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Our File No. 339583-000228

By electronic filing

November 6, 2017

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Ms. Walli

**Re: Proposed Amendments to the Transmission System Code (“TSC”) and the
Distribution System Code (“DSC”) to Facilitate Regional Planning
Board File #: EB-2016-0003**

Pursuant to the Board’s letter of January 7, 2016 and the Notice of Proposal to Amend a Code dated September 21, 2017, we submit the following comments on behalf of Canadian Manufacturers & Exporters (“CME”).

CME has reviewed the Notice of Proposal to Amend a Code regarding regional planning and cost allocation. In that report, the Board proposed changes to a number of elements of the TSC and DSC, as outlined in five sections within the notice.

Due to the diversity in the ranks of CME’s membership, CME is not taking a position regarding the proposed cost allocation changes between the ‘trigger’ pays model and the ‘beneficiary’ pays model.

The cost allocation proposal does, however, have significant cost consequences for many of CME’s members, so they may provide individual comments that reflect their own personal views of the proposal.

If the Board does move to the ‘beneficiary’ pays model, CME suggests that transmitters, distributors and the Board provide enhanced communication to ratepayers when applications arise that could materially increase rates for ‘beneficiaries’.

This enhanced communication would not only serve the interest of transparency in ratemaking, but would also give many ratepayers a meaningful opportunity to engage with the ratemaking process when a utility proposes to increase rates on the basis that the customer

was a ‘beneficiary’. While the consultation process for the Board’s proposals has been robust, CME feels that ratepayers would also benefit from enhanced communication regarding actual projects that would impact their rates because of the ‘beneficiary’ pays principle.

Regarding certain other proposals outlined in the Board’s notice, CME has the following comments.

Facilitating Regional Plan Implementation and Mitigating Electricity Bill Impacts

The Board has identified that transmission connection upgrades are often discrete projects, and are therefore lumpy, while the associated load growth on the distribution system is gradual. As a result, supply and demand of assets are rarely perfectly aligned. As a result, the Board proposed three possible approaches that could be used at the distributor’s option. Two of the three proposed options, the upstream capacity payment approach and the upstream connection adder, involve advanced funding from ratepayers.

While CME recognizes the issues caused by lumpy connection upgrade costs, it is concerned with how advanced funding options would be implemented, since the proposal does not outline many details that are, in CME’s view, central to collecting advanced funds from ratepayers.

CME has identified three related components that would be central to an advanced funding mechanism that the proposal does not elaborate on. The first of these is the interest rate that the advanced funds would accrue. While the Board specified in its proposal that amounts collected in a separate deferral account would accrue interest, as CME understands it, the proposal does not indicate what interest rate would be applicable to the advanced funding.

Second is the mechanism(s) involved if a project is delayed or cancelled. As an example, suppose that a project that had collected funds were delayed. It is unclear to CME whether after a certain number of years of delay, part or all of the funds could be returned to ratepayers, or whether it would be an indefinite loan to the distributor.

Similarly, sometimes circumstances change and distributors are required to alter their investment priorities. It is also unclear to CME if there would be any mechanisms in place to return advanced funds for projects that are no longer scheduled, or no longer scheduled in a certain time frame.

The third component that is not elaborated on are the possible issues regarding repayment to customers. If there were a mechanism for repayment, who would the repayment be made to? CME is concerned that under the current proposal, customers who pay the advanced funds years in advance, may have changed distributors by the time the money is refunded. In that instance, it opens up issues of fairness between ratepayers.

As a result of these uncertainties, CME does not support the implementation of the advanced funding options at least until the mechanics around how to treat the advanced funds are fully developed. At that time, intervenors and ratepayers would have a clear idea of how their money would be treated by the distributor, and the rules that the distributor would have to follow in order to use those funds.

Approaches to ‘Apportion’ Costs for End-of-Life Connection Replacements and Multi-Distributor Regional Solutions

CME agrees that major changes have taken place in the industry since the TSC and DSC were introduced, and that distributors are much more likely to experience lower customer consumption levels than in the past.

CME also supports the idea that the end-of-life of an asset represents an opportunity to align assets with customer demand.

CME disagrees however, with the Board’s proposal not to require right-sizing from transmitters. Given the current focus on conservation and energy efficiency, CME believes that requiring right-sizing in the circumstances described by the Board would align investments with customer priorities, government policy, and ratemaking principles.

As a result, CME submits that right-sizing should be a requirement in situations where a customer’s load has materially declined, and there is no reason to expect load growth in the future.

In the alternative, CME submits that there should be a presumption of right-sizing in circumstances involving lower loads and stagnant load growth. A right-sizing option would be presumed unless the transmitter can demonstrate the necessity for a like-for-like or increased capacity replacement.

Bypass Compensation

The Board has proposed to add several sections to the DSC to identify circumstances where bypass compensation should be required. CME is concerned that based on the proposed wording of section 3.5.1 in the DSC, there may be instances where customers are paying both a standby rate and a bypass rate.

The proposed wording of section 3.5.1 is:

“3.5.1 A distributor shall require bypass compensation from a customer, with a noncoincident peak demand that meets or exceeds 3 MW, if:

(a) the customer **disconnects** its facility from the distributor’s distribution system and subsequently connects that facility to a generation facility or to the facilities of any customer such that both the

load facility and a generation facility are connected to the distributor's distribution system on that customer's side of the connection point; and

(b) the distributor will no longer receive rate revenues in relation to that distribution asset."

"Disconnection" is defined in the DSC to mean a:

"deactivation of connection assets that results in cessation of distribution services to a consumer."

Given the definition of disconnection, not as physically disconnecting from the network, but simply a deactivation and cessation of distribution services, CME is concerned that there could be instances where a customer is paying twice for behind the meter generation. In many circumstances, even if distribution services were to cease to a customer, there could still be a standby charge, or a charge based on the nameplate generation capacity of the behind the meter generator. In that case, it would be, in CME's view, unfair to then charge the same customer for stranding the asset.

In CME's view, these two charges should be mutually exclusive. The customer should pay either to keep the assets in a state of readiness, to be used at any time, or they should pay the cost associated with stranding the asset.

In the alternative, CME submits that in circumstances where both charges are levied, that the cost of stranding the asset should be commensurately reduced by the amount paid through the standby charge. This would, in CME's view, better reflect the reality that the customer is still paying off the cost of the investment through the standby charge; just not at the rate envisioned or required by the entity that made the investment.

Yours very truly

Borden Ladner Gervais LLP



Scott Pollock

c. EB-2016-0003 Interested Parties
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