



July 18, 2025

RESS & EMAIL

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

Attention: Mr. Ritchie Murray, Acting Registrar

Dear Mr. Murray:

Re: Comments from Wataynikaneyap Power LP - Stakeholder Consultation on the Review of the OEB's Filing Requirements for Electricity Transmission Applications - EB-2025-0149

Wataynikaneyap Power LP (“WPLP”) is pleased to provide the following comments on the Ontario Energy Board’s (“OEB”) draft proposed amendments to the Filing Requirements for Electricity Transmission Applications – Chapter 1 and Chapter 2, as issued June 5, 2025 (the “Filing Requirements”), and further described in the June 25, 2025 Stakeholder Engagement Session.

WPLP is an Ontario electricity transmitter owned by a partnership of 24 First Nations (51%) and Fortis Inc. and other private investors (49%). The vision of the 24 participating First Nations is to own major infrastructure in their homeland. WPLP was established to develop, construct, own and operate a new electricity transmission system in northwestern Ontario, approximately 1750 km in total length, to reinforce transmission from a point near Dinorwic to Pickle Lake, as well as to provide transmission connections to remote Indigenous communities from lines extending north from Pickle Lake and north from Red Lake. The system was fully in-service as of May 2024.

While WPLP generally supports updating the Filing Requirements to address the passage of time, WPLP has concerns with certain aspects of the proposed amendments, particularly the proposed rate framework for single-asset transmitters and its potential application to WPLP. WPLP’s comments are organized based on (1) substantive concerns, and (2) procedural concerns, with its substantive concerns focusing on (a) the proposed Custom IR framework for single-asset transmitters, (b) the proposed changes to materiality thresholds, and (c) the proposed changes to application filing deadlines.

A. Substantive Comments

1. Rate Framework for Single-Asset Transmitters

WPLP's comments on the OEB's proposed new rate framework for single-asset transmitters are set out in four parts, as follows.

- (a) **While the proposed rate framework was prompted by the growing number of “single-asset transmitters”, the definition of “single-asset transmitters” is not clear and the proposal does not target only such transmitters**

In section 2.0.3 of the proposed Filing Requirements, the OEB states that it has seen significant growth in the number of transmitters who operate single-line transmission assets and that it believes the revenue requirement-setting framework for such “single-asset transmitters” warrants unique consideration. In section 2.0.3.1 of the proposed Filing Requirements, the OEB states that transmitters anticipating annual capital expenditures below 2% of the gross capital asset balance at the start of a rate term are “referred to at times as “single-asset transmitters””. It is therefore not clear whether a “single-asset transmitter” means a transmitter that operates a single-line transmission asset or any transmitter anticipating annual capital expenditures below 2% of their gross capital asset balance at the start of a rate term, regardless of the nature of their assets. Moreover, if the former applies, it is not clear what constitutes a single-line transmission asset, and if the latter applies it is not clear whether the focus is on annual capital expenditures or annual capital additions given that the terms are used interchangeably.

While the OEB's premise for proposing the new rate framework is the growth in the number of transmitters who operate single-line transmission assets, the proposed rate framework does not actually take into consideration the nature or scope of a transmitter's assets. Rather, the proposed framework is concerned only with whether the transmitter anticipates annual capital expenditures (or additions) of 2% or more of the gross capital asset balance at the start of a rate term. As such, the proposed framework appears generally to target standalone transmitters with newly constructed transmission assets (which inherently require lower capital expenditures), regardless of whether their systems consist of single-line assets or expansive transmission systems inclusive of multiple line assets and multiple station assets, as is the case for WPLP. This is inappropriate, unfair and misdirected relative to the OEB's stated purpose.

The proposed rate framework also ignores the risk and uncertainty associated with operating new transmission systems and transitioning them from construction to operation. During the initial years of operating a new transmission system, the transmitter has no historical data or experience with operating their assets and, as such, experiences greater forecast risk with respect to costs and performance. As an example, it could take WPLP a number of years before it can accurately forecast vegetation management and emergency response needs and their associated costs out over 5-year period. The proposed rate framework would deprive standalone transmitters who operate new transmission facilities of revenue arising from annual inflation adjustments on capital and depreciation, which are counted upon by such transmitters to help manage through this period of transition and uncertainty. In WPLP's view, the use of an Earnings Sharing Mechanism with a +/- 300 basis point ROE dead band is sufficient for dealing with this uncertainty and efficiently provides adequate protection for both transmitters and customers.

(b) The proposed rate framework should be the default only for new single-asset transmitters who file leave to construct applications after the effective date of the amendments

In section 2.0.3 of the proposed Filing Requirements, the OEB states its expectation that an “eligible transmitter” - which presumably means one that meets whichever criteria apply for being a single-asset transmitter - is expected to file revenue requirement applications consistent with the proposed rate framework “option” unless it can demonstrate a strong rationale for departing from it. In WPLP’s view, this ‘reverse onus’ which requires a transmitter to demonstrate why it should be permitted to depart from the proposed rate framework is not appropriate for transmitters with in-service transmission systems or which have received leave to construct for new transmission systems as of the effective date for the proposed amendments.

Based on WPLP’s experience, in the course of planning, developing, financing and constructing a new transmission system, including formation of the new licensed transmitter that will operate it and that entity’s broader ownership structure, as well as the formation, attraction and retention of essential partners, whether Indigenous or otherwise, and any financing that may be needed by those partners, the parties plan their affairs on the basis that the long-standing rate framework in effect throughout that development and construction process will continue to be in effect in substantially the same form during the operating life of their system. This assumption also informs engagement with and the expectations of Indigenous communities, including in particular where those communities have ownership interests in the utility (which is the case for most, if not all, new standalone transmitters in Ontario). By establishing the proposed rate framework together with the reverse onus for existing transmitters, the OEB is effectively shifting the ground beneath the feet of such transmitters in a way that undermines all of the planning, financing and ownership parameters, as well as revenue expectations, on which the transmitter and its system was built. This is unfair to existing transmitters and may cause them, their lenders and partners, whether Indigenous or otherwise, financial strain due to the impacts on their reasonable revenue expectations.

Of further concern is that the OEB’s proposed amendments could have a chilling effect on transmission development in Ontario. By imposing a new rate framework together with the reverse onus, prospective transmitters would have reduced confidence that the rate frameworks in effect today will be available to them by the time their projects come into service, and as such they would perceive there to be a high level of risk around their future transmission revenues, which may deter them from pursuing further development work or increase financing costs.

Based on the foregoing, WPLP recommends that existing transmitters with in-service transmission systems or who have received leave to construct their transmission systems should be ‘grandfathered’ by not being subject to the reverse onus. For these transmitters, there may be some value in making the proposed rate framework available at the transmitter’s option, but use of that framework should not be the OEB’s expectation, nor should these transmitters be under any obligation to use the new framework or justify not using it. This would provide fairness for existing transmitters.

For future transmitters who operate single-line transmission assets, even if the proposed new framework applies with the reverse onus, this would be known to them in advance of obtaining leave to construct and could therefore be considered in their planning, formation and financing

activities. Moreover, the grandfathering approach would demonstrate that the OEB is not likely to shift the ground beneath the feet of those future transmitters once they get leave to construct in future, which would help mitigate the risk of creating a chilling effect on transmission development in the province.

(c) Even if the OEB makes the proposed rate framework the default approach for existing “single-asset transmitters”, it should not be the default approach for WPLP because of the nature of WPLP’s transmission system and its unique funding/rate framework

If the OEB does not accept WPLP’s recommendation in 1(b), above, and the proposed rate framework becomes the default approach for existing “single-asset transmitters” based on the reverse onus, it is WPLP’s view that the proposed rate framework should not apply to WPLP for three main reasons, as follows.

First, the nature of WPLP is distinct from that of a “single-asset transmitter”. WPLP operates a system comprised of approximately 1750 km of transmission lines and 22 substations, with 35 distinct line segments operating at one of several different voltages, over a vast region of northwestern Ontario not previously served by Ontario’s transmission grid. One part of WPLP’s system is comprised of network assets that serve all Ontario customers by reinforcing transmission supply to Pickle Lake. Two parts of WPLP’s system currently supply Hydro One Remote Communities Inc. distribution systems in 16 different First Nation communities, through lines running north from Pickle Lake and through lines running north from Red Lake. All parts of WPLP’s system could potentially serve additional communities and other customers in future. In WPLP’s view, these characteristics are unique and distinguish WPLP from the single-line transmission assets that are intended to be subject to the proposed new rate framework.

Second, WPLP is subject to a unique funding and rate framework whereby, because of a federal funding contribution, WPLP’s rates are established using a rate base that, to start, reflects only about 2/3 of the capital costs of its transmission system. The funding and rate framework was carefully designed and calibrated through discussions with Ontario and Canada based on certain expectations about the applicable rate framework. These expectations informed the funding and rate framework, as well as decisions by WPLP and the partnership of First Nation communities which is WPLP’s majority owner as described above. The OEB has approved and recognized various aspects of this funding and rate framework through several prior decisions. To require WPLP to use the proposed new rate framework starting in 2027, or impose a reverse onus on WPLP to justify not using the proposed new rate framework starting in 2027, which would be the first year of its first multi-year transmission revenue requirement term, would undermine each of these aspects, jeopardize various agreements among the parties involved, cause financial strain to WPLP and its partners, and treat WPLP unfairly relative to other transmitters that have been or will continue to be permitted to use the existing rate frameworks.

Third, WPLP participated in good faith discussions with Ontario and Canada to establish the funding framework and financing arrangements, with many years of engagement with the participating First Nations. The project needed a structure that addressed the First Nations’ expectation of ownership, meaningful involvement on energy development, prudence for all rate payers and for the costs associated with the project to not fall on the backs of future generations. Engaging 24 First Nations on the complexities of project financing, the energy regulatory regime

and applicable rate frameworks and application processes has been a huge undertaking. The arrangements, agreed to by Ontario, Canada and the 24 participating First Nations, cannot be changed without the consent of the First Nations supported by the Partner, and should not be undermined by the proposed new rate framework.

(d) The Custom IR option should be preserved in its current form to allow for flexibility, with the proposed framework being defined as a distinct methodology applicable or available in certain circumstances

WPLP notes that the proposed rate framework is highly prescriptive and at odds with the concept of Custom IR rate making. It is therefore confusing and inappropriate to treat the proposed rate framework as a form of Custom IR. Rather, in WPLP's view, the existing Custom IR option should be preserved and continue to be available to existing transmitters, as well as new transmitters that do not operate single-line transmission assets, to provide flexibility to meet different needs. The proposed framework should instead be recognized as a distinct framework that is applicable or available to transmitters in certain circumstances.

2. Changes to Materiality Thresholds

While WPLP does not take issue with the OEB updating materiality thresholds in section 2.1.5 for the purpose of defining when an applicant must provide justification for amounts and annual variances described in its application, WPLP is concerned that introducing higher materiality thresholds will also make it more difficult for transmitters to establish new deferral and variance accounts because the forecasted amounts at issue would need to exceed the higher materiality threshold applicable to the transmitter. Relative to current requirements, this increases risk and reduces the ability to protect both transmitters and ratepayers from cost uncertainties.

3. Changes to Application Filing Deadlines

The OEB is proposing in section 2.1.1 that rebasing/cost of service applications by existing transmitters be filed by the last business day of April, for implementation on January 1 of the following year. WPLP notes that partnership tax returns are not finalized until the end of May each year. As such, transmitters that are partnerships would not be in a position to include final tax returns with their applications when filed. Instead, the final tax returns would need to be filed once available. WPLP recommends that the amendments acknowledge and clarify that an application will not be deemed incomplete when filed without a tax return in this circumstance.

B. Procedural Comments

1. Redlines

Further to the email from OEB staff on the afternoon of July 16, 2025 regarding the OEB's issuance of a redline that may not capture all of the OEB's proposed amendments, WPLP is concerned that the deficient redline and the OEB's view that parties should instead rely on the clean draft version will frustrate its efforts to fully assess the extent of the proposed changes. Reliance on the clean draft does not enable parties to identify those portions of the Filing Requirements that the OEB is proposing to amend. WPLP recommends that the OEB issue true and accurate redlines of the proposed amendments relative to current Filing Requirements, that the July 31, 2025 due date for supplementary written comments be extended by one week, and

