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File 20242

September 9, 2013

**VIA RESS FILING & COURIER**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: Renewed Regulatory Framework for Electricity Transmitters and Distributors – Regional Planning for Electricity Infrastructure – Proposed Amendments to the Transmission System Code and the Distribution System Code (EB-2011-0043)**

The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on the RRFE's initiative on Regional Planning for Electricity Infrastructure – Proposed Amendments to the Transmission System Code and the Distribution System Code (EB-2011-0043).

We hope you will find the PWU's comments useful.

Yours very truly,  
**PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**

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**Regional Planning for Electricity Infrastructure –  
Proposed Amendments to the  
Transmission System Code and the Distribution System Code**

**Submission of the Power Workers' Union**

**Introduction**

On May 17, 2013, the Ontario Energy Board (the “Board”) issued a notice (“May Notice”) of proposed revisions to the Transmission System Code (“TSC”) and the Distribution System Code (“DSC”). The May Notice indicated that the purpose of the proposed revisions was to implement the Board’s policies set out in its October 18, 2012 report of the Board – *A Renewed Regulatory Framework for Electricity Distributors: A Performance Based Approach* (the “RRFE Board Report”) related to:

- I. the establishment of a process in order to move to a more structured approach to regional infrastructure planning; and
- II. the determination of the appropriate redefinition of certain line connection assets and modifications to the TSC cost responsibility rules to facilitate regional planning and the execution of regional infrastructure plans.

After considering comments received in response to the May Notice, the Board issued, on August 26, 2013, a notice of amendment (“August Notice”) in which the Board stated that it had determined that no material changes were required to the May Proposed Amendments but for some minor revisions.

The August Notice also gave notice of a supplementary proposed amendment to the TSC pursuant to a comment the Board received from Hydro One in response to the May Notice.

The Board states that although comments in response to the May Notice showed that there was support for the elimination of section 6.3.6 of the TSC, Hydro One suggested that it is important to preserve the concept of fairness in assigning cost responsibility where a new or modified connection facility is intended to provide benefits to the overall transmission system as well as to a particular connecting customer. Hydro One expressed concern about the fairness of the Board's approach to cost responsibility as set out in the May Proposed Amendments and recommended that the Board accept the notion that connecting customers should not be held responsible for the costs of facilities that are primarily required to address system needs. In Hydro One's view, the elimination of section 6.3.6 of the TSC without an alternative mitigating provision of this nature may lead to imprudent investments from a regional perspective, as distributors may be motivated to pursue "cheaper" local options (e.g., a sub-optimal distribution alternative) in order to avoid subsidizing transmission investments that address common needs.

Hydro One suggested that this could be addressed by amending section 6.3.8 of the TSC by including the following:

**A transmitter shall not require a customer to make a capital contribution in relation to a new or modified connection facility for any costs associated with meeting the general reliability and integrity needs of the transmission system.**

Hydro One suggested two possible approaches to cost responsibility in such cases, both of which it stated could be accommodated by its proposed amendment to section 6.3.8. In one case, cost responsibility for the entire investment would be assigned to the network pool (i.e., all ratepayers) based on an independent assessment by, and input from, the OPA and/or the IESO. Alternatively, cost responsibility could be determined based on the proportional benefit between the connecting customer and the overall system.

The Board states that it sees merit in addressing the issue raised by Hydro One; however it indicated that in its view the first approach proposed by Hydro One, where all of the costs would be borne by the network pool, would not be appropriate because ratepayers would bear all of the costs even though the triggering customer(s) would

receive a benefit. The Board states that apportionment of the costs would be more appropriate and more consistent with the RRFE Board Report, where the Board identified a shift in emphasis to the “beneficiary pays” principle and also consistent with Hydro One’s suggestion that it is important to preserve the concept of fairness in assigning cost responsibility.

The Board states that it believes the issue identified by Hydro One is most likely manifested in one scenario in particular; namely, where the construction of and/or modification to one or more transmitter-owned connection facilities is a more cost effective means of meeting the needs of one or more load customers than the construction or modification of the transmitter’s network facilities. Under such a scenario, it is expected that the construction or modification of network facilities can only be avoided by the construction of and/or modification to transmitter-owned connection facilities that exceed the capacity needs of the triggering load customer(s).

The Board is therefore proposing to amend Section 6.3 of the TSC by adding new sections 6.3.8A, 6.3.8B and 6.3.8C immediately following section 6.3.8 as set out in the August Notice (see Appendix A attached to this submission).

## **The Power Workers’ Union’s Comment**

The Power Workers’ Union’s (“PWU”) comment on the proposed amendments is on the proposed new section 6.3.8A. Section 6.3.8A stated:

**...where one or more load customers trigger(s) the need for new or modified facilities and the IESO undertakes an assessment at the request of a transmitter and determines that the construction or modification of transmitter-owned connection facilities that exceed the capacity needs of the triggering load customer(s) is a more cost effective means of meeting those needs than:**

- (a) the construction or modification of the transmitter’s network facilities; or**
- (b) the construction or modification of the transmitter’s network facilities in combination with the construction or modification of transmitter-owned connection facilities,**

**the transmitter shall, for the purposes of determining the capital contribution to be made by the triggering load customer(s), attribute to the load customer(s) only the cost of constructing or modifying transmitter-owned connection facilities to the extent required to meet the needs of the triggering load**

**customer(s). The transmitter shall do so based on each load customer's non-coincident incremental peak load requirements as reasonably projected by the load forecasts provided by each such load customer or by such modified load forecast as may be agreed upon by such load customer and the transmitter and, in the case of line connection facilities, taking into account the relative length of line used by each load customer. The transmitter shall also calculate the costs that are avoided by not constructing or modifying the transmitter's network facilities.**

The PWU submits that the proposed amendment, while limited to only one scenario which the Board believes warrants the sharing of cost between the connecting customer(s) and all ratepayers, it nevertheless helps make the assignment of cost responsibility more fair and addresses Hydro One's concern that distributors may be motivated to pursue sub-optimal distribution alternatives.

However, the PWU notes that the deciding factor in determining whether costs should be apportioned between the connecting load customer(s) and all ratepayers in the circumstances described above is an assessment by the IESO, at the request of the transmitter, and its determination whether the construction or modification of transmitter-owned connection facilities that exceed the capacity needs of the triggering load customer(s) is a more cost effective means of meeting those needs than other alternatives. In other words, to determine cost responsibility, first the transmitter has to request the IESO to undertake an assessment, and second the IESO has to make a determination based on its assessment. This would mean that until the IESO undertakes the assessment, whether an investment that exceeds the load of the triggering customer(s) is the most cost effective option would not be known. This in turn would imply that all applications to connect will need to go through such an IESO assessment. Alternatively, the transmitter could request the IESO to undertake an assessment only when it determines, through its own assessment or after seeking input from the OPA, that it has sufficient grounds for making the request.

In this respect, the PWU submits that further clarification of the proposed amendment addressing the above issues would introduce efficiency, clarity and fairness to the process.

**All of which is respectfully submitted.**

## APPENDIX A

### Supplementary Proposed Amendment to the TSC: Proposal to Add a New Section to the TSC

Section 6.3 of the Transmission System Code is amended by adding new sections 6.3.8A, 6.3.8B and 6.3.8C immediately following section 6.3.8 as follows:

**6.3.8A** Despite any other provision of this Code, where one or more load customers trigger(s) the need for new or modified facilities and the IESO undertakes an assessment at the request of a transmitter and determines that the construction or modification of transmitter-owned connection facilities that exceed the capacity needs of the triggering load customer(s) is a more cost effective means of meeting those needs than:

- (a) the construction or modification of the transmitter's network facilities; or
- (b) the construction or modification of the transmitter's network facilities in combination with the construction or modification of transmitter-owned connection facilities,

the transmitter shall, for the purposes of determining the capital contribution to be made by the triggering load customer(s), attribute to the load customer(s) only the cost of constructing or modifying transmitter-owned connection facilities to the extent required to meet the needs of the triggering load customer(s). The transmitter shall do so based on each load customer's non-coincident incremental peak load requirements as reasonably projected by the load forecasts provided by each such load customer or by such modified load forecast as may be agreed upon by such load customer and the transmitter and, in the case of line connection facilities, taking into account the relative length of line used by each load customer. The transmitter shall also calculate the costs that are avoided by not constructing or modifying the transmitter's network facilities.

**6.3.8B** Where section 6.3.8A applies, the transmitter shall apply to the Board for approval of the transmitter's attribution of costs between the triggering load customer(s) and the transmitter. Prior to applying to the Board, the transmitter shall notify the applicable load customer(s). Where the Board approves a different attribution of costs, the transmitter

shall recalculate the capital contribution to be made by the triggering load customer(s) accordingly.

**6.3.8C** For greater certainty, where the more cost effective solution referred to in section **6.3.8A**:

(a) includes the modification of transmitter-owned connection facilities that serve one or more customer(s) other than the triggering load customer(s); and

(b) the other customer(s) have no need for additional capacity,

the transmitter shall not require the other customer(s) to make a capital contribution in relation to the modification of the transmitter-owned connection facilities.