



**EB-2011-0021**

**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 Remote Communities Inc. to amend its Electricity  
Distribution Licence ED-2003-0037.

**By delegation, before:** Jennifer Lea

## **DECISION AND ORDER**

**April 25, 2013**

On December 23, 2010, Hydro One Remote Communities Inc. (“Remotes”) filed an application with the Ontario Energy Board (the “Board”) and on March 1, 2011 filed an updated application for a licence amendment under section 74 of the *Ontario Energy Board Act, 1998* (the “Act”) seeking exemptions from the following sections of the *Distribution System Code* (DSC): 2.7.1.2; 2.7.1.3; 2.7.2; 2.8.1; 2.8.2; 4.2.2.3; 4.2.3.1(a); 6.1.2.1; 6.1.2.2 and 7.10.

The above noted sections of the DSC include:

- (a) Provisions dealing with arrears payment arrangements with low volume energy consumers with relation to the down payment amounts and periods over which the distributor shall allow a residential electricity customer to pay outstanding electricity charges;
- (b) Provisions dealing with arrears payment arrangements with low-income customers;

(c) Requirements regarding opening and closing of accounts at the request of a third party, receiving confirmation from the intended customer within prescribed timelines and recovery of charges for services provided; and

(d) Timelines for issuing a disconnection notice and for reconnection of a property disconnected for non-payment.

The relevant sections of the DSC are reproduced in Appendix A.

## **PROCEDURAL STEPS AND SUBMISSIONS**

On March 21, 2011, the Board issued a Notice of Application and Written Hearing for the application. Nishnawbe Aski Nation (“NAN”) requested and was granted intervenor status and cost award eligibility.

On April 21, 2011, the Board issued Procedural Order No. 1 providing for interrogatories and written submissions. Board staff and NAN filed interrogatories and on May 26, 2011 Remotes replied to all interrogatories. Counsel for NAN expressed concern with the adequacy of some of Remotes’ responses to NAN’s interrogatories, and Remotes filed additional information for certain interrogatories identified by NAN. On June 30, 2011 NAN and Board staff filed submissions on the application, and Remotes filed a reply submission on July 14, 2011.

In its submission Board staff did not oppose Remotes request for exemption from the subject sections of the DSC given the unique characteristics of Remotes’ service territory and its customers. However, Board staff did not support a proposal that Remotes be exempted from compliance with the entire DSC.

NAN in its submission opposed the granting of the DSC exemptions requested by Remotes. Among other arguments, NAN argued that the exemptions would create unfairness. Remotes’ customers would face more stringent rules for arrears payments, disconnection, and reconnection than those outlined in the DSC for other low-income customers in the province. NAN stated that the proposed exemptions will have a negative impact on the poorest residents living in remote communities and interfere with their ability to receive financial assistance under the Board’s approved Low-Income Energy Assistance Program (“LEAP”).

In addition NAN stated that Remotes' current practices had not been consistently applied by Remotes' staff and had never been presented to NAN communities for consideration, comments or approval. In NAN's view, the application by Remotes will have an impact on First Nations rights and interests, and thereby triggers the duty to consult and accommodate First Nation communities. In its submission NAN proposed that the Board should direct such consultations to be held between Remotes and NAN representatives.

On October 12, 2011, the Board issued Interim Decision and Procedural Order No. 3 in which the Board granted Remotes an exemption from compliance with the relevant sections of the DSC on an interim basis for a period of one year. In addition, the Board invited NAN, through a further submission, to identify the Aboriginal right or title that might be adversely affected by Remotes' application. The Board directed Remotes to initiate discussions with NAN representatives regarding current practices and the practical effect of the proposed exemptions, and to file a summary of the discussions with the Board.

On November 30, 2011, NAN filed a submission regarding the duty to consult and accommodate First Nation communities in relation to Remotes' application. Remotes replied to this submission on December 14, 2011, arguing that no aboriginal or treaty rights, and no aboriginal title will be affected by Remotes' proposed exemptions from the DSC and that NAN failed to identify any aboriginal right or title that might be affected. However, Remotes also stated that it will continue to work closely with leaders of First Nation communities in carrying out collection activities, and confirmed that it will discuss its collection practices with NAN and other First Nation community leaders, and provide the Board with a report on these discussions.

On June 28, 2012 Remotes filed a summary of discussions with NAN and another First Nation community served by Remotes, as well as a Chief and Council survey Remotes undertook in late 2011. The discussion notes indicated that NAN was preparing a proposal concerning the exemptions sought by Remotes and was interested in having further discussions with Remotes.

In accordance with Procedural Order No.4, on August 20, 2012 NAN filed its proposal. NAN opposed Remotes' request for exemption from sections 2.7.1.2, 2.7.1.3 and 2.7.2 of the DSC, arguing that Remotes' customers would be denied the benefit of the assistance provided to other customers through these sections, and Remotes'

alternative arrears payment program would be a barrier to eligibility under LEAP. NAN also opposed Remotes exemption from section 6.1.2.1 which provides new customers protection from paying the arrears of a previous customer, and section 6.1.2.2 which allows new accounts to be opened by electronic means such as telephone or email. NAN, however, supported Remotes' request to be exempt from sections 2.8.1, 4.2.2.3, 4.2.3.1(a) and 7.10 of the DSC, recognizing the practical problems and increased disruption to First Nation communities that would exist if Remotes attempted to comply with the DSC timelines. However, NAN proposed that Remotes prepare and distribute a clear written procedure and standard timeline for disconnections and reconnections.

On September 17, 2012 Remotes filed a summary of discussions held with NAN representatives on September 11, 2012. In its letter accompanying the summary, Remotes indicated that it would improve communications between Remotes and its customers about collection and disconnection processes, and develop and publicize a service standard for reconnection. However, Remotes disagreed with NAN that stricter arrears payment plans will impede the customers' ability to qualify for LEAP funding. Remotes stated that based on average arrears ranging between \$335 and \$649, LEAP funding is sufficient to assist customers under Remotes' current collection procedures which balance long notice periods with shorter payment terms.

On October 11, 2012, the Board made an order extending the interim exemptions granted to Remotes as the Board required additional time to review and analyze the evidence and positions of the parties with respect to the exemptions sought by Remotes.

## **FINDINGS**

The exemptions sought by Remotes are granted, for the reasons given below. In deciding this application I have been greatly assisted by the filed reports of the discussions held between NAN and the applicant, and I appreciate the effort that was made in undertaking these discussions.

### First Nation Consultation and Accommodation

NAN in its submissions argued that Remotes has a duty to consult and accommodate First Nations regarding the exemption requests. NAN made this argument in its first submission dated July 4, 2011 and provided additional information and argument in its

submission dated November 30, 2011. I am not persuaded that the grounds exist to trigger a formal duty to consult and accommodate in this application. I do not find in the arguments put forward by NAN related to Treaties 5 and 9; the fiduciary responsibilities of the Federal crown; the effect of the Constitution Acts of 1867 and 1982 and the Indian Act; the Electrification Agreements or Hydro One's commitment to consultation, the identification of any existing or potential Aboriginal right, treaty right or Aboriginal title that might be affected by Remotes' application. In these circumstances, the duty to consult and accommodate First Nations as that duty is described in *Haida Nation v. British Columbia (Minister of Forests)* [2004] 3 S.C.R. 511 does not arise.

However, it is important that Remotes communicate effectively and sensitively with its customers, particularly those communities where many customers are economically disadvantaged.

### Disconnection and Reconnection

This application seeks to address some of the practical problems Remotes faces in serving isolated communities, some of which can be visited only by air, and at certain times of the year. I accept Remotes evidence that compliance with 4.2.2.3, 4.2.3.1(a) and 7.10 of the DSC would be impractical. However, I agree with NAN and Remotes that Remotes should develop and publicize to the communities it serves a service standard regarding reconnection. I further note that the reporting made by or for Remotes under the Board's Reporting and Record Keeping Requirements ("RRR") does not appear to include reporting under section 2.1.4.1.9 (on form E2.1.4) of the RRR related to compliance with section 7.10, likely because E2.1.4 refers specifically to reconnections "completed in 2 business days", which is an impractical standard for Remotes.

Through this decision and order, Remotes will be required to file with the Board, within 90 days of this decision, the service standard that it develops regarding reconnection. Further, Remotes must report to the Board its adherence to that standard. Specifically, Remotes must report annually, at the time of its April 30 RRR filing:

- the number of reconnections for customers disconnected for non-payment; and
- the number of reconnections completed within the time frame set by the service standard.

This reporting should be broken down by month (as in E2.1.4), but as form E2.1.4 is not appropriate for Remotes, the information can be provided in a document separate from the rest of the RRR filing.

In addition, Remotes must include in this filing:

- the total number of reconnections for customers disconnected for non-payment in the year;
- the percentage for the year of reconnections completed within the time frame set by the service standard; and
- for those reconnections that exceed the time frame set by the standard, the average time and the maximum time taken to complete the reconnections.

### Opening and Closing Accounts

With regard to the opening and closing of accounts, NAN supports the request for exemption from section 2.8.1, and the information provided in the application supports this exemption. I am also persuaded that the exemptions sought from sections 2.8.2<sup>1</sup> and 6.1.2.1 are necessary to allow the distributor to collect money for services if the exemption from section 2.8.1 is granted. In making this finding, I am relying on Remotes' statement that it does not transfer arrears from one customer to another customer. The evidence regarding section 6.1.2.2 is not completely clear, however I accept the statements of Remotes noted in its record of the September 11, 2012 discussions that it accepts electronic service requests and requests from housing managers, and therefore find that granting the exemption under section 6.1.2.2 will not cause hardship for the communities served. Remotes may wish to revisit its practice with respect to accepting and recording electronic requests for service if it learns that a growing number of customers are requesting this form of agreement.

### Arrears payment arrangements

NAN maintained its objection to the exemptions sought under sections 2.7.1.2, 2.7.1.3 and 2.7.2 relating to arrears payment arrangements. NAN argued that the arrears payment arrangements that Remotes has used since 2007, and proposes to continue using, are more onerous than those that distributors must offer to customers under the DSC. Remotes requires customers to pay 50% of their arrears and set up a

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<sup>1</sup> Remote's application listed on the first page the sections from which exemptions were sought. Section 2.8.2 was not listed. However, Remotes included the section at pages 7 and 9 of its application.

payment program for repayment of the remainder over a 4 month period in order to avoid disconnection. Nevertheless, the evidence in the application demonstrates that Remotes' collection practices provide a practical approach to the challenges faced by most of its low-income customers.

The evidence (Application, Appendix C) shows that the number of disconnections and the average amount of customer arrears has been reduced between 2005 and 2010 for the majority of communities served by Remotes. In the majority of communities, the arrears are far more manageable under the 50% up-front + 4 month repayment schedule than were experienced under longer term payment arrangements. However, in 3 of the 12 communities listed in Appendix C, although the total arrears by community and average arrears by customer have decreased, the number of customers on the list for disconnection has increased between 2005 and 2010. Similarly, in the answer to IR 16 from NAN, Remotes provided a chart that indicated that the number of residential customers in arrears has increased over the 2008 – 2010 period.

NAN questioned whether the arrears payment program proposed by Remotes would act as a barrier to obtaining LEAP assistance. NAN submitted that the requirement to pay 50% of arrears to be reconnected, coupled with the limit on LEAP funding, would render customers with arrears in excess of \$1000 (\$1200 if electric heat) ineligible for LEAP funding for reconnection. In NAN's submission, this means that the poorest customers would be denied LEAP funding. Remotes responded (in a letter dated September 17, 2012) that for the spring of 2012, "the average [amount of] arrears owed by customers who applied for LEAP funding in Remote's service territory ranged between \$335 and \$649<sup>2</sup>". In any event, were the longer periods contemplated in the DSC to be adopted by Remotes, the experience of the distributor would suggest that customers would build up unmanageably large arrears within one or two years, and thereby become ineligible for LEAP funding.

I note that all distributors, including Remotes, are required under section 2.1.16 of the RRR to report information related to the provision of LEAP program emergency financial assistance in the preceding calendar year. This reporting includes the number of applicants for LEAP emergency financial assistance, the number of applicants for whom that funding was provided, and the number of applicants for whom that funding was denied. For 2011, all customers of Remotes who applied for assistance were given

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<sup>2</sup> This is presumably the range of the average amount owed by customers, by community served, at a point in time.

assistance. In addition, reporting for all distributors will be required beginning April 30, 2014 for the preceding calendar year regarding customer arrears and disconnections for non-payment. If the reporting reveals an unacceptable trend for Remotes, the Board can inquire into the situation.

I accept the evidence of the applicant that the arrears payment arrangement used by Remotes is the best practical choice for the unique challenges of Remote's service territory and customers. The arrangement could be considered more onerous than that contemplated by the DSC, but is coupled with significantly longer notice periods than those required by the DSC, repeated notification to the individuals and the community leaders of impending disconnection, a practice of no disconnection during winter months, and flexibility regarding scheduling of disconnection trips to recognize the needs of the communities served. The exemptions under sections 2.7.1.2, 2.7.1.3 and 2.7.2 are granted.

However, it appears that collection and disconnection procedures are not well understood by some customers of Remotes. For example, the record of the application appears to show that if a customer receives a disconnect notice and contacts Remotes to make payment arrangements before the day of the disconnection trip, a 50% payment of arrears and an agreement to pay the remainder with 4 months is required. However, if that customer has not contacted Remotes before the day Remotes staff arrive to perform disconnections, the customer must pay all of the arrears to avoid disconnection (as field staff cannot make payment arrangements). According to statements from community leaders filed by NAN, this practice has not been made clear. It is recommended that Remotes continue its efforts to communicate effectively with the communities it serves to ensure that the rules regarding collection and disconnection are clearly understood.

**IT IS THEREFORE ORDERED THAT:**

1. Hydro One Remote Communities Inc.'s Electricity Distribution Licence (ED-2003-0037), specifically Schedule 3 of the licence, is amended to reflect an exemption from the requirements of sections 2.7.1.2; 2.7.1.3; 2.7.2; 2.8.1; 2.8.2; 4.2.2.3; 4.2.3.1(a); 6.1.2.1; 6.1.2.2 and 7.10 of the Distribution System Code.
2. Within 90 days of this Decision and Order, Remotes must file with the Board the service standard that it develops regarding reconnection.

3. At the time of its annual April 30 reporting under the Board's Reporting and Record Keeping Requirements, Remotes shall report on the following:
- the number of reconnections for customers disconnected for non-payment broken down by month;
  - the number of reconnections completed within the time frame set by the service standard broken down by month;
  - the total number of reconnections in the year for customers disconnected for non-payment;
  - the percentage for the year of reconnections completed within the time frame set by the service standard; and
  - for those reconnections in the year that exceed the time frame set by the standard, the average time and the maximum time taken to complete the reconnections.

This reporting may be filed in a document separate from Remotes' RRR filing.

### Cost Awards

The Board will issue a separate decision on cost awards once the following steps are completed:

1. NAN shall file with the Board and forward to Remotes, its cost claim within **14 days** of the date of this Decision and Order.
2. Remotes shall file with the Board and forward to NAN any objections to the claimed costs within **21 days** of the date of this Decision and Order.
3. NAN shall file with the Board and forward to Remotes any response to any objections to its cost claim within **28 days** of the date of this Decision and Order.

All filings to the Board must quote file number **EB-2011-0021**, be made through the Board's web portal at, [www.pes.ontarioenergyboard.ca/eservice](http://www.pes.ontarioenergyboard.ca/eservice) and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available parties may email their document to [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca). Those who do not have internet

access are required to submit all filings on a CD in PDF format, along with two paper copies.

**DATED** at Toronto, April 25, 2013

**ONTARIO ENERGY BOARD**

*Original signed by*

Jennifer Lea  
Counsel, Special Projects

## APPENDIX A

### **Arrears Payment Arrangements**

**2.7.1.2** As part of the arrears payment agreement, a distributor may require that the customer pay a down payment of up to 15% of the electricity charge arrears accumulated, inclusive of any applicable late payment charges but excluding other service charges, when entering into the arrears management program.

**2.7.2** The arrears payment agreement referred to in section 2.7.1 shall allow the residential electricity customer to pay all remaining electricity charges that are then overdue for payment as well as the current bill amount if the customer elects to do so, after applying a security deposit under section 2.7.1.1, and the down payment referred to in section 2.7.1.2, including all electricity-related service charges that have accrued to the date of the agreement, over the following periods:

(a) a period of at least 5 months, where the total amount of the electricity charges remaining overdue for payment is less than twice the customer's average monthly billing amount; or

(b) a period of at least 10 months, where the total amount of the electricity charges remaining overdue for payment is equal to or exceeds twice the customer's average monthly billing amount;

(c) in the case of an eligible low-income customer, a period of at least 8 months, where the total amount of the electricity charges remaining overdue for payment is less than or equal to 2 times the customer's average monthly billing amount;

(d) in the case of an eligible low-income customer, a period of at least 12 months where the total amount of the electricity charges remaining overdue for payment exceeds 2 times the customer's average monthly billing amount and is less than or equal to 5 times the customer's average monthly billing amount; or

(e) in the case of an eligible low-income customer, a period of at least 16 months where the total amount of the electricity charges remaining overdue for payment exceeds 5 times the customer's average monthly billing amount.

**2.7.1.3** Where an eligible low-income customer enters into an arrears payment agreement for the first time or subsequent to having successfully completed a previous arrears payment agreement as an eligible low-income customer, a distributor may require that the customer pay a down payment of up to 10% of the electricity charge arrears accumulated, inclusive of any applicable late payment charges but excluding other service charges.

## **Opening and Closing of Accounts**

**2.8.1** Where a distributor opens an account for a property in the name of a person at the request of a third party, the distributor shall within 15 days of the opening of the account send a letter to the person advising of the opening of the account and requesting that the person confirm that he or she agrees to be the named customer. If the distributor does not receive confirmation from the intended customer, within 15 days of the date of the letter, the distributor shall advise the third party that the account will not be set up as requested.

**2.8.2** Despite any other provision of this Code, with the exception of the parties mentioned in section 2.8.1.1, where a distributor has opened an account for a property in the name of a person at the request of a third party, the distributor shall not seek to recover from that person any charges for service provided to the property unless the person has agreed to be the customer of the distributor in relation to the property.

**6.1.2.1** Nothing in section 6.1.2 shall be construed as permitting a distributor to recover or to seek to recover charges for a service provided to a property from any person other than a person that has agreed to be the customer of the distributor in relation to the property or that has agreed to assume responsibility for those charges.

**6.1.2.2** For the purposes of section 6.1.2.1, the agreement may be in electronic form pursuant to the *Electronic Commerce Act, 2000*, and includes telephone communications provided that a recording of the telephone communication is retained by the distributor for 24 months thereafter.

## **Standard Timelines for Disconnection Notice**

**4.2.2.3** A disconnection notice issued for non-payment shall expire on the date that is 11 days from the last day of the applicable minimum notice period referred to in section 4.2.3, determined in accordance with the rules set out in section 2.6.7. A distributor may not thereafter disconnect the property of the customer for nonpayment unless the distributor issues a new disconnection notice in accordance with section 4.2.2.

**4.2.3.1** For the purposes of section 4.2.3:

(a) where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the customer on the third business day after the date on which the notice was printed by the distributor;

## **7.10 Reconnection Standards**

**7.10.1** Where a distributor has disconnected the property of a customer for nonpayment, the distributor shall reconnect the property within 2 business days, as defined in section 2.6.7, of the date on which the customer:

(a) makes payment in full of the amount overdue for payment as specified in the

disconnection notice; or

(b) enters into an arrears payment agreement with the distributor referred to in section 2.7.1A.

7.10.2 This service quality requirement must be met at least 85 percent of the time on a yearly basis.



# Electricity Distribution Licence

## ED-2003-0037

### Hydro One Remote Communities Inc.

Valid Until

**December 23, 2023**

*Original signed by*

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**Jennifer Lea**  
**Counsel, Special Projects**  
**Ontario Energy Board**  
**Date of Issuance: December 24, 2003**  
**Date of Amendment: June 1, 2004**  
**Date of Amendment: December 16, 2009**  
**Date of Amendment: April 25, 2013**

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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;

**“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 Hydro One Remote Communities Inc.

**“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;

## 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; and
  - 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.

## 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; and
  - b) the Distribution System 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 Sell Electricity**

- 6.1 The Licensee shall fulfill its obligation under section 29 of the Electricity Act to sell electricity in accordance with the requirements established in the Licensee's Rate Order as approved by the Board.

## **7 Obligation to Maintain System Integrity**

- 7.1 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.

## **8 Market Power Mitigation Rebates**

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

## **9 Distribution Rates**

- 9.1 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.

## **10 Separation of Business Activities**

- 10.1 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.

## **11 Expansion of Distribution System**

- 11.1 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.
- 11.2 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.

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

- 12.1 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.
- 12.2 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.

### **13 Restrictions on Provision of Information**

- 13.1 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.
- 13.2 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, band council or government agency for the processing of past due accounts of the consumer or generator.
- 13.3 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.
- 13.4 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.
- 13.5 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.

### **14 Customer Complaint and Dispute Resolution**

- 14.1 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.

## 15 Term of Licence

- 15.1 This Licence shall take effect on December 24, 2003 and expire on December 23, 2023. The term of this Licence may be extended by the Board.

## 16 Fees and Assessments

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

## 17 Communication

- 17.1 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.
- 17.2 All official communication relating to this Licence shall be in writing.
- 17.3 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.

## 18 Copies of the Licence

- 18.1 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 6.1 of this Licence.

1.        Armstrong
2.        Bearskin Lake
3.        Big Trout Lake
4.        Biscotasing
5.        Collins
6.        Deer Lake
7.        Fort Severn
8.        Gull Bay
9.        Hillspport
10.      Kasabonika Lake
11.      Kingfisher Lake
12.      Landsdowne House
13.      Oba
14.      Sachigo Lake
15.      Sandy Lake
16.      Sultan
17.      Wapakeka
18.      Weagamow
19.      Webequie
20.      Whitesand
21.      Marten Falls (operated by the Licensee, owned by Marten Falls First Nation)

**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 6.1 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 that are not applicable to the Licensee.

1.        The entire Retail Settlement Code
2.        The entire Standard Supply Service Code
3.        Sections 2.7.1.2; 2.7.1.3; 2.7.2; 2.8.1; 2.8.2; 4.2.2.3; 4.2.3.1(a); 6.1.2.1; 6.1.2.2 and 7.10 of the Distribution System Code.

## 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.