

February 13, 2004

Mr. Peter O'Dell
Assistant Secretary
Ontario Energy Board
Suite 2601, 2300 Yonge Street
PO Box 2319
Toronto, ON M4P 1E4

Dear Mr. O'Dell:

***RE: RP - 2004-0020 - Notice of a Consultation to Review Further
Efficiencies in the Electricity Distribution Sector***

The Association of Municipalities of Ontario (AMO) has a direct interest in the future of Local Distribution Companies (LDCs) and the electricity system as a whole. Our members are both the shareholders of distributors and large consumers of electricity.

We would have been very interested in directly participating in your hearings to review the Electricity Distribution Sector. Unfortunately, because of the timing and speed of the consultation, we are not able to participate in your discussions – nor has our Executive had the opportunity to approve the following staff comments. We will inform you when they have had the opportunity to confirm this staff response.

We are very concerned that these hearings may result in significant changes to LDCs being imposed by government legislation/regulation or Ontario Energy Board (OEB) rulings. Given the shortness of time provided to stakeholders and municipalities to respond, and the fact that the Discussion Paper was only available a little over a week before comments were due to the Board, we hope that the OEB and/or the government will have further and more comprehensive consultations on the future of LDCs before any decisions are made or actions taken. This would allow our members and other stakeholders to provide more informed comments about the future of this key sector in the electricity system. We have all learned from the Bill 210 process that there can be real public policy consequences when decisions are made in haste and without appropriate consultation and analysis.

In terms of the future of LDCs, the Association of Municipalities of Ontario hopes that any future OEB or government decisions would be based on two principles - flexibility in decision making and protecting the sustainability of LDCs.

At AMO, we understand that there isn't a single solution that will work everywhere – "one size does not fit all". Some solutions may work in the urban areas of the Province, but be less applicable in rural or northern Ontario. In addition, the "non-economic objectives such as local control," that some communities may have and want, should not be discounted or ignored by the government or the OEB. We believe that municipal shareholders should be provided with choices regarding their LDCs' future, and any heavy-handed regulatory approach by the government or the OEB would most likely, be unwelcome.

Some argue that LDCs need to be consolidated, and that they should participate in purchasing electricity. We would argue that LDCs (with their shareholders' approval) should be provided with the option to amalgamate and/or purchase electricity on behalf of their customers, but they should not be required to do so. Incentives (as opposed to punitive or mandatory measures) are an appropriate mechanism to encourage more efficiency in the sector. AMO was pleased that the government has reinstated the transfer tax exemption for sales and amalgamations of municipal Local Distribution Companies within the public sector. This is an example of the kind of option that should be reviewed.

Our Association also has a concern that future decisions regarding the electricity sector should not undermine the financial sustainability of LDCs and their municipal shareholders. Some Distributors and their municipal shareholders may be wary of further restructuring and getting into new areas of business such as purchasing electricity because of previous decisions by the Province and the pace of change in the electricity sector which have resulted in "... political and regulatory uncertainty."

As noted your Discussion Paper, "In the past few years, the Ontario electricity distribution sector has experienced major structural development and other challenges." Municipal Electrical Utilities have been incorporated and their numbers have been consolidated from 300 to the current 100.

But, after spending millions of dollars and following the established rules, municipalities and their LDCs were then unfairly blamed for the sharp increase in electricity prices last summer – a charge later refuted by a government consultant's report on *Ontario Electricity Bills*.

With the passage of Bill 210, *the Electricity Pricing, Conservation and Supply Act, 2002*, the economic position of distributors was significantly altered and undermined – almost overnight. Their OEB approved market-based rate of return of 9.88% was capped, and approximately \$750 million of "regulatory assets" owed to LDCs were put into limbo. These steps then resulted in bond-rating agencies downgrading Ontario Distributors, which in turn made it more costly for LDCs to upgrade their infrastructure and make needed investments. While recent Ministry of Energy announcements regarding Distributors and their rates of return and "regulatory assets" may improve the LDC finances, many of them are still not in a strong position.

How can municipalities be assured that a future Bill 210 will not be passed - after they and their Distributors have followed rules laid out by the government, the OEB and others, restructured their LDCs, signed contracts with generators and made significant investments? How can they be assured that the independent agencies that oversee Ontario's electricity system will not be compromised by political interference – as they have in the past? These questions need to be addressed upfront and precisely if there are plans to fundamentally change LDCs or their role.

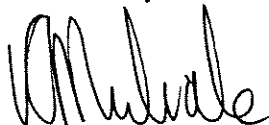
It cannot be forgotten that LDCs are very important municipal assets. As they are incorporated under the Ontario *Business Corporations Act*, shareholder rights need to be protected – as with any other sector of the economy.

When municipalities established LDCs under Bill 35, the *Energy Competition Act*, 1998, it was intended that these new corporations be sources of revenue to their shareholders. In fact, when the previous government outlined the support it provided to the City of Toronto, they noted that Toronto Hydro could provide payments as high as \$120 million per year to the City. If future changes to LDCs (including those related to demand side management/response) undermine their ability to provide the promised revenue to their municipalities, there are many more consequences, most falling to the shoulders of the already overburdened property taxpayer.

We hope that these comments will assist you in these initial discussions. But, as noted above, AMO believes that much more informed, careful consultation is needed before the OEB or the government proposes further changes to LDCs. The examples provided in the OEB Discussion Paper demonstrate that in other jurisdictions it can take years to restructure distribution systems.

Thank you for providing AMO the opportunity to comment. We look forward to reviewing your report, and we will contact you immediately when our Executive has had the opportunity to review this issue.

Yours very sincerely,



Ann Mulvale
President

C: Hon. Dwight Duncan, Minister of Energy, Chair of Cabinet & Govt. House Leader
Hon. John Gerretsen, Ministry of Municipal Affairs
Pelino Colaiacovo, Executive Assistant, Ministry of Energy
Dr. Bryne Purchase, Deputy Minister, Ministry of Energy
Robert Silver, Energy Policy, Office of the Premier
Laurie LeBlanc, Director, Urban Affairs and Stakeholder Relations Branch,
Electricity Distributors Association
AMO Electricity Bill 210 Task Force