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May 6, 2009

VIA COURIER

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St., Suite 2700
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: Connection Cost Responsibility Review, EB-2008-0003

Great Lakes Power Transmission ("**GLPT**") would like to commend the Ontario Energy Board (the "**OEB**" or the "**Board**") for its insight, initiative and leadership in developing the recently published proposed amendments (the "**Proposed Amendments**") to the Transmission System Code (TSC), as outlined in the Notice of Revised Proposal to Amend a Code (the "**Notice**") issued April 15, 2008. The amendments contemplate the implementation of a "hybrid" approach to cost responsibility for the "enabler" transmission facilities needed to connect new clusters of renewable generation.

While GLPT supports the OEB's approach to enabler facilities, GLPT would like to take this opportunity to seek clarification on several issues outlined in the Notice, and also to make some minor suggestions.

Cost Recovery

1. The Board has made it clear throughout the connection cost responsibility review proceedings that prudently incurred costs associated with the development and construction of enabler facilities ("**Enabler Facility Costs**") will initially be incorporated into the rate base of the designated transmitter, and that any portion of Enabler Facility Costs that are subsequently recovered from generators will be credited to the rate base as they are recovered. However, GLPT notes that the Proposed Amendments do not explicitly provide for Enabler Facility Costs to be

incorporated into a transmitter's rate base. It is important that the Proposed Amendments explicitly provide for such recovery since, pursuant to s. 4.2.2 of the TSC, a transmitter is currently prohibited from charging a customer for any transmission service unless the charge has been approved by the Board. GLPT suggests that the TSC be amended in the manner below in order to provide transmitters with the assurance that prudently incurred Enabler Facility Costs will be recoverable from transmission customers. The definition of "transmission service" should be amended to read:

> "transmission service" means a service provided by a transmitter to a customer as specified in the transmitter's Rate Order, and includes Network Service, Line Connection Service, Transformation Connection Service, or such other transmission service as may be described in such Rate Order, including transmission services provided with respect to enabler facilities.

The amended definition of "transmission service" will have the effect of allowing Enabler Facility Costs to be included in a Rate Order, and therefore recoverable by a transmitter if approved by the Board pursuant to s. 4.2.2.

2. Section B of the Notice outlines the transmitter designation process. It would be helpful if the OEB could clarify the point during the transmitter designation process that a transmitter is entitled to apply for or obtain recovery of costs. In particular, please clarify how the recovery of such costs ties in with the recent statement from the Chair re *Regulatory Framework for Approval of Investment in Infrastructure by Electricity Transmitters and Distributors*, in which the OEB states that it intends to examine whether alternatives to the current approach to cost recovery from ratepayers for capital investment are required. For example, given the Board's statement that it does not intend to revisit "need" and "cost" associated with enabler facilities in successive proceedings, is it possible for a transmitter to address prospective construction costs during the transmitter designation process?

3. At p. 5, the Notice states: "The transmitter that has been designated by the Board to undertake development activities in relation to an enabler facility will be permitted to recover all of the prudently incurred costs associated with those activities even if the enabler facility does not proceed to construction, provided that failure to proceed to construction is for reasons outside of the transmitter's control." GLPT would like to suggest that the transmitter designation process specifically identifies, without limitation, the reasons for abandonment that qualify as being outside of a transmitter's control. The additional clarity would reduce financing costs, to the benefit of rate payers.

Transmitter Designation Process: Voluntary Transmitter Application

4. The Notice sets out the following process (among other possible scenarios) for the development of enabler facilities:

   (i) An approved IPSP or Ministerial directive identifies a renewable resource cluster.

   (ii) The Board then invites applications by transmitters to undertake development activities for enabler facilities in that renewable cluster. If one or more transmitters voluntarily files an application to undertake development activities, a hearing (the "**Leave to Develop Hearing**") is initiated.

- The Board has not defined "development activities/work/costs". This matter has been addressed in previous material in the context of this review. In particular and as suggested in GLPT's letter the Board dated December 1, 2008, GLPT proposes that the following prudently incurred development costs be recoverable under a Leave to Develop Hearing:

  - Stakeholder, community and Aboriginal consultation;
  - Technical system studies;
  - Engineering studies including line design;
  - Route and site identification and assessment;
  - Preparation and seeking approval of environmental assessment Terms of References;
  - Acquisition of land rights;
  - Environmental assessment studies; and
  - Seeking environmental assessment approval.

  The result of this development work will provide value to Ontario electricity customers because it will provide information that will either (i) be used to support a subsequent application for leave to construct transmission facilities; or (ii) demonstrate that it may not be feasible to develop transmission to a renewable cluster because of social licence or technical issues.

- What issues will the Leave to Develop Hearing address and what type of evidence is the transmitter expected to table?

- Will the Board use the Leave to Develop Hearing to determine whether an enabler facility is required or will the Leave to Develop Hearing be used exclusively to approve development costs for a single transmitter?

- At what point in the above noted process would the transmitter be required to engage in consultations with aboriginal communities?

Assessing the need for an enabler facility

5. On p. 8 of the Notice, the OEB states that the "OPA is the appropriate entity to advise the Board as to the need for an enabler facility in relation to a particular renewable resource cluster." However, on p. 5, in discussing the transmitter designation process, the Board states that "Where the Minister issues a direction to the OPA to procure renewable resources, the Board will determine whether a connection facility is required."

   - Please clarify the Board's and the OPA's role in determining whether an enabler facility is required.

   - If the Board were responsible for determining whether an enabler facility were required, what factors would the Board take into account in making such a decision? For example, what weight would the Board give to issues such as participation of Aboriginal communities compared to more traditional issues such as cost and reliability of the system?

   - In the scenario that the Minister directed the OPA to procure renewable resources, how would such a directive impact the Board's decision regarding the enabler facility and in particular the transmitter designation process?

Integrating existing approvals processes into the enabler facilities approval process

6. At p. 6 and p. 8 of the Notice, the Board states that the capacity of the enabler facility will be addressed in the leave to construct proceeding. At p. 7 of the Notice, the Board states that the end-point of an enabler facility will also be determined as part of the leave to construct process. Given that the capacity of the line and its length directly and significantly determine the capacity of resources to be enabled and impact the cost to the ratepayer (including the risk associated with unsubscribed capacity), GLPT suggests that the leave to construct proceeding may not be the ideal forum to address these issues, given that a leave to construct takes place in the later stages of the approvals process.

7. In Section 7 of the Notice, the Board states that any "Aboriginal consultation and accommodation requirements associated with the IPSP and/or the siting and construction of any enabler facilities remain unaffected by the Board's proposals, which deal solely with cost responsibility for those facilities." However, the Board suggests throughout the Notice that a leave to construct will be part of the approvals

process for an enabler facility. Please clarify how the leave to construct proceedings for enabler facilities will vary from the current leave to construct proceedings for rate regulated transmitters, in which land matters and community and stakeholder consultation are evaluated.

Again, GLPT wishes to thank the Board for their continued leadership in electricity policy development in Ontario. GLPT offers the above as points of discussion and for further consideration by the Board as the Board works to develop the details and logistics of assigning cost responsibility for enabler facilities. GLPT would be pleased to address these ideas further at the Board's convenience.

Yours very truly,

McCarthy Tétrault LLP

Per: George Vegh

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