April 20, 2012

Ontario Energy Board
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

Re. Provision for Written Comments by Stakeholders
Renewed Regulatory Framework for Electricity
Board File Nos.: EB-2010-0377, EB-2010-0378, EB-2010-0379, EB-2011-0043 and EB-2011-0004

Further to the April 5, 2012 letter (the "Letter") of the Ontario Energy Board (the "Board") inviting interested stakeholders to provide written comments to assist the Board in the development of the renewed regulatory framework for electricity distributors and transmitters ("RRFE"), these are the comments of Great Lakes Power Transmission LP ("GLPT").

GLPT agrees with the *premise* that the Board must look at the sector more holistically to better plan and prioritize needed capital investments to sustain, expand and modernize the system, while mitigating impacts on a customer's bill. But it is the *application* of this that is both critical and complex. The Board must not do this in a way which ignores the regulatory compact: both customers and investors have legitimate needs and neither one's needs should be allowed to trump the other's, or proceed at the expense of the other's. Legitimate investor needs include the ability to renew and modernize aging equipment to address reliability and network requirements; to respond to political and policy direction; to meet customer expectations; to recover prudently incurred costs in a regulated environment; and a key point that must not be overlooked, to earn a fair return.

The Letter inquired about key issues that should be considered in the development of the RRFE. GLPT believes that the following should inform the Board's consideration of the RRFE:

Compatibility with Related Regulatory and Political Frameworks:

At the outset, we would like to emphasize that this comprehensive RRFE initiative must be compatible with, and must complement and not derogate from, other important Board frameworks recently implemented; e.g. *Regulatory Treatment of Infrastructure Investment in connection with Rate-regulated Activities of Distributors and Transmitters in Ontario* (EB-2009-0152) and *Framework for Transmission Projects Development Plans* (EB-2010-0059). The Board made important strides in these proceedings, and these important insights for greenfield and project-specific builds must not be lost. Accordingly, the evaluation of specific projects must occur pursuant to these frameworks and under the parameters stipulated therein, and not in the more generic RRFE.

Both of these initiatives facilitate competition which provides the most cost efficient solution for ratepayers. Accordingly, in implementing the RRFE, the Board should not do anything that might cause an "investment chill", which would have a perverse effect vis-a-vis the objectives the RRFE is attempting to foster. Moreover, the RRFE must be consistent with government policy, including with regard to renewable energy and Aboriginal participation in energy projects.

Rate Setting and Mitigation:

At the Stakeholder Conference, presenters highlighted that the Board only regulates 50% of the total bill which includes a portion of OPG's hydro and nuclear output; that the combined transmission and distribution businesses are just 15-20% of this amount; and, that since 80% of the total bill relates to the commodity, maximizing the competitiveness of power production by a prudent supply mix , including one that recognizes the benefit of renewables, is required to control the bill. We believe that the Board must recognize these realities and limitations and not effectuate rate mitigation at the expense of reliability, or the shareholder of a transmission business beyond the scope typically applied in the context of the regulatory compact.

In addition, the issues of rate mitigation are distinctly different for distribution and regulated generation than for transmission. The structure of uniform rates, which are socialized across the province, is in and of itself a mitigation measure. In other words, a "fix" isn't needed in the transmission context: in our view, the mitigation measures currently in place are sufficient. Cost and investments for transmission have less impact on individual ratepayers than in a service territory framework. Accordingly, in considering options for rate mitigation, the Board should not deviate from using the uniform rate approach for transmission.

The aforementioned related regulatory frameworks distinguished between the maintaining and sustaining of current transmission facilities, and new-build on greenfield sites. The uniform transmission rate provides mitigation in the context of maintaining and sustaining current transmission facilities, while, as contemplated in EB-2009-0152, approaches such as advance CWIP could aid in mitigating the development of greenfield transmission.

Regional Planning:

At the Stakeholder Conference, the participants expressed confusion about the intent behind and application of section 6.3.6 of the Transmission System Code. Exactly when, and under what circumstances, will enhancements be regarded as "otherwise planned" by a transmitter to address system needs, as opposed to modifications made to meet a load customer's needs, which modifications require a customer contribution. We agree that a RRFE should provide clarity as to the interpretation of this section of the Code and on the question of cost allocation. The RRFE must resolve the threshold question of whether transmission system changes can occur because of industrial capacity changes in a scenario where the industrial customer is unable or unwilling to pay directly.

We also submit that industrial growth should not be excluded from regional planning. In EB-2011-0043, the Board Staff Discussion Paper on the Regulatory Framework for Regional Planning for Electricity Infrastructure, Board Staff ("Staff") make a distinction between industrial load and distributors as transmission customers and direct their recommendations only to distributors. However, we submit that the basis for Staff's distinction is incorrect. Staff expect that industrial customers will use generation displacement, where generation is run on-site, to reduce demand and any requirements for transmission connection capacity from the grid. Staff also believe that industrial customers can simply choose to relocate. In our view, these are over simplified conclusions that require far more analysis to substantiate. Generation displacement is not always viable and it is not possible for an industrial customer to simply close and relocate. For example, a steel mill or processing facility is geographically dependent and cannot relocate.

Lastly, we support a more formalized and inclusive approach to regional planning, where input can be provided by market participants whose operations and expertise extend beyond the regions under study.

Performance Measures:

Performance measures are distinctly different for distributors than for transmitters who are not under an IRM regime. As with regard to rate setting and mitigation, a "one size fits all" approach to performance measures is not practicable and any successful framework must recognize the unique characteristics of the different categories of players in the sector. Benchmarking models that are applicable to distributors will not be effective in the transmission sector.

In the discussion about financial performance measures, the issue of industry benchmarking versus company specific results was canvassed. With regard to benchmarking, concerns were raised about finding relevant comparators given the limited number of players in the transmission industry in Ontario. With regard to company specific results, concerns were raised about unfairly rewarding inefficient companies and punishing efficient ones. However, it may be possible to use a hybrid approach where the Board relies on company-specific results, but contextualizes these by looking at where a company sits comparatively.

We thank the Board for this opportunity to comment on the RRFE and for its progressive practice of early and strategic engagement.

Sincerely,

Duane M. Fecteau

Duane Fecteau, CA
Chief Financial Officer