



**EB-2009-0408**

**IN THE MATTER OF** the *Ontario Energy Board Act 1998*,  
S.O.1998, c.15, (Schedule B);

**AND IN THE MATTER OF** an Application by Great Lakes  
Power Transmission Inc. on behalf of Great Lakes Power  
Transmission LP seeking changes to the uniform provincial  
transmission rates for 2010.

**Decision on Confidentiality of Additional Information**

**And**

**Procedural Order No. 6**

Great Lakes Power Transmission Inc. on behalf of Great Lakes Power Transmission LP ("GLPT" or the "applicant") filed an application with the Ontario Energy Board (the "Board") on November 30, 2009 under section 78 of the Ontario Energy Board Act, 1998, S.O. 1998 c.15, (Schedule B) seeking approval for changes to the uniform provincial transmission rates that GLPT (and other transmitters) charge for electricity transmission, to be effective January 1, 2010. The Board has assigned Board file number EB-2009-0408 to the rate application. GLPT also filed an application with the Board on November 27, 2009 requesting that a deferral account be granted for the purposes of recording expenditures relating to renewable energy projects and required transmission system planning arising from the *Green Energy and Green Economy Act, 2009*. The Board has assigned Board file number EB-2009-0409 to this deferral account application.

The Board issued a Notice of Applications and Combined Hearing dated December 31, 2009 for both applications.

On January 29, 2010 the Board issued Procedural Order No. 1 and Interim Rate Decision, which included a schedule for procedural steps for the rate application (the "Procedural Schedule").

According to the Procedural Schedule, the applicant filed its interrogatory responses on March 3, 2010 accompanied by a request for confidential treatment of certain information included in GLPT's response to two Board staff interrogatories (the "Requested Confidential Information").

To deal with GLPT's Requested Confidential Information, on March 10, 2010 the Board issued Procedural Order No. 2, designating the Requested Confidential Information as confidential, on an interim basis, provided access for counsel for intervenors to the Requested Confidential Information after signing the Board's Declaration and Undertaking, and set out a schedule for submissions on the issue of confidentiality. The Board subsequently issued a Decision and Order on March 31, 2010, in which it ordered that the Requested Confidential Information would remain confidential.

The Board issued Procedural Order No. 3 on March 18, 2010 to allow parties an opportunity to file supplemental interrogatories to address responses which are unclear or which require further explanation. The Board also made provision for a technical conference, to be held on April 14, 2010.

### **GLPT's Request for Confidential Treatment of Additional Information**

The applicant filed its supplementary interrogatory responses on April 9, 2010 accompanied by a request for confidential treatment of the following information (the "Additional Requested Confidential Information"):

- all appendices referred to in GLPT's response to Board staff supplemental interrogatories 17 (i) (Attachment "A") and (iii) (Attachment "B"); and
- a portion of GLPT's response to SEC supplemental Interrogatory 6(b) (Attachment "C").

The Board issued Procedural Order No. 4 on April 15, 2010 designating as confidential, on an interim basis, the information and documents referenced in GLPT's request to the Board in its letter of April 9, 2010 (the "Additional Requested Confidential Information").

In accordance with the Order, Schools Energy Coalition (“SEC”) made a submission on April 18, 2010, and GLPT replied to that submission on April 23, 2010.

### **Board Findings**

SEC disagreed that the response to staff supplementary interrogatory 17(i) should remain confidential. In SEC’s view, there does not appear to be any information in the financial statements that would raise a concern of commercial sensitivity at the present time. SEC further indicated that everything material in these statements would have been disclosed in public filings long since.

SEC had no submissions on staff supplementary interrogatory 17(iii), but noted that the tax provision in the applicant’s proposed revenue requirement will be an important issue in this case, with wide ranging implications for economic regulation. SEC suggested that redacting one or two key data pieces (income from unregulated businesses, for example, and the final total) in the document for public view would be better than making the entire document confidential.

SEC made similar submissions with respect to SEC supplementary interrogatory 6(b).

GLPT disagreed with SEC. GLPT noted that confidential treatment of this information was sought and received in prior rate proceedings for the transmission and distribution systems formerly owned and operated by GLPL. GLPT also indicated that as the information is all from within the past four years, there has not been any significant passage of time which could reasonably support SEC's suggestion that the commercially sensitive nature of the information has in any way diminished. GLPT further reiterated its view, expressed in its submission dated March 24, 2010, that the financial statements may be used together with other information that has been filed in this proceeding, annual filings and in prior proceedings before the Board, to determine commercially sensitive financial information concerning non-regulated businesses.

The Board agrees that the Additional Requested Confidential Information is financial and tax related information that could be used, along with other information on the public record, to derive information related to the non-regulated business which is commercially sensitive. The Board concludes that the Additional Requested Confidential Information will remain confidential.

The Board also agrees with GLPT that treatment of the Additional Requested Confidential Information as confidential will not have any material impact on the conduct of the proceeding.

### **GLPT's Proposed Redactions – Confidential Unredacted Transcript for the Technical Conference, April 14, 2010**

The Board received an e-mail from GLPT, dated April 22, 2010, attached as Appendix "A" to the Order where it proposes redactions to the Confidential Unredacted Transcript so that a Redacted Transcript can be made available in the Public Records. The Board invites Board staff and intervenors to make submissions on the proposed redactions to the Confidential Unredacted Transcript (the "Proposed Redactions"), and for GLPT to respond.

#### **THE BOARD ORDERS THAT:**

1. The Requested Additional Confidential Information [all appendices referred to in GLPT's response to Board staff supplemental interrogatories 17 (i) (Attachment "A") and (iii) (Attachment "B"); and a portion of GLPT's response to SEC supplemental Interrogatory 6(b) (Attachment "C")] will remain confidential.
2. Any intervenor that signed the Board's Declaration and Undertaking and received the Confidential Information shall continue to be bound by the Declaration and Undertaking and to comply with the Board's Practice Direction on Confidentiality.
3. Any intervenor that has not received the Additional Confidential Information and wishes to do so shall execute the Board's Declaration and Undertaking and GLPT shall provide the Additional Confidential Information to the intervenor's counsel or consultant.
4. Intervenors and Board staff who wish to make submissions on the Proposed Redactions may do so in writing and file it with the Board and delivered to the Great Lakes Power Transmission LP no later than **Wednesday, May 5, 2010**.

5. Great Lakes Power Transmission LP shall file with the Board its response to all parties and deliver them to the intervenors no later than **Friday, May 7, 2010**.
6. If you already have a user ID, please submit all filings to the Board noted in this Procedural Order through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca). Additionally, two paper copies are required. If you do not have a user ID, please visit the Board's website under e-filings and fill out a user ID password request. For instructions on how to submit and naming conventions please refer to the RESS Document Guidelines found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca), e-Filing Services. The Board also accepts interventions by e-mail, at the address below, and again, two additional paper copies are required. Those who do not have internet access are required to submit their intervention request on a CD or diskette in PDF format, along with two paper copies.

**DATED** at Toronto on April 30, 2010  
**ONTARIO ENERGY BOARD**

Original signed by

Kirsten Walli  
Board Secretary

**Appendix "A"**  
To  
Decision and Order on Confidentiality of Additional Information  
And Procedural Order No. 6  
April 30, 2010  
(EB-2009-0408)

**GLPT'S EMAIL DATED APRIL 22, 2010**

**GLPT's Proposed Redactions to Confidential Unredacted Transcript for the  
Technical Conference, April 14, 2010**

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**From:** Myers, Jonathan [mailto:jmyers@torys.com]  
**Sent:** April 22, 2010 3:30 PM  
**To:** BoardSec  
**Cc:** Nabih Mikhail; Myers, Jonathan; Keizer, Charles; Duane M Fecteau; Andy McPhee  
**Subject:** CONFIDENTIAL - Proposed Redactions to Technical Conference Transcript - EB-2009-0408

**CONFIDENTIAL**

Great Lakes Power Transmission LP, applicant in the above-referenced proceeding, proposes the following redactions to the attached Technical Conference Transcript. The proposed redactions are of those portions of the transcript where information is disclosed that has been deemed, currently on an interim basis, to be confidential in accordance with Procedural Order #4 in this proceeding. Please advise as to the process the Board intends to follow in respect of these proposed redactions.

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Jonathan Myers  
**Torys LLP**