



EB-2006-0110

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

AND IN THE MATTER OF a directive approved by the Lieutenant Governor in Council on May 17, 2006, issued by the Minister of Energy to the Ontario Energy Board, pursuant to section 28.1 of the *Ontario Energy Board Act, 1998*;

AND IN THE MATTER OF a proceeding under section 74 of the *Ontario Energy Board Act, 1998* amending certain licences.

BEFORE: Bill Rupert
Presiding Member

Pamela Nowina
Member and Vice Chair

DECISION AND ORDER

Under section 28 of the *Ontario Energy Board Act, 1998* (the "Act"), the Minister of Energy (the "Minister") may, with the approval of the Lieutenant Governor in Council, issue directives with respect to licence conditions to address issues which arise from the market share which Ontario Power Generation Inc. ("OPG") has in the Ontario electricity industry.

The Minister, with the approval of the Lieutenant Governor in Council, issued such directives on March 24, 1999 (OIC No. 600/99). Section 28.1 of the Act authorizes the Minister with the approval of the Lieutenant Governor in Council, to issue directives amending the directive of March 24, 1999 (OIC No. 600/99). Other such directives were issued on March 19, 2003 (OIC No. 654/2003), April 2, 2003 (OIC No. 843/2003), February 16, 2005 (OIC No. 207/2005), December 7, 2005 (OIC No. 600/99) and February 3, 2006 (OIC No. 141/2006).

On May 17, 2006, the Minister of Energy issued a directive (OIC No. 1062/2006), that was approved by the Lieutenant Governor in Council, to the Ontario Energy Board pursuant to section 28.1 of the Act. The directive is related to the adoption of additional terms and conditions of the settlement agreement between OPG and the Independent Electricity System Operator ("IESO") in relation to the OPG Rebate. Accordingly, Schedule 2 attached to OIC No. 141/2006 is revoked and is replaced with a new Schedule B attached to OIC No. 1062/2006. OPG's generation licence is to be amended accordingly. The Board is further directed to amend the licence conditions of the IESO, the Ontario Power Authority, distributors and retailers in a manner consistent with OIC No. 1062/2006 and Schedule B attached thereto.

Based on the wording of Schedule B attached to OIC 1062/2006, distributors will no longer pass through the rebate to retailers from May 1, 2006 onwards for retail customers on the Regulated Price Plan ("RPP") even if the rebate was assigned to the retailer. However, distributors still have to pass through the rebate to retailers for retail customers who are not on the RPP and for retailers who have implemented retailer-consolidated billing. Accordingly, the Board has made modifications to the licences of the distributors and retailers.

Section 28.1 of the Act states that the Board shall amend the licence conditions as required by a directive made under that section without holding a hearing.

THE BOARD THEREFORE ORDERS THAT:

1. Schedule B of the generation licence of OPG (EG-2003-0104) and Schedule B of the licence of the IESO (EI-2003-0088) are revoked and replaced with the document attached as Schedule B to OIC No. 1062/2006.
2. Appendix A of all distributors' licences is amended as set out in Appendix 1 of this Order;
3. Appendix A of all retailers' licences is amended as set out in Appendix 2 of this Order.

DATED at Toronto, September 12, 2006.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix 1

Appendix A of Distributors' Licences

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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.

Appendix 2

Appendix A of Retailers' licences

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APPENDIX A

MARKET POWER MITIGATION REBATES

“OPGI” means Ontario Power Generation Inc.

A retailer shall promptly pass through a portion of the rebate received from a distributor to those 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 served by the retailer but who have not assigned the benefit of the rebate payment to the retailer.

If requested in writing by OPGI, the retailer shall ensure that all rebates paid to consumers are identified as coming from OPGI in the following form on or with each bill or cheque.

“ONTARIO POWER GENERATION INC. rebate”

A retailer shall promptly return to a distributor any portion of the rebate received from the distributor which relates to low-volume or designated consumers receiving the fixed commodity price for electricity under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*, who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer or another party.

The amounts paid out to consumers or returned to the distributor shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code.

Amounts payable by the retailer may be made by way of set off at the discretion of the retailer.

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.

A retailer shall promptly pass through a portion of the rebate received from a distributor to those 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 served by the retailer but who have not assigned the benefit of the rebate payment to the retailer.

If requested in writing by OPGI, the retailer shall ensure that all rebates paid to consumers are identified as coming from OPGI in the following form on or with each bill or cheque.

“ONTARIO POWER GENERATION INC. rebate”

The amounts paid out to consumers or returned to the distributor shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code.

Amounts payable by the retailer may be made by way of set off at the discretion of the retailer.