



EB-2008-0334

IN THE MATTER OF section 59 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B;

AND IN THE MATTER OF the extension of an interim distribution licence issued to Hydro One Networks Inc, under sections 59(2) and 59(9) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B in relation to distribution assets serving the Cat Lake community.

BEFORE: Pamela Nowina
Vice Chair

DECISION AND ORDER

Hydro One Networks Inc. ("Hydro One") currently holds an interim licence issued by the Board under section 59(2) of the *Ontario Energy Board Act, 1998* (the "Act") under which Hydro One has possession and control over distribution assets that serve the Cat Lake community. The interim licence was issued by the Board on July 21, 2006 (proceeding EB-2006-0180), and its term has since been amended and extended eight times, first to January 21, 2007 (proceeding EB-2006-0239), then to April 21, 2007 (proceeding EB-2007-0004), then to July 21, 2007 (proceeding EB-2007-0107), then to October 21, 2007 (proceeding EB-2007-0653), then to January 21, 2008 (proceeding EB-2007-0808), then to April 21, 2008 (proceeding EB-2008-0005), then to July 21, 2008 (proceeding EB-2008-0086), and then to October 21, 2008 (proceeding EB-2008-0262). Further details about the history of this matter may be obtained from a review of the Decisions and Order issued in the above mentioned proceedings, to which the interim licence is in each case attached.

On October 17, 2008, Hydro One provided the Board with a written update of the status of its operations under the interim licence. The Board is satisfied that Hydro One's services of managing and conducting the operations of the distribution assets supplying Cat Lake and of the associated businesses will ensure the continued reliability of supply to consumers in that community. In order to ensure the continuity of reliable electricity

supply to consumers in the Cat Lake community, it is necessary to extend the term of Hydro One's interim licence for a further period.

In its July 21, 2008 Decision and Order on this matter, the Board noted that interim orders have been issued under section 59 of the Act since July 2006. The Board further noted that in its view, the provisions of section 59 of the Act were intended to be emergency provisions; the provisions were not meant to be used as long-term solutions to operational problems.

Since July 21, 2008, the Board has initiated a review of the Cat Lake situation. The Board is presently working to consolidate information to identify options for a viable long-term solution. The Board continues to expect that all parties will provide information and assistance as requested by the Board.

THE BOARD ORDERS THAT:

1. The term of interim electricity distribution licence ED-2006-0181 is extended for a further period of three months to January 21, 2009. The interim electricity distribution licence set out in Appendix 1, is effective as of October 21, 2008.
2. Hydro One Networks Inc. continue to remain in possession and control of the deemed distribution assets owned by Cat Lake Power Utility Ltd. and the distribution assets in the Cat Lake community that are owned by the Ontario Electricity Financial Corporation, and continue to comply with the provisions of the interim licence set out in Appendix 1.
3. Hydro One Networks Inc. continue collecting revenue from the existing customers in the Cat Lake community based on the applicable rates.
4. Hydro One Networks Inc. continue keeping track of revenues from the customers in the Cat Lake community and of the costs of operation and maintenance of the distribution assets in a deferral account (under the Uniform System of Accounts). Such accounts would be reviewed in a future rate proceeding. The Board would determine at that point the cost responsibility in the event of a shortfall and the mechanism for that shortfall recovery.

5. Cat Lake Power Utility Ltd. continue surrendering possession and control of the deemed distribution assets and associated business. Cat Lake Power Utility Ltd. is not entitled to any compensation from the Crown, the Board or any person for having surrendered possession and control of its deemed distribution assets and business.
6. Ontario Electricity Financial Corporation continue surrendering possession and control of the distribution assets and associated business serving the community of Cat Lake. The Ontario Electricity Financial Corporation is not entitled to any compensation from the Crown, the Board or any person for having surrendered possession and control of its distribution assets and business.

DATED at Toronto, October 21, 2008.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix "1"

Interim Distribution Licence
as extended

Effective October 21, 2008

ONTARIO ENERGY BOARD



Interim Electricity Distribution Licence

ED-2006-0181

Hydro One Networks Inc.

**Under section 59(2) of the *Ontario Energy Board Act, 1998* for
possession and control of certain distribution businesses
serving the Cat Lake community**

Valid Until
January 21, 2009

Original signed by

Kirsten Walli

Board Secretary

Ontario Energy Board

Date of Extension: October 21, 2008

Ontario Energy Board
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27th Floor
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Interim Electricity Distribution Licence

1. Definitions

In this Licence:

“Accounting Procedures Handbook” means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

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

“Affiliate Relationships Code for Electricity Distributors and Transmitters” means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

“distribution services” means services related to the distribution of electricity and the services the Board has required distributors to carry out, including the sales of electricity to consumers under section 29 of the Act, for which a charge or rate has been established in the Rate Order;

“Distribution System Code” means the code approved by the Board which, among other things, establishes the obligations of the distributor with respect to the services and terms of service to be offered to customers and retailers and provides minimum, technical operating standards of distribution systems;

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

“good utility practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in North America during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgement in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good practices, reliability, safety and expedition. Good utility practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in North America;

“Licensee” means Hydro One Networks Inc.;

“Market Rules” means the rules made under section 32 of the Electricity Act;

“Performance Standards” means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

“Rate Order” means an Order or Orders of the Board establishing rates the Licensee is permitted to charge;

“regulation” means a regulation made under the Act or the Electricity Act;

“Retail Settlement Code” means the code approved by the Board which, among other things, establishes a distributor’s obligations and responsibilities associated with financial settlement among retailers and consumers and provides for tracking and facilitating consumer transfers among competitive retailers;

“service area” with respect to a distributor, means the area in which the distributor is authorized by its licence to distribute electricity;

“Standard Supply Service Code” means the code approved by the Board which, among other things, establishes the minimum conditions that a distributor must meet in carrying out its obligations to sell electricity under section 29 of the Electricity Act;

“wholesaler” means a person that purchases electricity or ancillary services in the IESO administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IESO-administered markets or directly to another person other than a consumer.

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 the 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 and 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

The Board, in the exercise of its powers conferred by Part V and particularly subsection 59(2) of the Act, licenses the Licensee, subject to the terms and conditions set out in this Licence, to possess and control the business of Cat Lake Power Utility Ltd. including its deemed distribution assets which are listed in Schedule 1 of electricity transmission and wholesale licence No. ET-2002-0328 issued to Cat Lake Power Utility Ltd. on October 31, 2002, and the distribution

business and assets owned by the Ontario Electricity Financial Corporation in the Cat Lake community.

4. Term of Licence

- 4.1 This Licence will expire on January 21, 2009, unless the term of this Licence is extended by the Board.

5. Obligations under this Licence

- 5.1 The Licensee shall operate the electricity distribution assets referred to in section 3 in accordance with good utility practice.
- 5.2 The Licensee shall comply with all applicable Market Rules.
- 5.3 The Licensee shall comply with all applicable provisions of the Act and the Electricity Act, regulations made under these statutes and all applicable orders or directives of the Board.
- 5.4 The Licensee shall provide, in the manner and form determined by the Board such information as the Board may require from time to time to monitor the Licensee's compliance with the conditions of this Licence.
- 5.5 Subject to the conditions of this Licence, the Licensee shall carry on, manage and conduct the operations of the distribution businesses in the name of the owner, of the deemed distribution assets (owned by Cat Lake Power Utility Ltd.), and the owner of the distribution assets (owned by the Ontario Electricity Financial Corporation) including:
- (a) preserving, maintaining and adding to the property of the businesses;
 - (b) receiving the income and revenue of the businesses;
 - (c) issuing cheques from, withdrawing money from and otherwise dealing with the accounts of the business;
 - (d) retaining or dismissing employees, consultants, counsel and other assistance for the businesses;
 - (e) directing the employees of the businesses; and
 - (f) conducting, settling and commencing litigation relating to the businesses.
- 5.6 The Licensee may dispose of the deemed distribution assets (owned by Cat Lake Power Utility Ltd.) or the distribution assets (owned by Ontario Electricity Financial Corporation) as are ordinarily disposed of in the normal course of carrying on the business of a distributor.

6. Obligation to Comply with Codes

6.1 The Licensee shall at all times comply with the following Codes (collectively the “Codes”) approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board. Any exemptions granted to the Licensee are set out in Schedule 3 of this Licence. The following Codes apply to this Licence:

- (a) the Affiliate Relationships Code for Electricity Distributors and Transmitters;
- (b) the Distribution System Code;
- (c) the Retail Settlement Code; and
- (d) the Standard Supply Service Code.

6.2 The Licensee shall:

- (a) make a copy of the Codes 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 the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

7. Obligation to Sell Electricity

7.1 The Licensee shall fulfill its obligation under section 29 of the Electricity Act to sell electricity in accordance with the requirements established in the Standard Supply Service Code, the Retail Settlement Code and the Licensee’s Rate Order as approved by the Board.

8. Obligation to Maintain System Integrity

8.1 The Licensee shall maintain the electricity distribution assets referred to in section 3 in accordance with the standards established in the Distribution System Code and Market Rules, and have regard to any other recognized industry operating or planning standards adopted by the Board.

9. Liability of the Licensee

The Licensee is not liable for anything that results from taking possession and control of the two businesses (the deemed distribution assets owned by Cat Lake Power Utility Ltd. and the distribution assets owned by the Ontario Electricity Financial Corporation) or otherwise exercising or performing the Licensee’s powers and duties under the Act in relation to those businesses, this Licence or

any order of the Board, unless liability arises from the Licensee's negligence or wilful misconduct.

10. Provision of Information to the Board

- 10.1 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.
- 10.2 Without limiting the generality of paragraph 10.1, 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 referred to in section 3, as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

11. Customer Complaint and Dispute Resolution

- 11.1 The Licensee shall:
 - (a) have a process for resolving disputes with customers that deals with disputes in a fair, reasonable and timely manner;
 - (b) publish information which will make its customers aware of and help them to use its dispute resolution process;
 - (c) make a copy of the dispute resolution process available for inspection by members of the public at each of the Licensee's premises during normal business hours;
 - (d) give or send free of charge a copy of the process to any person who reasonably requests it; and
 - (e) subscribe to and refer unresolved complaints to an independent third party complaints resolution service provider selected by the Board. This condition will become effective on a date to be determined by the Board. The Board will provide reasonable notice to the Licensee of the date this condition becomes effective.

12. Market Power Mitigation Rebates

- 12.1 The Licensee shall comply with the pass through of Ontario Power Generation rebate conditions set out in Appendix A of this Licence.

13. Communication

- 13.1 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.
- 13.2 All communication relating to this Licence shall be in writing
- 13.3 All 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 or by courier;
 - (b) ten (10) business days after the date of posting if the communication is sent by registered mail; and,
 - (c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

14. Copies of the Licence

- 14.1 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.

APPENDIX A

MARKET POWER MITIGATION REBATES

1. Definitions and Interpretations

In this Licence

“embedded distributor” means a distributor who is not a market participant and to whom a host distributor distributes electricity;

“embedded generator” means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates;

“host distributor” means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant.

In this Licence, a reference to the payment of a rebate amount by the IESO includes interim payments made by the IESO.

2. Information Given to IESO

- a Prior to the payment of a rebate amount by the IESO to a distributor, the distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with information in respect of the volumes of electricity withdrawn by the distributor from the IESO-controlled grid during the rebate period and distributed by the distributor in the distributor’s service area to:
 - i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- b Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IESO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor’s host distributor to the embedded distributor net of any electricity distributed to the embedded distributor which is attributable to

embedded generation and distributed by the embedded distributor in the embedded distributor's service area to:

- i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- c Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IESO may issue instructions or directions providing for any information to be given under this section. The IESO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IESO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IESO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period.

3. Pass Through of Rebate

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, any rebate received from the IESO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, to:

- a retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented;
- b consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
- c embedded distributors to whom the distributor distributes electricity.

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor.

If requested in writing by OPGI, the distributor shall ensure that all rebates are identified as coming from OPGI in the following form on or with each applicable bill or settlement statement:

"ONTARIO POWER GENERATION INC. rebate"

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IESO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

Pending pass-through or return to the IESO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.

ONTARIO POWER GENERATION INC. REBATES

For the payments that relate to the period from May 1, 2006 to April 30, 2009, the rules set out below shall apply.

1. Definitions and Interpretations

In this Licence

“embedded distributor” means a distributor who is not a market participant and to whom a host distributor distributes electricity;

“embedded generator” means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates;

“host distributor” means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant.

In this Licence, a reference to the payment of a rebate amount by the IESO includes interim payments made by the IESO.

2. Information Given to IESO

- a Prior to the payment of a rebate amount by the IESO to a distributor, the distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with information in respect of the volumes of electricity withdrawn by the distributor from the IESO-controlled grid during the rebate period and distributed by the distributor in the distributor's service area to:
 - i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented and the consumer is not receiving the prices established under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- b Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IESO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor's host distributor to the embedded distributor net of any electricity distributed to the embedded distributor which is attributable to

embedded generation and distributed by the embedded distributor in the embedded distributor's service area to:

- i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- c Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IESO may issue instructions or directions providing for any information to be given under this section. The IESO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IESO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IESO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period.

3. Pass Through of Rebate

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, any rebate received from the IESO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, to:

- a retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented and the consumer is not receiving the prices

established under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*;

- b consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
- c embedded distributors to whom the distributor distributes electricity.

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor.

If requested in writing by OPGI, the distributor shall ensure that all rebates are identified as coming from OPGI in the following form on or with each applicable bill or settlement statement:

“ONTARIO POWER GENERATION INC. rebate”

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IESO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

Pending pass-through or return to the IESO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.