



EB-2007-0792

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 Hydro
One Networks Inc. and Newmarket-Tay Power Distribution
Ltd. seeking an order to amend their current Electricity
Distribution Licences (ED-2003-0043 and ED-2007-0624
respectively);

AND IN THE MATTER OF an application pursuant to
section 86(1)(b) of the *Ontario Energy Board Act, 1998* by
Hydro One Networks Inc. seeking an order granting leave to
sell distribution assets necessary in serving the public to
Newmarket-Tay Power Distribution Ltd.

By delegation, before: Jennifer Lea

DECISION AND ORDER

THE APPLICATION

Hydro One Networks Inc. ("Hydro One") and Newmarket-Tay Power Distribution Ltd. ("Newmarket-Tay") filed a joint application with the Ontario Energy Board on October 2, 2007 under sections 74 and 86(1)(b) of the *Ontario Energy Board Act, 1998*. The Board assigned file number EB-2007-0792 to the application.

Service Area Amendments

The application seeks an order of the Board to amend the service areas in the applicants' current electricity distribution licences. The lands that are the subject of the service area amendments are described in Appendix A to this Decision and Order.

The service area amendments are sought in order to eliminate the long term load transfer arrangements between Hydro One and Newmarket-Tay. A long term load transfer is a situation in which a customer is within one distributor's service area but is actually served electricity from a second distributor. In this case, Newmarket-Tay is the physical distributor (i.e., provides the physical delivery of electricity to the customers) while Hydro One is the geographic distributor (i.e., licensed to serve the customers).

Section 6.5.4 of the Board's Distribution System Code (the "DSC") requires distributors to eliminate long term load transfers before January 31, 2009.

The proposed service area amendments would transfer 44 customers, who are physically served electricity by Newmarket-Tay but are located within Hydro One's licensed service area, to Newmarket-Tay's licensed service area. Presently the 44 customers are Hydro One customers. After the amendments, these customers will be billed and otherwise served by Newmarket-Tay as Newmarket-Tay customers. As a result of these service area amendments, Newmarket-Tay intends to remove and return to Hydro One the Hydro One owned transformers currently serving the subject customers and install its own transformers to ensure there is no potential transfer of PCB-contaminated equipment.

Sale of Assets

The application also seeks an order of the Board to grant leave for the sale of distribution assets from Hydro One to Newmarket-Tay.

The assets proposed to be sold by Hydro One to Newmarket-Tay in this transaction include underground conductors, poles, cables and fixtures. These assets serve, and will continue to serve, the 44 customers that are located on the lands that are the subject of the service area amendments as part of Newmarket-Tay's distribution system.

Exemption from Section 6.5.4 of the DSC

The application also seeks an order of the Board to grant an exemption from section 6.5.4 of the DSC for a certain period of time in relation to 10 other long term load transfer customers.

Both applicants seek an exemption from the requirement to eliminate their long term load transfers by January 31, 2009 for a period of up to five years with respect to the 10 other existing load transfer customers. Specifically, Hydro One's exemption request relates to two customers who are located in Hydro One's service area but are served electricity by Newmarket-Tay while Newmarket-Tay's request relates to eight customers located in Newmarket-Tay's service area but are served electricity by Hydro One. The civic addresses of the lands where these 10 customers are located are listed in Appendix B to this Decision and Order.

Both Hydro One and Newmarket-Tay submit that it would be more efficient to maintain these long-term load transfers temporarily. Due to anticipated load growth, both distributors plan to expand their distribution systems by 2009 to directly serve the remaining long-term load transfer customers located in their respective service areas.

THE PROCEEDING

The Board issued its Notice of Application and Written Hearing on November 20, 2007. The Notice was served upon the customers located on the lands that are the subject of the application. The Notice was also served upon the parties who submitted written comments to the Board in response to the Board's notice of proposal to amend the DSC issued on January 31, 2007, which dealt with the extension of the timelines for the elimination of long term load transfers. No one responded to the Notice.

FINDINGS

Service Area Amendments and Sale of Assets

The service area amendments and the sale of assets are prompted by and consistent with the Board's policy that long term load transfers are to be eliminated by January 31, 2009.

The distribution rates for the customers being transferred from Hydro One to Newmarket-Tay will not increase as a result of the service area amendments. According to the application, service quality will not be affected. With respect to the Hydro One owned transformers that will be removed by Newmarket-Tay and retuned to Hydro One as result of the service area amendments, the applicants submit that there is no material cost associated with this transaction.

With respect to the sale of the distribution assets from Hydro One to Newmarket-Tay, the application states that it is more economically efficient for Newmarket-Tay to purchase Hydro One's distribution assets currently serving the customers than it would be for Hydro One to remove those assets and for Newmarket-Tay to install new assets. The sale price for the assets proposed to be sold by Hydro One to Newmarket-Tay is \$10,789.65 which also represents the net book value of the assets.

I find that it is in the public interest to amend Schedule 1 of the applicants' distribution licences to reflect the transfer of the 44 customers from Hydro One to Newmarket-Tay. I also find that it is in the public interest to grant Hydro One leave to sell the assets described in the application to Newmarket-Tay.

The approval of this application should in no way be construed as providing the Board's opinion or position on whether Newmarket-Tay will be allowed to recover the cost of the assets it is purchasing as a result of this Decision and Order, or the cost of the assets it replaces as a result of this Decision and Order in a future rates application. The prudence of the costs incurred in purchasing the assets or removing the assets and installing new assets will be considered by the panel assigned to the rates case and that panel will determine if the costs should be recovered in rates.

Exemption from Section 6.5.4 of the DSC

In relation to the applicants' request for a 5-year exemption from section 6.5.4 of the DSC for 10 existing long term load transfer customers, the application states that both distributors plan to expand their distribution systems to serve the customers in their service areas by 2009. According to the application, both geographic distributors are planning on building new assets to address load growth in the area where the customers are located (i.e., the distributors are not building out solely to serve the current load transfer customers for whom they are seeking the exemption). The long-term load transfer arrangements should be eliminated by the end of 2009. These facts suggest that it will be more economically efficient to grant a temporary exemption for each distributor.

However, the evidence in the application does not support the request for an exemption for five years. The application states that both geographic distributors will be building assets to serve the load transfer customers and that the load transfer customers will be served by the physical distributors only until 2009. There is nothing in the application that justifies a continuation of the long-term load transfer arrangement past the end of 2009.

I find that it is in the public interest to amend Schedule 3 of the applicants' distribution licences to grant each distributor an exemption from the requirements of section 6.5.4 of the DSC respecting the 10 existing load transfer customers located on the lands listed in Appendix B to this Decision and Order. The exemptions will be granted until December 31, 2009.

IT IS THEREFORE ORDERED THAT:

1. Newmarket-Tay's Distribution Licence (ED-2007-0624), specifically Schedule 1 of the licence, is amended to include the lands described in Appendix A to this Decision and Order.

2. Hydro One's Distribution Licence (ED-2003-0043), specifically tab 4 of Appendix B to the licence, is amended as necessary to exclude the lands described in Appendix A to this Decision and Order.
3. Newmarket-Tay's Distribution Licence (ED-2007-0624), specifically Schedule 3 of the licence, is amended to reflect the exemption from the requirements of section 6.5.4 of the Distribution System Code until December 31, 2009, in relation to the eight load transfer customers located on the lands listed in Appendix B to this Decision and Order.
4. Hydro One's Distribution Licence (ED-2003-0043), specifically Schedule 3 of the licence, is amended to reflect the exemption from the requirements of section 6.5.4 of the Distribution System Code until December 31, 2009, in relation to the two load transfer customers located on the lands listed in Appendix B to this Decision and Order.
5. Hydro One is granted leave to sell the assets described in the application.

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

DATED at Toronto, April 4, 2008

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects

Appendix A**The Lands that are Subject of the Service Area Amendments - EB-2007-0792**

Premise Address	Lot #	Conc. #	Township
1339 Green Lane	10	2	GWILLIMBURY EAST
1349 Green Lane	9	2	GWILLIMBURY EAST
1359 Green Lane	8	2	GWILLIMBURY EAST
1367 Green Lane	7	2	GWILLIMBURY EAST
1377 Green Lane	6	2	GWILLIMBURY EAST
1387 Green Lane	5	2	GWILLIMBURY EAST
1395 Green Lane	4	2	GWILLIMBURY EAST
1403 Green Lane	3	2	GWILLIMBURY EAST
1411 Green Lane	2	2	GWILLIMBURY EAST
1421 Green Lane	1	2	GWILLIMBURY EAST
17186 Bathurst St.	33	2	KING
17390 Bathurst St.	34	2	KING
17440 Bathurst St.	35	2	KING
17450 Bathurst St.	35	2	KING
17680 Bathurst St.	33	2	KING
17756 Bathurst St.	2	2	KING
17876 Bathurst St.	3	2	KING
18010 Bathurst St.	4	2	KING
18010 Bathurst St.	4	2	KING
18178 Bathurst St.	4	2	KING
18101 Leslie St.	5	2	GWILLIMBURY EAST
18126 Leslie St.	15	2	GWILLIMBURY EAST
18144 Leslie St.	14	2	GWILLIMBURY EAST
18152 Leslie St.	13	2	GWILLIMBURY EAST
18160 Leslie St.	12	2	GWILLIMBURY EAST
18166 Leslie St.	11	2	GWILLIMBURY EAST
18174 Leslie St.	10	2	GWILLIMBURY EAST
18180 Leslie St.	5	2	GWILLIMBURY EAST
18184 Leslie St.	9	2	GWILLIMBURY EAST
18192 Leslie St.	8	2	GWILLIMBURY EAST
18200 Leslie St.	7	2	GWILLIMBURY EAST
18208 Leslie St.	6	2	GWILLIMBURY EAST
18218 Leslie St.	5	2	GWILLIMBURY EAST
18226 Leslie St.	4	2	GWILLIMBURY EAST
18236 Leslie St.	3	2	GWILLIMBURY EAST
18244 Leslie St.	2	2	GWILLIMBURY EAST
18248 Leslie St.	2	2	GWILLIMBURY EAST
18107 Main Street North	5	2	GWILLIMBURY EAST
Region of York Stop Lights	5	2	GWILLIMBURY EAST
Region of York Stop Lights	5	2	GWILLIMBURY EAST
Region of York Street Lights	5	2	GWILLIMBURY EAST
East Gwillimbury Street Lights	5	2	GWILLIMBURY EAST
445 Pine Street	9	11	TAY
2080 Sandhill Road	9	10	TAY

Appendix B
EB-2007-0792

Addresses of Hydro One Load Transfer Customers for Which Hydro One is Seeking an Exemption from Section 6.5.4 of the Distribution System Code:

Premise Address	Township
262 Green Lane W	GWILLIMBURY EAST
1150 Green Lane E.	GWILLIMBURY EAST

Addresses of Newmarket-Tay Load Transfer Customers for Which Newmarket-Tay is Seeking an Exemption from Section 6.5.4 of the Distribution System Code:

Premise Address	Township
15205 Highway 12	TAY
15207 Highway 12	TAY
15217 Highway 12	TAY
15221 Highway 12	TAY
15313 Highway 12	TAY
15321 Highway 12	TAY
15425 Highway 12	TAY
Highway 12 Trestle Park	TAY



Electricity Distribution Licence

ED-2007-0624

Newmarket-Tay Power Distribution Ltd.

Valid Until

August 23, 2027

Original signed by

Jennifer Lea
Counsel, Special Projects
Ontario Energy Board
Date of Issuance: August 24, 2007
Date of Amendment: April 4, 2008

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
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Commission de l'énergie de l'Ontario
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	Table of Contents	Page No.
1	Definitions	1
2	Interpretation	2
3	Authorization	2
4	Obligation to Comply with Legislation, Regulations and Market Rules	2
5	Obligation to Comply with Codes	2
6	Obligation to Provide Non-discriminatory Access	3
7	Obligation to Connect	3
8	Obligation to Sell Electricity	3
9	Obligation to Maintain System Integrity	4
10	Market Power Mitigation Rebates	4
11	Distribution Rates	4
12	Separation of Business Activities	4
13	Expansion of Distribution System	4
14	Provision of Information to the Board	4
15	Restrictions on Provision of Information	5
16	Customer Complaint and Dispute Resolution	5
17	Term of Licence	6
18	Fees and Assessments	6
19	Communication	6

20	Copies of the Licence	6	
	SCHEDULE 1	DEFINITION OF DISTRIBUTION SERVICE AREA	7
	SCHEDULE 2	PROVISION OF STANDARD SUPPLY SERVICE.....	8
	SCHEDULE 3	LIST OF CODE EXEMPTIONS	9
	APPENDIX A	MARKET POWER MITIGATION REBATES	10

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;

“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 Newmarket-Tay Power Distribution Ltd.

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

“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;

“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.
- 14.3 The Licensee shall:
- a) immediately notify the Board in writing of the notice; and
 - b) provide a plan to the Board as soon as possible, but no later than ten (10) days after the receipt of the notice, as to how the affected distribution services will be maintained in compliance with the terms of this licence.

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 August 24, 2007 and expire on August 23, 2027. 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.

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 Town of Newmarket as of January 1, 1979.
2. Part of the Town of East Gwillimbury, extending from Bathurst Street in the west, to Leslie Street in the east, from the northern boundary of the Town of Newmarket in the south, to the south side of Green Lane Drive in the north, with the following exception:
 - the area of land, being composed of Part of Lot 100, Concession 1, East of Yonge Street, more particularly described as Parts 1-13 on Reference Plan 65R-22350, also known as the Silver City Plaza.
3. Part of the Township of King extending from the southern boundary of Lot 34 Concession 2 in the south, to Miller Sideroad in the north, west of Bathurst Street comprised of the areas of land described as:
 - 450 meters of Lot 34 Concession 2 west of Bathurst Street
 - 150 meters of Lot 35 and the southern half of Lot 1 Concession 2 west of Bathurst Street
 - 450 meters of northern half of Lot 1 concession 2 west of Bathurst Street
 - 450 meters of Lots 2, 3, 4 and 5 Concession 2 west of Bathurst Street
3. The area of Tay Township extending from the Wye River in the west to Waubaushene Channel in the east, from Georgian Bay in the north to Highway 12 in the south and including Methodist Island.
4. Those portions of Tay Township south of Highway 12 described as the area of all lots as they exist at the time of issuance of this Licence:
 - fronting on Highway 12 from the Wye River easterly to the east end of Trestle Road at Highway 12.
 - fronting on County Road 58 southerly to the southern lot line of Part Lot 11 Concession 4.
 - on the south side of Trestle Road and fronting on Rumney Road from Highway 12 southerly to the southern lot line of Part Lot 12, Concession 4.
 - fronting on Highway 12 easterly from Vents Beach Road to Sandhill Road including all lots fronting on Frazer Lane.
 - fronting on Rosemount Road from Highway 12 southerly to the southern lot line of Part Lot 4, Concession 9 and including all lots fronting on Beckett's Side Road to Gratrix Road and all lots fronting on Connors Court.
 - fronting on Sandhill Road and Highway 12 south to the junction of Highway 12 and the Highway 400 south on ramp.

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 requirements of section 2.5.3 of the Standard Supply Service Code with respect to the price for small volume/residential consumers, subject to the Licensee offering an equal billing plan as described in its application for exemption from Fixed Reference Price, and meeting all other undertakings and material representations contained in the application and the materials filed in connection with it.
2. The Licensee is exempt from the requirements of section 6.5.4 of the Distribution System Code until December 31, 2009 in relation to the eight load transfer customers located at:
 - (a) 15205 Highway 12, Tay
 - (b) 15207 Highway 12, Tay
 - (c) 15217 Highway 12, Tay
 - (d) 15221 Highway 12, Tay
 - (e) 15313 Highway 12, Tay
 - (f) 15321 Highway 12, Tay
 - (g) 15425 Highway 12, Tay
 - (h) Highway 12 Trestle Park, Tay

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.