

August 7, 2015

**VIA COURIER, EMAIL and RESS**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2015-0216: Responding Submission of NextBridge in relation to the OEB's July 9, 2015 Invitation to Comment**

On May 15 and June 24, 2015, Upper Canada Transmission, Inc. ("UCT" or "NextBridge") responded to the January 22, 2015 decision from the Ontario Energy Board (the "Board") with an updated development schedule and development costs for the East-West Tie expansion project for which it seeks recovery.

On July 9, 2015, the Board invited the Independent Electricity System Operator (IESO), AltaLink Ontario LP (AltaLink) and OEB Staff to comment on the May 15 and June 24, 2015 filings. Each of those parties, as well as two other entities (School Energy Coalition ("SEC") and Algoma Coalition), filed submissions in response. The attached letter sets out NextBridge's reply to those submissions.

If the Board has any questions, please do not hesitate to contact me ([krista.hughes@enbridge.com](mailto:krista.hughes@enbridge.com), 403-718-3552) or Edith Chin ([edith.chin@enbridge.com](mailto:edith.chin@enbridge.com), 416-753-7872).

Yours truly,

[original signed]

Krista Hughes  
Senior Regulatory Counsel, Enbridge Pipelines Inc.

cc: IESO Michael Lyle (By email)  
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OEB Staff Ronal Mozayyan (By email)  
SEC Mark Rubenstein (By email)  
Algoma Coalition Chris Wray (By email)

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Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**EB-2015-0216: Responding Submission of NextBridge in relation to the OEB's  
July 9, 2015 Invitation to Comment**

In its filings made on May 15, 2015 and June 24, 2015 (the "Filings"), Upper Canada Transmission, Inc. ("NextBridge" or "UCT") requested certain approvals from the Ontario Energy Board (the "Board" or "OEB") with respect to the East West Tie ("EWT") expansion project. Specifically, NextBridge asked the Board to approve an Updated Extended Development Schedule for the EWT project and to approve NextBridge's forecast Extended Development Period Incremental Costs that result from the extended schedule. On July 9, 2015, the Board issued an Invitation to Comment in which it invited the Independent Electricity System Operator ("IESO"), AltaLink Ontario LP ("AltaLink") and Board Staff to comment on the Filings. Each of those parties, as well as two other entities, School Energy Coalition ("SEC") and Algoma Coalition, filed submissions in relation to the Filings. This letter sets out NextBridge's reply to those submissions.

Briefly, NextBridge renews its request that the Extended Development Period Incremental Costs be approved as recoverable (in the absence of fault on the part of NextBridge), even if the EWT is eventually found to be unnecessary. However, NextBridge is prepared to accept a more limited assurance of recovery for incremental development costs, as more fully described herein, if the approval is granted without further process, in order not to jeopardize the in-service date of the project.

**Overview**

In the Board's Phase 2 Decision in EB-2011-0140<sup>1</sup>, NextBridge was selected as the designated transmitter for the development of the EWT project. As set out in the Phase 2 Decision,<sup>2</sup> the designated transmitter "will recover its development costs up to

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<sup>1</sup> [http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/405659/view/Dec\\_Order\\_Phase%202\\_East-West%20Tie\\_20130807.PDF](http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/405659/view/Dec_Order_Phase%202_East-West%20Tie_20130807.PDF)

<sup>2</sup> EB-2011-0140 Phase 2 Decision, page 4.

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 development costs approved for recovery in the Phase 2 Decision relate to the project development work to be completed up to the date when the Leave to Construct ("LTC") Application for the EWT project is filed. With this assurance, NextBridge embarked on the development activities for the EWT project knowing that its approved costs will be recoverable, even if the project ultimately does not proceed.

In September 2014, as the filing date for the EWT project LTC Application approached, the Ontario Power Authority ("OPA")<sup>3</sup> issued a letter recommending that the in-service date for the EWT be extended to 2020. This change, which was (and is) entirely beyond NextBridge's control, led to an extension of the development period by around three years ending with a December 2017 LTC Application. NextBridge has worked diligently and has collaborated with the OPA/IESO to create a new extended development schedule, and it has taken successful steps to limit activities to stretch the approved costs for the original development period over a longer period.

On January 22, 2015, the Board issued a Decision addressing requests from NextBridge that were made as a result of the OPA's recommendation to extend the in-service date for the EWT project to 2020. In its January 22, 2015 Decision, the Board approved changes to NextBridge's reporting schedule, but declined to approve a new development schedule. Instead, the Board required NextBridge to file more information in relation to the updated development schedule and to answer a number of related questions.

As confirmed in the submissions made by other parties in response to the Board's Invitation to Comment, it is inevitable that the much longer development period will lead to increases in development costs beyond the costs that were forecast and approved in the Phase 2 Decision, which contemplated a 2018 in-service date and a development period ending with a January 2015 LTC Application. Fairness dictates that the same assurance of recovery should apply to these increased development costs as applied to the originally approved development costs.

The principle set out in the Phase 2 Decision<sup>4</sup> is that NextBridge will be able to recover the costs of project development (up to the budgeted amount) from ratepayers, even if the EWT project is ultimately not needed. Given that the costs of project development have changed from the original budget because of changes to the project schedule required by the OPA/IESO, it is fair and appropriate that NextBridge be permitted to update the development period budget for which recovery is assured.

NextBridge's recent filings have explained and supported its requests for approval of an Updated Extended Development Schedule and approval for recovery of Extended Development Period Incremental Costs. Contrary to submissions made by certain others, there is no need for further process in relation to these requests. The assurance

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<sup>3</sup> Merged with the IESO January 1 2015.

<sup>4</sup> EB-2011-0140 Phase 2 Decision, page 42.

of development cost recovery is a fundamental principle and underpinning of NextBridge's role as designated transmitter and, given the extension of the development period for reasons beyond NextBridge's control, this fundamental principle continues to apply to costs that will be incurred during the extended development period. Moreover, additional process would be time-consuming and expensive, and the costs of such process must themselves be included in the development costs for the project.

It is appropriate that the Extended Development Period Incremental Costs be approved with the same assurance of recovery as was given for the Board-Approved Costs in the Phase 2 Decision. This will provide NextBridge with the assurance that it can continue project development activities through the extended development period on the same basis as that which applied when it undertook the responsibilities of the designated transmitter during the original development period.

### **Background**

In its filing on May 15, 2015, NextBridge responded to the Board's January 22, 2015 Decision. NextBridge provided and explained an Updated Extended Development Schedule that will meet the updated December 2020 in-service date for the EWT project. This includes an LTC filing date in December 2017. NextBridge also provided a revised development budget, setting out the activities and incremental costs of \$23.2 million required during the Extended Development Period (referred to as the Extended Development Period Incremental Costs).

NextBridge's May 15<sup>th</sup> filing included detailed descriptions of the drivers for the Extended Development Period Incremental Costs, as well as a 7 page table setting out a breakdown of the costs into 42 activities. In the May 15<sup>th</sup> filing, NextBridge requested that the Board approve the Extended Development Period Incremental Costs in the same manner, and on the same basis, as the original development costs approved in the Phase 2 Decision in the Designation Proceeding.

In its filing on June 24, 2015, NextBridge updated the Board on efforts to gain access to Pukaskwa National Park (the "Park") to study a route for the EWT project through the Park. As indicated in the June 24<sup>th</sup> filing, Parks Canada has confirmed that no access will be granted. The denial of access to study a route through the Park reduced the Extended Development Period Incremental Costs to \$20.3 million. If NextBridge's request is accepted, the total approved costs for the 53 month Extended Development Period will be \$42.7 million, as compared to the Board-Approved costs for the original 18 month development period of \$22.4 million. Along with the June 24<sup>th</sup> filing, NextBridge provided a revised Updated Development Schedule reflecting the denial of access to study a route through the Park and revised schedules setting out a breakdown of the Extended Development Period Incremental Costs.

The submissions about the NextBridge Filings made by others touch on four main areas:

- (i) Process issues;
- (ii) Approval of the Updated Extended Development Schedule;
- (iii) Approval of the Extended Development Period Incremental Costs; and
- (iv) The reasonableness of the Extended Development Period Incremental Costs.

NextBridge has organized the balance of its responding submission using these four subject areas. In relation to the SEC and Algoma Coalition submissions, NextBridge's response is limited to the procedural issues raised by each because neither of those entities has been invited or granted standing to make substantive submissions in this proceeding.

### **Response to submissions on "Process Issues"**

Two main process issues are set out in the submissions received.

SEC asserts that the Board has failed to give proper notice to affected parties and that no order can be made approving the relief sought by NextBridge without a hearing. Algoma Coalition adopts SEC's position. None of the invited parties who made submissions, including Board Staff, made any comment on SEC's position.

While it is not NextBridge's role to determine the process to be followed by the Board in this proceeding, NextBridge offers two comments in response to SEC's assertion. First, contrary to SEC's submission, the Board is indeed conducting a written hearing to consider the requests made in the Filings. The Board created a new docket, with the title "Request by Upper Canada Transmission, Inc. for Approval of Schedule and Costs related to the Development of the East-West Tie Transmission Line". The Board identified and gave notice to parties who, in the Board's view, are appropriate parties to comment on the Filings. The Board invited and received written submissions from those parties and from NextBridge. Presumably, the Board will issue a Decision and Order that takes into account those submissions. Taken together, the Board's process meets the Board's obligations under section 21(2) of the *Ontario Energy Board Act, 1998* ("OEB Act") not to make an order until it has held a hearing after giving notice to such persons as the Board may direct.<sup>5</sup>

Second, even if it is determined that the Invitation to Comment process is not a "hearing", the Board is authorized to proceed without a hearing by subsection 21(4) of the OEB Act. Subsection 21(4) permits the Board to dispose of a proceeding without a hearing if the Board determines that no person, other than the applicant, will be adversely affected in a material way by the outcome of the proceeding.<sup>6</sup> In this case, it

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<sup>5</sup> Section 21(2) of the OEB Act states: "Subject to any provision to the contrary in this or any other Act, the Board shall not make an order under this or any other Act until it has held a hearing after giving notice in such manner and to such persons as the Board may direct."

<sup>6</sup> Section 21(4)(b) of the OEB Act states: "Despite section 4.1 of the *Statutory Powers Procedure Act*, the Board may, in addition to its power under that section, dispose of a proceeding without a hearing if, ... (b) the Board determines that no person, other than the applicant, appellant or licence holder will be

appears that there is no person who will be “adversely affected in a material way” if the relief sought by NextBridge is granted. The Updated Extended Development Schedule for which approval is sought simply conforms to the extension of the in-service date for the EWT project that has been provided by the OPA/IESO. The Extended Development Period Incremental Costs for which approval is sought total around \$20 million. Those costs will be recovered from all transmission customers in Ontario as part of a future year uniform transmission rate. The 2015 revenue requirement used to determine the uniform transmission rate is \$1,569 million (see EB-2014-0357 Rate Order, at Appendix A<sup>7</sup>). As described in the May 15, 2015 filing<sup>8</sup>, the Extended Development Period Incremental Costs represent an amount in the order of one cent per month for a typical residential electricity consumer. NextBridge’s requests do not have a material impact on ratepayers.

AltaLink’s submission raises a different process issue. It appears that AltaLink has attempted to turn the invitation to comment on the Filings into an opportunity to reopen the outcome of the Board’s designation proceeding. NextBridge disagrees with AltaLink’s submissions that fall outside the scope of the Invitation to Comment. The designation of NextBridge is not at issue. The OEB has not invited submissions on that topic. As the “runner up” in the Designation Proceeding, AltaLink only has an opportunity to undertake the EWT project development work if NextBridge fails to fulfil its obligations.<sup>9</sup> That is not the case here. NextBridge has met its obligations. The changes to the development period schedule and budget arise from the OPA/IESO’s recommendation to change the in-service date for the EWT project. Given that designation is not at issue, the pricing alternatives that AltaLink indicates it might offer are irrelevant and should be disregarded.

### **Approval of the Updated Extended Development Schedule**

The Updated Extended Development Schedule was prepared by NextBridge in cooperation with the OPA (subsequently the IESO) and reflects a December 15, 2017 target date for filing of a LTC Application, in order to meet a December 2020 in-service date for the EWT project.

The IESO submission confirms that the Updated Extended Development Schedule aligns with and properly reflects the IESO’s most current information regarding the need for the EWT project. The Board Staff submission indicates that the Updated Extended Development Schedule appears reasonable. AltaLink made no submission on the schedule.

Given the general support for this aspect of the Filings, NextBridge submits that the Board should approve the Updated Extended Development Schedule.

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adversely affected in a material way by the outcome of the proceeding and the applicant, appellant or licence holder has consented to disposing of a proceeding without a hearing.”

<sup>7</sup>[http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/461669/view/Rate%20Order\\_%202015%20UTR\\_20150108.PDF](http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/461669/view/Rate%20Order_%202015%20UTR_20150108.PDF)

<sup>8</sup>[EB-2011-0140 NextBridge May 15, 2015 filing Page 13.](#)

<sup>9</sup>[EB-2011-0140 Phase 2 Decision, Page 9.](#)

### **Approval of the Extended Development Period Incremental Costs**

NextBridge seeks approval of the Extended Development Period Incremental Costs on the same basis as the costs approved in the Phase 2 Designation Decision. Specifically, NextBridge requests approval to recover its Extended Development Period Incremental Costs up to the budgeted amount (in the absence of fault on the part of NextBridge), even if the EWT project is eventually found to be unnecessary.

The IESO submission implicitly supports NextBridge's position, stating that while the Board will have to assess the value of committing additional funds, "there are substantial benefits to continuing with development work".

AltaLink does not object to the proposition that an appropriate portion of the incremental development costs can be approved on the same basis as the original development costs. AltaLink's submission instead focuses on the quantum of the Extended Development Period Incremental Costs. That item is addressed in the next section of this reply submission.

Board Staff takes a different view. Board Staff indicates that the original approved development budget was found to be a reasonable incentive for the EWT project, and no further ratepayer money should be approved as recoverable on the same basis as that amount.

Board Staff's position is that "the OEB should not commit further ratepayers funds at this time to the development of the line"<sup>10</sup>. The assertion that further ratepayer funds should not be committed to the development of the project is tantamount to saying that development work should be discontinued. If the development of the project does not merit any further commitment of ratepayer funds, then it does not merit further expenditure of funds by any developer or other party. To give effect to Board Staff's view, the Board would have to reject, without justification, the conclusion of the IESO that "supports the East-West Tie expansion project and the continuation of development work on the East-West Tie expansion".<sup>11</sup> In addition, Board Staff's view is inconsistent with the Board's recommendation in its letter of October 29, 2014 that "UCT and the OPA work together to produce a revised development schedule for the East-West Tie expansion" and that "UCT should also consider the impact on costs of any revised development schedule".<sup>12</sup> NextBridge respectfully asks that the Board confirm its acceptance of the IESO's conclusion supporting the continuation of development work on the EWT project.

As stated above, NextBridge undertook the responsibilities of the designated transmitter during the development period of the EWT project on the basis of the fundamental principle that it will be able to recover the costs of project development (up to the budgeted amount) from ratepayers, even if the EWT project is ultimately not needed.

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<sup>10</sup> EB-2015-0216 OEB Staff Submission July 28, 2015 Page 4.

<sup>11</sup> EB-2015-0216 IESO Submission July 28, 2015 Page 2.

<sup>12</sup> EB-2011-0140 OEB letter to UCT October 29, 2014 Pages 1 and 2.

The costs of project development have changed from the original budget, but this is outside the control of NextBridge. There has been no change to the importance of the principle of cost recovery that underpinned the selection of a designated transmitter to proceed with development work. It is fair and appropriate that the fundamental principle of cost recovery continue to be observed and that NextBridge be permitted to update the project budget for which recovery is assured, thereby supporting NextBridge's commitment of additional funds required for the development period due to the IESO-mandated extension of the in-service date.

### **The reasonableness of the Extended Development Period Incremental Costs**

Should the Board agree that it is appropriate to update the development costs that NextBridge is approved to recover, the remaining question to be addressed is the proper level of those costs. No party disputes that NextBridge's costs will materially increase as a result of the extension of the development period. Indeed, this reality is acknowledged by each of AltaLink, the IESO, and Board Staff.

NextBridge's Filings set out the detailed basis for the Extended Development Period Incremental Costs. These costs are required to carry out the activities that are included on the generally accepted Updated Extended Development Schedule. In its submission, IESO does not take issue with the proposed Extended Development Period Incremental Costs.

As stated above, the Extended Development Period Incremental Costs are \$20.3 million. In the Filings, these costs were ultimately divided into four<sup>13</sup> categories. Board Staff's submission acknowledges that, if the Board finds that development costs related to the delay of the in-service date should be recoverable on the same basis as the Board-Approved costs, costs in two of the categories can reasonably be considered to be related to the in-service delay.<sup>14</sup> The costs in these two categories, Project Extension Costs and Time Phase Difference Costs, are \$8.8 million and \$1 million respectively, for a total of \$9.8 million.

While NextBridge does not agree with the submissions made by Board Staff about the Extended Development Period Incremental Costs, NextBridge submits that Board Staff's comments about costs in the Project Extension and Time Phase Difference categories point the way forward to a compromise solution that the Board can approve while avoiding the time and expense of additional process at this time. As NextBridge indicated in its May 15, 2015 filing, a ramp-up of activities in August of this year is required to meet the Updated Extended Development Schedule. NextBridge is concerned that a lengthy process to consider the requests made in the Filings could jeopardize the in-service date of the EWT project, and is prepared to advance this compromise approach despite the increase in risk profile. NextBridge submits that the

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<sup>13</sup> The original (May 15 2015) five categories were reduced to four after the Park Study costs were eliminated.

<sup>14</sup> EB-2015-0216 OEB Staff Submission July 28, 2015 Page 6.

record of this proceeding supports approval for recovery of incremental development costs of \$9.8 million without any further process at this time.

No party in this proceeding has taken issue with the fact that the extension of the development period means material additional development costs. The Board asked the runner up, AltaLink, for its comments on the Filings and AltaLink provided its view that a reasonable cost increase for “this type of delay” would be in the order of 30-40%.<sup>15</sup> A cost increase of 30-40% on top of the Board-Approved costs of \$22.4 million, in 2012 dollars, falls roughly in line with the \$9.8 million, in 2015 dollars, which is the total of the two cost categories identified by Board Staff. Board Staff has acknowledged that costs in these two categories can reasonably be considered to be related to the in-service delays.

Should the Board approve recovery of incremental development costs in the amount of \$9.8 million at this time, NextBridge would continue to record all development costs in the existing Development Costs Deferral Account (“DCDA”), consistent with the Board Order<sup>16</sup>. Specifically, the development costs that NextBridge records in the DCDA would include costs in the other two categories (\$8.6 plus \$2.0 million)<sup>17</sup> identified in this proceeding that, together with the Project Extension costs and Time Phase Difference costs, make up the total Extended Development Period Incremental Costs of \$20.3 million. All of NextBridge’s development costs, both budgeted and unbudgeted<sup>18</sup>, would be recorded in the DCDA for disposition at a future point in time when the Board addresses clearance of the costs recorded in the DCDA.

If, however, the Board accedes to suggestions that it should not approve recovery of any incremental development costs without further process, then NextBridge will continue to make its case for approval of recovery of the full amount of the Extended Development Period Incremental Costs.

In summary, NextBridge submits that all of the Extended Development Period Incremental Costs should be approved and are recoverable (in the absence of fault on the part of NextBridge), even if the EWT project is eventually found to be unnecessary. NextBridge submits that a compromise solution that avoids the need for any further process at this time is approval for recovery of incremental development costs in the amount of \$9.8 million. Should this compromise solution be acceptable to the Board, the total amount of development costs approved for recovery would be \$22.4 million (2012 dollars) and \$9.8 million (2015 dollars). All other development costs incurred by NextBridge in addition to these two amounts approved for recovery would continue to be recorded in the DCDA for disposition at an appropriate time in the future.

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<sup>15</sup> EB-2015-0216 AltaLink Response to OEB Invitation to Comment, July 27 2015 Page 3.

<sup>16</sup> EB-2011-0140 Board Decision and Order January 22, 2015 Page 4.

<sup>17</sup> Budget Variance/Scope Change \$8.6 million, Contingency \$2.0 million.

<sup>18</sup> Unbudgeted costs reported in the July 22, 2015 quarterly report are approximately \$2.2 million. Future unbudgeted costs will be recorded in a similar manner.

If you have any questions, please do not hesitate to contact us.

Yours truly,

[original signed]

Eric Gleason,  
President, Upper Canada Transmission, Inc.

cc: IESO                      Michael Lyle  
      Altalink                 Steve Hodgkinson, Mark Rodger  
      OEB Staff               Ronal Mozayyan  
      SEC                      Mark Rubenstein  
      Algoma Coalition        Chris Wray