



Ontario  
Executive Council  
Conseil des ministres

Order in Council  
Décret

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation du soussigné, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil des ministres, décrète ce qui suit :

**WHEREAS** participants in the electricity industry require a licence from the Ontario Energy Board;

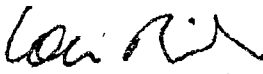
**AND WHEREAS** the Minister may, with the approval of the Lieutenant Governor in Council, issue Directives under section 28.1 of the *Ontario Energy Board Act 1998* to amend conditions in licenses issued by the Board.

**AND WHEREAS** the Minister issued such Directives on March 24, 1999 and February 25, 2003.

**AND WHEREAS** further amendments to those Directives and the licenses of the Independent Electricity Market Operator, Ontario Power Generation Inc. and persons licenced to undertake an activity described in clause 57(a), 57(d) or clause 57(f) of the *Ontario Energy Board Act 1998* are required to respond to changes to the operation of the electricity market as result of the passage by the Legislature of the *Electricity Pricing, Conservation and Supply Act, 2002*.

**NOW THEREFORE** the Directive attached hereto, is approved.

Recommended:

  
Minister of Energy

Concurred:

  
Chair of Cabinet

Approved and Ordered

APR 2 - 2003

Date

  
Lieutenant Governor

JUN 18 2003 10:00 P.02

## MINSTER'S DIRECTIVE AND REFERRAL

### TO: THE ONTARIO ENERGY BOARD

I, John Baird, Minister of Energy, hereby direct the Ontario Energy Board under section 28.1 of the *Ontario Energy Board Act, 1998* as follows:

1. To implement and maintain as licence conditions the provisions contained in Appendix A, B, C and D of the Directive dated March 16, 1999 as amended by the Directive dated February 25, 2003, subject to the following amendments:
  - (a) Effective April 15, 2003, amend Schedule A of Appendix A of the Directive dated March 16, 1999 as amended by the Directive dated February 25, 2003, and the licence of Ontario Power Generation Inc. (OPGI) and its successors in accordance with Schedule B to this Directive.
  - (b) Effective April 15, 2003, amend Schedule A of Appendix B of the Directive dated March 16, 1999, as amended by the Directive dated February 25, 2003, and the licence of the Independent Electricity Market Operator (IMO) in accordance with Schedule B to this Directive.
  - (c) Effective April 15, 2003, amend Appendix D of the Directive dated March 16, 1999 and the licence conditions for persons licenced to undertake an activity described in Clause 57(a), Clause 57(d) or Clause 57(f) of the *Ontario Energy Board Act, 1998* by replacing Appendix D of the Directive dated March 16, 1999 with Appendix D and Appendix E to this Directive.
2. In all other respects the Directives dated March 16, 1999 and February 25, 2003 shall remain in full force and effect.

\_\_\_\_\_  
Minister of Energy

\_\_\_\_\_  
Date

## SCHEDULE B – ADDITIONAL TERMS AND CONDITIONS OF SETTLEMENT AGREEMENT BETWEEN IMO & OPG

The following sets out the procedure for calculating, allocating and passing through the Market Power Mitigation Agreement (MPMA) Rebate. Where there is a conflict between Schedule A in the Minister's Directive dated March 16, 1999, as amended by the Minister's Directive dated February 25, 2003, and this Schedule B, then this Schedule B prevails.

### For the First Settlement Period (May 1, 2002 to April 30, 2003)

- 1) The first MPMA Rebate is to be paid out for the 9-month period ending January 31, 2003. This is the amount, as calculated by the IMO and agreed to by OPG, that OPG is required to rebate for the nine month period, based on OPG's MPMA license conditions, less the interim payment already made by OPG of approximately \$335 million and amounts relating to decontrol applications pending before the Ontario Energy Board. OPG is to pay this net amount to the IMO by May 9, 2003.
- 2) The second MPMA Rebate will cover the three-month period February 1, 2003 to April 30, 2003 inclusive. This is the amount, as calculated by the IMO and agreed to by OPG, that OPG is required to rebate for the three month period, based on OPG's license conditions, adjusted for any true-up required to ensure that the sum of the two rebates for the first settlement period, including the interim payment, is equal to OPG's full rebate requirements for the first Settlement Period under the OPG's MPMA license conditions. OPG is to pay this amount to the IMO by August 12, 2003.
- 3) The IMO will pay the pro rata share of the first MPMA Rebate and the second MPMA Rebate based on the allocated quantity of energy withdrawn during the applicable period by market participants who are receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* to the Ontario Electricity Financial Corporation.
- 4) The IMO will pay the pro rata share of the first MPMA Rebate and the second MPMA Rebate based on the allocated quantity of energy withdrawn during the applicable period by market participants who are not distributors and are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* directly to those market participants or their assignees that are market participants where the market participants have assigned their MPMA rebate.
- 5) The IMO will pay to distributors who are market participants, including host distributors on behalf of their embedded distributors, the pro rata share of the first

MPMA Rebate and the second MPMA Rebate based on the share of energy withdrawn during the applicable period by consumers in the distributor's or embedded distributor's respective service areas who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* and by customers of retailers who have assigned all or a portion of their entitlement to an MPMA Rebate to that retailer. In making these calculations and payments the IMO will rely on the information reported by the distributors to the IMO as required under Appendix D. Once the IMO has received the information from the distributors and disbursed the first MPMA Rebate or the second MPMA Rebate in accordance with this Schedule B, there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

- 6) After making the payments set out in 3), 4), and 5), the IMO is to pay any remaining Rebate to the Ontario Electricity Financial Corporation to offset in whole or in part the cost of providing the fixed price of 4.3 cents per kilowatt hour to consumers who are eligible to receive, are receiving or have received the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*. Any amounts returned to the IMO by distributors in accordance with their licence conditions shall be paid over to the Ontario Electricity Financial Corporation.

**For Subsequent Settlement Periods (May 1, 2003 to April 30, 2006)**

- 7) For each Settlement Period from May 1, 2003 to April 30, 2006, OPG is to make quarterly MPMA Rebate payments to the IMO, consistent with OPG's MPMA license conditions, as calculated by the IMO and agreed to by OPG. The IMO and OPG may agree to appropriate true-up and carry forward mechanisms provided that these are consistent with forwarding the Rebate as soon as practicable.
- 8) For each settlement period from May 1, 2003 to April 30, 2006, the MPMA rebate payments to market participants will be calculated and determined by the IMO as follows:

$$BPPR = [(WAP - CAP) * 0.5 * TAQEW]$$

Where:

"Business Protection Plan Rebate" or "BPPR" is the MPMA Rebate paid out to consumers who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*. The BPPR is to rebate half of the amount by which the weighted average commodity price of electricity exceeds 3.8 cents per kilowatt hour.

"Weighted Average Price" or "WAP" is the average Hourly Ontario Electricity Price weighted by load over the Settlement Period as determined by the IMO.

"Total Allocated Quantity of Energy Withdrawn" or "TAQEW" is the total electricity withdrawn from the IMO-controlled grid for use in Ontario during the Settlement Period.

- 9) The IMO will make quarterly MPMA payments to market participants based on the applicable Settlement Period to the end of the previous quarter, and taking into account all prior quarterly MPMA payments made with respect to the applicable Settlement Period. The IMO will adjust the payment for the final quarter of each Settlement Period to ensure that the sum of the quarterly MPMA payments for the applicable Settlement Period does not exceed the BPPR entitlement for the Settlement Period. If there is an overpayment of quarterly payments over a Settlement Period based on the BPPR entitlement for that Settlement Period, any such overpayment can be carried over to successive Settlement Periods to be offset against future payments.
- 10) The IMO will pay the pro rata share of the BPPR based on the allocated quantity of energy withdrawn for the applicable period by market participants who are receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* to the Ontario Electricity Financial Corporation.
- 11) The IMO will pay the pro rata share of the BPPR based on the allocated quantity of energy withdrawn for the applicable period by market participants who are not distributors and are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* directly to those market participants or their assignees that are market participants where the market participants have assigned their MPMA Rebate
- 12) The IMO will pay to distributors who are market participants, including host distributors on behalf of their embedded distributors, the pro rata share of the BPPR based on the share of energy withdrawn for the applicable period by consumers in the distributor's or embedded distributor's respective service areas who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act 1998* for the MPMA Rebate and by customers of retailers who have assigned all or a portion of their entitlement to an MPMA Rebate to that retailer. In making these calculations and payments the IMO will rely on the information reported by the distributors to the IMO as required under Appendix D. Once the IMO has received the information from the distributors and disbursed the BPPR for that quarter in accordance with this Schedule B., there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.
- 13) After making the payments set out in 10), 11), and 12), the IMO is to pay any remaining Rebate to the Ontario Electricity Financial Corporation to offset in whole or in part the cost of providing the fixed price of 4.3 cents per kilowatt hour to consumers who are eligible to receive the fixed price under sections 79.4 and

79.5 of the *Ontario Energy Board Act, 1998*. Any amounts returned to the IMO by distributors in accordance with their licence conditions shall be paid over to the Ontario Electricity Financial Corporation.

## APPENDIX D

### LICENCE CONDITIONS FOR PERSONS LICENSED TO UNDERTAKE AN ACTIVITY DESCRIBED IN CLAUSE 57(A) OF THE ONTARIO ENERGY BOARD ACT, 1998

#### 1. Definitions and Interpretation

In this Licence,

"embedded distributor" means a distributor who is not a market participant and to whom a host distributor distributes electricity;

"embedded generator" means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates;

"host distributor" means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant.

In this Licence, a reference to the payment of a rebate amount by the IMO includes interim payments made by the IMO.

#### 2. Information Given to IMO

- (a) Prior to the payment of a rebate amount by the IMO to a distributor, the distributor shall provide the IMO, in the form specified by the IMO and before the expiry of the period specified by the IMO, with information in respect of the volumes of electricity withdrawn by the distributor from the IMO-controlled grid during the rebate period and distributed by the distributor in the distributor's service area to:
- (i) consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
  - (ii) consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*.
- (b) Prior to the payment of a rebate amount by the IMO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IMO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor's host distributor to the embedded distributor net of any

electricity distributed to the embedded distributor which is attributable to embedded generation and distributed by the embedded distributor in the embedded distributor's service area to:

- (i) consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
  - (ii) consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*.
- (c) Prior to the payment of a rebate amount by the IMO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IMO, in the form specified by the IMO and before the expiry of the period specified by the IMO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IMO may issue instructions or directions providing for any information to be given under this section. The IMO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IMO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IMO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period.

### 3. Pass Through of Rebate

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, 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, to:

- a. retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented;
- b. consumers who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and



c. embedded distributors to whom the distributor distributes electricity.

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor.

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

"ONTARIO POWER GENERATION INC. rebate"

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IMO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

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

APPENDIX E

LICENCE CONDITIONS FOR PERSONS LICENSED TO  
UNDERTAKE AN ACTIVITY DESCRIBED IN CLAUSE 57(D) OF  
THE ONTARIO ENERGY BOARD ACT, 1998

A retailer shall promptly pass through a portion of the rebate received from a distributor to those consumers who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* and who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer.

If requested in writing by OPGI, the retailer shall ensure that all rebates paid to consumers are identified as coming from OPGI in the following form on or with each bill or cheque.

"ONTARIO POWER GENERATION INC. rebate"

A retailer shall promptly return to a distributor any portion of the rebate received from the distributor which relates to low-volume or designated consumers receiving the fixed commodity price for electricity under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer or another party.

The amounts paid out to consumers or returned to the distributor shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code.

Amounts payable by the retailer may be made by way of set off at the discretion of the retailer.