

Electricity Act, 1998  
Loi de 1998 sur l'électricité

## **ONTARIO REGULATION 160/99**

### DEFINITIONS AND EXEMPTIONS

Consolidation Period: From September 9, 2009 to the e-Laws currency date.

Last amendment: O. Reg. 328/09.

This Regulation is made in English only.

#### Definitions

1. (1) In the Act and the regulations,

“agricultural waste” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Environmental Protection Act;

“anaerobic digestion” means the decomposition of organic matter by bacteria in an oxygen-limiting environment;

“biodiesel” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Environmental Protection Act;

“biofuel” means a liquid fuel made solely from biomass and includes ethanol, methanol and biodiesel;

“biogas” means a gaseous fuel that is,

(a) landfill gas, or

(b) a gas made from the anaerobic digestion of, or any combination of,

(i) biomass,

(ii) source separated organics, or

(iii) organic matter, other than biomass, that is derived from a plant or animal and that is available at a farm operation;

“biomass” means organic matter, other than source separated organics, that is derived from a plant or animal, is available on a natural renewable basis and is,

(a) grown or harvested for the purpose of being used to generate electricity,

(b) waste from harvesting or processing agricultural products or waste from processing forestry products, including spent pulping liquor,

(c) agricultural waste,

(d) organic waste materials from a greenhouse, nursery, garden centre or flower shop,

(e) pulp and paper biosolids,

(f) waste from food processing, distribution and preparation operations, such as food packing, food preserving, wine making, cheese making, restaurants and grocery stores, and includes, as an example, organic waste from the treatment of wastewater from facilities where food or feed is processed or prepared,

(g) sewage biosolids,

(h) hauled sewage,

(i) waste from the operation of a sewage works subject to the Ontario Water Resources Act,

(j) woodwaste, or

(k) forest resources made available under a forest management plan approved under the Crown Forest Sustainability Act, 1994 or a managed forest plan approved under the Managed Forest Tax Incentive Program;

“farm operation” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Environmental Protection Act;

“hauled sewage” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Environmental Protection Act;

“independent director” means, with respect to the IMO, a person who,

(a) is not a director, officer or employee of,

(i) a generator, transmitter, distributor or retailer,

(ii) a person who sells electricity or ancillary services through the IMO-administered markets or directly to another person, other than a consumer,

(iii) an industrial consumer, or

(iv) an affiliate of a person referred to in subclause (i), (ii) or (iii), and

(b) does not have a direct or indirect legal or beneficial interest in or commercial affiliation with,

(i) a generator, transmitter, distributor or retailer,

(ii) a person who sells electricity or ancillary services through the IMO-administered markets or directly to another person, other than a consumer, or

(iii) an affiliate of a person referred to in subclause (i) or (ii);

“municipal waste” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Environmental Protection Act;

“person” includes,

(a) a municipal corporation,

(b) a commission established under the Public Utilities Act or any other general or special Act, and

(c) any body, however established, through which a municipal corporation generates, transmits, distributes or retails electricity;

“pulp and paper biosolids” has the same meaning as in Ontario Regulation 267/03 (General) made under the Nutrient Management Act, 2002;

“sewage biosolids” has the same meaning as in Ontario Regulation 267/03 (General) made under the Nutrient Management Act, 2002;

“source separated organics” means organic waste that has been separated from other waste under a program operated by or for a municipality;

“woodwaste” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Environmental Protection Act. O. Reg. 160/99, s. 1; O. Reg. 310/01, s. 1 (1); O. Reg. 328/09, s. 1 (1).

(1.1) For the purposes of the definition of “biomass” in subsection (1), biomass does not include,

(a) peat or peat derivatives; and

(b) municipal waste, other than organic matter referred to in paragraphs (b) through (j) of the definition of “biomass”. O. Reg. 328/09, s. 1 (2).

(2) For the purpose of clause (b) of the definition of “independent director” in subsection (1),

(a) an interest held as the beneficiary of a trust that does not permit the beneficiary to have any knowledge of the holdings of the trust is not a legal or beneficial interest; and

(b) an interest in a mutual fund as defined in section 1 of the Securities Act is not a legal or beneficial interest unless the mutual fund is operated as an investment club where,

(i) its shares or units are held by not more than 50 persons and its indebtedness has never been offered to the public,

(ii) it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees, and

(iii) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations. O. Reg. 310/01, s. 1 (2).

(3) For the purpose of clause (b) of the definition of “independent director” in subsection (1), a person has a commercial affiliation with another person if the person supplies goods or services to or receives goods or services from the other person, unless,

(a) the person receives the goods or services in the ordinary course of being a customer of a distributor or retailer or an affiliate of a distributor or retailer; or

(b) a person or committee appointed by the Minister for the purposes of this clause determines that the supply or receipt of the goods or services does not materially affect the independence of the person from,

(i) generators, transmitters, distributors and retailers,

(ii) persons who sell electricity or ancillary services through the IMO-administered markets or directly to another person, other than a consumer, or

(iii) affiliates of persons referred to in subclauses (i) and (ii). O. Reg. 310/01, s. 1 (2).

(4) For the purposes of the definition of “renewable energy generation facility” in the Act, the following associated or ancillary equipment, systems and technologies are prescribed:

1. Transmission or distribution lines of less than 50 kilometres in length that are associated with or ancillary to a renewable energy generation facility.
2. Transformer stations or distribution stations that are associated with or ancillary to a renewable energy generation facility.
3. Any transportation systems that are associated with or ancillary to the provision of access to a renewable energy generation facility, during the construction, installation, use, operation, changing or retiring of a renewable energy generation facility. O. Reg. 328/09, s. 1 (2).

(5) For the purposes of subsection (4), the following apply:

1. A distribution line is associated with or ancillary to a renewable energy generation facility if the line is used to distribute electricity within the facility or from the facility to the distribution system of the distributor in whose distribution service area the renewable energy generation facility is located.
2. A transmission line is associated with or ancillary to a renewable energy generation facility if the line is used to transmit electricity within the facility or from the facility to the IESO-controlled grid.
3. A transformer station or distribution station is associated with or ancillary to a renewable energy generation facility if the station is used to transform the voltage of electricity at the facility, on a transmission line or on a distributor's distribution system which is associated with or ancillary to the facility.
4. A transportation system includes all transportation systems constructed solely to provide access to the renewable energy generation facility, including transportation systems on Crown land, but does not include a highway which is intended for or used by the general public for the passage of vehicles. O. Reg. 328/09, s. 1 (2).

(6) For the purposes of the definition of "renewable energy generation facility" in the Act, the following classes of waste disposal sites are prescribed:

1. A waste disposal site where the material referred to in clause (b) of the definition of biogas is subject to anaerobic digestion.
2. A waste disposal site where biomass is thermally treated. O. Reg. 328/09, s. 1 (2).

2. In sections 125 and 152 of the Act,

"execute" includes, with respect to an instrument that may be in an electronic format, to do what is required to complete the instrument in the electronic format. O. Reg. 160/99, s. 2.

#### Exemptions

2.0.1 (1) Subsection 26 (1) and (6) of the Act do not apply to Cornwall Street Railway Light & Power Company Limited with respect to serving those consumers who are subject to,

(a) the agreement entered into by Cornwall Street Railway Light & Power Company Limited and The Corporation of the Township of Charlottenburgh on October 8, 1985;

(b) the agreement entered into by Cornwall Street Railway Light & Power Company Limited and The Corporation of the Township of Cornwall on December 4, 1985; or

(c) the franchise agreement entered into by Cornwall Street Railway Light and Power Company Limited and The Corporation of the City of Cornwall on July 31, 1998. O. Reg. 19/02, s. 1; O. Reg. 71/02, s. 1.

(2) Subsection (1) does not apply after December 31, 2019. O. Reg. 19/02, s. 1.

(3) Subsection 26 (1) of the Act does not apply to Granite Power Distribution Corporation with respect to serving those consumers who are subject to the franchise agreement entered into by Gananoque Light & Power Ltd. and The Corporation of the Town of Gananoque on November 14, 1994. O. Reg. 19/02, s. 1.

(4) Subsection (3) does not apply after December 31, 2014. O. Reg. 19/02, s. 1.

(5) Subsection 26 (1) of the Act does not apply to Cedars Rapids Transmission Co. O. Reg. 19/02, s. 1.

(6) Subsection (5) ceases to apply if a transmission system owned or operated by Cedars Rapids Transmission Co. is connected to the IMO-controlled grid. O. Reg. 19/02, s. 1.

(7) Subsection 26 (1) of the Act does not apply to Hydro One Remote Communities Inc. O. Reg. 19/02, s. 1.

2.1 (1) Subsection 26 (3) of the Act does not apply to the following contracts:

1. The agreement made on January 2, 1990 between Ontario Hydro and Orillia Water, Light and Power Commission relating to Minden GS.

2. The agreement made on June 23, 1993 between Ontario Hydro and Orillia Water, Light and Power Commission relating to Swift Rapids GS.

3. The agreement entitled “Amended and Restated Power Rights Agreement” made on December 3, 1991 between Ontario Hydro and Spruce Falls Inc. or to the loan agreement made on December 3, 1991 between Ontario Hydro and Spruce Falls Inc. O. Reg. 19/02, s. 2.

(2) To the extent that a contract entered into by Ontario Hydro contains liabilities, rights or obligations that have been transferred to Ontario Hydro Remote Communities Inc., subsection 26 (3) of the Act does not apply to the contract. O. Reg. 19/02, s. 2.

(3) Subsection 26 (3) of the Act does not apply to a contract described in Schedule 3 between Ontario Hydro and another party referred to in that Schedule. O. Reg. 145/02, s. 1.

(4) Subsection 26 (3) of the Act does not apply to a contract described in Schedule 4 or 5. O. Reg. 145/02, s. 1.

(5) The references in this section to contracts include all amendments made to those contracts before May 1, 2002. O. Reg. 145/02, s. 1.

2.2 Subsection 26 (6) of the Act does not apply to Granite Power Distribution Corporation with respect to serving those consumers who are subject to the franchise agreement entered into by Gananoque Light & Power Ltd. and The Corporation of the Town of Gananoque on November 14, 1994. O. Reg. 19/02, s. 2.

2.2.1 Sections 26 and 28 of the Act do not apply to a transmitter or distributor that is exempted from clause 57 (a) or (b) of the Ontario Energy Board Act, 1998 by section 4.0.1, 4.0.2 or 4.0.3.2 of Ontario Regulation 161/99. O. Reg. 145/02, s. 2; O. Reg. 14/03, s. 1.

2.3 Section 28 of the Act does not apply to Hydro One Remote Communities Inc. O. Reg. 19/02, s. 2.

2.4 (1) In this section and in section 2.5,

“First Nation” means a band as defined in the Indian Act (Canada), or a body of the aboriginal peoples of Canada who are treated by the Department of Indian Affairs and Northern Development (Canada) in the

same manner as a body of the aboriginal peoples of Canada residing on a reserve as defined in the Indian Act (Canada). O. Reg. 71/02, s. 2.

(2) The following provisions of the Act do not apply to a distributor who meets the conditions set out in subsection (3), and who distributes electricity in a settlement or reserve listed in Schedule 1:

1. Section 26.
2. Subsections 29 (4) to (6). O. Reg. 71/02, s. 2.

(3) The distributor must meet the following conditions:

1. The distributor must be a First Nation, or a corporation that is solely owned by a First Nation.
2. The distribution system owned by the distributor must not be connected to the IMO-controlled grid.
3. The distributor must only distribute electricity within its geographic service territory as it existed on January 1, 2002. O. Reg. 71/02, s. 2.

2.5 (1) The following provisions of the Act do not apply to a distributor who meets the conditions set out in subsection (2), and who distributes electricity in a settlement or reserve listed in Schedule 2:

1. Section 26.
2. Subsections 29 (4) to (6). O. Reg. 71/02, s. 2.

(2) The distributor must meet the following conditions:

1. The distributor must be a First Nation, or a corporation that is solely owned by a First Nation.
2. The distributor must only distribute electricity within its geographic service territory as it existed on January 1, 2002. O. Reg. 71/02, s. 2.

2.6 Section 26 of the Act does not apply to Attawapiskat Power Corporation, Fort Albany Power Corporation or Kashechewan Power Corporation until May 1, 2004. O. Reg. 71/02, s. 2.

3. Subsection 48.1 (3) of the Act does not apply to a subsidiary of Hydro One Inc. if everything that the subsidiary uses to transmit or distribute electricity outside Ontario was owned or operated by Ontario Hydro on March 31, 1999 and is located in jurisdictions bordering Ontario. O. Reg. 160/99, s. 3; O. Reg. 201/02, s. 1.

4. Revoked: O. Reg. 201/02, s. 2.

4.1 Subsection 142 (2) of the Act does not apply to a municipal corporation if, before November 7, 2000, the municipal corporation made an application to the Ontario Energy Board for approval to transfer, to a municipal electricity utility as defined in section 88 of the Act or to the Generation Corporation, the Services Corporation or a subsidiary of the Generation Corporation or the Services Corporation, an interest in real or personal property that has been used in connection with generating, transmitting, distributing or retailing electricity. O. Reg. 576/00, s. 1.

4.2 Section 144 of the Act does not apply to a municipal corporation if,

(a) before November 7, 2000, the municipal corporation made an application to the Ontario Energy Board for approval to transfer, to a municipal electricity utility as defined in section 88 of the Act or to the Generation Corporation, the Services Corporation or a subsidiary of the Generation Corporation or the

Services Corporation, an interest in real or personal property that has been used in connection with generating, transmitting, distributing or retailing electricity; and

(b) the application to the Ontario Energy Board has not been finally determined or less than 120 days have elapsed since the application was finally determined. O. Reg. 576/00, s. 1; O. Reg. 164/01, s. 1.

5. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 160/99, s. 5.

#### SCHEDULE 1

Fort Hope Indian Reserve No. 64

Sandy Lake Indian Settlement

North Spirit Lake Indian Reserve

Marten Falls Indian Reserve No. 65

Weenusk Indian Settlement

Pikangikum Indian Reserve No. 14

Poplar Hill Indian Reserve

Summer Beaver Indian Settlement

Wunnumin Indian Reserve No. 1, Wunnumin Indian Reserve No. 2

Muskrat Dam Lake Indian Reserve

O. Reg. 71/02, s. 4.

#### SCHEDULE 2

Cat Lake Indian Reserve No. 63C

O. Reg. 71/02, s. 4.

#### SCHEDULE 3

Item

Other Party

Date of Contract

1.  
Allegheny Electric Cooperative, Inc.  
January 6, 1995

2.  
Atlantic City Electric Company  
June 20, 1997

3.  
Atlantic City Electric Company  
September 5, 1997
4.  
Boston Edison Company  
June 5, 1995
5.  
Cambridge Electric Light Company  
June 20, 1996
6.  
Canadian Niagara Power Company, Limited  
February 20, 1998
7.  
Central Hudson Gas & Electric Corp.  
April 15, 1996
8.  
Central Vermont Public Service Corporation  
July 16, 1993
9.  
Commonwealth Electric Company  
June 20, 1996
10.  
Consolidated Edison Company of New York, Inc.  
November 11, 1992
11.  
GPU Service Corporation  
September 14, 1988
12.  
Green Mountain Power  
July 16, 1993
13.  
James MacLaren Industries, Inc.  
August 25, 1997
14.  
Long Island Lighting Company  
November 11, 1992
15.  
Maritime Electric Company, Ltd.  
March 27, 1998
16.  
New Brunswick Power Corporation  
October 20, 1997



17.  
New England Power Company  
June 14, 1994
18.  
The New York Municipal Power Agency  
September 25, 1996
19.  
NGE Generation Inc.  
January 21, 1998
20.  
Northeast Utilities Service Company  
July 16, 1993
21.  
Old Dominion Electric Cooperative  
November 1, 1996
22.  
Orange and Rockland Utilities Inc.  
July 12, 1994
23.  
Peco Energy Company  
November 1, 1996
24.  
Peco Energy Company  
March 18, 1997
25.  
PP&L, Inc.  
February 4, 1998
26.  
PP&L, Inc.  
February 20, 1998
27.  
Rochester Gas & Electric Corp.  
October 15, 1993
28.  
Rochester Gas & Electric Corp.  
June 1, 1998
29.  
Vermont Department of Public Service  
April 19, 1988
30.  
Virginia Electric and Power Company  
June 4, 1997

31.  
Virginia Electric and Power Company  
July 8, 1997
32.  
American Electric Power Service Corporation  
March 20, 1997
33.  
American Electric Power Service Corporation  
May 31, 1998
34.  
Michigan Public Power Agency  
May 1, 1995
35.  
Northern Indiana Public Service Company  
June 26, 1997
36.  
The Cincinnati Gas & Electric Company; PSI Energy, Inc. and Cinergy Services, Inc.  
February 20, 1997
37.  
The Cincinnati Gas & Electric Company; PSI Energy, Inc. and Cinergy Services, Inc.  
September 12, 1997
38.  
The Cleveland Electric Illuminating Company  
March 24, 1997
39.  
The Toledo Edison Company  
March 24, 1997
40.  
Utilicorp United Incorporated  
August 16, 1996
41.  
Wabash Valley Power Association, Inc.  
October 1, 1995
42.  
Wolverine Power Supply Cooperative Inc.  
June 20, 1995
43.  
British Columbia Power Exchange Corporation  
May 1, 1998
44.  
Cargill-Alliant, L.L.C.  
November 25, 1998

45.  
Citizens Lehman Power Sales  
March 10, 1997
46.  
CMS Marketing, Services and Trading  
April 14, 1997
47.  
Constellation Power Source Inc.  
June 10, 1998
48.  
Duke Energy Trading and Marketing, L.L.C.  
September 4, 1997
49.  
Electric Clearinghouse, Inc.  
February 20, 1997
50.  
Enron Power Marketing, Inc.  
March 10, 1997
51.  
Enserch Energy Services, Inc.  
July 28, 1998
52.  
Koch Energy Trading, Inc.  
June 25, 1997
53.  
LG&E Energy Marketing Inc.  
November 12, 1997
54.  
New Energy Ventures, L.L.C.  
October 8, 1997
55.  
Plum Street Energy Marketing, Inc.  
October 1, 1997
56.  
NorAm Energy Services, Inc.  
June 10, 1998
57.  
Northeast Energy Services, Inc.  
October 21, 1997
58.  
PacifiCorp Power Marketing, Inc.  
December 19, 1987

59.  
PG&E Energy Trading — Power, L.P.  
February 9, 1998

60.  
Rainbow Energy Marketing Corp.  
March 10, 1997

61.  
Sonat Power Marketing L.P.  
July 2, 1997

62.  
Tenaska Power Services Co.  
January 15, 1998

63.  
Tractebel Energy Marketing, Inc.  
July 2, 1997

64.  
TransAlta Energy Marketing Corp.  
February 25, 1998

65.  
TransCanada Energy Ltd.  
March 10, 1997

66.  
Western Power Services, Inc.  
March 10, 1997

67.  
Williams Energy Services Company  
August 6, 1997

O. Reg. 145/02, s. 3.

#### SCHEDULE 4

Item  
Contract  
Date of Contract

1.  
Compilation of Interconnection Agreement between Consumers Power Company/The Detroit Edison Company and Ontario Hydro  
January 29, 1975 as compiled February 1991

2.  
Interconnection Agreement between Hydro Quebec and Ontario Hydro  
November 9, 1984

3.  
Compilation of Interconnection Agreement between Ontario Hydro and The Manitoba Hydro-Electric Board  
November 16, 1971 as amended April 1, 1981
4.  
Electricity Sale Agreement between The Manitoba Hydro-Electric Board and The Manitoba Energy  
Authority and Ontario Hydro  
August 28, 1987
5.  
Agreement between Ontario Hydro and Manitoba Hydro (regarding Call Option on Capacity and/or Energy  
and Settlement of Claims)  
November 1, 1998
6.  
Interconnection Agreement between Minnesota Power & Light Company and Ontario Hydro  
June 1, 1995
7.  
Interconnection Agreement between Niagara Mohawk Power Corporation and Ontario Hydro  
November 1, 1986
8.  
Compilation of Memorandum of Understanding between Power Authority of the State of New York and  
Ontario Hydro  
January 19, 1965 as compiled June 20, 1979

O. Reg. 145/02, s. 3.

#### SCHEDULE 5

##### Item

Parties

Date of Contract

1.  
Ontario Hydro and Canadian Niagara Power Company, Limited  
April 1, 1971
2.  
The Water Works Commission of the City of St. Catharines, The Corporation of the City of St. Catharines  
and the Hamilton Cataract Power Light and Traction Company Limited (regarding St. Catharines Water  
Works)  
December 30, 1903
3.  
The Hydro-Electric Power Commission of Ontario and Chat Falls Power Company (regarding Chat Falls)  
February 15, 1930
4.  
The Ontario-Minnesota Pulp and Paper Company Limited and The Hydro-Electric Power Commission of  
Ontario (regarding Whitedog Falls GS)  
February 27, 1961

5.

The Hydro-Electric Power Commission of Ontario and Quebec Hydro-Electric Commission (regarding Bryson G.S.)  
July 23, 1963

6.

Her Majesty the Queen in Right of the Province of Manitoba, Her Majesty the Queen in Right of the Province of Ontario, The Manitoba Hydro-Electric Board and The Hydro-Electric Power Commission of Ontario (regarding Lake St. Joseph Diversion)  
September 24, 1958

O. Reg. 145/02, s. 3.