

May 31, 2010

**BY RESS, EMAIL and COURIER**

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

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli,

**Re: Great Lakes Power Transmission LP - Transmission Project  
Development Planning - EB-2010-0059**

We are counsel for Great Lakes Power Transmission LP ("GLPT"). Attached are the comments of GLPT in respect of the above-noted matter. Three hard copies have been sent to you by courier and the attached submission has been filed by RESS.

Should you have any questions or concerns please contact the undersigned.

Yours truly,



Charles Keizer

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**Comments of Great Lakes Power Transmission LP  
regarding Board Staff Discussion Paper  
“Transmission Project Development Planning”**

The following are the comments of Great Lakes Power Transmission LP (“GLPT”) to the Board Staff Discussion paper “Transmission Project Development Planning” dated April 19, 2010 ( the “Paper”).

GLPT appreciates the efforts made by Board Staff in the preparation of the Paper. Subject to the comments below, GLPT is supportive of the Paper and the process set out therein.

**Definitions and Threshold Issues**

While the Paper sets out the definitions for various terms in Section 1.2, there are a number of very important and key terms that are referred to but are not clearly defined.

In Section 2, at page 5, the Paper sets out the various categories of facilities that would or would not trigger a designation process. These terms, in particular, need clarification because these terms fundamentally establish a threshold as to how transmitters are to proceed in respect of the Province’s transmission constraints.

Of particular concern is the distinction in the meaning of terms “network reinforcement” (not requiring designation) and “network expansion” (requiring designation).

“Network reinforcement” is defined to mean “the reinforcement of existing transmission network facilities”. The term reinforcement is not a precise technical term and is used in a variety of transmission contexts. To provide more clarity, GLPT submits that network reinforcement be defined to mean “transmission work undertaken on existing stations, lines and ancillary equipment to increase their capacity”.

For network expansion, clarity is required as to the meaning of “major new network facilities”. GLPT suggests that this term be defined as “work undertaken to expand the transmission network, in particular the major bulk transmission system, through construction of new network facilities”.

The foregoing definitions are consistent with the Ontario Power Authority's ("OPA") approach to the Economic Connection Test ("ECT"). In its May 19, 2010 presentation "FIT Economic Connection Test", the OPA indicated that it would only evaluate in the economic assessment ECT ratepayer funded transmission facilities, in particular the major bulk transmission system. As the ECT will be the basis of the designation process, it makes good regulatory practice for there to be consistency in definitions between those used in the OPA's ECT process and the Board's designation process.

With respect to the results of the ECT, the Paper notes (at p.7) that Staff proposes the Board accept fully for transmission designation and project development purposes the outcome of the ECT as filed and without substantive examination. GLPT is of the view that this aspect of the Paper is a concern since the Board is a quasi-judicial tribunal that must exercise its discretion in the public interest. As such, the Board cannot fetter its discretion. To accept the ECT without substantive consideration could be considered a fettering of that discretion and a loss of jurisdiction.

With respect to the proposed definition for "incumbent transmitter", GLPT submits that this definition should be amended to add the words "and that transmitter is required to undertake upgrades to its existing facilities arising from that interconnection". This will clarify that the role of incumbent transmitter is to be responsive to the connection of the project undertaken by the designated transmitter and that the aspect of interconnection does not mean that the incumbent transmitter and designated transmitter are by default the same.

### **Recovery of Development Cost**

At p.17 of the Paper, Staff makes comments with respect to the rate recovery of costs associated with development. In particular, Staff indicates that if a transmitter incurs any expenses in developing an enabler or a network expansion project for which it was not designated, then the amount should be considered imprudent. According to Staff, the same denial based on imprudence should be the case if another transmitter is ultimately designated to do development work for the project. Staff indicates that the fact that a transmitter may be successful at the leave to construct stage in relation to a project to which it was not designated should not affect this outcome.

GLPT disagrees with Staff's comment and believes it to be incorrect. In this regard, GLPT references its comments made at p. 4 below with respect to costs incurred in preparation for the designation process. GLPT submits that the fact that another transmitter is designated is not by itself justification for presuming the transmitter's expenses were imprudent. This is particularly the case where a transmitter may be successful in its application for leave to construct, since leave will not be given unless the project is found to be in the public interest. It is logically inconsistent for a transmitter to obtain leave to construct in the public interest but not be permitted to recover the costs which are advancing the public interest. Whether for purposes of a leave to construct or not, each case of rate recovery should be evaluated on its merits.

### **Specific Questions Raised**

1. **Should new entrants be required to be licensed as transmitters as a condition of participation in a designation process?**

New entrants should be required to be licensed as transmitters as a condition of participating in a designation process. In respect of the licensing process, GLPT notes that the licensing process in this regard should have a certain degree of rigour. All of Ontario's licensed transmitters were licensed in a process of regulatory change and had established reputations and assets in service. Because new entrants will likely be non-operating transmitters (because those parties are from another jurisdiction or there is a new JV or entity involving an existing transmitter), there should be an established process and filing requirements to establish the financial and operating credentials of the applicant.

2. **How long would it take to prepare transmission project development plans (i.e., how much time should be given for filing transmission project development plans after notice of the designation process has been given)?**

This issue raises two critical concerns. The first relates to the time necessary to permit a proper filing upon receipt of the notice of designation. The second is a broader issue of the timing and the ability to achieve the Province's green energy initiatives given the performance of the ECT by the OPA, the preparation time needed to participate in the designation process and the completion of the designation process. GLPT will address each of these concerns in turn.

*Time to Prepare*

The paper contains two aspects which create concern as to having sufficient time to prepare a filing for the designation process. The first aspect is that, while the filing requirements set out in the Paper are helpful, as noted on p.8 below, they are broadly worded and will require study and a significant amount of scoping work. GLPT would expect that the process of designation of a transmitter would have a reasonable degree of rigour. However, more detail as to the nature of the information required to satisfy the Board would help to focus efforts and may help to shorten the process.

The second aspect is that there is no indication in the Paper that transmitters that seek designation, but fail to be designated, will be able to record costs arising from the designation process in an approved deferral account and seek recovery of those amounts at a later date. In fact, at p.17, the Paper indicates that if a transmitter incurs expenses in development on a network expansion project and is not designated, then those amounts should be considered imprudent.

GLPT submits that this does not advance the public interest. Because of the rigour expected in the designation process, costs will be incurred by transmitters to participate. Because of the prospect of no recovery, risks are elevated. Since the designation process is in respect of facilities that the ratepayer will pay for, it is in the public interest to stimulate sufficient interest to get quality submissions within a competitive process to drive cost efficiencies. Recovery of the costs for the designation process would facilitate participation. It will also facilitate transmitters devoting sufficient resources in the preparation of a filing and to possibly accelerate the time period required to prepare a filing after the notice of designation is provided. GLPT recognizes that recovery is not automatic and that recovery of cost will be subject to criteria and the reasonableness and prudence standard upon the consideration of any deferral account balance.

Based upon the foregoing, with respect to the question of how long it would take to prepare a transmission plan, timing will depend on the level of detail required in the filing criteria and to some extent the financial commitment to obtain the information that will form part of the filing.

In addition, the nature of the project could dictate timing as well. However, as an approximate range GLPT suggests a period of 3 to 6 months.

#### *Timing in General*

With respect to timing in general, GLPT notes that the entire process, inclusive of the OPA's ECT determination, preparation of the transmitters' filing in a designation process and the Board's designation process, could take up to 24 months. Based upon the OPA's May 19 presentation, it is expected that the first ECT will commence some time in early August and be completed some time at the end of the first quarter of 2011 - approximately 8 months. At p.13 of the Paper, Board Staff indicate that the designation and plan approval proceeding could take 4 to 9 months from the date of receipt of the complete transmitters' plans.

Given the need to accomplish the Province's green energy policy objectives which underlies provisions of the *Electricity Act* and the *Ontario Board Energy Board Act* that brought about the amendments of transmitters' licenses and the designation process, there is a need to expedite the overall process for certain prescribed projects.

Based upon the OPA's May 19 presentation, in the northeast and northwest zones of the Province, there is approximately 2,000 megawatts of renewable capacity that is awaiting the completion of the ECT. Similarly, the area west of London has approximately 2,000 megawatts of renewable capacity awaiting the ECT. For the Bruce area, there is approximately 1,600 megawatts of renewable capacity awaiting the ECT. The Bruce to Milton line will greatly facilitate the connection of the renewable generation in the Bruce area. However, with respect to the northeast, northwest and west of London areas, a significant amount of megawatts will remain in the FIT reserve while the ECT and designation processes occur. As noted, this capacity could remain in reserve for well beyond 2 years. For example, given the timeline above and an estimated period of 3 to 5 years to build transmission, capacity could be in reserve for 5 to 7 years. During that time investment capital may tend to go to other jurisdictions.

The Minister's September 21, 2009 letter made it clear that priorities should be given to the East-West-East Tie line, Sudbury West, the North-South Tie Line and London Area and Sarnia, all of which are critical to providing transmission capacity to the renewable energy resources in the areas noted above.

With respect to the network requirements identified, GLPT submits that the Board should work with the OPA to expedite the transmission assessment process and, in turn, expedite the designation process. As these transmission lines have been the topic of discussion for some time, the Board and the OPA could expedite the process by working in parallel. The Board could, on its own motion, commence the designation process in respect of these transmission facilities while the OPA is continuing its ECT study. GLPT recognizes that it is possible that facilities would be found to be uneconomic and may not proceed. Based upon the Paper, however, this is not an unusual result since it is contemplated at p.16 there may be some network expansion facilities that proceed though the designation process but may not, based upon the ECT, subsequently be found to be needed. Subject to GLPT's comments with respect to cost recovery for preparation of a filing for designation, if this eventuality occurred, then the transmitters could apply for recovery of the costs associated with participation in the designation process.

**3. Are these the appropriate decision criteria? Should the decision criteria be weighted and, if so, which are most important?**

Subject to GLPT's comments below, GLPT agrees that these are appropriate decision criteria. However, the criteria should not be weighted in advance of the process, since the significance of various aspects may change depending on the project in question. GLPT also notes that although the designation process is a competitive process, it is also an adjudicated process and the discretion of the Board should not be restricted by pre-set weightings.

One important aspect relating to decision criterion is in respect of "Financing". Under this criterion the Board would evaluate the manner in which the transmitter is proposing to finance the development and construction of the project(s) in its transmission project development plan. In this regard, it is proposed the Board would take due regard of "whether or not alternative mechanisms are set out in the "Report of the Board: The Regulatory Treatment of Infrastructure Investment in Connection with the Rate-regulated Activities of Distributors and Transmitters in Ontario (EB-2009-0152) are being or will be requested".

In determining whether the alternative mechanisms requested by a transmitter are appropriate, the Board needs to recognize that certain project and financial risks can be transferred from

Ontario ratepayers to private sector investors when the designated transmitter is investor owned. For example, for an investor owned transmitter risks associated with any disallowance of cost recovery is shifted from the rate payer and absorbed by the shareholder. As a consequence, risks associated with certain projects may drive alternative cost recovery mechanisms or rates of return. For a provincially owned transmitter, risks of cost disallowance would be passed to the provincial shareholder. However, these risks are effectively absorbed by the taxpayers which in turn are the rate payers.

The aim would be to establish competitive neutrality between competing transmitters seeking designation where one transmitter was able to absorb risks because of its “provincially owned” status. The objective is to establish competitive neutrality adjustments to reflect financial benefits that are not equally available to bidders because of the inherent nature of ownership. Competitive neutrality ensures that a like-for-like comparison is being made.

**4. Are Staff’s proposals regarding the implications of the plan of approval reasonable?**

Staff’s proposal regarding implications of the plan of approval are reasonable. However, with respect to Staff’s comments at the bottom of p.14 regarding the recovery of costs by a designated transmitter that has no ratepayers and as such no established revenue requirement, GLPT submits that the rider should ensure that all transmitters under the joint uniform transmission rate order are kept whole.

**5. Under what circumstances should two transmitters be designated to develop the same project and to recover the development costs from the ratepayers?**

Designation of two transmitters, with the corresponding recovery of development costs, could occur where the designation proposal of each is such that both meet the Board’s decision criteria and there is no significant or distinguishing factor in the respective development plans which is to the detriment of the project’s development and any ultimate distinction can only occur post development at the leave to construct stage.

Similarly, where these are competing technical solutions, dual designation may be warranted since distinguishing aspects of operability and cost efficiency may not be known until the development stage is complete.



Additionally, dual designation could occur where the project is so intertwined with two transmitter facilities that both must contribute to its development.

Furthermore, the project may also be of such magnitude that it can be broken down by segments and it is economically efficient for two transmitters to be designated with each undertaking a different component part.

**6. Are these the appropriate filing requirements to enable the Board to apply the decision criteria identified in Section 3.1? If other decision criteria are being suggested, what additional filing requirements would be appropriate for the other criterion or criteria?**

From the perspective of providing categories of the information required, the filing requirements are reasonable. However, the designation process is a new process. In addition, as noted above, there are timing and cost concerns with preparation of the filing. In addition, because the designation process could be competitive, there would be a need to evaluate filings on comparable terms. Given the above, GLPT submits that the filing requirements must have a higher level of precision than those currently set out in the Staff Paper. More precise requirements will enable applicants to focus their efforts and likely bring about a shorter time period with respect to preparation of a filing and potentially the designation process. With more delineated filing requirements, the multiple applicants will submit similar information in the same format. As a result, the Board's adjudicated process may be more straightforward and likely more efficient, thus saving time. With respect to the extent of detail required to be filed, GLPT notes that the nature of the information required by the OPA in competitive generation RFPs may be instructive as to the degree of detail required on a designation filing.

For example, with respect to cost, filing requirements could delineate the level of accuracy of the estimates required and what supporting details are required to support that level of accuracy.