



Order in Council
Décret

Executive Council
Conseil des ministres

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 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* that relate to the directive issued to the Ontario Energy Board (the "Board") pursuant to Order in Council 600/99 (dated March 24, 1999);

AND WHEREAS the Minister, with the approval of the Lieutenant Governor in Council, issued directives pursuant to either of sections 28 and 28.1 of the Act on March 24, 1999 (OIC No. 600/99), March 19, 2003 (OIC No. 654/2003), April 2, 2003 (OIC No. 843/2003), February 16, 2005 (OIC No. 207/2005), December 7, 2005 (OIC No. 1909/2005), February 3, 2006 (OIC No. 141/2006), March 17, 2006 (OIC No. 1062/2006) and February 13, 2008 (OIC No. 137/2008) with attached schedules where relevant, in respect of the licence of Ontario Power Generation Inc. ("OPGI") issued to it by the Board;

AND WHEREAS it is desirable that, in keeping with the policies of the Government of Ontario in regards to the reduction of carbon dioxide (CO₂) emissions from the use of coal, OPGI shall reduce CO₂ emissions from the use of coal in a manner consistent with any shareholder declaration and resolution in respect of OPGI, as well as with any Ontario Regulation made whose primary objective is the reduction of CO₂ emissions from the use of coal by OPGI;

AND WHEREAS it is desirable, in order to facilitate implementation by OPGI of the reduction in CO₂ emissions from the use of coal referred to above, that the licence of OPGI issued to it by the Board be amended;

NOW THEREFORE the directive attached hereto is approved and shall be and is effective as of the date hereof.

Recommended: [Signature]
Minister of Energy

Concurred: [Signature]
Chair of Cabinet

Approved and Ordered: MAY 14 2008
Date

[Signature]
Lieutenant Governor

MINISTER'S DIRECTIVE**TO: THE ONTARIO ENERGY BOARD**

I, Gerry Phillips, Minister of Energy, hereby direct the Ontario Energy Board (the "Board") under section 28.1 of the *Ontario Energy Board Act, 1998* as follows:

1. To amend the licence of Ontario Power Generation Inc. ("OPGI") by:
 - (a) Replacing Part 5, entitled "Market Based Ancillary Services", originally identified as Part 6 and attached as Appendix A to the Directive and Referral itself attached to Order in Council 600/99 (dated March 24, 1999), as amended from time to time, with the new Part 5 of the same title attached as Appendix A to this Directive, and to maintain such condition in OPGI's licence.
 - (b) By replacing, as and where appropriate, references to the "IMO" with "IESO", in those portions of the licence which have their origin in the Directive and Referral referred to in sub-paragraph (a) above.
2. To amend the licence of the Independent Electricity System Operator ("IESO") by replacing section 12.2 of the IESO's licence in a manner consistent with paragraph 1 above, and to maintain such condition in the IESO's licence.
3. In all other respects, the Directive and Referral attached to Order in Council No. 600/99, dated March 24, 1999, as and when amended, shall remain in full force and effect.



Minister of Energy

MAY 21 2008

Date

APPENDIX A

PART 5. MARKET BASED ANCILLARY SERVICES

(Note: Market based ancillary services are currently comprised of Operating Reserves only, but the principles outlined herein suggest a framework that could be used for other market based ancillary services.)

Unless the IESO has determined, based on the number of independently controlled competing alternatives and other circumstances in its discretion, that a competitive market for any category of operating reserves (i.e. 10-minute and 30-minute) exists, OPGI shall be required to comply with the following requirements:

- (a) subject to (a.1), the price to be offered by OPGI associated with each category of OPGI operating reserve services will not exceed a cap to be contained in an agreement to be negotiated between OPGI and the IESO, which cap will be designed, taking into account the relevant IESO market rules, to compensate OPGI for its actual cost of providing such operating reserve services, including additional operating and maintenance costs, additional fuel costs, additional opportunity costs associated with providing such operating reserve services from OPGI hydroelectric generation units, and a reasonable rate of return on incremental capital needed to provide such operating reserve services, and which agreement shall require OPGI to offer the maximum available amount of each category of operating reserve services, consistent with good utility practices, for each OPGI generation unit capable of providing such services;
- (a.1) notwithstanding (a) above, save and except where the IESO has advised OPGI that specific units are required to offer in for reliability, OPGI may offer less than the maximum available amount of any category of operating reserve where this is necessary in order for OPGI to satisfy its obligations under, or to give effect to, any shareholder declaration or resolution of the Minister of Energy in effect at the relevant time relating to, or any Regulation made under the *Environmental Protection Act* (Ontario) relating to, carbon dioxide (CO₂) emissions arising from the use of coal at OPGI's coal-fired generation stations;
- (b) subject to (a.1), in the event that the agreement referred to in (a) above cannot be reached, the terms of such agreement shall be determined through binding commercial arbitration by a mutually agreed independent arbitrator on agreed terms of arbitration;

- (c) subject to (a.1), in the event that either OPGI or the IESO subsequently determines that the operation of the market is such that the intent of the agreement referred to in (a) or (b) above is materially frustrated, then OPGI and the IESO shall negotiate amendments (which may be retroactive) to the terms of such agreement with a view to correcting such situation and, in the event that they cannot agree on such amendments, the amendments, if any, shall be determined through binding commercial arbitration by a mutually agreed independent arbitrator on agreed terms of arbitration;
- (d) subject to (a.1), OPGI shall comply with the terms of the agreement referred to in (a) or (b) above, as it may be amended under (c) above;
- (e) subject to (a.1), pending reaching an agreement, or pending the resolution of any dispute, the IESO may at any time set the price cap and terms on which OPGI must provide any category of operating reserve services, subject to later adjustment upon final agreement or final resolution of the dispute with interest at the Prime Rate, calculated and accrued daily; and
- (f) subject to (a.1), if the IESO's market rules at any time are such that the market clearing price for a category of operating reserve services does not include both the offer price and the opportunity cost of the marginal unit providing the service, and the agreement referred to in (a) or (b) above has not taken such factors into account, then the agreement referred to in (a) or (b) above shall be considered to have been materially frustrated for purposes of (c) above.