



**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.

BEFORE: Cynthia Chaplin  
Presiding Member and Vice Chair

Ken Quesnelle  
Member

## **DECISION AND ORDER PROPOSED SETTLEMENT AGREEMENT**

### **The Proceeding**

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 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 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. Following issuance of Procedural Order No. 2 on March 10, 2010 providing for submissions by the parties with respect to the Requested Confidential Information, 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 and to schedule a technical conference, which was held on April 14, 2010.

On April 9, 2010 GLPT filed responses to the supplemental interrogatories and requested confidential treatment for some of the information.

On April 16, 2010 the Board issued Procedural Order No. 5 setting out a schedule for GLPT to file responses to all undertakings given during the technical conference, and a date of May 3, 2010 for commencement of a settlement conference.

On April 30, 2010 the Board issued a Decision and Order on Confidentiality of Additional Information and Procedural Order No. 6 in which it ordered that the Requested Additional Information would remain confidential.

On May 11, 2010 the Board issued its Decision and Order accepting GLPT's proposed redactions to the Confidential Unredacted Transcript of the technical conference after making provisions for submissions by the parties and response by GLPT. A Redacted Transcript will be made available on the Public Record.

On May 12, 2010, SEC filed with the Board on a confidential basis a Notice of Motion and Motion Record seeking orders that:

- (a) the Applicants be compelled to provide a full answer to questions on pages 58 and 66 of the Technical Conference held April 14, 2010;
- (b) the Applicants be compelled to file the documents requested in SEC Interrogatory #1 and SEC Supplementary Interrogatory #3; and
- (c) such further and other relief as the counsel for SEC may advise and this Board may permit.

On May 17, 2010, the Board issued Procedural Order No.7, setting out a schedule to deal with the SNC Motion and the Oral hearing and to advise the parties that the Board would issue its decision with respect to the Proposed Settlement Agreement prior to Thursday, May 27, 2010.

### **The Proposed Settlement Agreement**

According to Procedural Order No.5, the Applicant and three intervenors filed a Proposed Settlement Agreement on May 17, 2010, attached as Appendix "A" to this Decision and Order.

### **Board Findings**

The Board appreciates the efforts of the Applicant, GLPT, and the three intervenors, Energy Probe, SEC, and VECC, in conducting a successful Alternative Dispute Resolution, and filing a proposed settlement agreement (the "Proposed Settlement Agreement") for the Board's review.

The Board accepts the Proposed Settlement Agreement, as submitted (the "Accepted Settlement Agreement"), with a caveat in respect of section 3.1 of the Accepted Settlement Agreement dealing with Operations, Maintenance & Administration ("OM&A") for future GLPT applications which states that "GLPT agrees that in doing so GLPT will not seek OM&A increases in excess of 2.5% per year for each of 2011 and 2012". This panel's decision accepting the Proposed Settlement Agreement should not be construed as binding on any other Board panel considering any future Test Year costs. While the Accepted Settlement Agreement is binding on the parties to the agreement, it cannot fetter the discretion of another Board panel considering a future application by GLPT.

The Board confirms that the Accepted Settlement Agreement covers all aspects related to the Board approved revenue requirement for year 2010, except the issue relating to the question of whether GLPT is entitled to recover an amount of \$1,729,806 for the 2010 Test Year, which is the income tax allowance sought by GLPT after this Settlement Agreement is taken into account. The Board recognizes the parties' agreement that the Accepted Settlement Agreement shall not be affected by the Board's determination in regard to the one unsettled issue.

**THE BOARD ORDERS THAT:**

1. The Proposed Settlement Agreement is accepted, with the caveat set out above, and the Accepted Settlement Agreement, including the Appendices, will form part of the public record in this proceeding (EB-2009-0408).

**DATED** at Toronto on May 21, 2010

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**Appendix A  
To  
DECISION AND ORDER  
PROPOSED SETTLEMENT AGREEMENT  
May 21, 2010  
(EB-2009-0408)**

**Proposed Settlement Agreement  
Filed with the Board for Review on May 17, 2010  
By  
Applicant and Parties to the Alternative Dispute Resolution**