Ontario Waterpower Association

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July 2, 2009

Ms. Kirstin Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St. Suite 2700
Toronto, ON M4P 1E4

Dear Ms. Walli:

RE: EB-2009-0077 Proposed Amendments to the Distribution System Code

The Ontario Waterpower Association (OWA) appreciates the opportunity to provide input on the proposed amendments to the Distribution System Code (the "DSC") file EB-2009-0077, and commends the Board for moving forward towards enabling more renewable generation in Ontario. In consideration of the proposed amendments, the OWA would like to file the following recommendations.

1) The Renewable Energy Expansion Cost Cap

The OWA supports the concept of a renewable energy expansion cap. It is extremely important for the cap to accurately reflect the expansion costs experienced by renewable energy generators. If the cap is not set at an appropriate level, it will not fully achieve the McGuinty government's primary objective of enabling more renewable generation in Ontario. As well, if the cap requires adjustment after implementation, there will be disparity in costs between current and future generators connecting to distribution systems, as well as the potential administrative nightmare of trying to retroactively revise credit amounts. Therefore, the OWA submits that rigorous analysis in deriving the cap prior to its implementation is imperative.

According to the Notice, the Board derived the $90,000/MW cap as follows:

> *The Board derived the $90,000/MW cap from a review of electricity distribution rate applications and from discussions with certain distributors. The costs of feeder extensions vary widely across distributors, ranging from $175,000/km to $300,000/km. The Board also reviewed the expansion requirements for almost 500 distributed generation projects, of which approximately 300 required feeder extensions. These projects were of an average size of 10MW and required, on average, 5.3 km of feeder extensions. This suggests that the expansion costs associated with the connection of a distributed generation project that requires a feeder extension of average length is in the range of $90,000/MW to $150,000/MW.*

The OWA has a number of concerns with the Board's methodology in arriving at the $90,000/MW cap, including:

- Based on the feeder price/km range of $175,000/km to $300,000/km, the OWA calculates that the cap would range from $93,000/MW to $159,000/MW (as opposed to the $90,000/MW to $150,000/MW range in the Notice).
- The Board's cap was derived by only contemplating the cost of feeder extensions. As recognized by the Board on page 5 of the Notice, expansion work may consist of feeder extensions, as well as other types of work. Therefore, the proposed cap may only cover a limited portion of the expansion costs that generators will face.
- The cap was derived based on a 10MW project, and therefore may not accurately reflect the expansion costs of smaller projects.
- The Board has proposed the low end of the cap range, but has provided no rationale for this proposal.

The OWA submits that until stakeholders can review and comment on the data relied on by the Board to derive the $90,000/MW cap (i.e. the expansion data for the 500 distributed generation projects), it would be premature at this time to set the renewable energy expansion cost cap. Although members of the OWA have distributed generation projects, the OWA is unable to access the level of sample data that was used by the Board. Nevertheless, based on discussions with OWA members, the $90,000/MW cap proposed by the Board seems very low.

The OWA does not want to arbitrarily recommend a cap amount in the absence of a review of a reasonable data sample. Therefore, the OWA requests that the data used by the Board be provided to stakeholders, and that stakeholders be given an opportunity to comment on the cap after receiving such data. The opportunity to review the data will certainly put stakeholders in a better position to comment on the appropriateness of the cap (i.e. perhaps stakeholders will recommend a sliding scale cap based on project size as opposed to a one-size-fits-all cap). Of course, the OWA respects that the confidentiality of the generators in the sample should be maintained, so the OWA is only requesting the data without revealing the identities of the generators.

If the Board does not wish to provide the data requested, the OWA submits that stakeholders should be given the opportunity to pose interrogatories on the data and receive responses from the Board prior to filing submissions on the appropriateness of the $90,000/MW cap.

2) Contestable Work

Based on the proposed amendments to the DSC, the renewable energy expansion cost cap would not apply to contestable expansion work under the alternative bid option. Clearly, the objective of the renewable energy expansion cost cap is to promote the generation of electricity from renewable energy sources, and not to limit the construction options that currently exist for generators under the DSC. Because generators may be able to construct contestable expansion facilities at a lower cost than the distributor option, the restriction of the renewable energy expansion cost cap to the distributor option may result in no savings to the Generator. Therefore, the OWA submits that section 3.2.19 of the DSC should be amended as follows to ensure that the renewable energy expansion cost cap applies to contestable work performed under the alternative bid option:

3.2.19 Where a distributor is required to pay a transfer price under section 3.2.18, the transfer price, less any unused portion of the renewable energy expansion cost cap, shall be considered a cost to the distributor for the purposes of completing the final economic evaluation.

To illustrate how the proposed amendment to section 3.2.19 would work, we have set out the following scenarios regarding a 10MW renewable energy generation facility with an expansion cost of $5 million. In all cases, the renewable energy expansion cost cap is presumed to be $900,000 ($90,000/MW x 10MW). As well, for the purpose of these scenarios, it is assumed that there is no difference between the alternative bid cost and the distributor's initial offer. Based on these scenarios, it is apparent that the Generator's costs would be the same regardless of whether it pursues the alternative bid offer for contestable work.

Scenario #1: 100% of the expansion cost is non-contestable

Under this scenario, the Board's proposed section 3.2.5A would apply, resulting in the Generator's cost being $4,100,000 ($5 million - $900,000).

Scenario #2: 100% of the expansion cost is contestable and is performed under the alternative bid option

Under this scenario, the transfer price under section 3.2.18 would be $5,000,000, and a cost of $4,100,000 would be used by the distributor for the purpose of completing the final economic evaluation under the proposed section 3.2.19. Therefore, the Generator's total cost would be $4,100,000.

Scenario #3: 90% of the expansion cost is non-contestable and performed by the distributor, and the remaining contestable expansion work is performed under the alternative bid option

Under this scenario, the distributor's non-contestable expansion work would cost $4,500,000 (90% of $5 million). The $900,000 renewable energy expansion cost cap would be applied to this amount (under 3.2.5A), so the distributor would charge the Generator $3,600,000 ($4,500,000 - $900,000 = $3,600,000). The Generator's cost for the contestable work under the alternative bid option would be $500,000 (10% of $5 million). The transfer price for the contestable expansion work would be $500,000 (pursuant to section 3.2.18), and since there would be no unused portion of the renewable energy expansion cost cap, the full $500,000 would be the transfer price for the purpose of completing the final economic evaluation (pursuant to the proposed section 3.2.19). The total cost to the Generator under this scenario would be $4,100,000 ($3,600,000 for the non-contestable work + $500,000 for the contestable work = $4,100,000).

Scenario #4: 10% of the expansion cost is non-contestable and performed by the distributor, and the remaining contestable expansion work is performed under the alternative bid option

Under this scenario, the distributor's non-contestable expansion work would cost $500,000 (10% of $5 million). Under section 3.2.5A, the distributor would not bill the Generator for this work, since the cost of the work would be less than the $900,000 renewable energy expansion cost cap. As well, $400,000 of the renewable energy expansion cost cap would be unused. The Generator would construct the contestable portion of the expansion work under the alternative bid option at a cost of $4,500,000 (90% of $5 million) and that would be the transfer price under section 3.2.18. When completing the final economic evaluation, the distributor would subtract the $400,000 unused portion of the renewable energy expansion cost cap from the $4,500,000 transfer price pursuant to the proposed section 3.2.19. The total cost to the Generator would be $4,100,000 ($4,500,000 - $400,000).

3) "Expansion" vs. "Enhancement"

The OWA's members have raised concerns about how distributors classify work as either "expansion" or "enhancement" in the context of an economic evaluation. The OWA recognizes that one type of work could fall within the definition of either "expansion" or "enhancement", depending on the purpose of the work. Therefore, the OWA wishes to emphasize that the examples of "expansions" provided at page 5 of the Notice should not be relied on by distributors as work that necessarily falls within the definition of "expansion". A purpose-based approach must be taken by distributors in distinguishing between "expansions" and "enhancements", rather than relying on the examples provided in the Notice.

I thank you for the opportunity to comment on the proposed amendments.

Sincerely,

Paul Norris
President
Ontario Waterpower Association

Copy: Mr. Andrew Taylor, Counsel, Ogilvy Renault LLP