

An Assessment of the Industrial Relations Context and Outcomes at OPG

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Legacy Effects of Collective Bargaining at Ontario Hydro

Both the PWU and SEP had well-established bargaining relationships and collective agreements at Ontario Hydro, the predecessor company to OPG. Ontario Hydro had been unionized by:

- the Ontario Hydro Employees' Union (the predecessor to the PWU) in the 1950s;⁴⁵ and
- the SEP since 1992.⁴⁶

Therefore, the collective agreements Ontario Hydro had entered into prior to the creation of the successor companies were very well-established contracts.

The PWU and SEP collective agreements in effect at Ontario Hydro just prior to the formation of the successor companies were, in fact, among the most highly sophisticated (i.e., in terms of being comprehensive in scope of subject matter, and highly detailed in terms of specifying rules and obligations), amongst all major collective agreements in Canada.

As a successor company to Ontario Hydro, OPG assumed the full range of labour relations obligations in force at Ontario Hydro, the predecessor company; OPG was obligated to recognize the PWU and SEP as the bargaining agents for the employees, and OPG was bound by those collective agreements, with all associated obligations (e.g., regarding terms and conditions of employment; and collective bargaining). The legacy in terms of coverage and complexity of the contracts included:

- Firmly established patterns of wage settlements;
- Detailed pay grids;
- Extensive rules regarding working conditions;
- Well-defined and strong discipline and discharge procedures;
- Detailed rules relating to job classifications, filling vacancies;
- Strong employment security provisions, including provisions relating to contracting out;
- Strong successor rights and obligations in the event of the sale or transfer of any element of the business.

⁴⁵ Source: <http://www.pwu.ca/history.php> [Accessed 22/05/2012 10:50:55 AM].

⁴⁶ Sources: Memorandum of Settlement on a Voluntary recognition Agreement Between Ontario Hydro and the Society of Ontario Hydro Professional and Administrative Employees (Dated September 12, 1991); and *Hydro One Local Member Handbook*. (Rev. May 28, 2009) at p. 1.) Accessed at: http://www.thesociety.ca/files/mylocal/12/New_Member_Handbook_-_Orientation_Manual_-_Revised-Jan%2018-10%20FINAL.pdf [Accessed 22/5/2012 at 11:00AM]. Although not yet certified as a union under the Ontario LRA, the SEP concluded a voluntary recognition agreement with Ontario Hydro in 1961 which afforded the Society the right to collectively bargain on behalf of engineers.

In addition, there was an extensive line of grievance and arbitration decisions regarding employee rights under the collective agreement that had been built up over an extended period of time. These decisions, collectively, would also have a major role in defining OPG management obligations under their collective agreements.

Therefore,

- **Ontario Hydro labour relations legacy effects were substantial and highly deterministic because OPG was bound to accept the existing collective agreements and to recognize and negotiate with the PWU and SEP; and**
 - **the collective agreements inherited by OPG were highly developed and complex contracts.**
 - **the collective agreements inherited by OPG contained, in particular, strict limitations on contracting out.**

Current Factors Determining Pay of Unionized Employees at OPG

The level of unionization at OPG is at about 90%. In labour relations terms, OPG is essentially fully unionized. There are two major unions at OPG: the Power Workers Union (PWU) and the Society of Energy Professionals (SEP); although OPG also has collective agreements with a variety of other unions, primarily relating to trades employees.⁴⁷

The compensation levels for most employees at OPG are established through collective bargaining, and the actual pay outcomes are determined by the relative power of the parties. There are several key conditions and factors that enhance the relative bargaining power of the unions at OPG:

i. Challenging overall labour market conditions:

- projected sustained overall strong demand for labour;⁴⁸ and
- demographic trends that result in an aging workforce.

These trends reinforce each other to produce a relatively competitive market for many of the classes of skilled workers employed at OPG.

ii. Significant organizational constraints:

- an inability of OPG to shift production to alternative facilities, either locally, nationally or globally; versus,
- considerable financial strength within the unions, which increases their capacity to bargain effectively.⁴⁹

⁴⁷ As examples, OPG also has collective agreements with the Brick and Allied Craft Union of Canada, the Canadian Union of Skilled Workers, and the International Association of Machinists and Aerospace Workers.

⁴⁸ Source: Electricity Sector Council (2012). Taking account of the range of factors that affect both the demand for (e.g, replacement needs arising from retirements; demand arising from expansion of the industry) and supply of labour (e.g, enrolments in education programs related to careers in the electricity industry; immigration; demographics) in the broader Ontario electricity industry, the Electricity Sector Council projects overall “tight” labour markets (i.e., pressures on supply of labour) in the electricity industry through 2016 (see: Electricity Sector Council 2012: 103-105).

⁴⁹ See, for example: Grant Thornton (March 31, 2011). Financial Statements. The Society of Energy Professionals – IFPTE Local 160. Independent Auditor’s Report.

iii. Determinative constraints in the legal and political context:

- political sensitivity to the public's dependence on uninterrupted electricity supply, which lowers the political tolerance for work stoppages and increases the likelihood of reliance upon interest arbitration;⁵⁰
- a legal and legislative regime that enforces successorship rights of the unions, which ensures that attempts to restructure or privatize a business segment would not result in deunionization or shedding of collective agreements.⁵¹

iv. Very high extent of union organization:

- The PWU and SEP also represent employees at other major firms in the industry that employ similar classes of workers:
 - The PWU has bargaining units at over 40 firms in the electricity industry, including major employers: OPG, Hydro One, Bruce Power, Kinectrics, Transalta Energy Corporation, and London Hydro.⁵²
 - The SEP has bargaining units with major firms including: Bruce Power, Hydro One, Inergi, Kinectrics, OPG, and Toronto Hydro.⁵³
- At the aggregate level, the electricity industry in Ontario is highly organized, so that unions have a very high capacity to "take wages out of competition."

Therefore,

- **The compensation levels and increases of unionized employees at OPG are determined solely through the collective bargaining process, and not through the unfettered interaction of supply and demand in the labour market.**
- **The set of main factors that determine the relative bargaining power of the major unions and OPG – including sensitivity to the public's reliance on uninterrupted electricity supply and, therefore, reliance upon interest arbitration – all function to increase the bargaining power of the unions relative to the bargaining power of OPG.**

⁵⁰ For acknowledgement of this general political sensitivity in the context of Ontario, see: Drummond Commission Report (2012: 369).

⁵¹ See: Ontario *Labour Relations Act*, 1995, S.O.1995, c. 1, Sched. A. Section 68 and 69, on Successor Rights; and the Drummond Commission Report (2012) does not recommend that the current Successor Right provisions in the OLRA be altered.

⁵² Source: <http://www.pwu.ca/employers.php>.

⁵³ Source: <http://www.thesociety.ca/secondmenu/agreements/index.html>.

- **On net, consistent with the empirical research evidence that unions deliver a sizable wage premium, I expect both the PWU and SEP to be successful in raising compensation levels, considerably, above the wage levels that would be expected to prevail were there broader competitive labour markets characterized by little or no unionization.**