



**EB-2011-0140**

**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.

**BEFORE:** Cynthia Chaplin  
Presiding Member and Vice-Chair

Emad Elsayed  
Member

Cathy Spoel  
Member

**EAST-WEST TIE LINE DESIGNATION**

**PHASE 2 DECISION AND ORDER**

**August 7, 2013**

## DESIGNATION DECISION

The Board has decided that the designated transmitter for the development phase of the proposed East-West Tie line is Upper Canada Transmission Inc. This selection is based on the submitted applications as well as the subsequent interrogatory answers and submissions.

## BACKGROUND

This decision is the result of a process initiated by the Ontario Energy Board to designate a transmission company to undertake development work for the proposed East-West Tie line. The Ontario Government published its Long Term Energy Plan in November of 2010. The Plan identified five priority transmission projects, one of which was the East-West Tie, an electricity transmission line running between Thunder Bay and Wawa, Ontario. On March 29, 2011, the Minister of Energy wrote to the Board to express the government's interest in the Board undertaking a designation process to select the most qualified and cost-effective transmitter to develop the East-West Tie line.

### Origin of Designation

The origin of the designation process is the Board's policy for transmission development. That policy was developed through a consultation process and culminated in the Board's report entitled *Board Policy: Framework for Transmission Development Plans*.<sup>1</sup> The report describes the issues considered through the consultation and the Board's conclusion that economic efficiency in transmission service is best pursued by introducing competition, and that providing greater certainty for cost recovery of development work would encourage participation in the competitive process. In describing the goals of the policy, the Board said:

The Board believes that this policy will:

- allow transmitters to move ahead on development work in a timely manner;

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<sup>1</sup> EB-2010-0059 issued August 26, 2009.

- encourage new entrants to transmission in Ontario bringing additional resources for project development; and
- support competition in transmission in Ontario to drive economic efficiency for the benefit of ratepayers.

A transmission utility seeking to build a major transmission line applies to the Board under section 92 of the *Ontario Energy Board Act, 1998* (“the OEB Act”) for leave to construct the line. Before bringing an application for leave to construct, the transmitter incurs costs to complete “development” work, which includes negotiating access and land rights, acquiring permits, conducting environmental assessment activities, consulting with affected communities, preparing line design and engineering studies, conducting economic feasibility studies, and obtaining a system impact assessment. The development phase ends with the filing of an application for leave to construct the line.

### **Board Authority to Implement Designation**

The Board does not have the jurisdiction or authority to procure transmission services, or the authority to enter into contracts with transmitters to build or operate transmission infrastructure. The Board premised its original policy on its authority under section 70(2.1) of the OEB Act to require the filing of plans for the expansion of the transmission system to accommodate the connection of renewable energy generation facilities. The East-West Tie line is not primarily needed for the connection of renewable energy generation facilities. However, the Board has broad licensing and rate making jurisdiction under sections 70, 74 and 78 of the OEB Act to prescribe conditions under which a transmitter engages in owning or operating a transmission system, to amend transmission licences, and to set transmission rates. Subsection 78(3.0.5) specifically provides the Board with authority to provide incentives to a transmitter for siting, design and construction of an expansion to the transmitter’s transmission system. In this decision, the Board will make an order under the authority of these sections to give effect to its decision on designation.

## Implications of Designation

Designation does not carry with it an exclusive right to build the line or an exclusive right to apply for leave to construct the line. A transmitter may apply for leave to construct the East-West Tie line, designated or not. In designating a transmitter, the Board is providing an economic incentive: the designated transmitter will recover its development costs up to the budgeted amount (in the absence of fault on the part of the transmitter), even if the line is eventually found to be unnecessary. The designation may be rescinded and costs denied if the designated transmitter fails to meet the performance milestones for development or the reporting requirements imposed by the Board in this decision.

## Initiation of Designation for the East-West Tie Line Project

After receiving the Minister's letter, the Board sought and received from the Ontario Power Authority (the "OPA") a preliminary assessment of the need for the East-West Tie line, which provided planning justification to support the implementation of a designation process. The OPA indicated that the primary driver for the East-West Tie line is the need to ensure long-term system reliability in northwestern Ontario. The Board also received a feasibility study of options for meeting the transfer capability requirements for the line from the Independent Electricity System Operator (the "IESO").

A double circuit 230 kV electricity transmission line already exists between Thunder Bay transmission station ("TS") and Wawa TS. The East-West Tie line project involves the construction of a new transmission line which, in conjunction with the existing line, will increase capacity and reliability of electrical transmission between northeast and northwest Ontario. The length of the new line will be approximately 400 kilometres.

The specifications for the East-West Tie line project were defined as follows:

- A new line that, in conjunction with the existing line, will provide total eastbound and westbound capabilities in the East-West corridor in the order of 650 MW, while respecting all NERC (North American Electric Reliability Corporation), NPCC (Northeast Power Coordinating Council), and IESO reliability standards.
- Lifetime of at least 50 years.

- Target in-service date: 2017 (applicants were invited to propose alternate in-service dates).
- The East-West Tie line is to be built in 2 segments:
  - Wawa TS to Marathon TS; and
  - Marathon TS to Lakehead TS.
- The demarcation points of each segment are the first transmission line structures outside the fence of the Wawa TS, Marathon TS and Lakehead TS, but within 250 metres of that fence.
- The East-West Tie line segments will dead-end on the demarcation point structures with a mid-span opener for non-compensated lines.
- If the proposal involves series compensated AC line or DC lines, the East-West Tie line will include the protection system, associated communications, and line isolation breaker(s).

For the purposes of designation, the Board assumed that the new East-West Tie line between the demarcation points would be owned and operated by the designated transmitter once constructed, although this was not an absolute requirement.

The Board invited transmitters to register their interest in filing a plan for development of the line.

### **Process Adopted by the Board for Designation**

On February 2, 2012, the Board published notice in English, French, Cree and Ojibway that it was initiating a proceeding to designate an electricity transmitter to undertake the development work for the East-West Tie line, and invited intervention and public comment. The notice was published in the Globe and Mail, Ottawa Le Droit and seven newspapers in communities local to the existing line. The notice was also served on municipalities and First Nation and Métis communities in the area of the line. The Board received thirty-one requests for intervenor status, including the seven transmitters who had initially registered an interest in the project. The list of intervenors is attached as Appendix A to this decision. All materials on the record of the proceeding are available on the Board's website.

The Board used a two phase process to reach its designation decision. In Phase 1 of the East-West Tie designation process, the Board established criteria and filing requirements specific to the East-West Tie line project, considering the Minister's letter, the reports from the OPA and the IESO, and the submissions of all parties. The Board issued its Phase 1 decision on July 12, 2012. The Phase 1 decision is attached as Appendix B to this decision. The Phase 1 decision required transmitters seeking designation to file applications by January 4, 2013. The following six transmitters applied for designation:

- AltaLink Ontario LP ("AltaLink"): a wholly owned subsidiary of AltaLink Investments LP, which is wholly owned by SNC Lavalin Group Inc.
- Canadian Niagara Power Inc. ("CNPI"): owned by FortisOntario Inc., which is owned by Fortis Inc.
- EWT LP: a partnership of Hydro One Inc., Great Lakes Power Transmission EWT LP, and Bamkushwada LP.
- "Iccon/TPT": a joint application by Iccon Transmission Inc. (a wholly owned subsidiary of Isolux Infrastructure Netherlands B.V.), and TransCanada Power Transmission (Ontario) LP (a wholly owned subsidiary of TransCanada Corporation)
- RES Canada Transmission LP ("RES"): a partnership of Renewable Energy Systems Canada Inc., MEHC Transmission Canada Limited Partnership, and RES Canada Transmission GP Inc.
- Upper Canada Transmission Inc. ("UCT"): a partnership of NextEra Energy Canada (a wholly owned subsidiary of NextEra Energy Resources LLC), Enbridge Inc. and Borealis Infrastructure Management.

The Board adopted a written hearing process and tailored its process to suit the nature of the proceeding. The Board found in its Phase 1 decision that as the proceeding involved multiple competitive applicants and had some similarity to a procurement process, it called for specific procedures that respected fairness and efficiency in that context.

For example, while the Board invited parties to propose written interrogatories for the applicants to answer, the Board itself issued the interrogatories, having combined, edited and eliminated some interrogatories proposed by parties. The Board was of the

view that the applicants should be compared on the basis of the applications as filed, and attempted to avoid providing opportunities for applicants to fill any gaps in their applications. Parties were also invited to file written argument, with applicants filing an argument in chief, other parties filing responding arguments and applicants filing reply argument.

The Board convened an oral session in Thunder Bay to allow representatives of intervenors from communities local to the existing East-West Tie line to make oral presentations. The presentations were not sworn testimony, but oral commentary on matters concerning local interests. The oral session occurred on May 2 and 3, 2013, subsequent to the filing of argument in chief and prior to the receipt of arguments from non-applicant intervenors.

## **EVALUATION OF APPLICATIONS**

The record of this proceeding demonstrates that all applicants spent a significant level of effort and resources to prepare these applications and to respond to interrogatories. Given that this is the first such competitive process for a transmission project in Ontario, it is encouraging that there are qualified entities which are willing to commit resources to compete in this market.

There was a significant amount of information for the Board to assess in order to arrive at a final decision. The overriding principle in establishing and executing the evaluation methodology is that it be fair and equitable and result in an outcome that serves the public interest. The evaluation was largely based on the applications as originally submitted. Information provided in response to interrogatories was used for clarification purposes, and not to enhance the original application. For example, the original applications included cost estimates for development, construction, and operation and maintenance phases of the project. In order to properly compare these estimates, the Board asked the applicants to break down these estimates into specific common components. The expectation was that the original bottom line cost estimates would not change, and if they did, then a full explanation would be provided to ensure that the answer did not represent an attempt to improve the proposal.

The intervenor and applicant submissions assisted the Board in deciding how to apply the criteria and evaluate the applications. However, any new facts provided through submissions were given little weight.

### **Evaluation Methodology**

The evaluation was based on the decision criteria established in the Phase 1 Decision and Order. The headings of these criteria are provided below, and the information that was required of the applicants under each heading can be found in the Filing Requirements (Appendix A of the Phase 1 Decision and Order).

In its Phase 1 Decision and Order, the Board did not articulate an assessment methodology to be applied to the decision criteria, nor did it ascribe any relative importance to the decision criteria through a weighting system. The Board stated that it was unwilling to remove the discretion and flexibility it might need in evaluating the applications, and that it would exercise its judgment for each criterion, with the assistance of the evidence presented and the submissions received from all parties.

The Board has found no compelling reason to assign different weights to the decision criteria, and has therefore weighted them all equally at ten points each.

The criteria are:

- Organization
- First Nations and Métis participation
- Technical capability
- Financial capacity
- Proposed design
- Schedule; development and construction phases
- Cost; development, construction, operation and maintenance phases
- Landowner, municipal, and community consultation
- First Nations and Métis consultation

“Other Factors” was a criterion listed in the Phase 1 decision. Under that criterion, however, all applicants reiterated what they believe are strong features of their

proposals. Since these features have already been evaluated as part of the other criteria, the Other Factors criterion was not included in the evaluation.

For each of the criteria, the applications were reviewed and the proponents were ranked from 6 to 1, with 6 being the best. A score was assigned to each of the rankings with scores of 6, 5, 4, 3, 2, and 1 corresponding to the respective rankings. Given the qualitative nature of the ranking, if two or more applications were judged to rank equally in a certain criterion, they were given the same ranking with a corresponding average score (e.g. if two applicants were ranked at 5, they were each given a score of 4.5). The applicant's score for each criterion was then multiplied by ten. The process was repeated for each decision criterion and the scores added to determine the total score for each application. The application with the highest overall score was determined to be the most qualified applicant for designation.

## **EVALUATION RESULTS**

### **Background Information**

Background information was requested from the applicants in the Filing Requirements. All applicants provided the requested information and the Board has no substantive concerns with the information provided.

The Board also invited applicants to indicate whether they would be willing to be "runner up". The runner up would have the right of first refusal to undertake the project development work if the designated transmitter fails to fulfill its obligations. AltaLink confirmed that it would be willing to be runner up without qualification. CNPI, Iecon/TPT, and RES also confirmed but with some conditions attached, while UCT and EWT LP stated that they would not be willing to be runner up. As indicated in the Phase 1 Decision and Order, an applicant's willingness to be runner up had no influence on the assessment of the application.

In the following sections, the results of applying the methodology described above are summarized for each of the decision criteria, and the resulting ranking of the six applications for the particular criterion is provided.

## Organization

The applicants were required to provide, among other things, a project organizational plan, a chart illustrating the organizational structure, identification of the project management team with resumés for key management personnel, and an overview of the applicant's experience with similar projects.

Subsequently, by interrogatories in Procedural Order No. 6, issued March 4, 2013, the applicants were asked to provide the following information regarding organization:

- Proposed organizational charts for the various project phases (development, construction, operation and maintenance) showing the various functions, including those listed in section 4.1 of the Filing Requirements, as well as the reporting structure.
- The names of members of the proposed management team (including the project manager / lead) and technical team who would be leading each function.
- Confirmation as to whether the project manager / lead will be dedicated to this project, and a description of this person's experience in managing similar projects.
- The specific proposed project / operation and maintenance role for each member of the "key technical team personnel" provided in response to section 4.2 of the Filing Requirements. (This item is evaluated under Technical Capability.)

In evaluating the applications in the area of Organization, the Board ranked applicants by considering the following factors:

- Clarity of the organizational structure for the various project phases and inclusion of all key project functions.
- Clarity as to who is accountable for the overall management of the project.
- Clarity as to the governance structure and lines of accountability, including the role of any third parties.
- Quality of the overall organization and the strength of the supporting structure.
- The relevance and extent of the experience of the proposed project manager and the management team in terms of size, type and complexity of projects.

- Experience in managing similar large projects.

The more of these characteristics which a proponent demonstrated through its application, the higher the Board ranked the proponent. Below, the Board sets out the proponents in ranked order for Organization and provides a brief discussion of the main characteristics of each application.

### ***UCT (6)***

UCT provided a project organizational structure with clearly defined accountabilities for all major areas of work, which would be used for all three phases of the project to ensure a seamless transition. The overall project management accountability and associated oversight structure were well defined. The structure consists of a Management Team with a Project Director having an overall accountability for the project, supported by an Operations Committee and an Aboriginal Advisory Board, all reporting to the Board of Directors. The proposed Project Director has significant experience with the transmission business and associated projects. UCT confirmed that the Project Director will be dedicated to the project. Names and resumés were provided for each of the positions in the chart which showed a strong combination of technical and managerial experience. UCT indicated that it would mostly use in-house resources seconded to it from partner organizations, supplemented by third-party contractors as required. UCT also proposed that, once in the operations phase, it will have an operation and maintenance contract with NextEra and that the Project Director will be replaced by a President of NextBridge Infrastructure to reflect the change in the nature of the role. UCT provided a description of its significant experience with relevant projects involving many aspects that are similar to this project, both in and outside Ontario.

### ***AltaLink (5)***

AltaLink provided two charts including all the key functions; one for the project (development and construction) and one for operations and maintenance with a description of the roles and accountabilities of proposed key management positions. Although the overall project management accountability was well defined, the oversight structure above the project lead was not clear. The proposed project lead has

significant project experience with transmission and other infrastructure projects in Canada and abroad. Names as well as a brief description of experience were provided for those leading the functions shown in the project chart, which showed strong technical and managerial experience. AltaLink confirmed that the project lead will be dedicated to this project and will be responsible for project delivery from development to in-service. AltaLink provided a detailed overview of its extensive experience with specific similar projects, mostly in Alberta. AltaLink also indicated that project planning and development as well as engineering, procurement and construction management services will be provided by SNC Lavalin, Altalink's owner.

#### ***EWT LP (4)***

EWT LP provided two charts; one for the development phase and one for the construction phase of the project, including the key functions. In both charts, the project management function is split between two individuals; a Project Manager reporting to a Project Director who has three Special Advisors representing the three partners (Hydro One Inc., Great Lakes Power Transmission EWT LP ("GLPT-EWT"), and Bamkushwada LP ("BLP")). The distinction between these two roles in terms of the overall project management accountability is not clear. The charts showed the Project Director reporting to EWT LP, but the nature of this reporting (i.e. oversight) was also not clear. Names and resumés were provided only for those leading the functions shown in the project development chart. No names or detailed functions were provided for the construction phase. While the proposed Project Director and Project Manager appear to have extensive operational experience in transmission and other related areas, it is not apparent that they have significant experience in managing major projects first hand. EWT LP confirmed that the Project Manager will be dedicated to the project for the development phase only, while the Project Director will continue to the construction phase. EWT LP proposed that GLPT-EWT will be responsible for managing the development and construction phases of the project on EWT LP's behalf supported by a number of contractors. EWT LP did not provide an operations and maintenance organizational chart and contemplated that the ongoing operation of the facilities will be outsourced to Hydro One Networks Inc. ("HONI"). EWT LP provided an overview of its experience with similar projects which shows extensive experience in the development and construction of large transmission projects in Ontario.

### **RES (3)**

One project organization chart was provided for the project development phase with a project management team representing the key project functions and led by a Project Manager. No charts were provided for the construction or the operation and maintenance phases. The oversight structure above the Project Manager was not clear. Although the proposed project management team appears to have significant relevant experience, RES was non-committal in terms of assigning the key personnel to the project and stated that it will “use its reasonable efforts” to ensure they remain involved. However, in its answer to interrogatory #2, RES confirmed that the Project Manager will be dedicated to the project. Names and resumés were provided for those leading the functions shown in the project chart which showed significant relevant experience. RES also indicated that it will use a “qualified owner’s engineer” to augment its design review effort. RES provided an overview of its extensive relevant experience with similar projects. RES did not provide information for the operation and maintenance phase stating that a plan will be prepared during the project development phase.

### **CNPI (2)**

The organizational chart provided initially by CNPI was not a functional chart, but rather a chart of participating organizations. Three charts were provided in answer to interrogatory #1 for the various phases which included key functions. The lead for all three phases (development, construction, operation and maintenance) is provided by an Executive Lead, managing the project on Fortis Inc.’s (“Fortis”) behalf, and supported by a number of Fortis personnel as well as Aboriginal advisors. The structure and associated accountabilities below the Executive Lead for the development and construction phases of the project are not clear (i.e. the distinctive role of a Project Manager reporting to an Executive Sponsor, reporting to the Executive Lead). CNPI confirmed that the Executive Lead will be dedicated to the development and completion of the project. A list of proposed management team members was provided with names and resumés but without their specific project function. A long list of “key technical team personnel” was provided which included internal as well as third-party consultants; however, it was not clear to what degree they will all be involved in this project. CNPI

also provided an overview of its relevant experience with several transmission projects, mostly involving Fortis.

### ***lcon/TPT (1)***

lcon/TPT initially proposed that a management committee will govern the general partnership, with the day-to-day management of the partnership provided by a management team reporting to the management committee. The organizational chart provided initially by lcon/TPT was not a functional chart, but a chart of participating organizations. In its answer to interrogatory #1, lcon/TPT provided one chart for the development and construction phases of the project showing a General Manager reporting to the management committee with three functions reporting to the General Manager (a Project Director, Legal/Environment/Regulatory, and Controller/Finance). No further detail was provided beyond that level, which hampered the Board in its assessment of the proposed organization's effectiveness. lcon/TPT did not provide an organizational chart for the operation and maintenance phase of the project. lcon/TPT proposed that the preliminary engineering, detailed engineering, procurement and construction (EPC) management will be contracted to Isolux Ingenieria, which is an EPC company owned by Isolux Corsan. lcon/TPT confirmed that the proposed General Manager, who has significant relevant experience, will be dedicated to the project. A "preliminary" list of personnel to be considered for the management team was provided but with no commitment of which personnel would actually be on the team. lcon/TPT also provided an overview of its relevant extensive experience with similar projects in Canada and globally.

### **First Nation and Métis Participation**

Applicants were required to describe their approach to First Nations and Métis participation in the project. They were asked to indicate whether or not arrangements have already been made and, in either case, to provide further details.

There is a distinction between this criterion (First Nations and Métis Participation) and the criterion addressed later in this decision (First Nations and Métis Consultation). The former arises from Ontario socio-economic policy and the latter is related to a constitutional obligation. Ontario's Long Term Energy Plan states:

Where new transmission lines are proposed, Ontario is committed to meeting its duty to consult First Nations and Métis communities in respect of their aboriginal and treaty rights and accommodate where those rights have the potential to be adversely impacted. Ontario also recognizes that Aboriginal communities have an interest in economic benefits from future transmission projects crossing through their traditional territories and that the nature of this interest may vary between communities.

There are a number of ways in which First Nation and Métis communities could participate in transmission projects. Where a new transmission line crosses the traditional territories of aboriginal communities, Ontario will expect opportunities be explored to:

- Provide job training and skills upgrading to encourage employment on the transmission project development and construction.
- Further Aboriginal employment on the project.
- Enable Aboriginal participation in the procurement of supplies and contractor services.

Ontario will encourage transmission companies to enter into partnerships with aboriginal communities, where commercially feasible and where those communities have expressed interest.

In evaluating the applications in this area, the Board kept in mind the distinction between participation and consultation, and considered the following factors:

- Whether the existing arrangement or plan provides for equity participation by First Nations and Métis communities.
- The extent to which the existing arrangement or plan provides for other economic participation such as training, employment, procurement opportunities, etc. for all impacted communities.
- The degree of commitment to the plan.

The more that an application demonstrably provided opportunities for participation and was committed to that participation, the higher the Board ranked the proponent. Below,

the Board identifies the proponents in ranked order for this criterion and provides a brief discussion of the main characteristics of each application.

It should be noted that one of the key considerations in the ranking process was articulated in the Board's Phase 1 Decision and Order which stated:

The Board will not look more favourably upon First Nation and Métis participation that is already in place at the time of the application than upon a high quality plan for such participation, supported by experience in negotiating such agreements.

### ***AltaLink (6)***

AltaLink indicated that it had contacted the 18 First Nations and Métis communities identified by the Ministry of Energy as being potentially affected by the project (May 31, 2011 letter), and engaged Ishkonigam (Phil Fontaine) in preparing its participation plan. AltaLink proposed to offer up to 49% equity ownership of the project to affected First Nations and Métis communities, to be held by a single entity in a limited partnership. AltaLink indicated that if requested, it would assist participating First Nations and Métis communities in arranging financing for their equity through independent financial institutions; and if necessary, AltaLink would provide loans. In addition to equity partnership, AltaLink proposed economic participation such as employment, contracting, and training and development. Priority for those forms of economic participation would be given to affected communities. AltaLink believes that no directly or indirectly affected First Nation or Métis community should be excluded; however, its plan provides for different levels of participation depending on the nature of the impact resulting from the project.

### ***EWT LP (5)***

One of EWT LP's partners is BLP which consists of six First Nations, all located within 40 km of the existing East-West line. In addition to having one-third equity in the partnership, BLP's participating First Nations will have priority for economic participation in areas such as employment, training, etc. However, according to EWT LP, other First Nations and Métis communities are not precluded from competing to provide goods and services that the participating First Nations may not be able to provide. While EWT LP's

plan is good for the six First Nation partners comprising BLP, there are more limited opportunities for other affected First Nations and Métis communities to participate in the various aspects of this project, and no opportunity for equity participation.

### ***CNPI (5)***

CNPI has formed a joint venture with Lake Huron Anishinabek Transmission Company Inc. (LHATC). LHATC is made up of 21 First Nations, two of which are on the project's list of affected First Nations. CNPI proposed that LHATC, along with other interested First Nations, will have the right to acquire in aggregate up to 49% equity interest in the project. It was not clear to what extent, if any, CNPI expected the Métis communities to be equity participants. However, CNPI stated that it is prepared to work towards negotiations resulting in meaningful participation by the Métis communities in this project. If needed, CNPI indicated that loans from Fortis could be provided to facilitate participation. CNPI is also prepared to offer First Nations and Métis communities opportunities for employment, apprentice training, preferential consideration for Aboriginal businesses, and a Skill Builder Program. CNPI's economic participation offer goes well beyond the identified affected communities but does not specify what criteria would be used to determine who participates. This has the potential of causing confusion and delay.

### ***UCT (3)***

As described in the Organization section of its application, UCT has created an Aboriginal Advisory Board to provide independent oversight in the areas of aboriginal participation and consultation. UCT indicated that it intends to offer negotiated participation in the project to the affected First Nations and Métis communities, including BLP; a partner of EWT LP. It has developed an initial set of approaches (e.g. preferred equity/limited partnership, common equity/limited partnership, lump sum payment, First Nations and Métis Adder) which it intends to explore with affected communities and other stakeholders and to finalize prior to submitting its leave to construct application. Some aspects of the proposals such as lump sum payments and an "adder" are not really in the nature of participation and may cause unanticipated costs for ratepayers. UCT's plan includes economic participation components such as employment, education and training, procurement and contracting, strategic community investment,

and access to other supporting programs. UCT provided a participation plan and schedule for each stage of the project (prior to designation, development, construction, and operation), and indicated that priority for these opportunities will be given to affected communities.

### ***RES (3)***

RES indicated that it invited the 18 First Nations and Métis communities identified by the Ministry of Energy in the project area to become involved in the development of its participation plan, and that some communities responded. RES provided a First Nations and Métis participation plan, which was supported by former Ontario Grand Chief John Beaucage, and indicated that it is prepared to offer as much as \$50 million investment opportunity to affected First Nations and Métis communities, provided that that investment does not exceed 20% equity in the project. As an alternative, RES offered to negotiate Impact Benefits Agreements with those communities, although this type of arrangement may cause unanticipated costs for ratepayers. RES also proposed economic participation by the affected communities in areas such as employment, training, procurement of supplies and services, etc.

### ***Iccon/TPT (1)***

Iccon/TPT had initial communication with a number of affected First Nations and Métis communities (9 listed) in the spring of 2011. It provided an Aboriginal Engagement Plan which contained details in areas such as engagement process, capacity funding, Aboriginal working group, Traditional Ecological Knowledge, education and training, employment, contracting, and other areas. Iccon/TPT has not proposed equity participation at this time but indicated that, if selected, it would engage with affected communities as well as those who express an interest. Iccon/TPT described TransCanada's project experience and its role in leading the execution of its Aboriginal Engagement Plan. Iccon/TPT's participation plan is less well-defined than the other applicants' plans and does not distinguish sufficiently between participation and consultation.

## Technical Capability

To demonstrate their technical capability to plan, engineer, construct, operate and maintain the East-West Tie line, the applicants were required to provide details regarding their technical resources in various disciplines, resumés of key technical team personnel, a description of experience with relevant projects and activities, and other related information. It should be noted that there is some overlap in the contents of this section and Organization in the applications.

In evaluating the applications in the area of Technical Capability, the Board ranked applicants by considering the following factors:

- Strength of the applicant's internal technical capability. A strong and diverse internal technical capability is considered by the Board to be a desirable feature where the resources are specifically identified, committed, and readily available.
- Strength of the proposed technical team in relevant areas and the clarity of their project roles, including the role of any third-parties. Where the utilization of third-parties is proposed, it is advantageous to identify who they are and what their specific role is.
- Level of experience in similar projects and activities in terms of technical complexity, geography, regulatory process, etc.
- Evidence of solid internal business practices.
- Thoroughness of assessing the technical challenges associated with achieving the required capacity and reliability of the line and the proposed measures to address these challenges.

The more of these characteristics which a proponent demonstrated through its application, the higher the Board ranked the proponent. Below, the Board sets out the proponents in ranked order for Technical Capability and provides a brief discussion of the main characteristics of each application.

### ***UCT (6)***

UCT provided details of its strong internal technical capability in the various project functions. For the most part, UCT is proposing to utilize internal resources in all phases

of the project, supported by third-party consultants as needed. UCT identified its proposed key technical team members, provided their detailed resumés and described their specific project roles. The proposed technical team demonstrates strong and diverse technical skills with significant relevant project experience. UCT also indicated that its partner NextEra will take the lead role in the operation and maintenance phase of the project. UCT provided information regarding its partners' experience with relevant projects and activities. It also provided many examples where its partners have been recognized by third parties for significant achievements in key business areas. It also described an internal approach to project management consistent with best practices, including work breakdown structure, risk management, and overall project controls. UCT identified what it perceives as potential technical challenges in this project and described its plan for addressing them.

#### ***AltaLink (5)***

As described under Organization, AltaLink indicated that project planning and development as well as engineering, procurement and construction management services will be provided by SNC Lavalin. Third party contractors are expected to be used in project construction. In addition, local contractors will be used for operation and maintenance under AltaLink's General Manager's direction. AltaLink provided details of its technical capability in the various project functions, mostly from SNC Lavalin, including names, role, and brief descriptions of experience for each of the proposed key technical team personnel. Although the resumés of the team members were not sufficiently detailed to assess the individuals' specific project experience, the proposed team demonstrates good collective relevant experience. Altalink also provided information regarding its (SNC Lavalin's) extensive experience with projects of similar complexity (e.g. in Alberta). It also provided examples of business practices (standards and management systems) in various project areas that it considers to be consistent with good utility practices. It provided a comprehensive list of what it perceives as potential technical challenges in this project and described its plan for addressing them.

#### ***EWT LP (4)***

EWT LP indicated that it plans to utilize third-party consultants and contractors for significant portions of the work in this project under EWT LP's management and

oversight (e.g. engineering, environmental assessment work, land rights acquisition, public engagement, procurement, and construction). It identified many of the consultants and contractors that it plans to utilize and described their areas of expertise. EWT LP also proposes to contract HONI to provide operating services, and may also outsource ongoing maintenance. A list of external technical team members was provided, but their specific project roles were not identified. Also, the internal list was primarily for its proposed management team (see Organization section) as opposed to the key technical team personnel. Information regarding its team's experience with relevant projects and activities was also provided. EWT LP also provided some examples of its partners' business practices in various areas that it considers to be consistent with good utility practices. EWT LP also identified some potential technical challenges and plans to address them.

### ***lcon/TPT (3)***

As described under Organization, lcon/TPT proposed to contract the engineering, procurement, and construction management (EPC) functions of the project to Isolux Ingenieria, with some contribution from local sub-consultants, under the direction of its General Manager. It also plans to outsource operation and maintenance to one or two companies. lcon/TPT provided a "preliminary" list of its technical team members, without identifying their specific project roles. A description of its extensive experience with large transmission projects was provided, but did not explain how this experience was relevant to this project in terms of the specific technical challenges. lcon/TPT provided examples of business practices in various areas that it considers to be consistent with good utility practices. It also provided a short description of what it perceives as potential technical challenges in this project and described its plan for addressing them.

### ***CNPI (2)***

CNPI intends to use a mix of internal and external resources in this project. Among the functions to be contracted out partially or fully are engineering/design, construction, operation and maintenance, project management, environmental and regulatory approvals, and community and stakeholder relations. CNPI identified a list of key technical internal (Fortis) and external team personnel and described their areas of

expertise, but it was not clear what the specific project role would be for some of them. There also appeared to be some overlap in these roles between internal staff and external consultants. Also, some of the proposed technical team members seem to have limited direct experience with similar projects. CNPI described some of the relevant project experience of Fortis and its other partners, and provided detailed examples of Fortis's business practices in various areas that it considers to be consistent with good utility practices. CNPI also identified, in general terms, what it perceives as potential technical challenges in this project and described its plan for addressing them.

### ***RES (1)***

RES intends to use a mix of internal and external resources in this project. Although RES indicated that the vast majority of the work will be done by external resources (approximately 80% of the development budget) with the internal team essentially limited to an oversight role, it was non-committal in terms of who it plans to use. It identified some of the potential external resources that it may utilize in the various project components and described their areas of expertise, but indicated that the actual determination of the specific external service providers will happen at the "appropriate time". RES is proposing that critical roles such as the owner's engineer and EPC contractor will be contracted using a competitive process. RES's significant experience with similar projects was described in detail.

### **Financial Capacity**

Information was required from the applicants to demonstrate that the applicants have the financial capability necessary to develop, construct, operate and maintain the line. The information included capital resources, credit ratings, financing plan, and experience in financing similar projects.

The Board concludes that all the applicants provided information to substantiate that they have solid financial backing and, therefore, financial capacity was not a distinguishing factor among the applicants. All applicants were given the same ranking.

## Proposed Design

The applicants were required to provide an overview of some of the characteristics of their proposed design to the extent known at the time of their applications. The Board, in the information it provided to potential applicants, identified a “Reference Option”, which was based on the preferred option identified by the OPA and the reference case analyzed by the IESO. The applicants were required to indicate whether their plan for the line was based on the Reference Option, and if not, to describe the differences and to provide a feasibility study for their plan performed by the IESO, or performed to IESO standards. The applicants were also required to highlight the strengths of their plan in terms of innovation, reduction of ratepayer risk, lower cost, local benefits, and enhanced grid reliability.

In this evaluation, the Board will not make determinations on specific technical design issues. Making technical determinations at this point is premature since part of the project development process is to further investigate design options for the purpose of preparing a definitive proposal in the form of a leave to construct application. However, the Board notes the submissions of the IESO and the OPA regarding design, and will consider the adequacy of the design in meeting the need identified by the OPA at the time of the leave to construct proceeding.

Each applicant confirmed that its proposed design meets or exceeds existing reliability standards and the minimum technical requirements for the project, so these factors are not addressed in the following sections. In evaluating the applications in the area of Proposed Design, the Board ranked applicants by considering the following factors:

- Have any innovative alternatives or special design features been proposed, and how significant are their potential benefits?
- Have the proposed design and any alternatives been supported on a preliminary basis and is there an appropriate plan to assess the proposed design and alternatives during development?

The better the approach to these factors which a proponent demonstrated through its application, the higher the Board ranked the proponent. Below, the Board sets out the

proponents in ranked order for Proposed Design and provides a brief discussion of the main characteristics of each application.

### ***RES (6)***

RES presented two design options: a Reference Design and a Preferred Design. The Preferred Design involves the use of single-circuit transmission line with a combination of single-circuit tubular steel H-Frame structures and single-circuit steel-lattice structures. RES provided a comprehensive comparison of the two designs and indicated that, compared to the Reference Design, the Preferred Design would have superior electrical attributes, lower construction cost (about \$80 million), and shorter construction schedule. RES also suggested that a staged installation of transfer capacity with the Recommended Design could result in a significant cost reduction to the ratepayers (approximately \$62.5 million). Two feasibility studies, prepared by the IESO for the Reference Design and Preferred Design, were provided.

### ***UCT (6)***

UCT evaluated a number of different technology, routing, and structural options. Its Recommended Plan is based on the Reference Option with one major exception which is the use of Guyed-Y towers instead of self-supported steel-lattice towers. UCT stated that the Guyed-Y towers have better lightning performance, a smaller footprint, and a potential cost saving of about \$33 million relative to the conventional self-supported steel-lattice towers. The IESO confirmed that the recommended structural change will not impact the existing Reference Plan feasibility study and that a new feasibility study is not required at this time. UCT indicated that Guyed-Y towers are used in several locations in British Columbia, Manitoba, and Quebec. Although these installations are for single-circuit designs, UCT indicated that the double-circuit application has been well researched and will be subject to further testing during the development phase. UCT also provided a consultant's assessment of, among other things, the proposed use of Guyed-Y structures for its Recommended Plan.

### ***EWT LP (4)***

EWT LP's proposed design is based on the Reference Option with one exception (40m right-of-way instead of 50m). It also presented three alternative designs; a modified double-circuit reference based design, a single-circuit design, and a single-circuit design with guyed cross-ropes suspension type structures. EWT LP has not assessed these alternatives, but indicated that it plans, early in the development phase, to test the key assumptions underlying the Reference-based design and undertake the studies necessary to determine whether a different design can be adopted at a lower cost. EWT LP estimated that these alternative designs have the potential of reducing the project's capital cost by \$47 million to \$116 million.

### ***AltaLink (3)***

AltaLink's plan proposed to use the Reference Option, but with some features aimed at reducing the project cost and environmental footprint. One of the main features to be considered is the use of a mix of H-Frame wood pole structures (2 single-circuit structures) in place of double-circuit steel-lattice towers along various parts of the right-of-way. This feature was presented to the IESO and it agreed that no new feasibility study is required. Other features suggested by AltaLink included the use of screw pile foundations for steel-lattice towers (used throughout Alberta according to AltaLink), off-site assembly yards, helicopter erection techniques, sequencing of construction work, and alternatives for cost recovery. AltaLink's plan was not specific, however, in terms of how some of these concepts (e.g. H-Frames) will be assessed.

### ***Iccon/TPT (2)***

Iccon/TPT's plan is based on the Reference Option. Iccon/TPT identified a number of possible innovative measures to be explored during the development phase including the design and testing of a new tower family specifically engineered for this project, the use of different materials, reducing the number of "dead ends", and designing lattice towers that span above the tree tops. Iccon/TPT presented limited supporting information or analysis for these proposals.

## **CNPI (1)**

CNPI's plan is based on the Reference Option. CNPI has not identified any proposed design innovations or cost reduction measures.

## **Schedule**

The applicants were required to provide an overall project execution chart showing major milestones for both the development and construction phases of the project. They were also asked to provide detailed schedules for both phases with estimated completion dates, as well as the proposed consequences for failure to meet key milestone dates. In addition, they were required to provide a description of major risks associated with meeting these schedules, and their plan to mitigate these risks. Evidence of past schedule performance in similar projects, as well as any proposed innovative practices to meet or accelerate the project development and construction were also requested. For proper comparison of dates and durations, the duration of the development phase of the project is defined as the period from the designation decision to the leave to construct application. It should be noted that the applicants were not ranked higher or lower based on their proposed project durations. The proposed construction phase schedules are only indicative at this stage and do not constitute a commitment on the part of the applicants. As for the development phase schedules, there is no specific benchmark as to what an appropriate duration may be. However, the Board notes that for the more aggressive schedules, the applicants would still be required to complete all the necessary work for purposes of completing the Environmental Assessment and leave to construct processes (including consultation) in an appropriate manner and would be at risk for any additional costs which result from schedule delays.

In evaluating the applications for the criterion of Schedule, the Board considered the following factors:

- Level of detail and clarity of the project execution chart and schedules.
- Demonstrated ability to identify the major risks impacting these schedules and a description of how these risks will be mitigated.
- The planned approach to achieving the proposed completion dates.

- Level of commitment to the proposed schedules, proposed reporting requirements, and proposed consequences for failure to meet key milestones.
- Past schedule performance for similar projects. It should be noted that the applicants were asked in interrogatory #32 to provide more specific information about past schedule performance for large transmission projects (greater than 100 km in length) over the past 10 years. This information is factored into the following evaluation. The Board's assessment of past schedule performance was qualitative in nature considering the fact that there were variations among the applicants in terms of when the project schedules were established and the reasons for the variances.

The Board's ranking was based on how well the proponents demonstrated the above characteristics. Below, the Board sets out the proponents in ranked order for Schedule and provides a brief discussion of the main characteristics of each application.

### ***UCT (6)***

UCT provided a clear, detailed schedule for both phases of the project with key milestones. Its proposed completion date for the development phase is October 2014, assuming designation by May 2013 (i.e. duration of approximately 18 months). The proposed in-service date is December 2017. UCT explained that its proposed overall schedule (development and construction) can be accomplished using parallel work streams and other measures. A comprehensive list of what UCT considers to be major schedule risks and mitigating measures was provided. UCT proposed a monthly progress reporting process. Although UCT did not propose specific consequences for failure to meet major milestones, it did suggest a process for notifying the Board of potential milestone delays and mitigating measures before they occur. UCT provided a description of past performance in a number of projects which showed very good schedule performance as most of the cited projects were completed on or ahead of schedule.

### ***EWT LP (5)***

EWT LP provided a high level schedule for the overall project and a more detailed schedule for the development phase with key milestones. Its proposed completion date

for the development phase is March 2016, assuming designation by August 2013 (i.e. duration of approximately 32 months). The proposed in-service date is November 2018. A comprehensive list of what EWT LP considers to be major schedule risks and mitigating measures was provided. EWT LP proposed a bi-annual progress reporting process which is likely insufficient. It also proposed possible ultimate consequences for failure to meet major milestones in the development phase which would only be warranted for the “most egregious failures”. EWT LP provided a description of past performance in a number of projects which showed average schedule performance.

#### ***Iccon/TPT (4)***

Iccon/TPT provided a high level schedule for both the development and construction phases as well as a more detailed schedule for the development phase. Its proposed completion date for the development phase is February 2015, assuming designation by July 2013 (i.e. duration of approximately 18 months). Iccon/TPT indicated that its relatively short development schedule is achievable subject to meeting certain milestones for items which are beyond its control such as regulatory approvals. The proposed in-service date is October 2018. A detailed list (risk register) of what Iccon/TPT considers to be major schedule risks and mitigating measures was provided for the overall project. Iccon/TPT did not provide any detail about progress reporting or potential consequences for missing major schedule milestones. Iccon/TPT provided a description of past performance in a number of projects showing schedule performance by quarter. Iccon/TPT in its answer to interrogatory #32 provided additional information for major transmission projects which showed average schedule performance.

#### ***AltaLink (3)***

AltaLink provided a high level schedule for both the development and construction phases as well as a more detailed schedule for the development phase. Its proposed completion date for the development phase is June 2014, assuming designation by April 2013 (i.e. duration of approximately 14 months). The proposed in-service date is November 2018. AltaLink’s proposed development schedule seems to be on the optimistic side which, according to AltaLink, is achievable given what it described as a significant amount of “pre-development work” completed before submitting its application. A short list of what AltaLink considers to be major schedule risks and

mitigating measures was provided for the overall project. AltaLink proposed a bi-monthly progress reporting process but did not provide details about potential consequences for missing major schedule milestones. AltaLink provided a description of past schedule performance in a number of projects which did not show good performance. In the original application, AltaLink stated that, for projects completed in 2010, it came within one month of the estimated preliminary in-service date 20% of the time. For the four projects listed in response to interrogatory #32, two are in the construction stage and are on schedule and the other two are significantly (11 to 26 months) behind schedule.

### ***CNPI (2)***

CNPI provided a high level schedule for the construction phase of the project as well a more detailed table for the development phase with key milestones. Its proposed completion date for the development phase is May 2015, assuming designation by April 2013 (i.e. duration of approximately 25 months). The proposed in-service date is December 2019. A list of what CNPI considers to be major schedule risks and mitigating measures was provided. CNPI proposed a quarterly progress reporting process with a limited level of detail which is likely insufficient. It also proposed potential consequences for missing major milestones involving extreme cases of negligence. CNPI also mentioned that a bonus/penalty scheme for contractors could be considered during the construction phase. CNPI initially provided a description of past schedule performance in a number of projects which showed good performance. However, the additional information provided by CNPI in response to interrogatory #32 showed average schedule performance.

### ***RES (1)***

RES provided a high level schedule for both the development and construction phases as well as a more detailed schedule for the development phase. Its proposed completion date for the development phase is June 2015, assuming designation by June 2013 (i.e. duration of approximately 25 months). The proposed in-service date is December 2018. A list of what RES considers to be major schedule risks and mitigating measures was provided for the overall project. RES proposed various progress reporting intervals and detail level (weekly, monthly, and quarterly). RES also provided

a description of past schedule performance in a number of projects which did not show good performance. Three projects were listed in response to interrogatory #32, all of which were significantly late (12 to 32 months).

## **Cost**

The applicants were required to provide estimated costs for the development, construction, and operation and maintenance phases of the project. Further details were required for development costs including a cost breakdown, assumptions used, expenditure schedule, as well as risk assessment, mitigation and allocation. The construction cost estimate could be expressed as a range. The applicants were also required to provide information regarding risk and mitigation measures for the construction phase, information on cost performance for past projects, and proposals for how construction cost risk could be allocated between ratepayers and the applicant. For the operation and maintenance phase, the applicants were required to provide their estimated average annual cost, which could also be expressed as a range.

In order to facilitate cost comparison among applicants, they were asked in an interrogatory to provide the three cost estimates (development, construction, and operation and maintenance) broken down in certain common components, and to be expressed in 2012 dollars. This was intended to assist the Board in comparing the cost estimates on an equivalent basis, particularly the development phase budget. They were also required to provide more specific information about past cost performance for large transmission projects (greater than 100 km in length) over the past 10 years.

By designating one of the applicants, the Board will be approving the development costs, up to the budgeted amount, for recovery. The School Energy Coalition submitted that there is insufficient information for the Board to determine that the development costs are just and reasonable. The Board does not agree. The Board has had the benefit of six competitive proposals to undertake development work. In the Board's opinion, the competitive process drives the applicants to be efficient and diligent in the preparation of their proposals. With the exception of Iccon/TPT, the development cost proposals ranged from \$18.2 million to \$24.0 million which is relatively narrow given the overall size of the project. Therefore, the Board finds that the development costs for the

designated transmitter are reasonable, and will be recoverable subject to certain conditions.

In evaluating the applications in the area of Cost, the Board ranked applicants by considering the following factors:

Development Cost

- Rank order of the cost estimate.
- Clarity and completeness of the cost estimate.
- Thoroughness of the risk assessment and mitigation strategy.
- Any proposal for allocation of the development cost risk which could benefit ratepayers.

Construction Cost

- Clarity and completeness of the cost estimate.
- Thoroughness of the risk assessment and mitigation strategy.
- Any proposal for allocation of the construction cost risk which could benefit ratepayers.
- Past cost performance for similar projects.

Operation and Maintenance Cost

- Clarity and completeness of the cost estimate.

The Board's ranking was based on how thoroughly the proponents demonstrated the above characteristics. Below, the Board sets out the proponents in ranked order for Cost and provides a brief discussion of the main characteristics of each application.

Unless stated otherwise, all cost estimates presented in this section are in 2012 dollars. The cost estimates are provided below to the nearest \$0.1 million for the development cost, \$1 million for the construction cost, and \$0.1 million for the operation and maintenance cost.

### ***AltaLink (6)***

AltaLink's development cost estimate is \$18.2 million (the lowest among the applicants). Its construction cost estimate is \$454 million and its estimated annual operation and maintenance cost is \$1.7 million. AltaLink did not provide an expenditure schedule for the development cost. It provided a combined risk list and mitigation measures for the project's cost and schedule. AltaLink suggested two alternatives for dealing with development cost variances; the first is to seek recovery of incurred cost subject to prudence review, and the second is a risk/reward model where variances of up to 10% are shared 50/50, and variances above or below 10% are subject to prudence review. It also presented three alternatives for construction cost recovery; a traditional cost of service model, a negotiated target price with 50/50 risk/reward sharing up to a pre-determined cap (e.g. 10%) with costs in excess of the cap subject to prudence review, and a lump sum fixed price. AltaLink provided a general description of past performance in a number of projects, but the level of granularity was insufficient to make a definitive assessment (i.e. AltaLink indicated that the collective cost performance of 112 projects was within 10% of the total estimate but did not provide specific individual project information).

### ***UCT (6)***

UCT's development cost estimate is \$22.2 million (third lowest among the applicants) which is the same for the Reference Plan and Recommended Plan. Its construction cost estimate is \$409 million for the Reference Plan and \$378 million for the Recommended Plan. Its estimated annual operation and maintenance cost is \$4.4 million. UCT provided an expenditure schedule for the development costs as well as a detailed description of associated risks and mitigating measures. UCT proposed that the project's development phase be treated as a cost of service case whereby any expenditure in excess of the approved budget would be recoverable, subject to a prudence review. UCT's construction cost estimate is the mid-point of anticipated range of costs. The only cost difference between the Reference Plan and the Recommended Plan is the use of Guyed-Y steel-lattice towers instead of self-supported steel-lattice towers. UCT presented a detailed description of the risks associated with the construction phase and its plan to mitigate these risks. UCT indicated that, at the project's leave to construct stage, it will present to the Board a proposal for

performance-based ratemaking for the project's construction phase. UCT provided a description of past performance in a number of projects which showed average cost performance.

#### **RES (4)**

RES's development cost estimate is \$21.4 million which is essentially the same for the Reference Design and the Preferred Design (second lowest among the applicants). As stated in its application, its construction cost estimate is \$472 million (\$2013) for the Reference Option / Preliminary Preferred Route and \$392 million (\$2013 according to its application and \$2012 according to its response to interrogatory #26) for the Preferred Design / Preliminary Preferred Route. However, the submission from HONI suggested that the amounts estimated for the cost of work necessary at HONI's stations was not developed in consultation with HONI. RES' estimated annual operation and maintenance cost is \$2.2 million for the Preferred Design and \$2.8 million for the Reference Design (the latter not included in the original application). RES provided an expenditure schedule for the development cost as well as a description of associated risks and mitigating measures. RES stated in its application that it is prepared to offer a firm development and construction price of \$413 million (\$2013) for the preferred design / preferred route option or \$494 million (\$2013) for the reference design / preferred route option, based on an incentive bonus / penalty methodology. RES presented a description of the risks associated with the construction phase and its plan to mitigate these risks. RES also provided a description of past performance in a number of projects which showed average cost performance.

#### **EWT LP (3)**

In EWT LP's application, the development cost estimate was \$22.1 million and the construction cost estimate was \$427 million for the double circuit option. It was not clear whether these cost estimates were escalated or not. EWT LP indicated in its application that the accuracy of its estimates is  $\pm 8\%$  and  $\pm 22\%$  for the development and construction costs, respectively. In response to interrogatory #26, EWT LP increased its development cost estimate to \$23.7 million in \$2012 (third highest among the applicants) and also increased the construction cost estimate for the double circuit option to \$490 million in \$2012. It also provided a construction cost estimate for the

single circuit option (\$350 million in \$2012), but the submission from HONI suggested that the amounts estimated for the cost of work necessary at HONI's stations was not developed in consultation with HONI. EWT LP's estimated annual operation and maintenance cost is \$7.1 million. EWT LP explained in its application that this estimate includes \$1.9 million for "Administration and General" which, if excluded with its share of the contingency, would bring their estimate down to \$4.9 million/year. EWT LP provided an expenditure schedule for the development cost as well as a detailed description of associated risks and mitigating measures. EWT LP did not propose any risk sharing arrangements with benefits for ratepayers. EWT LP also presented a detailed description of the risks associated with the construction phase and its plan to mitigate these risks. EWT LP provided a description of past performance in a number of projects which showed below average cost performance.

### ***CNPI (2)***

CNPI's development cost estimate is \$24.0 million (second highest among the applicants) and its construction cost estimate is \$527 million. In its application, CNPI's estimated annual operation and maintenance cost was approximately \$1.0 million, but was increased to \$1.7 million in response to interrogatory #26 to account for administration and regulatory costs that CNPI indicated were not included in the initial estimate. CNPI provided an expenditure schedule for the development cost as well as a brief description of associated risks and mitigating measures. CNPI did not propose any risk sharing arrangements with benefits for ratepayers. CNPI presented a brief description of the risks associated with the construction phase and its plan to mitigate these risks. CNPI provided a description of past performance in a number of Fortis projects which showed average cost performance.

### ***lccon/TPT (1)***

In lccon/TPT's application, the estimated development cost was \$45.5 million (highest among the applicants). It was not clear in the application whether this cost estimate was escalated or not. This estimate was reduced by lccon/TPT in response to interrogatory #26 to \$30.7 million. lccon/TPT explained that, in addition to de-escalation, the difference is due to the fact that the earlier estimate included post leave to construct activities. lccon/TPT's construction cost estimate is \$487 million and its

estimated annual operation and maintenance cost is \$4.9 million. Iccon/TPT provided an expenditure schedule for the development cost as well as a combined risk register for both the development and construction phases. For development costs, Iccon/TPT did not propose any risk sharing arrangements with benefits for ratepayers. To reduce construction cost risk, Iccon/TPT intends to enter into a fixed fee EPC contract with Isolux Ingenieria. Iccon/TPT provided a description of past performance in a number of projects which showed average cost performance.

### **Landowner, Municipal, and Community Consultation**

The applicants were required to demonstrate their ability to conduct successful consultations with landowners, municipalities and local communities, and to provide a consultation plan including potential significant issues and mitigating measures. Additional details such as an overview of land rights acquisition activities and a description of any proposed route, or plan for identifying a route, were also requested.

In evaluating the applications in this area, the Board ranked applicants by considering the following factors:

- Clarity of the consultation plan, including methodology and schedule.
- The breadth and scope of potential significant stakeholder issues identified and the suitability of proposed mitigating measures.
- Adequacy of the description of the line route (or alternatives) and demonstrated appreciation of challenges involved in the route(s).

The more of these characteristics which a proponent demonstrated through its application, the higher the Board ranked the proponent. Below, the Board sets out the proponents in ranked order for this criterion and provides a brief discussion of the main characteristics of each application.

#### ***EWT LP (6)***

EWT LP provided a comprehensive consultation plan as part of the description of its proposed environmental assessment process, which included a description of key elements and a list of stakeholders. The plan conveyed a clear picture as to how

consultations would be conducted and how the communities would be approached. Details regarding land use rights acquisition approach by category, potential issues and proposed mitigation were provided. For the purposes of the application, EWT LP assumed a route adjacent to the existing line but indicated that the final route will be based on consultation with landowners, municipalities and communities. A detailed study of potential routes was provided where potential route options were identified and described, including the evaluation criteria, process, and a proposed schedule for route selection.

### ***RES (5)***

RES provided a consultation plan that included a schedule, issue identification and resolution strategy. The plan provided for the formation of a Municipal Advisory Group, if appropriate. RES provided an overview of the required land use rights and a two-phase plan for acquiring these rights (pre and post leave to construct). A detailed land valuation and acquisition plan was provided. Potential significant issues and mitigating measures were also identified. RES identified a preliminary preferred route and stated that some route refinements may be required as a result of stakeholder consultation.

### ***UCT (5)***

UCT provided a consultation plan which included a list of stakeholders, consultation activities and schedule. UCT also provided a mitigation strategy to deal with significant issues. It also provided a land acquisition plan which included methodology for various types of land rights as well as an approach to compensation and mitigation. One of the mitigating measures is to identify three route variances to the proposed route as contingencies. UCT identified a 3-stage approach to route determination; conceptual (already completed), preliminary, and final.

### ***AltaLink (3)***

A consultation plan was provided as part of AltaLink's draft environmental assessment terms of reference, including methods and schedules. AltaLink provided a list of required land use rights for the various project phases and a plan to obtain these rights, including compensation principles. Some issues associated with obtaining these rights

were identified and a plan to address them was provided based on AltaLink's experience in Alberta. Altalink's plans were generic in nature rather than specific to this project. AltaLink identified a proposed route and some of the environmental constraints associated with it, subject to detailed design, environmental assessment, and stakeholder input.

### **CNPI (2)**

A brief consultation plan was provided for the different project phases, including potential issues and mitigation. CNPI provided a brief description of the various categories of right-of-way and land use rights and its plan for obtaining these rights. A short list of potential issues associated with land acquisition and permitting was provided and mitigating measures proposed. Although the proposed route has been identified, CNPI is prepared to consider an alternate route.

### **Iccon/TPT (1)**

A description of the proposed consultation plan was provided which was generic and brief. Iccon/TPT provided an overview of the required land use rights in the various project phases and a plan for acquiring these rights. A brief description of associated risks and mitigating measures was also provided. Iccon/TPT has not identified a planned route for the line at this time, but has conducted a routing analysis and identified several potential routing corridors. A methodology and decision criteria were described which will be used to evaluate these routing options during the development of the terms of reference for the environmental assessment.

## **First Nations and Métis Consultation**

The duty to consult, as described in the Supreme Court decision *Haida Nation v. British Columbia (Minister of Forests)*<sup>2</sup>, arises where the Crown has knowledge, real or constructive, of the potential existence of Aboriginal right or title and contemplates conduct that might adversely affect it. In some cases, the duty to consult may lead to a duty to accommodate. The precise extent of the duty to consult and, possibly, accommodate will vary depending on the facts of each situation. The Crown can

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<sup>2</sup> [2004] 3 S.C.R. 511

delegate certain aspects of consultation to a project proponent. The Deputy Minister of Energy issued a letter on November 26, 2012 stating the Ministry's expectation that the designated transmitter will enter into a Memorandum of Understanding with the Ministry that will set out the respective roles and responsibilities of the Crown and the transmitter in consultation. None of the applicants objected to this requirement.

The applicants were required to demonstrate their ability to conduct successful First Nation and Métis consultations and to provide a consultation plan including a list of affected First Nations and Métis communities. They were also required to describe their engagement approach as well as potential significant issues and mitigating measures.

In evaluating the applications in this area, the Board ranked proponents by considering the following factors:

- Clarity and comprehensiveness of the proposed consultation plan, including methodology and schedule.
- Identification of potential significant issues and proposed mitigating measures.
- Relevant successful past experience.

The Board's ranking is based on how well the proponents demonstrated the above characteristics. Below, the Board sets out the proponents in ranked order for this criterion and provides a brief discussion of the main characteristics of each application.

### ***UCT (6)***

UCT provided a comprehensive consultation plan for all project phases (pre-designation to operation). A record of actual communication (letters, phone calls) with the 18 affected communities was provided as well as a list of potential key issues and proposed mitigation. UCT referenced NextEra's First Nations and Métis Relationship Policy and Enbridge's Aboriginal and Native American Policy as the basis for its plan. UCT described existing relationships with a number of First Nations and Métis communities who would be engaged as part of this project. UCT also described its relevant past experience with a number of projects involving the engagement, consultation and economic participation of First Nations and Métis communities.

### ***EWT LP (5)***

EWT LP provided a comprehensive consultation and communication plan and stated that it will commence consultation upon designation. A comprehensive list of expected issues was provided and mitigating measures were suggested. Relevant past experience with consultation activities was described which involved EWT LP's partners and consultants. EWT LP indicated that the consultation process would be facilitated by BLP. Having some of the affected First Nations lead the consultation process with other affected First Nations and Métis communities on behalf of the owners may give rise to fairness concerns which would need to be addressed.

### ***AltaLink (5)***

AltaLink provided a preliminary consultation plan including steps and milestones and indicated that the final plan will be developed and agreed to jointly with each of the communities. It also provided a plan for the Traditional Ecological Knowledge and Traditional Land Use studies for the project. AltaLink indicated that all 18 affected communities were contacted in 2012, and that it met with 12 of them (excluding the 6 involved with BLP). A short list of potential issues was provided as well as a general description of possible mitigation. AltaLink described its longstanding relationship and engagement approach with the Aboriginal communities in Alberta as well as SNC Lavalin's experience in Ontario and Manitoba.

### ***RES (3)***

RES provided a detailed but generic consultation plan and identified potentially affected First Nations and Métis communities which included the previously identified 18 communities plus others. RES contacted all 18 plus one more, met with three of them and received correspondence from two others. RES identified a short list of potential issues and a plan to deal with these issues. RES described its experience with similar consultation in a number of projects in Canada and the U.S.A.

### ***Iccon/TPT (2)***

Iccon/TPT provided a general engagement plan as well as a record of actual communication with some of the affected First Nations and Métis communities. A list of potential significant issues and a preliminary plan to address them were also provided. Iccon/TPT indicated that it plans to contract with TransCanada's Aboriginal and Stakeholder Engagement Group to lead its First Nations and Métis Consultation process in this project. Iccon/TPT's plan was less comprehensive than plans filed by other applicants and, as mentioned earlier, does not effectively distinguish between participation and consultation.

### ***CNPI (1)***

CNPI indicated that some contacts have been made with affected communities (the 2 involved in LHATC plus 6 others), but that all 18 affected communities will be included in the consultation process. CNPI stated that an Aboriginal Consultation and Engagement Plan will be developed at the start of the environmental assessment process. The application included only a very high level summary consultation plan identifying some potential issues and possible generic mitigating measures. The plan lacked the detail contained in the plans of other applicants. Relevant recent experience was described with some Fortis projects and other related activities.

## **CONCLUSION**

Based on the evaluation methodology described earlier, and the ranking given to each applicant for the various decision criteria, the Board has determined the total score and the resulting overall ranking of the applicants, as shown below. Note that the maximum possible score is 540:

1. UCT (455)
2. EWT LP (385)
3. AltaLink (385)
4. RES (280)
5. CNPI (200)
6. Iccon/TPT (185)

Therefore, the Board has decided that the designated transmitter for the development phase of the proposed East-West Tie line is UCT. UCT either ranked first or was tied for first in 7 of the 9 decision criteria. AltaLink and EWT LP are tied. EWT LP stated that it is not willing to be named runner-up, and the Board names AltaLink as the runner-up.

The Board finds that the development costs budgeted by UCT of \$22,187,022 (in \$2012) are reasonable. The Board will establish a deferral account in which UCT is to record the actual costs of development. The Board expects that UCT, at the time it applies for leave to construct the East-West Tie line, will file a proposal for the disposition of the development cost account.

The licence of UCT will be amended to have an effective date and to include special conditions regarding reporting to the Board. The Board notes that per Section 3.1.1. of the Reporting and Record-keeping Requirements, UCT will be required to report balances in the deferral account to the Board on a quarterly basis.

UCT proposed certain milestones at page 100 of its application, and at page 59 of its argument in chief indicated that the milestones proposed by Board staff at page 4 of its Phase 2 submission were directionally appropriate. The Board requires UCT to prepare a revised schedule of development milestones including those from its application, as well as the milestones proposed by Board staff. In addition, UCT shall include proposed milestones related to: the development and finalization of its First Nations and Métis participation plan; progress on landowner, municipal and community consultation; progress on First Nations and Métis consultation; and progress towards finalization of structure engineering work and final choice of structure design. If any of these milestones are, for UCT's development plan, impractical or not demonstrative of progress, UCT may omit or rephrase the milestone and provide an explanation for the proposed change.

As part of the schedule of milestones, UCT must also indicate what filing, form or other document could be offered as proof of completion of the milestone if the Board so required. For example, UCT proposed the milestone "Substantial Land / Right-of-Way Rights Acquired". What could be filed with the Board if the Board called upon UCT to

demonstrate successful completion of that milestone? The schedule of milestones should be provided in the following format:

Milestone	Proof of Completion	Target Date

A consequence of this designation decision is that, if it meets its obligations, UCT will be able to recover the costs of project development (up to the budgeted amount) from transmission ratepayers, even if the final assessment of need indicates that the line is no longer required. The Board therefore believes that it is important to limit the risk to ratepayers from unnecessary development work. The Board recognizes that the OPA reaffirmed the continuing need for the East-West Tie line in its Phase 2 submission, but also notes that the OPA offered to provide a more detailed need assessment after the designation decision. The Board will require the OPA to file a schedule for the production of an early detailed need update (for example, 60 days from the date of this decision) and a further need update at the approximate mid-point of the development work. The Board recognizes that a final need assessment will also form part of the leave to construct application. The OPA's proposed schedule should be developed in consultation with UCT to co-ordinate with the development schedule.

**The Board therefore orders that:**

1. The licence of UCT is amended to have an effective date of August 7, 2013, with a term of 20 years.
2. The following special conditions will be included in the licence:
  - a) UCT shall report to the Board on a monthly basis, beginning no more than 60 days from the date of this decision and ending when a leave to construct application is filed for the East-West Tie line, on the following matters:
    - i. Overall project progress: An executive summary of work progress, cost and schedule status, and any emerging issues/risks and proposed mitigation.
    - ii. Cost: Actual cost and cost variance relative to the original project budget, as well as an updated budget forecast projected

out to a leave to construct application. A description of the reasons for any projected variances and mitigating measures should be provided. The report must also indicate the percentage of budgeted development costs spent as at the time of the report.

- iii. Schedule: The milestones completed and the status of milestones in-progress. For milestones that are overdue or delayed, the reasons for the delay, the magnitude and impact of the delay on the broader development schedule and cost, and any mitigating steps that have or will be taken to complete the task.
  - iv. Risks and Issues Log: An assessment of the risks and issues, potential impact on schedule, cost or scope, as well as potential options for mitigating or eliminating the risk or issue.
- b) UCT shall advise the Board immediately of any change to its governance, or any change in its financial status, that adversely affects or is likely to adversely affect the completion of the East-West Tie line.
3. UCT shall, within 21 days of the date of this decision, file for review and approval of the Board a revised development schedule, identifying milestones, proposed proofs of completion and target completion dates as described above. The time span for the activities in the schedule must be consistent with the schedule filed in UCT's application, taking into account the actual date of this decision.
  4. A deferral account is established for UCT in which the actual costs of development of the East-West Tie line are to be recorded, from the date of this decision up to the filing of a leave to construct application, or such other time as the Board may order. The account shall include sub-accounts for the development activities listed in Attachment 1 to UCT's response to interrogatory 26 in this proceeding.
  5. UCT shall, within 21 days of the date of this decision, file for review and approval of the Board a draft accounting order for the account and sub-accounts described

in paragraph 4, with detailed descriptions of the account and sub-accounts and how they will be used.

**The Board further orders that:**

1. The OPA shall, within 21 days of the date of this decision, file with the Board a schedule for the production of an early detailed need update and a further need update at the approximate mid-point of development work, as described above.

**The Board further orders that:**

1. The cost awards to eligible intervenors and the Board's own costs will be recovered from licensed transmitters whose revenue requirements are presently recovered through the Ontario Uniform Transmission Rate (and the costs will be apportioned among the transmitters based on their respective transmission revenues).
2. Eligible parties shall submit their cost claims for Phase 2 of the designation proceeding by August 28, 2013. A copy of the cost claim must be filed with the Board and one copy is to be served on each of Canadian Niagara Power Inc., Five Nations Energy Inc., Great Lakes Power Transmission LP and Hydro One Networks Inc.
3. Canadian Niagara Power Inc., First Nations Energy Inc., Great Lakes Power Transmission LP and Hydro One Networks Inc. will have until September 16, 2013 to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.

4. The party whose cost claim was objected to will have until September 25, 2013 to make a reply submission as to why its cost claim should be allowed. A copy of the submission must be filed with the Board and one copy must be served on the party who objected to the claim.

**DATED** at Toronto, August 7, 2013  
**ONTARIO ENERGY BOARD**

**Original signed by**

Kirsten Walli  
Board Secretary

**APPENDIX A**  
**TO BOARD DECISION AND ORDER**  
**EAST-WEST TIE LINE DESIGNATION - PHASE 2**

**BOARD FILE NO.: EB-2011-0140**

**DATED August 7, 2013**

**LIST OF INTERVENORS**

**EAST-WEST TIE LINE DESIGNATION - PHASE 2**

**BOARD FILE NO.: EB-2011-0140**

**DATED August 07, 2013**

**LIST OF INTERVENORS**

**REGISTERED TRANSMITTERS:**

AltaLink Ontario, LP

Canadian Niagara Power Inc.

EWT LP

Iccon Transmission, Inc.

RES Canada Transmission LP

TransCanada Power Transmission (Ontario) L.P.

Upper Canada Transmission, Inc.

*Please note: Each of Iccon Transmission Inc. and TransCanada Power Transmission (Ontario) L.P. acted as intervenors in Phase 1 of the proceeding, but filed a joint application in Phase 2.*

**OTHER INTERVENORS:**

Association of Major Power Consumers in Ontario

BayNiche Conservancy

Building Owners and Managers Association Toronto

Canadian Manufacturers and Exporters

City of Thunder Bay and Northwestern Ontario Associated Chambers of Commerce and Northwestern Ontario Municipal Association Energy Task Force

**EAST-WEST TIE LINE DESIGNATION - PHASE 2  
EB-2011-0140  
LIST OF INTERVENORS**

Consumers Council of Canada

Enbridge Inc.

Energy Probe Research Foundation

Great Lakes Power Transmission EWT LP

Great Lakes Power Transmission LP

Hydro One Inc.

Hydro One Networks Inc.

Independent Electricity System Operator

Lake Superior Action-Research-Conservation

Métis Nation of Ontario

Municipality of Wawa and the Algoma Coalition

National Chief's Office on Behalf of the Assembly of First Nations

Nishnawbe-Aski Nation

Northwatch

Ojibways of Pic River First Nation

Ontario Power Authority

Power Workers' Union

School Energy Coalition

Mr. Rod Taylor

**APPENDIX B**

**TO BOARD DECISION AND ORDER  
EAST-WEST TIE LINE DESIGNATION - PHASE 2**

**BOARD FILE NO.: EB-2011-0140**

**DATED August 7, 2013**

**PHASE 1 DECISION AND ORDER**



**EB-2011-0140**

**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.

**BEFORE:** Cynthia Chaplin  
Presiding Member and Vice-Chair

Cathy Spoel  
Member

## **PHASE 1 DECISION AND ORDER**

**July 12, 2012**

### **INTRODUCTION**

On February 2, 2012, the Ontario Energy Board issued notice that it was initiating a 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. The Board assigned File No. EB-2011-0140 to the designation proceeding. Seven transmitters registered their interest in the designation process.

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The Board developed the Framework for Transmission Project Development (EB-2010-0059) (the “Policy”) as a way to encourage the timely development of electric transmission construction in Ontario. A number of transmission projects were expected to be identified by the Ontario Power Authority (“OPA”) through an Economic Connection Test or an Integrated Power System Plan to accommodate the connection of renewable generation. The designation process outlined in the Policy has, nevertheless, been adopted by the Board in this proceeding for a single bulk transmission line that was identified in the Minister’s Long Term Energy Plan to address reliability issues. The East-West Tie line will run between Thunder Bay and Wawa, and connect to the bulk transmission system in Northern Ontario at transformer stations owned by Hydro One Networks Inc. (“HONI”).

This designation proceeding represents an evolving process as the Board applies the Policy for the first time. The Board has adopted a two phase process for the designation proceeding. In Phase 1, which is the subject of this decision and order, the Board establishes specifics for the proceeding including decision criteria, filing requirements, obligations and consequences arising on designation, the hearing process for Phase 2 and the schedule for the filing of applications for designation.

In Phase 2, the registered transmitters will have an opportunity to file their applications for designation, and the Board intends to select one of them as the designated transmitter through a hearing process. The Board notes that this proceeding is voluntary on the part of the registered transmitters and intends that this Phase 1 decision and order will assist them in deciding whether to make an application for designation in Phase 2. The Board will not, at this stage, compel any transmitter to file a plan for the line.

It is important to remind participants of the limited scope of this process, which is the selection of a designated transmitter to do development work for the East-West Tie line. The final determination of the need for the line will be considered in a subsequent leave to construct proceeding. In general, environmental matters are not within the mandate of the Board and the necessary environmental assessment will be conducted in another forum.

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## THE PROCEEDING

On February 2, 2012, the Board issued a Notice of Proceeding for this designation proceeding. On March 9, 2012, the Board issued Procedural Order No. 1, granting intervenor status to the seven transmitters registered in this proceeding, namely: AltaLink Ontario, L.P. (“AltaLink”); Canadian Niagara Power Inc. (“CNPI”); EWT L.P.; Iccon Transmission Inc. (“Iccon”); RES Canada Transmission L.P. (“RES”); TransCanada Power Transmission (Ontario) L.P. (“TPT”); and Upper Canada Transmission, Inc. (“UCT”).

The Board’s Decision on Intervention and Cost Award Eligibility, dated March 30, 2012, and the Board’s Procedural Order No.2, dated April 16, 2012, granted intervenor status to 24 parties (or, in some instances, groups of parties) and cost award eligibility for the proceeding to nine of those parties. The matter of costs is discussed in further detail at the end of this decision.

Procedural Order No. 2 included the Board-approved issues list for Phase 1. On June 14, 2012, the Board issued its Phase 1 Partial Decision and Order to deal specifically with issue 19 of the issues list. This decision ordered HONI and Great Lakes Power Transmission LP (“GLPT”) to file with the Board, and provide to other parties, certain documents in their possession which may be relevant to the development of the East-West Tie line. This decision addresses the other issues identified for Phase 1 of the proceeding.

## BOARD FINDINGS ON THE ISSUES

The Board’s primary objective in this proceeding is to select the most qualified transmission company to develop, and to bring a leave to construct application for, the East-West Tie line. The Board recognizes that the key to achieving this objective is the establishment of an efficient and transparent competitive process that avoids bestowing any unfair advantage upon a particular applicant or group of applicants. The Board’s view is that competition is best served by creating an open, fair and cost-efficient proceeding that encourages multiple qualified proponents to participate. The Board has considered each of the issues in this light.

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**Decision Criteria: Issues 1 – 4*****Issue 1. What additions, deletions or changes, if any, should be made to the general decision criteria listed by the Board in its policy Framework for Transmission Project Development Plans (EB-2010-0059)?***

For the reasons given under issues 1 to 4, the Board's criteria for this designation process are:

- Organization
- First Nation and Métis participation
- Technical capability
- Financial capacity
- Proposed Design for the East-West Tie line
- Schedule
- Costs
- Landowner, municipal and community consultation
- First Nation and Métis consultation
- Other factors

**Original criteria**

There was general support among the parties for the retention of the original criteria from the Policy. The Board agrees that these original criteria remain valid for the East-West Tie line project, and will retain the following criteria in their original form: organization, technical capability, financial capacity, schedule, costs, and other factors. The criterion "landowner and other consultations" will be subdivided, as described below.

Several parties suggested that the Board provide guidance as to the way in which it would assess the criteria "cost" and "other factors". Regarding cost, the Board acknowledges, as several parties observed, that one of the purposes of the development work itself will be the estimation of construction and operation and maintenance costs, and that therefore applicants for designation will likely not be in a position to provide an accurate estimate of construction and operating and maintenance costs at the time of their application. Nevertheless, the Board finds that it must consider

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all costs in assessing the merits of the various applications. Providing benefit to ratepayers through economic efficiency is a core objective in the Board's Policy, and the reasonableness of the total costs of the project will be a critical component in achieving that objective. The Board will therefore require that parties include in their applications an estimate of all costs, including those related to: preparation of an application for designation; development; construction; and operation and maintenance of the line.

However, in recognition of the uncertainty inherent in estimating costs of construction and operation and maintenance of the line, the Board will accept these estimates expressed as a range. All the transmitters who have registered their interest in the East-West Tie line project have, or have access to, experience in the construction of major infrastructure projects, and the Board expects that they will be able to create a reasonable estimated range for these costs, and provide justification for the cost estimates and width of the range. The Board will also require applicants to provide evidence of their plan to manage the costs of construction and operation and maintenance, and of their track record in estimating construction costs and keeping to those estimates.

Applicants should also describe any proposals they have regarding the recovery of the various categories of costs from ratepayers. For example, the Board notes TPT's submission that no applicant, including the designated transmitter, should be able to recover the costs of participating in the designation process. While this is not the Board's ruling (see issue 14 below), the Board invites any applicant to distinguish itself by proposals that reduce costs or risks for ratepayers for any category of cost.

The Board will retain the criterion "other factors", but will not specify at this time what factors or evidence will be considered under this criterion. This criterion offers applicants the opportunity to bring forward any distinguishing feature of their application that is not addressed in the other criteria. The Board acknowledges that this criterion is open-ended. However, all potential applicants are in the same position and have the same opportunity to provide evidence under this criterion. Experienced transmitters, such as those who have registered their interest in this proceeding, may bring forward useful information that the Board cannot anticipate at this stage in the proceeding.

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### **Additional criteria, other than First Nation and Métis issues**

The submissions of parties contained several proposals for additional criteria. The Board will not add a specific additional criterion relating to facilitating competition and new entrants. The facilitation of competition and the encouragement of new entrants to transmission in the province was part of the context for the Board's Policy, and are being recognized by the initiation of this designation process. Any applicant who wishes to bring evidence of any advantage to Ontario ratepayers of the designation of a new entrant for this project is invited to do so as part of the "other factors" criterion.

The Board finds that there is no need to create additional criteria related to the provision of socio-economic benefits, the ability to mitigate environmental impacts, regulatory expertise, or location-specific experience. Each of these issues will be considered to some degree under the criteria "technical capability" and "organization". The Board notes that mitigation of environmental and socio-economic impacts is considered as part of the Environmental Assessment process. The Board will not require evidence of an applicant's ability to mitigate these impacts, but will require evidence of the applicant's ability to successfully complete regulatory processes similar to Ontario's Environmental Assessment process.

With respect to regulatory expertise, the Board will require evidence under the criterion "technical capability" of an applicant's ability to successfully complete the regulatory processes necessary for the construction and operation of the line.

The Board will not necessarily favour experience in Ontario over experience in other jurisdictions. It is important that the designated transmitter be fully capable of constructing and operating an electricity transmission line that meets the needs identified by the OPA and the Independent Electricity System Operator ("IESO") in the location proposed in the transmitter's plan. However, the experience necessary to achieve this capability may have been gained in other jurisdictions. The Board invites applicants to bring evidence of their experience and to demonstrate its relevance to the East-West Tie line project.

The Board finds that three additional criteria are appropriate to address the specific circumstances of this designation process. The Board will add the new criterion "Proposed Design for the East-West Tie Line". In creating this additional criterion, the Board has particularly considered the submissions of Board staff, the IESO, RES, the

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Power Workers Union (“PWU”) and EWT LP. The evidence to be filed to satisfy this criterion is largely that listed in section 5 of Board staff’s proposed filing requirements presently titled “Plan Overview”. The criterion is intended to be assessed as pass/fail in respect of whether the applicant’s plan for the line meets the targeted transfer capability while satisfying all applicable reliability standards. However, the other evidence to be filed under this criterion by each applicant will be compared against the plans of the other applicants to assess the relative strengths of the proposed designs. An applicant may demonstrate under this criterion the ways in which its technical design for the line provides advantages to the transmission system, local communities or transmission ratepayers, or demonstrates advantageous innovation, or in some way exceeds the minimum requirements while remaining cost effective.

The Board will divide the original criterion “landowner and other consultations” into two criteria: “landowner, municipal and community consultation” and “First Nation and Métis consultation”. The delineation of “landowner, municipal and community consultation” from the more general original criterion is intended to make explicit the need for consultation with municipalities and communities located along the transmission line corridor.

***Issue 2. Should the Board add the criterion of First Nations and Métis participation? If yes, how will that criterion be assessed?***

***Issue 3. Should the Board add the criterion of the ability to carry out the procedural aspects of First Nations and Métis consultation? If yes, how will that criterion be assessed?***

***Issue 4. What is the effect of the Minister’s letter to the Board dated March 29, 2011 on the above two questions?***

The Board finds that the Minister’s letter is not a directive within the meaning of the *Ontario Energy Board Act, 1998*. However, the letter is an expression of the government’s interest in promoting First Nations and Métis participation in energy projects, and is consistent with government policy as articulated in the Long Term Energy Plan.

The Board will create the criterion “First Nation and Métis participation” and, as indicated in the previous section, divide the original criterion “Landowner and other consultations” into two criteria: “landowner, municipal and community consultation” and

“First Nation and Métis consultation”. The Board recognizes that First Nation and Métis consultation is unique in being a constitutional obligation on the Crown, certain aspects of which may be delegated to the designated transmitter. Applicants will be required to demonstrate their ability to conduct successful consultations with First Nation and Métis communities, as may be delegated by the Crown, by providing a plan for such consultations, and evidence of their experience in conducting such consultations.

The Board will not look more favourably upon First Nation and Métis participation that is already in place at the time of application than upon a high quality plan for such participation, supported by experience in negotiating such arrangements. “Participation” can mean many things, and the Board will not restrict its consideration to any particular type of participation. Applicants are invited to demonstrate the advantages of whatever type and level of First Nation and Métis participation they have in place, or are proposing to secure.

The Board notes the proposal of the Ojibways of Pic River First Nation (“PRFN”) that the First Nation and Métis participation criterion be categorized, weighted, and scored by the impacted relevant communities. The Board will not adopt this methodology for assessing the criterion, which could amount to an improper delegation of its decision making power. The Board will evaluate this criterion through the public hearing process, and the various intervenors representing First Nation and Métis interests, along with the other parties, can seek input from their constituencies and bring that information forward for the Board’s consideration in the hearing.

#### **Use of the Decision Criteria: Issues 5 and 6**

***Issue 5: Should the Board assign relative importance to the decision criteria through rankings, groupings or weightings? If yes, what should those rankings, groupings or weightings be?***

***Issue 6: Should the Board articulate an assessment methodology to apply to the decision criteria? If yes, what should this methodology be?***

The Board will not, at this time, articulate an assessment methodology to be applied to the decision criteria, nor will it ascribe any relative importance to the decision criteria through a weighting system. The Board appreciates the points made in the submissions from some parties that assigning weights or rankings to the criteria would

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assist applicants in focusing their applications towards factors that the Board considers important. However, the Board is unwilling to remove the discretion and flexibility it may need in evaluating the applications for designation. The Board will exercise its judgment for each criterion, with the assistance of the evidence presented and the submissions received from all parties.

The Board notes that in providing decision criteria and filing requirements, it has provided some guidance to potential applicants, and that all applicants face the same challenge in designing their proposals around these criteria and filing requirements. All the decision criteria are important, and the Board is unwilling to restrict its ability to give full consideration to each criterion before it is informed by the content of the applications for designation.

### **Filing Requirements: Issues 7 and 8**

#### ***Issue 7. What additions, deletions or changes should be made to the Filing Requirements (G-2010-0059)?***

As part of its Policy, the Board issued its “Filing Requirements: Transmission Project Development Plans” (G2010-0059) dated August 26, 2010. Board staff proposed revisions to the original filing requirements to take into account the specific circumstances of the East-West Tie line. These revised filing requirements were attached as Appendix A to Board staff’s April 24, 2012 submission. Most parties agreed with the reorganization of the filing requirements proposed by Board staff, but had specific suggestions for additions, deletions or changes.

The approved filing requirements for the East-West Tie line designation process are attached as Appendix A to this decision. The filing requirements have been modified from Board staff’s proposed filing requirements to reflect the Board’s findings in this Phase 1 decision. Certain issues raised by parties, and not otherwise addressed in this decision, are discussed below.

### **Background Information**

AltaLink submitted that an additional requirement should be added to require each applicant to file a statement from a senior officer that the applicant is not in a position of an actual or perceived conflict of interest. The Board finds that this requirement is

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unnecessary at this time. The Board, in issues 20 – 22 in this decision, addresses issues arising from the participation of entities related to incumbents. The Board can address this issue further through Phase 2 in the event additional concerns are identified.

### **Technical Capability**

AltaLink and Iacon submitted that references to experience in Ontario and experience involving similar terrain, climate and other environmental conditions should be excluded from the filing requirements. EWT LP submitted that experience in Ontario and in similar terrain, climate and other environmental conditions is important when assessing a transmitter's technical experience.

As mentioned under issue 1 in this decision, the Board finds that it is appropriate for applicants to document their experience, wherever gained, and to demonstrate the relevance of that experience to the East-West Tie line project.

The Board will not, as urged by TPT, change the wording in the filing requirements to refer only to “linear infrastructure”, but recognizes that such experience may be relevant to the construction and operation of the East-West Tie line.

The Board will require evidence of consistency with good utility practice in the areas of safety, environmental compliance, and regulatory compliance.

### **Financial Capacity**

School Energy Coalition (“SEC”) recommended the addition of a requirement for information on the current credit rating of the applicant and its parent company. The Board has adopted this proposal.

### **Plan Overview (now Proposed Design)**

Some parties submitted that the requirements listed in Section 5.1 of Board staff’s proposed filing requirements are too detailed for the designation applications since providing this information would require development work which should not be part of the designation process. EWT LP suggested that these requirements should be determined by the designated transmitter once designated and that only a description of

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the development activities planned to determine these requirements should be included in the designation application.

The Board is of the view that the filing requirements should require the applicant transmitters to provide sufficient detail to allow the Board to carry out a meaningful, thorough and accurate assessment of the applicant transmitters and their proposed plans. However, the Board also recognizes the time, effort and cost associated with preparation of detailed designation applications. If an applicant is unable to provide certain information, then it can provide a description of the methodology it will use to develop the information. The Board has made the list under this section (now 6.1) optional rather than mandatory, and provided the option of describing the method and criteria for the determination of these parameters.

Board staff noted that section 2.1.5 of the Board's Minimum Technical Requirements requires that "all proposed design assumptions" be provided by the applicant. Board staff recommended that the need to provide "all proposed design assumptions" be excluded from the designation application because this information will not be available to the applicants before development work for the line is well underway.

The Board agrees with Board staff that it would be premature to expect the applicants to be able to provide this information prior to having done at least some development work, and will not include a requirement for "all" design assumptions in the filing requirements. As a general rule, the Board agrees with UCT and PWU that if the filing requirements require detail which is impossible or impractical to obtain, the applicant should respond to the best of its ability and identify the factors that prevent a full response or require deviation from the filing requirements. The Board also acknowledges, as submitted by RES, that plans will evolve during the development phase.

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 alternatives while meeting the project requirements. The Board is not, at this stage, asking applicants to compare their plans to those of other applicants, but to other options for the East-West Tie line that could reasonably be considered to satisfy the need for the line.

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## Schedule

EWT LP suggested that section 6.3 of Board staff's proposed filing requirements related to information regarding the construction phase of the project should be eliminated since this would require environmental assessment work and consultation which will not have been done at the time of filing the applications. Some parties suggested that specific milestone dates should be removed.

The Board is of the view that the requirements in section 6.3 will be helpful to the Board in assessing the merits of the applicants' proposed plans and that they should remain in the filing requirements. The Board is not seeking a commitment, but information to assist it in understanding the applicant's overall strategy for completion of the project. The Board recognizes that the construction schedule will change as a result of the more detailed development work to be carried out by the designated transmitter.

## Costs

Board staff's revisions to the original filing requirements propose a number of additions including, among other things, amounts already spent for preparation of an application, major risks that could cause the applicant to exceed its development budget, strategy to mitigate risks, threshold of materiality for prudence review of cost overruns and evidence of the applicant's past success in completing similar transmission line projects.

The Board finds that it is reasonable to simplify the development cost breakdown by grouping some categories of cost. The Board is of the view that, while development cost estimates will be considered, the magnitude of development costs will be small in comparison to the total costs of the East-West Tie project. Consequently, an applicant's demonstrated ability to manage complex projects and control all costs is more important for the selection of a designated transmitter than the estimate of development costs.

Also, the Board concludes that the applicants are not required to propose a threshold of materiality for prudence review if cost overruns occur for the costs of development. Instead, the Board will ask parties to address this matter in their submissions in Phase 2.

## Consultation

The Board determined under issue 1 that there will be a separate criterion for First Nation and Métis consultation, and the filing requirements have been modified accordingly. The Board has adopted most of the wording for this section proposed by the Métis Nation of Ontario (“MNO”).

Several parties submitted that the information regarding routing in staff’s proposed section 8.3 should not be required as this information will be unreliable until environmental assessment work has been done. The Board will permit applicants to file routing information at the level of detail they believe is appropriate, and will be assisted by such description as the applicant can provide regarding the route or routes it is considering.

***Issue 8: May applicants submit, in addition or in the alternative to plans for the entire East-West Tie Line, plans for separate segments of the East-West Tie Line?***

The Board will not permit applicants to submit plans for separate segments of the East-West Tie line. The Board recognizes that the proposed line could possibly be considered two segments, one from Wawa to Marathon and one from Marathon to Thunder Bay. However, the need identified by the OPA and the IESO cannot be satisfied by one of these two segments alone, and the project is best considered as a single unit. The Board agrees with those parties that submitted that attempting to consider separate applications for the two line segments would add cost and complexity to the designation process, require extensive co-ordination between the two selected transmitters, and could create additional risk for ratepayers and confusion for communities that are to be consulted. However, the Board would consider a joint venture or joint application from two or more parties who together propose to complete the entire East-West Tie line. Such a joint application would have to include a clear acceptance of risks and obligations by each party for the completion of the entire project.

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**Obligations and Milestones: Issues 9 – 12**

***Issue 9: What reporting obligations should be imposed on the designated transmitter (subject matter and timing)? When should these obligations be determined? When should they be imposed?***

***Issue 10: What performance obligations should be imposed on the designated transmitter? When should these obligations be determined? When should they be imposed?***

***Issue 11: What are the performance milestones that the designated transmitter should be required to meet: for both the development period and for the construction period? When should these milestones be determined? When should they be imposed?***

***Issue 12: What should the consequences be of failure to meet these obligations and milestones? When should these consequences be determined? When should they be imposed?***

The Board will not impose a “performance obligation” in the sense of a performance bond or other financial instrument on the designated transmitter. Those parties who chose to address this issue in their submissions largely agreed with Board staff that a financial performance obligation was not necessary. The Board accepts the submission of EWT LP that the regulatory risk of cost disallowance is a deterrent to a voluntary failure to perform. The Board also agrees with SEC that the Board has the authority to impose conditions through amendments to the designated transmitter’s licence if non-financial obligations are necessary.

The Board agrees with Board staff and other parties that it will be necessary to impose performance milestones and reporting obligations on the designated transmitter. The objectives of the milestones and reporting are:

- to ensure that the designated transmitter is moving forward with the work on the East-West Tie line in a timely manner;
- to facilitate early identification of circumstances which may undermine this ability to move forward; and

- to maintain transparency, as the costs of development work are intended to be recovered from ratepayers.

The Board will require, through its filing requirements, applicants for designation to propose performance milestones and reporting obligations that accomplish these objectives. The Board is reluctant to pre-determine the milestones and reporting that the successful applicant must accept, and expects that the experience in major project management that the applicants will bring to the designation process will be of assistance to the Board in setting appropriate conditions.

The proposed milestones and reporting obligations should apply to both the development phase and construction phase of the project, although the Board accepts that the milestones and reporting for the construction phase will be reconsidered and finalized during the Board's consideration of the leave to construct application. The Board will consider construction milestones and reporting only as indicative, and does not intend to impose those obligations at the time of designation.

Potential applicants for designation and other parties should note that the Board is not limited to imposing on a designated transmitter only those performance milestones and reporting obligations that the transmitter proposed in its application. All parties may choose to make submissions concerning the appropriate milestones that should be imposed on any transmitter that may be selected for designation. The Board will not impose novel conditions without providing designation applicants the opportunity to address the appropriateness of such conditions. The Board will establish the reporting requirements and performance milestones through an amendment to the designated transmitter's licence.

The Board finds that it is premature to determine in this Phase 1 decision the consequences for failure to meet the required performance milestones and performance obligations. Applicants for designation must include in their applications their proposals regarding the consequences of failure to meet their proposed performance milestones and reporting obligations.

The Board's policy indicates that the loss of designation and the inability to recover development costs are two potential consequences of failure. The Board is of the view that the severity of the consequences should be proportional to the severity of the

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breach, and take into account the designated transmitter's mitigation efforts. In determining how to address any failure the Board will consider:

- the nature and severity of the failure
- the specific circumstances related to the failure
- the consequences of the failure
- the designated transmitter's proposal to address the failure

The Board notes SEC's submission that if a designated transmitter does not bring forth a leave to construct application, it must relinquish ownership of all information and intellectual property that it created or acquired during the development phase. AltaLink and others argued in response that to require delivery of all such information and intellectual property would be punitive, confiscatory and contrary to the public interest. The Board will not determine this issue at this time. However, if failure of the project occurs, and development costs are to be recovered from ratepayers, the Board may wish to consider whether information gathered and even design work completed at ratepayer expense must be made available to a substitute transmitter.

### **Runner up**

Board staff, in its submission, asked parties to comment on the issue of whether one or more "runners-up" for designation should be selected by the Board. Some of the registered transmitters were not in favour of the Board selecting a runner-up, in part because keeping capital and human resources on hold awaiting potential failure of the designated transmitter would not be practical. However, several parties mentioned the potential efficiency to be gained, as if the original designee failed, no new designation process would be required to continue work on the project.

The Board will invite applicants for designation to indicate whether they are willing to be named as a runner-up. If the designated transmitter fails to fulfill its obligations and the line is still needed, the Board could offer the development opportunity to the runner-up. The runner-up would not be under an obligation to take on the project, but would have right of first refusal to undertake the work. Applicants that indicate their willingness to be named runner-up should also provide in their application any conditions that they believe are necessary to enable them to take on this role. The Board will not consider

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willingness to take on the runner-up role in its selection of the primary designated transmitter. This is a choice for applicants, not a requirement.

### **Consequences of Designation: Issues 13 – 16**

#### ***Issue 13: On what basis and when does the Board determine the prudence of budgeted development costs?***

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. However, applicants should be aware that costs in excess of budgeted costs that are put forward for recovery from ratepayers will be subject to a prudence review, which would include consideration of the reasons for the overage.

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***Issue 14: Should the designated transmitter be permitted to recover its prudently incurred costs associated with preparing its application for designation? If yes, what accounting mechanism(s) are required to allow for such recovery?***

The Board finds that the designated transmitter will be permitted to recover from ratepayers its prudently incurred costs associated with preparing its application for designation, with one restriction. Cost recovery will be restricted to costs incurred on or after the date that the Board gave notice of the proceeding, February 2, 2012. This date represents the beginning of the proceeding and therefore is a date after which the designated transmitter could reasonably expect to recover its costs.

Applicant transmitters should identify the costs already incurred to prepare an application, as well as an estimate of the costs required to complete the designation proceeding, as part of their budgeted development costs. The Board will establish a deferral account for the designated transmitter in which the budgeted development costs, including amounts incurred after February 2, 2012 for the preparation of the application for designation, will be recorded for future recovery. As noted earlier in this decision, an applicant transmitter can choose not to seek recovery of all its costs, as a way to reduce the costs of its proposal to ratepayers.

***Issue 15: To what extent will the designated transmitter be held to the content of its application for designation?***

The Board will be choosing a designated transmitter based on the plans that applicants for designation file. Therefore, the Board will generally expect the designated transmitter to conform to its filed application, as it formed the basis for designation. However, the Board understands that there is a need for some flexibility, as the plan for the line will evolve as development work takes place.

The Board has discussed in the previous section of this decision the need for performance milestones and reporting obligations, and the expectation that these will be adhered to. Any development costs in excess of budgeted costs may not be recovered from ratepayers, and will be subject to a prudence review if recovery is sought. The leave to construct proceeding will provide an opportunity for the Board to assess the reasonableness of any deviations from other aspects of the designated transmitter's

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plan, and the Board may choose to deny the leave to construct application or impose special conditions on its approval if warranted.

Particular concern was expressed by some parties regarding commitment to construction costs, First Nation and Métis participation, and First Nation and Métis consultation. The Board recognizes that these three areas in particular may be subject to modification to accommodate new information, and changing needs and circumstances. Nevertheless, in the leave to construct proceeding, the Board will compare the actual performance of the designated transmitter in these areas to the evidence filed in its designation application to assess the reasonableness of any deviations from the application.

***Issue 16: What costs will a designated transmitter be entitled to recover in the event that the project does not move forward to a successful application for leave to construct?***

On the issue of cost recovery after a failure to obtain an order for leave to construct the line, the Board agrees with Board staff and other parties that the reason for failure will be an important consideration in determining what costs, if any, are to be recovered from ratepayers. Generally, if the project does not move forward due to factors outside the designated transmitter's control, the designated transmitter should be able to recover the budgeted development costs spent and reasonable wind-up costs. If failure occurs due to factors within the designated transmitter's control, neither recovery nor automatic denial is certain. The Board will review the circumstances of the failure to determine a fair level of cost recovery. The Board acknowledges that it may not be possible to attribute failure to a single cause, and the sources of failure may be both internal and external to the designated transmitter. It is not possible to decide on the level of cost recovery in the abstract at this time, as the specific circumstances of the failure will need to be considered.

**Process: Issues 17 – 23**

***Issue 17: The Board has stated its intention to proceed by way of a written hearing and has received objections to a written hearing. What should the process be for the phase of the hearing in which a designated transmitter is selected (phase 2)?***

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The Board will continue to proceed for the present by way of written hearing, and adopt the procedural steps proposed by Board staff (and largely supported by the registered transmitters). The Board is master of its own process, within the limits set by the *Ontario Energy Board Act, 1998* and the *Statutory Powers Procedure Act*. In the interests of fairness to all applicants and of keeping the costs of the designation proceeding within reasonable limits, the Board will exercise considerable control over the process. The Board's primary aim in Phase 2 is to obtain a good record upon which to make a decision on designation. The Board will ensure, as it does in all its hearings, that the process is open, transparent and fair.

The Board notes the concern of parties over the suggestion by Board staff that interrogatories be funneled through the Board, and that "culling and editing" may occur before the Board sends the interrogatories to the applicants. The Board will require all parties to send their interrogatories to the Board, and the Board panel (not Board staff) reserves the right to combine and edit interrogatories for matters such as relevance, duplication and excessive demands upon the applicants. The primary purpose of the interrogatory process is to create a good record for the Board to assist it in making a determination in this designation proceeding. The fact that this proceeding involves multiple competitive applicants and has elements similar to a procurement process that are absent from most Board proceedings calls for specific procedural approaches that respect fairness and efficiency.

Some parties suggested that an oral hearing is necessary to ensure full participation from non-applicant intervenors, particularly First Nation and Métis intervenors, and intervenors from northern communities. The Board will evaluate the need for an oral component to this proceeding, including the scope and location of any oral component, as the hearing proceeds.

The Board will not adopt the proposal of the PWU to remove intervenor status from the registered transmitters. The Board expects to receive useful information and submissions from all intervenors.

***Issue 18: Should the Board clarify the roles of the Board's expert advisor, the IESO, the OPA, Hydro One Networks Inc. and Great Lakes Power Transmission LP in the designation process? If yes, what should those roles be?***

The Board agrees with the description of the roles of the IESO and the OPA provided in their respective submissions. The Board panel will not receive information from either of these participants privately, and requires that any advice they have to offer be provided on the record of the hearing. The Board expects that the OPA and the IESO will remain neutral as between applicants. Consistent with the reply submissions from the OPA and the IESO, the Board does not anticipate that the participation of these entities in this proceeding will be affected by Bill 75, which contemplates their merger.

The Board panel will communicate with Board staff both on and off the record. The panel will be vigilant to ensure that Board staff continues to remain neutral as between other parties in the proceeding, and provides any new information or any opinion on the record so that other parties may respond to it. The Board will not receive any advice off the record from the Board's expert advisor, and expects any information from this expert to be placed on the record by Board staff.

HONI and GLPT must remain neutral as between applicants. The Board expects that the primary role of these transmitters will be to respond to reasonable requests for information. The Board would also appreciate receiving comment from these transmitters on any technical matters, or matters affecting existing infrastructure, as they see fit, through submissions in Phase 2 of the proceeding.

***Issue 19: What information should Hydro One Networks Inc. and Great Lakes Power Transmission be required to disclose?***

The Board ruled on this issue in the Phase 1 Partial Decision and Order, dated June 14, 2012.

***Issue 20. Are any special conditions required regarding the participation in the designation process of any or all registered transmitters?***

***Issue 21. Are the protocols put in place by Hydro One Networks Inc. and Great Lakes Power Transmission LP, and described in response to the Board's letter of December 22, 2011, adequate, and if not, should the Board require modification of the protocols?***

***Issue 22. Given that EWT LP shares a common parent with Great Lakes Power Transmission LP and Hydro One Networks Inc., should the relationship between EWT LP and each of Great Lakes Power***

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***Transmission LP and Hydro One Networks Inc. be governed by the Board's regulatory requirements (in particular the Affiliate Relationships Code) that pertain to the relationship between licensed transmission utilities and their energy service provider affiliates?***

Board staff did not suggest any particular measures to address the concerns raised by issues 20 through 22, but asked that parties requesting such measures “explain the harm they are seeking to prevent, how the proposed condition or measure mitigates that harm without causing other harm, and whether the proposed condition or measure should apply to all similar participants in the interest of fairness.”

EWT LP submitted that all designation applicants should be prohibited from working together or coordinating the preparation of plans or strategies and, moreover, that any party found to be coordinating or communicating with other designation applicants with respect to their designation plans or designation strategy be disqualified. In their reply submissions, a number of the other parties disagreed and, instead, suggested that a prohibition of co-operative submissions or co-development agreements was not only unwarranted but potentially counter-productive.

As discussed in the Board's findings on issue 8, the Board will not prohibit co-operation or co-ordination between the prospective applicants, whether among themselves or with other parties. As there may be potential for certain parties to demonstrate that their co-operation and co-ordination of efforts will be to the advantage of ratepayers, the Board will not impose conditions to preclude this. However, the nature and extent of any co-operation or co-ordination must be disclosed in the application(s).

A number of the parties submitted that there should be special conditions placed specifically on EWT LP, generally in furtherance of the Board's objective for a fair process. In particular, these applicants point to a perceived informational advantage of EWT LP given its relationship with HONI and GLPT, and submit that such advantage should be negated by preventing the sharing of employees between them, or by precluding EWT LP from participating altogether. Several of the parties submitted that EWT LP's relationship with HONI and GLPT should be governed by the Board's Affiliate Relationships Code for Electricity Distributors and Transmitters (“ARC”). As well, a number of these parties suggested that the protocols put in place by HONI and GLPT are insufficient to address data management and data access for shared employees, and they proposed various remedies, including modifications to the protocols.

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EWT LP argued that the current protocols are adequate, and that they have effectively served to ensure that no information from HONI and GLPT was or will be provided to EWT LP that was or will not also be provided to all proponents. EWT LP also submitted that it is neither an affiliate of HONI nor GLPT; that the activities of EWT LP are not analogous to the activities of energy service providers; that EWT LP is comprised of three arm's length partners each of whom is unable to control EWT LP; and that, ultimately, the circumstances for which the ARC was developed do not apply to their circumstances.

The Board acknowledges the arguments of EWT LP that neither transmission development nor participation in the designation process is an activity controlled by the ARC and that no affiliate relationship exists between EWT LP and either of GLPT or HONI. The Board also appreciates the point made by PWU that, as the licenses currently stand, the ARC would not apply to many of the proponents.

In the Board's view, while the ARC does not apply to the relationship between EWT LP and each of HONI and GLPT, the types of harm that the ARC seeks to prevent in the context of affiliate relationships can also exist in other contexts. The Board notes that almost all of the parties to this proceeding have referred to HONI and GLPT as the "incumbents". While it is true that each of them (as well as CNPI) are transmission utilities operating in the Province of Ontario, the position of HONI is unique. HONI has information critical to the proposed East-West Tie line, as it owns the assets to which the East-West Tie line will connect and, under the Reference Option, the East-West Tie line will be located beside HONI's existing line and right of way. While GLPT, and to a lesser extent CNPI, may have some knowledge of similar terrain and the local transmission system, neither has the advantage of owning and operating an existing line in this specific area, or of determining the conditions and costing related to connection of the new line to the existing transmission system.

The Board believes that HONI and GLPT have been and will continue to be diligent in following the existing protocols. However, the Board is not satisfied that the protocols provide adequate protection against the inadvertent sharing or disclosure of information between HONI and EWT LP, if they continue to share employees in Phase 2 of this proceeding. While the Board is confident in the commitment of staff at HONI to not intentionally share information with one applicant that is not also shared with all other applicants, the legitimacy and integrity of this process requires that, going forward, there

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be no opportunity during Phase 2 of this process for the disclosure or sharing (whether intentional or inadvertent) of any relevant information by HONI to EWT LP.

In order to avoid any real or perceived informational advantage, the Board will require that EWT LP make arrangements to ensure that no individual will be performing work concurrently for HONI and EWT LP during Phase 2 of this proceeding. This condition will be effective as of fifteen days from the date of issuance of this decision until the close of the record in Phase 2 of this proceeding.

Employees engaged by EWT LP must be placed in the position where they cannot inadvertently acquire advantageous information from employees currently employed by HONI, and, therefore, the work location of EWT LP must also be physically separated from the HONI offices until the record is closed in Phase 2 of this proceeding. This means, at a minimum, that HONI and EWT LP must not share a computer system or other data management system, and must occupy separate premises.

EWT LP's continued participation as an intervenor and as a registered transmitter is dependent on compliance with these conditions, as well as its role in adhering to the protocols established by HONI and GLPT.

Except for this ruling requiring a separation of employees and premises between EWT LP and HONI, the Board will not impose regulatory conditions governing the relationship between EWT LP and each of HONI and GLPT. However, the Board reminds both HONI and GLPT that careful separation of costs attributable to EWT LP's creation and participation in the designation process must be maintained.

***Issue 23: What should be the required date for filing an application for designation?***

The Board has considered the various timelines, and reasons for those timelines, proposed in the submissions on this issue. The Board finds that it will require applications for designation to be filed no later than January 4, 2013. This filing date should allow sufficient time for the preparation of applications, and is consistent with the period of six months which many transmitters proposed. The Board is of the view that this relatively generous timeline is appropriate because this is the first designation proceeding for transmission in Ontario, and all parties may need time to resolve matters related to the provision of information and the preparation of plans.

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**THE BOARD ORDERS THAT:**

1. The Board adopts the filing requirements attached as Appendix A to this decision for the purpose of applications for designation to undertake development work for the East-West Tie line.
2. EWT LP must make arrangements so as to ensure that no individual will be performing work concurrently for HONI and EWT LP during Phase 2 of this designation proceeding, and the work location of EWT LP must also be physically separated from the HONI offices as described in this decision. This condition will be effective as of fifteen days from the date of issuance of this decision until the close of the record in Phase 2 of this proceeding. EWT LP must provide confirmation to the Board that this condition has been implemented, within 21 days of the date of this decision.
3. A licensed transmitter seeking designation to undertake development work for the East-West Tie line must file its application for designation no later than January 4, 2013.

**Cost Claims for Phase 1 of the Proceeding**

On March 30, 2012, the Board issued its Decision on Intervention and Cost Award Eligibility. Procedural Order No. 2 issued on April 16, 2012 also, to some extent, dealt with the issues of interventions and cost award eligibility. As a result of these orders, certain parties have been ruled eligible to apply for cost awards in both phases of this designation proceeding and certain other parties have been ruled eligible to apply for limited cost awards relating to their attendance at an all party conference in Phase 1 of this designation proceeding.

In total, nine parties have been determined to be eligible to apply for cost awards in both phases of this designation proceeding. These parties will be referred to as the "eligible parties". They are:

- the coalition representing the City of Thunder Bay, Northwestern Ontario Associated Chambers of Commerce and Northwestern Ontario Municipal Association;

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- the coalition representing the Municipality of Wawa and the Algoma Coalition;
  - Consumers Council of Canada;
  - MNO;
  - National Chief's Office on Behalf of the Assembly of First Nations;
  - Nishnawbe-Aski Nation;
  - Northwatch;
  - PRFN; and
  - SEC.

Each of the following parties has been granted eligibility for an award of costs up to a maximum of 12 hours if it attended the all party conference in Phase 1 of this proceeding on March 23, 2012:

- Association of Major Power Consumers in Ontario ("AMPCO");
- Building Owners and Managers Association Toronto ("BOMA");
- Canadian Manufacturers and Exporters ("CME"); and
- Energy Probe Research Foundation ("Energy Probe").

The cost awards to the eligible parties, the cost awards to AMPCO, BOMA, CME and Energy Probe, and the Board's own costs will be recovered from licensed transmitters whose revenue requirements are recovered through the Ontario Uniform Transmission Rate (and the costs will be apportioned between the transmitters based on their respective transmission revenues). These transmitters are:

- CNPI;
- Five Nations Energy Inc. ("FNEI");
- GLPT; and
- HONI.

A schedule for claiming cost awards for Phase 1 is provided in the Board's order below. A decision and order on cost awards will be issued after these steps have been completed.

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Furthermore, parties claiming cost awards are reminded that they must submit their cost claims in accordance with the Board's *Practice Direction on Cost Awards* and ensure that their claims are consistent with the Board's required forms and the Cost Awards Tariff.

**THE BOARD FURTHER ORDERS THAT:**

1. Eligible parties shall submit their cost claims for Phase 1 of the Designation Proceeding by **July 26, 2012**. A copy of the cost claim must be filed with the Board and one copy is to be served on each of CNPI, FNEI, GLPT and HONI.
2. AMPCO, BOMA, CME and Energy Probe shall submit their cost claims up to a maximum of 12 hours if they attended the all party conference in Phase 1 of the Designation Proceeding on March 23, 2012 by **July 26, 2012**. A copy of the cost claim must be filed with the Board and one copy is to be served on each of CNPI, FNEI, GLPT and HONI.
3. CNPI, FNEI, GLPT and HONI will have until **August 2, 2012** to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.
4. The party whose cost claim was objected to will have until **August 9, 2012** to make a reply submission as to why its cost claim should be allowed. A copy of the submission must be filed with the Board and one copy must be served on the party who objected to the claim.

All filings with the Board must quote the file number EB-2011-0140, and be made through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Parties should use the

document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available, parties may e-mail their documents to the attention of the Board Secretary at BoardSec@ontarioenergyboard.ca.

**DATED** at Toronto, July 12, 2012  
**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**To Phase 1 Decision and Order**

**East-West Tie Designation Process**

**Filing Requirements for Designation Applications**

**Board File No: EB-2011-0140**

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## **FILING REQUIREMENTS**

### **EAST-WEST TIE DESIGNATION APPLICATIONS**

An application for designation will contain three main sections. Together, these sections of the application address the Board's decision criteria for the East-West Tie line designation process:

- (A) Evidence addressing the capability of the applicant to carry out the East-West Tie line project;
- (B) The applicant's Plan for the East-West Tie line; and
- (C) Other factors.

#### **(A) CAPABILITY OF THE APPLICANT**

##### **1. Background Information**

The applicant must provide the following information:

- 1.1** the applicant's name;
- 1.2** the applicant's OEB transmission licence number;
- 1.3** any change in information provided as part of the transmitter's licence application;
- 1.4** confirmation that the applicant has not previously had a licence or permit revoked and is not currently under investigation by any regulatory body;
- 1.5** confirmation that the applicant is committed to the completion of the development work for the East-West Tie line, and to the filing of a leave to construct application for the line, to the best of its ability;
- 1.6** a statement from a senior officer that the application for designation is complete and accurate to the best of his/her information and belief;

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- 1.7 an indication of whether the applicant is willing to be named as a runner up designated transmitter and a statement of any conditions necessary to this role.
- 1.8 a description of any co-ordination or co-operation with other parties that has contributed to this application.

## 2. Organization

The applicant shall identify how, from an organizational perspective, it intends to undertake the East-West Tie line project. The applicant must file:

- 2.1 an overview of the organizational plan for undertaking the project, including:
- any partnerships or contracting for significant work;
  - identification and description of the role of any third parties that are proposed to have a major role in the development, construction, operation or maintenance of the line; and
  - a chart to illustrate the organizational structure described.
- 2.2 identification of the specific management team for the project, with resumés for key management personnel.
- 2.3 an overview of the applicant's experience with:
- the management of similar projects; and
  - regulatory processes and approvals related to similar projects.
- 2.4 an explanation of the relevance of the applicant's experience to the East-West Tie line project.

## 3. First Nation and Métis Participation

The applicant must address its approach to First Nation and Métis participation in the East-West Tie line project. To that end, the applicant must file evidence of one of the following:

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- 3.1** If arrangements for First Nation and Métis participation have been made, a description of:
- the First Nation and Métis communities that will be participating in the project;
  - the nature of the participation (e.g. type of arrangement, timing of participation);
  - benefits to First Nation and Métis communities arising from the participation; and
  - whether participation opportunities are available for other First Nation and Métis communities in proximity to the line.
- 3.2** If arrangements for First Nation and Métis participation have not been made but are planned, a description of:
- the plan for First Nation and Métis participation in the project, including the method and schedule for seeking participation;
  - the nature of the planned participation; and
  - the planned benefits to First Nation and Métis communities arising from the participation;
- 3.3** If no First Nation or Métis participation in the project is planned, detailed reasons for this choice.

#### **4. Technical Capability**

The applicant must demonstrate that it has the technical capability to engineer, plan, construct, operate and maintain the line, based on experience with projects of equivalent nature, magnitude and complexity. To that end, the following must be filed:

- 4.1** a discussion of the type of resources, including relevant capability (in-house personnel, contractors, other transmitters, etc.) that would be dedicated to each activity associated with developing, constructing, operating and maintaining the line, including:

- design;
- engineering;
- material and equipment procurement;
- licensing and permitting;
- completion of environmental assessment and other regulatory approvals;
- consultations, both with First Nation and Métis, and other communities;
- construction;
- operation and maintenance; and
- project management.

**4.2** resumés for key technical team personnel;

**4.3** A description of sample projects, and other evidence of experience in Ontario and/or other jurisdictions in developing, constructing and operating transmission lines or other infrastructure and why these projects and experience are relevant to the East-West Tie line project. The evidence should include a description of experience with:

- the acquisition of land use rights from private landowners and the Crown;
- the acquisition of necessary permits from government agencies;
- obtaining environmental approvals similar to the environmental approvals that will be necessary for the East-West Tie line;
- community consultation; and
- completion of the procedural aspects of Crown consultation with First Nation and Métis communities.

**4.4** Evidence that the applicant's business practices are consistent with good utility practices for the following:

- design;
- engineering;
- material and equipment procurement;
- right-of-way and other land use acquisitions;

- licensing and permitting;
- consultations, both with First Nation and Métis, and other communities
- construction;
- operation and maintenance;
- project management;
- safety;
- environmental compliance; and
- regulatory compliance

**4.5** A description of:

- the challenges involved in achieving the required capacity and reliability of the East-West Tie line, including challenges related to terrain and weather; and
- the plan for addressing these challenges through the design and construction of the line (e.g. number and spacing of towers, planned resistance to failure).

## **5. Financial Capacity**

The applicant must demonstrate that it has the financial capability necessary to develop, construct, operate and maintain the line. To that end, the applicant shall provide the following:

- 5.1** evidence that it has capital resources that are sufficient to develop, finance, construct, operate and maintain the line;
- 5.2** evidence of the current credit rating of the applicant, its parent or associated companies;
- 5.3** evidence that the financing, construction, operation, and maintenance of the line will not have a significant adverse effect on the applicant's creditworthiness or financial condition;
- 5.4** the applicant's financing plan, including:

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- the estimated proportions of debt and equity; and
  - the estimated cost of debt and equity, including:
    - the use of variable and fixed cost financing;
    - short-term and long-term maturities; and
    - a discussion of how the project might impact the applicant's cost of debt.
- 5.5** if the financing plan contemplates the need to raise additional debt or equity, evidence of the applicant's ability to access the debt and equity markets;
- 5.6** evidence of the applicant's ability to finance the project in the case of cost overruns, delay in completion of the project and other factors that may impact the financing plan;
- 5.7** evidence of the applicant's experience in financing similar projects;
- 5.8** the identification of any alternative mechanisms (e.g., rate treatment of construction work in progress) that the applicant is requesting or likely to request.<sup>1</sup>

## **(B) PLAN FOR THE EAST-WEST TIE LINE**

### **6. Proposed Design**

The applicant must provide an overview of its proposed design for the East-West Tie line including:

- 6.1** a summary description of how the Plan meets the specified requirements for the East-West Tie Line to the extent known at the time of the designation application. This could include the items listed below as well as any other relevant information the applicant may wish to provide. For items that are unknown, the applicant should describe the method and criteria for determination.

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- length of the proposed transmission line;
  - number of circuits;
  - voltage class;
  - load carrying capacity;
    - summer continuous rating (MVA)<sup>2</sup>; and
    - summer emergency rating (MVA)<sup>3</sup> ;
  - resulting total transfer capability for the East-West Tie line (MW);
  - anticipated lifetime of the line;
  - structures and conductors
    - number and average spacing of towers;
    - tower structure types (lattice, monopole, etc.) and composition (wood, steel, concrete, hybrid, etc.);
    - conductor size and type; and
    - protection against cascading failure and conductor galloping;
  - design assumptions; and
  - other relevant transmission facility characteristics.

**6.2** confirmation that the line will interconnect with the existing transformer stations at Wawa and Lakehead, and an indication of whether the line will be switched at the Marathon transformer station.

**6.3** a signed affidavit from an officer of the licensed transmitter to confirm:

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<sup>1</sup>See Report of the Board on The Regulatory Treatment of Infrastructure Investment in connection with the Rate-regulated Activities of Distributors and Transmitters in Ontario.

<sup>2</sup> Based on an operating voltage of 240 kV, ambient temperature of 30°C and conductor temperature of 93°C

<sup>3</sup> Based on an operating voltage of 240 kV, ambient temperature of 30°C and conductor temperature of 127 °C

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- that the line will be designed to meet or exceed the existing NERC, NPCC and IESO reliability standards; and
  - that the line will be designed to meet or exceed the Board's Minimum Technical Requirements; or documentation of where the applicant seeks to differ from the Minimum Technical Requirements and evidence as to the equivalence or superiority of the proposed alternative option.
- 6.4** an indication as to whether the Plan will be based on the Reference Option for the East-West Tie line. Where the Plan is not based on the Reference Option, the applicant must file:
- a description of the main differences between the applicant's Plan and the Reference Option;
  - a description of the interconnection of the line with the relevant transformer stations; and
  - a Feasibility Study performed by the IESO, or performed to IESO requirements.
- 6.5** a brief description which highlights the strengths of the Plan, which may include:
- any technological innovation proposed for the line;
  - reduction of ratepayer risk for the costs of development, construction, operation and maintenance;
  - how the plan satisfies the identified need for the line at a lower cost than other options;
  - local benefits (e.g. employment, partnerships); and
  - enhanced reliability for the transmission grid.
- 6.6** an indication as to whether the applicant's present intention is to own and operate the line once the line is in service.

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## 7. Schedule

The applicant must file, as part of its Plan:

- 7.1** a project execution chart showing major milestones for both line development and line construction phases of the project.
- 7.2** for the development phase of the project:
- a detailed line development schedule identifying significant milestones that are part of the development phase of the project, and estimated dates for completing these milestones;
  - proposed reporting requirements for the development phase;
  - proposed consequences for failure to meet the required performance milestones and reporting requirements for the development phase;
  - a chart of the major risks to achievement of the line development schedule, indicating the likelihood of the item (e.g. not likely, somewhat likely, very likely) and the severity of its effects on the schedule (e.g. minor, moderate, major); and
  - a description of the applicant's strategy to mitigate or address the identified risks.
- 7.3** for the construction phase of the project:
- a preliminary line construction schedule identifying significant milestones that are part of the construction phase of the project, and estimated dates for completing these milestones;
  - proposed reporting requirements for the construction phase;
  - proposed consequences for failure to meet the required performance milestones and reporting requirements for the construction phase;
  - proposed in-service date for the line (can be 2017 or another date);
  - a chart of the major risks to achievement of the construction schedule, indicating the likelihood of the item (e.g. not likely, somewhat likely, very

likely) and the severity of its effects on the schedule (e.g. minor, moderate, major); and

- a description of the applicant's strategy to mitigate or address the identified risks.

**7.4** evidence of the applicant's past experience in completing similar transmission line or other infrastructure projects within planned time frames. Such evidence could include a comparison of the construction schedule filed with a regulator when seeking approval to proceed with a transmission line project and the actual completion dates of the milestones identified in the schedule.

**7.5** any innovative practices that the applicant is proposing to use to ensure compliance with, or accelerate, the line development and line construction schedules.

## **8. Costs**

As part of its Plan, the applicant must file a summary of the total costs associated with the Plan, divided into development costs, construction costs and operation and maintenance costs. In addition, the applicant must file:

**8.1** the amount already spent for preparation of an application for designation, and an estimate of remaining costs to achieve designation.

**8.2** the estimated total development costs of the line, broken down by the following categories of cost:

- permitting, licensing, environmental assessment and other regulatory approvals
- engineering and design
- procurement of material and equipment;
- costs of the acquisition of land use rights, First Nation and Métis participation, and consultations with landowners, municipalities, the public and First Nation and Métis communities;

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- contingencies; and
  - other significant expenditures.
- 8.3** the basis for and assumptions underlying the development cost estimates, and a description of how the applicant plans to manage the cost of development;
- 8.4** a schedule of development expenditures.
- 8.5** a chart of the major risks that could lead the applicant to exceed the line development budget, indicating the likelihood of the item (e.g. not likely, somewhat likely, very likely) and the severity of its effects on the budget (e.g. minor, moderate, major), and a description of the applicant's strategy to mitigate or address the identified risks.
- 8.6** a statement as to the allocation between the applicant and transmission ratepayers of risks relating to costs of development. For example:
- if the costs of development are less than budgeted, does the applicant propose to recover only spent costs, or all budgeted costs (spent and unspent) or spent costs plus a portion of unspent cost (savings sharing)? and
  - if the costs of development exceed budgeted costs, does the applicant plan to seek recovery of the excess costs?
- 8.7** an estimated budget for the construction of the line. This budget and its elements may be expressed as a range. If a range is used, the applicant must provide an explanation for the width of the range;
- 8.8** if the Plan is not based on the Reference Option, evidence as to the difference in cost (positive or negative) of work required at the transformer stations to which the line connects, and at any other location identified by the IESO.
- 8.9** a list of the major risks that could lead the applicant to exceed the line construction budget, and the applicant's strategies to mitigate or address those risks.

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- 8.10** evidence of the applicant's past experience in completing similar transmission line projects within planned construction budgets. Such evidence could include a comparison of the budget filed with a regulator when seeking approval to proceed with a transmission line project and the actual costs of the project.
- 8.11** a statement as to the allocation between the applicant and transmission ratepayers of the risks relating to construction costs;
- 8.12** the estimated average annual cost of operating and maintaining the line. This cost may be expressed as a range. If a range is used, the applicant must provide an explanation for the width of the range.

## **9. Landowner, Municipal and Community Consultation**

The applicant must demonstrate the ability to conduct successful consultations with landowners, municipalities and local communities. In addition, the designated transmitter will be required to satisfy environmental and other requirements that are outside the jurisdiction of the Board.

As part of its Plan, the applicant must file:

- 9.1** an overview of:
- the rights-of-way and other land use rights, presented by category, that would need to be acquired for the purposes of the development, construction, operation and maintenance of the line;
  - the applicant's plan for obtaining those rights; and
  - a description of any significant issues anticipated in land acquisition or permitting and a plan to mitigate them.
- 9.2** a landowner, municipal and community consultation plan for the line, including:
- identification of the categories of parties to be consulted;

- the applicant's plan for consultation for each party or category of party, including method and tentative schedule in relation to the overall project schedule; and
- A description of any significant issues anticipated in consultation and a plan to mitigate them.

**9.3** If the applicant has identified a proposed route for the line, the applicant must file a general description of the planned route for the line and may include:

- approximate right-of-way width;
- approximate portion of the route that is:
  - adjacent to the existing corridor (%); or
  - along a new corridor (%):
- a brief description of the environmental challenges posed by the proposed route; and
- an estimate of ownership by category of lands along the proposed route:
  - Crown (federal or provincial) (%);
  - Private (%);
  - First Nation or Métis (%); and
  - Other (%).

**9.4** If a proposed route for the line has not been identified, the applicant must file:

- a list of alternative routes;
- an explanation of the method and decision criteria for route analysis and selection; and
- the planned schedule for route selection.

## **10. First Nation and Métis Consultation**

The applicant must demonstrate the ability to conduct successful consultations with First Nation and Métis communities, as may be delegated by the Crown.

As part of its Plan, the applicant must file:

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**10.1** a proposed First Nation and Métis consultation plan, including:

- a list of First Nation and Métis communities that may have interests affected by the project;
- an approach for engaging with affected First Nations and Métis communities, along with rationale or other justification for such an approach;
- a description of any significant First Nation or Métis issues anticipated in consultation and a plan to address them;
- an overview of expected outcomes from the proposed consultation plan.

**10.2** evidence of experience in undertaking procedural aspects of First Nations and Métis consultation in the development, construction or operation of transmission lines or other large construction projects. If applicable, previous engagement or existing relationships with the First Nation and Métis communities to be engaged.

**(C) OTHER FACTORS**

The applicant should provide any other information that it considers relevant to its application for designation, for example, any distinguishing features of the application.