

EB-2016-0276
Hydro One Inc. Orillia Power Distribution Corporation
Hydro One Networks Inc. Application for approval to purchase Orillia Power
Distribution Corporation

Response of Orillia Water Light and Power Commission to the Submission of
Mark Rodger on Behalf of the City of Orillia, Dated December 22, 2016

Overview

Mr. Rodger's submission fails to address the fundamental issue of whether the the OLWPC, established by referendum, can be dissolved without a referendum thus denying the citizens of the City of Orillia of a fundamental democratic right. His submission addresses the bylaw transferring assets from the City of Orillia to a corporation established under the Business Corporations Act. However, it fails to address in any way whether the City has properly dissolved the OLWPC and validly obtained the assets to transfer. There may be a valid transfer bylaw but in the absence of a proper dissolution of the OWLPC and the City's legal and equitable ownership of the assets held by the Commission the transfer bylaw does not transfer the assets as they were not transferred to the City.

The Electricity Act Provisions

It is correct that the sections referred to by Mr. Rodgers in the Electricity Act validate a transfer bylaw made under the Act from the City to a Corporation established under the Business Corporation Act. However, they do not in any way address the manner in which the City receives the assets it is transferring. It the essence of the position of the OLWPC that it is bylaw 2000-146 which it is invalid with the result that no assets are transferred to the City. This does not challenge the validity of the bylaw transferring assets from the City to the corporation established under the Electricity Act as there are no assets to be transferred.

There are no provisions in the Electricity Act prohibiting an existing commission from continuing to operate. Section 143 prohibits the establishment of a new commission and the authorization of an existing commission to supply electricity. Section 144 prohibits a municipality itself from supplying electricity but neither section specifically prohibits an existing incorporated commission such as the OLWPC from continuing to do so.

Section 145 applies to transfer bylaws which, as stated above Bylaw 200-146 is not, and therefore, is not relevant.

Section 156 is also not relevant as it is not OWLPC's position that the transfer bylaw is in breach of any act, regulation or, bylaw.

Section 158 does not enable a municipality to validate an illegal bylaw by making reference to it in a transfer bylaw. In any event it is not the transfer bylaw which is invalid. It is only ineffective as the City owns no assets to transfer.

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Purpose of Electricity Act

It is the purpose of the Electricity Act to facilitate the privatization of the provision of electricity. In doing so it addresses the transfer of assets owned by a municipality to a corporation established under the Business Corporations Act. Its purpose is not to interfere with or abolish the democratic rights of the citizens of a municipality in doing so. To interpret the Act in the manner suggested by Mr. Rodger would be to vastly expand its provisions of the Act well beyond the expressed language of the Act and its purpose. In interpreting the authority of a municipality under the Act the Board should look to carefully protect the traditional democratic rights of the citizens of Orillia.

All of which is respectfully submitted,



Stanley M. Makuch

December 27, 2016