

**EXECUTIVE SUMMARY
ONTARIO ENERGY BOARD**

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E.B.R.O. 477

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DECISION [12KKQ-0:1] DATED MAY 27, 1993

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Cardinal Power of Canada, L.P. filed an application dated February 10, 1992, as amended on August 28, 1992 (the Rate Application), with the Ontario Energy Board under section 19 [12JF7-0:130] of the *Ontario Energy Board Act*. Cardinal Power requested an order fixing or approving a just and reasonable rate for the transportation of gas by Centra Gas Ontario Inc. from the transmission system of TransCanada PipeLines Limited to a cogeneration facility to be owned and operated by Cardinal Power in the Village of Cardinal. The Rate Application was an alternative to three other applications dated February 10, 1992 under the Act and the *Municipal Franchises Act* (Board File Nos. E.B.L.O. 242, E.B.C. 198 and E.B.A. 627) that sought to give authority to Cardinal Power to construct and operate its own pipeline (the Pipeline Application).

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Cardinal Power is a limited partnership between Husky Oil Limited of Calgary, Alberta and Sithe/Energies of New York, New York. It was formed to design, construct, own and operate a cogeneration plant located at the Canada Starch Company in Cardinal, Ontario. The Village of Cardinal is located near Cornwall and is presently served by Centra.

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Cardinal Power and Centra entered into an agreement by a letter dated June 24, 1992 providing for transportation service to the cogeneration facility. The agreement was based on a minimum annual volume of 287,000 10^3m^3 . The parties agreed to a ten-year term and a bypass competitive rate of \$4.80 per 10^3m^3 fixed for the primary term of five years.

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Based on a reading of past Board decisions, it appeared that a three-part test had evolved for the purpose of assessing an application for a bypass competitive rate:

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Q1. Is the applicant for a bypass competitive rate a credible candidate for a bypass?
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Q2. Is it in the public interest to grant a bypass competitive rate?
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Q3. Is the proposed rate just and reasonable?

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In this Decision[12KKQ-0:40], the Board did not approve a bypass competitive rate for Cardinal Power as it did not pass the three-part test. Although Cardinal Power may be a credible bypass candidate (Q1), the Board was not satisfied that it was in the public interest to grant this special rate to the Applicant under the circumstances (Q2). Because approval was not granted, there was no need to address the appropriateness of the proposed rate (Q3).

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The Board heard that there was a certain level of discontent with the present structure of Centra's Rate 20. The Board noted that Centra had filed its 1994 rates application (Board File No. E.B.R.O. 484), and had included a proposal to create a high volume, high load factor rate class. If the proposal is accepted by the Board, customers like Cardinal Power may observe some rate relief.