

July 8, 2009

RESS & COURIER

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

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

**Re: The Regulatory Treatment of Infrastructure Investment for Ontario's
Electricity Transmitters and Distributors (EB-2009-0152)
- Comments from Great Lakes Power Transmission LP**

On behalf of Great Lakes Power Transmission LP ("GLPTLP") and in connection with the above-noted proceeding, please find attached two copies of GLPTLP's comments on Board Staff's June 5, 2009 Discussion Paper on the Regulatory Treatment of Infrastructure Investment for Ontario's Electricity Transmitters and Distributors, along with confirmation of electronic filing on the RESS system.

Yours truly,



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**Submissions of Great Lakes Power Transmission LP to
Staff Discussion Paper on The Regulatory Treatment of Infrastructure Investment
for Ontario's Electricity Transmitters and Distributors**

A. Introduction

These are the submissions of Great Lakes Power Transmission LP (GLPTLP) to the *Staff Discussion Paper on The Regulatory Treatment of Infrastructure Investment for Ontario's Electricity Transmitters and Distributors* ("Staff Discussion Paper"). As a licensed transmitter, GLPTLP's submissions are from the transmission perspective only.

GLPTLP believes that the *Staff Discussion Paper* represents a major step towards providing a workable framework for approval of investment in infrastructure by electricity transmitters and distributors.

From a transmission perspective, currently Ontario faces a number of transmission challenges and needs. Further to the Ontario Power Authority's Integrated Power System Plan ("IPSP") and the planning aspects set out in the *Green Energy and Green Economy Act, 2009* ("GEGEA"), transmission initiatives will include transmission expansion plans to permit the connection of renewable energy facilities, enabler lines and significant and new network projects such as the North/South Transmission Reinforcement. All these investments are out of the ordinary course of the transmission investments typically related to load or generator connections or reliability. All of these projects will need to attract public and private capital in competition with other opportunities.

It is within this context which the Board must consider the application of the cost recovery and return on equity ("ROE") mechanisms discussed in the *Staff Discussion Paper* and in more detail below.

In working within this context the Board must consider the added complexity of the stages of transmission investment and how that will affect the application of any mechanism. Broadly, the stages could be described as: planning and development (includes aspects of route assessment, stakeholding, system analysis, environmental review, permitting etc.), financing, construction and operation.

Depending on the scope and timeframe associated with the project and the degree of risk, the extent to which such risk presents impediments will vary from project to project. As well, approval of the mechanisms may need to be considered at different points at or in the regulatory process. Siting major new transmission lines is extraordinarily difficult given the environmental, stakeholder, First Nations/Métis and land-use concerns with obtaining and permitting new lines on new rights-of-way or reinforced systems on existing rights-of-way. In addition, there will be long lead times (with a significant portion of project costs attributable to long lead time equipment orders), regulatory and political risks, and financing and cash flow challenges. The key is that transmission investment is varied and complex and as such, a singular approach is not sufficient. Flexibility in the Board's approach will be key to facilitate transmission investment that balances the goals of the GEGEA and the public interest.

Under the GEGEA, the Board has as an objective the “*timely reinforcement and expansion of transmission systems ... to accommodate the connection of renewable energy generation facilities*”. In this circumstance, as an economic regulatory authority the Board’s role in approving cost recovery and ROE mechanisms (whether those of a conventional or unconventional nature) affects the allocation of capital to transmission investments. Capital, as a mobile and limited financial resource, is allocated by a business entity between competing needs within and between jurisdictions. The Board’s role is to encourage new investment through incentives that work to facilitate the investment. If the Board does not recognize the diverse nature of projects that could arise under the GEGEA and applies a one size fits all approach or no incentives at all, then sufficient capital will not be dedicated to transmission investment. As noted, the extraordinary nature of transmission projects that will arise requires a flexible approach in which the Board sends the appropriate signals to allocate capital investment to permit the timely expansion and reinforcement of transmission systems in the public interest.

B. FERC Criteria Under Order 679

The *Staff Discussion Paper* appropriately draws upon the work done by the U.S. Federal Energy Regulatory Commission (FERC) in its Final Rule, Promoting Transmission Investment through Pricing Reform (Order No. 679). The commonality between Ontario’s needs under the GEGEA and those of the US electricity sector stems from similar circumstances. FERC’s rule was intended to: (1) promote capital investment in transmission facilities; (2) provide an ROE that attracts new investment in transmission; and (3) encourage deployment of new transmission technologies. The GEGEA requires additional transmission investment to promote the development of renewable energy projects and mandates increased investment in the smart grid. Given these common objectives, GLPTLP also references the framework employed by FERC to provide context and assist the OEB in developing the details of the framework for the regulatory treatment of major transmission and distribution investment in Ontario.

In Order 679 and subsequent decisions reviewing transmitter requests for incentive-based rate treatment for transmission investment, FERC developed a framework for establishing when applicants will be provided with incentive-based rates. FERC established as a rebuttable presumption that a project satisfies these criteria and would be eligible for incentive ROE if: (1) it is the result of a fair and open regional planning process; and (2) receives construction approval from a state commission. Furthermore, the applicant was required to demonstrate that the incentives are “tailored to address the demonstrable risks or challenges faced by the applicant.”¹ This is referred to as the “nexus requirement”. Subsequently, FERC has evaluated this based on whether the project is “routine” which was in turn assessed based on: (1) the scope of the project (e.g., dollar investment, increase in transfer capability, involvement of multiple entities or jurisdictions, size, effect on region); (2) the effect of the project (e.g., ensuring reliability or reducing congestion costs); and (3) the challenges or risks faced by the project (e.g., siting, internal competition for financing with other projects, long lead times, regulatory and political risks, specific financing challenges, and other impediments).

¹ *Baltimore Gas and Electric Company*, 120 FERC ¶ 61,084, at P 52-55 (2007).

FERC also found that an applicant must provide sufficient explanation and support to allow the Commission to evaluate the incentives. However, applicants do not have to show that “but for” the incentives, expansion would not occur.

The FERC rejected this test because it created an evidentiary hurdle that could only, in very rare cases, be satisfied. The FERC stated that:

“There are many impediments to investing in new transmission, including siting concerns, financing challenges, rate recovery concerns, etc. It is therefore unreasonable to expect or require an applicant to show that a facility could not be constructed “but for” the removal of a single impediment - e.g., increased cash flow through 100 percent construction work-in-progress (CWIP) or an enhanced ROE. This test could rarely, if every, be satisfied, particularly given that incentives are ordinarily sought before investment decisions are made and, hence, before any siting impediments are even confronted.”

C. Review of the Mechanisms Identified in the Discussion Paper

The *Staff Discussion Paper* identified five mechanisms that could be used “to encourage appropriate infrastructure investment” and noted that “[t]hese mechanisms are intended to address the unique challenges that may be associated with those investments, and to facilitate the timely development of infrastructure that is expected to be needed to accommodate increased renewable generation and to establish the smart grid...”² These are: (1) recovery of costs of abandoned facilities; (2) contract-term (i.e., accelerated) depreciation; (3) construction work in progress; (4) project ROE incentives; and (5) project-specific capital structure. Each of these mechanisms is reviewed below.

A critical issue is when these mechanisms should be applied. In this regard it is important to make a distinction between “routine” and “non-routine” investments. A routine investment is that forming part of the typical capital plan of a utility based on forecasted load growth, generation connections and reliability. At page 8 of the *Staff Discussion Paper*, it indicates that a non-routine incremental investment differs from a routine investment where it can be demonstrated that the investment is extraordinary and an unanticipated capital spending requirement, i.e. something other than the normal course of business.

To some extent, GLPTLP agrees with this distinction and the characterization of “non-routine” subject to the fact that the non-routine nature of the investment does not just relate to the level of spending, but also includes a risk profile that is greater than that associated with investments made in the ordinary course of business. Outside the ordinary course of business is fact dependent determined on a case-by-case basis by considering the project’s scope (e.g. dollar investment, increase in transfer capability, involvement of multiple proponents (acting separately or together), size, land mass used, affect on region); its affect (e.g. improving reliability on reducing congestion); and unique challenges or risks (e.g. siting, internal competition for

² Ontario Energy Board, *Staff Discussion Paper on The Regulatory Treatment of Infrastructure Investment for Ontario’s Electricity Transmitters and Distributors (Staff Discussion Paper)*, p. 15

financial resources, long lead times, regulator and political risks, specific financing challenges, etc.). For example, the constructing of an enabler line to connect a renewable cluster is not undertaken in the ordinary course of business for a transmission entity.

It is in this context that GLPTLP uses the term “non-routine” investments in these submissions.

(i) Recovery of Costs of Abandoned Facilities

The recovery of prudently incurred abandonment costs is appropriate. For example, the development stage for transmission investments under the GEGEA will require significant time, resources and money. The uncertainties related to stakeholders, land, and permitting can be significant and present many variables outside of a proponent’s control. The certainty of recovering those costs before expenditures are made will facilitate this initial investment. Furthermore, for projects required to access renewable generation facilities through enabler lines there are significantly greater risks from factors that are beyond transmitters’ and distributors’ control such as generation developers’ decisions to terminate the development of renewable energy resources.³ In addition, extended construction periods and long level time ordering for major equipment further increase exposure to non-completion risks because of factors outside the proponents’ control.

Criteria: It would be unfair for a proponent to pursue a project the proponent had reason to believe was in the public interest and be left exposed for costs incurred beyond the proponent’s control. For routine investments, the recovery of any abandonment costs would be considered by the Board after the event. Where the investment is non-routine the regulatory certainty of the prospect of cost recovery at the outset would eliminate an impediment to a decision to proceed with the investment. This should not be viewed as a new mechanism that is being made available only to non-routine investments, but is already an element of the regulatory construct. Therefore, GLPTLP does not believe that discrete criteria are necessary to establish when utilities should be able to recover the costs of prudently incurred abandonment costs.

(ii) Accelerated Depreciation

Depending on the circumstances, a broader consideration of accelerated depreciation may be appropriate. From a financial perspective, accelerated depreciation could provide increased cash flows which may be needed to fund increased levels of investment arising under the GEGEA.

Criteria: Instances may arise that have need for non-traditional treatment of depreciation and should be considered based on the facts presented and the relief sought.

(iii) Construction Work in Progress (CWIP)

The magnitude of required investment supports the application of advance recovery of CWIP in rate base to reduce financing requirements and financial burdens, particularly for large capital investments. The importance of advance recovery of CWIP is increased by the long lead times

³ FERC Order 679, p. 88.

required to plan and construct new major transmission facilities.⁴ This is a critical issue given the magnitude of transmission investment anticipated by the IPSP and, in particular, the GEGEA, which calls for accelerated development of renewable energy projects. Furthermore, a considerable portion of investment is likely to be undertaken by publicly-owned distribution and transmission companies which in the current economic climate are less able to secure additional equity investment and as a result are more reliant on cash flow from operations. Given the magnitude of transmission and distribution investment required by the GEGEA, without increases in available cash flow and retained earnings, the required capital investment can lead to increasing debt ratios which will in turn lead to higher financing costs. In addition, because transmission rates in Ontario are based on a uniform rate that combines all transmitters under one rate, it is possible, that with projects potentially proceeding in parallel, rate impacts could be mitigated with CWIP brought into rate base over time.

Criteria: Transmission and distribution companies should be eligible for advance recovery of CWIP based on a variety of factors considered on a case-by-case basis.

(iv) Project ROE Adders

The level of ROE reflects two aspects. The first relates the ability to attract capital to an investment relative to competing investments. The second relates to the compensation for risks associated with the investment over and above the return needed to attract capital away from competing alternatives.

Risks giving rise to ROE adders could include: (1) the size of the investment relative to the existing rate base so that the proponent's financial performance is significantly affected (as indicated by reduced cash flows and coverage ratios) by the development, construction and operation of the investment;⁵ (2) increased reliance on capital markets and uncertainty regarding the ability to access equity and debt under reasonable terms given current financial market volatility and risks aversity; (3) unanticipated increases in project costs from escalating equipment costs and project delays; (4) the need to commit capital for equipment (including pre-ordering long lead time and stockpiling components) to the project prior to securing all regulatory approvals given accelerated project development schedules; (5) the difficulty of sequencing construction as a result of heavy utilization of existing facilities and limited periods during which necessary outages can be scheduled;⁶ (6) risks arising from operating a new transmission line over new and potentially varied topography extending over long distances; (7) regulatory risk given that facility need is driven by the GEGEA and uncertainties regarding generation project development; (8) risks associated with public policy changes; (9) the performance and suitability of any innovative technologies that are employed; and (10) the challenges in securing permits and siting approvals under the terms envisioned, with these risks influenced by the broad scope of the project and numerous overlapping permitting approvals and siting constraints from the need to cross sensitive areas.

⁴ FERC Order 679, p. 60.

⁵ This also increases the potential for internal competition for funds which makes the obtaining an adequate ROE critical.

⁶ This includes First Nations' consultations.

Criteria: Higher ROEs should be applied where applicants can demonstrate that the risks of their projects are higher than routine investments. The ten risk considerations outlined above could represent a starting point for evaluating project risks. The criteria for determining when this mechanism is appropriate will likely be the most subjective of the various available mechanisms.

(v) Project Specific Capital Structure

As noted above, the application of mechanisms requires a flexible approach from the Board. As noted in the *Staff Discussion Paper*, the Board must recognize that unique projects may require capital structures that are also unique. In addition, the proponent of the project may be a combination of entities that does not fit the traditional structure of regulated utilities.

Criteria: It is reasonable for the Board to allow for a project specific capital structure based upon a request by an applicant and the applicants specific circumstances.

D. Consideration of Interaction Among Mechanisms

The mechanisms identified in the *Staff Discussion Paper* should not be viewed as separate from each other. GLPTLP believes that the Board should consider these mechanisms to constitute a menu from which proponents can choose in order to facilitate their proposed investments. Proponents can also choose the implementation details they wish to propose. The Board can then rule on the particular proposed package by accepting any, all or none of the proposal, and by setting the implementation details. For example, the proponent could propose a level of incentive ROE, a rate of accelerated depreciation, and a formula for inclusion of CWIP in rates. The Board can then set conditions that it accepts.

In its Order 679, FERC stated “An applicant may request any combination of the incentives listed in the Final Rule”⁷ but it must make its case that the incentives are applicable to the proposed investment.

The objective of these mechanisms is to recognize, and where appropriate, to mitigate the risks of these “non-routine” transmission investments. As a result when these mechanisms are implemented they will reduce the risk of the underlying investment to which they apply and aid in causing a proponent to proceed with the investment. This raises the question as to whether the resulting reduction in risk would eliminate the need for ROE adders for specific projects, another mechanism that the *Staff Discussion Paper* considers. While GLPTLP believes that this should be assessed on a project-by-project basis, the following table indicates that these mechanisms do not necessarily reduce risks of these investments so that they are less than or equal to a “routine” investment. Therefore, it is not appropriate to assume that these mechanisms obviate the need for an ROE adder for some projects. In the table below, this is illustrated by the first financing risk identified - “Large investment relative to rate base”. Allowing the recovery of prudently incurred abandonment costs (if abandonment is for reasons beyond the control of the utility),

⁷ Federal Electric Regulatory Commission, Order 679, *Promoting Transmission Investment Through Pricing Reform*, 116 FERC 61,057, issued July 20, 2006. para. 55, pg. 23.

construction work in progress, and accelerated depreciation all serve to reduce financing risk. Nonetheless, there would continue to be greater risks associated with this investment than a “routine” investment. If the investment required by these new facilities is large relative to the proponent’s existing rate base, then the residual risks to the proponent can still be greater than a routine investment. Under these conditions, the proponent should receive a higher ROE than provided for routine investments.

In addition, GLPT expects that by reducing risks these mechanisms will result in a lower cost of capital (likely through reduced debt costs) than otherwise would be realized. This will reduce the rate impacts of these facilities and is a benefit realized by customers from these mechanisms.

Risk	Risk Mitigants			Residual Risk Greater than Routine Investment
	Recovery of Abandonment Costs	CWIP	Accelerated Depreciation	
<i>Financing Risks</i>				
Large investment relative to rate base	Reduces	Reduces	Reduces	Yes
Access to Capital given Current Financial Market	Reduces	Reduces	NA	Yes
Increasing project costs & ability to manage impact	NA	Reduces	NA	Yes
<i>Scheduling Risks</i>				
Accelerated Development puts Investment at Risk	Significantly Reduces	NA	NA	Yes
Ability to achieve schedule given Outage needs	Reduces	NA	NA	Yes
<i>Regulatory Risks</i>				
Permitting and Siting Risks	Reduces	NA	NA	Yes
Need for investments driven by GEGEA	Reduces	NA	NA	Yes
<i>Technology Risk</i>				
Performance & Suitability of Innovative Technology	Reduces	NA	NA	Considerably
<i>Operating Risk</i>				
Operating Performance of the Project	NA	NA	NA	Marginally

(Table prepared by Power Advisory LLC)

E. Board Staff Specific Questions.

- Should the framework and mechanisms identified in the *Staff Discussion Paper* apply to other rate-regulated entities? If so, why and for what types of projects?**

Yes, to the extent there are non-routine investments as contemplated herein and the mechanisms provide an appropriate balance of risk and return. For purposes of answering this question it would be helpful to better understand the industry under consideration.

2. **Are there other broad classifications for investment, beyond “routine”, “non-routine incremental”, and/or “GEGEA-related” that should be considered? If so, what are they and what are the specific underlying drivers for such investment?**

No, as noted in Part C of this submission (p. 3), “non-routine” investment is a reasonable criterion for determining when the various mechanisms should be applied. However, the definition of non-routine proposed by the OEB staff focuses on the level of investment. Non-routine incremental investment differs from routine investment in that it causes utilities to face extraordinary and unanticipated capital spending requirements with a **risk profile that is different than experienced in the ordinary course of investment.**

The mechanisms in the *Staff Discussion Paper* should apply to the recovery of costs incurred by electricity transmitters or distributors for investments to accommodate renewable generation and develop the smart grid. However, the Board should apply a flexible approach to establish the non-routine nature of the project and the applicable mechanisms. It is GLPTLP’s view that the mechanisms put in place must reflect prudently incurred costs and be reasonable such that just and reasonable rates can be put in place. However, it believes that a generic test is not necessary or applicable as the mechanisms proposed are a basket of alternatives that may be applied in a variety of ways depending on the facts. As a result, the assessment by the Board must be fact specific applied on a case-by-case basis.

Transmission investment is critical to the success of the GEGEA. As a result, central to the consideration of alternative mechanisms is a desire to increase the likelihood of projects and investments to occur in order to achieve the objectives of the GEGEA while at the same time protecting the interests of customers.

The OEB should establish criteria for a rebuttable presumption that qualifies an investment for incentive mechanisms. GLPTLP believes that an investment would qualify for the incentive mechanisms if the investment is: (1) arising by virtue of an approved expansion plan under the GEGEA, (2) an enabler line, (3) a major network project to further the GEGEA or (4) a part of a Ministerial directive.

Once qualifying pursuant to the rebuttable presumption, then the Board would establish the appropriate combination of mechanisms.

3. **Should the mechanisms in the *Staff Discussion Paper* apply to the recovery of costs incurred by electricity transmitters or distributors for investments to accommodate renewable generation or to develop the smart grid, or both? Why or why not?**

Please see response to #2 above.

4. **Should the mechanisms set out in the *Staff Discussion Paper* be applied to infrastructure investment if the cost of the investment is potentially recoverable through a Province-wide recovery mechanism? Why or why not?**

These mechanisms relate to the timing or amount of the cost recovery, not to its source. The function of the mechanisms is to provide incentives to encourage investments that

are non-routine. The characteristics of the investment are independent of cost responsibility.

As discussed, the application of these mechanisms should be based on specific criteria and not be affected by whether the costs of the investment are potentially recoverable through a Province-wide recovery mechanism.

5. **Should the mechanisms set out in the *Staff Discussion Paper* be applied to infrastructure investment in smart grid technology while it is at an early stage of development and where governing standards are yet to be developed? Why or why not?**

GLPTLP has limited its submissions to transmission investment only.

6. **Should “routine” investment made by a transmitter or distributor be eligible for one or more of the alternative treatments identified in the *Staff Discussion Paper*? Why or why not?**

Yes, but the rebuttable presumption may not apply. If the project meets the criteria proposed (i.e., risk profile) for establishing the applicability of these investments, the Board can agree to their use. However, GLPT LP believes that in general “routine” investment will be unable to satisfy these criteria.

Even for routine investment, GLPTLP believes that transmission and distribution utilities should recover all prudently incurred abandonment costs if the abandonment is for reasons beyond the control of the utility.

7. **Should the mechanisms identified in the *Staff Discussion Paper* be presumed to apply to certain types of investments (for example, to accommodate renewable generation)? Why or why not? If so, to which investments?**

Yes. As noted in response #2 above, the approach of a “rebuttable presumption” (i.e., projects that satisfy these conditions are viewed as eligible for the various mechanisms) should also be employed.

8. **Should the Board be more prescriptive as to which type of investment may qualify and which will not? If so, what criteria might the Board use to make a determination on which type of investment would qualify?**

Yes. Please also see response #6 above. The criteria are outlined above in Part C and as set out in response #2.

9. **Should the Board permit applications to request confirmation from the Board that prudently-incurred costs associated with any abandoned projects will be recoverable in rates if such abandonment is outside the control of management? Why or why not?**

Yes. This should be allowed whenever the applicant can demonstrate that the costs were prudently incurred and beyond its reasonable control. Please see Part C(i), above.

10. Should the Board allow for full or partial CWIP to be placed in rate base during the construction of transmission facilities to accommodate the connection of renewable generation and/or develop the smart grid? Why or why not? Should the Board allow this particular treatment for distribution investment? If so, on what basis?

Yes, advanced recovery of CWIP should apply to non-routine investments. Ability to place CWIP in rate base, and the fraction of CWIP to be collected, should be part of the menu of options.

11. Should the Board allow depreciation to be adjusted to match a contract term or the useful life of the connecting renewable generation facility? Why or why not?

Yes. Depending on the circumstances, it may be appropriate to tie cost recovery to the useful life of the facilities that determine the need for the investments.

12. In light of a legislative context in which the Board may mandate infrastructure investments, are incentives necessary or appropriate in Ontario?

The Board Staff construes the incentive mechanism of an increment to ROE as “ ‘cost plus’ compensation to a regulated entity for its investment”. This asserts that such an incentive is a bonus or a payment for which there is no corresponding cost. This is an incorrect assertion.

An appropriate ROE is not just representative of a shareholder dividend. A ROE reflects compensation for the risks taken and for the opportunities forgone, i.e. opportunity costs. An appropriate ROE also permits the utility to repay the principal of its debt obligations and to reinvest in capital upgrades and improvements.

It is incorrect for the Board to consider the current established ROE as the “true” ROE and any increment is a bonus only. As indicated by Board Staff in its paper, investments arising because of the GEGEA are those out of the normal course for a licensed transmitter or distributor. As a result the consideration of the current ROE is irrelevant as a comparator. At most it is the base to which the incremental return related to the unique risks associated with infrastructure investment under the GEGEA and opportunity costs related to competing investments are to be added.

For example, in some circumstances, transmitters and distributors could face financial risks as a result of escalating construction costs over the lengthy planning and construction period necessary for expansion and reinforcement. As well, there are risks associated with any accelerated development and construction schedule in order to meet the objectives of the GEGEA. Other risks are set out above at Part C(iv).

With respect to competing capital needs, investor owned utilities will be confronted with an internal competition for funds, with projects providing returns commensurate with the

risks (both financially and from a regulatory perspective) receiving funding. Without regulatory change, these projects may not be in Ontario.

For utilities owned by the public sector, if the proper investment signal is not given, public resources may be allocated between public policy initiatives in a manner that does not strike the proper balance.

To finance capital investments contemplated by the GEA, publicly-owned transmitters and distributors will be required to obtain the capital resources either from debt financing, new equity, retained earnings or a reduction in dividends. For municipally controlled LDCs, equity may not be available from municipal shareholders because of the impacts of the current economic conditions on municipal budgets. As noted by Hydro One Inc. in its Annual Consolidated Financial Statements, 2008 at page 20: "Cash generated from operations, after the payment of expected dividends, will not be sufficient to fund the repayment of our existing indebtedness and capital expenditures".

Based on the forgoing, any incremental ROE provided for infrastructure investment under the GEGEA will have corresponding risks and opportunity cost. As such, the establishment of an ROE reflecting a fair rate of return for the transmitter's shareholder is part of establishing just and reasonable rates. To merely compel a transmitter to undertake infrastructure investment in return for an ROE that does not reflect the corresponding risks or opportunity cost for capital would result in rates that do not provide for a fair return, and that are not just and reasonable. By the Board Staff's very acknowledgement the investments considered are not routine and therefore do not fit the established ROE. To impose the rate of return without due consideration of all the relevant facts would be arbitrary.

- 13. If the Board were to provide for incentives, should it allow project-specific ROE? If so, should the Board consider adopting a range rather than a specific adder? Further, how might the Board determine an appropriate range or ROE adder?**

The Board should allow for project specific ROE. For transmission, some of the lines will require significant investment over a specific time frame. Because of the nature of the project, a consortium of parties could pursue the project. As a result, the capital needs of the project may be dictated by its particular aspects. In addition, the Board as part of its rates assessment could distinguish between the routine and non-routine investments arising from the GEGEA.

As each project is unique the Board should adopt a range rather than a specific adder.

- 14. If the Board were to provide for incentives, should it allow project-specific capital structures?**

GLPTLP agrees with Board Staff's comments related to this issue.

- 15. What other alternative mechanisms, if any, might the Board consider be made available to applicants?**

The Board should establish the allowed ROE for qualifying investments up front. This is essential to providing the desired regulatory certainty and mitigating the financial risks associated with these large infrastructure investments. Also transmitters and distributors should be able to expense prudently incurred project development costs given the long lead times, particularly for development costs of large transmission projects. In addition, clarity regarding the rules and procedures for reviewing and approving these investments would reduce development time frames and permitting risks. GLPT recognizes that the OEB is working to provide such clarity for its rules and procedures.

16. In addition to the potential considerations identified, are there any other matters that the Board might consider in making decisions on requests for alternative treatment?

ROE for investment must be known up-front for it to mitigate financing risks. With the ROE known then the transmitter better able to attract capital and manage the various financial risks associated with undertaking transmission investments of this magnitude.

17. What performance conditions, if any, should be established?

GLPTLP recognizes that there is a need for performance conditions associated with incentive mechanisms. It is GLPTLP's view that the performance conditions are best related to the stages of a project, such as development, construction and operation. In each of these areas, the issues confronting a transmitter and the nature of costs incurred by a transmitter will be different. In addition, the alternative mechanisms are best applied to the stages. For example, certain level of permitting is required before recovery of development costs; or certain indicia are required before the project is abandoned at the development stage and the associated costs are recovered. Similarly, the recovery of construction costs at an earlier stage could be related to a percentage of completion. Conditions may also depend on where in the process the approval occurs. For example, with a leave to construct approval it is possible to approve advance recovery of CWIP up to a certain percentage of project costs since the project, if granted leave, would be in the public interest and the project costs were part of establishing that finding. The costs incurred (and thus recovered) would be prudent. In this circumstance, at a subsequent rate case, the question of reasonableness only extends to costs above those already considered in a leave to construct to establish the determination of public interest in granting leave.

18. Are the reporting requirements suggested appropriate and adequate?

Although the format is acceptable, given the limited number of investments expected to be eligible for an alternative treatment and the anticipated large dollar value of each investment, the actual milestones and the corresponding schedule should be proposed by the proponent and established by the Board on a case-by-case basis.

19. Are there any other conditions that the Board might need to establish in relation to an approved alternative mechanism referred to in the *Staff Discussion Paper* to protect ratepayer interests?

Not with respect to the criteria for establishing when proponents would be eligible for the various mechanisms being considered by Board Staff. Rates associated with these incentives continue to be “just and reasonable” so no additional conditions would be required. The Board must strike a balance between the protection of ratepayers and the realization of the benefits offered by these mechanisms. For example, as noted in Part B above, FERC established that proponents do not need to demonstrate that without the incentives the investment would not occur.

20. **Beyond those already reflected in the Board’s existing filing guidelines (e.g., the Z-factor test of causation, materiality, and prudence) and in the Board’s jurisprudence, is there a specific test that successful applicants should be required to meet in order to be granted an alternative treatment?**

Please see response to #2 above.

21. **Are the Board’s existing filing guidelines for electricity transmitters and distributors sufficient to support the case-by-case approach discussed in the *Staff Discussion Paper*? If not, what additional information should an applicant provide?**

The filing requirements contemplate a very different scenario from a rates perspective, especially on a project specific basis. The suitability of the requirements will depend on the proceeding (leave to construct or rates) in which the alternative mechanisms are to be considered. The filing requirements do not consider the nexus between the GEGEA objectives and the implementation of the incentive mechanisms to further those objectives. In addition, the filing guidelines do not set out parameters for the nature of non-routine investments or the assorted risks or impediments for the project.

22. **Should the process for applying for the regulatory treatment of infrastructure investment discussed in the *Staff Discussion Paper* be more prescriptive (e.g., the timing, sequencing, and/or combining of applications)? Should it be combined with the process for approving infrastructure investment plans? If so, why and in what way?**

See response to #23 below.

23. **Should the Board permit applicants to seek approval prior to construction of the facilities to determine whether the facilities qualify for the requested alternative treatment(s)? Why or why not?**

GLPTLP takes the position that a transmitter should qualify for alternative treatment not just before construction but also before any development expenditures are incurred. For projects requiring leave to construct, development expenditures can be significant and unpredictable because of environmental matters, stakeholders and permitting concerns.

GLPTLP notes that for transmission projects there are three areas of regulatory approval that are of concern: (1) approval of infrastructure investment plans; (2) potentially a transmitter designation process and approval of development funding for new lines; and (3) leave to construct.

Each of these three approvals will result in costs being incurred. For regulatory efficiency, regulatory approvals should occur in parallel and not sequentially. As a result, incentive mechanism should be established coincident to the applicable approval. For example, if the incentive mechanism is required to implement the approved infrastructure investment plan, then evidence should be lead and the mechanism sought considered. Likewise in respect to a leave to construct, there is no prohibition in the *Ontario Energy Board Act* to making a leave to construct filing and a rate application at the same time. It is possible for the Board both to establish that the construction of the transmission line is in the public interest and to decide on the applicable rate treatment for the project. Please see response to #17 above.

24. What are the implications, if any, of using the single-issue rate review process?

GLPTLP does not believe there are any specific negative implications for a single-issue rate review process. Where possible, proceedings relating to a project or projects should be grouped for regulatory efficiency.

25. Is the use of rate riders an appropriate approach for implementing rate adjustments associated with the alternate treatments identified in the *Staff Discussion Paper*? Alternatively, should the adjustments be made directly to base rates?

The Board should not make a conclusion on whether the adjustment should be a rate rider or to base rates. The rate treatment may vary depending on the mechanism or group of mechanisms employed. The Board should adopt a flexible approach.

26. Should the Board allow applicants to seek approval of multi-year rate riders or should the applicant be required to apply every year to adjust its rate riders to reflect any changes in project costs?

See response to #25 above.