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December 11, 1998

To: All Interested parties
Re: Electricity generation interim licence

On October 28, 1998, Board staff began its consultation on interim electricity licences by circulating to interested parties a draft interim distribution licence and a draft interim transmission licence along with an outline of proposed codes which are referenced in the licences and which set out technical matters. The purpose in circulating those documents was to give interested parties an opportunity to provide Board staff with input for drafting generic transmission and distribution licences and the content of the proposed codes. This letter commences a similar process to obtain comments from interest parties on draft interim generation licences.

Interim licences and associated codes are to be developed by the Board for Ministerial approval and Board issuance in early 1999 on an “as required” basis. While the Board is not planning to conduct hearings on interim licences, the Board is undertaking a consultation process to give stakeholders an opportunity to provide input to the conditions contained in the interim licences and a workshop process of industry and customer stakeholders to develop much of the content of the proposed codes. The stakeholder consultation process for interim generation licences will be undertaken in January, 1999.

In addition, Board staff will use the collated comments received on the draft interim generation licence in order to determine the need for any further consultation with stakeholders for the purpose of developing the next version of the licence that will be recommended to the Board.

Interim Generation Licences

The regulation of industry participants in the restructured electricity industry will be based on a licensing regime as set out in the *Ontario Energy Board Act, 1998* (“the Act”). Under section 129 of the Act the Board is empowered to issue interim licences. In order to facilitate market transition, interim electricity licences will be issued by the Board, upon approval of the Minister of Energy, Science and Technology (“the Minister”), in early 1999 to Ontario Electricity Generation Corporation (Genco), Ontario Hydro Services Corporation (OHSC), the Independent Electricity Market Operator (IMO), the 270 distribution utilities currently regulated by Ontario Hydro (MEUs, PUCs, and private utilities), and existing independent power producers as well as other existing participants, where required.

Board staff envisions issuing a generic interim licence to all existing generators. The main objectives of the generation licence are to authorize generators to operate, ensure their compliance with market rules and outline their requirements to provide the Board with information that will enable it to assess compliance and to undertake its mandate with respect to monitoring the market for potential abuses of market power.

Special conditions relating to Genco would be contained in Genco's licence in addition to the generic conditions to be complied with by all generators. This would ensure consistency across the industry while ensuring that Genco is subject to the particular requirements outlined in the Act and as directed by the Minister. Therefore, staff is not seeking comments on Genco specific conditions as part of this consultation process.

Existing generators will be required to submit an application in order to obtain their interim licence. The application process for generators will be outlined following Ministerial approval of interim licences expected in February 1999. As well, the Board will require some initial information to be filed by generators that will enable the Board to develop its database of licenced entities.

The Act allows for the issuance of separate licences authorizing one or more of the activities referred to in section 57 as specified in the application and permitted within the Act. One approach would be to require an entity undertaking generating and retailing activities to obtain two separate licences. Another would be to require an entity undertaking generating and retailing activities to obtain a single consolidated licence. The Board has not yet determined the most efficient approach to issuing licence(s) for participants undertaking multiple activities. In the meantime, Board staff is drafting separate licences for each type of individual activity for the purpose of stakeholder consultation and welcomes input from interested parties on the costs and benefits of issuing separate licences versus consolidated licences.

It is expected that the form and content of the interim generation licence will be close to that of the 'end- state' competitive market licences. It is hoped that the difference in the interim and end-state licences will be limited to reflecting updated events and market or legislative requirements.

Stakeholder Input

The attached draft interim generation licence is divided into two parts. The first part provides a list of definitions and interpretations to be followed when reading the licence. These definitions are consistent with those contained in Bill 35. The second part contains the conditions to be adhered to by the licensee.

As noted earlier, Board staff is seeking initial comments on the draft generation licence from interested parties. Comments received from interested parties will enable Board staff to gain an appreciation of any diverging views amongst stakeholders. The comments will be used as a guide in developing further the licence and in planning and designing any consultation meetings in order to discuss the comments received from parties. Specifically, Board staff is seeking initial comments on:

1. The content of the generation licence. Is the purpose of the licence clear?
2. Are the requirements of the licensee under the licence conditions clear? Are the requirements technically achievable? If not, why not? How can they be amended to reflect a practical outcome? Do the requirements impose a significant cost to the generation company? If so, what types of costs would be incurred?
3. Where the owner of the generation facilities is not the operator, who should hold the licence?
4. Apart from any unique provisions with respect to Genco's market power, are there any special provisions that should apply to the transition period commencing March 1999 until the opening of the market to competition?

Comments from interested parties

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

- a. To the extent possible, parties are asked to organize their comments to follow the draft licence ;
- b. Written comments are to be mailed or faxed to Paula Conboy by **December 21, 1998** at:

Ontario Energy Board
26th Floor/ P.O. Box 2319
2300 Yonge Street
Toronto ON M4P 1E4
fax (416) 440-7656
Attention: Paula Conboy
- c. Any questions relating to the draft interim generation licence are to be directed to Paula Conboy (416) 440-7613 or Brian Hewson (416) 440-7628 or toll free at 1-888-632-6273.

Details of the next steps in the consultation process, if one is deemed to be necessary, will be made available following the receipt and collation of interested parties' comments.

Sincerely,

[original signed by Robert A. Cappadocia]

Robert A. Cappadocia
Director, Regulatory Affairs

Attachment

DRAFT INTERIM GENERATION LICENCE

[The final licence would contain a cover page with the Board's official stamp and identifying the licensee]

Part 1 - Definitions and Interpretations

Definitions

In the conditions, unless the context otherwise requires:

Act means the Ontario Energy Board Act, 1998;

affiliate, with respect to a corporation, has the same meaning as in the *Business Corporation Act*;

ancillary services means services necessary to maintain the reliability of the IMO-controlled grid including frequency control, voltage control, reactive power and operating reserve services;

Board means the Ontario Energy Board;

director means the director of licensing appointed by the Board under section 5 of the Act;

distribution system means a system for distributing electricity and includes any structures, equipment or other things used for that purpose;

distributor means a person who owns or operates a distribution system;

generate means to produce electricity or provide ancillary services, other than ancillary services provided by a transmitter or distributor through the operation of a transmission or distribution system;

generation facility means a facility for generating electricity or providing ancillary services, other than ancillary services provided by a transmitter or distributor through the operation of a transmission or distribution system and includes any structures, equipment or other things used for that purpose;

generator means a person who owns or operates a generation facility;

IMO means the Independent Electricity Market Operator established under the *Electricity Act, 1998*;

"IMO-administered markets" means the market established by the market rules under the *Electricity Act, 1998*;

"IMO-controlled grid" means the transmission systems with respect to which, pursuant to agreements, the IMO has authority to direct operations;

ALicensee@ means [name and company number of Licensee];

Amarket rules@ means the rules approved by the Minister under section 32 of the *Electricity Act 1998*;

Aregulations@ means the regulations made under the *Act*;

Atransmission system@ means a system for transmitting electricity at voltages of more than 50 kV, and includes any structures, equipment or other things used for that purpose;

Atransmitter@ means a person who owns or operates a transmission system;

Interpretations

- a) Words and phrases shall have the meaning ascribed to them in the *Act* or the *Electricity Act, 1998*.
- b) Headings are for convenience only and shall not affect the interpretation of this Licence.
- c) A reference to a document or a provision of a document includes any amendment or supplement to, or any replacement of, that document or that provision of that document.
- d) An event which is required under this Licence to occur on or by stipulated day which is not a business day may occur on or by the next business day.

Part 2 - Conditions

2.1 Authorization

The Board, in exercise of the powers conferred by Part V of the *Act*, licences the Licensee to generate electricity or provide ancillary services for sale through the IMO-administered markets or directly to another person subject to the conditions set out in this Licence. This Licence authorizes the Licensee only in respect of those facilities set out in Schedule 1.

2.2 Licence Fees and Assessment

[The Board is required to recover its costs from regulated entities and licensees. The structure and magnitude of these costs are subject to regulation, and are therefore not being raised in this consultation process]

The Licensee shall pay as directed by the Board a licence fee determined in accordance with section 12 of the *Act*.

The Licensee shall also pay an amount assessed under section 26 of the *Act*.

2.3 Term of Interim Licence

This Licence shall come into force on the [date] and shall remain in force until [date]. The term of this Licence may be extended by the Board.

2.4 Licence not Transferable

This Licence is not transferable or assignable without leave of the Board.

2.5 Amendment of Licence

The conditions of this Licence are subject to amendment in accordance with section 74 of the *Act*.

2.6 Orders to Comply

Where the Board is satisfied that the Licensee is contravening or is likely to contravene the conditions of this Licence, the Board may, subject to the provisions of section 75 of the *Act*, order the Licensee to comply with this Licence.

2.7 Terms as to Suspension or Revocation

Subject to condition 2.5 above, this Licence shall continue in force unless suspended or revoked in accordance with the provisions of sections 76 and 77 of the *Act*. The Board may cancel this Licence if the Licensee agrees at any time in writing that this Licence should be cancelled.

2.8 Provision of information to the Board

The Licensee is required to provide information to the Board regarding the business activity for which it is licensed in the form and manner determined by the Board.

Without limiting the generality of the foregoing, the information that may be required may include any information which the Board requires for monitoring compliance with this Licence and to fulfil its mandate to monitor the market as prescribed under section 87 of the *Act*.

Subject to the *Freedom of Information and Protection of Privacy Act* and other applicable law, information obtained by the Board for monitoring compliance with the conditions of the licence or for market

monitoring purposes may be kept confidential if the information is deemed to be commercially sensitive or its release is likely to injure the competitiveness of the Licensee. When providing the information under this condition, the Licensee may request that information be kept in confidence.

2.9 Restrictions on certain business activities

Neither the Licensee, nor affiliate of the Licensee shall acquire an interest in a transmission or distribution system in Ontario, construct a transmission or distribution system in Ontario or purchase shares of a corporation that owns a transmission or distribution system in Ontario except in accordance with sections 81 of the *Act*.

2.10 Compliance with Market Rules

The Licensee shall comply with relevant market rules.

2.11 Communication

All communication related to this licence must be in writing. 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 by hand or by courier;
- (b) 5 business days after the date of posting by registered mail; and
- (c) When received by facsimile transmission by the addressee, according to the sender's transmission report.

Schedule 1

Generation Facilities in respect of which this Licence is granted