

## **Appendix “C”**

Cat Lake Power Proposal  
To Ontario Energy Board  
To Discontinue Distribution and Transmission  
Operations in Cat Lake First Nation

July 21, 2006

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## **1.0 Purpose**

Cat Lake Power has operated the distribution system and transmission line connecting it to the grid for five years. As a very small community and with the present energy structure in the Province of Ontario and a federal subsidy ending it was clear the community could no longer operate the system. In order to ensure an orderly transition the community sent letters to the Ontario Energy Board and the Ministry of Energy informing of their decision to and asking to be relieved of the operational responsibility as of March 15 2006.

On March 22<sup>nd</sup> the Ontario Energy Board responded and indicated that Cat Lake Power had legal responsibilities as a licensed transmitter and distributor. While Cat Lake Power has a transmission license it has an exemption as a distributor. A meeting was scheduled with Cat Lake First Nation and the Ontario Energy Board officials on April 28<sup>th</sup> 2006 in Thunder Bay. After lengthy discussions Cat Lake Power agreed to prepare a document outline the historical process to establishing Cat Lake Power, the present operations and pressures, and a proposal to transfer operations and how Cat Lake would pay for the continuing service. This document is the response to those discussions.

However it needs to be clear that Cat Lake First Nation understands their responsibilities but cannot increase the burden on their residents where overall living costs are already so high. Cat Lake is not asking to be treated any differently than any other Ontario residents connected to the provincial grid.

## **2.0 Community Background**

The Cat Lake First Nation is located in Northwestern Ontario approximately 350 km NW of the community of Sioux Lookout. The community has a population of approximately 500 permanent residents. Cat Lake is only accessible by air with scheduled and charter flights provided by operators from Sioux Lookout. Cat Lake First Nation serviced by a winter road from Pickle Lake, Ontario. This road is opened from approximately January to March each year depending on the weather conditions and is used to bring in bulk freight, fuel, and construction materials. While this road is not primarily for personal travel, it is utilized by the residents to travel to and from the community.

Cat Lake First Nation was previously serviced by Hydro One Remotes utilizing a diesel unit to generate power in the community. This required hauling diesel fuel into the community over the winter road. Hydro One Remote Communities Inc.

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operated the distribution network in the community and serviced the community on an as needed basis. In 1998 the community started the planning and design of a transmission line to the community. After funding, licensing and construction the transmission line was commissioned in January of 2001. Cat Lake Power is a non profit corporation wholly owned by Cat Lake First Nation, Cat Lake Power operates the transmission line connected to the Hydro One network, and they also operate the distribution network in the community in cooperation with Sioux Lookout Hydro.

### **3.0 Project Development**

In March of 1997, mining operations ceased at Barrick Gold Golden Patricia mine site southwest of Cat Lake First Nation. The community felt this was an opportunity to connect to the Ontario Hydro operated grid to get replace the diesel generated power that required the hauling of fuel oil to the community over the winter road. This was not only costly, but an environmental risk as well. An extension to the private hydro line already in place to the Golden Patricia mine site was thought to be a practical alternative. Ontario Hydro indicated they were not interested in taking over this line and extending it to Cat Lake First Nation.

Ontario Hydro operated the distribution and generating plants in Cat Lake First Nation, at that point in time through their remote community's electrical system.

A feasibility and business plan was commissioned to determine the costs and requirements to construct a line from the mine to Cat Lake and acquire the existing line from Barrick Gold. At this time the provincial government was reorganizing the electricity industry and in 1998 introduced the Electricity Act that started the electricity sector on a path to a deregulated environment. This legislation split the existing government owned Ontario Hydro into five separate crown corporations to ready the province for competition.

Cat Lake First Nation approached Ontario Hydro to determine if they would be interested in constructing the transmission line to Cat Lake. Ontario Hydro or Hydro One Networks, created in 1999, indicated they had no interest in extending their network to the community.

The feasibility study recommended that under the new regulations Cat Lake would only get connected to the electrical grid by forming their own electrical utility and constructing a transmission line from the old mine to the community. To finance the project Indian and Northern Affairs Canada agreed to advance a

portion of their capital funds to finance the project as well as commit additional funding in the upcoming years. They also agreed to continue paying the Standard A rate for five years to assure the utility would be financially viable. Additional capital financing would be provided by Northern Ontario Heritage Fund and commercial financing.

Cat Lake Power was registered as a federal non profit business with the First Nation of Cat Lake being the single shareholder. In 2000, an operating agreement with Sioux Hydro allowed the company to receive approval from Independent Market Operator (IMO) to connect to the provincial grid and purchase power on the wholesale market. Sioux Hydro, based out of Sioux Lookout, was contracted by Cat Lake Power to operate the billing, maintenance, and connection services as well as provide some administrative support to the community.

Cat Lake Power applied and received an exemption from requiring a distribution licence and from a number of other requirements of the Electricity Act. However Cat Lake Power is licensed by the OEB as a transmission owner/operator and must comply with the associated licensing requirements. Cat Lake Power is also subject to the market rules that are established by the Independent Electricity System Operator (IESO formerly the IMO).

### **3.1 Project Capital Costs**

Total estimated capital costs for the project were 7.133 million dollars. Indian and Northern Affairs agreed to fund the project with funds that would be utilized in upgrading the generator sets in the community. This would translate into:

- \$0.400 Million in 1998/1999
- \$1.624 Million in 1999/2000
- \$4.009 Million in 2005/2006

The remaining funds were negotiated at a commercial credit facility. Northern Ontario Heritage Fund would provide \$3.375 million in the form of an interest free loan to bridge the final payment from Indian and Northern Affairs Canada.

Cat Lake Power connected their community to the Hydro One Networks with construction of 70 km of 25kV line to the mine site. In the same year they approached Hydro One Remotes to purchase all local electricity distribution assets. The disposition of these assets is still being negotiated.

### ***3.2 Operational Assumptions***

The operating assumptions for Cat Lake Power were made utilizing the best available information and should be reviewed with the understanding that they were undertaken as significant changes in the Ontario electricity environment were taking place. At that point in time it was the intent of the government to have an open and competitive energy environment in Ontario. It also was encouraging utilities to amalgamate to achieve economies of scale. The pro formas and projections were based on identified revenue streams for a five year period and would leave Cat Lake Power with no long term debt and a positive balance sheet. While there was an assumption that there would be an opportunity for a partnership with a regional player such as Northwest Energy Association for bulk power purchasing, maintenance agreements and regulatory and administration support, the industry did not develop in the manner originally proposed. This would be the strategy to reduce costs in the long term when the Standard A rate was no longer available.

### ***3.3 Forecast***

The following table compares the income forecast under the business planning process and the actual income in the fiscal year 2003.

Cat Lake Power  
Proposal to Discontinue  
Distribution and Transmission Operations

<b>Revenue (Sale of Energy)</b>	<b>Actual (2003)</b>	<b>Forecast</b>
Residential	125824	122282
General	328211	185000
Street Lighting	282	451
Unbilled Revenue Adjustment	-6571	
<b>Total</b>	<b>447746</b>	<b>307733</b>

Cost of Bulk Power Purchased	121036	159062
Gross Margin on Energy Sold	326710	148671
Other Operating Revenue	10021	17637
<b>Total</b>	<b>336731</b>	<b>166308</b>

### **Expenses**

Administration	75242	79549
Amortization	4090	4090
Debt Guarantee	104718	0
Interest and Bank Charges	4570	999
Line Repairs and Generator Start Up	521139	0
Operation Maintenance	149418	75000
Professional Fees	Included	
<b>Total</b>	<b>859177</b>	<b>159638</b>

Income (loss) Before Other Income	-522446	6670
Other Income Contribution Assistance	500000	0
<b>Net Income (loss) for the Year</b>	<b>-22446</b>	<b>6670</b>
Retained Earnings, Beginning of Year	203372	93076
<b>Retained Earnings, End of Year</b>	<b>180926</b>	<b>99746</b>

## **Notes to Income Statement**

### **Revenues**

Residential - \$0.0802/ Whir  
 General (schools, businesses, band offices, etc...) - \$0.8253/ Whir  
 Streetlights - \$0.36/kwhr  
 Other Operating Revenue - Includes late payment charges, interest income, chargeable work and rental

### **Expenses**

Cost of Bulk Power Purchased - The actual costs of purchasing energy from Ontario Power Generation through Sioux Hydro

Administration - All staffing costs related directly to the operation of Cat Lake Power. This takes into account wages, benefits and insurance.

- Utility Manager - \$44,000
- Bookkeeper/Billing Clerk -\$25000
- Meter Reader - \$6242

Amortization - expenses are based on the interest charges related to a long term loan.

Debt Guarantee (2003) - A one time payment on a loan guarantee for a fuel service

Line Repairs and Generator Start Up (2003) - A \$500,000 cost to replace hydro lines that were destroyed in a fire.

*Operation/Maintenance Costs (2002-2003) - Includes \$18,000 for line clearing and brush control maintenance, as well as a trouble call allowance \$19,000 and a biannual line patrol allowance of \$6,500.*

*Other Income Contribution Assistance (2003) - This is a \$500,000 advance on Band Minor Capital from INAC for the cost of line repair due to the Forest Fire.*

## **4.0 Current Operations**

### **4.1 Cat Lake Power Utility**

Presently Cat Lake Power is responsible for both the transmission and distribution operations in conjunction with Sioux Hydro as per their existing operating agreement. This includes the repair and maintenance of the poles, wires, transformers and all other components of the electrical distribution system. In addition, the inspection and required maintenance of the transmission line that connects Cat Lake First nation and the Hydro One Network. This includes the billing of customers and the payment for power by Cat Lake residents and the wholesale purchase of power from Ontario Power Generation.

## **4.2 Human Resources**

Cat Lake Power has two full time employees and one part time employee as well as the service contract with Sioux Hydro. The employees include a Manager, administrative assistant and a part time meter reader.

## **4.3 Governance**

The Cat Lake Power Utility has a four person Board of Directors with youth and community elder representatives. There is an elected chair and they have established the policies and procedures under which the utility operates. The Manager reports directly to the Board, while the Board is accountable to the shareholders (Cat Lake First Nation as represented by Chief and Council).

While the technical operation of the utility is the responsibility of the Manager and Sioux Hydro, board members need to be conversant with industry-related language and terms.

## **4.4 Relationship with Sioux Lookout Hydro**

Sioux Hydro and Cat Lake Power had a Management Agreement that was signed in November of 2000 and has been in place since that time. This agreement has since expired and needs to be reviewed and renewed as it does not reflect the present responsibilities between the two parties. In discussions with both parties it was clear Sioux Hydro has gone beyond the written agreement and performed any additional services as needed including ensuring a transmission licence was in place, settlement was made with the IESO and emergency repairs were made to the transmission line when a portion was lost in a forest fire.

Sioux Hydro was required to provide routine office support to Cat Lake Power including duties typical of the Secretary, the General Manager, and the Treasurer, among others. Sioux Hydro is responsible to calculate, mail, and distribute all Cat Lake Power invoices and perform all other services required as part of the billing process. This includes not only the billing process, but also the keeping records of the billing, and also to provide monthly statements providing income and expenses to the board of directors.

The contract included a biannual aerial inspection of the transmission line and any annual maintenance and emergency repairs to the transmission line and distribution plant.

Cat Lake Power has since taken over the responsibility for billing customers as well as settling with the IESO for the purchase of wholesale power. This is a result of the Sioux Hydro indicating that they will not renew their contractual agreement with Cat Lake Power.

#### ***4.5 Licensing***

Cat Lake Power has a transmission license issued from the Ontario Energy Board for the transmission line. This license does not allow access to pooled rates with other transmitters.

Cat Lake Power has an exemption from requiring a distribution license. This means they are not bound by the Ontario Energy Board to set the rates to residential and commercial customers. They and their customers are also not afforded rate protection under the Rural and Remote Rate Protection offered under the regulatory regime.

## 5.0 Financial Statements

### 5.1.1 Income Statement 2002 - 2004

<b>Revenue ( Sale of Energy)</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>
Residential	135,521	125,824	122,282
General	289,923	328,211	325,986
Street Lighting	1,212	282	451
Other Operating Revenue	56,175	10,021	17,637
Unbilled Revenue Adjustment	-9,890	-6,571	18,110
<b>Total</b>	<b>472,941</b>	<b>457,767</b>	<b>484,466</b>

Cost of Bulk Power Purchased	144,089	121,036	159,062
<b>Gross Margin</b>	<b>328,852</b>	<b>336,731</b>	<b>325,404</b>

#### **Expenses**

Administration	112,620	75,242	79,549
Amortization	6,503	4,090	4,090
Debt Guarantee		104,718	
Interest and	10,455	4,570	999
Line Repairs and Generator Start Up		521,139	
Operation Maintenance	234,727	149,418	130,470
<b>Total</b>	<b>364,305</b>	<b>859,177</b>	<b>215,108</b>

Income (loss) Before Other Income	-35,453	-522,446	110,296
Other Income			
Contribution Assistance	29,000	500,000	
Net Income (Loss) for the Year	-6,453	-22,446	110,296
Retained Earnings, Beginning of Year	180,926	203,372	93,076
<b>Retained Earnings, End of Year</b>	<b>174,473</b>	<b>180,926</b>	<b>203,372</b>

## 5.2 Statement of Cash Flow

In 2001 the corporation generated \$1,638 in cash flow. In 2002 the corporation developed \$124,913 of free cash flow for the year. In 2003, the forest fire and

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paying out of past debt guarantees resulted in a negative cash flow of \$70,684. Without these extraordinary items the corporation would have generated free cash flow of approximately \$50,000. In 2004 cash flow was negative -35,453.

### **5.3 Balance Sheet**

As of fiscal year 2003 Cat Lake Power had capital assets of \$837,152. These assets however included a \$500,000 accounts receivable to Indian and Affairs Canada for the capital loss of the transmission line due to the forest fire. Capital Assets, cash and investments totalled \$115,819 as of December 31, 2003.

Current liabilities included \$400,000 to the bank with regard to the fire and a \$113, 532 in accounts payable.

Distribution assets are still held by Ontario Hydro successor companies and Transmission Assets are owned by Cat Lake First Nation.

### **5.4 Long and Short Term Debt**

In 2003 there was no significant long term debt for Cat Lake Power. Cat Lake First Nation had a Northern Ontario Heritage Fund interest free loan for \$3,375,000 that was due in 2005. It is our understanding that this loan was paid off with a capital contribution from Indian and Northern Affairs Canada as was agreed to in the original business plan. Short term debt is account over draft and operating loan with a credit facility billed at 2.25% above prime.

### **5.5 Rate Analysis**

Standard "A" Rate is a rate originally agreed upon with Ontario Hydro and Indian and Northern Affairs Canada to subsidize the diesel operations in remote First Nations communities to electrify those communities. This rate, which is approximately ten times the residential rate, was charged to federal and government funded operations in the community such as Health Canada, schools and Ministry of Transportation. Hydro One Remote Communities Inc. has used the Standard A designation in their rate application to the Ontario Energy Board. When a community is connected to the provincial grid they are no longer eligible for the Standard A rate and have their rates approved by the OEB unless as in Cat Lake Power situation they are exempt from the Act.

While Cat Lake Power can continue to charge the Standard A rate to these customers the subsidy that these organizations receive from the federal funding agencies will no longer be available and the increased costs are borne by the community organizations which do not have the resources to pay out of their present operating budget.

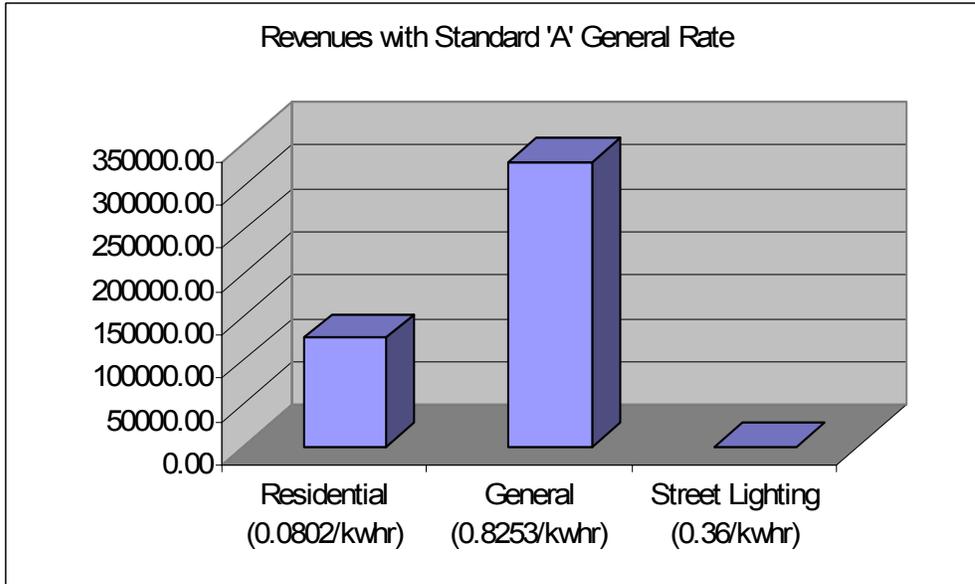
## **5.6 *Loss of Standard A Rate***

In the case of Cat Lake Power, Indian and Northern Affairs Canada agreed to continue paying the Standard A rate for five years after the transmission line was connected. This term has now expired. As a matter of policy Indian and Northern Affairs Canada does not subsidize any First Nation that is connected to the provincial grid.

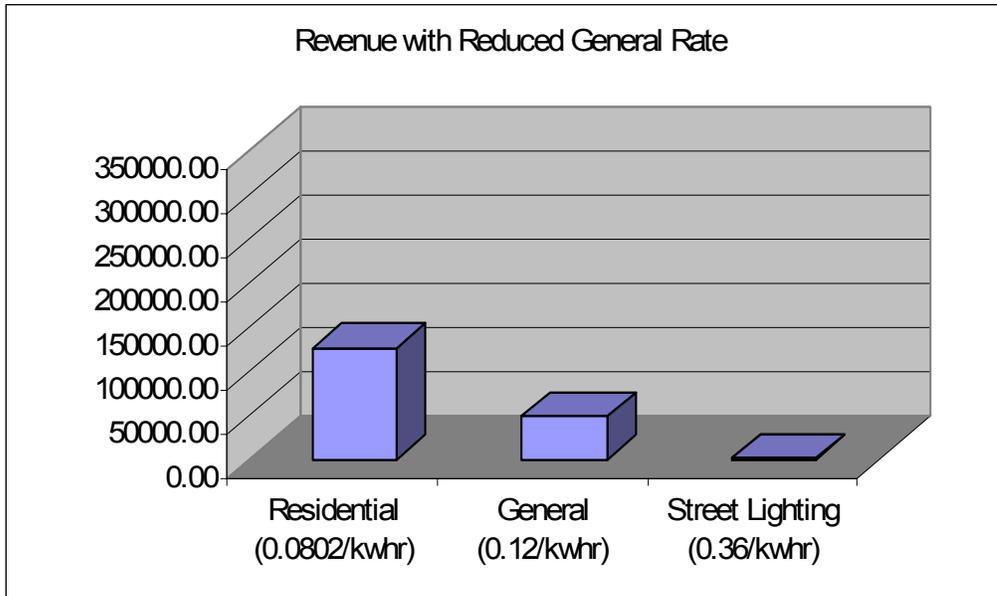
As the Standard A rate in Cat Lake accounts for almost 80% of revenues, a decrease to general service rates similar to other grid connected communities will result in a loss of \$300,000 in revenue, this drop from \$450,000 to \$150,000 will wipe out any operating surplus and make the distribution operations unprofitable.

Table One illustrates the revenue breakdown for Cat Lake Power with the Standard A Rate while Table 2 illustrates the impact when it is no longer collected. This will result in a loss of approximately 60% of their total revenue.

**Table 1- Revenue with Standard A Rate**



**Table 2 - Revenue without Standard A Rate**



## **6.0 Operational Issues**

### **6.1 Distribution**

The distribution of power in communities and First Nations are carried out by either a locally owned municipality or Hydro One Networks. This takes the electrical power from the high voltage provincial grid and distributes it to individual homes and businesses in the community. In Cat Lake this is the responsibility of Cat Lake Power.

Previous to the competition act there were 306 municipal electric utilities that has changed to 92 local distribution companies (LDC) through consolidation and municipal amalgamations. Under the new legislative framework, Hydro One made deals for the acquisition of 88 municipal utilities, increasing its customer base by 25% to 1.2 million. This allows municipal distribution companies to achieve economies of scale in billing, operations and maintenance and administration. Against this background is Cat Lake Power which has approximately 100 customers, two full time employees and an outside maintenance contractor.

Local Distribution companies are licensed by the Ontario Energy Board and rates are set based on a rate application prepared by the distribution company. Cat Lake Power is unlicensed and are able to set their own rates for distribution.

Cat Lake Power was established to connect to the Ontario electrical grid when the only other option would be to continue to depend on diesel fuel to generate electricity. Cat Lake Power was set up to operate in the electricity environment of the period and the anticipated future competitive market. Cat Lake Power has operated the distribution network for five years, why are they now unable to do so?

#### **Loss of Standard A Rate**

The loss of the Standard A Rate will reduce total revenues by approximately 60%. This decreased revenue base will not cover the operational costs of the distribution network. The community has high unemployment rates and residents cannot afford higher rates. There are

already high levels of accounts receivable including from Cat Lake First Nation.

### **Termination of Maintenance Agreement with Sioux Hydro**

Sioux Hydro is no longer willing to provide maintenance service. This is a response to the uncertain environment in Cat Lake as well as a need to determine the long term future of Sioux Hydro. Contracting out is very difficult and expensive as all calls need to be responded to by air and line maintenance needs to be completed by helicopter. As well there are very few qualified electrical contractors in the neighbouring communities to provide the service.

### **Cat Lake Does Not Own the Distribution Network**

Prior to the assumption of responsibilities by Cat Lake Power in the community the electricity act transferred the distribution assets of Ontario Hydro in Cat Lake to the Ontario Electricity Financial Corporation (OEFC). OEFC is an agency of the Province of Ontario a statutory, non-share capital corporation and the legal continuation of Ontario Hydro. The responsibilities include managing the outstanding debt and derivatives portfolios, financial risks and other liabilities of the former Ontario Hydro and receive payments and administer assets, liabilities, rights and obligations of the Corporation that have not been transferred to other Ontario Hydro successor corporations and dispose of these as it deems appropriate or as directed by the Minister of Finance.

All assets and liabilities of the former Ontario Hydro on First Nations were transferred to OEFC which is why they need to negotiate the sale or transfer of distribution assets in Cat Lake. This has not been done to date

Cat Lake First Power believed they had negotiated a purchase price with Ontario Hydro for the distribution assets at the time of operational transfer but at the last moment Ontario Hydro refused to sell at the agreed upon price. Future attempts at negotiation have been attempted but Hydro One Remote Communities Inc. has wanted to tie the purchase into the generator site and the environmental clean up which is a separate issue. Since then no substantive talks have taken place.

### **No Regional Distributor**

When Cat Lake was formed it was felt that there would be additional support mechanisms when the market was fully competitive. This would allow those small distribution companies that weren't purchased by a Hydro One to be able to partner and share services, including maintenance, administrations and bulk purchasing. This has not happened as there is not an open and competitive market and this option is not open to Cat Lake.

### **Unable to Access Industry Subsidies**

In approving electricity rates for a distributor which delivers electricity to rural or remote consumers, the OEB is required to provide rate protection for prescribed classes of consumers, including those who received rural rate assistance prior to April 1, 1999, by reducing the rates that would otherwise apply.

From April 1, 1999 until the present, the amount of rate reduction for rural consumers who occupy rural residential premises is \$127 million per year. Within this total are specific amounts established for certain specified municipalities and licensed distributors in three former off grid remote communities of Attawapiskat, Kashechewan and Fort Albany. Cat Lake Power as an unlicensed distributor is not eligible for rural rate assistance.

## **6.2 Transmission**

Cat Lake Power connects to the provincial high voltage grid by 70 km of 25kV line to the mine site and 115kv line to the provincial electrical grid. This part of the provincial grid is owned and operated by Hydro One Networks. Hydro One Networks Inc. owns and operates Ontario's 28,600km high-voltage transmission system. The system transports electricity to 67 large industrial customers, 55 local distribution companies, and its own low-voltage distribution business. There are four other licensed transmitters in Ontario that own and operate electrical systems but these amount to only a fraction of Hydro One's network.

Transmitters are required to get a license from the Ontario Energy Board and apply to the OEB to get their rates set. Cat Lake Power applied and was granted a transmission license but has not been required to submit a rate application as they are their only customer. Cat Lake Power is also not required to separate distribution and transmission operations as was envisioned in the original competitive environment.

At the time of the deregulation process, additions to grid could only take place where the proponent was or applied to become a transmission company if no other transmitters were interested in the project. This is the environment Cat Lake First Nation was forced to operate under to get connected to the grid. At the time it was envisioned that over the long term there would be a number of transmitters competing in the market and there would be additional opportunities. This has not happened and there remain only six transmitters in the province with Hydro One Networks having over 90% of the network and an capital interest in Five Nations Energy. considerations include the following:

### **Force Majeure**

In 2003 a forest fire burned a number of poles along the transmission line to the community. This cut power to the community and required the start up of the generators left behind in Cat Lake and the replacement of the poles. The total cost of this repair was \$500,000 which the Cat Lake First Nation was required to pay. Hydro One Networks is able to self insure based on the size of their network and recover the cost through subsequent rate applications, insurance costs for Cat Lake Power are too high to consider.

### **No Transmission Revenue**

As stated before there is no transmission revenue to offset the costs of maintenance on the line. All Costs for transmission line borne by Cat Lake Ratepayers.

### **Maintenance Agreement Terminated**

Sioux Hydro has maintained the transmission line by completing inspections and doing any required maintenance. They are no longer able to continue this operating agreement. It will be very difficult to get a qualified contractor to fill this role.

### **Power Purchase Agreement IESO**

Sioux Lookout Hydro purchased power on behalf of Cat Lake Power through the IESO. Cat Lake Power is now dealing directly with the IESO. Once Standard A rate is no longer in force, there is the danger of default and there is no backstop.

### **6.3 Regulatory**

The *Energy Competition Act, 1998*, established the legislative framework for the current electricity market in Ontario. Under the Act, Ontario Hydro was restructured into five new corporations: Ontario Power Generation Inc. (OPG), Hydro One Inc. (Hydro One), the Independent Electricity Market Operator (IMO), the Electrical Safety Authority (ESA) and The Financial Corporation. (OEFEC). Initially the intent was to privatize Ontario Power Generation and Hydro One Networks. As this initiative did not go through these operations remain Crown Corporations

In addition, the energy market itself was deregulated and opened to competition, shortly after however the retail electricity rate was capped to protect residential customers. At present we have a partially regulated industry. Recently a new bill (Bill 100) was enacted to make changes to the industry. This instability has had an impact on the long term future of industry players including Cat Lake Power.

Cat Lake Power has been able to operate with a subsidized rate but will no longer be sustainable without that rate. Cat lake Power does not wish to default on its operations but wishes to follow an orderly process outlined in the Ontario Energy Board Act Section 57-59 and the powers of the board.

#### **Requirement to hold licence**

**57.** Neither the OPA nor the Smart Metering Entity shall exercise their powers or perform their duties under the *Electricity Act, 1998* unless licensed to do so under this Part and no other person shall, unless licensed to do so under this Part,

- (a) own or operate a distribution system;
- (b) own or operate a transmission system;
- (c) generate electricity or provide ancillary services for sale through the IESO-administered markets or directly to another person;
- (d) retail electricity;

- (e) purchase electricity or ancillary services in the IESO-administered markets or directly from a generator;
- (f) sell electricity or ancillary services through the IESO-administered markets or directly to another person, other than a consumer;
- (g) direct the operation of transmission systems in Ontario;
- (h) operate the market established by the market rules; or
- (i) engage in an activity prescribed by the regulations that relates to electricity. 1998, c. 15, Sched. B, s. 57; 2002, c. 1, Sched. B, s. 6; 2004, c. 23, Sched. B, s. 10; 2006, c. 3, Sched. C, s. 4.

**58.** Repealed: 2003, c. 3, s. 41.

### **Interim licences**

#### **Emergency**

**59. (1)** Despite this Act, the Board may issue an interim licence authorizing a person to undertake any of the activities described in section 57 if the Board considers it necessary to do so to ensure the reliable supply of electricity to consumers. 1998, c. 15, Sched. B, s. 59 (1).

#### **Powers of Board**

**(2)** If the Board has determined that a distributor has failed or is likely to fail to meet its obligations under section 29 of the *Electricity Act, 1998*, it may,

- (a) require the licensee, as a condition of an interim licence, to take possession and control of the business of the distributor;
- (b) order the distributor to surrender possession and control of its business to the person licensed under subsection (1); and
- (c) without a hearing, amend or suspend the licence of a distributor. 1998, c. 15, Sched. B, s. 59 (2); 2003, c. 3, s. 42 (1).

#### **Conduct under cl. (2) (a)**

**(3)** A person who is required under clause (2) (a) to take possession and control of the business of a distributor may, subject to the conditions of the interim licence, carry on, manage and conduct the operations of the business in the name of the distributor, including,

- (a) preserving, maintaining and adding to the property of the business;
- (b) receiving the income and revenue of the business;
- (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 business;
- (e) directing the employees of the business; and
- (f) conducting, settling and commencing litigation relating to the business. 2003, c. 3, s. 42 (2).

**Liability**

(3.1) A person who is required under clause (2) (a) to take possession and control of the business of a distributor is not liable for anything that results from taking possession and control of the business or otherwise exercising or performing the person's powers and duties under this Act, the interim licence or any order of the Board, unless liability arises from the person's negligence or wilful misconduct. 2003, c. 3, s. 42 (2).

**Disposal of assets**

(4) A person described in subsection (3) may dispose of such assets as are ordinarily disposed of in the normal course of carrying on the business of a distributor. 1998, c. 15, Sched. B, s. 59 (4).

**No notice**

(5) The Board may act under this section without notice and without a hearing. 1998, c. 15, Sched. B, s. 59 (5).

**Review**

(6) The Board shall, upon the request of a distributor against whom an order is made under clause (2) (b), hold a hearing to review the order. 1998, c. 15, Sched. B, s. 59 (6).

**Order not stayed**

(7) A request for a hearing does not stay the order made under clause (2) (b). 1998, c. 15, Sched. B, s. 59 (7).

**Action on review**

(8) After the hearing, the Board may confirm or amend its order and may extend the order. 1998, c. 15, Sched. B, s. 59 (8).

**Term of licence**

(9) An order made or licence issued under this section expires three months after it is made or issued unless the Board orders that it be extended. 1998, c. 15, Sched. B, s. 59 (9).

**Retain ownership**

(10) Despite subsection (2) or (3), and subject to subsection (4) a distributor to whom an order is issued under clause (2) (b) retains ownership of any assets of the business that the distributor owned before the order was issued, subject to any encumbrances. 1998, c. 15, Sched. B, s. 59 (10).

**No compensation**

(11) A distributor to whom an order is issued under clause (2) (b) is not entitled to any compensation from the Crown, the Board or any person for being required to surrender possession and control of its business. 1998, c. 15, Sched. B, s. 59 (11).

## 7.0 Moving Forward

It has become evident that a community the size of Cat Lake First Nation cannot operate a distribution and transmission company in the existing regulatory environment. The demands of the business require a level of expertise and training that cannot be supported by the small number of ratepayers. Raising the rates in the community is not reasonable as ratepayers will not be able to support the operation that has been created by the provincial government and it is recommended they exit both businesses.

Their decision was based on the realization that they would be unable to fulfill the obligations of the new regulatory requirements in the deregulated market. Add to the fact that Cat Lake has just one hundred residential customers and has no road access and the costs are substantially higher. There is no business model where a community of this size can operate a distribution company and provide affordable rates to their customers.

Hydro One Networks is responsible for 97 per cent of Ontario's electricity transmission system and about one-third of the province's distribution system. The 28,600 kilometre high voltage system transmits electricity from generating facilities across the province to the local distribution utilities and large industrial

consumers. Hydro One Networks' low voltage distribution system brings electricity to approximately 1.3 million homes or businesses across rural Ontario. Hydro One Networks has purchased Dryden Hydro and Rainy River Hydro in Northwestern Ontario and is considering other purchases. It is clear they are the only alternative as a buyer for Cat Lake Power.

In Northwestern Ontario there are no active transmission or distribution companies that have indicated an interest in Cat Lake Power. Hydro One Networks is the only distributor/transmitter that has been a buyer in this market. They are also the operator in the adjacent or nearby communities of Slate Falls First Nation, Mishkeegogamang First Nation, and Pickle Lake. These communities along with Cat Lake First Nation are all served off the radial line Hydro One Networks has from its Ear Falls transformer station. This is also where the Ontario Power Generation Ear Falls Hydro plant is also located.

Cat Lake First Nation is prepared to sell the operation on a willing seller/willing buyer basis and they presently own the transmission line which has a book value of over 8 million dollars. They do not own the distribution network as that is owned by the Ontario Electrical Financial Corporation and is negotiated by Hydro One Remote Communities Inc. As Hydro One Networks has not shown a willingness to purchase or develop the operation in the past we believe they need to be directed to do so as a corporation of the Crown in Ontario.

Cat Lake First Nation is willing to continue to work with the Ontario Energy Board to find a solution to this issue, but does not have the financial capacity to support the operation if Cat Lake Power cannot meet its financial responsibilities, so we need to reiterate time is of the essence.