

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

AND IN THE MATTER OF a Notice of Intention to Make a
Compliance Order under section 75 of the *Ontario Energy Board
Act, 1998*.

BEFORE:

Robert Betts
Presiding Member

Fred Peters
Member

Brock Smith
Member

COMPLIANCE ORDER

On January 7, 2003, the Board issued a Notice of Intention to Make a Compliance Order (the "Notice") to Hydro One Networks Inc. ("Hydro One Networks"). The Board's issuance of that Notice arose out of submissions made by Casco Inc. ("Casco") in a letter to the Board dated August 20, 2002 in which Casco alleged that Hydro One Networks is in breach of its transmission rate order in that it is applying transmission charges to Casco's Cardinal, Ontario Plant. Casco's complaint was that this method of billing is contrary to the Board's Decision in RP-1999-0044 and Hydro One Networks' Transmission Rate Order. Casco's position was that the Casco plant is not directly connected to the transmission system and does not meet the definition of a transmission customer.

On January 17, 2003 Hydro One Networks requested a hearing with respect to the Board's intention to make a compliance order. On February 17, 2003 Procedural Order No. 1 was issued. On March 5, 2003, Casco requested a change to certain deadlines in Procedural Order No. 1. On March 19, 2003 Procedural Order No. 2 was issued.

On May 29, 2003, the Board issued Procedural Order No. 3 which set an oral hearing date of July 8, 2003.

On July 10, 2003 the Board wrote to the parties involved in this proceeding; and the parties involved in the RP-2002-0118/EB-2002-0332 (Abitibi-Consolidated) proceeding; plus Sithe Energies Canada Power Services Inc. ("Sithe") and Cardinal Power of Canada, L.P. ("Cardinal Power"). In this letter, the Board

provided an opportunity for all parties to make submissions with respect to the implications arising from a particular decision scenario.

On July 15, 2003, the Board reconvened to advise the parties that it intended to provide all parties, plus Sithe and Cardinal Power, a further opportunity to participate in the proceeding, as it was apparent that some had not fully addressed the question posed by the Board.

On July 15, 2003 the Board wrote to both Sithe and Cardinal Power giving them a further opportunity to participate in the Board's proceedings and requiring them to respond to the Board no later than July 29, 2003.

On July 29, 2003, the Board received submissions from Sithe and Cardinal Power, Hydro One Networks, Casco and Abitibi-Consolidated.

Board Findings

On September 4, 2003 the Board issued an oral decision in this matter as recorded in Volume 3 of the Transcripts of the hearing. The Board found that Cardinal Power is a transmission customer of Hydro One and Casco is not. Hydro One Networks should not be billing Casco for transmission services. The Board also found that the Cardinal Power cogeneration plant is embedded generation, in existence prior to October, 1998. Therefore, Hydro One Networks, in accordance with the panel's interpretation of the Board's decision in RP-1999-0044, and as required by its license, should only bill Cardinal Power on a net load basis, for both network and line connection charges.

THE BOARD ORDERS THAT

- 1 Hydro One Networks shall comply with its Transmission Rate Order and Rate Schedule (RP-1999-0044, RP-2001-0034, RP-2001-0035, RP-2001-0036) and bill only Cardinal Power for transmission services required to meet Cardinal Power's demand, including meeting the demand of Cardinal Power's transmission customer, Casco. Hydro One Networks should bill Cardinal Power on a net load basis for both network and line connection charges.
- 2 No later than October 30, 2003, Hydro One Networks shall reimburse Casco, without interest, for any amount it has collected for the provision of transmission services, from May 1, 2002 to date, minus the amount that reflects the transmission service that was required to meet Casco's demand on a net load basis, that would have been billed to Cardinal Power as the transmitter responsible for meeting Casco's load, during the same period.
- 3 Parties to this proceeding shall bear their own costs and the Board's costs, if any, shall be divided evenly between Hydro One Networks and Casco.

ISSUED at Toronto, September 24, 2003

ONTARIO ENERGY BOARD

Peter H. O'Dell
Assistant Secretary