

# CAESARS ENTERTAINMENT WINDSOR LIMITED

September 4, 2014

Via E-Mail: boardsec@ontarioenergyboard.ca

and Regular Mail

Board Secretary  
Ontario Energy Board  
P.O Box 2319  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

**RE: Caesars Entertainment Windsor Limited**  
**Re: Exemption from Requirement for a Retailer Licence**

Our company, Caesars Entertainment Windsor Limited ("CEWL") currently holds an Electricity Wholesaler Licence, EW-2014-0146. The licence was issued in May 2014 after we wrote the Board to advise that our previous Wholesaler Licence, EW-2008-0047, in the name of Windsor Casino Limited had expired.

As we explained in our application for EW-2014-0146, CEWL became the operator of the Caesars Windsor casino complex (the "Casino Complex") effective August 1, 2012 pursuant to a contract with the owner of the Casino Complex, the Ontario Lottery and Gaming Corporation ("OLG") and following a corporate reorganization. CEWL's wholly owned subsidiary Windsor Casino Limited ("WCL") was the operator of the Casino Complex up until July 31, 2012.

Up until July 31, 2012, WCL was acting as the agent for OLG for the purchase of electricity in the IESO-markets for use in the Casino Complex, and WCL was also OLG's agent in respect of the sale of some of that electricity to a tenant located within the Casino Complex.

Both WCL and OLG were exempted, by section 4.1(3) of Ontario Regulation 161/99 (the "Regulation"), from the requirement of having an Electricity Retailer Licence.

As of August 1, 2012, CEWL stepped into the shoes of its subsidiary WCL and took over responsibility for the functions that WCL was previously performing with respect to the purchase of electricity and the sale of some of the electricity to tenants in the Casino Complex. That being said, the employees and personnel carrying out these functions on behalf of CEWL continue to be employed by WCL.

We believe that CEWL can continue to rely on the exemption in s. 4.1(3) of the Regulation; however we thought it prudent to write to you to confirm that the OEB agrees with our view that CEWL does not need a Retailer Licence.

CAESARS ENTERTAINMENT WINDSOR LIMITED

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### **Background Information**

Since 1996, OLG has been leasing space in the Casino Complex to a third party that has been using the space to operate facilities for the production of hot water, chilled water and steam (the District Energy Plant). The District Energy Plant is currently being operated by Borealis Power Corporation ("BPC").

The lease between OLG and BPC requires that BPC purchase from OLG all electricity required for the operation of the District Energy Plant, and that BPC be charged the same rate for such electricity as that paid by OLG therefor.

As the first operator of the Casino Complex, WCL was responsible for overseeing the arrangements to purchase electricity to supply the needs of the Casino Complex, including the District Energy Plant. WCL obtained its first Electricity Wholesaler Licence in 2003 (EB-2002-0070) and renewed it in 2008 with EW-2008-0047.

Commencing in 2003, WCL, on behalf of OLG, purchased electricity in the IESO-markets for use at the Casino Complex. Most of the electricity was used by the Caesars Windsor casino and its facilities, but some of the electricity was also supplied to the District Energy Plant at the same rate as that paid by OLG therefor.

On June 5, 2012, there was a corporate reorganization which resulted in WCL becoming a wholly owned subsidiary of CEWL, and shortly thereafter, on August 1, 2012, CEWL became the operator of the Casino Complex. However, apart from the change in the name of the operator from WCL to CEWL, the electricity supply arrangements continued as they had before. The employees and personnel responsible for the day to day operations of the Casino Complex's electricity distribution system continue to be employed by WCL.

CEWL made arrangements to obtain a new Electricity Wholesaler Licence in its name, and CEWL amended the Participation Agreement with IESO so that CEWL, instead of WCL, was purchasing the electricity for OLG's use at the Casino Complex, and CEWL began to administer on behalf of OLG the supply of electricity to BPC's District Energy Plant.

Up until earlier this year, BPC was the only consumer receiving electricity from OLG. In 2013, CEWL on behalf of OLG entered into a licence agreement (the "Licence Agreement") to allow another third party (the "Licensee") to use space in the Casino Complex to operate restaurants effective as of March 2014. Under the Licence Agreement, CEWL on behalf of OLG supplies electricity to the Licensee at a price equal to the price paid to purchase the electricity.

### **Applicability of s. 4.1(3) of the Regulation**

We understand that both OLG and CEWL may meet the definition of a "Retailer" under the *Ontario Energy Board Act, 1999* because OLG is supplying electricity to BPC and the Licensee, and CEWL may be viewed as acting as the agent for OLG in respect of those sales.

However, we believe that neither OLG nor CEWL are required to obtain a retailer licence because the exemption in s. 4.1(3) of the Regulation applies to both. The Regulation states:

4.1(3) Clause 57 (d) of the Act does not apply to a retailer if,

- (a) the only electricity retailed by the retailer was generated by the retailer or was purchased by or on behalf of the retailer;
- (b) the retailer retails electricity at a price that is no greater than all the reasonable costs associated with generating it or purchasing it; and
- (c) the retailer is also a distributor that owned or operated a distribution system as of January 1, 2002, and that meets all the conditions set out in clause 4.0.1 (c).

We believe that OLG and CEWL meet the three conditions for the exemption.

**Condition (a)**

Condition (a) requires that the electricity being retailed "was generated by the retailer or was purchased by or on behalf of the retailer".

In this case the electricity being sold to BPC and the Licensee is purchased from the IESO-markets by CEWL on behalf of OLG, and thus both CEWL and OLG meet this requirement.

**Condition (b)**

OLG and CEWL meet condition (b) as the electricity is being sold to BPC and the Licensee at a price that is no greater than all the reasonable costs associated with purchasing it in the IESO-administered markets.

**Condition (c)**

Condition (c) contains three sub-conditions. It requires i) that the retailer be a "distributor"; ii) that the retailer owned or operated a distribution system as of January 1, 2002, and iii) that the retailer meet all the conditions set out in clause 4.0.1 (c) of the Regulation<sup>1</sup>.

OLG owns the electrical distribution system that conveys the electricity (at well below 50 kilovolts) from the point where it is delivered by the LDC (Enwin Utilities) to the Casino Campus to the points within the Casino Campus where it is used by BPC and the Licensee (the "Casino's Distribution System"). OLG has owned the Casino's Distribution System from the time of the original construction well before 2002, and thus OLG is a distributor that owned a distribution system as of January 1, 2002.

Following a corporate reorganization of WCL, WCL's parent company CEWL took over as the direct operator of the Casino's Distribution System when it assumed the role of operator of the

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<sup>1</sup> With respect to sub-condition (iii), OLG and CEWL meet all the conditions set out in clause 4.0.1 (c) of the Regulation as 1) neither OLG nor CEWL was incorporated under section 48 or 142 of the *Electricity Act, 1998*, 2) neither company was incorporated as an electricity company or an electricity distribution company and was not so incorporated as of January 1, 2002, and 3) they are not Cornwall Street Railway Light and Power Company Limited, Great Lakes Power Limited, Granite Power Distribution Corporation or Canadian Niagara Power.

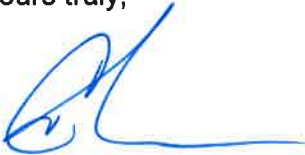
Casino Complex on August 1, 2012. Although CEWL itself was not a distributor as of January 1, 2002, its wholly owned subsidiary WCL was a distributor as of that date. WCL began operating the Casino's Distribution System when it became the operator of the Casino Complex in 1997 and continued to be the operator until July 31, 2012; thus WCL was a distributor that operated a distribution system as of January 1, 2002.

CEWL believes that it meets the condition of being a distributor that operated a distribution system as of January 1, 2002 by virtue of the fact that (a) its wholly owned subsidiary WCL was operating a distribution system as of January 1, 2002, (b) CEWL has merely stepped into WCL's shoes and is continuing to operate the same system that WCL was operating as of January 1, 2002, and (c) the employees and personnel operating the Casino's Distribution System on behalf of CEWL continue to be employed by WCL. As a matter of prudence, CEWL would like to ensure that the OEB agrees that CEWL qualifies as a distributor that operated a distribution system as of January 1, 2002 for the purpose of the exemption in the Regulation.

Both OLG and WCL were clearly exempted from needing a licence to retail electricity at cost price to tenants and licensees of space within the Casino Complex, and we request the OEB's confirmation that the same exemption continues to apply to CEWL in light of its relationship with WCL and the fact that the employees and personnel operating the Casino's Distribution System continue to be employed by WCL.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,



Carolyn Marcotte  
Vice President, Legal and Compliance