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Toronto, August 8, 2006

Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
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Dear Sir:

RE: Staff Proposal on the Minimum Filing Requirements for Transmission and Distribution Rate Applications and Leave to Construct Projects, Board File No. EB-2006-0170

We are legal counsel to Great Lakes Power Limited ("GLPL") - Transmission. Below are the submissions of GLPL in respect of the Board Staff's Proposal on the Minimum Filing Requirements for Transmission and Distribution Rate Applications and Leave to Construct Projects dated July 17, 2006 (the "Proposal").

GLPL's submissions are in reference to the filing requirements in respect of leave to construct projects. As a regulated transmitter, GLPL agrees with much of the content and direction of the Proposal. However, there is one area in particular relating to the filing requirements for leave to construct projects that requires clarification. This area of clarification relates to rate recovery of an increase in revenue requirement as a result of bringing into service a transmission project for which leave to construct is required.

Section 78(1) of the Ontario Energy Board Act (the "Act") provides that:

"No transmitter shall charge for the transmission of electricity except in accordance with an order of the Board, which is not bound by the terms of any contract."

As part of exercising the Board's authority under Section 78(1) of the Act, the Board is required to review the revenue requirement of the transmitter. This review includes the consideration of capital budgets for the purposes of establishing the rate base for the applicable test year period set out in the transmitter's rate application and the capital cost component of revenue requirement that is to be recovered in rates. The Board's ultimate authority is to set rates and the review of capital budgets is only a part of the exercise of that authority.

The Proposal indicates that "the reasonableness of incurred cost for a project may be reviewed in the transmitter's rate case. In this case the need and rate impact of that project would not be addressed in the leave to construct proceeding. (Proposal, pages 21 and 28)" The use of the phrase "incurred costs" in the forgoing is problematic from a timing perspective, since the costs can only be fully incurred for a project after leave to construct is obtained and the project completed. The efficiencies proposed in the Proposal of avoiding a duplication of a review of costs in the leave to construct proceeding would not be achieved since without previously reviewing the costs, the reasonableness of costs would have to be considered as part of the leave to construct and again in the rates proceeding as part of establishing rate base. To achieve the efficiencies described, GLPL has assumed that the costs would be considered in a rate application that contemplates a future test year in which leave for the project would be granted and the project is expected to be in service. If GLPL is incorrect in its assumption, and the intent of the reference above is for all of the cost inquiry to be left until after the leave to construct proceeding and the completion of the project, then GLPL disagrees with this aspect of the Proposal. A process of this kind would present significant regulatory risk and, in any event, would not permit the Board to adequately consider pricing as part of the leave to construct proceeding.

Based on the forgoing assumption, with respect to the Proposal, rate recovery would be achieved if the transmitter's capital budget includes the project (approved as part of the rate setting process); the transmitter seeks leave to construct during the test year period; and the project comes into service for the purposes of rate base during the test year period. Any rates in respect of a forward test year would then reflect the addition of the leave to construct project to rate base during the test year period.

If the forgoing is not the case, then the question arises as to whether the capital budget for a leave to construct project (although it may be seen as needed as part of the IPSP) would be approved in a rate proceeding since it is not part of the test year period and is, therefore, not part of the rate setting process. As a result, any efficiencies gained under Chapter 4 of the Proposal would not be available to regulated transmitters. As a result, particularly in circumstances where the project is non-discretionary, the Board should include as part of its filing requirements details of the capital budget for a leave to construct project that intended to be in-service either in the test year or a reasonable period of time following the test year. This would permit the reasonableness of the costs of the project to be considered as part of the transmitter's rate case and to permit the establishment of a deferral account or other rate mechanism related to the capital expenditures of the project. For example, the deferral account could be disbursed at a subsequent rate proceeding not on the basis of the reasonableness of the economics of the project but only in respect of the costs incurred relative to original capital budget approved in the initial transmitter's rate case. This would provide some degree of rate certainty to the transmitter and facilitate rate recovery in future rates proceedings. In addition, the transmitter would also be

able to take advantage of the efficiencies provided in Chapter 4 of the Proposal to a greater extent.

With respect to Chapter 5 of the Proposal, in the event that the transmitter cannot have its capital budget reviewed as part of a typical rate proceeding, then GLPL submits that the leave to construct process under Section 92 should be combined with an application under Section 78(1) of the Act to approve the capital budget for purposes of the inclusion of the project in rate base and for rate setting purposes at a later date. This contemporaneous approach would establish a mechanism whereby the transmitter is able to achieve rate recovery at a later date. In addition, dealing with the matters contemporaneously and not sequentially will enable shorter timeframes with respect to approval.

Yours truly,

Ogilvy Renault LLP

Charles Keizer

CK/sb