



EB-2016-0276

**Hydro One Inc.
Orillia Power Distribution Corporation
Hydro One Networks Inc.**

**Application for approval to purchase Orillia Power
Distribution Corporation**

**PROCEDURAL ORDER NO. 4
February 16, 2017**

Hydro One Inc. (Hydro One), filed an application on October 11, 2016, under section 86(2)(b) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (Act), requesting approval to purchase all of the shares of Orillia Power Distribution Corporation (Orillia Power). As part of the share purchase, Orillia Power and Hydro One Networks Inc. (HONI) requested the OEB's approval for related transactions/proposals:

- Inclusion of a rate rider in Orillia Power's 2016 OEB approved rate schedule, under section 78 of the Act, to give effect to a 1% reduction in the 2016 base electricity delivery rates for residential and general service classes until 2022
- Transfer of Orillia Power's rate order to HONI, under section 18 of the Act
- Transfer of Orillia Power's distribution system to HONI, under section 86(1)(a) of the Act
- Cancellation of Orillia Power's electricity distribution licence, under section 77(5) of the Act, after the transfer of the distribution system to HONI is completed
- Amendment of HONI's electricity distribution licence, under section 74 of the Act, at the same time as Orillia Power's licence is cancelled, authorizing HONI to serve Orillia Power's customers

A Notice of Hearing was issued on November 7, 2016. An intervention request was filed by Mr. Stanley Makuch on behalf of Mr. Frank Kehoe and the Orillia Water, Light and Power Commission (Commission). The City of Orillia (City) objected to the granting of

any status to the Commission submitting that the Commission does not exist and provided By-Law 2000-146 which purportedly dissolved the Commission as of November 1, 2000.

In Procedural Order No. 1, the OEB approved the intervention request of Mr. Kehoe in his capacity as a resident of the City. The OEB stated that, with respect to the Commission, it is not possible for the OEB to determine whether to grant intervenor status (or cost eligibility) to a party whose existence is in dispute. The OEB ordered Mr. Makuch to file with the OEB any evidence relevant to the existence of the Commission, including evidence relevant to the validity of the City's By-Law.

Mr. Makuch filed a submission arguing that the City's By-Law authorizing the dissolution of the Commission and transfer of its assets to the City is invalid. Mr. Makuch submitted that section 145 of the *Electricity Act* applies to transfer bylaws which, in Mr. Makuch's submission Bylaw 200-146, is not. Mr. Makuch noted that section 143 of the *Electricity Act* 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. Mr. Makuch further argued that neither section 143 or 144 prohibits an existing incorporated commission such as the Commission from continuing to operate.

The City responded stating that Mr. Makuch failed to appreciate the fact that the *Electricity Act* prohibits the generation, commission, distribution or retailing of electricity, directly or indirectly, by a municipal corporation except through a corporation incorporated under the *Business Corporations Act* pursuant to section 142 of the *Electricity Act*. Further, the City argued that Mr. Makuch failed to consider section 145 of the *Electricity Act* in its entirety. Lastly, the City submitted that information submitted by Mr. Makuch provides no evidence to support the assertion that the Commission exists. The City reiterated that the Commission was validly dissolved and the assets were validly transferred over 16 years ago.

The OEB finds that, as noted by the City, Mr. Makuch's argument fails to consider the provisions of section 145 of the *Electricity Act* which deals with transfers of employees, assets, liabilities, rights and obligations of the municipal corporation, or of a commission or other body through which the municipal corporation generates, transmits, distributes or retails electricity, to a corporation incorporated under section 142. The OEB finds that there is no basis on which to determine that the Commission still exists and therefore the OEB denies the intervention request by Mr. Makuch, on behalf of the Commission.

The OEB considers it is necessary to make provision for the following matters related to this proceeding.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The intervention request filed by Mr. Makuch on behalf of the Orillia Water, Light and Power Commission is denied.

All filings to the OEB must quote the file number, EB-2016-0276, be made in searchable/ unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. 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.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Judith Fernandes at judith.fernandes@ontarioenergyboard.ca and Maureen Helt at maureen.helt@ontarioenergyboard.ca.

ADDRESS

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

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, February 16, 2017

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary