

The Evolution of Pension Plan Improvements for PWU RWC Members Over the Years

This article relates to the Ontario Hydro Pension Plan. The provisions of this plan were transferred to all the Ontario Hydro Successor Companies in 1999.

Unions monitor pension plans. This is done by elected union officials with the assistance of legal counsel and other experts.

Where a defined benefit pension plan exists, as was the case at Ontario Hydro, union representatives normally sit on a pension committee where they receive information from the employer on the Pension Fund's performance annually. They can ask questions and provide recommendations etc. Normally improvements to the Plan are negotiated by PWU bargaining teams at the bargaining table **(Not all unions have this right in their collective agreement)**.

Back in the mid-80s, the Power Workers' Union (called OHEU at the time) discovered that the employer responsible for the pension plan, Ontario Hydro, had stopped making contributions to the plan. When confronted with this fact, the employer's response was that it was taking a "contribution holiday" because the fund was at a sufficient level and that they were not required to make contributions.

At that time the pension plan was established and governed by the *Power Corporation Act (PCA)*. This statute stipulated that the employees and the employer would make contributions to the pension plan. There was no provision in the *Act* that allowed the employer to opt out of making contributions. The Union, after many meetings with the employer to rectify the situation, was left with no alternative but to sue the employer on the basis that it was violating the provisions of the *PCA*.

The court agreed with the OHEU that Ontario Hydro had to make the contributions to the Plan and had to contribute the funds it had failed to contribute in the past. This meant the employer owed the plan \$660 Million (1989 dollars). The court also awarded the Union legal costs due to its success in court.

The Union's position at the time was that there was no provision in the law for the employer to cease making contributions. If the pension plan fund was exceeding expectations the fund should make improvements to the pension plan that would benefit members. This issue became known as "**The Big Hydro Steal**" (as per OHEU President at that time, the late Jack MacDonald). Although no money was actually removed from the pension fund by the employer, the Union's position was that by failing to make contributions that it was legally obligated to make, the employer had in effect converted to its own use, funds which belonged to the Plan.

RETIRED WORKERS' CHAPTER INFORMATION DOCUMENT

Eventually, and after many attempts to resolve the issue at meetings, it was decided that the issue would be dealt with at the next round of collective bargaining.

Bargaining committees in the 1990s were able to make the following improvements to the Pension Plan utilizing the monies awarded by the court settlement:

- Improvement to spousal pensions
- Improving the average highest earnings to be used to calculate pension benefits from the best 5 years to the best 3 years.
- Began reducing the rule of 90 down to the rule of 82.
- Creating a Cost of Living Allowance clause (COLA) which guaranteed 75% of the Ontario CPI to an annual maximum of 8% with the additional amount carried over to a later year where CPI was below 8%. A notional account was created to primarily cover top-up for the additional 25% of indexing. Prior to this, pensioners would from time to time receive ad hoc increases at the discretion of the employer which did not cover the full inflation amount.

The Union also ensured future protection of the terms of the Pension Plan by negotiating a clause in the Ontario Hydro Collective Agreement incorporating the terms of the Plan into the collective agreement, meaning that changes not mandated by law **could only be made with the consent of the Union**. Our Pension Plans are still incorporated into the Ontario Hydro Successor Collective Agreements.

In 1995, when the Harris Conservatives came to power, one of their first actions was to repeal the *Power Corporations Act*. Pension Plans are now regulated under the Ontario *Pension Benefits Act*. However, the collective agreement protections negotiated by the PWU into the Ontario Hydro Collective Agreement flowed through to the Ontario Hydro Successor Companies, including OPG, Hydro One (then called the Ontario Hydro Services Company), the Electrical Safety Authority, and the IESO (then called the IMO). These provisions have continued into the successors of those companies, including Bruce Power AND Kinectrics.

It is important for RWC members to know about the constant efforts of the PWU which provided us and continue to provide us with superior pensions – indeed, with some of the best pension plans in the country.

At every set of negotiations, employers attempt to take away pension provisions. We want current workers to have the same pension benefits as we enjoy.

We must lobby current members, who will be future union retirees, to maintain and improve any pension provisions.