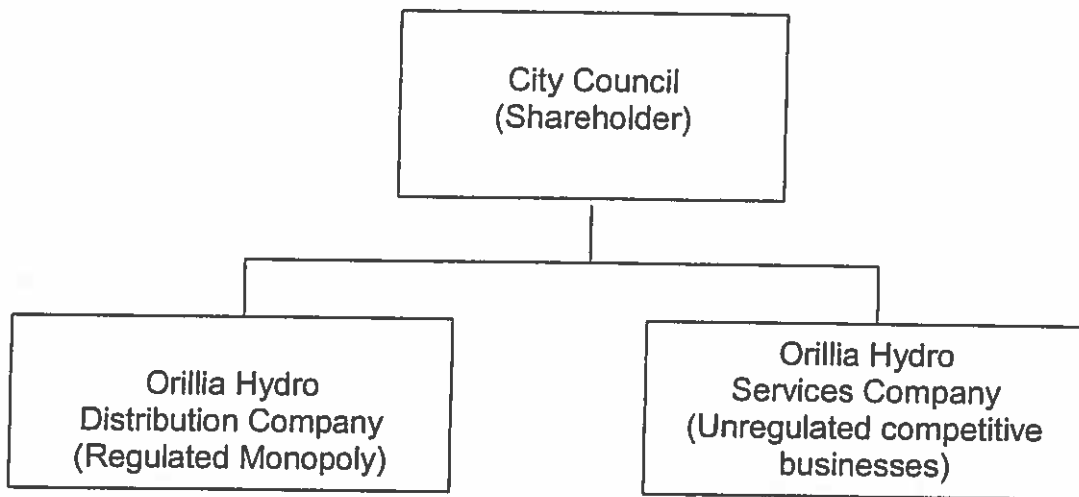


company to depress hydro rates, or to flow them through to the municipality to be used for community investment or tax decreases, would be made by unelected appointees unless the shareholder specified otherwise. Accordingly, if the holding company model is selected, it is suggested that the shareholder direction require Council approval for the proposed distribution of dividends from the competitive subsidiary.

- 3.8. The other structure which merits consideration in Orillia's situation is the establishment of two separate companies reporting directly to City Council:



- 3.9. The advantage of this direct ownership model is that the profits from the competitive operations such as generation flow directly to the City of Orillia. The decision as to how to use such profits would be made by elected representatives accountable to the public and not by unelected appointees. However, there is a legal concern about the ability of the municipality under this model to flow such dividends back to the distribution company without contravening the bonusing prohibitions in the Municipal Act. While such concerns are not totally absent in the holding company model, they are certainly greater in the direct ownership model.

- 3.10. Directors under the OBCA have a fiduciary obligation to act in the best interests of the corporation. This may at times be in conflict with the best interests of the shareholder, in which case the shareholder's recourse is

to remove the directors at the next shareholders' meeting. By flowing the profits from generation directly to the City, the risk of such conflict is minimized and public accountability is enhanced.

- 3.11. The disadvantage of this direct reporting model is that City Council would have to deal with two separate Boards in establishing the overall objectives, and the risk of inefficiencies and lack of co-ordination would be increased. It is also likely that the number of directors to be recruited would be larger than in the holding company model. However, it is arguable that the combination of skills required for the board of the competitive company may well be different from that of the board of the regulated monopoly, thereby making it easier to recruit an appropriate combination of skills for each.
- 3.12. It will also be important to ensure that the chosen corporate structure facilitates the flow of dividends to the municipality in as tax-effective manner as possible, to minimize leakage of profits to the senior levels of government in the form of taxes.

Recommendation:

That City Council select the holding company model to hold the City's investment in the two subsidiary companies.

That the shareholder direction for the holding company require Council approval for any proposed distribution of dividends received from the competitive subsidiary.

4. BOARD OF DIRECTORS

- 4.1. The incorporation documents for an OBCA company usually specify a range for the number of directors. The Act allows a minimum of one director.
- 4.2. Those municipalities which have already made the decision demonstrate a variety of choices, from five in Barrie, seven in Burlington and Oakville, to eleven in Peterborough.
- 4.3. Although the new company's operating budget will be in the range of \$25-\$30 million annually, most of this budget represents the flow-through of power costs. Excluding depreciation, interest, and this power cost flow-

through, the new company's distribution and generation functions are estimated to require annual operating expenditures in the \$4 million range. This is equivalent to a medium-sized city department and comparable to an agency such as the Police Services Board. An initial board of five directors would seem to be more than adequate for an operation of this size. This number can easily be increased if the need arises in the future.

- 4.4. A holding company does not need to have any employees, since the management of each of the operating companies is responsible for most operations. The Board of each subsidiary company would not have to be large, and could initially consist of the president of that operating subsidiary. The OEB's Affiliate Relationship Code requires that one-third of the directors of the distribution monopoly be independent from the board of the competitive affiliate, the holding company, and the municipal shareholder.

Recommendation:

That a Board of Directors consisting of five members be appointed by City Council for the holding company.

That the shareholder direction encourage the holding company to minimize the size of the boards of its subsidiaries.

- 4.5. Many municipalities are appointing members of Council to the new Boards. The rationale is that such appointments will facilitate communications between the corporation and the Council. There are a number of arguments against this approach:

- ◆ The Orillia experience in recent years suggests that such liaison appointments are not an adequate substitute for regular, formal reporting.
- ◆ The fiduciary obligations of a director under the OBCA to act in the best interests of the corporation may impair a Councillor's ability to represent the interests of the City at Board meetings.

- ◆ Conversely, a director who is a member of Council may find it difficult to reconcile these competing interests when acting at a Council meeting in the best interests of the community.
 - ◆ The presence of elected representatives on the Board, regardless of their personal skill-sets, may fuel the perception that the corporation is not being run as a business.
- 4.6 Similar arguments can be made about the conflicting roles if a member of the City's senior management were to be appointed to the Board.

Recommendation:

That City Council establish a policy that members of City Council and City staff not be eligible for appointment to the Board of the holding company or its subsidiaries.

- 4.7. Under the OBCA, any individual can become a director if he or she is over the age of 18 years, of sound mind, and solvent. A majority of the directors must be resident Canadians, as defined in the OBCA. There is no requirement that Board members be affiliated with the City of Orillia as residents, property owners, or taxpayers.
- 4.8. The Transition Committee believes that the primary objective is to recruit a board with the appropriate complementary set of skills. It does not, therefore, support any residency restrictions.
- 4.9. The initial briefing to Council identified the following desirable mix of complementary skills and experience:
- ◆ Experience in company governance, corporate financial structuring, competitive market development, or corporate structural transitions;
 - ◆ Experience in a regulated environment, a competitive wholesale or retail environment, a monopolistic service or utility, or the public sector;
 - ◆ Skills in marketing, finance, human resources, communications, corporate and energy law, health and safety, labour relations.
- It is recognized that the appropriate mix of skills may vary somewhat between the regulated and competitive businesses if Council selects the direct ownership model.

- 4.10. The initial briefing also identified specific personal characteristics that would be desirable, including personal integrity; appreciation of social and environmental issues; understanding of public accountability; independent judgement; and time availability and commitment.
- 4.11. Some of the larger municipalities have engaged consulting firms to assist them in the recruitment of directors. This approach has considerable merit where the catchment area is large and the Council cannot reasonably expect to be aware of all potential candidates. It also has the advantage of introducing an objective third party into the selection process, although the final decision remains with Council.
- 4.12. In a community the size of Orillia, the expenditure of consulting fees in the area of \$35,000 is not considered to be warranted for such an assignment. Through appropriate advertising and networking with interested organizations, the Committee believes that an appropriate mix of candidates can be recruited without consulting assistance. However, the inclusion of community members on the selection committee would provide valuable insights and perspectives, as was the case in recent executive recruitments for the municipality.
- 4.13. The Mayor has advised the Committee that he does not wish to be an ex-officio member of the recruitment committee.

Recommendation:

That Council appoint a Committee to oversee the recruitment process, interview candidates, and make recommendations to Council regarding the Board of Directors of the holding company, and that such Committee consist of two members of Council, one member of the community at large, one representative of the existing Commission, and the City Manager.

- 4.14. Although the term for a director can vary between one to three years, a one-year term is used by the majority of companies listed on the Toronto Stock Exchange. A term of a director under the OBCA cannot expire later than the conclusion of the third annual meeting of shareholders following his election. Most municipal appointments by Orillia City Council are for three year terms, with staggered expiry dates to ensure continuity. The

Committee supports the latter model because of its familiarity for members of Council, and because the shareholder always has the right to replace a director at any time.

Recommendation:

- a) **That the appointments to the initial Board of Directors be made for a combination of one-year, two-year, and three-year terms.**
- b) **That, as each initial term expires, directors be appointed or re-appointed for a three-year term.**

4.15. The current policy of the City for citizen appointees to agencies, boards, and commissions is to limit their tenure to two consecutive three-year terms, although a number of exceptions to this policy have been approved in recent years. There is currently no limit on the number of terms that can be served by an elected OWLP Commissioner. The Committee believes that the overriding criterion for the appointment of directors should be the calibre of the candidate.

Recommendation:

That no limit be placed on the number of times that a Director can be re-appointed.

4.16. The compensation for directors is left to the discretion of the Board, unless the articles, by-laws or the shareholder direction require that director compensation be approved by the shareholder. In the unique circumstances of Bill 35, it is recommended that Board compensation be a matter for Council approval, at least in the formative years of the new corporation. The Police Services Board, with a similar budget to the new corporation, pays \$1,500 to the Chairman and \$1,000 to the members. The OWLP's remuneration, which is established by City by-law, consists of \$3,150 for the Chairman and \$2,520 for the members, one-third of which is considered a tax-free expense allowance. It is noted that directors under the OBCA have statutory liabilities which may not apply to existing Commissioners.

4.17. While it will be important to ensure that compensation levels are not unreasonable in comparison with other City appointments or other utility corporations, the key criterion should be that the chosen levels do not dissuade appropriate candidates from accepting a directorship. It is therefore suggested that the recruitment committee be given the mandate to discuss directors' fees with interested candidates, to research practices in other jurisdictions, and to present a recommendation to Council as part of its report.

Recommendation:

That compensation levels of the Board of Directors be subject to Council approval, and that the recruitment committee be mandated to submit a recommendation to Council regarding the initial compensation structure.

4.18. Before initiating the recruitment process, it will be necessary to outline Council's expectations regarding the degree of autonomy which the new Board will enjoy. The less independence the Board is given, the harder it will be to attract high-calibre directors.

4.19. Under the OBCA, shareholder approval is required for specific actions such as:

- ◆ Amendments to the articles of incorporation or by-laws.
- ◆ Plans to amalgamate or dissolve the company.
- ◆ Changes to the share structure.
- ◆ Sale of substantially all of the corporation's assets.
- ◆ Appointment of auditors.
- ◆ Changes to the structure and membership of the Board.

4.20. Beyond these statutory requirements, the shareholder can determine the extent to which it will become involved in the management and policy decisions of the corporation by listing additional items in the shareholder direction which require the prior approval of Council.

4.21. The Directors are legally accountable for the performance and actions of the Corporation, although some of this liability can be mitigated through insurance or indemnities. If the shareholder retains certain director responsibilities or turns down the recommendations of the Board, then

the City generally assumes the legal liability for such decisions and cannot hold the Board accountable.

4.22. Items which should be considered for inclusion in the shareholder direction are:

- ◆ Board compensation.
- ◆ Loans to directors or officers.
- ◆ Expansion of the service areas beyond the City of Orillia.
- ◆ Investment controls.
- ◆ Borrowing limits.

Recommendation:

That the City Solicitor be authorized to draft a shareholder direction for use by the recruitment committee, which minimizes the range of issues requiring shareholder approval beyond those listed in this report.

4.23. The corollary of the recommendations regarding maximizing Board autonomy and excluding direct Councillor representatives is the need for a regular, formal reporting system to the shareholder, so that Council is fully informed, particularly during the formative stages of the new marketplace. While the City Treasurer will likely require financial reports at least quarterly, if not monthly, a semi-annual report to Council on the Corporation's overall activities is also suggested.

Recommendation:

That the holding company be required to submit progress reports on its activities semi-annually to City Council.

5. THE BUSINESS OF POWER

A. TELECOMMUNICATIONS

5.1 In 1998, OWLP installed a city-wide high speed data communications network to service the Commission's needs as well as those of the public and private sectors. The concept was to use the bandwidth not required for OWLP's own purposes to generate new revenue streams for the

Commission, while enhancing the attractiveness of Orillia from an economic development standpoint.

- 5.2. Because of the confidential nature of some of the competitive content, an updated business plan has been provided under separate cover to members of Council. While some of the original objectives have been met, the network has not met its customer connection objectives for 1999.
- 5.3. The telecommunications industry continues to undergo rapid change, with new technology and new competitors entering the marketplace every year. The capital investment in the network has already been undertaken by OWLP, so ongoing operating costs relate primarily to marketing efforts.
- 5.4. The Transition Committee invited proposals from three companies to undertake an analysis of the OWLP's telecommunications business and to prepare recommendations for Council as to whether the business should be retained, expanded, or sold. Because of the level of activity in the industry, only one proposal was received, and the Committee was of the opinion that the proposed consulting fee of \$55,000 did not represent good value. Accordingly, the Committee did not proceed further.
- 5.5. While there may well continue to be good public policy reasons for public ownership of a communications network, the year 2000 will be critical in establishing the commercial viability of OWLP's initiative.

Recommendation:

That Council request the Board of the holding company to undertake a review of the telecommunications initiative on a priority basis in the first year of the Corporation's business plan.

B. GENERATION

- 5.6. At present, the OWLP generates between 20 and 30 percent of the community's power requirements, depending on water flows. Since this power is generated at a cost considerably below the price paid to Ontario Hydro for the remaining 70 to 80%, the blended price reduces the Orillia customer's hydro bill below what it would otherwise be.

- 5.7. With the unbundling of the current hydro bill into the separate components of distribution, transmission, and commodity costs, the issue in the new regime will be whether Orillia's ownership of generating capacity can and/or should continue to be used to reduce the consumer's hydro bill.
- 5.8. It should be stressed that forecasting the impacts of current decisions on future revenue flows from the generation business is very sensitive to assumptions that one makes about the future direction of commodity prices for electricity. If one agrees with the Ministry that the experience in other jurisdictions which have introduced competition into the energy industry will be repeated in Ontario, then hydro costs in the long term will decrease and the profits from generation will be lower. If one believes the industry skeptics who argue that restructuring of the industry will inevitably lead to higher commodity prices, the outlook for generation profits is considerably more optimistic.
- 5.9. In order to minimize the leakage of profits to the senior levels of government in the form of corporate taxes, it would be desirable to maximize the debt/equity ratio of the generation company, since interest payments are tax-deductible. Discussion with industry experts and external consultants suggests that Orillia's generation business can sustain a debt/equity ratio of 70/30. This has been confirmed by the financial modelling undertaken for the Transition Committee.
- 5.10. For the sake of simplicity, it is suggested that this debt initially be held by the City. Should the City in the future wish to replace the revenue stream from interest payments with a capital infusion, the debt could be placed on the external markets.
- 5.11. If one were to assume a book value of \$10 million for the generation business in the transfer by-law, a 70/30 debt/equity ratio would result in a debt of \$7 million. At a financing rate of 7%, this would produce an income stream to the municipality of \$490,000 annually.

Recommendation:

That Council agree to a recapitalization of the generation company that would produce a commercial debt/equity ratio in the range between 60/40 and 70/30.

5.12. There are potentially two different approaches which the generation company could take with respect to how to price and sell the locally generated power:

Option A: Sell into the grid at the highest price obtainable, and produce after-tax profits which could be used to either lower distribution rates, decrease property taxes, or invest in community infrastructure.

Option B: Sell the locally generated power to the local distribution company, in a similar fashion to OWLP's current practice on a cost-plus basis, as part of the distribution company's standard supply obligation, thereby reducing the cost-of-power component of the customer's hydro bill.

5.13. Option A may ultimately prove to be the only one available, since Option B requires OEB approval which has not yet been confirmed.

5.14. The OWLP has undertaken financial modelling for the Transition Committee, in consultation with the City Treasurer and external consultants, to determine the order-of-magnitude impact of these options on both the City's financial return as shareholder and the customer's hydro bill. Wherever possible, the modelling undertaken by OWLP staff uses assumptions between the optimistic and pessimistic extremes. The earlier caution about the sensitivity of these forecasts to changes in the price of the commodity should be stressed.

5.15. It is estimated that the profit maximization approach for the generation company – Option A - would produce an average rate of return on equity in the neighbourhood of 20%, and an annual average net income to the City over the next 20 years of \$600,000 to \$700,000. The customer's annual hydro bill is forecast to be approximately 3% higher than it would be under Option B. Using an average monthly residential hydro bill of

\$60, this represents an increase of 6 cents per day. Again, it should be noted that OWLP's modelling assumes an increase in the cost of power over the forecast period in accordance with the opinions of various industry observers, rather than the decrease forecast by the provincial government as a result of the introduction of competition.

- 5.16. If OEB approval is received, the generation company would have the ability to pursue the second approach in Option B of selling the local production to the LDC as part of its standard supply obligation. If this power were supplied on a cost-plus basis similar to the current OWLP practice, the resultant blended price would reduce the consumer's monthly hydro bill by approximately 3% compared to the profit maximization option.
- 5.17. It is suggested for Council's consideration that a balance should be struck between the competing objectives of profit maximization and rate minimization in the first few years of the new marketplace. This can best be achieved by phasing in the transition from rate minimization to profit maximization over three to five years. The specific details of that phase-in should be recommended by the new Board as part of its initial business plan.

Recommendation:

That, with respect to the generation company's operations, Council approve the principle of moving from a rate minimization approach to a profit maximization approach over a transition period of three to five years.

C. DISTRIBUTION

- 5.18. The distribution functions of the OWLP have to be unbundled and carried out by a separate company, whose rates will be regulated by the OEB using a mechanism called Performance Based Regulation (PBR). This is a rate-setting mechanism that attempts to link penalties and rewards (usually in terms of profits) to desired results or targets.
- 5.19. PBR will essentially act as a price capping mechanism, setting the upper limit on rates that the LDC can charge its customers. The goal of PBR is to provide incentives for utilities to drive distribution costs down in order to

reduce rates while still offering a return on equity. This is a radical departure from the cost-plus approach currently used by municipal utilities.

- 5.20. It should be re-emphasized at this point that the costs over which the municipality can exert some influence through the distribution company represent less than 20% of the customer's monthly hydro bill. The major determinant which will decide whether that bill goes up or down will continue to be the price of the commodity, over which the municipality has no control, with the exception of that portion generated locally and discussed in the preceding section.
- 5.21. Although the final rate handbook has not yet been issued, the OEB has indicated that it recognizes that the LDC will face some regulatory and operational risk, albeit at a lower level than the competitive businesses. It will therefore permit a 9.88% return on equity in the initial rate submissions.
- 5.22. The OEB also recognizes that the LDC's are commercial entities, despite operating in a regulated monopoly. It will therefore deem a utility of Orillia's size to have a 50/50 debt/equity ratio for the purposes of rate setting. This will ensure that the shareholder does not earn a return based on 100% equity ownership.
- 5.23. Using the book value of \$10 million for the generation business referenced in Section 5.11. would leave \$17.5 million as the book value of the distribution business. A 50/50 debt/equity ratio would result in a debt of \$8.75 million. At a financing rate of 7%, this would produce an income stream to the municipality of \$612,500 annually.
- 5.24. As with the generation business, the shareholder has the choice of specifying through the shareholder direction that the LDC should pursue a policy of rate minimization or profit maximization within the regulatory framework established by the OEB.
- 5.25. As with the generation business, it is suggested for Council's consideration that a balance should be struck between these competing objectives by phasing in the transition to the maximum return on equity permitted by the OEB over a period of three to five years.

- 5.26. **Based on OWLP's modeling**, which uses conservative assumptions as to the cost reductions to be achieved through PBR, the customer's hydro bill would increase approximately 3% annually if a five-year transition to full market return was used. The specific details of this phase-in should be recommended by the new Board as part of its initial business plan.
- 5.27. It is estimated that this approach would produce an average rate of return on equity over a 20-year period in the neighbourhood of 8%, and an average annual net income to the City of \$700,000.

Recommendations:

That Council agree to a recapitalization of the distribution company that would produce a debt/equity ratio of 50/50, as will be used by the OEB in its rate approval process.

That, with respect to the distribution company's operations, Council approve the principle of moving to the permissible rate of return on equity over a transition period of three to five years.

- 5.28. Once the guiding principles have been established by Council, the City Treasurer and the OWLP Treasurer would be tasked with pursuing a number of other specific financial issues. These include the amount of OWLP's current assets, such as working capital and contingency funds, which should be transferred to the new company pursuant to OEB regulations, and the desirability of revaluing the assets of the competitive generation business prior to transfer.

D. RETAIL

- 5.29. As noted in the Committee's initial briefing to Council, it is generally accepted in the industry that the actual retailing of the electricity commodity will be a high risk, low margin business which will be dominated by some very large, sophisticated, and aggressive companies. Moreover, the emerging threshold for a viable retail strategy is in the range of 200,000 customers, as compared to Orillia's 11,800. Since customers who do not wish to switch to one of the new retailers can stay with the LDC's standard supply service, there appears to be no

public interest rationale for the municipality to permit its corporation to enter into the commodity retailing business.

Recommendation:

That the shareholder direction preclude the corporation from entering into new retail businesses, including commodity retailing, either directly or through a subsidiary, without the express approval of City Council.

CONCLUSION

The recommendations in this report represent an attempt to balance the ratepayers' interest in minimizing increases in their hydro bills with the taxpayers' interest in growing the value of their assets and generating a return for the benefit of the community. A summary of the impact on ratepayers and taxpayers based on the financial modelling undertaken for the Transition Committee is attached.

ADDENDUM RE: FINANCIAL MODELLING

<u>Model Assumptions</u>	<u>Distribution</u>	<u>Generation</u>
Effective tax rate	45%	38%
Debt equity ratio	50%	70%
Interest rate on City debt	7%	7%
Dividend payout ratio	100%	100%
Customer growth rate	1%	--
Inflation rate	2%	.2%
Efficiency gains	-1.5%	-1.5%
PBR productivity factor	-1.5%	--
PBR input price index	1.25%	--
Initial IMO price per mWh generated	--	\$38
Annual increase in spot price first 10 years	--	2%
Number of mWh generated	--	85,000
Savings from participation in UCEA	0	0

Model Results

Scenario 1 :profit minimization for distribution, fully levered
 :use generation cash flow to subsidize distribution rates

Annual average cash flow to City – 2001 to 2020: \$1,059,000

Average rate of return on equity: 0.2% distribution
 0.0% generation

Increase in customer rates: 5.2% in 2001, 0.7% - 0.9% annually thereafter

Scenario 2 :profit minimization for distribution, fully levered
 :profit maximization for generation

Annual average cash flow to City – 2001 to 2020: \$1,685,000

Average rate of return on equity: 0.3% distribution
 25.2% generation

Increase in customer rates: 7.7% in 2001, 0.9% - 1.1% annually thereafter

Scenario 3 :profit maximization for distribution
:use generation cash flow to subsidize distribution rates

Annual average cash flow to City – 2001 to 2020: \$1,886,000

Average rate of return on equity: 9.6% distribution
0.0% generation

Increase in customer rates: 12.5% in 2001, 0.7% annually thereafter

Scenario 4 :profit maximization for distribution and generation

Annual average cash flow to City – 2001 to 2020: \$2,514,000

Average rate of return on equity: 9.7% distribution
25.2% generation

Increase in customer rates: 15% in 2001, 0.9% annually thereafter

Scenario 5 (recommended) :profit maximization for distribution and generation
phased in over 5 years

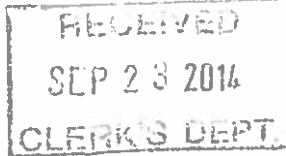
Annual average cash flow to City – 2001 to 2020: \$2,379,000

Average rate of return on equity: 8.3% distribution
25.2% generation

Increase in customer rates: 5.3% in 2001, 3.2% in 2002, 3.3% in 2003, 3.1%
in 2004, 3.0% in 2005

10/10/10





Orillia Water Light and Power Commission

c/o Commissioners:

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September 23rd, 2014

Mayor and Council
City of Orillia
50 Andrew Street South
Orillia, ON

RE: A DOCUMENT DATED APRIL, 2000 ENTITLED "RECOMMENDATIONS ON THE FUTURE OF ORILLIA HYDRO UTILITY BY THE BILL 35 TRANSITION COMMITTEE" (*Many of the recommendations that were previously never seen in this format by this commission, were to be negotiated. However the council decided to proceed in this format to go ahead with producing a bylaw which became Bylaw 2000-144 passed on April 17th, 2000 without input from this commission*)

Dear Mayor and Councillors,

The aforementioned somewhat confidential document was never, in anyway, adopted by this commission and it was only a month ago (August, 2014) that any member saw this document in its present form. It was thought to be a clear understanding that any and all recommendations, apart from those dictated specifically through legislation, would be negotiated with the commission. To be very clear, we, as commission members, do not aspire for any control in the day-to-day operation of the utility. We are, however, obligated with a fiduciary responsibility to defend the peoples' bylaw that kept the utility at arms' length of council. When this is finalized, the commission members will resign. This action does not reflect upon or have any bearing on council's appointment of dedicated people to the current board that were never party to past decisions of council.

There was never a single meeting or any direct discussion with the elected commission and the city officials or its self-appointed transition committee. The title page of the April, 2000

Handwritten initials and signatures:
M.M.
D.
K.
S.

document indicates that a commissioner was present, which was never the case. The elected commission, for the most part, was kept oblivious in regards to this document. We, as a commission, would never have agreed to a transfer of any of the rights, powers and privileges to city council which would be in direct contravention of the intent of Bylaw 557 and the Town of Orillia Act, Section 11, Clause 1 and 2 (1915).

The intent of the peoples' Bylaw 557, that could only be amended by a vote of the people, was to ensure the following:

1. That all the powers, rights and privileges with regard to the government of the Orillia Power transmission or the generation, distribution and sale of electric power shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia, Water Light and Power Commission and not by the council of the Corporation;
2. That rates for electrical energy were to, where possible, be kept low so as to keep Orillia as a magnet for attracting new industry and maintaining this advantage for its citizens (the owners);
3. To prevent any future council from selling this, the peoples' asset, to a profit corporation without first getting approval by a referendum voted upon by the people.

There were means within the provincial legislation dealing with the transfer to accomplish the process with the Orillia Water, Light and Power transferring this power and council forming the corporations that would replace and succeed the commission. The council, through negotiation, could then complete this agreed upon bylaw. However, it would appear that the city's hidden agenda, from the beginning, was to gain full control of the utility for its financial benefit and to become the self-appointed agent for the people.

The citizens, who are the electors, are the only true shareholders of the commission assets and profits from the corporations, not required for expansion or maintenance, or other reserve accounts, should be transferred to them – both in the form of reduced electrical rates and earned dividends. The new corporation should then have been allowed to have reserve accounts in the event of the city doing an annexation as well as to carry on with building and acquiring additional generation so as to create profit for the people.

As long as Bylaw 557 is in place the OWLP elected commission, without a subsequent election, are still in place and capable of carrying on a negotiated process benefiting both the shareholders and appointed representatives keeping the corporations at arm's length of council. The corporations would then "walk in the shoes" of OWLP.

The members of the commission would respectfully request the following:

1. Any and all information which would indicate that the OWLP Commission consented to this document without first being a party to a negotiated process prior to its adoption.
2. Information on the exact date that the city uses as their formal date of transfer;
3. The corporation documents and who swore the document that council had the authority to act for the formation of separate municipal corporations;

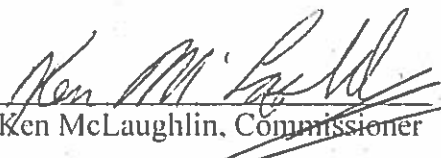
4. The reasons why the commission were left out of all the negotiations by a working committee for and on behalf of city council;
5. Did council, in all good conscience, not recognize that Resolution 2000-127 had a serious impact on all industrial, commercial and residential electrical customers in the city and may have negatively impacted on some industry that may have caused industry to move out of Orillia?
6. Is council aware that hydro rates in the province have increased as much as 300% to many customers in the period from implementation of Bill 35 to the present? With the implementation of wholesale rates of hydro, why was there no effort on the part of council to subsidize these increases using the profits from Orillia's generation company?
7. Will the city permit the elected OWLP Commission, as elected by the people through Bylaw 557, to use meeting room space at city hall so as to have a public commission meeting to provide shareholder input to be used in the negotiation to amend Bylaw 2000-144 and the three corporations formed, in part, by council?

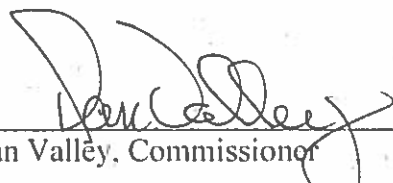
May we please have the courtesy of an early reply to this correspondence?

Respectfully submitted,


Gord Pye, Chairman


Frank Kehoe, Commissioner


Ken McLaughlin, Commissioner


Dan Valley, Commissioner

Attachments:

- Recommendations of the city appointed transition committee, dated April, 2000
- Peoples' Bylaw 557
- Section 11 of the Town of Orillia Act, 1915
- Resolution of City Council 2000-127, April 17th, 2000

60**BY-LAW NUMBER 2000-145 OF THE CITY OF ORILLIA****A BY-LAW PURSUANT TO SECTION 67(1) OF THE PUBLIC UTILITIES ACT (ONTARIO) TO DISPENSE WITH THE ASSENT OF ELECTORS PRIOR TO DISSOLUTION OF THE ORILLIA WATER, LIGHT AND POWER COMMISSION**

WHEREAS the Orillia Water, Light and Power Commission (the "Commission") was established by special legislation and is deemed to be a commission established under Part III of the Public Utilities Act (Ontario);

AND WHEREAS The Corporation of the City of Orillia (the "City") proposes to transfer the assets and undertaking under the control and management of the Commission and owned by the City to corporations incorporated pursuant to Section 142 and Section 145 of the Electricity Act, 1998 (Ontario);

AND WHEREAS upon the completion of the said transfer the Commission is no longer required.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ORILLIA HEREBY ENACTS AS FOLLOWS:

1. THAT any requirement to obtain the assent of the electors before the City exercises its power to dissolve the Commission is hereby dispensed with and eliminated.

BY-LAW read a first, second and third time and finally passed this 16th day of October, 2000.

Maggie Buchanan
ACTING HEAD OF COUNCIL

James S. Lee
CLERK

Revised October 16, 2000

THE CORPORATION OF THE CITY OF ORILLIA

BY-LAW NO. 2000-144

A BY-LAW TO TRANSFER CERTAIN ASSETS, LIABILITIES, EMPLOYEES, RIGHTS AND OBLIGATIONS OF THE ORILLIA WATER, LIGHT AND POWER COMMISSION AND THE CORPORATION OF THE CITY OF ORILLIA USED IN THE DISTRIBUTION, RETAILING AND GENERATION OF ELECTRICITY TO CORPORATIONS TO BE INCORPORATED UNDER THE BUSINESS CORPORATIONS ACT (ONTARIO) PURSUANT TO SECTION 142 OF THE ELECTRICITY ACT, 1998 (ONTARIO) AND SECTION 71 AND SECTION 73 OF THE ONTARIO ENERGY BOARD ACT, 1998 (ONTARIO), AND TO EFFECT AN EXCHANGE OF SHARES AMONGST THE SAID CORPORATIONS

RECITALS

1. The City distributes, retails and generates electricity through the Commission.
2. The Council wishes to incorporate Holdco, Distco and Genco under the O.B.C.A. pursuant to Section 142 of the Electricity Act and Sections 71 and 73 of the Ontario Energy Board Act.
3. The Council wishes to transfer certain assets, liabilities, employees, rights and obligations of the Commission and the City relating to the distribution, retailing and generation of electricity on and subject to the terms and conditions set forth herein.
4. Subsection 145(1) of the Electricity Act authorizes the Council to make By-laws to effect such a transfer.
5. The Council wishes to effect an exchange of shares amongst Holdco, Distco and Genco.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ORILLIA HEREBY ENACTS AS FOLLOWS:

SECTION 1 - INTERPRETATION1.01 Definitions

Whenever used in this By-law, including the Recitals, unless the context otherwise requires, the words and terms set out in Schedule "A" hereto have the respective meanings ascribed to them in Schedule "A".

1.02 Extended Meanings

In this By-law words importing the singular number include the plural and vice versa, and words importing gender shall include all genders.

1.03 Applicable Law

This By-law and all documents, instruments, agreements and transfers contemplated hereby shall be construed and enforced in accordance with the laws of the Province of Ontario.

1.04 Schedules

The following Schedules are attached to and form part of this By-law.

- (a) Schedule "A" - Definitions
- (b) Schedule "B" - Shareholder Declaration and Direction
- (c) Schedule "C" - Holdco Assets and Holdco Liabilities

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- (d) Schedule "C-1" - Holdco Financial Schedule Illustrating Transfer
- (e) Schedule "D" - Distco Assets and Distco Liabilities
- (f) Schedule "D-1" - Distco Financial Schedule Illustrating Transfer
- (g) Schedule "D-2" - Distco Promissory Note Terms
- (h) Schedule "E" - Genco Assets and Genco Liabilities
- (i) Schedule "E-1" - Genco Financial Schedule Illustrating Transfer
- (j) Schedule "E-2" - Genco Promissory Note Terms
- (k) Schedule "F" - Excluded Assets and Excluded Liabilities
- (l) Schedule "G" - Distco Employees Transferred and Collective Agreements
- (m) Schedule "H" - Genco Employees Transferred and Collective Agreements

SECTION 2 - INCORPORATION

2.01 Authorization

The Council hereby authorizes the incorporation and organization of Holdco, Distco and Genco to continue (subject to any approval required by the Shareholder Declaration and Direction attached hereto as Schedule "B") the distribution, retailing and generation of electricity carried on through the Commission and as authorized by the Electricity Act and the Ontario Energy Board Act.

2.02 Subscription for Shares

In order to effect the initial organization of Holdco, Distco and Genco the City is authorized to subscribe and pay for one common share of each of the said corporations at a consideration of \$10.00 per share.

2.03 Shareholder Declaration and Direction

The City, in its capacity as initial Shareholder of Holdco, Distco and Genco, shall execute and deliver the Shareholder Declaration and Direction to provide for the organization, management and administration of the said Corporations in the form attached hereto as Schedule "B".

SECTION 3 - TRANSFERS

3.01 Transfer to Holdco

As of the Effective Date, except as otherwise provided for in this By-law, the City transfers to Holdco all the Holdco Assets and Holdco Liabilities, and Holdco accepts and assumes such assets and liabilities.

3.02 Transfer to Distco

As of the Effective Date, except as otherwise provided for in this By-law, the City transfers to Distco all the Distco Assets, Distco Liabilities and Distco Employees of the Commission and the City, and Distco accepts and assumes such assets, liabilities and employees.

3.03 Transfer to Genco

As of the Effective Date, except as otherwise provided for in this By-law, the City transfers to Genco all the Genco Assets, Genco Liabilities and Genco Employees of the Commission and the City, and Genco accepts and assumes such assets, liabilities and employees.

3.04 Employees

As of the Effective Date the service of the Employees with the Commission shall be deemed to be service with Distco or Genco, as the case may be, for the purpose of determining probationary periods, benefits or any other employment-related entitlements under the Employment Standards Act, or any other Act or under any employment contract or Collective Agreement and the Employees shall cease to be employees of the Commission and shall thereupon be employees of Distco or Genco, as the case may be, without interruption in service.

3.05 Reserves

As of the Effective Date the City transfers to Distco the Development Charge Reserves.

3.06 Excluded Assets and Excluded Liabilities

The transfer of any assets and liabilities pursuant to this By-law shall not include the Excluded Assets and Excluded Liabilities which shall remain the assets and liabilities of the City.

3.07 Transfer and Delivery of Assets

Each of the City and the Commission shall execute and deliver to Holdco, Distco and Genco, as the case may be, in a form suitable for registration, recording and filing with such public authorities as may be reasonably required, all such bills of sale, assignments, instruments of transfer, assurances, consents and other documents as shall be necessary to effectively record the transfer to Holdco, Distco and Genco of all of the City's, and the Commission's, right, title and interest in, to and under, or in respect of, the Holdco Assets, the Distco Assets and the Genco Assets respectively.

3.08 Transfer and Delivery of Excluded Assets

The Commission shall execute and deliver to the City, in a form suitable for registration, recording and filing with such public authorities as may be reasonably required, all such bills of sale, assignments, instruments of transfer, assurances, consents and other documents as shall be necessary to effectively record the transfer, to the City, of all of the Commission's right, title and interest in, to and under, or in respect of, the Excluded Assets.

3.09 Non-Assignable Assets

Notwithstanding any other provision of this By-law or the Electricity Act, if any of the assets transferred to the Transferee Corporation pursuant to this By-law shall not be assignable, or shall only be assignable with the consent or approval of a third party, the City or the Commission as the case may be shall:

- (a) use all reasonable efforts in co-operation with the Transferee Corporation to secure the consent or approval required and all costs of obtaining such consent shall be paid by the Transferee Corporation; and
- (b) pending the effective transfer thereof, hold all rights or entitlement that the City or the Commission has thereto in trust for the exclusive benefit of the Transferee Corporation provided that the Transferee Corporation shall pay, perform and discharge all obligations arising or accruing with respect thereto during such period. The Transferee Corporation shall indemnify and save harmless the City and the Commission with respect to such obligations.

3.10 Subsequent Transfers

Any of the assets, assumed liabilities and Employees which are transferred pursuant to this By-law may, from time to time, and subject to the provisions of the Electricity Act, be subsequently transferred to Holdco, Distco or Genco on such terms and for such consideration as recommended by Holdco and approved by the Council and any such subsequent transfer shall be made pursuant to the authority granted by this By-law and shall take effect in the sequence and at such times as set out in the subsequent transfer.

3.11 Costs

All transition costs and expenses incurred or to be incurred by the City, and all taxes (including transfer taxes) incurred or payable in connection with the incorporation of Holdco, Distco or Genco and any transfers contemplated or carried out pursuant to this By-law shall be paid by Distco and/or Genco which shall reimburse the City on demand for any such costs, expenses or taxes.

SECTION 4 - PURCHASE PRICE

4.01 Purchase Price

The purchase price payable by Holdco for the Holdco Assets, by Distco for the Distco Assets, and by Genco for the Genco Assets shall be equal to the fair market value thereof as of the Effective Date. As the determination of the fair market value is dependent upon information not presently available and criteria not yet finalized, such value shall be deemed to be book value as shown on the 1999 Audited Financial Statements of the Commission subject to adjustment pursuant to Section 4.05 of this By-law.

4.02 Satisfaction of Purchase Price for Holdco Assets

In full payment and satisfaction of the purchase price for the Holdco Assets Holdco shall allot and issue to the City 1,000 fully paid and non-assessable common shares of Holdco having an ascribed value equal to the purchase price and the amount of such value shall be added to the stated capital account for such shares.

4.03 Satisfaction of Purchase Price for Distco Assets

In full payment and satisfaction of the purchase price for the Distco Assets Distco shall:

- (a) be bound by, assume, pay, satisfy, discharge, observe, perform and fulfill the Distco Liabilities including any obligations to the Distco Employees;
- (b) and as to the balance of the purchase price
 - i) allot and issue to the City 1,000 fully paid and non-assessable common shares of Distco having an ascribed value equal to 50% of such balance and the amount of such value shall be added to the stated capital account for such shares; and
 - ii) issue to the City a Promissory Note having a principal amount equal to 50% of such balance on the terms as set out in Schedule "D-2" hereto. The Promissory Note shall be secured by a General Security Agreement which shall form a first priority security interest in the Distco Assets, present and future.

4.04 Satisfaction of Purchase Price for Genco Assets

In full payment and satisfaction of the purchase price for the Genco Assets Genco shall:

- (a) be bound by, assume, pay, satisfy, discharge, observe, perform and fulfill the Genco Liabilities including any obligations to the Genco Employees;
- (b) and as to the balance of the purchase price
 - i) allot and issue to the City 1,000 fully paid and non-assessable common shares of Genco having an ascribed value equal to 30% of such balance and the amount of such value shall be added to the stated capital account for such shares; and
 - ii) issue to the City a Promissory Note having a principal amount equal to 70% of such balance on the terms as set out in Schedule "E-2" hereto. The Promissory Note shall be secured by a General Security Agreement which shall form a first priority security interest in the Genco Assets, present and future.

4.05 Adjustment of Purchase Prices and Payment

The purchase prices for the Holdco Assets, the Distco Assets and the Genco Assets, and the manner in which the purchase price is satisfied, may be adjusted as a result of any audit or valuation conducted after the Effective Date with respect to the assets and liabilities transferred to Holdco, Distco or Genco as of the Effective Date. In addition, the basis for the fair market value of the Distco Assets involves a consideration of the permitted rate of return on equity, and the distribution rates that the OEB will allow Distco to charge for the distribution of electricity. The fair market value of the Distco Assets and the manner in which the purchase price is satisfied for such assets may be adjusted as a consequence of any determination of the permitted distribution rates by the OEB or arising from any other legislative or regulatory matter that has not yet been finalized or is subsequently amended.

4.06 Manner of Effecting Adjustments of Purchase Price and Payment

Any adjustments contemplated by Section 4.05 may be effected by the Treasurer of the City in consultation with Holdco and approved by the Council. Such adjustments may result in an adjustment to the number of common shares issued, the stated capital of such shares, the principal amount of any Promissory Note, or any combination thereof. All necessary adjustments made pursuant to this Section shall have the same effect as if they were made on the Effective Date.

4.07 Allocation of Purchase Price

The purchase price shall be allocated among the Holdco Assets, the Distco Assets and Genco Assets as determined by Holdco.

4.08 Indemnity

Holdco, Distco and Genco shall indemnify and save harmless the City and the Commission from and against the liabilities assumed by them. The Holdco Liabilities may be enforced only against Holdco, the Distco Liabilities may be enforced only against Distco, the Genco Liabilities may be enforced only against Genco, and the City and the Commission are hereby released from any liability or obligation therewith as of the Effective Date.

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4.09 Rights and Liabilities Transferred

Any rights and liabilities transferred by this By-law to Holdco, Distco or Genco may only be enforced by and against the respective corporation and may not be enforced by and against the City or the Commission as of the Effective Date.

4.10 Transfer of Shares

All of the common shares of Distco and Genco issued to the City pursuant to Sections 4.03 and 4.04 of this By-law shall be transferred to Holdco by the City as of the Effective Date in exchange for the allotment and issuance by Holdco to the City of an additional 1,000 fully paid and non-assessable common shares of Holdco.

SECTION 5 - GENERAL MATTERS

5.01 Regulatory Approvals

It is not anticipated that any regulatory approvals are required to implement this By-law. If it should be determined in the future that any approvals are required then such approvals may be sought by the City, Holdco, Distco or Genco and following the receipt of any such approvals the transfer herein shall be completed with effect as of the Effective Date pursuant to this By-law.

5.02 Goods and Services Tax (Section 167 Exemption)

The transfer of any assets pursuant to this By-law will constitute the transfer of all or substantially all of the assets necessary for the Transferee Corporation to carry on the business transferred to it. The City and the Transferee Corporation, being registered pursuant to the Excise Tax Act (Canada) with respect to Goods and Services Tax, shall sign the election provided for in Section 167 of the said Act and the Transferee Corporation shall file the election in accordance with the said Section so that the transfer is exempt from Goods and Services Tax.

5.03 Amendment of By-law

In the event of any omission or error made in the connection with the passage of this By-law, including without limitation, the unintended transfer or failure to transfer any assets, liabilities or Employees of the Commission and/or the City, the City may amend this By-law and any such amendment or amendments shall be deemed to take effect as of the Effective Date.

5.04 Further Assurances

The City and the Commission shall, at the expense of Distco and/or Genco, promptly and duly execute and deliver such further documents and promptly take such further action not inconsistent with the terms hereof as may from time to time be reasonably required to more effectively carry out the intent and purpose of this By-law or to perfect and protect the interest of the Transferee Corporation with respect to the assets transferred to it. The Mayor and the Clerk are hereby authorized and directed, for and on behalf of the City, to do all acts and things and execute and deliver such other documents, instructions, agreements and transfers as may be reasonably necessary or desirable to give effect to the provisions of this By-law.

5.05 Binding Effect

As provided in Section 145 of the Electricity Act this By-law is binding on the City, the Commission, Holdco, Distco, Genco and all other persons. The City, Holdco, Distco, or Genco may register such documents, instruments and agreements, including, without limitation, certified copies of this By-law, as may be necessary or desirable in order to evidence or confirm the transfers provided for herein.

5.06 Severability

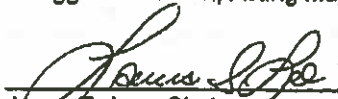
If any section of this By-law or part thereof is invalid or ultra vires such section or part shall not affect the remaining sections or parts of this By-law.

5.07 Successors and Assigns

This By-law shall enure to the benefit of and shall be binding upon and enforceable by the City, the Commission, Holdco, Distco and Genco and their respective successors and assigns.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
16th DAY OF ~~OCTOBER~~, 2000.


Maggie Buchanan, Acting Mayor


Laura S. Lee, Clerk

SCHEDULE "A" - DEFINITIONS

1. "City" means The Corporation of the City of Orillia.
2. "Collective Agreement" means any agreement listed in Schedules "G" and "H" hereto.
3. "Commission" means the Orillia Water, Light and Power Commission.
4. "Council" means the Council of The Corporation of the City of Orillia.
5. "Development Charge Reserves" means the portion of any reserve fund established under Section 33 of the Development Charges Act, 1997 that relates to development charges collected in respect of electrical power services and the portion of any reserve fund referred to in Section 63 of the Development Charges Act, 1997 that relates to development charges collected in respect of electrical power services.
6. "Distco" means Orillia Power Distribution Corporation.
7. "Distco Assets" means all of the right, title and interest in those assets listed in Schedule "D" hereto.
8. "Distco Employees" means those Employees set out in Schedule "G" hereto.
9. "Distco Liabilities" means all of the liabilities listed in Schedule "D" hereto.
10. "Effective Date" means November 1, 2000.
11. "Electricity Act" means the Electricity Act, 1998 (Ontario) and any Regulations made thereunder as amended or replaced from time to time.
12. "Employees" means all full-time and part-time, union and non-union, employees and officers of the Commission as at the Effective Date.
13. "Excluded Assets" means those assets of the City or the Commission set out in Schedule "F" hereto.
14. "Excluded Liabilities" means those liabilities of the City or the Commission set out in Schedule "F" hereto.
15. "Genco" means Orillia Power Generation Corporation.
16. "Genco Assets" means all of the right, title and interest in those assets listed in Schedule "E" hereto.
17. "Genco Employees" means those Employees set out in Schedule "H" hereto.
18. "Genco Liabilities" means all of the liabilities listed in Schedule "E" hereto.
19. "Holdco" means Orillia Power Corporation.
20. "Holdco Assets" means all of the right, title and interest in those assets listed in Schedule "C" hereto.
21. "Holdco Liabilities" means all of the liabilities listed in Schedule "C" hereto.
22. "O.B.C.A." means the Business Corporations Act (Ontario) and any Regulations made thereunder as amended or replaced from time to time.
23. "O.E.B." means the Ontario Energy Board.
24. "Ontario Energy Board Act" means the Ontario Energy Board Act, 1998 (Ontario) and any Regulations made thereunder as amended or replaced from time to time.
25. "Transferee Corporation" means any of Holdco, Distco or Genco as the context so requires.

SCHEDULE "B"
Revised October 16, 2000

CITY OF ORILLIA
SHAREHOLDER DECLARATION AND DIRECTION

1. DEFINITIONS

- (a) "Corporation" shall mean Orillia Power Corporation.
- (b) "Distco" shall mean Orillia Power Distribution Corporation.
- (c) "Genco" shall mean Orillia Power Generation Corporation.
- (d) "OBCA" shall mean the Business Corporations Act (Ontario) as amended or replaced from time to time.
- (e) "OEB" shall mean the Ontario Energy Board.
- (f) "Shareholder" shall mean the Corporation of the City of Orillia.
- (g) "Subsidiaries" shall mean Distco and Genco.

2. PURPOSE

The purpose of this Declaration is to define the framework for the governance of the Corporation and the Subsidiaries, and to establish policies and principles for their management. This Declaration is not intended to constitute a unanimous Shareholder Declaration under the OBCA except as provided in Paragraphs 7(c), 10 and 11.

3. AUTHORIZED BUSINESS ACTIVITIES

- (a) Subject to the requirements of the Energy Competition Act, the OEB, and all other applicable regulatory and governmental authorities, the Corporation and the Subsidiaries may engage in the following authorized business activities:
 - (1) Distributing electricity;

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- (2) Business activities that develop or enhance the ability of the Corporation or the Subsidiaries to carry on the activity set out in (1) above;
 - (3) Business activities the principal purpose of which is to use more effectively the assets of the distributor or an affiliate of the distributor including providing meter installation and reading services, and providing billing services;
 - (4) Generating electricity;
 - (5) Providing telecommunications and fibre-optics services;
 - (6) Participation in the Upper Canada Energy Alliance;
 - (7) Providing services related to improving energy efficiency.
- (b) Notwithstanding Paragraph 3(a)(5) above, the Board of Directors of the Corporation shall undertake a review of the commercial viability of the telecommunications and fibre-optics business formerly operated by the Orillia Water, Light and Power Commission on a priority basis in the first full fiscal year of the Corporation.

4. SUBSIDIARIES

- (a) Distco is a subsidiary of the Corporation and its principal business activity will be distributing electricity.
- (b) Genco is a subsidiary of the Corporation and its principal business activity will be generating electricity.

5. BOARD OF DIRECTORS OF THE CORPORATION

- (a) Number of Directors

The Corporation shall be managed by the Board of Directors and the initial Board shall consist of 5 Directors to be elected by the Shareholder.

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(b) Qualification of Directors

- (1) The Board of Directors should be composed of persons having the following desirable mix of complementary skills and experience:
 - (i) experience in company governance, corporate financial structuring, competitive market development, or corporate structural transitions;
 - (ii) experience in a regulated environment, a competitive wholesale or retail environment, a monopolistic service or utility, or the public sector;
 - (iii) skills in marketing, finance, human resources, communications, corporate and energy law, health and safety, or labour relations.
- (2) Non-residents of the City of Orillia may qualify as candidates for the Board of Directors.
- (3) No person shall serve as a Director while that person is a member of the Council of the Corporation of the City of Orillia.
- (4) No person shall serve as a Director while that person is an employee of the Corporation of the City of Orillia.

(c) Term

The term for each Director shall be as follows:

- (1) Directors shall be elected for a term of 3 years on a rotational basis except for the initial 5 Directors who shall be elected as follows:
 - (i) 1 for a 1 year term;
 - (ii) 2 for a 2 year term; and
 - (iii) 2 for a 3 year term.
- (2) Any Director may serve for any number of successive terms as determined by the Shareholder.

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(d) Directors' Compensation

The compensation for Directors shall be determined by the Shareholder from time to time. The Chair may receive greater compensation than the other Directors.

(e) Chair and Vice-Chair

The Directors shall elect a Chair and Vice-Chair from amongst themselves.

6. BOARD OF DIRECTORS OF DISTCO AND GENCO

(a) Number of Directors

The Corporation is encouraged to minimize the number of Directors to be elected to the Boards of Distco and Genco. Each Board may consist of only 1 Director. The choosing of Directors for each Board shall be in compliance with the Affiliate Relationships Code as established by the OEB.

(b) Responsibilities

The Corporation shall ensure that the management of Distco and Genco, by their Boards of Directors, shall be subject to Shareholder Declarations of the Corporation which will effectively transfer all responsibility for such management to the Board of Directors of the Corporation and which will be consistent with this Shareholder Declaration.

(c) Qualification of Directors

- (1) No person shall serve as a Director while that person is a member of the Council of the Corporation of the City of Orillia.
- (2) No person shall serve as Director while that person is an employee of the Corporation of the City of Orillia.
- (3) Non-residents of the City of Orillia may qualify as candidates for the Board of Directors.
- (4) Senior employees of Distco or Genco may qualify as candidates for the Board of Directors.

(d) Term

The term for each Director shall be as follows:

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- (1) Directors shall be elected for a 1 year term;
- (2) Any Director may serve for any number of successive terms as determined by the Corporation.

(e) Directors' Compensation

The compensation for Directors shall be determined by the Corporation from time to time. Employees who also serve as Directors may not be entitled to any additional compensation.

7. FINANCIAL POLICIES

(a) Distco

The Shareholder expects that the Corporation through its Board of Directors will establish policies to maximize the return to the Shareholder to the extent permitted by the OEB over a transition period of 3 to 5 years.

(b) Genco

The Shareholder expects that the Corporation through its Board of Directors will establish policies to move to a profit maximization approach over a transition period of 3 to 5 years.

(c) Dividends

The declaration and payment of dividends by the Corporation shall require the approval of the Shareholder and such approval shall be obtained prior to January 31st in the year in which such dividends are to be paid.

8. SHAREHOLDER REPRESENTATIVE

The Shareholder hereby designates the Clerk of the Corporation of the City of Orillia as the legal representative of the Shareholder for purposes of communicating to the Board of Directors of the Corporation any consent or approval required by this Shareholder Declaration or by the OBCA.

9. DECISIONS OF THE SHAREHOLDER

Any consent or approval of the Shareholder required pursuant to this Shareholder Declaration or the OBCA shall require a Resolution or By-law of the Council of the Shareholder passed at a meeting of the Council, and shall be communicated in writing signed by the Shareholder representative.

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10. MATTERS REQUIRING SHAREHOLDER APPROVAL UNDER THE OBCA

Without Shareholder approval neither the Corporation nor the Subsidiaries shall:

- (a) Amend its Articles;
- (b) Make a new by-law, amend a by-law or repeal a by-law;
- (c) Amalgamate (unless amalgamation involves one or more subsidiaries), apply to continue as a corporation in another jurisdiction, merge, consolidate, or reorganize, or approve or effect any plan of arrangement, in each case whether statutory or otherwise;
- (d) Initiate proceedings to wind up, dissolve, or reorganize the corporation unless such reorganization is authorized under S.186 of the OBCA;
- (e) Create new classes of shares or reorganize, consolidate, subdivide or otherwise change its outstanding shares or alter the rights, privileges, restrictions and conditions of any share of the corporation;
- (f) Change the number of directors, unless the existing Articles permit the directors to specify the number of directors within the minimum and maximum number specified in the Articles;
- (g) Appoint or change the corporation's auditor;
- (h) Sell, lease or otherwise dispose of the assets or substantially all of the assets of the corporation; and
- (i) Initiate any action, undertaking, or agreement which requires the approval of the shareholders as otherwise specified.

11. OTHER MATTERS REQUIRING SHAREHOLDER APPROVAL

Without Shareholder approval neither the Corporation nor the Subsidiaries shall:

- (a) Enter into any retail business, including retailing electricity other than as authorized under Paragraph 3(a).
- (b) Change the compensation to be paid to Directors or provide any financial assistance, whether by loan, guarantee, or otherwise to any Director or Officer other than financial assistance or loans to Directors or Officers who are also employees of the Corporation or the Subsidiaries as part of a comprehensive employee benefit package.

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- (c) Expand the service area for distributing electricity beyond the boundaries of the City of Orillia.
- (d) Issue, or enter into any agreement to issue, any shares of any class, or any securities convertible into shares of any class, of the Corporation or the Subsidiaries.
- (e) Incur expenditures, make acquisitions, dispose of assets of the Corporation or the Subsidiaries, enter into strategic allances or joint ventures which would involve expenditures or would involve an amount in an aggregate value equal to 25% or greater of the consolidated book value of the consolidated assets of the Corporation, as reflected in the Corporation's most recent audited financial statement.
- (f) Enter into any agreement, commitment or investment that provides recourse to the assets of the Corporation or the Subsidiaries or creates any encumbrance, lien, security interest or recourse (hereinafter collectively referred to as "Liens") in favour of any third party in such assets in priority to the Shareholder other than:
 - (1) Liens securing purchase money obligations incurred in the ordinary course of business (other than in relation to the borrowing of money) if the aggregate principal amount of such obligations does not exceed \$1,000,000.00 at any time in total for the Corporation and the Subsidiaries.
 - (2) Liens securing credit facilities created or incurred for the purpose of providing operating financing for day-to-day working capital requirements and liens securing trade debts or other liabilities incurred in the ordinary course of business (other than in relation to the borrowing of money) if the aggregate principal amount of any such obligations does not exceed in total for the Corporation and the Subsidiaries the equivalent of two months consolidated net expenses as reflected in the Corporation's most recent audited consolidated Financial Statements. Consolidated net expenses are defined to be the sum of consolidated cost of power distributed plus consolidated operating expenditures plus consolidated interest on long term debt plus consolidated income taxes.
 - (3) Liens securing credit facilities required by Distco to satisfy the Independent Market Operator's requirements for the acquisition of power except to the extent that such liens are required to secure past or existing defaults.
 - (4) Liens held by any government authority pursuant to law or that relate to obligations of the Corporation that are not due or delinquent.

- (g) Invest in funds in publicly-traded securities other than those eligible investments as prescribed by Ontario Regulation 438/97 made under the Municipal Act of Ontario as amended or replaced from time to time.

12. REPORTING

The Board of Directors of the Corporation shall submit progress reports on its activities, and those of the Subsidiaries, semi-annually to the Council of the Shareholder. The Board may from time to time report to Council on major business developments or materially adverse results as the Board, in its discretion, considers appropriate, and such reports received may be considered by the Shareholder at an in-camera meeting of Council.

13. CONFIDENTIALITY

The Shareholder and the Directors and Officers of the Corporation and the Subsidiaries (each a "receiving party") will ensure that no confidential information of the Shareholder or the Corporation or the Subsidiaries is disclosed or otherwise made available to any person, except to the extent that:

- (a) Disclosure to a receiving party's employees or agents is necessary for the performance of any receiving party's duties and obligations under this or any other Shareholder Declaration;
- (b) Disclosure is required in the course of judicial proceedings or pursuant to law; or
- (c) The confidential information becomes part of the public domain (other than through unauthorized disclosure by the receiving party).

14. ENVIRONMENTAL MATTERS

The Board of Directors of the Corporation shall manage the Corporation and the Subsidiaries in a safe and environmentally responsible manner having regard to any recommendations made by the City of Orillia's Environmental Advisory Committee from time to time.

15. AMENDMENTS

This Shareholder Declaration may be revised from time to time as circumstances require and the Shareholder will consult with the Board of Directors of the Corporation prior to completing any revisions and will promptly provide the Board with copies of such revisions.

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DATED AT Orillia, Ontario, this day of , 2000.

THE CORPORATION OF THE
CITY OF ORILLIA

per: _____
Name:
Title:

per: _____
Name:
Title:

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SCHEDULE "C" - HOLDCO ASSETS AND HOLDCO LIABILITIES

HOLDCO ASSETS

\$50,000.00 cash.

Participation Interest in the Upper Canada Energy Alliance.

HOLDCO LIABILITIES

NIL

The determination of the purchase price and the transfer of Holdco Assets is illustrated in Schedule "C-1" hereto.

SCHEDULE "C-1"
HOLDCO FINANCIAL SCHEDULE ILLUSTRATING TRANSFER

ASSETS

CURRENT ASSETS

Cash and short term investments	<u>50,000</u>
	<u>50,000</u>

TOTAL PURCHASE PRICE	\$50,000
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LIABILITIES ASSUMED

CURRENT LIABILITIES

Accounts payable and accrued liabilities	<u>Nil</u>
	<u>Nil</u>

TOTAL LIABILITIES ASSUMED	Nil
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NET TRANSFER	\$50,000
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CONSIDERATION FOR TRANSFER

DEBT & EQUITY

Promissory Note Issued to City of Orillia	Nil
Common Shares Issued to City of Orillia	<u>50,000</u>
	<u>50,000</u>

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SCHEDULE "D" - DISTCO ASSETS AND DISTCO LIABILITIES**DISTCO ASSETS**

All assets, interests, property, rights and undertaking, registered or unregistered, secured or unsecured, other than the Excluded Assets, the Holdco Assets and the Genco Assets, of the Commission and of the City held or used by either of them as at the Effective Date which relate to or have been used in connection with the distribution of electricity including, without limitation, the distribution system of the Commission and the assets listed hereunder.

1. Real Property Interests

All lands, premises, freehold and leasehold property, interest, easements, rights-of-way, licences and rights to use or occupy real property whether registered or unregistered, liens, mortgages, charges, agreements, notice of agreements, debentures and security interests which create an interest in land and all other rights or interest therein, and fixtures thereon, which relate to or have been used in connection with the distribution of electricity by the Commission. For greater certainty the freehold interest in any lands owned by the City and used by the Commission for easements or rights-of-way are excluded except to the extent of such easements or rights-of-way.

2. Plant, Building, Fixtures

All plant, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment), terminal station, substations, transformers, vaults, sub-transmission lines, distribution lines, conduits, ducts, pipes, wires, rods, cables, fibres and other apparatus, devices, appliances and equipment, materials, works, poles, pipelines and fittings, meters, wherever situate including, without limitation, those situate on any of the lands, premises, leaseholds, easements, rights-of-way or interests whether registered or unregistered described in Paragraph 1 above or forming part thereof or otherwise, or located on property owned by the Commission, or the City, private property or public property, which relate to or have been used in connection with the distribution of electricity by the Commission.

3. Machinery and Equipment

All machinery and equipment, all vehicles including, without limitation, trailers and related vehicle equipment, all goods and chattels and other personal property, tools, handling equipment, furniture, furnishings and accessories which relate to or have been used in connection with the distribution of electricity by the Commission.

4. Computer Hardware and Software

All computer hardware and software, including, without limitation, system control and supervisory equipment (SCADA), all computer monitoring equipment and all rights under licences and other agreements or instruments relating to the distribution business of the Commission.

5. Accounts Receivable

All accounts receivable of the Commission including, without limitation, all customer and trade accounts, notes receivable, book debts and other debts due or accruing to the Commission and the benefit of all security and security deposits for such accounts and debts, which relate to or have been used in connection with the distribution of electricity by the Commission.

6. Cash and Securities

Except as specified in Schedules "C" and "E" hereto, all cash balances and short term debt instruments held by the Commission.

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7. Contracts, Rights

The full benefit of all franchise, licence or management agreements and all other contracts, commitments, rights, choses in action, benefits, arrangements, understandings and agreements, written or oral, to which the City or the Commission is a party relating to the distribution business of the Commission including, without limitation the following:

- (a) all written or oral contracts, agreements, commitments, undertakings, rights and arrangements;
- (b) all forward commitments to the Commission for supplies or materials entered into in the usual and ordinary course of business whether or not there are any written contracts with respect thereto;
- (c) all collective agreements and contracts of employment;
- (d) Upper Canada Energy Alliance Aggregation Agreement and Settlement Services Agreement as well as limited partnership interest in EnerConnect.

8. Goodwill

The goodwill of the Commission relating to the distribution of electricity including, without limiting the generality of the foregoing:

- (a) the exclusive right to represent itself as carrying on the distribution business in continuation of and in succession to the Commission and the right to use any words indicating that its business is so carried on; and
- (b) all records of sales, customers lists, customer data and supplier lists of or used by the Commission, which relate to or have been used in connection with the distribution of electricity by the Commission.

9. Licences and Permits

The full benefit of all licences, registrations, permits, consents, quotas, approvals, certificates, and other authorizations including, without limitation, the following:

- (a) the Transitional Distribution Licence (ED-1999-0084) issued to the Commission on April 1, 1999.
- (b) Industry Canada Radio Licence.

10. Intellectual Property

All of the right, title, benefit and interest of the Commission in and to all registered trade marks, trade names, brand names, patents and copyrights, all unregistered trade marks, trade names and copyrights and all patent applications, trade mark registration applications and copyright registration applications, both domestic and foreign, owned or made by the Commission which relate to or have been used in connection with the distribution of electricity by the Commission.

11. Know How

All patents, plans, designs, research data, copyrights, trade secrets and other proprietary know-how, processes, drawings, technology, unpatented blueprints, flow-sheets, equipment and parts lists and descriptions and related instructions, manuals, data, records and procedures relating to the distribution business of the Commission and any and all data owned or used by the Commission, and all licences, agreements and other contracts and commitments relating to any of the foregoing which relate to or have been used in connection with the distribution of electricity by the Commission.

12. Prepaid Expenses

All pre-paid expenses and deposits relating to the distribution business of the Commission the benefit of which will accrue to Distco.

13. Warranties

The full benefit of all warranties and warranty rights (implied, express or otherwise) against manufacturers, suppliers or sellers which apply to any of the Distco Assets and the net realizable value of any warranty claims relating to the Distco Assets outstanding as of the Effective Date.

14. Insurance Policies

The full benefit of all policies of insurance of the Commission relating to the Distco Assets and the distribution business of the Commission.

15. Records

All personnel records, inspection records and all other records, books, documents and data bases relating to Distco Employees, the Distco Liabilities and the Distco Assets as are in the possession or under the control of the Commission; and

DISTCO LIABILITIES

1. All of the debts, liabilities and obligations of the Commission or the City, including any contingent liabilities, related to, incurred or assumed by either of them as of the Effective Date in connection with the distribution of electricity, the distribution system of the Commission and the Distco Assets including, without limitation, all environmental reclamation and decommissioning liabilities of the Commission or the City.

The determination of the purchase price and the transfer of the Distco Assets and Distco Liabilities is illustrated in Schedule "D-1" hereto.

SCHEDULE "D-1"
DISTCO FINANCIAL SCHEDULE ILLUSTRATING TRANSFER

ASSETS

PROPERTY AND EQUIPMENT

Property and equipment	<u>14,814,000</u>
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CURRENT ASSETS

Cash and short term investments	3,820,000
Accounts receivable	2,447,000
Unbilled revenue	543,000
Inventory	733,000
Other current assets	39,000
	<u>7,582,000</u>

OTHER ASSETS

Development charges fund	<u>246,000</u>
	<u>246,000</u>

TOTAL PURCHASE PRICE	\$22,642,000
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LIABILITIES ASSUMED

CURRENT LIABILITIES

Accounts payable and accrued liabilities	<u>2,339,000</u>
	<u>2,339,000</u>

OTHER LIABILITIES

Customer deposits	533,000
Development charges liability	<u>246,000</u>
	<u>779,000</u>

TOTAL LIABILITIES ASSUMED	\$3,118,000
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NET TRANSFER	\$19,524,000
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CONSIDERATION FOR TRANSFER

DEBT & EQUITY

Promissory Note issued to City of Orillia	9,762,000
Common Shares issued to City of Orillia	<u>9,762,000</u>
	<u>19,524,000</u>

SCHEDULE "D-2"
DISTCO PROMISSORY NOTE TERMS

1. Principal Amount

\$9,762,000.00.

2. Interest Rate

7.5% per annum to December 31, 2005 and thereafter the interest rate will be changed for each subsequent 5 year period to be equal to 2% plus the annual rate paid by the Royal Bank of Canada (RBC) as set by the RBC head office in Toronto on December 31st of the year immediately preceding the commencement of each 5 year period on 270 day term deposits exceeding \$8,000,000.00 (such \$8,000,000.00 amount to be adjusted from time to time after December 31, 2000 to reflect the impact of inflation as measured by the Consumer Price Index). For greater certainty on October 11, 2000 the rate paid by RBC on a 270 day term deposit for \$8,000,000.00 was 5.5%.

3. Payment of Interest

Payments of interest shall be quarterly on the last days of March, June, September and December in each year. Interest shall commence to accrue on the date that the initial Performance Based Regulation rates for Distco become effective, and the first payment of interest shall become due on the first quarterly payment date next following the date that interest commences.

4. Due Date

The due date is December 31, 2030. Distco shall not have the right to prepay the principal in whole or in part.

5. Prepayment of Principal At Option of the City

The City, at its option, and upon giving to Distco at least 6 months written notice may require the prepayment of up to 20% of the original principal amount of the Promissory Note on March 31st in any calendar year.

6. Acceleration on Default

In the event that Distco defaults in making any payments due under this Note and such default not having been corrected within 30 days after the City having given written notice to Distco of such default, then the City may demand immediate payment of all principal and interest due under the Promissory Note.

SCHEDULE "E" - GENCO ASSETS AND GENCO LIABILITIES**GENCO ASSETS**

All assets, interests, property, rights and undertaking, registered or unregistered, secured or unsecured, other than the Excluded Assets, the Holdco Assets and the Distco Assets, of the Commission and of the City held or used by either of them as at the Effective Date which relate to or have been used in connection with the generation of electricity and other business activities carried on by the Commission including, without limitation, the assets listed hereunder.

1. Real Property Interests

Except as specified in Schedule "D" hereto, all lands, premises, freehold and leasehold property, interest, easements, rights-of-way, licences and rights to use or occupy real property whether registered or unregistered, liens, mortgages, charges, agreements, notice of agreements, debentures and security interests which create an interest in land and all other rights or interest therein, and fixtures thereon, which relate to or have been used in connection with the generation of electricity and other business activities carried on by the Commission. For greater certainty the freehold interest in any lands owned by the City and used by the Commission for easements or rights-of-way are excluded except to the extent of such easements or rights-of-way.

2. Plant, Building, Fixtures

Except as specified in Schedule "D" hereto, all plant, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment), the Swift, Minden and Matthias hydraulic generating stations, diesel generating plant, sub-transmission lines and, without limitation, all plant, buildings and fixtures situate on any of the lands, premises, leaseholds, easements, rights-of-way or interests whether registered or unregistered described in Paragraph 1 above or forming part thereof or otherwise, or located on property owned by the Commission, or the City, private property or public property, which relate to or have been used in connection with the generation of electricity and other business activities carried on by the Commission.

3. Machinery and Equipment

Except as specified in Schedule "D" hereto, all machinery and equipment, all vehicles including, without limitation, trailers and related vehicle equipment, all goods and chattels and other personal property, tools, handling equipment, furniture, furnishings and accessories, which relate to or have been used in connection with the generation of electricity and other business activities carried on by the Commission.

4. Computer Hardware and Software

Except as specified in Schedule "D" hereto, all computer hardware and software, including, without limitation, all computer monitoring equipment and all rights under licences and other agreements or instruments relating to the generation business and other business activities carried on by the Commission.

5. Broadband Telecommunications Infrastructure and Equipment

All such equipment which relate to or have been used in connection with the broadband telecommunications business activities carried on by the Commission.

6. Accounts Receivable

Except as specified in Schedule "D" hereto, all accounts receivable of the Commission including, without limitation, all customer and trade accounts, notes receivable, book debts and other debts due or accruing to the Commission and the benefit of all security and security deposits for such accounts and debts, which relate to or have been used in connection with the generation of electricity and other business activities carried on by the Commission.

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7. Cash and Securities

Except as specified in Schedules "C" and "D" hereto, all cash balances and short term debt instruments held by the Commission.

8. Contracts, Rights

Except as specified in Schedule "D" hereto, the full benefit of all franchise, licence or management agreements and all other contracts, commitments, rights, choses in action, benefits, arrangements, understandings and agreements, written or oral, to which the City or the Commission is a party relating to the generation business and other business activities carried on by the Commission including, without limitation the following:

- (a) all written or oral contracts, agreements, commitments, undertakings, rights and arrangements;
- (b) all forward commitments to the Commission for supplies or materials entered into in the usual and ordinary course of business whether or not there are any written contracts with respect thereto;
- (c) all collective agreements and contracts of employment;
- (d) any agreements and rights pertaining to undeveloped hydraulic generation sites;
- (e) any agreements with the former Ontario Hydro for the wheeling and supply of power from the Swift and Minden Power Plants to Orillia.

9. Goodwill

Except as specified in Schedule "D" hereto, the goodwill of the Commission including, without limiting the generality of the foregoing:

- (a) the exclusive right to represent itself as carrying on the generation business and other business activities in continuation of and in succession to the Commission and the right to use any words indicating that its business is so carried on; and
- (b) all records of sales, customers lists, customer data and supplier lists of or used by the Commission, which relate to or have been used in connection with the generation of electricity and other business activities carried on by the Commission.

10. Licences and Permits

Except as specified in Schedule "D" hereto, the full benefit of all licences, registrations, permits, consents, quotas, approvals, certificates, and other authorizations including, without limitation, the following:

- (a) The Transitional Generation Licence (EG-1999-0395) issued to the Commission on April 1, 1999.
- (b) Industry Canada Radio Licence.

11. Intellectual Property

Except as specified in Schedule "D" hereto, all of the right, title, benefit and interest of the Commission in and to all registered trade marks, trade names, brand names, patents and copyrights, all unregistered trade marks, trade names and copyrights and all patent applications, trade mark registration applications and copyright registration applications, both domestic and foreign, owned or made by the Commission which relate to or have been used in connection with the generation of electricity and other business activities carried on by the Commission.

12. Know How

Except as specified in Schedule "D" hereto, all patents, plans, designs, research data, copyrights, trade secrets and other proprietary know-how, processes, drawings, technology, unpatented blueprints, flow-sheets, equipment and parts lists and descriptions and related instructions, manuals, data, records and procedures relating to the generation business of the Commission and any and all data owned or used by the Commission, and all licences, agreements and other contracts and commitments relating to any of the foregoing which relate to or have been used in connection with the generation of electricity and other business activities carried on by the Commission.

13. Prepaid Expenses

Except as specified in Schedule "D" hereto, all pre-paid expenses and deposits relating to the generation business and other business activities carried on by the Commission, the benefit of which will accrue to Genco.

14. Warranties

The full benefit of all warranties and warranty rights (implied, express or otherwise) against manufacturers, suppliers or sellers which apply to any of the Genco Assets and the net realizable value of any warranty claims relating to the Genco Assets outstanding as of the Effective Date.

15. Insurance Policies

Except as specified in Schedule "D" hereto, the full benefit of all policies of insurance of the Commission relating to the Genco Assets and the generation business and other business activities carried on by the Commission.

16. Records

All personnel records, inspection records and all other records, books, documents and data bases relating to Genco Employees, the Genco Liabilities and the Genco Assets as are in the possession or under the control of the Commission.

GENCO LIABILITIES

1. Except as specified in Schedule "D" hereto, all of the debts, liabilities and obligations of the Commission or the City, including any contingent liabilities, related to, incurred or assumed by either of them as of the Effective Date in connection with the generation of electricity and other business activities carried on by the Commission, and the Genco Assets including, without limitation, all environmental reclamation and decommissioning liabilities of the Commission or the City.

The determination of the purchase price and the transfer of the Genco Assets and Genco Liabilities is illustrated in Schedule "E-1" hereto.

SCHEDULE "E-1"**GENCO FINANCIAL SCHEDULE ILLUSTRATING TRANSFER****ASSETS****PROPERTY AND EQUIPMENT**

Property and equipment

6,286,000**CURRENT ASSETS**

Cash and short term investments

1,000,000

Inventory

66,0001,066,000**OTHER ASSETS**

Insurance contingency investments fund

1,886,0001,886,000**TOTAL PURCHASE PRICE**\$9,217,000**LIABILITIES ASSUMED****CURRENT LIABILITIES**

Accounts payable and accrued liabilities

139,000139,000**OTHER LIABILITIES**

Reserve for insurance contingency

1,886,0001,886,000**TOTAL LIABILITIES ASSUMED**\$2,025,000**NET TRANSFER**\$7,192,000**CONSIDERATION FOR TRANSFER****DEBT & EQUITY**

Promissory Note issued to City of Orillia

5,034,000

Common Shares issued to City of Orillia

2,158,0007,192,000

SCHEDULE "E-2"
GENCO PROMISSORY NOTE TERMS

1. Principal Amount

\$5,034,000.00.

2. Interest Rate

7.5% per annum to December 31, 2005 and thereafter the interest rate will be changed for each subsequent 5 year period to be equal to 2% plus the annual rate paid by the Royal Bank of Canada (RBC) as set by the RBC head office in Toronto on December 31st of the year immediately preceding the commencement of each 5 year period on 270 day term deposits exceeding \$8,000,000.00 (such \$8,000,000.00 amount to be adjusted from time to time after December 31, 2000 to reflect the impact of inflation as measured by the Consumer Price Index). For greater certainty on October 11, 2000 the rate paid by RBC on a 270 day term deposit for \$8,000,000.00 was 5.5%.

3. Payment of Interest

Payments of interest shall be quarterly on the last days of March, June, September and December in each year commencing 2001. Interest shall commence to accrue November 1, 2000, and the first payment of interest shall become due December 31, 2000 for the 2 month period.

4. Due Date

The due date is December 31, 2030. Genco shall not have the right to prepay the principal in whole or in part.

5. Prepayment of Principal At Option of the City

The City, at its option, and upon giving to Genco at least 6 months written notice may require the prepayment of up to 20% of the original principal amount of the Promissory Note on March 31st in any calendar year.

6. Acceleration on Default

In the event that Genco defaults in making any payments due under this Note and such default not having been corrected within 30 days after the City having given written notice to Genco of such default then the City may demand immediate payment of all principal and interest due under the Promissory Note.

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SCHEDULE "F" - EXCLUDED ASSETS AND EXCLUDED LIABILITIES

EXCLUDED ASSETS

NIL

EXCLUDED LIABILITIES

NIL