



EB-2008-0114

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

AND IN THE MATTER OF a Minister's Directive issued by the Minister of Energy to the Ontario Energy Board, pursuant to section 28.1 of the *Ontario Energy Board Act, 1998* and approved by the Lieutenant Governor in Council on May 14, 2008 as Order in Council No. 694/2008;

AND IN THE MATTER OF a proceeding under section 74 of the *Ontario Energy Board Act, 1998* amending certain licences.

BEFORE: Paul Sommerville
Presiding Member

Pamela Nowina
Member

DECISION AND ORDER

Background

Section 28.1 of the *Ontario Energy Board Act, 1998* (the "Act"), states that the Minister of Energy (the "Minister") "may issue, and the Board shall implement, directives that have been approved by the Lieutenant Governor in Council that require the Board...to amend conditions in licences issued by the Board that relate to the directive issued to the Board pursuant to an order of the Lieutenant Governor in Council that was dated March 24, 1999."

Section 28.1 of the Act also states that the Board shall amend the licence conditions as required by a directive without holding a hearing.

The Directive

On May 14, 2008, the Minister issued a Minister's Directive to the Ontario Energy Board, pursuant to section 28.1 of the Act. The Directive was approved by the Lieutenant Governor in Council as O.C. 694/2008. The Directive directs the Ontario Energy Board (the "Board") to amend the licences of Ontario Power Generation Inc. ("OPGI") and the Independent Electricity System Operator ("IESO").

O.C. 694/2008 states 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."

The government issued such a shareholder resolution on May 16, 2008, requiring OPGI to act in accordance with a strategy to limit CO₂ emissions "on a forecast basis" from its coal-fired generating stations to 19.6 million metric tonnes (Mt) in 2009 and to 15.6 Mt in 2010.

Licence Amendments

In order to facilitate implementation by OPGI of the reduction in CO₂ emissions from the use of coal, the directive directs the Board to amend the licences of OPGI and IESO.

The directive specifically requires the replacement of:

- (a) Part 5 of the OPGI licence entitled "Market Based Ancillary Services" and section 12.2 of the IESO licence; and
- (b) References to the "IMO" with "IESO" in those portions of the OPGI licence which have their origin in the Directive and Referral attached to Order in Council 600/99 that was issued on March 24, 1999.

The market based ancillary services referred to in Part 5 of the OPGI licence presently comprise of operating reserves only. The current licence provisions require OPG to make all its units that are capable of providing operating reserve services to be available for operating reserve. The amendments made by the directive will lessen the requirement thereby permitting OPG to reduce its coal burn and emissions in accordance with the shareholder resolution and O.C. 694/08.

THE BOARD THEREFORE ORDERS THAT:

1. Part 5 of the OPGI licence be replaced with the provisions set out in Appendix A of the Minister's Directive, as approved by O.C. 694/2008.
2. Section 12.2 of the IESO licence be replaced with the provisions set out in Appendix A of the Minister's Directive, as approved by O.C. 694/2008.
3. References to the "IMO" be replaced with "IESO" in those portions of the OPGI licence which have their origin in the Directive and Referral attached to Order in Council 600/99 that was issued on March 24, 1999.

DATED at Toronto, June 24, 2008.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary