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July 2, 2009

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

Dear Ms Walli,

**Notice of Proposed Amendments to the Distribution System Code ("DSC")
Comments of Canadian Manufacturers & Exporters ("CME")**

Board File No.: EB-2009-0077

Our File: 339583-000048

We are writing to provide the comments of Canadian Manufacturers & Exporters ("CME") on the Proposed Amendments to the Distribution System Code ("DSC") which the Board circulated on June 5, 2009.

A. Background and Context

The Proposed Amendments contain revisions to the Board's current approach to assigning cost responsibility between a regulated utility distributor and unregulated generator in relation to the connection of renewable generation facilities to distribution systems. The Proposed Amendments, if implemented, will materially shift the current distribution connection cost responsibility of generators to utility distributors and their ratepayers.

The *Green Energy and Green Economy Act, 2009* ("GEGEA"), which received Royal Assent on May 14, 2009, prompts the Proposed Amendments. The Amendments are intended to facilitate implementation of the Government's policy objectives regarding renewable generation as reflected in the provisions of the *GEGEA*.

While CME supports the intent of the *GEGEA* to improve the environment and create opportunities for manufacturers, CME remains very concerned about the cost implications of the *GEGEA* initiatives on utility ratepayers. CME believes that those seeking to facilitate implementation of the policy objectives of the *GEGEA* need to be acutely aware of the serious risks which ever increasing electricity rates pose to Ontario's manufacturing and industrial base.

CME suggests that all of the implications of the complete range of distribution cost responsibility options should be carefully analyzed before a determination is made of the parameters of an action plan which best facilitates the achievement of the desired

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outcome, without concurrently creating conditions which could lead to irreparable economic harm.

CME's comments on the action plan reflected in the Proposed Amendments are provided in this context.

B. Distribution Connection Cost Responsibility

1. Cost Causality

For years, cost causality has been either the sole or primary criterion applied to determine cost responsibility. Currently, unregulated generators, including current and prospective renewable generators and others, are responsible for distribution connection costs because they cause those costs to be incurred.

The passage of the *GEGEA* does not alter the fact that utility ratepayers are not responsible for these connection costs because they do not cause them to be incurred. From a cost causality perspective, the situation is no different for prospective renewable generators operating under a new Feed-In Tariff ("FIT") program for procurement, which the Ontario Power Authority ("OPA") is to develop in accordance with Ministerial directives. Like other generators, they cause the distribution connection costs to be incurred.

Curiously, the criteria upon which the Board bases its Proposed Amendments do not include "cost causality". The changed criteria, which the Board now proposes to apply to determine cost responsibility, are as follows:

- (a) Anticipated beneficiary of the investment,
- (b) Efficiency, and
- (c) Harmonization.

CME suggests that those examining the issue of cost responsibility for asset costs related to connecting renewable generation to utility distribution facilities should continue to apply and ascribe the highest priority to the cost causality criterion. To do this, one asks the question: What is the primary cause for the incurrence of the costs which are the subject matter of the Proposed Amendments? The answer is clearly: Ontario Government policy is the cause.

Incremental demands of utility ratepayers are not the primary cause for the incurrence of these costs. Government policy is the cause. Accordingly, adherence to the cost causality principle leads to the inevitable conclusion that if costs are going to be shifted away from generators, then they should be shifted to taxpayers and not to distribution utility ratepayers.

2. Taxpayer Responsibility

Since Government policy is the primary cause for the incurrence of the renewable generator connection costs, it is taxpayers and not ratepayers who should be held

responsible for any costs which are currently the responsibility of new electricity generators.

In these circumstances, the Board should refrain from shifting distribution cost responsibility from generators to utility ratepayers. Any renewable generators who are unable to fulfill their distribution cost responsibilities should look to the Government for the assistance they need to fulfill those responsibilities.

3. Consideration of Proposed Amendments

Because the Proposed Amendments are incompatible with the principle of cost causality, they should not be implemented.

In the alternative, if the Board decides to refrain from continuing to adhere to the principle of cost causality, when determining the distribution cost responsibility of renewable generators, then we agree with the submissions of the Vulnerable Energy Consumers Coalition ("VECC"), a draft of which has been provided to us, to the effect that it is premature to consider the appropriateness of the Proposed Amendments.

VECC suggests that the extent to which the current distribution cost responsibility of generators is to be shifted to utility ratepayers cannot reasonably be determined before passage of the regulations contemplated by section 79.1 of the amended *Ontario Energy Board Act* ("OEB Act").

CME agrees with this submission and suggests that all questions with respect to whether it is taxpayers generally or electricity consumers generally who are to relieve renewable generators of some distribution connection cost responsibilities should be determined before any amendments are made which shift utility-specific connection cost responsibilities from generators to the ratepayers of the affected utility.

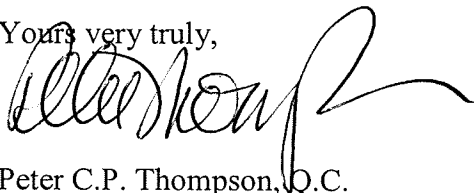
We appreciate the Board's desire to act promptly but suggest that a cautious and principled approach is preferable to a hasty decision. A careful step-by-step consideration of matters in issue tends to avoid major disruptions which hasty action can cause.

C. Costs

CME requests an award of its reasonably incurred costs in connection with this consultative.

Please contact me if there are any questions about the contents of this letter.

Yours very truly,



Peter C.P. Thompson, Q.C.

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