



EB-2014-0217
EB-2014-0223

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

AND IN THE MATTER OF an application by Cambridge and North Dumfries Hydro Inc. under section 86(2)(a) of the Act for leave to purchase all of the issued and outstanding shares of Brant County Power Inc.;

AND IN THE MATTER OF an application by Cambridge and North Dumfries Hydro Inc. under section 74 of the Act seeking an order to amend its electricity distribution licence;

AND IN THE MATTER OF a request by Brant County Power Inc. under section 77(5) of the Act seeking the cancellation of its electricity distribution licence.

BEFORE: Cathy Spoel
Presiding Member

Ellen Fry
Member

DECISION AND ORDER

October 30, 2014

INTRODUCTION

Cambridge and North Dumfries Hydro Inc. (“Cambridge”) and Brant County Power Inc. (“Brant”), both licensed electricity distributors (the “Applicants”), jointly filed applications (collectively, the “Application”) with the Ontario Energy Board (the “Board”) on June 16, 2014, seeking the following:

- Cambridge seeks leave of the Board to purchase all of the issued and outstanding shares of Brant pursuant to section 86(2)(a) of the Act (Board file number: **EB-2014-0217**); and
- If the Board grants the section 86 application, Cambridge seeks to amend its electricity distribution licence pursuant to section 74 of the Act to include Brant's service area, and Brant requests that its electricity distribution licence be cancelled pursuant to section 77(5) of the Act (Board file number: **EB-2014-0223**).

The Board issued its Notice of Application and Hearing on July 3, 2014. On July 31, 2014 the Board approved a request by Brantford Power Inc. ("Brantford") for intervenor status. Cambridge filed responses to interrogatories by Brantford and Board staff on August 27, 2014. On September 18, 2014, Brantford filed a letter indicating that it had no further questions or comments relating to this proceeding. Board staff filed a submission on September 19, 2014 and Cambridge filed a reply submission on September 29, 2014.

BOARD FINDINGS

For the reasons set out below the Application is approved.

Section 86(2)(a) of the Act provides that no person without first obtaining an order from the Board granting leave, shall acquire such number of voting securities of a transmitter or distributor that together with voting securities already held by such person and one or more affiliates or associates of that person, will in the aggregate exceed 20 per cent of the voting securities of the transmitter or distributor.

In making its decision under section 86(2)(a), the Board has been guided by the "no harm" test and the Board Policy on Rate-Making Associated with Distributor Consolidation.

The "No Harm" Test

The principles of the no harm test were initially set out by the Board in combined proceedings RP-2005-0018/EB-2005-0234/EB-2005-0254/EB-2005-0257 and recently considered in detail in the Board's decision on the Hydro One Inc./Norfolk

Power Distribution Inc. proceeding (EB-2013-0196/EB-2013-0187/EB-2013-0198) ("HOI/Norfolk proceeding"). The "no harm" test involves consideration of whether the proposed transaction would have an adverse effect relative to the status quo in relation to the Board's statutory objectives. If the proposed transaction would have a positive or neutral effect on the attainment of the statutory objectives, then the application should be granted. The statutory objectives to be considered are those set out in section 1 of the Act, namely:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.
3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
4. To facilitate the implementation of a smart grid in Ontario.
5. To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities.

The Board notes that at the time of the combined proceedings the Act only provided for the first two of its current section 1 objectives. However, as set out above, the Board is required by law to be guided by all five of the objectives in section 1, and the Board accordingly considers that the no harm test should be applied in relation to all five of its objectives.

The issues raised by the parties in this proceeding have been confined to whether the no harm test has been satisfied in relation to the Board's first two objectives provided for in section 1 of the Act. In assessing the acquisition proposed in this particular proceeding, the Board does not consider that there is any reasonable indication that harm would be caused in the context of the last three objectives in section 1.

Board Policy on Rate-Making Associated with Distributor Consolidation

In 2007, the Board issued a report on key rate-making issues associated with consolidation in the electricity distribution sector (the “2007 Report”),¹ addressing the following issues that are relevant to this proceeding:

- “Distributors that apply to the Board for approval of a consolidation transaction may propose to defer the rate rebasing of the consolidated entity for up to five years from the date of closing of the transaction”;
- “[T]he issue of rate harmonization in the context of a consolidation transaction is better examined at the time of rebasing. However, parties should indicate in their application whether they intend to undertake a rate harmonization process after the proposed transaction is completed and if they do, to provide a description of the plan”;

The 2007 Report states that the reason for permitting the deferral of rate rebasing is to allow a time period in which efficiency gains due to the consolidation can offset transaction costs. The 2007 Report also states that it is not appropriate for a distributor to be permitted to recover an acquisition premium or net consolidation losses in whole or in part through rates while retaining the realized benefits of the transaction over the deferral period.

Acquisition Premium

The purchase price to be paid by Cambridge is \$40 million. This price includes a premium of approximately \$16.3 million above the \$23.9 million net book value of Brant’s assets as at December 31, 2013.

Cambridge submits that the premium paid will not be included in its distribution revenue requirement and thus will not be funded by ratepayers. Board staff submits that should the Board approve the transaction, the Board should explicitly state that it is relying on its understanding that neither Cambridge nor any other party acting under its direction or control will apply to recover any portion of the premium in rates.

¹ *Rate-making Associated with Distributor Consolidation*, issued July 23, 2007

In the Board's decision on a motion by the School Energy Coalition in the HOI/Norfolk proceeding, the Board stated:

In applying the "no harm" test, it is not relevant for the Board to consider whether the purchase price of [Norfolk] has been set at an appropriate level. The issue for the Board to consider is whether the purchase price is set at a level that would create a financial burden on the acquiring utility and whether any premium in the purchase price finds its way into rates.

As indicated in the 2007 Report, it is not appropriate for the premium to find its way into future rates. As noted above, Cambridge has confirmed that the premium will not be included in its distribution revenue requirement.

Cambridge submits that its evidence demonstrates its continued financial viability subsequent to the proposed transaction. Board staff submits that the premium paid will have no material impact on Cambridge's financial viability, based on the evidence presented. The Board agrees that the evidence does not indicate that the level of the purchase price is likely to create a financial burden on Cambridge.

Projected Cost Savings and Operational Efficiencies

Cambridge has forecasted net annual cost savings from the transaction of approximately \$1.2 million to \$1.5 million, including (i) reductions in operations, maintenance and administrative costs of \$1 to \$1.2 million per year and (ii) reductions in capital expenditures of \$0.2 to \$0.3 million per year.

Cambridge submits that savings will be realized through cost synergies in the following areas:

- Reduction in back office staff, including accounting, administration, and customer service;
- Reduction in corporate governance costs, with consolidation of two boards of directors into a single board of directors;
- Reduction in information technology costs as a result of combining key information systems and reducing third party support costs currently outsourced by Brant; and

- Reduction in Brant's third party distribution system monitoring costs, as Cambridge has a fully-staffed control room able to provide such required services to Brant.

Concerning operational efficiencies, Cambridge submits that the acquisition is expected to create additional capacity within the accounting and regulatory departments by eliminating the duplication of processes and resources required to support quarterly and annual RRR requirements, on-going transaction processing and record keeping, and other regulatory requirements

Cambridge submits that incremental transaction and integration costs will be financed through productivity gains associated with the transaction.

In its application and response to Board Staff Interrogatory No. 1, Cambridge has provided a well-delineated account of where it expects to achieve cost savings and operational efficiencies through the proposed transaction and an outline of expected capital expenditure savings. The Board finds that the evidence indicates that the proposed transaction can reasonably be expected to result in cost savings and operational efficiencies.

Reliability and Quality of Electricity Service

Cambridge submits that it has exceeded the OEB's service quality indicators in each of the past five years, demonstrating its commitment to customer service. Cambridge also submits that it has committed to meeting or exceeding current service levels and service quality for 2014 to 2019 by reference to agreed upon service metrics as set out in the Share Purchase Agreement². Cambridge's evidence indicates that it is committed to maintaining a local presence through the maintenance of Brant's Paris, Ontario operations and administration centre for at least five years following the transaction closing date. As well, Cambridge has guaranteed the employment of Brant's staff, for a period of three years, to ensure that during the transition, Brant's customers continue to be served by staff who are knowledgeable and experienced with Brant's customers and service area.

² *The Application, Tab 3, Share Purchase Agreement between Cambridge and North Dumfries Hydro Inc. and the Corporation of the County of Brant, Article VI and Schedule 6.8*

Cambridge submits that with respect to reliability of service, it has a structured asset management and capital investment planning process and that the assets of Brant will be fully integrated, maintained, and operated by Cambridge in the same way and to the same standards as Cambridge's current assets. Cambridge proposes to incorporate the long-term capital planning of Brant into a consolidated long-term Distribution System Plan and has stated that capital expenditures will be planned on a non-discriminatory basis and decisions on capital programs will be made locally. Cambridge has committed to a capital expenditure budget and forecast in the Share Purchase Agreement based on Brant's existing asset management plan and estimated customer growth that will maintain or improve reliability from the existing performance of Brant.

Board staff submits that Cambridge can reasonably be expected to maintain the service quality and reliability standards currently provided by Brant.

The Board finds that the evidence does not indicate any likelihood of harm in terms of service quality and reliability as a result of the proposed transaction.

Rate Rebasing and Rate Harmonization

Cambridge has stated that it will not make any incentive regulation mechanism or cost of service applications in respect of Brant's service area between 2015-2018, resulting in Brant's customers avoiding rate increases they would otherwise incur. Cambridge has also committed to setting 2019 rates that are either equivalent to or less than, the rates that would be set for Brant's customers in the absence of the proposed transaction. Cambridge estimates that approximately 98.6% of the combined Cambridge/Brant customer base will realize lower distribution rates in 2019 than would otherwise be expected in the absence of the transaction.

The 2007 Report permits distributors to defer rebasing for a period of up to five years following the closing date of the transaction. Cambridge proposes to harmonize rates at the time of rebasing of the consolidated utility, which is to be deferred until 2019, at the time of Cambridge's next scheduled cost of service application. This proposal is consistent with the timeframe contemplated by the 2007 Report.

Board staff noted in Interrogatory 2.1 that the estimate for the distribution rate impacts following harmonization of rates in 2019 indicates a 54.8% increase for Brant's GS>50kW customer class and requested confirmation that Cambridge's harmonization plan would include measures to mitigate increases for this customer class. Cambridge confirmed that its plan will include measures to mitigate the distribution rates increases for this class, in accordance with the Board's policy. Cambridge also indicated that it will revisit its rate design and rate allocation principles in accordance with the Board's applicable rate-making principles to ensure rates are just and reasonable for all customers and customer classes, including Brant's current GS>50kW customer class.

Net Metering Thresholds

The current net metering thresholds for Cambridge and Brant are 2,986.5 kW and 588.17 kW, respectively. The Applicants submitted that there are no special circumstances that warrant using a different methodology to determine the net metering threshold. The Board accepts that there are no special circumstances present in this regard and will therefore add together the net metering thresholds for Cambridge and Brant to determine the net metering threshold for the consolidated entity.

CONCLUSION AND DECISION

The Board concludes that the no harm test has been met and accordingly approves the Application.

THE BOARD ORDERS THAT:

1. Cambridge and North Dumfries Hydro Inc. is hereby granted leave to acquire all of the issued and outstanding shares of Brant County Power Inc. pursuant to section 86(2)(a) of the Act.
2. The leave granted in paragraph 1 shall expire 18 months from the date of this Decision and Order. If the transaction has not been completed by that date, a new application will be required in order for the transaction to proceed.

3. Cambridge and North Dumfries Hydro Inc. shall promptly notify the Board of the completion of the transaction.
4. Once the notice referred to in paragraph 3 above has been provided to the Board, the Board will amend the electricity distribution licence of Cambridge and North Dumfries Hydro Inc. (ED-2002-0574) to include the service area formerly served by Brant County Power Inc. and to include Brant County Power Inc.'s CDM targets.
5. When the Board makes this licence amendment, it will cancel the electricity distribution licence of Brant County Power Inc. (ED-2002-0522).
6. Once the notice referred to in paragraph number 3 above has been provided to the Board, the net metering threshold for the consolidated entity will be 3,574.67 kW.

All filings to the Board must quote file numbers, EB-2014-0217 and EB-2014-0223, be made through the Board's web portal at

<https://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 <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

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DATED at Toronto October 30, 2014

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary