



Ontario Energy Board Commission de l'énergie de l'Ontario

ORDER

EB-2017-0153

ALGOMA POWER INC.

An order granting Algoma Power Inc. an interim distribution licence to operate the electricity distribution system in the Township of Dubreuilville.

DUBREUIL LUMBER INC.

An order requiring Dubreuil Lumber Inc. to surrender possession and control of the electricity distribution system in the Township of Dubreuilville to Algoma Power Inc.

Before: Rosemarie Leclair
Chair and Chief Executive Officer

April 4, 2017

ORDER

Dubreuil Lumber Inc. (DLI) owns and operates the electricity distribution system in the Township of Dubreuilville, Ontario.

DLI operates pursuant to Ontario Energy Board licence ED-2012-0074, serving approximately 300 customers. The electricity distribution system was formerly owned and operated by Dubreuil Forest Products Ltd. After Dubreuil Forest Products Ltd. filed for bankruptcy in 2011, all of the assets associated with the electricity distribution system were transferred to DLI and DLI was issued a distributor licence, on March 5, 2012, on an interim basis for a term of one year. DLI's licence has since been renewed several times, with the term of each renewal being no longer than one year. DLI's current licence is set to expire on April 27, 2017. DLI is embedded within the electricity distribution system of Algoma Power Inc. (Algoma Power).

The OEB received letters from DLI on December 29, 2016 and February 17, 2017, stating that it would not be able to continue providing distribution service beyond April 27, 2017 due to financial and staffing issues. The correspondence also confirms that DLI does not intend to apply for an extension of the existing licence and that it is agreeable to surrendering the existing licence.

Under sections 59.(1) and 59.(2) of the *Ontario Energy Board Act, 1998* (OEB Act), if the OEB determines that a licensed distributor is likely to fail to supply electricity in accordance with its obligations under section 29 of the *Electricity Act, 1998*, the OEB has the authority to appoint an interim licensee to take over the distribution and supply of electricity. Based on the letters from DLI, the OEB has determined that DLI is likely to fail to meet its obligations relating to the supply of electricity to consumers in the Township of Dubreuilville.

The OEB has determined that it will appoint Algoma Power as interim licensee for the service area of DLI. Algoma Power is the host distributor for DLI and therefore has experience in dealing with DLI. Further, Algoma Power serves customers in the area near the Town of Dubreuilville and, in the past, has provided services to assist DLI and its predecessors in emergencies. The OEB is appointing Algoma Power as interim licensee for a period of six months, as permitted under the OEB Act.

During the term of the interim licence, Algoma Power will be responsible for providing all distribution services within the Township of Dubreuilville, including connection of new customers, reliable supply and distribution to the customers of DLI in accordance with good utility practice; and, customers of DLI will continue to be billed based on the same charges as have been applicable with DLI. Algoma Power will also be required to report to the OEB on the state of DLI's distribution system and finances.

The OEB notes that, while DLI has consented to a surrender of its licence, it has not indicated how it plans to dispose of its distribution system assets. Pursuant to section 57 (a) of the OEB Act, no person may either operate or own a distribution system unless licensed to do so by the OEB. As such, in order for DLI to avoid falling into non-compliance with this section of the OEB Act, the OEB requires that DLI shall, by April 27, 2017, either have renewed its licence or disposed of its ownership interest in the distribution system (whether through a sale or other transfer of its assets) to another licensed electricity distributor.

IT IS ORDERED THAT:

1. Algoma Power Inc. shall:
 - a. Comply with the interim distribution licence shown in Appendix A, which authorizes Algoma Power Inc. to take possession and control of the electricity distribution system owned and operated by Dubreuil Lumber Inc. as soon as possible and, in any event, no later than April 27, 2017.
 - b. Collect revenue from customers within the service area of Dubreuil Lumber Inc. based on the charges that are currently applied by Dubreuil Lumber Inc.
 - c. Record revenues collected from customers within the service area of Dubreuil Lumber Inc. and the costs of operation and maintenance of the system in a deferral account under the Uniform System of Accounts.
 - d. In the period leading up to the transfer provide, on a best efforts basis and in accordance with good utility practice, any resources necessary to deal with required maintenance as requested by Dubreuil Lumber Inc.

- e. Inform the OEB immediately upon taking possession and control of the business of Dubreuil Lumber Inc.
 - f. Within 60 days from the date of this Order, file a written report with the OEB advising on the status of the electricity distribution system in the Township of Dubreuilville including a detailed analysis of the assets and capabilities.
2. Dubreuil Lumber Inc. shall:
- a. Surrender possession and control of its business including its distribution assets to Algoma Power Inc.
 - b. Not be entitled to any compensation from the Crown, the OEB or any person for being required to surrender possession and control of its distribution assets and business.
 - c. Provide full cooperation and assistance to Algoma Power Inc. to effect the transfer.
 - d. Continue to be responsible for meeting all requirements under its current licence until the transfer is complete.
3. In terms of the transfer of distribution assets to Algoma Power Inc., both Algoma Power Inc. and Dubreuil Lumber Inc. will ensure public, system and employee safety of all parties.
4. The term of the interim electricity distribution licence is for period of six months to October 3, 2017.

DATED at Toronto April 4, 2017

ONTARIO ENERGY BOARD

Original signed by

Rosemarie Leclair
Chair and Chief Executive Officer

Appendix A

Interim Distribution Licence

ED-2017-0153

Effective April 4, 2017



Interim Electricity Distribution Licence

ED-2017-0153

Algoma Power Inc.

Under sections 59 (1) and (2) of the *Ontario Energy Board Act, 1998* for possession and control of the electricity distribution business serving the Town of Dubreuilville

Valid Until

October 3, 2017

Original signed by

Rosemarie Leclair
Chair & CEO
Ontario Energy Board
Date of Issuance: April 4, 2017

Ontario Energy Board
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2300 Yonge Street
27th Floor
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Commission de l'énergie de
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Interim Electricity Distribution Licence

1. Definitions

In this Licence:

“**Accounting Procedures Handbook**” means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

“**Act**” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“**Affiliate Relationships Code for Electricity Distributors and Transmitters**” means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

“**distribution services**” means services related to the distribution of electricity and the services the Board has required distributors to carry out, including the sales of electricity to consumers under section 29 of the Act, for which a charge or rate has been established in the Rate Order;

“**Distribution System Code**” means the code approved by the Board which, among other things, establishes the obligations of the distributor with respect to the services and terms of service to be offered to customers and retailers and provides minimum, technical operating standards of distribution systems;

“**Electricity Act**” means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

“**good utility practice**” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in North America during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgement in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good practices, reliability, safety and expedition. Good utility practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in North America;

“**Licensee**” means Algoma Power Inc.;

“**Market Rules**” means the rules made under section 32 of the Electricity Act;

“**Performance Standards**” means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

“**regulation**” means a regulation made under the Act or the Electricity Act;

“**Retail Settlement Code**” means the code approved by the Board which, among other things, establishes a distributor’s obligations and responsibilities associated with financial settlement among retailers and consumers and provides for tracking and facilitating consumer transfers among competitive retailers;

“**service area**” with respect to a distributor, means the area in which the distributor is authorized by its licence to distribute electricity;

“**Standard Supply Service Code**” means the code approved by the Board which, among other things, establishes the minimum conditions that a distributor must meet in carrying out its obligations to sell electricity under section 29 of the Electricity Act;

“**wholesaler**” means a person that purchases electricity or ancillary services in the IESO administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IESO-administered markets or directly to another person other than a consumer.

2. Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens and where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3. Authorization

The Board, in the exercise of its powers conferred by Part V and particularly sections 59 (1) and (2) of the Act, licenses the Licensee, subject to the terms and conditions set out in this Licence, to possess and control the business of Dubreuil Lumber Inc. including its distribution assets which are listed in Schedule 1 of electricity distribution licence No. ED-2012-0074, first issued to Dubreuil Lumber Inc. on March 5, 2012.

4. Term of Licence

- 4.1 This Licence will expire on October 3, 2017 unless the term of this Licence is extended by the Board.

5. Obligations under this Licence

- 5.1 The Licensee shall operate the electricity distribution assets referred to in section 3 in accordance with good utility practice.
- 5.2 The Licensee shall comply with all applicable Market Rules.
- 5.3 The Licensee shall comply with all applicable provisions of the Act and the Electricity Act, regulations made under these statutes and all applicable orders or directives of the Board.
- 5.4 The Licensee shall provide, in the manner and form determined by the Board such information as the Board may require from time to time to monitor the Licensee's compliance with the conditions of this Licence.
- 5.5 Subject to the conditions of this Licence, the Licensee shall carry on, manage and conduct the operations of the distribution business in the name of the owner of the distribution assets, Dubreuil Lumber Inc. including:
- (a) preserving, maintaining and adding to the property of the business;
 - (b) receiving the income and revenue of the business;
 - (c) issuing cheques from, withdrawing money from and otherwise dealing with the accounts of the business;
 - (d) retaining or dismissing employees, consultants, counsel and other assistance for the business;
 - (e) directing the employees of the business; and
 - (f) conducting, settling and commencing litigation relating to the business.
- 5.6 The Licensee may dispose of the distribution assets owned by Dubreuil Lumber Inc. as are ordinarily disposed of in the normal course of carrying on the business of a distributor.

6. Obligation to Comply with Codes

- 6.1 The Licensee shall at all times comply with the following Codes (collectively the "Codes") approved by the Board, except where the Licensee has been

specifically exempted from such compliance by the Board. Any exemptions granted to the Licensee are set out in Schedule 3 of this Licence. The following Codes apply to this Licence:

- (a) the Affiliate Relationships Code for Electricity Distributors and Transmitters;
- (b) the Distribution System Code;
- (c) the Retail Settlement Code; and
- (d) the Standard Supply Service Code.

6.2 The Licensee shall:

- (a) make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and
- (b) provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

7. Obligation to Sell Electricity

7.1 The Licensee shall fulfill its obligation under section 29 of the Electricity Act to sell electricity in accordance with the requirements established in the Standard Supply Service Code, the Retail Settlement Code and as otherwise ordered by the Board.

8. Obligation to Maintain System Integrity

8.1 The Licensee shall maintain the electricity distribution assets referred to in section 3 in accordance with the standards established in the Distribution System Code and Market Rules, and have regard to any other recognized industry operating or planning standards adopted by the Board.

9. Liability of the Licensee

The Licensee is not liable for anything that results from taking possession and control of the distribution assets owned by Dubreuil Lumber Inc. or otherwise exercising or performing the Licensee's powers and duties under the Act in relation to those businesses, this Licence or any order of the Board, unless liability arises from the Licensee's negligence or wilful misconduct.

10. Provision of Information to the Board

- 10.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 10.2 Without limiting the generality of paragraph 10.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets referred to in section 3, as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

11. Customer Complaint and Dispute Resolution

- 11.1 The Licensee shall:
- (a) have a process for resolving disputes with customers that deals with disputes in a fair, reasonable and timely manner;
 - (b) publish information which will make its customers aware of and help them to use its dispute resolution process;
 - (c) make a copy of the dispute resolution process available for inspection by members of the public at each of the Licensee's premises during normal business hours;
 - (d) give or send free of charge a copy of the process to any person who reasonably requests it; and
 - (e) subscribe to and refer unresolved complaints to an independent third party complaints resolution service provider selected by the Board. This condition will become effective on a date to be determined by the Board. The Board will provide reasonable notice to the Licensee of the date this condition becomes effective.

12. Market Power Mitigation Rebates

- 12.1 The Licensee shall comply with the pass through of Ontario Power Generation rebate conditions set out in Appendix A of this Licence.

13. Communication

- 13.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.
- 13.2 All communication relating to this Licence shall be in writing.

- 13.3 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) ten (10) business days after the date of posting if the communication is sent by registered mail; and,
 - (c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

14. Copies of the Licence

14.1 The Licensee shall:

- (a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours, as well as at the offices of the Township of Dubreuilville; and
- (b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

APPENDIX A

MARKET POWER MITIGATION REBATES

1. Definitions and Interpretations

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 IESO includes interim payments made by the IESO.

2. Information Given to IESO

- a Prior to the payment of a rebate amount by the IESO to a distributor, the distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with information in respect of the volumes of electricity withdrawn by the distributor from the IESO-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, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- b Prior to the payment of a rebate amount by the IESO 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 IESO 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, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- c Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IESO may issue instructions or directions providing for any information to be given under this section. The IESO 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 IESO-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 IESO-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 IESO, 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, 79.5 and 79.16 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 IESO 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 IESO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.

ONTARIO POWER GENERATION INC. REBATES

For the payments that relate to the period from May 1, 2006 to April 30, 2009, the rules set out below shall apply.

1. Definitions and Interpretations

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 IESO includes interim payments made by the IESO.

2. Information Given to IESO

- a Prior to the payment of a rebate amount by the IESO to a distributor, the distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with information in respect of the volumes of electricity withdrawn by the distributor from the IESO-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 the consumer is not receiving the prices established under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- b Prior to the payment of a rebate amount by the IESO 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 IESO 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, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- c Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IESO may issue instructions or directions providing for any information to be given under this section. The IESO 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 IESO-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 IESO-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 IESO, 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 and the consumer is not receiving the prices

- established under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*;
- b consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 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 IESO 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 IESO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.