



EB-2007-0792

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an application pursuant to section 74 of the *Ontario Energy Board Act, 1998* by Hydro One Networks Inc. and Newmarket-Tay Power Distribution Ltd. seeking an order to amend their current Electricity Distribution Licences (ED-2003-0043 and ED-2007-0624 respectively);

AND IN THE MATTER OF an application pursuant to section 86(1)(b) of the *Ontario Energy Board Act, 1998* by Hydro One Networks Inc. seeking an order granting leave to sell distribution assets necessary in serving the public to Newmarket-Tay Power Distribution Ltd.

By delegation, before: Jennifer Lea

DECISION AND ORDER

THE APPLICATION

Hydro One Networks Inc. (“Hydro One”) and Newmarket-Tay Power Distribution Ltd. (“Newmarket-Tay”) filed a joint application with the Ontario Energy Board on October 2, 2007 under sections 74 and 86(1)(b) of the *Ontario Energy Board Act, 1998*. The Board assigned file number EB-2007-0792 to the application.

Service Area Amendments

The application seeks an order of the Board to amend the service areas in the applicants' current electricity distribution licences. The lands that are the subject of the service area amendments are described in Appendix A to this Decision and Order.

The service area amendments are sought in order to eliminate the long term load transfer arrangements between Hydro One and Newmarket-Tay. A long term load transfer is a situation in which a customer is within one distributor's service area but is actually served electricity from a second distributor. In this case, Newmarket-Tay is the physical distributor (i.e., provides the physical delivery of electricity to the customers) while Hydro One is the geographic distributor (i.e., licensed to serve the customers).

Section 6.5.4 of the Board's Distribution System Code (the "DSC") requires distributors to eliminate long term load transfers before January 31, 2009.

The proposed service area amendments would transfer 44 customers, who are physically served electricity by Newmarket-Tay but are located within Hydro One's licensed service area, to Newmarket-Tay's licensed service area. Presently the 44 customers are Hydro One customers. After the amendments, these customers will be billed and otherwise served by Newmarket-Tay as Newmarket-Tay customers. As a result of these service area amendments, Newmarket-Tay intends to remove and return to Hydro One the Hydro One owned transformers currently serving the subject customers and install its own transformers to ensure there is no potential transfer of PCB-contaminated equipment.

Sale of Assets

The application also seeks an order of the Board to grant leave for the sale of distribution assets from Hydro One to Newmarket-Tay.

The assets proposed to be sold by Hydro One to Newmarket-Tay in this transaction include underground conductors, poles, cables and fixtures. These assets serve, and will continue to serve, the 44 customers that are located on the lands that are the subject of the service area amendments as part of Newmarket-Tay's distribution system.

Exemption from Section 6.5.4 of the DSC

The application also seeks an order of the Board to grant an exemption from section 6.5.4 of the DSC for a certain period of time in relation to 10 other long term load transfer customers.

Both applicants seek an exemption from the requirement to eliminate their long term load transfers by January 31, 2009 for a period of up to five years with respect to the 10 other existing load transfer customers. Specifically, Hydro One's exemption request relates to two customers who are located in Hydro One's service area but are served electricity by Newmarket-Tay while Newmarket-Tay's request relates to eight customers located in Newmarket-Tay's service area but are served electricity by Hydro One. The civic addresses of the lands where these 10 customers are located are listed in Appendix B to this Decision and Order.

Both Hydro One and Newmarket-Tay submit that it would be more efficient to maintain these long-term load transfers temporarily. Due to anticipated load growth, both distributors plan to expand their distribution systems by 2009 to directly serve the remaining long-term load transfer customers located in their respective service areas.

THE PROCEEDING

The Board issued its Notice of Application and Written Hearing on November 20, 2007. The Notice was served upon the customers located on the lands that are the subject of the application. The Notice was also served upon the parties who submitted written comments to the Board in response to the Board's notice of proposal to amend the DSC issued on January 31, 2007, which dealt with the extension of the timelines for the elimination of long term load transfers. No one responded to the Notice.

FINDINGS

Service Area Amendments and Sale of Assets

The service area amendments and the sale of assets are prompted by and consistent with the Board's policy that long term load transfers are to be eliminated by January 31, 2009.

The distribution rates for the customers being transferred from Hydro One to Newmarket-Tay will not increase as a result of the service area amendments. According to the application, service quality will not be affected. With respect to the Hydro One owned transformers that will be removed by Newmarket-Tay and returned to Hydro One as result of the service area amendments, the applicants submit that there is no material cost associated with this transaction.

With respect to the sale of the distribution assets from Hydro One to Newmarket-Tay, the application states that it is more economically efficient for Newmarket-Tay to purchase Hydro One's distribution assets currently serving the customers than it would be for Hydro One to remove those assets and for Newmarket-Tay to install new assets. The sale price for the assets proposed to be sold by Hydro One to Newmarket-Tay is \$10,789.65 which also represents the net book value of the assets.

I find that it is in the public interest to amend Schedule 1 of the applicants' distribution licences to reflect the transfer of the 44 customers from Hydro One to Newmarket-Tay. I also find that it is in the public interest to grant Hydro One leave to sell the assets described in the application to Newmarket-Tay.

The approval of this application should in no way be construed as providing the Board's opinion or position on whether Newmarket-Tay will be allowed to recover the cost of the assets it is purchasing as a result of this Decision and Order, or the cost of the assets it replaces as a result of this Decision and Order in a future rates application. The prudence of the costs incurred in purchasing the assets or removing the assets and installing new assets will be considered by the panel assigned to the rates case and that panel will determine if the costs should be recovered in rates.

Exemption from Section 6.5.4 of the DSC

In relation to the applicants' request for a 5-year exemption from section 6.5.4 of the DSC for 10 existing long term load transfer customers, the application states that both distributors plan to expand their distribution systems to serve the customers in their service areas by 2009. According to the application, both geographic distributors are planning on building new assets to address load growth in the area where the customers are located (i.e., the distributors are not building out solely to serve the current load transfer customers for whom they are seeking the exemption). The long-term load transfer arrangements should be eliminated by the end of 2009. These facts suggest that it will be more economically efficient to grant a temporary exemption for each distributor.

However, the evidence in the application does not support the request for an exemption for five years. The application states that both geographic distributors will be building assets to serve the load transfer customers and that the load transfer customers will be served by the physical distributors only until 2009. There is nothing in the application that justifies a continuation of the long-term load transfer arrangement past the end of 2009.

I find that it is in the public interest to amend Schedule 3 of the applicants' distribution licences to grant each distributor an exemption from the requirements of section 6.5.4 of the DSC respecting the 10 existing load transfer customers located on the lands listed in Appendix B to this Decision and Order. The exemptions will be granted until December 31, 2009.

IT IS THEREFORE ORDERED THAT:

1. Newmarket-Tay's Distribution Licence (ED-2007-0624), specifically Schedule 1 of the licence, is amended to include the lands described in Appendix A to this Decision and Order.

2. Hydro One's Distribution Licence (ED-2003-0043), specifically tab 4 of Appendix B to the licence, is amended as necessary to exclude the lands described in Appendix A to this Decision and Order.
3. Newmarket-Tay's Distribution Licence (ED-2007-0624), specifically Schedule 3 of the licence, is amended to reflect the exemption from the requirements of section 6.5.4 of the Distribution System Code until December 31, 2009, in relation to the eight load transfer customers located on the lands listed in Appendix B to this Decision and Order.
4. Hydro One's Distribution Licence (ED-2003-0043), specifically Schedule 3 of the licence, is amended to reflect the exemption from the requirements of section 6.5.4 of the Distribution System Code until December 31, 2009, in relation to the two load transfer customers located on the lands listed in Appendix B to this Decision and Order.
5. Hydro One is granted leave to sell the assets described in the application.

Under section 7(1) of the Act, this decision may be appealed to the Board within 15 days.

DATED at Toronto, April 4, 2008

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects

Appendix A

The Lands that are Subject of the Service Area Amendments - EB-2007-0792

Premise Address	Lot #	Conc. #	Township
1339 Green Lane	10	2	GWILLIMBURY EAST
1349 Green Lane	9	2	GWILLIMBURY EAST
1359 Green Lane	8	2	GWILLIMBURY EAST
1367 Green Lane	7	2	GWILLIMBURY EAST
1377 Green Lane	6	2	GWILLIMBURY EAST
1387 Green Lane	5	2	GWILLIMBURY EAST
1395 Green Lane	4	2	GWILLIMBURY EAST
1403 Green Lane	3	2	GWILLIMBURY EAST
1411 Green Lane	2	2	GWILLIMBURY EAST
1421 Green Lane	1	2	GWILLIMBURY EAST
17186 Bathurst St.	33	2	KING
17390 Bathurst St.	34	2	KING
17440 Bathurst St.	35	2	KING
17450 Bathurst St.	35	2	KING
17680 Bathurst St.	33	2	KING
17756 Bathurst St.	2	2	KING
17876 Bathurst St.	3	2	KING
18010 Bathurst St.	4	2	KING
18010 Bathurst St.	4	2	KING
18178 Bathurst St.	4	2	KING
18101 Leslie St.	5	2	GWILLIMBURY EAST
18126 Leslie St.	15	2	GWILLIMBURY EAST
18144 Leslie St.	14	2	GWILLIMBURY EAST
18152 Leslie St.	13	2	GWILLIMBURY EAST
18160 Leslie St.	12	2	GWILLIMBURY EAST
18166 Leslie St.	11	2	GWILLIMBURY EAST
18174 Leslie St.	10	2	GWILLIMBURY EAST
18180 Leslie St.	5	2	GWILLIMBURY EAST
18184 Leslie St.	9	2	GWILLIMBURY EAST
18192 Leslie St.	8	2	GWILLIMBURY EAST
18200 Leslie St.	7	2	GWILLIMBURY EAST
18208 Leslie St.	6	2	GWILLIMBURY EAST
18218 Leslie St.	5	2	GWILLIMBURY EAST
18226 Leslie St.	4	2	GWILLIMBURY EAST
18236 Leslie St.	3	2	GWILLIMBURY EAST
18244 Leslie St.	2	2	GWILLIMBURY EAST
18248 Leslie St.	2	2	GWILLIMBURY EAST
18107 Main Street North	5	2	GWILLIMBURY EAST
Region of York Stop Lights	5	2	GWILLIMBURY EAST
Region of York Stop Lights	5	2	GWILLIMBURY EAST
Region of York Street Lights	5	2	GWILLIMBURY EAST
East Gwillimbury Street Lights	5	2	GWILLIMBURY EAST
445 Pine Street	9	11	TAY
2080 Sandhill Road	9	10	TAY

Appendix B
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Addresses of Hydro One Load Transfer Customers for Which Hydro One is Seeking an Exemption from Section 6.5.4 of the Distribution System Code:

Premise Address	Township
262 Green Lane W	GWILLIMBURY EAST
1150 Green Lane E.	GWILLIMBURY EAST

Addresses of Newmarket-Tay Load Transfer Customers for Which Newmarket-Tay is Seeking an Exemption from Section 6.5.4 of the Distribution System Code:

Premise Address	Township
15205 Highway 12	TAY
15207 Highway 12	TAY
15217 Highway 12	TAY
15221 Highway 12	TAY
15313 Highway 12	TAY
15321 Highway 12	TAY
15425 Highway 12	TAY
Highway 12 Trestle Park	TAY