THE SOCIETY OF ENERGY PROFESSIONALS
IFPTE LOCAL 160

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# NEWSCAST

## News from the Society of Energy Professionals

# OPG Locals to vote on five-year agreement

Bruce Power Council reps Lorne Howcroft (l) and Ken Martin spearheaded the drive for an audit and special Council meeting.

**The two OPG locals' bargaining teams have reached a new five-year collective agreement with Ontario Power Generation.**

The settlement will be discussed with members of those locals over the period from November 7th to 25th in meetings being scheduled across the province. When the ratification process is complete, the details will be released to Society members outside the OPG locals.

The deal involves a new compensation system, and the merging of the two bargaining units into one.

## Society Council calls for audit, special February meeting

Society Council has directed the Executive Board to arrange for an external governance and financial audit to be conducted.

Council met on October 24th in its annual meeting as the Society's premier policy-setting body.

According to the plan advanced by Bruce Power unit director Lorne Howcroft and delegate Ken Martin, crucial decisions about the Society's financial structures should not be made until a professional audit is done of the Society's new structure and procedures, as instituted in 2002. Said Howcroft, "A third party audit will determine how we are doing as an organization … if we need to tighten up any gaps."

Society Council approved the audit, though it will delay decisions such as the replenishment of the Society Collective Agreement Renewal Fund and the implementation of a policy on income other than dues (such as distributions from the Society's equity in Bruce Power). A policy on organizing proposed by the Executive Board was also put on hold until after the audit.

The audit is to be conducted and presented to a special Society Council meeting to be held before March, 2006.

## Junemann: Society changed

The Society is an irrevocably changed organization, IFPTE President Greg Junemann told Society Council.

President Junemann gave the keynote address to Society Council in its meeting on October 24th. He came to Toronto from the Czech Republic, where he had visited some of their trade unions, "helping them with their issues so they can help us with ours."

He used the Czechs as an example, he said, because their problems and concerns are astonishingly similar to ours. And, he added, the Society has become more aware of this. The affiliation with the IFPTE and the strike at Hydro One have both stimulated change.

> *One of the real important things that happened on that strike was when the workers at the CBC were locked out and our members took it upon themselves to go march side-by-side with the locked-out workers. It was a very proud thing, and it builds relationships with them, even those who don't know what our issues are. We didn't have to be, but we were there.*

**Greg Junemann, president, IFPTE**

The Hydro One strike brought forward many new leaders, he said, many who had "leadership abilities and values that they never knew existed. So it's incumbent on us to reach within our own ranks, even if we never go on strike again, and find more future leaders."

But one thing we certainly know now, he said, is that our employers know us better than they did last year. "They know what we stand for, how far they can push us, and what we'll march for."

**Hal Kvisle, president and CEO, TransCanada: wouldn't encourage large fleet of gas-fired generators**

## Don't burn gas for electricity: gas execs

Strong reservations to the Ontario Government's plan to replace coal-fired generation by burning expensive natural gas have been expressed lately by some rather unusual sources: leaders of natural gas companies.

Speaking on Ontario 20th to a luncheon of the Ontario Energy Network, Jim Schultz, President of Enbridge Gas Distribution, Inc., said that while the natural gas industry is "happy to supply" electricity generators, he thought it wasn't the best use for the commodity.

> *[U]sing natural gas to produce electricity does not always make sense... I think there are ways in which natural gas can be better used to the benefit of consumers, industry participants, and public policy… It's terribly inefficient to use natural gas as a secondary energy source, generating electricity to heat hot water when natural gas is 40 per cent cheaper than electricity.*

He went on to suggest it would be smarter for the government to encourage customers to switch to natural gas from electricity for heating, hot water, and some appliances. In this way, he said, demand for electricity could be reduced by 1,500MW.

Also recently, TransCanada president and chief executive Hal Kvisle said natural gas-fired power plants are becoming too expensive for Ontario to depend on for new power supply. "Normally, we would not encourage Ontario to develop a large fleet of gas-fired power-gen that is going to be expensive power going forward," he said.

The "dire need" in Toronto for quick new supply is an exception to that rule, he added. "*[I]n particular market circumstances*, it is the right answer and Greater Toronto is one of those. You can get gas-fired power projects on stream quickly once you get the green light to go ahead."

"It would appear that some natural gas executives are more public-minded than the McGuinty government," said Society Executive VP Bill Jones. "The fans of the Coal Replacement Plan seem fewer and fewer. I wonder when the Energy Minister is going to come to the obvious conclusion: the government should clean up our coal-fired stations, not replace them by burning expensive natural gas."

***Individuals who are not Society officials are often quoted in the Newscast. That they are quoted cannot necessarily be taken to indicate Society agreement with the contents of their statements.***

## Society Council: more highlights

Society President Andrew Müller began Council with an outline of the challenges faced and accomplishments of the year since the 2004 Council.

While the Hydro One strike was the most important project of the year, President Müller didn't say much about it. Instead, he played a video created for the Society using the thousands of photographs and gigabytes of video footage that had recorded the 105 days of the strike, and the months of preparation leading up to it.

(An interesting feature of this year's Council was the large number of speakers who prefaced their remarks by thanking the members at Hydro One for fighting a fight that was, as at least one said, "a fight for all of us.")

Finances: Executive Vice President Bill Jones led Council delegates through the finances of the previous year and a half, noting that there were "distortions" in the expenditures owing to a number of very worthwhile causes.

- The Society conducted a campaign to convince the government to make important changes to Bill 100 (an Act to Amend the Electricity Act)
- The Hydro One strike
- The depletion of Collective Agreement Renewal Fund due the strike, and the need to replenish it

While the "distortions" were serious, he said, the Society had dealt with them in such a way that the budget set in August was "in essence balanced," and the Executive Committee expects approximately a $100,000 deficit on revenues of just over $6 million by fiscal year end.

Council accepted the report, but asked for an external audit before making any significant decisions arising out of it *(see article above)*.

**Constitutional Interpretation Committee**: The CIC is elected by Society Council to adjudicate any disputes over the meaning or application of the Society's Constitution and Bylaws. Council selected Hydro One delegate **Lynn Andrews** to serve another year on the CIC, while Pickering delegate **Jim Bristow** and Bruce Power delegate **Shirley Hayes** were elected to the CIC as newcomers.

**Bargaining objectives:** Executive VP **Leslie Forge** presented to Council a number of proposed bargaining objectives, as recommended by the Executive Board. The bargaining objectives guide the Society as a whole in bargaining with its employers. Among the objectives passed by Council:

- Minimizing the number of "units of application" for those agreements that use them
- Maximizing inter-company employment opportunities, including reciprocal pension agreements
- Remove or reduce any two-tier compensation provisions
- Reduce the possibility of Society-represented employees performing the work of other bargaining units

**Constitution and bylaws:** Executive VP **Rod Sheppard** introduced a number of proposed changes to the Constitution and Bylaws, as recommended by the Executive Board. They were passed, along with several amendments to them proposed by Council members. Changes to the Constitution must be ratified in a membership referendum; changes to the Bylaws are approved by Council, and go into effect if and when the changes to the Constitution are ratified.

The ratification vote must be completed by November 23rd.

Here are some highlights:

- **Elections:** Chief Returning Officer to be appointed by the Executive Board instead of Council; the old Executive Board nominations for Principal Officer candidates to be abolished-all candidates will use the "at-large" nominations process; term of office for unit director increased to three years (from two), that is, the same as Local Vice Presidents
- **Referenda:** the number of members required to launch a Society-wide referendum changed from 150 to the greater of 400 or five per cent of eligible voters; for Local referenda, the change was to 15% of eligible voters; electronic ballots may be used where confidentiality is not important
- **Discipline process:** Possible members of screening panels and disciplinary committees expanded to include all unit directors; quorum for the latter was changed to five out of seven

**UD terms of office:** Upon ratification of the changes to the Constitution, the term of office for unit directors who are currently up for election in 2006 will be extended to three years. Elections for their positions will then be held in 2007, in line with elections for Local Vice-Presidents.

## Hydro One arbitration next week

The disputes that led to the strike at Hydro One this year will be heard in arbitration on Tuesday, November 8th.

After 105 days of a bitter strike, the Society and Hydro One agreed to arbitration of all items in dispute. This was in accordance with the recommendation of the mediator assigned to the case, and supported by the provincial government. Mr. Kevin Whitaker, Chair of the Ontario Labour Relations Board, is serving as arbitrator. He will hear the cases of both sides, and issue a ruling that will be final.

Hydro One and the Society delivered their arbitration briefs to Mr. Whitaker on Tuesday, October 25th. Each side was then allowed to reply to the other's brief-those were delivered on November 1st.

Following the release of Mr. Whitaker's award, the Hydro One bargaining team will conduct membership meetings across the province. At these meetings, the team will provide a full report to members on the interest arbitration proceedings, including a review of the submissions of the parties to Mr. Whitaker, and the details of the award.

Neither party has any control over when Mr. Whitaker will issue his ruling; however, it is expected before the end of the year.

## Transcanada, Cameco report earnings; Bruce Power distributions revealed

Media releases reveal that Transcanada and Cameco profits have been enhanced by equity distributions from Bruce Power's profits.

Up to September 30th, they say, Bruce Power issued a total of $215 million in distributions to its partners, with both Transcanada's and Cameco's shares being $68 million.

**Society share of distributions is $2.58 million**

In a meeting of the Executive Board on November 1st, Society President **Andrew Müller** was able to confirm that the Society's share amounts to $2.58 million. As a Trustee of the Trust into which those moneys are placed, Müller is prohibited from divulging the details of Bruce Power distributions until such time as the publicly-traded partners do so.

According to Cameco, "The partners have agreed that all excess cash will be distributed on a monthly basis and that separate cash calls will be made for major capital projects." This would tend to indicate that the Society will receive monthly distributions, should "excess cash" exist for the month in question.

The Society cannot make any disbursements from its trust fund until such time as Society Council approves a policy for such disbursements, though the Executive Board may act for Council in emergencies. Such a policy was presented to Council for approval on October 24th; however, Council voted to delay that approval until governance and financial audits are conducted (see article above).

## Bruce deal closed

Bruce Power confirmed on October 31st that its deal with the Ontario Power Authority has achieved financial closing.

All requirements for the closing of the agreement among Bruce Power, its partners, and the Ontario Power Authority to refurbish the Bruce A generating station have been successfully met, and the agreements have been signed. When the deal was announced on October 17th, it was conditional on a favourable tax ruling from Revenue Canada.

According to a Bruce Power release, "work associated with the $4.25 billion investment program is now underway."

## Board highlights: November 1st, 2005

The Executive Board met on Tuesday, November 1st, in its first meeting since Society Council met in October.

In a high point for the meeting, OPG Local Vice-Presidents **Olaf Heilandt** and **Lanny Totton**, with Staff Officer **André Kolompar**, presented a comprehensive report on the details of the settlement reached with OPG on a five-year renewal contract. The details will not be released until ratification, which will be underway beginning Monday, to continue at least till the 25th.

The settlement will result in the combining of the two OPG bargaining units under one Collective Agreement, under a new compensation scheme. Bruce Power Local VP **Rob Stanley** moved a motion to congratulate the OPG bargaining teams, saying, "It's an historic piece of bargaining, really fine work."

Other highlights:

**Audits:** The Executive Board assigned the task of formulating and overseeing the governance and financial audits mandated by Society Council to the Society's Audit Committee *(see story above)*. Up to $25,000 was authorized for conducting the audit, and a further $75,000 for other costs associated with it, including the special Society Council meeting mandated by Council.

**Staffing:** Society Staff Manager **Dan Kellar** reported that four hiring processes are currently underway: a temporary replacement for the Society's receptionist, who is on maternity leave; a senior IT administrator; and two Staff Officers—one a replacement for the recently departed Sharona Freudmann, and one who will fill a new position approved in this year's budget.

**Bruce Power Capital Calls:** Executive Vice President **Bill Jones** reminded the Board that, though decisions about disbursements from Bruce Equity distributions have been delayed until at least after the next Society Council meeting, the Board must be prepared to answer relatively quickly if a capital call comes from Bruce Power to its partners for money to finance the upcoming Bruce A refurbishments. (The Society has a 1.2 per cent share in the partnership.)

**Canadian Nuclear Association:** The Board allocated $25,000 as its share of the current CNA television ad campaign. The Board also voted to contribute $5,000 to Women in Nuclear, an organization that sponsors attendance at CNA and other nuclear industry events for women, who are still vastly under-represented in the industry.

## Calpine status a bit iffy

*(with reports from Reuters, New York Post, MSN Money, and San Jose Mercury News)*

The solvency status of Calpine would appear to be a trifle in question.

Calpine is one of the Ontario government's important "investors" in its effort to replace publicly owned electricity generation with private generators burning expensive natural gas.

The "ailing power producer" is one of the companies involved in the Greenfield Energy Centre, a 1,000+MW natural gas-fired facility slated to be built in Sarnia-Lambton, partially to replace OPG's Lambton Generating Station.

Its share price plummeted by 20 per cent in late October when it was reported that the San Jose, California based company had hired bankruptcy lawyers. Though there is no confirmation that Calpine is about to file for bankruptcy, according to a report in the *San Jose Mercury News*, they have been subject to "bankruptcy gossip" for the last six months.

Calpine has undertaken an aggressive debt reduction plan this year, selling off power plants and using the cash to buy back bonds. In September, Calpine bond-holders asked the Bank of New York to freeze the remaining proceeds from the sale of the company's natural gas assets. They argued Calpine illegally dipped into the account to buy natural gas to run its plants. They want Calpine to replace the $370 million it has already used.

**Calpine is part-owner of this 50MW co-generation facility in Whitby**

Calpine has more than $17 billion in junk-rated debt, and is counter-suing the bondholder trustees, the Bank of New York Co., and Wilmington Trust. They say they are being illegally frozen out of a $395 million account.

The case is set to be heard in a Delaware court, beginning November 11th.

The *Financial Times* calls Calpine "the one name that still resounds from the crisis that swept through the energy sector following Enron's bankruptcy in 2001. It refused to change management or reduce debts, instead continuing to build power plants that left it with the newest fleet in the country."

And all 90-plus of them are natural gas-fired. This works well in markets where the price is set by natural gas plants, but not where it is set by less expensive ones.

"I don't care how efficient you are when power prices are around $11MMBtu," says Prof. Mark Williams of Boston University. He believes Calpine will eventually be broken up and the pieces sold. U.S. analysts believe the price for natural gas will hit $14MMBtu this winter.

It also can't be helping Calpine that most of the rest of the U.S. is turning away from expensive natural gas toward cheaper, more plentiful coal.

Standard and Poor's have given Calpine a B- rating with a negative outlook (just above a rating indicating a substantial risk of default). Fitch's rating is CCC+, a rating, says Hugh Fraser, a senior director at Fitch, that "speaks for itself."

"Our measurements tell us that you have a company that is still pretty highly valued, yet their business, for the most part, continues to deteriorate, even in what is a very strong demand for power," said Ivan Feinseth, research director for New York-based Matrix USA, an institutional research company, which has a "strong sell" on Calpine. "There is concern."

Yesterday Calpine posted a $217 million loss in its third-quarter results, the ninth loss in its last 12 quarterly reports.

## EI OK, say Supremes

*(with a report from Lancaster)*

On October 20th, the Supreme Court of Canada overturned a Quebec Court of Appeal decision, upholding the constitutional validity of maternity and parental leave benefits under the federal *Employment Insurance Act*. The Court rejected the Quebec government's argument that the government of Canada had exceeded its jurisdiction by providing a social program—a provincial responsibility—through Employment Insurance.

While the Quebec court held that unemployment insurance was not originally intended to provide for breaks in employment for personal reasons such as having children, the Supreme Court preferred to continue its "progressive approach," ensuring that "Confederation can be adapted to new social realities."

The Court concluded:

> *The evolution of the role of women in the labour market and of the role of fathers in child care are two social factors that have had an undeniable economic impact on individuals who are active participants in the labour market. A generous interpretation of the provisions of the Constitution permits social change to be taken into account. The provincial legislatures have jurisdiction over social programs, but Parliament also has the power to provide income replacement benefits to parents who must take time off work to give birth to or care for children. The provision of income replacement benefits during maternity leave and parental leave does not trench on the provincial jurisdiction over property and civil rights and may validly be included in the EIA.*

## Employer must pay health premium, court says

*(with a report from Lancaster)*

In the first court decision to consider liability for the new Ontario Health Premium, introduced in 2004, the Ontario Divisional Court upheld an arbitrator's award that the employer must pay the Premium for employees. The ruling was made on the basis of 25-year old contract language, which originally required the employer to pay employees' OHIP premiums under the long-defunct 1969 *Ontario Health Insurance Act*.

In 2004, the Ontario government instituted a new, income-based "Health Premium." As of July 1st, 2004, Ontario employers were required to deduct the new health levy from employees' pay cheques.

The United Food and Commercial Workers International Union, Local 175/633 asked the Lapointe-Fisher Nursing Home in Guelph, Ontario to pay the Premium, in accordance with Article 24.01 of the parties' collective agreement, which read:

> *(a) The employer agrees to pay 100% of the OHIP premiums for all full-time employees … To be eligible … the employee must be the principal breadwinner in their family."*

Individual OHIP premiums were abolished with the enactment of the 1990 *Employer Health Tax Act* (EHTA), which provided that employers would fund OHIP through a health tax paid by employers based on their individual payroll costs.

The employer refused to pay the Premium, taking the position that it was a "tax," and Article 24.01 did not obligate it to pay taxes. The union argued that the Premium was a health care "premium," which Article 24.01 clearly required the employer to pay.

The ruling would indicate that those unions who did not "clean up" their collective agreements by removing references to OHIP premiums after they were abolished are better placed to enforce employer payment of the current Premium.

## Another questionable private-sector partner for the McGuinty government?

The following e-mail message dropped into a Society member's inbox recently:

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Dear Fellow 7FA users,

We are looking for a resale or surplus dual fuel (natural gas and #2 oil) 7FA gas turbine for our on-going new combined cycle power project. We are the end user of the 7FA. Does any
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one have such a 7FA for sale, or know such a unit for sale? Thanks.

Regards…
[name withheld]
Eastern Power Ltd

Eastern Power was awarded a contract in a government RFP to build two natural gas-fired generating stations in Mississauga: Greenfield North and Greenfield South.

Recently the Ontario Power Authority announced that the North project would not be pursued; rather, "Eastern Power plans to concentrate its efforts on its Greenfield South power project, a high-efficiency 280-megawatt combined cycle gas-fired generating station."

While trolling for turbines through e-mail seems like an unusual procurement procedure in itself, we don't imagine the folks in Mississauga who actively oppose the siting of a "high efficiency" combined cycle power project in their city will be happy to learn that Eastern is considering burning oil as an alternative.

We wouldn't think the Minister of Energy would be happy about it, either.

## The World's Electricity

# France in 15 per cent EDF sell-off

*(with reports from Reuters, UPI, Business Online, and the Guardian)*

French unions have promised strikes will begin on November 8th if the conservative government's sell-off of 15 per cent of Electricité de France continues.

EDF plans to raise as much as 7 billion euros with the sale, helping to fund a five-year, 40 billion euro expansion plan in Europe, where power and gas markets must open to full competition before 2007. Half of the shares issued will be placed with institutional investors, with 35


**La tour EDF, Paris**

per cent reserved for individual investors and the remaining 15 per cent for EDF employees.

EDF is one of the largest beneficiaries of the move to liberalize European electricity markets. Its debts of about 20 billion euros are in part from an aggressive overseas expansion drive, building or acquiring businesses in Britain, Germany, Italy, and Latin America. Meanwhile, EDF's competitors and foreign governments complained that it was taking advantage of market liberalization abroad while the French market remained shut, granting EDF a large, captive, and lucrative client base.

French Finance Minister Thierry Breton has been unloading assets at a rapid rate since joining the government in February. Not only has France partially privatized gas giant Gaz de France and sold shares of France Telecom SA, but it's also seeking to raise 11 billion euros by selling its highway operators.

Plans to privatize EDF are likely the most politically sensitive, both with French unions and abroad. The government gave EDF the privatization go-ahead only after receiving investment and public service guarantees from the company.

EDF promised to spend 40 billion euros over five years on boosting its plant and distribution infrastructure, mainly in France. Planned investment includes a 5,000MW increase in generating capacity. EDF also pledged to continue supplying all parts of the country, to refrain from cutting off consumers who are behind with payments during winter months, and to maintain high security around its installations, including the 58 nuclear plants that account for about 60 per cent of France's power. Electricity prices will be pegged to inflation for the next five years.

French unions have been fighting the privatization of EDF since 2004 (see *Newscast* 2004:02). The Socialist opposition has promised to reverse any privatization of EDF if and when it returns to power.

(1 euro = Cdn$1.40)

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