



EB-2006-0131
EB-2006-0132
EB-2006-0133

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

AND IN THE MATTER OF an application by Canadian
Niagara Power Inc. and Cornwall Street Railway Light and
Power Company Limited pursuant to section 74 of the
Ontario Energy Board Act, 1998 for certain amendments to
distribution licences ED-2002-0572 and ED-2004-0405, and
transmission licence ET-2003-0073.

By delegation, before: Mark C. Garner

DECISION AND ORDER

The Application

On June 2, 2006, Canadian Niagara Power Inc. ("CNPI") and Cornwall Street Railway Light and Power Company Limited ("Cornwall Electric") (collectively the "Applicants") filed applications with the Ontario Energy Board (the "Board") requesting certain amendments to the distribution licences of CNPI (ED-2002-0572) and Cornwall Electric (ED-2004-0405), and to the transmission licence of CNPI (ET-2003-0073). The requested licence amendments would allow CNPI and Cornwall Electric to amend their services agreements without Board approval, and provide tax services under section 1.01(r) of the services agreements without prior notice to the Board.

The Applicants have requested that the Board dispose of this matter without a hearing under section 21(4)(b) of the *Ontario Energy Board Act, 1998* (the "Act") as no person will be adversely affected in a material way by the outcome of this proceeding.

The amendments are granted as requested.

Background

By application dated October 7, 2003, Fortis Ontario Inc. ("FTO") applied to the Board under section 74 of the Act for amendments to the licences of its subsidiaries CNPI and Cornwall Electric. The requested amendments consisted of exemptions from certain sections of the Affiliate Relationships Code for Electricity Distributors and Transmitters (the "Code"), related to physical separation, confidential information and employee sharing.

By Decision and Order RP-2003-0254/EB-2003-0318, dated August 31, 2004, the Board granted the requested Code exemptions in respect of CNPI's transmission and distribution licences. The exemptions were granted so that the affiliates involved could benefit from shared corporate services. However, that Decision and Order stated that there were concerns that the cost mechanism and cost allocation provisions contained in the then current services agreement were not as detailed as they should be and that it was expected that FTO and the affiliated entities would update the services agreement to reflect the new cost mechanism and cost allocation methodology.

The exemptions were therefore subject to a list of conditions, including:

(c) The Licensee shall not amend the Services Agreement without the prior approval of the Board; ...and

(e) The Licensee shall provide prior notice to the Board of its intention to provide or receive any services under section 1.01(r) of the Services Agreement [tax services].

By Decision and Order EB-2004-0405, dated November 10, 2004, the Board granted corresponding Code exemptions to Cornwall Electric, with corresponding conditions.

Review of the Application

Pursuant to subsection 6(1) of the Act, I have been delegated the power and duties of the Board with respect to the determination of applications made under section 74 of the Act. This Decision and Order is made under the authority of that delegation and is based on the submissions filed in this proceeding.

The Applicants state that they have updated all their cost allocations. The Applicants also

state that the current cost allocations and methodology have been independently reviewed and approved by management consulting firm Barker, Dunn & Rossi ("BD&R"). In its "Review of Allocation of Corporate and Shared Costs to Regulated Business Units" (dated September 1, 2005), BD&R states that the various aspects of FTO's cost allocation methodology are "reasonable and consistent with acceptable methods of distribution cost allocation."

It is not within the purview of this proceeding to conduct a definitive review of the Applicants' cost allocations and methodology. However, for the purposes of this application, I am satisfied that the Applicants have taken all reasonable steps to address the concerns that were identified in RP-2003-0254/EB-2003-0318. I also note that no other licence holder is subject to the two conditions that the Applicants are asking to have removed. For these reasons, the amendments are granted as requested.

I also find that no person will be adversely affected in a material way by the outcome of this proceeding, and therefore have disposed of this matter without a hearing.

IT IS ORDERED THAT:

1. Schedule 3 of Canadian Niagara Power Inc.'s distribution licence (ED-2002-0572) is replaced with the revised Schedule 3 attached as Appendix A to this decision and order.
2. Schedule 2 of Canadian Niagara Power Inc.'s transmission licence (ET-2003-0073) is replaced with revised Schedule 2 attached as Appendix C to this decision and order.
3. Schedule 3 of Cornwall Street Railway Light and Power Company Limited's distribution licence (ED-2004-0405) is replaced with the revised Schedule 3 attached as Appendix B to this decision and order.

Under section 7(1) of the *Ontario Energy Board Act, 1998*, this decision may be appealed to the Board within 15 days.

DATED at Toronto, November 20, 2006

ONTARIO ENERGY BOARD

Original signed by

Mark C. Garner
Managing Director, Market Operations

Appendix A
to
Decision and Order

EB-2006-0131

Canadian Niagara Power Inc. (ED-2002-0572)

November 20, 2006

Appendix B
to
Decision and Order

EB-2006-0132

Canadian Niagara Power Inc. (ET-2003-0073)

November 20, 2006

Appendix C
to
Decision and Order

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Cornwall Street Railway Light and Power company Limited (ED-2004-0405)

November 20 2006

SCHEDULE 3 LIST OF CODE EXEMPTIONS

This Schedule specifies any specific Code requirements from which the Licensee has been exempted.

1. The Licensee is exempt from the requirements of the following sections of the Affiliate Relationships Code for Electricity and Transmitters under the conditions specified in section 2 of this Schedule:

Section 2.1.2

A utility shall be physically separated from any affiliate who is an energy service provider.

Section 2.2.2

Where a utility shares information services with an affiliate, all confidential information must be protected from access by the affiliate. Access to a utility's information services shall include appropriate computer data management and data access protocols as well as contractual provisions regarding the breach of any access protocols. Compliance with the access protocols and the Services Agreement shall be ensured as necessary, through a review which complies with the provisions of section 5900 of the CICA Handbook. The Board may provide direction regarding the terms of the section 5900 review. The results of any review shall be made available to the Board.

Section 2.2.3

A utility may share employees with an affiliate provided that the employees to be shared are not directly involved in collecting, or have access to, confidential information.

Section 2.2.4

A utility shall not share with an affiliate that is an energy service provider employees that carry out the day-to-day operation of the utility's transmission or distribution network.

2. The Exemptions from the requirements of the Affiliate Relationship Code for Electricity Distributors and Transmitters referred to section 1 of this Schedule (the "Exemptions") are subject to the following conditions:

- a) The exemptions only apply in respect of the relationship between the Licensee and the following affiliates and not with respect to any other affiliates of the Licensee:
 - Fortis Ontario Inc.;
 - Fortis Ontario Generation Corporation; and
 - Cornwall Street Railway Light & Power Company Limited.
 - b) The Licensee shall not share facilities, confidential information or employees with any affiliate identified in paragraph a) for any purpose other than the provision of services to, or the receipt of services from, the affiliate under the Services Agreement dated July 23, 2003 (the "Services Agreement") as filed with the Board as part of the materials filed in support of the application for the Exemptions, as such Services Agreement may be amended from time to time..
 - c) The activities of the Licensee relative to the affiliates identified in paragraph a) shall be governed by, and the Licensee shall be bound by and comply with, the Services Agreement, as amended from time to time.
 - d) The Licensee shall notify the Board of any material change relative to the materials filed in support of the application for the Exemptions as soon as possible upon becoming aware of such change and in no event later than fifteen days following the date on which the change occurs. Without limiting the generality of the foregoing, this obligation includes notifying the Board in the event of a change in the market activities of either FortisOntario Inc. or FortisOntario Generation Corporation.
 - e) The Board may, on its own initiative or upon receipt of notice from the Licensee under paragraph f), by order revoke one or more of the Exemptions, vary one or more of the conditions set out above or impose additional conditions upon becoming aware of any material change relative to the materials filed in support of the application for Exemptions, or for such other reason as the Board considers appropriate.
3. The Licensee is exempt from the requirements of section 2.5.3 of the Standard Supply Service Code with respect to the price for small/residential consumers, subject to the Licensee offering an equal billing plan as described in its application for exemption from the Fixed

Reference Price, and meeting all other undertakings and material representations contained in the application and the materials filed in connection with it.

SCHEDULE 2 LIST OF CODE EXEMPTIONS

This Schedule specifies any specific Code requirements from which the Licensee has been exempted.

1. The Licensee is exempt from the requirements of the following sections of the Affiliate Relationships Code for Electricity and Transmitters under the conditions specified in section 2 of this Schedule:

Section 2.1.2

A utility shall be physically separated from any affiliate who is an energy service provider.

Section 2.2.2

Where a utility shares information services with an affiliate, all confidential information must be protected from access by the affiliate. Access to a utility's information services shall include appropriate computer data management and data access protocols as well as contractual provisions regarding the breach of any access protocols. Compliance with the access protocols and the Services Agreement shall be ensured as necessary, through a review which complies with the provisions of section 5900 of the CICA Handbook. The Board may provide direction regarding the terms of the section 5900 review. The results of any review shall be made available to the Board.

Section 2.2.3

A utility may share employees with an affiliate provided that the employees to be shared are not directly involved in collecting, or have access to, confidential information.

Section 2.2.4

A utility shall not share with an affiliate that is an energy service provider employees that carry out the day-to-day operation of the utility's transmission or distribution network.

2. The exemptions from the requirements of the Affiliate Relationship Code for Electricity Distributors and Transmitters referred to section 1 of this Schedule (the "Exemptions") are subject to the following conditions:
 - a) The Exemptions only apply in respect of the relationship between the Licensee and the following affiliates and not with respect to any other affiliates of the Licensee:

- FortisOntario Inc.;
 - FortisOntario Generation Corporation; and
 - Cornwall Street Railway Light & Power Company Limited.
- b) The Licensee shall not share facilities, confidential information or employees with any affiliate identified in paragraph a) for any purpose other than the provision of services to, or the receipt of services from, the affiliate under the Services Agreement dated July 23, 2003 (the "Services Agreement") as filed with the Board as part of the materials filed in support of the application for the Exemptions, as such Services Agreement may be amended from time to time.
- c) The activities of the Licensee relative to the affiliates identified in paragraph a) shall be governed by, and the Licensee shall be bound by and comply with, the Services Agreement, as amended from time to time.
- d) The Licensee shall notify the Board of any material change relative to the materials filed in support of the application for the Exemptions as soon as possible upon becoming aware of such change and in no event later than fifteen days following the date on which the change occurs. Without limiting the generality of the foregoing, this obligation includes notifying the Board in the event of a change in the market activities of either FortisOntario Inc. or FortisOntario Generation Corporation.
- e) The Board may, on its own initiative or upon receipt of notice from the Licensee under paragraph f), by order revoke one or more of the Exemptions, vary one or more of the conditions set out above or impose additional conditions upon becoming aware of any material change relative to the materials filed in support of the application for Exemptions, or for such other reason as the Board considers appropriate.

SCHEDULE 3 LIST OF CODE EXEMPTIONS

This Schedule specifies any specific Code requirements from which the Licensee has been exempted.

1. The Licensee is exempt from the requirements of the Retail Settlement Code.
2. The Licensee is exempt from the requirements of the Standard Supply Service Code.
3. The Licensee is exempt from the following requirements of the Distribution System Code:
 - a) sections 2.4.3, 2.4.6 and 2.4.7 (Specific requirements for Conditions of Service);
 - b) section 3.1.4 (Requirement for specific residential basic connection);
 - c) sections 3.2.1 and 3.2.5 to 3.2.9 (Requirements for capital contributions);
 - d) sections 5.1.3, 5.1.4, 5.1.5 and 5.3.4 (Requirements relating to the provision and treatment of MIST interval meters and their data); and
 - e) Sections 5.2 and 6.2 (Requirements for connection and metering of generators).
4. The Licensee is exempt from the requirements of the following sections of the Affiliate Relationships Code for Electricity Distributors and Transmitters under the conditions specified in section 5 of this Schedule:

Section 2.1.2

A utility shall be physically separated from any affiliate who is an energy service provider.

Section 2.2.2

Where a utility shares information services with an affiliate, all confidential information must be protected from access by the affiliate. Access to a utility's information services shall include appropriate computer data management and data access protocols as well as contractual provisions regarding the breach of any access protocols. Compliance with the access

protocols and the Services Agreement shall be ensured as necessary, through a review which complies with the provisions of section 5900 of the CICA Handbook. The Board may provide direction regarding the terms of the section 5900 review. The results of any review shall be made available to the Board.

Section 2.2.3

A utility may share employees with an affiliate provided that the employees to be shared are not directly involved in collecting, or have access to, confidential information.

Section 2.2.4

A utility shall not share with an affiliate that is an energy service provider employees that carry out the day-to-day operation of the utility's transmission or distribution network.

5. The Exemptions from the requirements of the Affiliate Relationships Code for Electricity Distributors and Transmitters referred to section 4 of this Schedule (the "Exemptions") are subject to the following conditions:
 - a) The Exemptions only apply in respect of the relationship between the Licensee and the following affiliates and not with respect to any other affiliates of the Licensee:
 - FortisOntario Inc.;
 - FortisOntario Generation Corporation; and
 - Canadian Niagara Power Inc.
 - b) The Licensee shall not share facilities, confidential information or employees with any affiliate identified in paragraph a) for any purpose other than the provision of services to, or the receipt of services from, the affiliate under the Services Agreement dated July 23, 2003 (the "Services Agreement") as filed with the Board as part of the materials filed in support of the application for the Exemptions, as such Services Agreement may be amended from time to time.
 - c) The activities of the Licensee relative to the affiliates identified in paragraph a) shall be governed by, and the Licensee shall be bound by and comply with, the Services Agreement, as amended from time to time.

- d) The Licensee shall notify the Board of any material change relative to the materials filed in support of the application for the Exemptions as soon as possible upon becoming aware of such change and in no event later than fifteen days following the date on which the change occurs. Without limiting the generality of the foregoing, this obligation includes notifying the Board in the event of a change in the market activities of either FortisOntario Inc. or FortisOntario Generation Corporation.
- e) The Board may, on its own initiative or upon receipt of notice from the Licensee under paragraph f), by order revoke one or more of the Exemptions, vary one or more of the conditions set out above or impose additional conditions upon becoming aware of any material change relative to the materials filed in support of the application for Exemptions, or for such other reason as the Board considers appropriate.