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| **BY EMAIL and RESS**  Mr. Richie Murray  Acting Registrar  Ontario Energy Board  P.O Box 2319, 27th Floor  2300 Yonge Street  Toronto, Ontario M4P 1E4  July 17, 2025 | A logo of power lines and trees  AI-generated content may be incorrect.  Five Nations Energy Inc.  #725-Highway 655  Timmins, ON  P4N 0B7 |

**RE: EB-2025-0149 – Review of Electricity Transmission Filing Requirements – Five Nations Energy Inc. Comments**

Five Nations Energy Inc. (FNEI) is a non-profit, non-share capital, federally incorporated corporation with a head office located in Moose Factory, Ontario, and a main operational office located in Timmins, Ontario. FNEI is a licensed transmitter of electricity in Ontario (ET-2003-0074), owning and operating transmission facilities along the western coast of James Bay that consist of: a 138 kV three-phase line approximately 270 km in length beginning at Moosonee and running northwest along James Bay by way of Fort Albany and Kashechewan and terminating at Attawapiskat, a second 138 kV three-phase line approximately 170 km in length beginning at Moosonee and running northwest along James Bay, parallel to FNEI’s original line and terminating in Kashechewan, and three step-down substations, one in each of Fort Albany, Kashechewan and Attawapiskat. The FNEI transmission line serves the three First Nation communities of Attawapiskat, Fort Albany and Kashechewan.

FNEI is pleased to participate in the OEB’s ongoing Electricity Transmission Rates Filing Requirements Review, in which the OEB is seeking stakeholder input on proposed updates to its Filing Requirements for Electricity Transmission Applications (Proposed Updates). In July of 2025, FNEI submitted a transmission revenue requirement application for rates effective January 1, 2026, under the Filing Requirements for Electricity Transmitters published February 11, 2016. As noted in the OEB’s June 5, 2025 correspondence, the Proposed Updates are proposed to apply to transmission rebasing applications for 2027 rates, and as such do not affect FNEI’s 2026 revenue requirement application. Any revisions to the transmission filing requirements will however impact subsequent FNEI revenue requirement applications, and as such FNEI is directly affected by the Proposed Updates.

FNEI has reviewed the materials circulated on June 5, 2025 for review, including the Consultation Launch Letter and Appendix A and B Tx Filing Requirements, and had representatives attend the OEB’s Stakeholder Meeting on June 25, 2025 to discuss the Proposed Updates. This submission provides FNEI’s comments on the Proposed Updates.

In its June 5, 2025 Invitation Letter to the Filing Requirements Review stakeholders, the OEB provided a rationale for its proposed changes as being to “provide guidance on the revenue requirement framework for the growing number of single-asset transmitters now operating in Ontario. Specifically, [the Proposed Update] aims to clarify the expectations for Custom Incentive Rate-setting (Custom IR) applications required to support filings under this approach.”[[1]](#footnote-1) The Proposed Updates categorize single asset transmitters as those who “usually do not incur material capital expenditures once the transmission line is initially constructed and in service.”[[2]](#footnote-2) The letter further notes that Ontario has seen significant growth in the number of transmitters who operate a single-line transmission asset, and that the OEB’s position is that the “revenue requirement-setting framework for these transmitters warrants unique consideration.”[[3]](#footnote-3) The OEB clarified in its June 25 Stakeholder Meeting that the Proposed Updates could apply to transmitters such as FNEI who own and operate more than a single asset, in FNEI’s case two lines and three step-down substations. As such, the Proposed Updates and their impact on single-asset transmitters’ capacity to propose suitable rate frameworks could have direct implications on FNEI’s future applications to establish its transmission revenue requirement.

The OEB’s Proposed Updates include amendments to several areas of the Transmission Filing Requirements to align with other OEB documentation, and substantive changes to sections 2.0.3 Custom IR Guidance for Transmitters with Minimal Capital Expenditures, 2.1.1 Application Filing Schedule, 2.1.5 Materiality Thresholds and 2.4 Transmission System Plan.

FNEI’s comments are limited to the proposed section 2.0.3, given its potential for direct implications for future FNEI transmission revenue requirement applications. FNEI’s lack of specific comment on other amendments proposed should not be interpreted as acceptance of such amendments.

**Section 2.0.3 Custom IR Guidance for Transmitters with Minimal Capital Expenditures**

FNEI believes that the OEB’s classification of certain transmitters as “single-asset transmitters”, and its related assumption that all single-asset transmitters operate within similar circumstances, is overly and unnecessarily prescriptive. FNEI was incorporated in 1997 and its line came into service in 2001. Since coming into service, FNEI has made substantial capital improvements to what was initially a “bare bones” radial line, including installing spare transformers, fibre optic communications, and twinning the line. It has not been FNEI’s experience that the operation and maintenance of its asset have required minimal capital investments since the initial capital investments it made to begin operation. FNEI expects that economic development activities in Northern Ontario over the coming decades may again require FNEI to make further capital investments in its transmission system, similar to those made to accommodate the now decommissioned DeBeers’ Victor Mine.

With respect to the OEB’s definition of “single-asset transmitters”, FNEI is concerned that the OEB’s choice to implement a 2% threshold test for determining what constitute material capital expenditures is overly prescriptive. Section 2.0.3 of the Proposed Updates states:

For assessing the materiality of a transmitter’s capital expenditures, the OEB considers an annual capital addition of 2% or more of the gross capital asset balance at the start of the rate term as material. This aligns with the assumption that transmission lines have a 50-year life and require minimal reinvestment once in service, resulting in an annual depreciation rate of approximately 2%.

If annual capital additions meet this 2% threshold, rate base remains stable as it is offset by depreciation. However, transmitters anticipating annual capital expenditures below 2% will experience a declining rate base over the term.[[4]](#footnote-4)

This hard 2% test ignores the reality of specific transmitters, including FNEI. First, it is unclear what “annual capital addition” the 2% rule applies to, as this could refer to test year capital expenditures or an average of annual capital expenditures. Comparing annual capital expenditures to “gross capital asset balance at the start of the rate term” implies test year capital expenditures should be relied upon, which is inappropriate in FNEI’s submission. This test is incompatible with a transmitter with a relatively small financial asset base where capital work may be disbursed in a lumpier, project-based manner in certain years in a given rate period. To the degree substantial capital expenditures are required in later years of the rate term, the 2% test would be ineffective in its task. This highlights the need to allow transmitters to propose solutions to the OEB’s stated concern regarding declining rate base, rather than imposing a rigid rate-setting framework for all transmitters deemed “single-asset”.

Second, the relationship between the 2% threshold and a declining rate base is not as straightforward as this rule implies. In single-asset transmitter Chatham x Lakeshore LP Inc.’s recent transmission rates application, the utility cited that its depreciation rates for Towers and Fixtures were 1.33%, and its depreciation for Overhead Lines was 1.43%.[[5]](#footnote-5) In the Proposed Updates, the OEB explained that it chose a 2% rule based on the assumption that transmission assets have a 50 year useful life. In reality, some transmission assets have a longer useful life, and others shorter, meaning that some transmitters could expend more than 2% of gross assets in capital and still experience a declining rate base, while others could have capital expenditures of less than 2% without a declining rate base, depending on asset mix. Instead of a generic rule, the Transmission Filing Requirements should provide applicants with an opportunity to put forward a suitable capital plan and address the issue of a declining rate base, if relevant, through a rate framework that is suitable to their circumstances.

Third, it is unclear to FNEI whether comparison of capital expenditures to gross assets at the start of the rate term is appropriate. FNEI is unique in that its initial construction incorporated substantial capital contributions from Indigenous and Northern Affairs Canada (INAC), and subsequent investments incorporated substantial capital contributions from DeBeers. The current 2026 revenue requirement application under initial review by OEB Staff indicates a rate base of approximately $35 million, while gross property, plant and equipment are valued at $132 million. The cost of transmission infrastructure have substantially increased since the initial construction of FNEI’s various assets. In the mid-to-long term, FNEI will be required to engage in substantial renewal of assets which will cost orders of magnitude more than its current rate base. Within that context, FNEI submits that it is incredibly important the utility be afforded the opportunity to propose rate-setting frameworks which are directly responsive to these unique circumstances and to not be burdened with the onus to demonstrate the inapplicability of a rate-setting framework that does not recognize FNEI’s circumstances.

The OEB’s proposed framework borrows significantly from the rate frameworks established in recent single-asset transmitter settlements involving the transmitters Niagara Reinforcement Limited Partnership (NRLP), B2M Limited Partnership (B2M) and Chatham X Lakeshore Limited Partnership (CLLP). However the OEB’s proposed framework appears to modify those settlements by escalating OM&A by I – X instead of approving a five-year OM&A forecast, as was the case for those three transmitters.[[6]](#footnote-6) The implication of the Proposed Updates is that a framework suitable for these three “single-asset transmitters” should be suitable for all such transmitters, however the proposed framework was not even deemed suitable by NRLP, B2M and CLLP. The rate framework in the Proposed Updates is a poor reflection of actual OM&A costs experienced by FNEI, as the utility conducts vegetation management in multi-year cycles on a project basis in accordance with best practice, and it would not be a prudent use of its vegetation management funding to smooth its expenditures over the course of the rate period for the sole purpose of aligning with a rigid rate framework. Paired with a prescriptive forecast approach to capital-related revenue requirement, I-X OM&A funding does not align with FNEI’s needs.

FNEI believes that settled cases are an inappropriate foundation for establishing a new rate framework. Settlements occur in confidence and are intended to apply to the specific circumstances of the parties participating based on various trade-offs made in a confidential setting. For example and as is standard, NRLP’s Settlement Proposal in its 2025-2029 transmission rates case states: “Unless otherwise expressly stated in this Settlement Proposal, the settlement of any particular issue in this proceeding and the positions of the Parties in this Settlement Proposal are without prejudice to the rights of the Parties to raise the same issue and/or to take any position thereon in any other proceeding, whether or not NRLP is a party to such proceeding.”[[7]](#footnote-7) These settlements were established to suit the particular circumstances of the applicants, and principles established within them should not be extrapolated to apply to the circumstances of all transmitters deemed “single-asset”. Instead of making policy changes via the Transmission Filing Requirements that draw heavily from specific settled applications, FNEI believes that potential changes would be better considered through the mechanism of a Generic Proceeding, likely set on a longer time frame with more opportunities for participation, where parties may consider potential alterations to the Renewed Regulatory Framework on a principles-first basis.

Finally, FNEI is concerned that the single-asset framework in the Proposed Updates does not provide sufficient flexibility to adapt to volatile costs and needs. FNEI operates in Ontario’s north within a high-cost geographic area. The utility has relatively few opportunities to find savings and is subject to price volatility for services, particularly because there are relatively few service providers that FNEI can leverage to perform work.

FNEI believes that the Transmission Filing Requirements should not restrict transmitters to a pre-defined a specific category, particularly when the method for definition is flawed as is the case with the proposed 2% threshold. Instead, the OEB should continue to leverage the RRF as it is, allowing for Revenue Cap IR where appropriate, or a Custom Incentive Regulation application as needed, in a manner that responds to the needs and circumstances of electricity transmitters across the province. To the degree that updates of this magnitude are required in the OEB’s assessment, a Generic Proceeding should be relied upon to assess concerns regarding depreciating rate base and provide transmitters with the tools to propose rate frameworks that align with the RRF.

1. June 5, 2025 “Stakeholder Consultation on the Review of the OEB’s Filing Requirements for Electricity Transmission Applications – Chapter 1 and Chapter 2 Ontario Energy Board File No. EB-2025-0149”, p. 1. [↑](#footnote-ref-1)
2. *Ibid* at p. 3. [↑](#footnote-ref-2)
3. *Ibid*. [↑](#footnote-ref-3)
4. *Ibid*. [↑](#footnote-ref-4)
5. EB-2024-0216, Application and Evidence, Exhibit F-5-1, Attachment 1, p. 1. [↑](#footnote-ref-5)
6. Niagara Reinforcement Limited Partnership, EB-2024-0117; B2M Limited Partnership, EB-2024-0116; Chatham X Lakeshore Limited Partnership, EB-2024-0216. [↑](#footnote-ref-6)
7. EB-2024-0117, Settlement Proposal, p. 6. [↑](#footnote-ref-7)