



**EB-2009-0019**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c. 15, Schedule B;

**AND IN THE MATTER OF** an application pursuant to  
section 74 of the *Ontario Energy Board Act, 1998* by Ottawa  
River Power Corporation to amend its Electricity Distribution  
Licence ED-2003-0033.

**By delegation, before:** Jennifer Lea

## **DECISION AND ORDER**

### **THE APPLICATION**

Ottawa River Power Corporation (“ORPC”) filed an application on January 16, 2009, with the Ontario Energy Board under section 74 of the *Ontario Energy Board Act, 1998* for an order of the Board to amend ORPC’s licensed service area in Schedule 1 of its electricity distribution licence ED-2003-0033. The service area amendment is sought by ORPC in order to serve a proposed residential subdivision known as the Sadler Estates Development, which is expected to be developed in several phases over a period of approximately ten years. The lands on which the subdivision is proposed to be developed are currently vacant and are within Hydro One Networks Inc.’s (“Hydro One”) licensed service area. The customer to be connected is the developer, 2000396 Ontario Inc.

The lands are located in the Geographic Township of Ramsay, now in the Town of Mississippi Mills and described as part of Lot 16, Concession 10.

### **THE PROCEEDING**

The Board assigned file number EB-2008-0019 to the application. By letter dated January 26, 2009, the Board requested additional information from ORPC. On

February 22, 2009, ORPC filed additional information with the Board. The Board issued its Notice of Written Hearing and Procedural Order No. 1 on March 12, 2009. As ordered by the Board, ORPC served the Notice of Written Hearing and Procedural Order No. 1 on Hydro One, 2000396 Ontario Inc. and the Corporation of the Town of Mississippi Mills, all of which were deemed intervenors in the proceeding. Procedural Order No. 1 made provisions for interrogatories on ORPC's evidence, the filing of evidence from intervenors and interrogatories on that evidence, and written submissions.

## **FINDINGS**

ORPC's application is granted in part. Specifically, I find that it is in the public interest to amend ORPC's licensed service area in Schedule 1 of its electricity distribution licence ED-2003-0033 to include Phase 1 of the Sadler Estates Development located on part of Lot 16, Concession 10 in the Geographic Township of Ramsay, now in the Town of Mississippi Mills. However, the application is denied to the extent that the request for a service area amendment to include the other phases of the development is not granted.

In reaching a decision with respect to this application, I was guided by the principles articulated in the Board's Decision with Reasons in RP-2003-0044 combined service area amendments proceeding (the "RP-2003-0044 Decision").

The reasons for this decision are set out below.

### **Service by ORPC**

There are two main reasons for transferring part of Hydro One's service area to ORPC: the relative density of the systems in proximity to the proposed development, and customer preference.

In the RP-2003-0044 Decision, the Board stated that economic efficiency should be a primary principle in assessing the merits of a service area amendment application. The Board further stated that in addressing economic efficiency, among other things, the applicants should demonstrate that the proposed amendment does not reduce economies of contiguity, density and scale, and preferably enhances these economies. The Board said:

The Board finds that amendments that involve contiguous distribution companies, but that are opposed by the incumbent distributor, may be in the public interest where the amendment results in the most effective use of existing distribution infrastructure, and a lower incremental cost of connection for the customer or group of customers. (paragraph 197).

Phase 1 of the development consists of 81 single, semi-detached and townhouse units and is scheduled to proceed through to construction in 2009. The evidence demonstrates that both ORPC and Hydro One have distribution facilities that are adjacent to the proposed amendment area and that both distributors can serve Phase 1 of the development without requiring any system reinforcement. No assets will be stranded as a result of the proposed amendment. In addition, no negative impact on rates, safety, reliability or service quality of ORPC or Hydro One has been identified as a result of the proposed amendment.

The evidence indicates that ORPC's distribution system adjacent to the proposed amendment area is denser than Hydro One's distribution system. Hydro One describes its system as "medium density", serving recent commercial development adjacent to the proposed development area. The characteristics of customers served by ORPC in the neighbouring area are similar to the characteristics of the future residential customers in the proposed development. The service area amendment will enhance the utilization of ORPC's existing dense urban distribution system and maintain the density of that system into the new area.

With respect to consideration of customer preferences in the assessment of service area amendment applications, in the RP-2003-0044 Decision, the Board stated:

Customer choice may become a determining factor where competing offers to the customer(s) are comparable in terms of economic efficiency, system planning and safety and reliability, demonstrably neutral in terms of price impacts on customers of the incumbent and applicant distributor, and where stranding issues are addressed. (paragraph 233).

In this case the developer provided a letter, filed with the application, which indicates a clear preference for service from ORPC. No specific reasons for this preference were given in the letter, and it appears that the developer did not initially seek an offer to connect from the incumbent distributor, Hydro One. Several factors in this application could influence customer preference although these factors are not necessarily dispositive for the Board.

The RP-2003-0044 Decision indicates that a lower cost of connection, and a connection that is consistent with existing networks are to be considered in determining the relative economic efficiency of competing proposals. ORPC and Hydro One have developed cost estimates for connecting Phase 1, and ORPC's cost estimate is considerably lower than Hydro One's preliminary estimate.

ORPC also pointed out that it maintains a local customer service office in the community. There was no evidence in the application to demonstrate that Hydro One's quality of customer service was inferior to that of ORPC.

Furthermore, it appears that if served by ORPC, future customers in the development may benefit from lower distribution rates. However, with regard to rates, in the RP-2003-0044 Decision, the Board stated:

The Board does not believe that significant weight should be put on differences in current distribution rates even though current rates may be a significant factor in determining customer preference. In fact current rates, insofar as they are not a predictor of future rates, may misinform customer preference. (paragraph 86).

In this case, I find that ORPC has met the burden of demonstrating that economic efficiency will be served by permitting ORPC to serve Phase 1 of the development, given the comparable density of its system to that required in the development and a lower cost to connect the customer. I have also taken account of customer preference, although that preference by itself might not have been sufficient reason for granting the amendment, particularly as that preference was apparently reached in the absence of a full exchange of information with the incumbent distributor.

**Denial of part of the application**

The entire amendment area sought in the application is expected to be developed as a residential subdivision in several phases over approximately ten years. The complete development will include a total of approximately 440 to 496 units. Phase 1 of the development consists of 81 single, semi-detached and townhouse units scheduled to proceed through to construction in 2009. The balance of the development is expected to be completed over a period of several years, depending on the market and the availability of water and sewer services. ORPC's application includes all phases of the proposed subdivision development.

I find that ORPC has not provided sufficient evidence to support its request to serve all phases of the development at this time. ORPC's evidence does not provide detailed connection proposals or specific timelines beyond phase 1 of the development. Timing for development of future phases cannot be ascertained at present as such development is dependent on market conditions in the region and the provision of other municipal services. Furthermore, evidence is lacking of a comparison of initial connection cost for the remaining phases of the development. Hydro One's evidence indicates that the developer has only provided information for a cost estimate for phase 1.

ORPC argues that as a local distributor in Almonte, its service area should be aligned with the Almonte Ward boundary. In the RP-2003-0044 Decision, the Board clearly stated that the alignment of a distributor's service area with any particular municipality has no bearing on whether a distributor should be granted service rights.

Both Hydro One and Board staff submitted that the request to amend ORPC's licence to include the entire area proposed to be developed was contrary to the RP-2003-0044 Decision in that it involved a large swathe of geography. I accept the statement in ORPC's reply submission that the area is better characterised as a defined development area with a known customer, than a broad swathe of geography. However, I do not accept as determinative the statement by ORPC that it is important to design an electrical system as a complete system for the entire area. It appears from the evidence that there is sufficient uncertainty about whether the subsequent phases of the development will occur, and when they will occur, to make any inefficiency in system design arising from this decision unimportant. ORPC may choose to make an

application for the additional phases of the proposed development if better evidence becomes available as to the construction schedule and connection costs for both distributors for the remainder of the development area.

**IT IS THEREFORE ORDERED THAT:**

ORPC's electricity distribution licence (ED-2003-0033), specifically Schedule 1 of the licence, is amended to include the lands described as:

Phase 1 of the Sadler Estates Development located on part of Lot 16, Concession 10, in the Geographic Township of Ramsay, now in the Town of Mississippi Mills.

**DATED** at Toronto, June 26, 2009

ONTARIO ENERGY BOARD

*Original signed by*

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Jennifer Lea  
Counsel, Special Projects