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September 20, 2018

VIA E-MAIL

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Toronto, ON  
M4P 1E4

Dear Ms. Walli:

**Re: EB-2016-0003 – Revised Proposed Amendments to the Transmission System Code (TSC) and the Distribution System Code (DSC) to Facilitate Regional Planning)**

Please find enclosed the submissions of the Vulnerable Energy Consumers Coalition (VECC) in the above-referenced proceeding.

Yours truly,

*John Lawford*

Counsel for VECC

**Ontario Energy Board**

**Revised Proposed Amendments to the  
Transmission System Code and the Distribution System Code  
to Facilitate Regional Planning**

**Comments  
of the  
Vulnerable Energy Consumers Coalition  
(VECC)**

**September 20, 2018**

## **INTRODUCTION**

On September 31, 2017 the Ontario Energy Board (OEB) issued a Notice of Proposal outlining proposed amendments to Transmission System Code (TSC) and Distribution System Code (DSC) in order to facilitate the implementation of regional plans and to ensure the cost responsibility provisions in the two codes were aligned. The Board received comments from a number of parties including the Vulnerable Energy Consumers Coalition (VECC). The Board subsequently held a stakeholders meeting in order to further understanding of the proposed amendments.

On August 23, 2018 the OEB issued revised proposed amendments to the TSC and DSC and invited interest parties to provide written comments. VECC has reviewed the revised proposed amendments and offers the following comments for the Board's consideration. The comments are organized using the same "headings" as in the Board's letter of August 23, 2018.

## **PROPOSED REVISED AMENDMENTS**

### *1. Proposed TSC Amendments: Approach to "Apportion" Transmission Connection Investment Costs to the Network Pool (sections 6.3.18A and 6.3.18B of the TSC)*

#### *Inclusion of Generator Customers*

In comparison to the original September 2017 proposal, the revised amendments broaden the definition of "customer" such that generators as well as load customers will potentially share cost responsibility (section 6.3.18A). VECC supports this revision as it treats all users and beneficiaries of the new/modified facilities the same.

VECC notes that sections 6.3.12 and 6.3.14 which deal respectively with the situation where there is only one generator customer or more than one generator customer are worded such that they only deal with the cost of modifications to connection facilities. In contrast, sections 6.3.13, 6.3.15 deal with the cost of both new facilities and modifications to facilities. In principle, new connection facilities should also be included in section 6.3.12 and 6.3.14 and it is not immediately clear to VECC why they were excluded.

Also, VECC notes that in outlining the methodology for apportioning costs to load customers sections 6.3.15 and 6.3.16 make reference to incremental peak load requirements. However, when dealing with the apportionment of cost to generator customers reference is made only to rated peak output in sections 6.3.13 and 6.3.16. In VECC's view if the generator already has generation facilities that are being adequately served by the existing connection facilities then (similar to load customers) it should only be the incremental rated peak output that is considered when the cost of new or modification to existing connection facilities are being apportioned.

### Appropriate Process to Determine Apportionment

Board's covering letter indicates that the 'OEB remains of the view that a case-by-case application approach will be necessary". As noted in its November 6, 2017 submissions, "VECC fully agrees that an OEB adjudicative process will be needed to review requests for such apportionment" (i.e. system vs. individual customer benefits).

### Scope of Benefits

The Board indicates that, with respect to system benefits to be attributed to new/modified connection facilities, "electricity customers would need to directly benefit through a reduction in their electricity bill and/or an increase in reliability for it (i.e., a benefit) be considered". VECC generally agrees. However, it wishes to re-emphasize two related points made in its November 6, 2017 submissions. The first is that there is difference between providing a benefit and providing a benefit that is needed and cost-effective. A good example is reliability. It can be argued that customers always "benefit" from improved reliability. However, arguments that a particular connection investment will improve overall system network reliability should only lead to a sharing of the cost with Network users if the improved reliability is something that can be demonstrated the Network users "need". VECC views the reference in the proposed section 6.3.18A to "broader network need" to be consistent with this point.

The second point is that the further forward one looks the greater the uncertainty with respect to perceived benefits. VECC's earlier submissions addressed the issue of how far forward the Board should look when determining if there are broader system benefits and anticipates that this is a matter that will have to be dealt with on a case-by-case basis. A further reason why an adjudicative process is required.

### Appropriate Pool – Network vs. Connection

VECC agrees with the Board's position that allocating the cost of system benefits to the network pool is more appropriate, as its results in system benefits being paid for by all system users.

### 2. Proposed TSC and DSC Amendments: Approaches to "Apportion" Upstream Transmission Connection Investment Costs (section 3.2.4A of the DSC and new section 6.3.20 of the TSC)

The Board is proposing a number of revisions to its September 2017 proposals regarding these sections of the DSC and TSC.

### Capital Contributions for Upstream Transmission Connection Facilities - Threshold for Distribution-Connected Commercial and Industrial Customers

The proposal issued in September 2017 set this threshold at 3 MW. The current proposal is to revise the threshold to 5 MW. As noted in the Board's covering letter, this approach is simpler as it aligns the threshold with the 5 MW cut-off for Large Use customers served by distribution utilities and more closely aligns with transmission-connected commercial and industrial customers who are typically over 10 MW. Similarly, the initial proposal to permit host distributors to require embedded distributors to make a capital contribution towards the cost of upstream Transmission Connection facilities results in standardized treatment of all distributors. Finally, VECC notes that it

is not clear from the wording of the revised section 3.2.4A whether or not the threshold of 5 MW also applies to embedded distributors. However, in any event, there are only a couple of electricity distributors whose average peak demand falls below 5 MW.

VECC acknowledges that, with the different perspectives that can be adopted when considering whether customers are “equal”, there are likely to be perceived inequities regardless of what threshold is adopted. Given the broad support for the 5 MW threshold expressed at the stakeholder meeting, VECC accepts it as a reasonable approach.

#### *Taking “New” Transmission Assets into Account*

VECC agrees with the Board’s proposed revision wherein “new” transmitter-owned connection facilities are included in section 3.2.4A of the DSC.

#### *Transmitters to Calculate Capital Contributions for Each Beneficiary Connected to the Distributor*

It has been brought to the Board’s attention that the economic evaluation methodologies set out in the TSC and DSC can result in different outcomes. The Board’s revisions therefore include a provisions in both the TSC (section 6.3.20) and the DSC (section 3.2.4A) whereby, at the request of a distributor, the transmitter will be required to carry out the economic evaluation of the capital contributions required from the distributor’s customers related to a new/modified transmitter owned connection facility using the methodology set out in the TSC. VECC supports this requirement as it provide for consistency in how the cost responsibility for such facilities is assigned.

#### *Other Issues*

VECC notes that the wording in the revised section 6.3.20 of the TSC and the revised section 3.2.4A of the DSC only addresses the matter of capital contributions and who determines them in instances where the distributor is required to make a capital contribution to the transmitter under the TSC. What does not appear to be addressed in the referenced sections of either the TSC or the DSC is the situation where a distributor is required to make a capital contribution to its host distributor related to transmitter-owned connection facilities. In VECC’s view, the embedded distributor in such situations should be able to require capital contributions from its customers under equivalent provisions to those that apply the host distributor and be able to request that the transmitter carry out the required calculations. VECC submits that section 6.3.20 of the TSC and 3.2.4A of the DSC should be revised accordingly.

VECC also notes that section 3.2.4A makes specific reference to embedded distributors and large (>3 MW) customers but then goes on to state that distributors shall require capital contributions from all beneficiaries that contributed to the need for the new/modified transmitter-owned connection facility. In VECC’s view this leaves some ambiguity as to whether: i) distributors can require capital contributions be paid by generators if they too contributed to the need for and benefit from the new/modified transmitter-owned connection facility and ii) distributors are to require capital contributions from smaller load customers. Consistent with the inclusion of generators as customers, as proposed by the OEB, VECC submits that the first sentence in section 3.2.4A of the DCS should be revised so as to also include generators. Similarly, the

section should be revised to clarify that capital contribution are not required from smaller load customers.

3. *Proposed TSC and DSC Amendments: Approaches to “Apportion” Costs for End-of-Life Connection Replacements and Multi-Distributor Regional Solutions (section 6.7.2 of the TSC and new sections 3.1.17 & 3.1.18 of the DSC)*

3.1 *Replacement of End-of-Life Transmission and Distribution Connection Assets 6.7.2 of the TSC and 3.1.17 of the DSC)*

*General*

The proposed September 2017 amendments to the TSC sought to clarify cost responsibility in those situations where a connection asset is being replaced either at its end-of-life (EOL) or due to a customer’s request. The currently proposed revisions seek to clarify that such replacements are not the only option available and that the proposed provisions apply when replacement at end of life has been determined to be the “optimal” solution. A similar revision is also proposed for the DSC when a distribution-owned asset reaches end-of-life. VECC supports the proposed clarifications.

Also, VECC notes that in the current version of the DSC (last revised March 15, 2018) section 3.1 ends with 3.1.6. As result, VECC questions whether the proposed revisions to this section of the DSC, which are currently numbered from 3.17 onwards, shouldn’t start at 3.7. (Note – For ease of reference, VECC submissions refer to the section numbers as used in the Board’s August 23<sup>rd</sup> correspondence.)

*Right-Sizing to Lower Capacity*

In their comments regarding the September 2017 proposed amendments a number of stakeholders (including VECC) expressed the view that the TSC and DSC should obligate transmitters and distributors to “right size” facilities to a lower capacity in those circumstances where the load being served by the assets to be replaced has declined. In the current proposal the Board expresses concerns regarding its ability to enforce such obligations. In VECC’s view enforcement of such obligation would be no more onerous or difficult, than enforcing some of the other obligations that the Board has already included in the TSC and DSC. Examples include: i) while there may not always be a regional or bulk planning process to support the decision , facility replacement must be the optimal solution and ii) where additional capacity is required by a customer, the capital contribution should be limited to the incremental cost relative to a like-for-like replacement,

*Replacement Before End-of-Life*

As VECC noted in its November 6, 2017 submissions, the September 2017 proposed amendments to the TSC did not specifically address the situation where a transmission connection asset is being replaced prior to its end-of-life at the request of a customer. The proposed revisions now include a new section 6.7.2A that specifically addresses this circumstance. A similar revision is now proposed for the DSC (new section 3.1.17A). VECC concurs with these additions.

These new sections require that the capital contribution from a customer requesting replacement before end-of-life be equal to remaining net book value of the replaced asset plus the advancement cost. VECC agrees with the rationale set out in the current Notice as to why such customers should pay the advancement costs. However, VECC (as it did in its November 6, 2017 submissions) questions why such customers should also be responsible for the remaining net book value of the existing asset, as other customer/users would have had to pay this cost (i.e., the depreciation and carrying costs) over the remaining life of the asset if replacement had not occurred.

### Other End-of-Life Issues

The proposed September 2017 revisions to both the TSC (section 6.7.2) and the DSC (3.1.17) both required that the transmitter and distributor (respectively) consult with affected/applicable customers regarding the appropriate size for the replacement facility. In their comments distributors noted that, unlike transmitters who are likely to only have a few “affected” customers, in their case there could be a large number of such customers. In the current proposals the Board is proposing to revise section 3.1.17 of the DSC such that such consultation would be limited to the replacement of distribution stations and to customers over 5 MW.

VECC notes that such replacements will form part of a distributor’s distribution system plan which is subject to scrutiny as part of a distributor’s periodic cost of service rate review process and would also be subject to review when they are subsequently included in rate base for rate setting purposes. As a result, there are other means by which a distributor’s customers can hold their utility accountable for its replacement decisions.

Furthermore, there would be some expectation that in assessing the options/needs related to the replacement of major facilities, distributors would seek input from major customers as to their future plans and that for utilities that do not have a Large Use class major customers will have loads of less than 5 MW. Within this context, VECC has no objections to the Board’s proposed changes regarding consultation requirements that are to be enshrined in the DSC.

It is noted that, given the proposed wording for section 3.1.17, it could be interpreted as only requiring consultation with “load customers” over 5 MW and not with embedded distributors. In VECC’s view such consultation should also include embedded distributors where applicable.

Also from the wording of the last sentence in section 3.1.17 it is not clear which customers are being referred to in part (b). Indeed, one could interpret it as requiring any time any distributor-owned assets (other than the basic connection) are being replaced with assets that have a higher capacity then a capital contribution would be required from all customers who contributed to the need for the greater capacity. Furthermore, given the wording, it appears to VECC that this would apply in situations where the need for greater capacity is triggered (either entirely or in part) by an increase in use per customer for large number of smaller customers, as the sentences concerned provide no “qualification” as to the size of customer from whom a capital contribution is to be recovered. As a result, VECC questions the practicality of applying the section as currently worded – both in terms of scope of the assets to be considered and the

number/size of customer from which capital contributions would be required. In VECC's view, if the intent is to limit the capital contribution requirement to only customers over a certain size limit then this should be more explicit.

### 3.2 Regional Distribution Solution – LDC Feeder Transfer (new DSC section 3.1.18)

The purpose of this proposed amendment (as provided in the September 2017 Notice) is to allow a distributor requiring more transmission connection capacity to connect to another distributor (which has excess capacity) to avoid a more costly transmission connection investment. The proposed revisions recognize that such arrangements may require investments in existing distribution assets. In its November 6, 2017 submissions VECC generally supported the original proposal and also supports the proposed revisions.

In its earlier submissions VECC noted that the provisions regarding the capital contributions to be made by the “connecting” distributor to the “facilitating” distributor failed to recognize that rates/charges that would be applicable to the connecting distributor once it became connected to and embedded in the host distributor. The proposed revisions have a similar shortcoming.

## 4. Proposed TSC and DSC Amendments: Facilitating Regional Plan Implementation and Mitigating Electricity Bill Impacts

The September 2017 Notice outlined three alternative approaches to assist distributors in funding capital contributions required by transmitters.

### 4.1 Annual Installment Option

The revised proposal retains this option and would permit the repayment period to be extended beyond the initially proposed five year limit on a case by case basis. VECC supports this change and notes that its November 6, 2017 submission was one of those that called for allowing exceptions to the five year limit on a case by case basis.

### 4.2 Advance Funding Options

The September 2017 Notice also included two advance funding options, which the Board is now proposing not to proceed with at this time. In its November 6, 2017 submissions VECC noted a number of issues that these options would create and questioned whether the minimal benefits created by either of the two options would be worth the inequities that they would create. As a result, VECC supports the Board's decision not to pursue either option further.

## 5. Proposed TSC and DSC Amendments: Addressing Inconsistencies and Gaps

### 5.1 Utility Discretion – Cost Responsibility Code Provisions (DSC section 3.2.5)

In the September 2017 Notice the Board proposed that section 3.2.5 of the DSC be revised so as to require (i.e., “shall” as opposed to “may”) a capital contribution as calculated in accordance with the Appendix B of the Code. In the revised proposal the Board is not proposing to make any changes to the amendments proposed in September 2017. As noted in its earlier submission, VECC supports the change from “May” to “shall” in this section of the DSC.

## 5.2 Capital Contribution Refund/Rebate to Initial Customer (DSC sections 3.2.27 and 3.2.23)

It is noted that these sections deal with two distinctly different issues. Section 3.2.23 deals with the refund of expansion deposits (made per section 3.2.20). In contrast, section 3.2.27 deals with rebates to the customers who initially made capital contributions when new customers (previously not forecasted) connect to the line during the first five years and make a capital contribution.

The September 2017 proposed changes were with regard to the timeframes to be used and the proposal that they vary by customer size. In response to submissions the Board is now proposing to maintain the original five-year timeframe for all customers. VECC takes no issue with the Board's revisions in this regard.

In its November 6, 2017 submissions VECC noted there was an issue with the proposed wording of section 3.2.23 in those instances where the customer is not required to make a capital contribution but the distributor has required (as permitted under section 3.2.20) the customer to provide an expansion deposit. In such cases, if the customer's forecasted load does not materialize then, under section 3.2.23, a portion of the customer's expansion deposit would be forfeit. Furthermore, this forfeiture will occur even if the load that does materialized would have been sufficient for the customer not to have made a capital contribution. This issue has not been addressed in the revised wording and should be.

## 5.3 Capital Contribution True-Ups and Forecasts (DSC sections 3.2.20 and 3.2.24)

VECC has no issues or additional comments regarding the Board's revise proposals regarding section 3.2.24.

## 5.4 Mix of Load and Generators on a Connection Asset (new DSC section 3.1.9 and TSC section 6.3.16)

First, while in the current Notice reference is made to a new section 3.1.9, the corresponding section in the proposed amendments as set out in Appendices B and D is section 3.1.9. See VECC's earlier comments regarding the numbering used in section 3.1. VECC also notes that the current revisions specifically include a definition of "distributor-owned asset" which does resolve the confusion VECC noted in its original November 2017 submissions.

As part of its submissions on Other End-of-Life Issues (see section 3.1 above), VECC questioned the practicality of applying the provision to all "distributor-owned assets" reaching end-of-life and the lack of any limitation as to the size of customer from whom capital contributions would be recovered. Similar comments also apply with respect to section 3.1.19.

## 5.5 Bypass Compensation (new DSC section 3.5.3 and TSC section 11.2.1)

The September 2017 Notice proposed introducing bypass compensation provisions in the DSC in a manner consistent with the TSC. The revisions proposed in the current Notice are intended to clarify that bypass compensation would also apply to partial bypass. In addition, the written discussion accompanying the revised amendments

sought to clarify what would be considered “load management” for bypass compensation purposes.

VECC agrees that bypass compensation should apply in circumstances of partial bypass as well as full bypass in both the TSC and DSC.

VECC notes that the new section 3.5.1 of the DSC specifically defines those circumstances under which bypass compensation is required and they do not include load reductions due to activities such as energy conservation, energy efficiency and load management. As a result, while VECC sees the need for including embedded renewable generation as an exception under section 3.5.2A, the inclusion of/reference to energy conservation, energy efficiency and load management has created confusion and need for clarification.

For example, with respect to load management, the written discussion states that the Board’s intent was that ““load management”, in conjunction with “conservation”, would capture all distributor CDM programs administered by the IESO and all activities identified in the OEB’s CDM Guidelines, which includes those that would defer infrastructure investments”. In VECC’s view this response begs the question of whether load reductions due to energy conservation and load/demand management initiatives that are undertaken by a customer but are not part of an IESO or a Board-approved distributor funded CDM Program (per the Board’s CDM Guidelines) would be subject to bypass compensation. Further complicating the matter is that fact that such initiatives are likely to be undertaken by customers of the distributor in order to manage their individual peak demands (used for billing purposes) and may or may not also reduce the distributor’s peak demand(s) and thereby defer infrastructure investments.

If it is the Board’s intent that only load reductions from energy conservation, energy efficiency and load management activities that reduce the distributor’s peak and thereby defer infrastructure investments be exempt from bypass compensation then VECC suggests further clarification should be specifically incorporated in the DSC and section 3.5.1 needs to be revised accordingly. However, if it is the Board’s intent that all load reductions from energy conservation, energy efficiency and load management activities should be exempt from bypass compensation, then the reference to such activities should be removed from section 3.5.2A.

VECC notes that while not addressed in section 3.5.1, section 3.5.2 does indicate that bypass compensation will be related to the net book value of the relevant “distributor-owned assets” which (with the currently proposed revisions) are defined as “an asset owned by the distributor other than an asset installed as part of a basic connection”. Furthermore, section 3.5.2 indicates that the bypass compensation will be determined by multiplying this value by the ratio of the bypassed capacity versus the maximum load that can be served by the relevant “distributor-owned assets”. In some circumstances the relevant distributor-owned assets and load serving capability may be relatively easy to identify. An example would be one where the customer concerned was feed directly from a specific distributor owned substation via specific lines. However, in other circumstances it may be more difficult. For example, if the customer could be potentially served from more than one substation and via more than one set of lines. In VECC’s view, experience going forward will determine the practicality of applying the

bypass compensation provisions as proposed. However, the Board should be prepared to adjudicate some of the earlier instances where bypass compensation is required.

Finally, VECC notes that in Appendix B, the MW limit in section 3.5.1 has been changed from 3 to 5 MW, where as in Appendix D the limit is still 3 MW. It is VECC's understanding the Board is now proposing to increase the threshold whereby bypass compensation apply from 3 MW to 5 MW. This is one instance where VECC questions the need to align with the TSC and/or maintain a common treatment for all customers in the same rate class. The fundamental concern here is the impact on the utility (and more specifically the utility's other customers) of a current customer bypassing the facilities that were installed provide service to that customer and thereby, potentially, creating stranded assets. Increasing the threshold to 5 MW will seriously limit the ability of distributors (particularly smaller ones) to manage such circumstances. VECC would request that the Board reconsider the application of the 5 MW threshold for this one particular section.

#### 5.6 Relocation of Connection Assets (new DSC sections 3.1.20 and 3.1.21)

These new sections seek to clarify the circumstances under which a customer should pay for the relocation of "distributor-owned assets" and recognize that there are instances where the amount of compensation that can be requested is limited by law. VECC agrees with and has no comments regarding the revised proposal.

#### 5.7 Definition of "Customer"

VECC agrees with and has no comments regarding the revised amendments dealing with the definition of "customer".

#### 5.8 Distributor-Owned Assets

One of the proposed revisions is to specifically define what constitutes a "distributor-owned asset", a term that is used frequently in the DSC. VECC's earlier submission noted a lack of clarity in what "distributor-owned assets" were and supports the Board's move to define the term. However, as noted in the foregoing comments, VECC is uncertain as to the practicality of using this definition when applying the proposed capital contribution provisions (sections 3.1.17, 3.1.17A, and 3.1.19) and bypass provision (sections 3.5.1 and 3.5.3) of the DSC.

#### 6. Other Proposed TSC and DSC Amendments

VECC has no comments on the issues raised in this section.

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