

November 15, 1999

To: all interested stakeholders

Re: Draft Guidelines for the Interpretation of Electricity Distribution Activities under Section 71 of the *Ontario Energy Board Act, 1998*

The Ontario Energy Board invites all interested stakeholders to comment on Board staff's Draft Guidelines for the Interpretation of Electricity Distribution Activities under section 71 of the *Ontario Energy Board Act, 1998* (the "*Act*") (the "Draft Guidelines").

The principal purpose of the Draft Guidelines is to set out the approach that the Board will generally take when there are matters with respect to section 71 of the *Act* at issue before the Board. The Draft Guidelines also seek to provide general guidance to incorporating local distribution companies (LDCs) as to whether they may (or may not) carry out certain types of activities under section 71 of the *Act*.

The Draft Guidelines may assist parties in considering: the reorganization or restructuring of the LDCs including mergers, acquisitions, amalgamations and divestitures; the relationship between the LDCs and their affiliates; or the manner in which the LDCs could deliver utility services.

The principal issues related to the interpretation of section 71 of the *Act* include: the definition of distribution activity, the classification of activities into distribution activities and non-distribution activities, the offering of distribution services to third parties and the mechanism of the "Predominant-Use Test".

In order to accomplish these goals, the Draft Guidelines establish the general principles that would characterize distribution activities from non-distribution activities. The Draft Guidelines also address the issue of offering distribution services to third parties by the adaptation of the "Predominant-Use Test".

Staff would appreciate comments on the Draft Guidelines prior to its finalization and approval by the Board. While staff is looking for comments from parties on any matters raised in the Draft Guidelines, there are certain questions staff would appreciate feedback on:

1. Is the purpose and content of the Draft Guidelines understandable and clear?
2. Do the lists of distribution activities and non-distribution activities sufficiently cover and address all activities that are currently offered and may be offered in the future by LDCs?
3. Do the Draft Guidelines sufficiently address the different scenarios under which a

- utility may offer its distribution services to distributors, affiliates or third parties?
4. Is the mechanism of the “Predominant-Use Test” clear and understandable? What is the appropriate threshold for the “Predominant-Use Test”? Is the proposed threshold of 30% appropriate?
 5. Is the “Predominant-Use Test” practical and workable?
 6. Does the chart in Appendix 1 help in explaining the logic behind the Guidelines?

Please note that the Draft Guidelines are available under the “What’s New” section on the Board’s Web site at <http://www.oeb.gov.on.ca>. The *Affiliate Relationships Code for Electricity Distributors and Transmitters* (reference under section 5.5.2 in the Guidelines) is available under the “Legislation, Rules and Guidelines” section of the Web site. While the Board approved *Accounting Procedures Handbook for Electricity Distribution Utilities* (reference under section 5.5.1 in the Guidelines) is not currently available on the above Web site, it is expected to be made available within the next few weeks under the “Legislation, Rules and Guidelines” section.

With respect to the written comments to be provided, Board staff requests that:

1. To the extent possible, parties are asked to organize their comments to follow the Draft Guidelines;
2. Written comments are to be forwarded by E-mail, regular mail or fax to Suzanne Tong by **November 30, 1999** at:
Ontario Energy Board
26 Floor/ P.O. Box 2319
2300 Yonge Street
Toronto ON M4P 1E4
fax (416) 440-7656
e-mail: tongsu@oeb.gov.on.ca
3. Any questions relating to the draft Guidelines are to be directed to Suzanne Tong (416-440-8106) or Mark Garner (416-440-7627).

Sincerely,

Anne Powell
Director of Licensing