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January 9, 2019

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
27th Floor  
2300 Yonge Street  
Toronto, ON - M4P 1E4

Dear Ms. Walli:

**Re: Revised Amendments to the Transmission System Code and the Distribution System Code to Facilitate Regional Planning (Board File No.: EB-2016-0003)**

**Co-operating Participation: E.L.K. Energy Inc., Essex Powerlines Corporation, Entegrus Powerlines Inc. (the “E3 Coalition”)**

## **Background**

The E3 Coalition is comprised of three Southwestern Ontario electrical distributors: E.L.K. Energy Inc., Essex Powerlines Corporation and Entegrus Powerlines Inc. The Coalition was formed in 2014 to pursue common concerns regarding the Hydro One Leave to Construct (“LTC”) application in respect of the Supply to Essex County Transmission Reinforcement (“SECTR”) Project (EB-2013-0421). Herein, this application is referred to as the SECTR Application.

On August 23, 2018, the Board released revised Transmission System Code (“TSC”) and Distribution System Code (“DSC”) amendments (the “August 2018 Amendments”) in the above-noted proceeding.

E3 submitted comments and raised clarifying questions in this regard in its submission of September 20, 2018. Thereafter, at the behest of the Coalition of Southwestern Ontario Municipalities (“CoSWOM”)<sup>1</sup>, E3 attended a meeting in Leamington with the CoSWOM Mayors and Board Staff on October 25, 2018. In that meeting, E3 assisted CoSWOM in articulating its continuing concerns with the code amendments.

On December 18, 2018, the Board released a new Notice of Proposal containing revised code amendments (the “December 2018 Amendments”). E3 has provided its commentary on the revised amendments herein.

E3 notes that CoSWOM is now in a period of transition following the recent municipal elections and the resultant transitions of office which occurred in early December 2018. E3 anticipates that this transition, in combination with the relatively short commentary deadline allotted for the December 2018 Amendments (December 18, 2018 to January 9, 2019), will preclude CoSWOM from continuing participation at this final stage of the process. E3 observes that the Board denied the EDA’s December 21, 2018 request for a deadline extension and wishes to share its belief that coalitions such as CoSWOM would have benefitted from a longer commentary deadline to provide additional insightful feedback.

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<sup>1</sup> CoSWOM consists of the following 8 municipality corporations: Town of Amherstburg, Municipality of Chatham-Kent, Town of Essex, Town of Kingsville, Town of Lakeshore, Town of LaSalle, Municipality of Leamington, Town of Tecumseh



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## SECTR & Coming into Force Provisions

In the E3 September 2018 Submission, E3 sought clarification on the adjudicative status of the SECTR process. E3 also observed that in the August 2018 Amendments, the Board definitively stated that the 2014 SECTR project was subject to the proposed 2019 code amendments (as follows) and E3 sought additional detail as to why this was appropriate:

*“The OEB’s intent is that the Code amendments would only apply on a prospective basis, as existing agreements were entered into based on the current rules in the Codes, with the exception of allocating the costs associated with the SECTR project which triggered this consultation.”<sup>2</sup>*

In the December 2018 Amendments, E3 notes that SECTR is again referenced as follows in the “Coming Into Force” section:

*“Two groups of distributors also raised questions about the application of the Code amendments to the Supply to Essex County Transmission Reinforcement (SECTR) project.”<sup>3</sup>*

However, this section of the December 2018 Amendments concludes without further mention of SECTR. Rather, the section ends with the following statement:

*“The amendments will apply on a go forward basis to all new projects (i.e., a signed agreement addressing cost responsibility has not yet been executed).”<sup>4</sup>*

E3 notes that the first phase of SECTR, Leamington TS, became energized and operational in March 2018. Accordingly, E3 interprets that the proposed amendments do not apply to SECTR, in its entirety. E3 notes that signed cost responsibility agreements do not exist for any phase of SECTR to date. E3 was of the understanding that such agreements with Hydro One were dependent upon: (a) the outcome of the discontinued SECTR LTC Phase 2 Cost Allocation adjudicative process (EB-2013-0421) and, (b) the outcome of the current TSC/DSC code amendment process (EB-2016-0003).

E3 seeks confirmation of its interpretation that the proposed amendments do not apply to SECTR, in its entirety, despite the fact that signed cost responsibility agreements have not yet been executed.

## Consumer Protection

Throughout this process, E3 has supported the need for a case-by-case adjudicative process for determining cost apportionment. This position is rooted in E3’s experience in the 2014/2015 SECTR Phase 2 (Cost Allocation) proceeding, which had resulted in \$14.4 M of cost reductions from Hydro One to the E3 coalition at the time that the proceeding was discontinued in July 2015. E3 reiterates that cost allocations prepared by the transmitter will always inherently involve assumptions best understood by the transmitter, including load forecasts and “what if” proxies for hypothetical alternative transmission solutions (that will never be built, but are used to allocate costs).

E3 notes that the Board’s August 2018 Amendments supported case-by-case adjudication. However, few details on the adjudicative structure and process have been provided. Consumer protection was not addressed in the September 2017 Amendments, nor the August 2018 Amendments, nor the December 2018 Amendments. E3 seeks direction on whether the Board intends to deal with consumer protection in the current code amendment process or within another separate proceeding.

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<sup>2</sup> See Ontario Energy Board, Notice of Revised Proposal to Amend a Code, dated August 23, 2018, page 30

<sup>3</sup> See Ontario Energy Board, Notice of Revised Proposal to Amend a Code, dated December 18, 2018, page 10

<sup>4</sup> See Ontario Energy Board, Notice of Revised Proposal to Amend a Code, dated December 18, 2018, page 12



E3 recommends that customer impacts should be considered on a case-by-case basis. E3 further recommends that appropriate representation and expertise be available for embedded distributors and customers. Appropriate consumer protection is needed, as supported by the following excerpts from E3's November 2017 Submission:

*"... transmission cost allocation knowledge asymmetry exists between transmitters and embedded distributors (and customers). It should be recognized that the expertise and experience in transmission costing and allocation in Ontario inherently rests with Hydro One, as the Province's largest transmitter. Hydro One has significant organizational size, scope and expertise in this area, particularly in comparison to smaller distributors and connecting customers who may be the recipients of transmission cost allocations... [In the SECTR regulatory proceeding], the E3 distributors found it challenging from a transmission expertise standpoint to review and dissect the cost allocations internally. E3 recognized that knowledge asymmetry existed. Ultimately, E3 was granted cost recovery by the Board to engage a lawyer and rates consultant with transmission-specific experience. Based on experiencing the benefits that this provided, E3 respectfully submits that in order to put the transmitter and the embedded distributor on equal footing, the Board consider: (i) granting cost recovery to embedded distributors or upstream downstream connected customers for transmission rate consultants to assist in the adjudicative process, or, (ii) that transmission cost analyses forming the basis of the adjudicative process be first verified by an external third party without interest or involvement in the regional planning process."*<sup>5</sup>

## Customer Consultation

In its September 2018 submission, E3 stated that embedded distributors will require timely, detailed information from the transmitter to appropriately consult with large customers required to be make capital contributions under the new rules. E3 noted that this information will need to include: technical details about the transmission project, project milestone dates, project cost allocations and economic valuation details. E3 further noted that the economic valuations will need to include distributor-specific rate components and assumptions.

In reviewing the December 2018 Amendments, E3 observes that the OEB recognizes the need for LDCs to communicate the proposed code changes to large customers, as follows:

*"The OEB also expects that embedded distributors, who may be affected by changes in cost responsibility, should have been following this consultation. Therefore, it is the OEB's view that distributors should be able to inform their customers in a relatively short time."*<sup>6</sup>

E3 recognizes the responsibility of the embedded distributors to communicate and translate the proposed code amendments to customers. However, above all, customers will seek that the embedded LDC explain what the case-specific incremental costs are to their operations. Informing customers of their cost responsibilities in a relatively short time frame will require the above-noted information from the transmitter on a timely basis. Accordingly, E3 recommends that the OEB establish a performance standard by which the transmitter provides the embedded distributor with: technical details about the transmission project, project milestone dates, project cost allocations and economic valuation details.

All of which is submitted respectfully.

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<sup>5</sup> See E3 Coalition Submission to the Ontario Energy Board, dated November 2, 2017, page 2

<sup>6</sup> See Ontario Energy Board, Notice of Revised Proposal to Amend a Code, dated December 18, 2018, page 11



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Sincerely,

*[Original Signed By]*

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