



EB-2006-0345

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

AND IN THE MATTER OF an application by Enbridge
Gas Distribution Inc. for an electricity generation
licence.

By delegation, before: Jennifer Lea

DECISION AND ORDER

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

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

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

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IT IS THEREFORE ORDERED THAT:

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

DATED at Toronto, April 24, 2007

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Special Advisor, Market Operations



Electricity Generation Licence

EG-2006-0345

Enbridge Gas Distribution Inc.

Valid Until

April 23, 2027

Original signed by

Jennifer Lea
Special Advisor, Market Operations
Ontario Energy Board
Date of Issuance: April 24, 2007

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1 Definitions

In this Licence:

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

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

"**generation facility**" means a facility for generating electricity or providing ancillary services, other than ancillary services provided by a transmitter or distributor through the operation of a transmission or distribution system and includes any structures, equipment or other things used for that purpose;

"**Licensee**" means Enbridge Gas Distribution Inc.;

"**regulation**" means a regulation made under the Act or 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 this 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. 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 generate electricity or provide ancillary services for sale through the IESO-administered markets or directly to another person subject to the conditions set out in this Licence. This Licence authorizes the Licensee only in respect of those facilities set out in Schedule 1;
 - b) to purchase electricity or ancillary services in the IESO-administered markets or directly from a generator subject to the conditions set out in this Licence; and
 - c) to sell electricity or ancillary services through the IESO-administered markets or directly to another person, other than a consumer, subject to the conditions set out in 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 Maintain System Integrity

- 5.1 Where the IESO has identified, pursuant to the conditions of its licence and the Market Rules, that it is necessary for purposes of maintaining the reliability and security of the IESO-controlled grid, for the Licensee to provide energy or ancillary services, the IESO may require the Licensee to enter into an agreement for the supply of energy or such services.
- 5.2 Where an agreement is entered into in accordance with paragraph 5.1, it shall comply with the applicable provisions of the Market Rules or such other conditions as the Board may consider reasonable. The agreement shall be subject to approval by the Board prior to its implementation. Unresolved disputes relating to the terms of the Agreement, the interpretation of the Agreement, or amendment of the Agreement, may be determined by the Board.

6 Restrictions on Certain Business Activities

- 6.1 Neither the Licensee, nor an affiliate of the Licensee shall acquire an interest in a transmission or distribution system in Ontario, construct a transmission or distribution system in Ontario or purchase shares of a corporation that owns a transmission or distribution system in Ontario except in accordance with section 81 of the Act.

7 Provision of Information to the Board

- 7.1 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.
- 7.2 Without limiting the generality of paragraph 7.1 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.

8 Term of Licence

- 8.1 This Licence shall take effect on April 24, 2007 and expire on April 23, 2027. The term of this Licence may be extended by the Board.

9 Fees and Assessments

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

10 Communication

10.1 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.

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

10.3 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; or
- c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

11 Copies of the Licence

11.1 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 LIST OF LICENSED GENERATION FACILITIES

The Licence authorizes the Licensee only in respect to the following:

1. Emergency Generator - Victoria Park Generation Facility, owned by the Licensee 500 Consumers Road, Toronto, Ontario.
2. VPC - Pressure Letdown and Fuel Cell, owned and operated by the Licensee at 500 Consumers Road, Toronto Ontario