



EB-2010-0386

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 Erie Thamess Powerlines Corporation under section 86(1)(c) of the *Ontario Energy Board Act, 1998* seeking an order for leave to amalgamate;

AND IN THE MATTER OF an application by Erie Thamess Powerlines Corporation, West Perth Power Inc. and Clinton Power Corporation under section 74 of the *Ontario Energy Board Act, 1998* seeking an order to amend Erie Thamess Powerlines Corporation's electricity distribution licence;

AND IN THE MATTER OF a request by Erie Thamess Powerlines Corporation, West Perth Power Inc. and Clinton Power Corporation under section 77(5) of the *Ontario Energy Board Act, 1998* seeking the cancellation of the electricity distribution licences of West Perth Power Inc. and Clinton Power Corporation.

BEFORE: Paul Sommerville
Presiding Member

DECISION AND ORDER

On December 24, 2010, Erie Thamess Powerlines Corporation ("Erie Thamess") filed an application with the Ontario Energy Board under section 86(1)(c) of the *Ontario Energy Board Act, 1998* (the "Act"), seeking leave of the Board to amalgamate with West Perth Power Inc. ("West Perth") and Clinton Power Corporation ("Clinton Power").

Erie Thamess, West Perth, and Clinton Power (the "Distributors") have requested, under section 77(5) of the Act, that the electricity distribution licences of West Perth and

Clinton Power be canceled if the Board grants leave to Erie Thames to amalgamate and the transaction closes.

The Distributors have also applied under section 74 of the Act for an amendment of Erie Thames' electricity distribution licence to:

- (a) include in its service area the areas currently served by West Perth and Clinton Power;
- (b) incorporate the conservation and demand management targets of West Perth and Clinton Power.

The Distributors are each 100% owned by ERTH Corporation, a holding company that is owned by the following nine municipalities: Town of Ingersoll, Township of East Zorra – Tavistock, Township of Zorra, Municipality of Central Elgin, Township of South-West Oxford, Town of Aylmer, Municipality of Central Huron, Municipality of West Perth, and Township of Norwich.

ERTH Corporation has owned 100% of Erie Thames since its incorporation on July 7, 2000. On October 8, 2009, the Board approved the acquisition of all the shares of West Perth and Clinton Power by ERTH Corporation. The Distributors have remained distinct legal entities operating under separate licences with common corporate and financial oversight from ERTH Corporation. The proposed amalgamation would create a single legal entity operating under the Erie Thames licence.

A Notice of Application and Hearing was issued on January 12, 2011 and published as directed by the Board on January 19, 2011. The Power Workers' Union and Ms. Pamela Stanley requested observer status. The Board has granted these requests.

The Board has proceeded by way of a written hearing.

Board Findings

The full record of this proceeding is available for review at the Board's offices. While the Board has considered the full record, the Board has summarized and referred only to those portions of the record that it considers helpful to provide context to its findings.

The "No Harm" Test

Section 86(1)(c) of the Act provides that no transmitter or distributor, without first obtaining an order from the Board granting leave, shall amalgamate with any other corporation.

In determining whether to approve this application, the Board has been guided by the principles set out in the Board's decision in the combined MAADs proceeding (Board File Numbers RP-2005-0018/EB-2005-0234/EB-2005-0254/EB-2005-0257). In that decision, the Board ruled that the "no harm" test is the relevant test when the Board considers applications for leave to acquire shares or amalgamate under section 86 of the Act. The "no harm" test involves consideration of whether the proposed transaction would have an adverse effect relative to the status quo in relation to the Board's statutory objectives. If the proposed transaction would have a positive or neutral effect on the attainment of the statutory objectives, then the application should be granted. The statutory objectives to be considered are those set out in section 1 of the Act, namely:

1. to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service; and
2. to promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

Erie Thames has made the following submissions in support of its application:

- The proposed transaction meets the "no harm" test established by the Board and will have no adverse effect on the Board's objectives outlined in section 1 of the Act.

- There will be cost savings and operational efficiencies by amalgamating the Distributors through reductions in administrative, governance, audit and regulatory costs and resources. Erie Thames estimates annual cost savings of approximately \$91,700 beginning in 2012 as a result of the merger.
- There will be no changes to expected response times as existing service centres in each of the Distributors' service areas will remain for the foreseeable future.
- There will be minimal legal and filing costs associated with the proposed transaction owing to common ownership and the proposed short form amalgamation.

The rates for West Perth and Clinton Power were approved in 2010. Erie Thames is due to file a cost of service application in 2011 and has stated that if the proposed transaction is approved, it will apply for rates for West Perth and Clinton Power as part of the cost of service application. The application also states that as part of the cost of service application, rate harmonization is being considered although full rate harmonization is not expected as part of the cost of service application process.

Based on the evidence in this proceeding, the Board concludes that the proposed amalgamation will not have an adverse effect in terms of the factors identified in the Board's objectives in section 1 of the Act. Accordingly, the Board finds that the proposed amalgamation passes the "no harm" test.

Given that the Board is granting leave for the amalgamation of the Distributors, the Board finds that it is in the public interest to cancel the distribution licences of West Perth and Clinton Power. When the transaction has been concluded and Erie Thames gives notice to the Board, the distribution licence of Erie Thames' will be amended to:

- (a) include in its service area the areas currently served by West Perth and Clinton Power; and
- (b) incorporate the conservation and demand management targets of West Perth and Clinton Power.

Net Metering Thresholds

The current net metering thresholds for Erie Thames, West Perth and Clinton Power are 712 kW, 114 kW and 60 kW respectively. Erie Thames has submitted that there are no special circumstances that warrant using a different methodology to determine the net metering threshold. The Board accepts that there are no special circumstances present and will therefore add together the net metering thresholds for Erie Thames, West Perth and Clinton Power to determine the net metering threshold for the amalgamated company.

THE BOARD ORDERS THAT:

1. Erie Thames is granted leave to amalgamate with West Perth and Clinton Power.
2. The Board's leave to amalgamate shall expire 18 months from the date of this Decision and Order. If the transaction has not been completed by that date, a new application for leave to amalgamate will be required in order for the transaction to proceed.
3. Erie Thames shall promptly notify the Board of the completion of the transaction.
4. Once the notice referred to in number 3 above has been provided to the Board, the Board will amend the electricity distribution licence of Erie Thames to:
 - (a) include the service areas of West Perth and Clinton Power; and
 - (b) incorporate the conservation and demand management targets of West Perth and Clinton Power.
5. Once the notice referred to in number 3 above has been provided to the Board, the Board will cancel the electricity distribution licences of West Perth (ED-2002-0508) and Clinton Power (ED-2002-0496).
6. Once the notice referred to in number 3 above has been provided to the Board, the net metering threshold for the amalgamated company will be 886 kW.

ISSUED at Toronto, March 24, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary