

Draft Transitional Electricity Retail Licence

PART 1 - Definitions and Interpretations

Definitions

In this licence:

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

ABoard@ means the Ontario Energy Board;

“contract” means an offer that has been entered into between a consumer and an electricity retailer, and accepted by the consumer in writing;

ADirector@ means the Director of Licensing appointed under section 5 of the *Act*;

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

Adistributor@ means a person who owns or operates a distribution system;

“Licensee” means the person named on the front of this Licence;

“low-volume electricity consumer” has the same meaning as “residential or small business consumer”;

AMarket Rules@ means the rules made under section 32 of the *Electricity Act*;

“offer” means a proposal to enter into a contract, agency agreement, or any other agreement or combination thereof, made to an existing or prospective consumer for the sale of electricity;

Board Staff Draft For Discussion

June 4, 1999

ARegulations@ means a regulation made under the *Electricity Act* or the *Act*,

“residential or small business consumer” is defined by regulation to be a consumer using less than 150,000 kWh per annum;

"retail", with respect to electricity, means,

- a) to sell or offer to sell electricity to a consumer,
- b) to act as agent or broker for a retailer with respect to the sale or offering for sale of electricity, or
- c) to act or offer to act as an agent or broker for a consumer with respect to the sale or offering for sale of electricity;

“retailer” means a person who retails electricity. For the purposes of this Licence, the terms “retailer” and “retailing” do not apply to the sale of Standard Supply Service by a Distribution Company.

2. Interpretations

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.

3. Authorization

The Board, in the exercise of the powers conferred by Part V and subsection 129 (1) of the *Act*, subject to the conditions set out in this Licence, licenses the Licensee to retail electricity.

4. Fees and Assessments

Board Staff Draft For Discussion

June 4, 1999

The Licensee shall pay all fees charged and amounts assessed by the Board.

5. Term of Licence

5.1 This Licence shall take effect on xxx, 1999 and terminate on xxx, 2001.
The term of this Licence may be extended by the Board.

5.2 Retailing to low-volume customers under this licence is prohibited until a date to be determined by the Board.

6. Transfer of Licence

6.1 In accordance with subsection 18(2) of the *Act*, this Licence is not transferable or assignable without leave of the Board.

7. Amendment of Licence

The Board may amend this Licence in accordance with section 74 of the *Act* or section 38 of the *Electricity Act*.

8. Orders for Securing Compliance

If the Board is satisfied that the Licensee is contravening this Licence or is likely to contravene this Licence, the Board may order the Licensee to comply with this Licence in accordance with section 75 of the *Act*.

9. Suspension or Revocation of Licence

9.1 The Board may suspend or revoke this Licence in accordance with sections 76 and 77 of the *Act*.

9.2 The Board may cancel this Licence if the Licensee agrees, at any time, in writing that this Licence should be canceled.

10. Provision of Information to the Board

10.1 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 all legislative and regulatory

Board Staff Draft For Discussion

June 4, 1999

requirements, including the conditions of this Licence.

- 10.2 The licensee shall, within five days, notify the Board in writing of any change in;
- a) the licensee's officers or directors if the licensee is a corporation;
 - b) the partners, if the licensee is a partnership;
 - c) the licensee's address for service if the licensee provided an address for service in its application for the licence; and
 - d) any material change to the information which the licensee provided as part of the licence application process.

11. Environmental Disclosure

The Licensee shall disclose environmental information related to any offer or sale of electricity in accordance with any regulation made and any standards set by the Board. ¹

12. Obligation to Comply with the Market Rules

The Licensee shall comply with the applicable provisions of the Market Rules.

13. Agent for Service

13.1 If the licensee does not have an office or other place of business in Ontario:

- a) The licensee shall ensure the continuing appointment at all times of an individual who is a resident of Ontario and is at least 18 years old, or a corporation that has as its head office or registered office

¹) Note: The Ministry of Energy, Science and Technology has proposed to make a regulation pursuant to the Ontario Energy Board Act, 1998, Section 88(1), requiring that all product-specific written promotional materials distributed to consumers by retailers shall disclose energy supply mix or environmental attributes in the form of a uniform, mandatory label. For more information, please refer to the Ministry's detailed proposal on the Environmental Bill of Rights registry or call Adam White at (416) 314-6204.

Board Staff Draft For Discussion

June 4, 1999

in Ontario, as the licensee's agent for service in Ontario on whom service of process, notices or other documents may be made.

- b) Every appointment referred to in (a) above shall be in writing, in a form approved or established by the Board.
- c) The licensee shall file every appointment referred to in (a) above with the Director and shall, within 5 days of any change in the information filed, notify the Director in writing of the change.

13.2 Paragraph 13.1 does not apply to:

- a) a corporation that appoints an agent for service in Ontario in accordance with the *Extra-Provincial Corporations Act*, or
- b) an extra provincial limited partnership that appoints an attorney and representative in Ontario in accordance with the *Limited Partnerships Act* to accept service.

14. Obligation to Comply with Codes

14.1 The Licensee shall at all times comply with all applicable provisions of:

- the Electricity Retailers Code of Conduct
- the Retail Settlement Code, and
- the Retail Metering Code

(collectively "the Codes"), as such Codes have been approved by the Board and are in effect at the relevant time.

14.2 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.

14.3 The Board may approve amendments to any of the Codes in accordance with the following provisions:

- a) the Licensee or any other person may file with the Board a proposed amendment to a specified Code or Codes;

Board Staff Draft For Discussion

June 4, 1999

- b) where the Board determines that the proposed amendment does not require consultation, the Board may approve the amendment;
 - c) where the Board determines that the proposed amendment requires consultation:
 - i) the Board shall direct the Licensee or other person who filed the proposed amendment (“the Notifying Party”) to give notice of it in such manner and to such persons as the Board may direct;
 - ii) the notice shall invite written submissions to the Notifying Party within such reasonable time as the Notifying Party shall indicate;
 - iii) after considering the written submissions and making any changes to the proposed amendment it considers advisable, the Notifying Party may file the proposed amendment with the Board and request that the Board approve the proposed amendment; and
 - iv) where the Board determines that further consultation is necessary in regard to a proposed amendment, it shall give directions as to the manner in which that further consultation is to be conducted.
- 14.4 Any question as to the reasonableness of the time set out by the Notifying Party shall be determined by the Board.
- 14.5 The Board may make amendments to any of the Codes of its own motion but where the amendment would materially change the Code, the Board shall not make the amendment until it has:
- a) provided notice in such manner and to such persons as the Board may direct; and
 - b) in the notice, invite written submissions within such reasonable time as the Board may direct.
- 14.6 Where the Board approves or makes an amendment to any of the Codes, the Board shall give notice of the amendment to each licence holder who is required to comply with the relevant Code as a condition of its licence.
- 14.7 An amendment to a Code shall come into force on a date specified by the Board in the notice given under paragraph 14.6

Board Staff Draft For Discussion

June 4, 1999

14.8 The Board, upon application by the Licensee, may make a determination that one or more of the provisions of any Code do not apply to the Licensee. Such determination may be in the form of a modification, variation or exemption as the case may be. Following the Board's determination of the application, the relevant Code shall apply as modified.

15. Consumer Complaints Resolution Process

15.1 The Licensee shall participate in a consumer complaints resolution process administered by a person from among those selected by the Board.

15.2 The licensee may request that the Board select a person or entity to administer a consumer complaints resolution process, where the licensee is prepared to participate in that consumer complaints resolution process.

16. Communication

16.1 All communication between the Board and the licensee relating to this Licence shall be in writing

16.2 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 either by hand, or by courier;
- b) 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 as confirmed by the sender's transmission report.

17. Pass-Through of Rebate

The Licensee shall comply with the pass through of rebate conditions set out in Appendix A.

18. Transitional Condition

Board Staff Draft For Discussion

June 4, 1999

Any provision of this licence that by its terms would only apply after the date on which this licence is set to expire, shall apply only to the extent that the duration of this licence is extended to include such stated time.

Board Staff Draft For Discussion

June 4, 1999

Appendix A - Pass Through of Rebate Conditions

“OPGI” means Ontario Power Generation Inc.

“Prime Rate” means the variable annual rate of interest, calculated on the basis of a calendar year, announced from time to time by the IMO’s then principal Canadian banker as the reference rate of interest (commonly known as its prime rate) then in effect and used by such bank for determining interest rates on Canadian dollar denominated commercial loans made by it in Canada to customers of varying degrees of credit-worthiness.

Prompt pass throughs, with the normal bill delivered in respect of the month in which the rebate amount was received, of any rebate received from the IMO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, will be required by the licensee so that its ultimate customers in Ontario benefit *pro rata* on the basis of energy consumed.

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

“ONTARIO POWER GENERATION INC. rebate”

Any rebate amount which cannot be distributed as provided above shall be promptly returned to the IMO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, for use to offset the IMO uplift.

Nothing shall preclude agreements, that require the purchaser to return the rebate or any portion thereof to the seller or any other party.

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