



**EB-2011-0291**

**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 EnWin  
Utilities Ltd. to amend its Electricity Distribution Licence ED-  
2002-0527

**By delegation, before:** Jennifer Lea

## **DECISION AND ORDER**

### **BACKGROUND**

On August 8, 2011, EnWin Utilities Ltd. (“EnWin”) filed an application with the Ontario Energy Board under section 74 of the *Ontario Energy Board Act, 1998* (the “OEB Act”) to amend its electricity distribution licence ED-2002-0527 to exempt EnWin from sections 2.6.6 to 2.6.6.3 of the Distribution System Code (“DSC”) until January 1, 2013. The Board assigned file number EB-2011-0291 to the application.

Notice of EnWin’s application was given, inviting submissions from interested parties on the application. On October 4, 2011, the Board received a submission from one of EnWin’s customers, Mr. R. J. Potomski, in which he raised a jurisdictional issue and requested an interim order. On October 13, 2011, the Board issued a letter advising Mr. Potomski that the Board would address the jurisdictional issue raised as part of its decision on the merits of EnWin’s application and that if he wished to make a submission on the merits of the application, the submission should be filed with the Board by the date specified in the notice, October 18, 2011. Board staff filed a

submission on the merits of the application, and on October 25, 2011, EnWin filed its reply submission responding to both the jurisdictional issue raised by Mr. Potomski and Board staff's submission on the merits of the application.

On November 2, 2011, Mr. Potomski filed a submission with respect to the jurisdictional issue raised in his original submission and on the merits of EnWin's application. On November 4, 2011, EnWin filed a letter with the Board submitting that as Mr. Potomski's November 2<sup>nd</sup> submission was filed late and subsequent to Enwin's reply submission, it was prejudicial to EnWin. Enwin asked that the Board remove the November 2<sup>nd</sup> submission from the public record and disregard the submission in making its decision.

### **THE APPLICATION**

As indicated above, EnWin seeks to amend its electricity distribution licence ED-2002-0527 to reflect an exemption from sections 2.6.6 to 2.6.6.3 of the DSC until January 1, 2013. The subject sections of the DSC are reproduced at Appendix A to this decision. Among other things, these sections of the DSC direct electricity distributors issuing customer bills that include charges other than electricity,

- (a) to allocate partial payments received from a customer, first to electricity charges and then to non-electricity charges, and
- (b) refrain from imposing late payment charges, issuing a disconnection notice or disconnecting electricity supply, where the payment received from the customer is sufficient to cover electricity charges, security deposits and billing adjustments.

EnWin is the billing contractor for the Windsor Utilities Commission in respect of water and waste water billing. The electricity bill for the majority of EnWin's customers includes charges for water and waste water services in addition to charges relating to electricity services. EnWin performs its billing function through a customer information system ("CIS") which is programmed on the basis of allocated partial payments among the three utility services, and does not allocate partial payments first to electricity services.

EnWin proposes to make the changes to its CIS by January 1, 2013 that are necessary to meet the subject provisions of the DSC. This will be accomplished as part of a project that EnWin has undertaken to replace its current CIS. Enwin's evidence indicates that bringing the system into compliance with the DSC as part of the overall

CIS replacement project would be more cost effective than making a series of incremental revisions to the current CIS. EnWin will incur costs to enable its replacement CIS to differentially allocate partial payments regardless of any investments in the existing CIS. The evidence also suggests that making these changes as part of the CIS replacement project would reduce the risk of EnWin's non-compliance with other regulatory requirements that are managed through its CIS.

## FINDINGS

### Legislative Framework

Mr. Potomski, a customer of Enwin, submitted in his letters of October 4, 2011 and November 2, 2011 that Enwin does not have the statutory authority to collect money owed to the Windsor Utilities Commission or the City of Windsor, and that Enwin is not in compliance with the *Collection Agencies Act*, R.S.O. 1990 c. C.14. He further submitted that the Ontario Energy Board does not, under the OEB Act, have the jurisdiction to grant the relief sought by Enwin, nor to give Enwin the authority to collect money for a third party.

Section 71 of the OEB Act deals with the permitted business activities of transmitters and distributors, and restricts that business activity to transmitting and distributing electricity. However, Ontario Regulation 161/99 under the OEB Act, entitled "Definitions and Exemptions", provides a specific exemption for municipal water and sewage services. Section 5(2) of the Regulation reads:

5. (2) Section 71 of the Act does not apply to a distributor if the only business activity that the distributor carries on, other than distributing electricity, is managing or operating the provision of water or sewage services on behalf of a municipal corporation that owns, directly or indirectly, by itself or with one or more other municipal corporations, voting securities carrying more than 50 per cent of the voting rights attached to all voting securities of the distributor.

Enwin's relationship and arrangements with the City of Windsor and the Windsor Utilities Commission mean that its activities related to water and sewage services are permitted under this provision.

Mr. Potomski further submitted that the *Collection Agencies Act* applies to Enwin's billing activity on behalf of the Windsor Utilities Commission, and that Enwin is out of compliance with that statute. In his letter of November 2, 2011, Mr. Potomski asked the Board to impose several sanctions on Enwin, its officers and directors, the Windsor Utilities Commission and the City of Windsor for failure to comply with the *Collection Agencies Act*. Mr. Potomski submitted that it is only under the *Collection Agencies Act* that the Board can regulate the activities of Enwin in regard to billing for services other than electricity.

It is a general principle of statutory interpretation that legislation that deals specifically with a topic prevails over legislation that is more general. There are specific provisions in the OEB Act relating to the licensing of distributors and conditions that may be imposed in those licences that, in my view, prevail over the provisions of the *Collection Agencies Act*. Of particular relevance in this case are the provisions in section 70(2)(d)(ii.1) of the OEB Act:

#### Licence conditions

70. (1) A licence under this Part may prescribe the conditions under which a person may engage in an activity set out in section 57 and a licence may also contain such other conditions as are appropriate having regard to the objectives of the Board and the purposes of the *Electricity Act, 1998*, 1998, c. 15, Sched. B...

#### Examples of conditions

(2) The conditions of a licence may include provisions,

...

- (d) governing the conduct of the licensee, including the conduct of,
  - (i) a transmitter or distributor as that conduct relates to its affiliates,
  - (ii) a distributor as that conduct relates to a retailer,
  - (ii.1) a distributor or suite meter provider as such conduct relates to,
    - (A) the disconnection of the supply of electricity to a consumer, including the manner in which and the time within which the disconnection takes place or is to take place,
    - (B) the manner, timing and form in which the notice under subsection 31 (2) of the *Electricity Act, 1998* is to be provided to the consumer, and
    - (C) subject to the regulations, the manner and circumstances in which security is to be provided or not to be provided by a consumer to a distributor or suite meter provider, including,

- (1) the interest rate to be applied to amounts held on deposit and payable by the distributor or suite meter provider to the consumer for the amounts,
- (2) the manner and time or times by which the amounts held on deposit may or must be paid or set-off against amounts otherwise due or payable by the consumer,
- (3) the circumstances in which security need not be provided or in which specific arrangements in respect of security may or must be provided by the distributor or suite meter provider to the consumer, and
- (4) such other matters as the Board may determine in respect of security deposits.

These sections give the Board the ability to impose very specific conditions on distributors dealing with customer service and disconnection. Similarly, section 5(2) of Ontario Regulation 161/99 deals specifically with the provision of water and sewage services by electricity distributors for their shareholder municipalities. I find that the specific provisions of the OEB Act and Ontario Regulation 161/99 prevail over the more general provisions of the *Collection Agencies Act*, and it is under the OEB Act, the *Electricity Act*, 1998, S.O. 1998 c. 15, Sched A (the “Electricity Act”), and the regulations under those Acts that the Board can prescribe codes, and grant exemptions to those codes, relating to billing and collection by distributors for services other than electricity.

### **The Merits of the Application**

Board staff supported the application. Mr. Potomski did not, arguing that Enwin did not present any factual evidence to support its claim that early modifications to its CIS to enable it to comply with the DSC provisions would be risky and imprudent. In addition, Mr. Potomski argued that Enwin had had ample time to notify the Board of any problems it had in complying with a decision made by the Board nearly a year ago.

I find that the evidence presented by Enwin is sufficient to support the relief sought. The utility explained in some detail the difficulties it presently faces in complying with the relevant provisions of the DSC, and its plan for bringing its CIS into compliance with those provisions. A factor in this decision was the delay permitted by the Board under section 2.6.6.1 of the DSC, which exempts distributors operating under certain renewable billing agreements from applying the new allocation rules until the earlier of

the renewal date or two years. The period for which the exemption is sought by Enwin is not excessive. It was Enwin's evidence that it had anticipated being covered by section 2.6.6.1, but found that the renewal date of its services agreement was a year earlier than anticipated. The exemption sought by Enwin does not appear to be inconsistent with the Board's policy, provided that it indeed comes into compliance on or before January 1, 2013.

In making findings on jurisdiction and the merits of the application, I have considered both letters from Mr. Potomski, dated October 4, 2011 and November 2, 2011. Enwin, by letter dated November 4, 2011 urged the Board not to consider the November 2, 2011 letter, as it was filed late and received after Enwin's reply submission, creating a situation prejudicial to Enwin. However, given my findings in regard to the issues put forward by Mr. Potomski, no harm to Enwin has resulted from the Board's consideration of the late filing.

### **Compliance with Section 31(1) of the Electricity Act**

Board staff supported the temporary exemption sought by Enwin. However, Board staff submitted that should the Board grant the exemption, "such exemption should not be construed as an authorization to disconnect customers' electricity supply for non-payment of overdue amounts relating to services other than electricity services". Staff submitted that section 31(1) of the *Electricity Act* permits a distributor to shut off distribution of electricity to a customer only for failure to pay for the distribution or retail of electricity, not for overdue payments for other services. In staff's view, any notice of electricity supply disconnection Enwin sends to a customer must include only amounts owing related to electricity services, and if that amount is paid, disconnection cannot occur even if amounts for other services remain outstanding.

Enwin replied to the Board staff submission, emphasizing the practical difficulties under its present CIS with isolating amounts owing to electricity from amounts owing for other services. Enwin indicated that under the present CIS, partial payments cannot be prioritized differently during a disconnection process than at other times. Enwin also submitted that bifurcating the payment process for overdue bills would result in two disconnection notices stemming from a single bill, making the situation complicated and confusing for customers. Enwin submitted that it is in compliance with section 31(1) of the *Electricity Act* and will be compliant with section 2.6.6 of the DSC after it installs its

new CIS. Enwin also emphasized that its present multiple utility services billing system is comprehensible and cost efficient.

The question of whether Enwin's billing system is compliant with section 31(1) of the *Electricity Act* is not before me in this application. This is not a compliance proceeding on that issue. I make no specific finding or order as to whether the allocation procedure in Enwin's present CIS, and the disconnection protocol that results from it, is compliant with section 31(1) of the *Electricity Act*. Enwin proceeds with that protocol at its own risk.

This decision was made by an employee of the Board under the authority of section 6(1) of the *OEB Act*. Under section 7 of that Act, this decision and order may be appealed to the Board within 15 days.

**IT IS ORDERED THAT:**

1. EnWin's Electricity Distribution Licence (ED-2002-0527), specifically Schedule 3 of the licence, is amended to reflect an exemption from the requirements of sections 2.6.6 to 2.6.6.3 of the Distribution System Code. This exemption will expire on January 1, 2013.

**DATED** at Toronto, December 12, 2011

**ONTARIO ENERGY BOARD**

*Original Signed By*

Jennifer Lea  
Counsel, Special Projects

**Appendix A to  
Decision and Order  
EB-2011-0291**

- 2.6.6 Where a bill issued to a residential customer includes charges for goods or services other than electricity charges, a distributor shall allocate any payment made by the customer first to the electricity charges and then, if funds are remaining, to the charges for other goods or services.
- 2.6.6.1 Section 2.6.6 does not apply to existing joint billing agreements until the renewal date of such agreements or 2 years, whichever comes earlier, and thereafter the provisions of section 2.6.6 will be deemed applicable.
- 2.6.6.2A Where payment on account of a bill referred to in section 2.6.6 or 2.6.6.1 is sufficient to cover electricity charges, security deposits and billing adjustments, the distributor shall not impose late payment charges, issue a disconnection notice or disconnect electricity supply.
- 2.6.6.2B Subject to section 2.6.6.1, where payment on account of a bill referred to in section 2.6.6 or 2.6.6.1 is not sufficient to cover electricity charges, security deposits and billing adjustments, the distributor shall allocate the payments in the following order: electricity charges as defined in section 2.6.6.3, payments towards an arrears payment agreement, outstanding security deposit, underbilling adjustments and non-electricity charges.
- 2.6.6.3 For the purposes of this section, “electricity charges” are:
- (a) charges that appear under the sub-headings “Electricity”, “Delivery”, “Regulatory Charges” and “Debt Retirement Charge” as described in Ontario Regulation 275/04 (*Information on Invoices to Low-volume Consumers of Electricity*) made under the Act, and all applicable taxes on those charges;
  - (b) where applicable, charges prescribed by regulations under section 25.33 of the *Electricity Act* and all applicable taxes on those charges; and
  - (c) Board-approved specific service charges, including late payment charges, and such other charges and applicable taxes associated with the consumption of electricity as may be required by law to be included on the bill issued to the customer or as may be designated by the Board for the purposes of this section, but not including security deposits or amounts owed by a customer pursuant to an arrears payment agreement or a billing adjustment.





# Electricity Distribution Licence

## ED-2002-0527

### ENWIN Utilities Ltd.

Valid Until

December 17, 2023

*Original Signed By*

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**Jennifer Lea**

**Counsel, Special Projects**

**Ontario Energy Board**

**Date of Issuance: December 18, 2003**

**Date of Amendment: June 24, 2004**

**Date of Amendment: June 1, 2005**

**Date of Amendment: November 23, 2007**

**Date of Amendment: November 12, 2010**

**Date of Amendment: April 13, 2011**

**Date of Amendment: December 12, 2011**

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

Commission de l'énergie de l'Ontario  
C.P. 2319  
2300, rue Yonge  
27e étage  
Toronto ON M4P 1E4

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## 1 Definitions

In this Licence:

**“Accounting Procedures Handbook”** means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

**“Act”** means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

**“Affiliate Relationships Code for Electricity Distributors and Transmitters”** means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

**“Conservation and Demand Management”** and **“CDM”** means distribution activities and programs to reduce electricity consumption and peak provincial electricity demand;

**“Conservation and Demand Management Code for Electricity Distributors”** means the code approved by the Board which, among other things, establishes the rules and obligations surrounding Board approved programs to help distributors meet their CDM Targets;

**“distribution services”** means services related to the distribution of electricity and the services the Board has required distributors to carry out, including the sales of electricity to consumers under section 29 of the Act, for which a charge or rate has been established in the Rate Order;

**“Distribution System Code”** means the code approved by the Board which, among other things, establishes the obligations of the distributor with respect to the services and terms of service to be offered to customers and retailers and provides minimum, technical operating standards of distribution systems;

**“Electricity Act”** means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

**“Licensee”** means EnWin Utilities Ltd.

**“Market Rules”** means the rules made under section 32 of the Electricity Act;

**“Net Annual Peak Demand Energy Savings Target”** means the reduction in a distributor’s peak electricity demand persisting at the end of the four-year period (i.e. December 31, 2014) that coincides with the provincial peak electricity demand that is associated with the implementation of CDM Programs;

**“Net Cumulative Energy Savings Target”** means the total amount of reduction in electricity consumption associated with the implementation of CDM Programs between 2011-2014;

**“OPA”** means the Ontario Power Authority;

**“Performance Standards”** means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

**“Provincial Brand”** means any mark or logo that the Province has used or is using, created or to be created by or on behalf of the Province, and which will be identified to the Board by the Ministry as a provincial mark or logo for its conservation programs;

**“Rate Order”** means an Order or Orders of the Board establishing rates the Licensee is permitted to charge;

**“regulation”** means a regulation made under the Act or the Electricity Act;

**“Retail Settlement Code”** means the code approved by the Board which, among other things, establishes a distributor’s obligations and responsibilities associated with financial settlement among retailers and consumers and provides for tracking and facilitating consumer transfers among competitive retailers;

**“service area”** with respect to a distributor, means the area in which the distributor is authorized by its licence to distribute electricity;

**“Standard Supply Service Code”** means the code approved by the Board which, among other things, establishes the minimum conditions that a distributor must meet in carrying out its obligations to sell electricity under section 29 of the Electricity Act;

**“wholesaler”** means a person that purchases electricity or ancillary services in the IESO administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IESO-administered markets or directly to another person other than a consumer.

## **2 Interpretation**

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens and where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

## **3 Authorization**

- 3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence:
- a) to own and operate a distribution system in the service area described in Schedule 1 of this Licence;

- b) to retail electricity for the purposes of fulfilling its obligation under section 29 of the Electricity Act in the manner specified in Schedule 2 of this Licence; and
- c) to act as a wholesaler for the purposes of fulfilling its obligations under the Retail Settlement Code or under section 29 of the Electricity Act.

#### **4 Obligation to Comply with Legislation, Regulations and Market Rules**

- 4.1 The Licensee shall comply with all applicable provisions of the Act and the Electricity Act and regulations under these Acts, except where the Licensee has been exempted from such compliance by regulation.
- 4.2 The Licensee shall comply with all applicable Market Rules.

#### **5 Obligation to Comply with Codes**

- 5.1 The Licensee shall at all times comply with the following Codes (collectively the “Codes”) approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board. Any exemptions granted to the licensee are set out in Schedule 3 of this Licence. The following Codes apply to this Licence:
  - a) the Affiliate Relationships Code for Electricity Distributors and Transmitters;
  - b) the Distribution System Code;
  - c) the Retail Settlement Code; and
  - d) the Standard Supply Service Code.
- 5.2 The Licensee shall:
  - a) make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and
  - b) provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

#### **6 Obligation to Provide Non-discriminatory Access**

- 6.1 The Licensee shall, upon the request of a consumer, generator or retailer, provide such consumer, generator or retailer with access to the Licensee’s distribution system and shall convey electricity on behalf of such consumer, generator or retailer in accordance with the terms of this Licence.

#### **7 Obligation to Connect**

- 7.1 The Licensee shall connect a building to its distribution system if:
  - a) the building lies along any of the lines of the distributor’s distribution system; and

- b) the owner, occupant or other person in charge of the building requests the connection in writing.

7.2 The Licensee shall make an offer to connect a building to its distribution system if:

- a) the building is within the Licensee's service area as described in Schedule 1; and
- b) the owner, occupant or other person in charge of the building requests the connection in writing.

7.3 The terms of such connection or offer to connect shall be fair and reasonable and made in accordance with the Distribution System Code, and the Licensee's Rate Order as approved by the Board.

7.4 The Licensee shall not refuse to connect or refuse to make an offer to connect unless it is permitted to do so by the Act or a regulation or any Codes to which the Licensee is obligated to comply with as a condition of this Licence.

## **8 Obligation to Sell Electricity**

8.1 The Licensee shall fulfill its obligation under section 29 of the Electricity Act to sell electricity in accordance with the requirements established in the Standard Supply Service Code, the Retail Settlement Code and the Licensee's Rate Order as approved by the Board.

## **9 Obligation to Maintain System Integrity**

9.1 The Licensee shall maintain its distribution system in accordance with the standards established in the Distribution System Code and Market Rules, and have regard to any other recognized industry operating or planning standards adopted by the Board.

## **10 Market Power Mitigation Rebates**

10.1 The Licensee shall comply with the pass through of Ontario Power Generation rebate conditions set out in Appendix A of this Licence.

## **11 Distribution Rates**

11.1 The Licensee shall not charge for connection to the distribution system, the distribution of electricity or the retailing of electricity to meet its obligation under section 29 of the Electricity Act except in accordance with a Rate Order of the Board.

## **12 Separation of Business Activities**

12.1 The Licensee shall keep financial records associated with distributing electricity separate from its financial records associated with transmitting electricity or other activities in accordance with the Accounting Procedures Handbook and as otherwise required by the Board.

### **13 Expansion of Distribution System**

- 13.1 The Licensee shall not construct, expand or reinforce an electricity distribution system or make an interconnection except in accordance with the Act and Regulations, the Distribution System Code and applicable provisions of the Market Rules.
- 13.2 In order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity, the Board may order the Licensee to expand or reinforce its distribution system in accordance with Market Rules and the Distribution System Code, or in such a manner as the Board may determine.

### **14 Provision of Information to the Board**

- 14.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 14.2 Without limiting the generality of paragraph 14.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

### **15 Restrictions on Provision of Information**

- 15.1 The Licensee shall not use information regarding a consumer, retailer, wholesaler or generator obtained for one purpose for any other purpose without the written consent of the consumer, retailer, wholesaler or generator.
- 15.2 The Licensee shall not disclose information regarding a consumer, retailer, wholesaler or generator to any other party without the written consent of the consumer, retailer, wholesaler or generator, except where such information is required to be disclosed:
- a) to comply with any legislative or regulatory requirements, including the conditions of this Licence;
  - b) for billing, settlement or market operations purposes;
  - c) for law enforcement purposes; or
  - d) to a debt collection agency for the processing of past due accounts of the consumer, retailer, wholesaler or generator.
- 15.3 The Licensee may disclose information regarding consumers, retailers, wholesalers or generators where the information has been sufficiently aggregated such that their particular information cannot reasonably be identified.
- 15.4 The Licensee shall inform consumers, retailers, wholesalers and generators of the conditions under which their information may be released to a third party without their consent.
- 15.5 If the Licensee discloses information under this section, the Licensee shall ensure that the information provided will not be used for any other purpose except the purpose for which it was disclosed.



## **16 Customer Complaint and Dispute Resolution**

16.1 The Licensee shall:

- a) have a process for resolving disputes with customers that deals with disputes in a fair, reasonable and timely manner;
- b) publish information which will make its customers aware of and help them to use its dispute resolution process;
- c) make a copy of the dispute resolution process available for inspection by members of the public at each of the Licensee's premises during normal business hours;
- d) give or send free of charge a copy of the process to any person who reasonably requests it; and
- e) subscribe to and refer unresolved complaints to an independent third party complaints resolution service provider selected by the Board. This condition will become effective on a date to be determined by the Board. The Board will provide reasonable notice to the Licensee of the date this condition becomes effective.

## **17 Term of Licence**

17.1 This Licence shall take effect on December 18, 2003 and expire on December 17, 2023. The term of this Licence may be extended by the Board.

## **18 Fees and Assessments**

18.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

## **19 Communication**

19.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.

19.2 All official communication relating to this Licence shall be in writing.

19.3 All written communication is to be regarded as having been given by the sender and received by the addressee:

- a) when delivered in person to the addressee by hand, by registered mail or by courier;
- b) ten (10) business days after the date of posting if the communication is sent by regular mail; and
- c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

## **20 Copies of the Licence**

20.1 The Licensee shall:

- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
- b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

## **21 Conservation and Demand Management**

21.1 The Licensee shall achieve reductions in electricity consumption and reductions in peak provincial electricity demand through the delivery of CDM programs. The Licensee shall meet its 2014 Net Annual Peak Demand Savings Target of 26.810 MW, and its 2011-2014 Net Cumulative Energy Savings Target of 117.890 GWh (collectively the "CDM Targets"), over a four-year period beginning January 1, 2011.

21.2 The Licensee shall meet its CDM Targets through:

- a) the delivery of Board approved CDM Programs delivered in the Licensee's service area ("Board-Approved CDM Programs");
- b) the delivery of CDM Programs that are made available by the OPA to distributors in the Licensee's service area under contract with the OPA ("OPA-Contracted Province-Wide CDM Programs"); or
- c) a combination of a) and b). The Licensee shall make its best efforts to deliver a mix of CDM Programs to all consumer types in the Licensee's service area.

21.3 The Licensee shall make its best efforts to deliver a mix of CDM Programs to all consumer types in the Licensee's service area.

21.4 The Licensee shall comply with the rules mandated by the Board's Conservation and Demand Management Code for Electricity Distributors.

21.5 The Licensee shall utilize the common Provincial brand, once available, with all Board-Approved CDM Programs, OPA-Contracted Province-Wide Programs, and in conjunction with or co-branded with the Licensee's own brand or marks.

**SCHEDULE 1                      DEFINITION OF DISTRIBUTION SERVICE AREA**

This Schedule specifies the area in which the Licensee is authorized to distribute and sell electricity in accordance with paragraph 8.1 of this Licence.

1.        The City of Windsor as of December 31, 2002.
2.        Part of Lot 146, Concession 2, Geographical Township of Sandwich East, City of Windsor, County of Essex.
3.        Part of Lots 145 and 146, Concession 1, geographical Township of Sandwich east, now part of the City of Windsor, County of Essex, Lots 1 through 74 inclusive as shown on plan 12M.

**SCHEDULE 2                      PROVISION OF STANDARD SUPPLY SERVICE**

This Schedule specifies the manner in which the Licensee is authorized to retail electricity for the purposes of fulfilling its obligation under section 29 of the Electricity Act.

The Licensee is authorized to retail electricity directly to consumers within its service area in accordance with paragraph 8.1 of this Licence, any applicable exemptions to this Licence, and at the rates set out in the Rate Orders.

**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 requirement to implement time-of-use pricing as of the mandatory date for RPP customers with eligible time-of-use meters as required under the Standard Supply Service Code for Electricity Distributors. The mandatory time-of-use pricing date exemption expires on December 1, 2012.
2.        The Licensee is exempt from the requirements of sections 2.6.6 to 2.6.6.3 of the Distribution System Code. This exemption will expire on January 1, 2013.

## APPENDIX A

### MARKET POWER MITIGATION REBATES

#### 1. Definitions and Interpretations

In this Licence

“embedded distributor” means a distributor who is not a market participant and to whom a host distributor distributes electricity;

“embedded generator” means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates;

“host distributor” means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant.

In this Licence, a reference to the payment of a rebate amount by the IESO includes interim payments made by the IESO.

#### 2. Information Given to IESO

- a Prior to the payment of a rebate amount by the IESO to a distributor, the distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with information in respect of the volumes of electricity withdrawn by the distributor from the IESO-controlled grid during the rebate period and distributed by the distributor in the distributor’s service area to:
  - i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
  - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- b Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IESO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor’s host distributor to the embedded distributor net of any electricity distributed to the embedded distributor which is attributable to embedded generation and distributed by the embedded distributor in the embedded distributor’s service area to:
  - i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
  - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- c Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity

consumed in the service area of an embedded distributor, the host distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IESO may issue instructions or directions providing for any information to be given under this section. The IESO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IESO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IESO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period.

### **3. Pass Through of Rebate**

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, any rebate received from the IESO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, to:

- a retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented;
- b consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
- c embedded distributors to whom the distributor distributes electricity.

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor.

If requested in writing by OPGI, the distributor shall ensure that all rebates are identified as coming from OPGI in the following form on or with each applicable bill or settlement statement:

“ONTARIO POWER GENERATION INC. rebate”

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IESO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

Pending pass-through or return to the IESO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.

## **ONTARIO POWER GENERATION INC. REBATES**

For the payments that relate to the period from May 1, 2006 to April 30, 2009, the rules set out below shall apply.

### **1. Definitions and Interpretations**

In this Licence

“embedded distributor” means a distributor who is not a market participant and to whom a host distributor distributes electricity;

“embedded generator” means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates;

“host distributor” means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant.

In this Licence, a reference to the payment of a rebate amount by the IESO includes interim payments made by the IESO.

### **2. Information Given to IESO**

- a Prior to the payment of a rebate amount by the IESO to a distributor, the distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with information in respect of the volumes of electricity withdrawn by the distributor from the IESO-controlled grid during the rebate period and distributed by the distributor in the distributor's service area to:
  - i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented and the consumer is not receiving the prices established under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*; and
  - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- b Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IESO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor's host distributor to the embedded distributor net of any electricity distributed to the embedded distributor which is attributable to embedded generation and distributed by the embedded distributor in the embedded distributor's service area to:



- i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
  - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- c Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IESO may issue instructions or directions providing for any information to be given under this section. The IESO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IESO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IESO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period.

### **3. Pass Through of Rebate**

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, any rebate received from the IESO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, to:

- a retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented and the consumer is not receiving the prices established under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*;
- b consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
- c embedded distributors to whom the distributor distributes electricity.

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor.

If requested in writing by OPGI, the distributor shall ensure that all rebates are identified as coming from OPGI in the following form on or with each applicable bill or settlement statement:

"ONTARIO POWER GENERATION INC. rebate"

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IESO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

Pending pass-through or return to the IESO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.