



EB-2006-0345

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 Enbridge
Gas Distribution Inc. for an electricity generation
licence.

By delegation, before: Jennifer Lea

DECISION AND ORDER

Enbridge Gas Distribution Inc. ("EGDI") filed an application with the Ontario Energy Board under section 60 of the *Ontario Energy Board Act, 1998* (the "Act") for an electricity generation licence. The application was received by the Board on December 27, 2006. The Board's Notice of Application and Written Hearing was published on January 19, 2007. No parties responded to the notice.

The applicant, EGDI, is a natural gas distributor, transmitter and storage company whose rates are regulated by the Board. EGDI maintains an office complex at its headquarters located at 500 Consumers Road in the City of Toronto.

EGDI has applied to be the licensed owner and operator of a 2.2 MW pressure letdown station and fuel cell generation facility located at 500 Consumers Road. This facility is a pilot project, and the electricity generated by the generation facility will be sold to Toronto Hydro Electric System Limited ("Toronto Hydro").

EGDI has also applied to be the licensed owner of a 1.25 MW gas-fired emergency generator located at 500 Consumers Road. Electricity from the emergency generator will be used by the applicant for its own needs and will be sold, when permitted, under

contract. EGDI's affiliate, 2099634 Ontario Limited, will operate the emergency generator. The affiliate applied for and was granted an electricity generation licence, EG-2006-0101, on November 21, 2006.

I find that EGDI is financially and technically competent to own and operate the two generation facilities. The applicant and its predecessor companies have responsibly and competently operated the complex business of gas distribution, transmission and storage for well over one hundred years. EGDI has staff who are capable of creating and managing contracts for the sale of electricity in the market. Toronto Hydro, the electricity utility that owns the distribution system that will be connected to the generation facilities, is working with EGDI to ensure connection and service agreements will be in place. However, in determining whether to grant the application, I must consider the effect of two documents that bear directly on the application:

- the undertaking given by the predecessor of EGDI to the government of Ontario; and
- a directive from the Minister of Energy, approved by the Lieutenant Governor in Council, providing an exemption to the undertaking.

EGDI, formerly the Consumers' Gas Company Ltd., is subject to an undertaking to the Lieutenant Governor in Council for the Province of Ontario approved by Order in Council on December 9, 1998. Section 2.1 of part 2 of the undertaking states that the applicant shall not, except through an affiliate or affiliates, carry on any business activity other than the transmission, distribution or storage of gas, without the prior approval of the Board. The generation of electricity is an activity other than the transmission, distribution and storage of gas. Furthermore, EGDI proposes to own the emergency generator and own and operate the pressure letdown and fuel cell generator directly and not through an affiliate.

In a directive signed on August 10, 2006, the Minister of Energy directed the Board to dispense with future compliance by EGDI with section 2.1 of the undertaking:

in respect of the provision of services by [EGDI]... that would assist the Government of Ontario in achieving its goals in energy conservation, including services related to:

- (a) the promotion of electricity conservation, natural gas conservation and the efficient use of electricity;

- (b) electricity load management; and
- (c) the promotion of cleaner energy sources, including alternative energy sources and renewable energy sources.

and

in respect of research, review, preliminary investigation, project development and the provision of services related to the following business activities:

- (a) the local distribution of steam, hot and cold water in a Markham District Energy initiative; and
- (b) the generation of electricity by means of large stationary fuel cells integrated with energy recovery from natural gas transmission and distribution pipelines.

It is clear that the Minister's directive directs the Board to dispense with compliance with the undertaking for the ownership and operation of the pressure letdown and fuel cell generator. The second part of the directive refers to "the generation of electricity by means of large stationary fuel cells integrated with energy recovery from natural gas transmission and distribution pipelines." The proposed facility will recover energy from the gas pipeline at the pressure letdown station. The pressure letdown station is integrated with the stationary fuel cell.

I find that the directive directs the Board to dispense with compliance by EGD I with the undertaking for the generation of electricity from the pressure letdown and fuel cell facility. EGD I is therefore granted a licence to own and operate the pressure letdown and fuel cell generator.

It is less clear whether generation of electricity for sale using the gas-fired emergency generator is covered by the directive. I have concluded, for the following reasons, that the directive does direct dispensation from compliance by EGD I with the undertaking for this generator as well.

The emergency generator does not fall within the exemptions provided in the second half of the directive relating to the Markham District Energy Initiative and the large stationary fuel cells. Therefore, if dispensation from the undertaking exists, it must be found in the phrase "in respect of the provision of services by [EGDI]... that would assist the Government of Ontario in achieving its goals in energy conservation."

The directive goes on to list examples what services EGD I could provide, for example, services related to:

- (a) the promotion of electricity conservation, natural gas conservation and the efficient use of electricity;
- (b) electricity load management; and
- (c) the promotion of cleaner energy sources, including alternative energy sources and renewable energy sources.

It could be argued that the proposed emergency generator fits into at least two of these examples because the emergency generator could:

- assist in electricity load management by giving EGD I the ability to supply electricity onto the Toronto Hydro distribution system at times of high demand on that system; and
- assist in the promotion of cleaner energy sources by allowing the gas-fired emergency generator to displace generation from a dirtier source of energy.

The wording of the directive itself, as well as other documentation issued by the Government of Ontario, indicates that the government's goals in energy conservation are not limited to the reduction of energy use, but also include the promotion of distributed generation where that generation can reduce peak demand on the electricity transmission and distribution systems. I find that the directive does provide dispensation for EGD I to be permitted to own the gas-fired emergency generator without a breach of its undertaking. The licence will give EGD I the authority to own this generation facility.

As mentioned above, the rates charged by EGD I to consumers are regulated by the Board. The directive acknowledges this fact by including the following language:

To the extent that any activities undertaken by [EGD I]... in reliance on this Directive are forecast to impact upon [its] regulated rates, such activities are subject to the review of the Ontario Energy Board under the *Ontario Energy Board Act, 1998*.

EGD I states in its application that earnings derived from operation of the two electricity generators will be to the benefit of the ratepayer.

The granting of this licence does not imply any particular treatment of the costs and revenues associated with the generation facilities. The effect, if any, of the activities permitted by this licence on the rates of EGDI is a matter for the consideration and determination of the Board in a rates application.

IT IS THEREFORE ORDERED THAT:

The application for an electricity generation licence is granted, on such terms and conditions as are contained in the attached licence.

DATED at Toronto, April 24, 2007

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Special Advisor, Market Operations