Ontario

MINISTRY OF
ENERGY

Independent Power Authorities in Ontario

February 2017

Key Issue

- In the past, ENERGY has taken the position that we will support communities that wish to be serviced by HORCI.
- Currently, there are a number of IPA communities that are in the process of seeking to transition from IPA to Hydro One RemoteCo:
  - There are a number of other communities who have sought Ministry support. Marten Falls sought approval in 2005 and finalized the transition in 2009. Weenusk First Nation, and Pikangikum First Nation got Ministry support and began working towards transitioning to HORCI service but have not completed the process.
  - In light of Watay's grid connection project, Muskrat Dam First Nation, Wunnumin Lake First Nation, and North Spirit Lake First Nation have requested the Ministry's formal support to move forward with negotiating a transition agreement with INAC and HORCI.
- The timing of the Ministry's decision and actions is sensitive; committing to support the transition to HORCI could impact the federal-provincial negotiations underway while delays in starting the lengthy transition process may impact Watay's connection project timelines.

Electricity Distribution in Remote Communities

Independent Power Authorities

- An Independent Power Authority (IPA) is a distributor that is owned and operated by a local First Nation community, is not connected to the provincial grid, and is not otherwise licensed or regulated by the Ontario Energy Board (OEB).
- There are 10 IPAs in Ontario, and there are several different models for how IPAs are managed/operated in communities, including:
  - Contracted out
  - Band Office Administration
  - Separate Local Authority
  - Combination of Band and Local Authority.
- Most IPAs are currently exempt from licensing and other regulatory provisions of the Ontario Energy Board Act (O.Reg 161/99) and from provisions in the Electricity Act requiring them to provide non-discriminatory access and the obligation to supply customers (O. Reg 160/99).
- IPAs operate independently thus do not achieve economies of scale (fuel, maintenance, supplies etc).

Hydro One Remote Communities Inc.

- Hydro One Remote Communities Inc. (HORCI) operates electricity distribution systems in 15 off grid First Nation communities. HORCI is licensed and regulated by the OEB.

Ontario IPAs

- Eabametoong
- Kee-way-win
- Muskrat Dam
- Nibinamik First Nation
- North Spirit Lake
- Pikangikum
- Poplar Hill
- Wawakepewin
- Weenusk (unconnectable)
- Wunnumin Lake

IPA Communities, Connectable
IPA Communities, Uneconomic
Remoteco, Connectable
Remoteco, Uneconomic
Mine
Cities
Roads

Treaties
Adhesion to Treaty 9, 1929
Treaty 3, 1873
Treaty 5, 1875
Treaty 9, 1905-1906
Treaty 60, 1850

Transmission Line
230 kV
115 kV
Remote Connection

Notes: This map is for illustrative purposes and general reference use only.
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IPA Funding

- IPAs receive funding from the federal government, through operating expenses transferred to the community from Indigenous and Northern Affairs Canada (INAC).
  - For many communities, this is not sufficient to cover their operating expenses and so they also seek “fuel subsidies” from INAC which is provided to offset losses when funds are available, based on the IPA’s Statement of Operations Report.
- Unlike HORCI serviced communities, IPAs are not eligible for provincial support through Ontario’s Rural and Remote Rate Protection (RRRP) Program.
- IPA service models have been discussed by communities for some time:
  - In an IPA Forum in 2007, options were explored for IPA restructuring to help address IPA needs and enable greater participation and engagement in the electricity sector. Nishinawbe Aski Development Fund commissioned a third party investigation by SNC Lavalin at that time on the options available to IPAs to access Rural & Remote Rate Protection (RRRP).
- The Ministry has historically supported communities that wish to be serviced by HORCI as opposed to by their own IPAs, though significant uptake would create added pressure on Ontario ratepayers.
- In the context of grid connection, ENERGY has asserted to the federal government that sharing of full project costs (transmission connection + future operating costs) should account for any shift in responsibility for ongoing operational costs in IPA communities.

IPAs and Grid Connection

- When grid connected, communities will require an OEB-licensed distributor.
- A path forward may need to be resolved for communities in Watay's project by mid-2017 so this can be described in Wataay's Leave to Construct application.
- The Wataay communities have been developing options for a number of years as the Central Corridor Energy Group. Three basic options have been explored:
  1. Transition of IPA service to HORCI
  2. Community IPA undertakes to become licenced with the OEB
  3. Collectively establish a regional First Nation-owned licensed distribution company to service a group of communities
- These three options were explained and discussed at LDC workshops held in 2015 and 2016. The province indicated at that time that existing policy was supportive of a transition to HORCI for IPA communities.
- Since the announcement of grid connection of remote communities as a priority project in July, transitioning from IPA to HORCI service has emerged as the preferred option for most communities.
  - Wataynikaneyap Power has recommended to IPA communities that they should switch to HORCI service to facilitate grid connection.

Options For Distribution Service

Transition from IPA service to HORCI

Has been selected as most communities' preferred option.

ENERGY's preferred approach, because:

- Efficiencies could be realized through economies of scale.
- Would provide some assurance that there is a sustainable distribution model in place, backed by RRRP.
- An experienced distributor may help smooth the transition to grid connection.

Can take up to 2-3 years to complete the transition process (see Appendix B)

Licenced IPA

To be sustainable, a subsidy would be necessary, and INAC's policies require that grid-connected communities receive substantially reduced funding for electricity service.

For the Ministry to support this approach, communities should be able to demonstrate that IPA operation is fiscally responsible and meets a general test of cost-effectiveness.

The Ministry would have to consider the risk associated with IPA default.

First Nations-owned LDC (serving mutiple communities)

There is a model for this type of arrangement; Five Nations Energy Inc. (FNEI) delivers electricity from Moosonee to Fort Albany, Kashechewan, Attawapiskat, and to the line that connects the De Beers Canada Victor Diamond Mine north of Attawapiskat.

The Watay partner communities have not expressed a preference for this option, though it could be undertaken at a later time, potentially through First Nation ownership of HORCI.

Choosing a Path Forward

- The Ministry must determine the best path forward for responding to community requests to be served by HORCI, balancing the needs of communities within the context of the ongoing negotiations.

Federal-Provincial Negotiations

- If the Ministry supports transition in advance of a federal contribution to grid connection, it may impact our negotiating position with the federal government by indicating a willingness to accept greater responsibility for the financial burden of electricity provision in First Nations irrespective of their contribution.
- Ontario anticipates that a more formal commitment will be made through the upcoming federal budget in the February-March timeframe.
- It is INAC's preference, whether grid connected or diesel-serviced, that communities are serviced by HORCI, and that their operating costs are supported through RRRP. This would significantly reduce INAC's costs and responsibilities associated with provision of electricity to communities.
  - The federal position regarding ongoing responsibility for electricity provision was reiterated in a "Federal Assurances" document sent in Nov 2016, which outlined the federal government's objectives in securing an agreement.
- As a rough estimate, HORCI has calculated that if they were to assume responsibility for serving all 7 IPA communities that are part of Watay's project (using diesel generation), it would entail ~$13.4M of additional annual burden on RRRP.
  - ~~A large community like Pikangikum would entail ~$5.6M/year from RRRP~~
  - ~~A smaller community would be on the order of $700-800K/year~~

Choosing a Path Forward

Supporting Communities and Grid Connection

- Supporting transition to HORCI is one of the ways that ENERGY is facilitating grid connection and helping to meet communities' needs.

- Having Ministry support earlier would allow HORCI to better manage the work associated with transition of multiple communities, and may reduce the likelihood of delays that could jeopardize Watay's project timelines.

- Delaying Ministry responses until we have an indication of the magnitude of a federal contribution is a short-term solution that could balance risks.
  - At this time, the possibility of low or no federal contribution is assessed as a low risk due to the positive tone of recent federal-provincial discussions, and it is expected that a federal contribution will be solidified in the coming months
  - ENERGY continues to reinforce our expectation that a shift in the current balance of cost responsibility must be accounted for in any fair cost-sharing arrangement
  - The federal business case is currently based on the assumption of significantly diminished federal responsibility for ongoing operational costs; asking for ongoing federal contributions to operating costs would likely result in a lower capital contribution

- As a longer-term approach, the Ministry continues to support transition to HORCI as the best option for communities that become grid connected, and we recognize that in order to meet project timelines, particularly the accelerated timelines for Pikangikum connection, that work needs to proceed on transition to a sustainable distribution model.

Next Steps

Recommended approach:

- Continue to support the transition to HORCI in general but wait to issue a formal response to communities until the federal contribution to the connection project is more definite.

Other options considered:

- Make Ministry support for transition to HORCI contingent on finalizing a federal contribution to grid connection
- Move forward with provincial support now to enable transition work to begin

Ongoing work:

- Work with INAC and RemoteCo as required to identify a path forward for operation of Pikangikum distribution system that meets accelerated timeline
- Continue to work with Federal counterparts to ensure that the shift in responsibility for ongoing operating support from federal to provincial jurisdiction is reflected in cost-sharing negotiations
- ~~Reconvene~~Engage technical working group between ENERGY, IESO, Watay, RemoteCo and INAC regarding details of distribution system transfer and operation after grid connection (including discussion of topics such as diesel backup systems, etc.)

Appendices

Appendix A: 8% rebate for IPAs

- Starting January 1, 2017 the *Ontario Rebate for Electricity Consumers Act, 2016*, (ORECA) that put in place an 8% provincial rebate for residential, small business customers and farms came into force.

- Under the O. Regulation 363/16 for ORECA (General), a parallel program for Independent Power Authorities (IPAs) was created to ensure IPAs have the opportunity to participate and have customers receive the rebate.

- The framework for the regulation would allow for the 4* IPA communities who previously participated in the Ontario Clean Energy Benefit (OCEB) program to transition their eligibility for the 8% provincial rebate without requiring them to undertake a full application.

- For the 6** communities who were not receiving the OCEB are eligible for the program, but would need to go through a more detailed enrollment process.
  - The Ministry will require additional information from these communities
  - They will be asked to submit information regarding billing practices, energy reporting requirements, and administrative details to facilitate a transfer of funds.

* North Spirit Lake, Muskrat Dam, Nibinamik and Weenusk

** Eabametoong, Polar Hill, Keewaywin, Pikangikum, Wawakapewin and Wunnumin

Appendix A: IPA Engagement Strategy for 8%

Timeline:

- Courier a letter of invitation and an OREC enrollment package to all IPA chiefs. The enrollment package includes:
  - OREC Program Enrolment forms; and,
  - An OREC Agreement form.
- Engagement strategy goal: By end of **Q2 (June 2017)**, all 10 IPAs will be enrolled in the OREC program.
- The engagement and outreach will be supported by the Indigenous Energy policy group.

ENGAGEMENT OPTIONS IN ESCALATING ORDER OF ENGAGEMENT

Engage with IPAs through phone and email (ongoing) → Video Conferencing (at First Nation Community Centre) to complete forms → In-person meeting (at a mutually convenient location)

Appendix B: IPA to HORCI Transition Process

RemoteCo, INAC and the IPA community negotiate a joint agreement that dictates the terms of the transition. The agreement must address all outstanding issues, including:

- INAC capital funding support
- land and access rights
- asset condition assessment
- transfer of assets
- environmental remediation
- boundaries/responsibility for any environmental liabilities that exist at time of transfer

Individually, the parties are also each responsible for the following tasks:

COMMUNITY

- Formally initiates the process, by reaching out to HORCI, INAC and/or the Ministry of Energy.
- Must pass a band council resolution in support of the transition, and complete an assessment of the existing environmental condition.
- The community must also work with INAC to request a Section 28(2) permit to allow HORCI to access reserve lands to operate the system, and secure the funding required to remediate lands and bring the system up to HORCI's operational standards.

HORCI

- At the First Nation's expense, HORCI will complete an inspection of the distribution and generation assets and will prepare an Asset Assessment Report to determine the work needed to bring system up to HORCI standards.
- HORCI will apply to the OEB to amend its licence to include the new community as part of the HORCI service territory, and will seek approval of the forecast rates and revenues.

INAC

- Works with the community to approve the required land use permit, and will work within various existing funding processes to provide funding for the community.

ENERGY

- ENERGY must issue a formal letter of support, which provides the required assurance to HORCI, allowing them to proceed with negotiating an agreement to take over operation of the IPA.
- Prior to transfer, ENERGY must also amend relevant regulations to remove them from IPA exemptions and to allow HORCI to access RRRP to support operation.

Appendix B: IPA to HORCI Transition Process *Cont.*

Timing and Scope Considerations

- Past experience with IPA to HORCI transitions has been for assumption of full diesel generation and distribution service by HORCI.
- In a grid-connected context, there are different models that could be considered, with less emphasis on the generating assets which may be retained for back-up power purposes.
- The state of generators in some communities and related environmental liabilities could pose barriers to HORCI assuming ownership of these assets.
- HORCI has committed to working with each community that is pursuing transition of service to develop the appropriate scope of ownership and agreements.
- The distribution model and the agreements related to transitioning IPAs to HORCI are primarily commercial discussions between the parties.
- ENERGY’s role is to monitor progress of discussions and ensure the plan for distribution does not impact timing of transmission connection.
- To this end, a technical working group has been established with HORCI, ENERGY, IESO, INAC and Watay to work through these issues.

Appendix C: Cat Lake

- In 2000, Cat Lake was connected to the IESO grid and the local community set up Cat Lake Power Utility Ltd. ("Cat Lake Power") to own and operate the transmission system as well as operate the distribution system.
  - Before 2000, Cat Lake was off-grid and serviced by the former Ontario Hydro Rural Retail.
- Between 2000 and 2005, Cat Lake operated the distribution and transmission systems with the help of a federal energy subsidy and a management / maintenance agreement with Sioux Lookout Hydro Inc.
- However, in 2006 the federal government phased out its electricity subsidy to Cat Lake and the service arrangement with Sioux Lookout Hydro expired. The community felt it was no longer able to operate its system and wrote the government and OEB seeking assistance.
- In 2006, Hydro One Networks was asked by the OEB to provide service to Cat Lake on a temporary licensing basis, providing time for a more permanent solution. The OEB has been renewing Hydro One Network's (Cat Lake) temporary license every three months.
  - Temporary licenses are intended to address a situation for the short-term until a longer-term arrangement be found.
  - Regulatory changes have been make to allow Hydro One Remotes to operate grid-connected remote communities. Before 2010, Hydro One Remotes was only allowed to service off-grid communities.
- A definitive agreement has not yet been concluded, but there is agreement to transfer assets to Hydro One Networks at notional cost.

Appendix D: NAN First Nation and IPA MOU

- In early 2012, Nishnawbe Aski Nation Development Fund facilitated the signing of a MOU between 8 northern First Nations to work collectively to pursue long and short term goals to work cooperatively toward providing affordable electricity in their communities.
    - A comprehensive workplan was adopted to ensure that IPAs work with the federal government to resolve diesel shortfall issues, to explore alternative renewable energy options, negotiate bulk fuel purchasing agreements, etc.
- In 2015, Nishnawbe Aski Development Fund received $73,800 in FedNor funding to improve the operation of Diesel generating stations on remote First Nation communities. The funding is aimed at providing IPAs with financial management software to enhance the operation of diesel generating stations in remote First Nations.

Appendix E: List of IPA Communities

1. Eabametoong First Nation
2. Keewaywin First Nation
3. North Spirit Lake First Nation*
4. Weenusk First Nation*
5. Pikangikum First Nation
6. Poplar Hill First Nation
7. Nibinamik First Nation*
8. Wunnumin Lake First Nation
9. Muskrat Dam First Nation*
10. Wawakapewin First Nation

* These communities and or its third party provider had a contract with the Ministry of Energy and actively received the Ontario Clean Energy Benefit.