to go back to the OEB to complete a Leave to Construct application for a final approval on whether the line is warranted. Only then can the enabler line proponent and presumably the generators waiting to use the line know fully if the line is going to be available and at what cost.

We feel that the Leave to Construct application process represents too much decision making power too late in the development process. We are also concerned that the interim IPSP review (as set out in the timeline tables) of enabler lines under development will become a redundant process of re-evaluation

potentially causing precious time to be wasted. We do not see the usefulness of this cumbersome process and recommend that a more streamlined proposal be brought forward.

Procurement Mechanisms

We are also concerned that the Staff Paper appears to assume that the only procurement process for generation or for transmission is a process involving Requests for Interest and Requests for Proposals. Again, the Act does not specify or even imply that RFI/RFQs are the only procurement mechanism for generation. Section 25.31 (2) states the following:

> *The OPA's procurement processes must provide for simpler procurement processes for electricity supply or capacity to be generated using alternative energy sources or renewable energy sources, or both, where the supply or capacity or the generation facility or unit satisfies the prescribed conditions.*

New generation of any kind cannot be brought on line without new approaches to enhancing transmission system capacity. Current policy has directed new procurement processes designed to induce greater renewable generation and ASEA believes that these must be supported by an evolved transmission and distribution system. In keeping with the requirement for simplification expressed in the Act any new methods for transmission procurement should streamline processes, ensuring that new infrastructure is developed in a timely manner.

Discussion - Reponses to Staff Questions

Within the context the above general comments Wikwemikong First Nation and the Ontario Sustainable Energy Association (OSEA) offer the following responses to the questions posed in the Staff Paper.

1. Is it appropriate to change the current policies for the provision of generation connections as it applies to enabler lines?

Yes, however, we believe that the changes should not be restricted to large enabler lines, but also encompass improvements and alterations to existing facilities to facilitate connections when no new enabler lines are required.

2. If so, do you agree with the definition of enabler lines as proposed and, in particular, that: (a) enabler facilities are those that serve multiple generation facilities with different owners; and (b) the revised policies apply only to those enabler facilities that are part of an approved IPSP?

We believe that new policies should stimulate a greater spectrum of enabler lines than those contemplated within the IPSP. While the IPSP is intended to be a helpful planning tool, the OPA has been narrow in its definition of necessary enabler lines. We believe there are viable enabler line options beyond the scope of what the IPSP presents and which should not be precluded by virtue of not being included in the IPSP.

3. Do you agree with the proposed process in the Pooling, Hybrid and Shared options that once the IPSP is approved, the Board should undertake a process to designate a transmitter as responsible for the development phase of the enabler facilities? If not, what process should the Board use to ensure that development work on the enabler facilities proceeds?

We disagree with that specific sequencing approach and with the concept that the enabler line needs to be within an approved IPSP before development activity can be commenced. Under the current mandate the OPA can proceed immediately to designate a transmitter and inform the OEB of its processes accordingly.

4. Is the timing for the Request for Expressions of Interest and Request for Proposals relative to the stage of the development work on the enabler facilities appropriate?

With respect to competitive generation procurement it would be better to move the RFI/RFP to earlier in the enabler line development process. (Any full consideration in this context should also include other procurement mechanism such as the RESOP approach as all other procurement mechanisms are ignored in this discussion). This way the generators will know they have a project and they can wait for the development of the enabler line to finalize their own project plans. However the challenge under this approach is the excessive time delay between the pricing of generation resources and the completion for the generation facilities. One way out of this trap is to require pricing disclosure from the proponents and then allow adjustment mechanisms for the contract energy prices to track relevant and valid changes in market supply conditions

Should the costs of the enabler line be recovered from transmission ratepayers or from generators?
Transmission Ratepayers should bear the cost burden.

5. Should the costs associated with the unsubscribed portion of the enabler facility's capacity be recovered from transmission ratepayers (as in the Pooling and Hybrid options) or should they be paid by generators (as in the Status Quo and Shared options)?

Where the costs of the subscribed portion of the enabler facility are paid for by the transmission ratepayer, those ratepayers should pay also for the unsubscribed portion of the enabler line for a period of three years after which the generators should pay. Moreover under this scenario the subscribing generators should be allowed to expand their facilities and contracted energy amounts to make up the difference within that interval. In the cases where the costs of the subscribed portion of the enabler facility are paid for by the generators, the generators should be fully responsible for the unsubscribed amounts of capacity unless transmission system restrictions make it impossible for the generators to expand their production capacity. In this case the transmission ratepayer should compensate the generators for the stranded and unused transmission capacity.

A Fifth Option – Standard Offer for Transmission Line

We urge the OPA to expand the perspective to look at other options. This dialog should not be constrained to the 4 options proposed.

We are concerned that in a world with rapidly escalating hydro-carbon costs, the current limits and constraints on Ontario's power system investment has yielded a micro-management approach. The resulting rigidity over expenditure has yielded false economic savings from deferred investment in transmission when a more strategic approach would be more transformative and sustainable in the long run.

We believe that the Board Staff should recommend accelerated development of enabler lines. The existing timeline of 7-8 years is too long.

The IPSP queuing process primarily takes into account least energy cost factors in order to prioritize among competing enabler line opportunities. We suggest that this decision methodology sidetracks the principles established in the Electricity Act and Ministry of Energy's Directives and the need to include other considerations in the process, such as local economic development and First Nation's rights. Small enabler lines should be built with fewer restrictions than the OEB currently contemplates and with more inputs from non-energy constituencies (such as First Nations, municipalities, etc.).

The transmission choices identified by the IPSP favour only the largest, most financially capable proponents on the basis of the lengthy development processes and costs. These proponents have sufficient market power to influence the choice of the transmission facilities that get proposed and built while erecting barriers to smaller developers. From a generation proponent's point of view, this adds substantial capital requirement in order to facilitate an energy project and requires that the developer

have access to an entourage of experts, service providers and sufficient financing to endure the process and cover the costs

We seek a system in which market power is not a prime determinant of the enabler line selection and other social issues are weighed in the decision, such as local economic development, capacity building for First Nations, energy security, employment, freedom of individual expression and the personal right of landowners and businesses to be energy producers as well as energy consumers.

As representatives of constituencies who feel disenfranchised by the current system of planning and implementation we perceive a deep problem with the IPSP becoming the main pace-setter for change. Local clusters of generators may be stranded by the intermittency of the IPSP process and may not be able to wait 7-15 years for their projects to show up in the IPSP priority queues. We desire a means for identifying and reacting to enabler line opportunities outside the IPSP process and suggest a lower threshold of enabler line which can be approved without reference to complex IPSP processes. More specifically for smaller clusters of renewable resources, a special class of enabler aggregate line is needed, complete with its own approval process.

We propose the creation of a **Standard Offer Program for Transmission Lines**, which would accelerate approval for small enabler lines at distribution and lower transmission voltage levels. Small transmission proponents could band together with similarly small generators to facilitate an enabler project and if the enabler line meets specified performance tests, it would be allowed to proceed. For the sake of discussion we see the Standard Offer Program for Transmission Lines applying to lines of 69 KV voltage or below serving aggregate generation of 75 MW or less. The OEB would approve a table of tariffs for lines according to scale factors such as length of line, degree of difficulty of construction, size of wires, size of termination facilities, and offer the proponents guaranteed revenue based on formulae that accounted for project cost and anticipated usage. The OPA would act as the agency for managing which projects are initiated and when, under quantity guidelines and an appropriate capital budget allocation.

We note that another OPA document, the IPSP Discussion Paper on Procurement Options specifically references the absence of transmission procurement options (Page 9 of 38) and refers to Section 25.31 (1) of the Electricity Act, 1998 as if it acts as an authority to preclude transmission from procurement considerations. We disagree with this approach and further submits that a Standard Offer Program for Transmission Lines is consistent with Goal #6, Strengthen the Transmission System, made by the Minister within his Supply Mix Directive of June 2006.

We contemplate the mechanical implementation processes as follows: Generators (or an enabler line proponent) would identify a line requirement to bring a known renewable resource to market. The proponent would measure the electrical need, undertake preliminary engineering for feasibility, and get the proposed enabler line budget priced. With this information, the proponent would apply to OPA for approval of the economic case for this line. OPA would apply need tests derived from the IPSP (subjectively), cost tests (approved by the OEB) and if the result was within industry norms, and the impact assessment on the TX system of the new generation was favourable, then the OPA would assign a standard tariff based on the submitted economic case. If the proponent accepts this tariff, they then would be allowed to develop the line, undertaking the usual environmental assessment, consultation and accommodation, and zoning and planning permissions, etc. If the line comes in at lower cost and sooner, then good for the proponent. If the line comes in at more cost, then too bad for the proponent. Once completed, the line is activated. At this point the generators might not have their facilities built and so they might not have any production which would create revenue. In this case, the Province would pay an interim tariff based on planned usage for a 36 month period. This would allow the generators to finance the generation assets and ensure the enabler line proponent receives a viable return on their investment.

We believe this approach would help community-based developers such as First Nations, farmer collaboratives, municipalities, institutions and cooperatives as well as other small proponents in the following ways: In the case of First Nations, they could act either as generators and/or as owner/operators of enabler lines. It would give them access to more economic opportunities and greater economic autonomy. Similarly in the case of municipalities, this approach would give them a contingent call on the province's resources to stimulate local economic activity and local employment in the fashion that they

choose while furthering the province's sustainable energy generation goals. Communities would enjoy greater control over growth and the nature of commercial activities within their bounds. This approach could help stimulate cooperative ventures between various (smaller) players in the development of enabler lines for the sake of the accelerating the timeline for bringing renewable power to the market.

With a **Standard Offer Program for Transmission Lines** Ontario will need appropriate approval mechanisms to limit non-economic building of enabling lines. We accept the need for decision criteria and restrictions in order to avoid irrational free-for-all situations and suggest the following preliminary proposals for discussion in the table below.

CRITERIA	LIMITS	COMMENTS
Pricing of the Standard Offer Tariff	Tables of pricing based on factors such categories of construction complexity and in length of line	
No Proximate Alternatives	No similar line is available or under development within a 100 km radius.	Prevents redundancy of effort and multiple lines within regional zones.
Length Stipulations	Minimum of 10 km Maximum of 50 km	To prevent local distribution companies from improving their networks and exporting the cost beyond the local boundaries. Prevents lines from reaching too far and becoming non-economic.
Minimum Subscriptions by Generators	80% of utilization is subscribed by generators. And the renewable resource should be fully measured by all the proponents.	
Security Deposit	Deposit of $10,000 per MW, refunded once the generation project is on-line, or in the event the enabler line is not approved.	Deposit would be collected by the enabler line proponent from the generators and refunded upon commencement of operations.

Normal Development Cost Burden	The cost of permitting and approvals of the enabler line (beyond the bounds of the OPA decision process) would be at the risk of the proponents.	Prevents "free" transmission resources from being introduced (at ratepayer's cost)
No Special Licensing	No major balance sheet test is required. Construction would be undertaken by the proponent at the proponent's cost and the development risk is borne by the ratepayer.	Allows proponents to be from non-transmission backgrounds. Construction cost risk is borne by the proponent.
Put Option	Proponent has the right to sell the enabler line to Ontario (or the local wire company, or to the generators) for a fixed multiple of the established rate.	Prevents excess profits by the proponent and encourages them to invest knowing there is a liquidity event available.
Operations & Maintenance	Performed by the proponent to local distribution company specification, or done by the local distribution company.	Ensures standards are met even by proponents who are not in the TX business.

Discussion – Stakeholder Analysis

First Nations - First Nations could be the direct beneficiaries of this approach by encouraging them to engage in medium scale capital projects that expand transmission infrastructure. Currently many First Nations are sidelined from opportunities to engage in the RESOP program because professional developers acquired all the carrying capacity on the existing distribution systems. Limited opportunities exist for them to be part of the Province's energy future. Ontario needs more renewable generation and consequently more transmission capacity. Planning and building an enabler line is a similar exercise to planning and building a wind farm or a solar farm, and in each case the First Nations will acquire initial capacity by hiring experienced consultants while over time gaining experience to undertake future initiatives. By undertaking medium scale capital projects (in which the ratepayer assumes a pricing role that is similar to the RESOP model), First Nations will acquire valuable capacity building experience sooner and Ontario will win by having greater access to renewable energy generation along with upgraded transmission infrastructure.

First Nations are becoming more politically and commercially active in Ontario. They are increasingly aware of their roles as gatekeepers for major commercial/industrial projects, including infrastructure projects that Ontario critically will require in the next few generations. They not only are controllers of significant tracts of land by means of treaties and reserve land ownership, but they are the prime stakeholders over even larger tracts of land currently owned by the Crown. In fact over much of the Province's land First Nation interests must be carefully and fully addressed and this will have an impact on permitting processes for future infrastructure projects. First Nations are also capable of wielding power in political blocks if the issues are of great enough concern to them and there is a prevalent sense

among Ontario First Nations that opportunities for creating wealth from resources have passed them by. With the emerging need for additional electrical infrastructure, Ontario has an opportunity to spawn more commercial activity among First Nations and draw them into the permitting process as motivated proponents instead of historically passive entities expressing their frustration in the form of resistance. It makes good sense to engage now with First Nations and orchestrate new processes wherein they can become direct and pro-active stakeholders and enjoy reasonable returns on investment on the use of their own natural resources and land.

Civic Stakeholders - Rural municipalities are sometimes challenged to provide sufficient infrastructure for local economic development, particularly for manufacturing. Three phase power is usually not extensively available on rural distribution systems and therefore the quality of the power services is often less than acceptable. High current load customers don't select locations where the power infrastructure is weak unless they are scaled large enough to include major transmission upgrades as part of their establishment costs. If a municipality wants to encourage medium scale manufacturing, or chemical processing, or refining or milling, all which consume large current flows, they do not have a predictable and reliable means to trigger the provision of the required power lines. A cluster of renewable energy generators could be the catalyst firstly for generation as a new type of industrial activity within the community and secondly, the spin-off benefit of transmission capacity that could be used by other industries. The resulting would be greater local autonomy over economic expansion decisions.

Small Generators - Small generators, including co-operatives, collaboratives, institutions and other proponents, could aggregate together to trigger the enabler line development, thus opening doors to renewable generation potential that would otherwise be stalled in the normal IPSP approval process. It is conceivable that the development process could be condensed to 3-4 years instead of 7-8 years as a result.

Conclusion

With respect to the Staff questions, OSEA and the Wikwemikong First Nation believe that

1/ It is appropriate to change the current procurement processes for enabling line resources and we further believe that the qualification of enabler line be modified to expand the set of available choices, yielding much more transmission development activity in Ontario.

2/ The IPSP should not be the only means by which enabler lines are contemplated and approved.

3/The OPA can designate a transmitter at any time for selected enabler lines in order to meet its obligation under the Supply Mix Directive.

4/The RFI/RFP processes are timed to happen much too late (partly because the enabler line development and approval processes are too long).

5/Transmission Ratepayers should bear the cost burden

6/Transmission Ratepayers should pay for the unsubscribed portion of the enabler line for an interim period of three years after which the generators should pay

We believe that the IPSP fails to consider a category of transmission development or aggregate activity that bridges generation occurring at the distribution scale and the transmission resources needed to carry those resources to market.

We are also critical of the OPA's narrow approach to economic selection of enabler lines. Other Ontario Ministries and agents of the government spend considerable time and resources working to enhance the economic, social and environmental well being and competitiveness of many economic sectors and

regions. This can involve investment taking the form of infrastructure projects that attract new industries and businesses with beneficial social and regional impacts. In contrast, the approval for development of transmission resources seems rigidly devoid of such considerations. The OPA's mandate needs to be broader, more in keeping with the Supply Mix Directive as well as the needs of more constituencies and communities. The OPA as a planning body must be mindful of the purposive sections of the Act to ensure sustainability of electricity supply through planning and management and non-discriminatory access.

The Ontario government was innovative and proved itself a leader in North America with the introduction of the RESOP program, but there have been significant issues with its success. The generation potential of the RESOP is limited primarily by transmission constraints, and for this reason Ontario needs a formal program to stimulate the development of additional transmission resources. We believe that now is the time for a bold approach. A **Standard Offer Program for Transmission Lines** could focus the province's many sources of creative forces on such an effort. We suggest that such an approach would be synergistic with the existing RESOP program for generation and our two organizations welcome further discussion of this approach.

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