May 5, 2009

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, Suite 2700
2300 Yonge Street
26th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

Re: Revised Proposed Amendments to the Transmission System Code
Board File No. EB-2008-0003

AMPCO is pleased to provide comments on proposed amendments to the Transmission System Code.

We are concerned that the overall effect of the proposed amendments is to transfer costs and risks associated with developing new transmission facilities to serve new generators to consumers. While we recognize the presumed societal benefits of renewable generation that are implicit in the proposed changes we cannot support the imposition of new costs or risks on consumers with no demonstration of commensurate benefits to customers. Such policies would constitute a significant departure from the principles of regulation and the statutory protections to which consumers are entitled.

Sincerely yours,

Adam White
Association of Major Power Consumers in Ontario

Association of Major Power Consumers in Ontario
www.ampco.org

372 Bay Street, Suite 1702
Toronto, Ontario M5H 2W9

P. 416-260-0280
F. 416-260-0442

Introduction
Comments herein have been provided only on those items where AMPCO believes that specific support should be stated, or where AMPCO believes the proposed revisions need to be modified or removed.

III Proposed Revisions to the October Proposed Amendments

B: The Transmitter Designation Process
The Board's approach to designating a transmitter for development and construction of enabler facilities is balanced and fair and should encourage a modicum of competition, to the benefit of both developers and ratepayers.

The principle that once a transmitter has been selected, prudently incurred development costs should be recoverable whether or not the facility is actually constructed is also accepted. In AMPCO's view, a corollary to this principle is that transmitters that have not been designated to develop an enabler facility should not be allowed cost recovery for development costs. We mention this because the current rate application of Hydro One in EB-2008-0272 contains a request for approval of development costs for enabler facilities, when Hydro One has not applied for or been designated by the Board to develop such facilities.

C. Issues Where No Revisions to the October Proposed Amendments are Proposed

9. Timing of Capital Contributions
On its own, the determination that specific provisions with respect to the timing of capital contributions do not need to be addressed for this process would be correct, if no related changes in the code were being proposed.

The problem that arises is that capital contributions and the provision of security deposits are inter-related procedures that minimize risk to both transmitters andcustomers, should the generator not proceed with development after the transmitter has incurred costs.

Once a customer has signed a connection contract (CCRA), the existing transmitter's connection procedures recognize that the customer has in fact reserved the capacity defined in the CCRA.

In the following section on security deposits, AMPCO notes the potential problems with assigning capacity without a real reciprocal commitment from the developer.

If security deposits are not required at the time a CCRA is required, then either a) the CCRA should be identified specifically as non-binding on both parties until such time as a percentage of the anticipated capital contribution has been received (suggest 15%, to ensure development and administration costs are recovered), or b) 15% of the capital contribution should be required on signing the CCRA.

D. Issues Where Revisions to the October Proposed Amendments are Proposed

2: Security Deposits
The suggestion that a security deposit requirement may present a disincentive to early subscription is a point taken.

At the same time, it must be recognized that it is difficult to view a risk-free and cost-free subscription to use enabler capacity as a meaningful commitment. The Board should be concerned that the right to a portion of the (limited) capacity on an enabler or other facility is likely to have some monetary value and as such, should not be acquired freely. If capacity can be essentially reserved without risk, the consequence could be an invitation to gaming by parties that do not have serious intent to actually use the capacity. Such gaming would not only be economically inefficient and anti-competitive, but could also slow the development of renewable energy.

Should the Board proceed to not allow transmitters to require a security deposit for capacity on an enabler facility, then the reciprocal condition should be that developers do not possess a firm commitment of capacity reservation until such time as the capital contribution or letter of credit is provided to the transmitter. This symmetry of reciprocal commitment (or non-commitment) should reduce the potential for gaming with connection capacity resources.

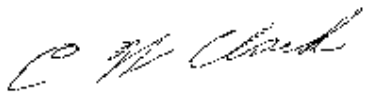
In the alternate, CCRAs for enabler facilities should be specifically non-transferrable and of fixed (short) duration until capital contributions are provided.

4 iii: Determination of Capital Contribution
We do not agree with the proposal to revise Section 6.3.14A to base the capital contribution on the depreciated value of the enabler facility.

The proposal to require only a capital contribution based on the depreciated asset value may also provide an unintended incentive to defer a commitment to develop renewable resources. Essentially, this proposal would present developers with a situation where the cost of connection to an enabler facility would decline with time, incenting delays in commitment.

AMPCO suggests the most appropriate way to address the problem of double recovery is to require the transmitter to require a capital contribution based on the original cost of the facility, but to hold the portion of the contribution related to depreciation in a separate revenue account to be returned to customers at rebasing. In this way, ratepayers would in principle be held harmless for the depreciation costs of enabler facilities that are ultimately fully subscribed.

Prepared on behalf of AMPCO by:



C.W (Wayne) Clark
SanZoe Consulting, Inc.