

ONTARIO ENERGY BOARD

IN THE MATTER OF sections 70 and 78 of the *Ontario Energy Board Act, 1998*;

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.

UPPER CANADA TRANSMISSION, INC. (UCT)

Phase 1 Submissions

1. On August 26, 2010, following public consultation, the Board issued its *Framework for Transmission Project Development Plans* policy (the Designation Policy). The primary objectives of the Designation Policy are¹:
 - a. Allowing for timely transmission development work;
 - b. Encouraging new entrants bringing additional resources for transmission development in Ontario; and
 - c. Supporting competition in transmission in Ontario to drive economic efficiency for the benefit of ratepayers.

2. In a letter dated March 29, 2011 to the Chair of the Board, the Ontario Minister of Energy expressed the government's interest in the Board applying its Transmission Development Policy to select the most qualified and cost effective transmitter to develop the East-West Tie Line (Project). In so doing, the Minister expressly noted that application of the Transmission Development Policy to this Project will "...encourage new entrants to transmission in Ontario and bring

¹ Designation Policy, page 1.

additional resources for project development” and “...support competition in transmission in Ontario to drive economic efficiency for the benefit of ratepayers”.

3. The Board has provided for submissions pertaining to the issues that the Board has indicated it will determine in Phase 1 of this proceeding. Determination of these issues will clarify both the process to be used for designating a transmission developer for the Project, and the substantive approach that the Board will take to evaluating the several anticipated applications for development designation.

Encouraging New Entry and Facilitating Competition

4. From UCT’s perspective, it is critical that the Board expressly reiterate the primary objectives of the Designation Policy and of the Minister in his decision to refer the Project to this process. These objectives should guide both the Board’s process and the manner in which the Board evaluates the designation applications to be filed in this process.
5. The importance of the Board’s express reiteration of these primary objectives is heightened by the participation in this proceeding of EWT LP, two-thirds of which is owned by the parent entities of Ontario’s two main incumbent transmitters; Crown owned Hydro One Networks and Great Lakes Power Transmission (owned by Brookfield). These two entities can hardly be called new entrants in the transmission sphere in Ontario.
6. Bamkushwada L.P. (Bamkushwada), the third entity controlling the applicant, is a partnership of six First Nations situated along the default Project route. Regardless of the outcome of this proceeding, Bamkushwada’s constituent partners will play an important, active and integral role in the Project. This is because, in addition to the local political influence of the Bamkushwada group, the Crown owes a duty to ensure that these affected First Nations are

meaningfully consulted on any development project within their respective traditional territories.

7. In the circumstance created by the participation in this process through EWT LP of Ontario's incumbent transmitters, it is particularly critical for potential new entrants, like UCT, that this process and its outcome be perceived to be an open, transparent, and truly competitive one. If that is not clear from the outset, the value to potential new entrants of participation, and incurrence of the costs (including the unrecoverable costs) associated with participation, will be questionable. Any such uncertainty would undermine the primary purpose of the Designation Policy, and of the Minister's referral of the Project to this process.
8. Board Staff's April 24th Phase 1 Submissions address these primary purposes in three separate passages:
 - a. At page 2 of their submissions, Staff note that the driver for competition contemplated in the Policy - connection of renewable generation – does not apply in this process. In contrast, Staff identifies the driver for this process as the maintenance of a reliable, cost effective supply of electricity over the long term in northwest Ontario.
 - b. At page 4 of their submissions, Staff reiterates the observation that the purpose of the Project is different than the purpose of transmission infrastructure originally envisioned for designation in the Designation Policy. Staff go on, however, to list the criteria originally identified in the Designation Policy as appropriate for application in this proceeding. That list of criteria does not include encouraging new entry or facilitating competition.
 - c. At page 6 of their submissions, Staff refers to *"the stated aims of the original policy...(that were reiterated in the Minister's letter), which included..encouragement of new entrants..and the benefits of economic efficiency through the support of competition"*. Staff submit that the Board should keep these stated aims of the original policy in mind if it is contemplating adding new criteria.
9. Read together, UCT takes these submissions by Board Staff to recognize the importance of the objectives of encouraging new entry and facilitating

competition in application of the Designation Policy. UCT believes that greater clarity to this effect should be provided by the Board.

10. In the Policy the Board expressly recognized these objectives as foundational. The Board clearly stated (page 3, 3rd paragraph) its belief that *“economic efficiency will be best pursued by introducing competition in transmission service”*. The Board also cited; i) Ofgem’s proposal to involve third parties in design, build, operation and ownership of large, separable network enhancement projects as adding long-term value; and ii) FERC’s transmission planning objectives which include measures *“to level the playing field between incumbent and non-incumbent transmitters”* as being analogous to the Board’s own goals for transmission in Ontario.²
11. The Minister expressly identified as appropriate application of the Designation Policy to this process on the basis that it would encourage new entry and facilitate competition. A failure by this process to do so would specifically undermine both the Board’s policy, and that of the Ontario government in connection with this Project.
12. UCT submits that it is critical that the Board expressly reiterate that it considers encouraging new entry and facilitating competition to be among the primary objectives for both this designation process and its outcome.
13. The Board could further clarify the role that these primary objectives will play in this process by expressly adding them to any list of evaluation criteria that it establishes.

First Nations and Métis Considerations

14. The Energy Minister’s March 29, 2011 letter highlights a second set of considerations – in addition to encouraging new entry and facilitating competition

² Designation Policy, pages 4 to 5.

– that the Minister indicates the government considers to be important in this process. That second set of considerations relates to aboriginal participation.

15. In this respect, the Minister stated:

...I would expect that the weighting of decision criteria in the Board's designation process takes into account the significance of aboriginal participation in the delivery of the transmission project, as well as a proponent's ability to carry out the procedural aspects of Crown consultation.

16. At page 5 of their submissions Staff recommend that the Board “recognize the importance of the Minister’s letter”, and Staff propose to supplement the filing requirements for this process in the areas of aboriginal participation and a proponent’s ability to carry out the procedural aspects of Crown consultation.

17. UCT supports the Minister’s objective of recognizing the significance of aboriginal participation in the delivery of the Project, and the importance of the proponent’s ability to perform consultation.

18. Consideration of these objectives by the Board in the process of designating a transmission developer for the Project is complicated by the status of EWT LP. As already noted, EWT LP is a partnership composed of Hydro One, Great Lakes Power and Bamkushwada. Bamkushwada is a partnership composed of six First Nations whose traditional territories are situated along the Project corridor.³

19. The fact that six of the First Nations most directly impacted by the Project are participants in a partnership which is a direct competitor of the new entrant transmitters in this process will undermine the ability of new entrant applicants to fully address in their applications decision criteria related to aboriginal participation in the Project, and to some extent decision criteria related to aboriginal consultation. The Board should exercise caution to avoid setting evaluation criteria that instantly disadvantage potential applicants.

³ EWT LP Transmission Licence Application, September 20, 2011, as filed in EB-2011-0350, at section 9.

20. In respect of aboriginal consultation, Staff state at page 6 of their Phase 1 submissions:

It is Board staff's submission that applicants who have commenced consultation with First Nations and Métis groups before they apply for designation should not be regarded more favourably than those who have not commenced consultation but have a comprehensive and practical plan for consultation that would be initiated upon designation. [Emphasis added]

21. Staff cite two reasons for this position; i) in the Designation Policy the Board removed from the filing requirements a question that implied that aboriginal consultation be undertaken as part of preparation of the plan for filing in a designation process; and ii) the duty to consult for this Project has been delegated by the Crown to the OPA during the period prior to OEB designation of a transmitter.
22. A more fundamental reason why discussions regarding consultation with First Nations and Métis groups should not be a criteria for designation is that under the current business structure of EWT LP, discussions by other applicants with First Nations and Métis groups involved with EWT LP will effectively be constrained if not prevented. As a consequence, in this particular process it would significantly disadvantage other applicants, and thus undermine competition and transparency, were the Board to evaluate any applications on the basis of discussions with those aboriginal groups most directly affected by the Project.
23. It would also be difficult, if not impractical, for applicants to be required to specify how aboriginal participation would be achieved without the benefit of direct discussions with the First Nations and Métis groups directly interested. UCT fully supports aboriginal participation in the project, but would be extremely reticent to opine on the appropriate principles and structure for such participation in advance of detailed discussions directly with affected aboriginal communities. Specifying how aboriginal groups may be involved without first discussing the Project with them would be inappropriate.

24. The Board should not adopt criteria for this proceeding to put any of the non-incumbent applicants in this position.
25. UCT wishes to emphasize its view that affected First Nations will play an important, active and integral role in the Project – it is simply that the terms and particulars of those roles cannot yet be determined.
26. UCT's proposals for adjustment of Staff's proposed filing guidelines to address this concern are provided below.

Decision Criteria: Issues 1 - 4

27. Staff recommend that the Board retain for the purposes of this proceeding the decision criteria originally envisioned in the Designation Policy. Staff identify these criteria as:
 - a. Organization
 - b. Technical capability
 - c. Financial capacity
 - d. Schedule
 - e. Costs
 - f. Landowner and other consultations
 - g. Other factors
28. UCT agrees that these decision criteria remain important.
29. As asserted above, UCT urges the Board to expressly confirm that encouragement of new entry and facilitating competition are criteria that the Board will consider in evaluating applications for designation. New entrant transmitters need to know now that the Board's policy, as specifically endorsed by the Minister for this Project, continues to apply.

30. The “other factors” criterion included in the Designation Policy and Staff’s list for this process is an important one. This criterion provides a basis upon which competing applicants can distinguish themselves and their proposals.
31. UCT agrees with Staff that the ability to successfully complete landowner, First Nation and Métis consultations is an appropriate decision criterion. However, for the reasons set out above, in respect of this particular application the Board should make clear that it will not assess this ability on the basis of discussions had by an applicant transmitter prior to designation.
32. Also for the reasons set out above and with all due respect, despite the Minister’s comments in his May 29, 2011 letter, UCT submits that the Board should not, in the circumstances of this particular proceeding and given the registration of EWT LP as a participant herein, admit any evidence regarding the quality or quantity of discussions with First Nations or Métis groups related to participation in this particular project.
33. In particular, sections 2.4 and 2.5 of the proposed filing requirements should be rejected for this proceeding.
 - a. Section 2.4 addresses arrangements already made for aboriginal participation, and for the reasons set out above such a criterion would be impossible for all but EWT LP to effectively meet.
 - b. Section 2.5 addresses proposed particulars for aboriginal participation, and UCT is concerned that purporting to address how aboriginal interests will be permitted to participate in the Project without having had prior and informed discussions with the affected aboriginal communities would be inappropriate, and would put an applicant in an untenable situation both in this proceeding and in respect of its ability to successfully engage aboriginal interests in the Project going forward.
34. Section 2.6 requests reasons if an applicant’s choice is that no aboriginal participation in the Project be planned. In recognition of the interests of the First Nations and the Métis in this Project, and in deference to the Minister’s letter, this section should be replaced with one which requests information on whether an

applicant intends to seek aboriginal participation in the Project, if not why not, and if so the process by which it intends to proceed in this respect.

35. Upon removal of sections 2.4 and 2.5 and the replacement of section 2.6 as urged, the Board should also expressly clarify the preamble to section 2 to provide that evidence regarding particulars of aboriginal participation in organization of the project will not be admitted.
36. Other provisions of the proposed filing guidelines that require adjustment in light of the unique fact of EWT LP's participation in this designation process are:
 - a. Section 5.5, which addresses "*local benefits (e.g. employment, partnerships)*". While appropriate in and of itself, the Board should make clear in its Phase 1 decision that it will not base its decision on evidence under this section regarding discussions to date with aboriginal interests nor regarding the scope of aboriginal participation to be entertained by an applicant.
 - b. Section 7.2, which addresses, *inter alia*, "*First Nation and Métis participation costs*". Given the limitations to discussion with aboriginal interests by all but EWT LP, it would be anti-competitive to require these costs to be specified in this proceeding. The Board should take comfort that these costs, which will be determined in the end by discussions and through formal consultations with the appropriate aboriginal communities, should be roughly similar regardless of which proponent is designated.
 - c. Section 8.2, which requests, *inter alia*, a list of the First Nations and Métis communities that may have interests affected by the project. The OPA has already filed a list of aboriginal communities that the government has identified for consultation in respect of this Project. Requiring anything more than this from designation applicants will unfairly prejudice applicants other than EWT LP. The duty to consult on this Project prior to designation has been delegated to the OPA. It is therefore incumbent upon the OPA to ensure that the proper aboriginal communities have been identified. All applicants should be able to rely on this list provided by the OPA for the purposes of this particular proceeding.
 - d. Section 8.2 also requests a general description of consultation issues anticipated and plans to mitigate any such issues. While UCT is not concerned with this provision generally, it would be concerned if the changes recommended above were not implemented in the final filing guidelines.

37. UCT emphasizes its view that, while unfortunate, in the particular circumstances resulting from EWT LP's formation, organization and participation in this process, the foregoing modification to the Board's approach to aboriginal participation and consultation issues is essential to preserve the ultimate objectives for this process. As emphasized by the Board's own policy and that of the Government, the proceeding is intended to encourage new entry and facilitate competition in Ontario's electricity transmission sector.

Use of Decision Criteria: Issues 5 and 6

38. At page 7 of their submissions, Board Staff states that they do not propose any particular ranking or weighting for the decision criteria that the Board selects.
39. UCT agrees with this position. UCT supports flexibility in application by the Board of identified decision criteria. Such an approach will support competition and innovation as individual applicants strive to put their own best proposals forward and to justify those proposals on their own terms. This approach is particularly appropriate in this first proceeding under the Designation Policy.
40. An appropriate set of articulated evaluation criteria and flexibility in the application of those criteria will provide for an effective balance between consistency and creativity, to the ultimate benefit of Ontario's electricity consumers.
41. Staff have asked for the submissions of parties on whether the Board should designate an "alternate" in this process, in addition to designating a developer.
42. Given that this proceeding is the first of its kind for Ontario, UCT believes that there could be merit to designating an "alternate" in this case. The result of such a designation would be to establish a sort of "idling reserve" capacity to assume development responsibility for the line. Should the initially designated developer not be able to complete development work, the availability of a standby

“alternate” would make replacement of the initially designated developer a quicker and ultimately less expensive process.

43. There would, however, be a cost to the “alternate” for maintaining resources and capacity to quickly step in and assume development of the Project if necessary, though such cost should be significantly less than starting the development process all over again.
44. While it hopes to be successful in its application, should UCT be designated as an “alternate” for this Project (and provided that it were satisfied that the outcome was a fair one resulting from a *bona fide* process), UCT would be prepared to maintain “idling reserve” for a time. In this instance, however, it would be appropriate that the costs of maintaining such “idling reserve” be recoverable by the alternate whether or not the alternate is ultimately called upon to assume development responsibilities.

Filing Requirements: Issues 7 and 8

45. Staff have invited (bottom of page 10) parties to address whether some of the information addressed in the proposed filing requirements is too specific to be available at the time of the designation application.
46. In this case, UCT is of the view that the requested information is not only appropriate but, in many respects, required for the Board to make an informed decision on transmission developer designation.
47. In particular, UCT considers the information sought in sections 5.1 and 8.3 of the proposed filing guidelines to be appropriate.
48. This approach – of inviting specific information from applicants – further commends an articulated but flexible set of criteria for application evaluation, as argued for above. Particularly in this first proceeding of its kind in Ontario, departure by applicants from filing requirements should be entertained provided

there is a persuasive explanation for such departure. Provided that such an approach is accepted, UCT regards the proposed level of detail as both helpful and important.

49. UCT suggests that the Board request applicants to address appropriate and potential in service dates in their applications, as suggested by the OPA.
50. Issue 8 on the Phase 1 issues list asks whether applicants should be permitted to submit plans for separate segments of the Project. Such an approach could result in two or more proponents independently seeking approvals in respect of different parts of a contiguous project. If one proponent runs in to development or approval challenges, then the other proponent(s) could be negatively impacted, due to factors beyond their control. Further, to the extent that approval of the Project requires approval of the entire Project, division of the approvals might not be permissible. Any of these eventualities could result in incremental ratepayer cost. For these reasons, UCT does not think that permitting such piecemeal designation applications is in the public interest.

Obligations and Milestones: Issues 9 - 12

51. Staff have submitted, at page 12 of their April 24th filing:

...that the Board should not impose a development work plan and therefore method of work on the transmitters by setting specific milestones in the filing requirements. Instead, the Board should obtain input from the transmitters themselves as part of their applications for designation. One of the areas that the Board might use to differentiate the transmitters is the judgement that they bring in proposing milestones and a schedule in each application.

52. UCT supports this submission.
53. Staff have invited (page 13) parties to address the requirement for a “performance bond or other obligation”, though Staff have not recommended any such mechanism.

54. UCT agrees with Staff that such a performance bond or other obligation is not required.
55. The commitment of an applicant to proceeding with project development is demonstrated by the investment that the applicant is willing to make through this process, which investment is not insignificant. For the successful applicant, the effective “deferral account” type treatment of their pre-planning, application and development costs will support fulfillment of post-designation responsibilities. In this context, adding a separate performance bond type obligation merely adds complexity and cost to the process.
56. In respect of issue 12 – consequences of failure to meet performance obligations and milestones – the answer is simple. Subject to providing a good explanation and a robust plan to mitigate, failure to meet agreed to performance obligations or milestones should result in a transmitter losing its designation, and no recovery of costs – prospective or retrospective – should be permitted.
57. UCT agrees with the views of Staff, as set out at page 14 (2nd paragraph) that:
 - a. The designated transmitter should have the opportunity to seek amendments to its performance obligations or milestones, as it may be able to justify.
 - b. The designated transmitter should be obligated to vigilance in identifying potential sources of failure or delay and in taking prudent steps to mitigate such risks.
58. UCT believes that a designated transmitter should also be required to report promptly in respect of any potential sources of failure or delay, and in respect of its mitigation strategy where possible, or its inability to mitigate where applicable.

Consequences of Designation: Issues 13 – 16

59. Staff have recommended (page 15, 2nd paragraph) that *“the Board reiterate its intention that any development costs in excess of budgeted development costs*

that are put forward for recovery from ratepayers will be subject to a thorough prudence review”.

60. UCT supports this recommendation.
61. Staff also submit that the successful applicant for designation should be able to recover its costs of preparing a plan for designation.
62. UCT agrees that this should be the case, and is of the view that the Board’s policy already provides for this. UCT asks that the Board clarify this point.
63. Staff propose that the costs subject to recovery by the designated transmitter be those incurred following the Board’s Phase 1 decision.
64. UCT provides an alternative proposal; that the start date for determining recoverable costs be the deadline for transmitter registration for this process - September 20, 2011.
65. In this case, the registered transmitters have been involved for some time in discussions convened by Staff to develop information and views on how to best move forward with this process. These discussions have been very useful, and will ultimately support a process that is robust, efficient and acceptable to interested parties.
66. The September 20, 2011 transmitter registration date also represents a fair proxy for when a prudent proponent would have commenced in earnest the pre-development work required to support a designation application for this Project. Given the amount of work to do, UCT doubts that any of the new entrants are waiting for the Phase 1 decision to commence this work. Board Staff have not proposed any principled basis for dividing what is really a continuum of work between work undertaken pre-Phase 1 decision and that continuing post-Phase 1 decision. There is logic in setting the transmitter registration date as the start date for determining costs recoverable by the designated transmitter.

67. UCT agrees with Board Staff that costs related to transmitter licencing should not be subject to recovery.
68. In their submissions Staff have suggested that recovery by designated transmitters of budgeted development costs and reasonable wind-up costs should not be automatic in the event that a designated transmitter fails to obtain a leave to construct order from the Board due to some incompetence or failure within the transmitter's control.
69. UCT would go further. Should failure to obtain a leave to construct order result from some incompetence or failure within the transmitter's control, generally cost recovery by the designated transmitter should be disallowed. It should be open to a transmitter to argue why partial recovery should nonetheless be allowed in such circumstances. However, generally, UCT sees an advantage to Ontario's electricity consumers of competition for the development of new transmission as ensuring that those best able to manage development risks bear those risks.
70. For the same reasons, UCT supports Board Staff's proposition (page 17 of their submissions) that recovery by the designated transmitter should generally be on the basis of budgeted development costs, absent extraordinary circumstances.
71. Staff have submitted (page 17, bottom) that while the Board will wish to consider an applicant's forecast of construction costs at the designation stage, the Board should not require any definite commitment from applicants on these costs.
72. While sensitive to Staff's view on this, it is also clear that a primary criteria for selection of a transmitter will be its construction cost forecast. It thus seems that some discipline on this forecasting would support a robust designation decision.
73. UCT suggests that the Board require designation applicants to address their commitment to their forecast of construction and operation/maintenance costs in their designation applications. Applicants may seek to differentiate themselves on the basis of the amount of forecast construction and/or operation/maintenance

cost risk they are prepared to assume. Section 5.6 of the filing guidelines could be amended as follows (proposed addition emphasized):

The estimated total costs associated with the Plan, broken down as follows:

- *Development;*
- *construction; and*
- *operation and maintenance.*

The applicant should indicate any proposals regarding allocation of the risks of variation from forecast costs.

Process: Issues 17 – 23

74. Staff have proposed that:

- a. Phase 2 of this hearing remain a written hearing.
- b. Interrogatories could be suggested by all parties, but will be issued by the Board.
- c. Following review of all interrogatory responses, the Board may convene an appearance to ask questions orally of the applicants.
- d. All parties would file written submissions following the close of discoveries.
- e. The applicants would be permitted subsequent reply submissions.

75. UCT supports this process, with one addition. UCT suggests that if the Board does convene an appearance to ask questions orally of applicants, the Board questions may be usefully informed by advance written suggestions for those questions from parties (in the same manner as the Board's interrogatories would be so informed).

76. In respect of disclosure of information by each of Hydro One Networks (HON) and Great Lakes Power Transmission (GLPT), UCT agrees with Staff's submission (page 22, last paragraph), that "*equal access by all designation*

applicants to information held by incumbent transmitters relevant to development of the East-West Tie line is vital to the fairness of the Board's designation process”.

77. EWT LP's "key individuals" include senior Hydro One and GLPT executives.⁴ As a result, notwithstanding the "protocols" that Hydro One and GLPT have reported to have put in place in respect of handling inquiries from transmitters competing in this process, including inquiries from their affiliated transmitters, the sharing between the incumbents and their affiliated applicant transmitters of institutional familiarity with both the existing east-west tie line, the generators and significant loads impacted by the existing tie line, and the Project, is unavoidable. Disclosure of documents in the possession of the incumbents that may be relevant to development of the Project would help to mitigate this advantage. UCT is unable, however, to conclude that such mitigation would be complete. That is likely impossible to ever fully determine.
78. The Board should, however, be cautious in relying solely on the document lists already filed by the incumbents (dated March 26, 2012 in the case of GLPT and March 30, 2012 in the case of Hydro One). Neither of these lists purport to be a comprehensive disclosure of documents in the possession or control of the respective incumbents that may be relevant.
79. Hydro One and GLPT should be directed to disclose the information on the lists, and to either certify that their list is comprehensive or supplement their list and their disclosures.
80. In respect of the protocols mentioned in issue 21, these do not address the sharing between the incumbents and EWT LP of "key individuals", and the institutional knowledge that the incumbent transmitters have, and continue to, thereby share exclusively with their affiliated transmitters.

⁴ EWT LP Transmission Licence Application, September 20, 2011, as filed in EB-2011-0350, at section 10.

81. The question that the Board must determine is whether this knowledge sharing provides EWT LP with an undue advantage in this process. If the Board concludes that it does, then the only practical solution would be for the Board to preclude participation by EWT LP in this process as long as it shares “key individuals”, or otherwise has preferential access to information or institutional knowledge of the incumbents.
82. As noted above, the “key individuals” of the incumbents involved in EWT LP have institutional knowledge relating to the operation of the existing east-west tie line, the large customers (generators and loads) that rely on, or are impacted by, that existing line, and the Project (which has been contemplated for many years). UCT thus submits that the restriction suggested above should be applied. Such a determination would be consistent with the principles enshrined in section 2.2.3 of the Board’s *Affiliate Relationships Code for Electricity Distributors and Transmitters (ARC)*.
83. To ensure that there is no unfair business advantage provided to EWT LP, the Board should also require the incumbents and EWT LP to abide by the following protections as applied in the *ARC*:
 - a. The incumbents should be prohibited from sharing system planning information relevant to the Project with their affiliated transmitter, unless such information is shared in the same form and at the same time with other designation applicants. (See *ARC* sections 2.6.4 and 2.6.5.)
 - b. The incumbents should be required to certify that they have implemented computer data management and data access protocols as well as contractual provisions regarding the breach of any access protocols, and have conducted a review of the adequacy, implementation and operating effectiveness of the access protocols and associated contractual provisions which complies with the provisions of section 5970 of the Canadian Institute of Chartered Accountants Handbook, and to file the results of such review on the record in this proceeding. (See *ARC* section 2.2.2.)
 - c. The incumbents should be required to ensure that they treat all of the designation applicants equally in respect of the provision of information, services and support through this process. (See *ARC* section 2.5.5 and 2.5.6 as analogies.)

- d. The incumbents should be required to communicate these requirements to all employees, monitor employees' compliance with these requirements, and perform and report on periodic compliance reviews in respect of these requirements during this process. (See *ARC* section 2.7.1.)
- 84. In respect of the filing date for applications for designation, UCT agrees with Staff that, in the circumstances of this proceeding, it would be appropriate that the "notice period" commence on the date of issuance of the Board's Phase 1 decision.
- 85. Board Staff has recommended a four month period following this date for filing of applications for designation.
- 86. UCT submits that considering this is the first proceeding of its kind in Ontario, and is thus somewhat complex and unpredictable, a 6 month period between the Phase 1 decision date and the filing deadline would be more appropriate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED by:



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