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CANADIAN WIND ENERGY ASSOCIATION | ASSOCIATION CANADIENNE DE L'ÉNERGIE ÉOLIENNE

July 2, 2009

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

Dear Ms. Walli:

RE: Notice of Proposal to Amend the Distribution System Code re Connection Cost Responsibility for Renewable Generation Facilities (EB-2009-0077)
- Submission of the Canadian Wind Energy Association

These are the submissions of the Canadian Wind Energy Association ("CanWEA") in respect of the Ontario Energy Board's (the "Board") Notice of Proposal to Amend a Code – Proposed Amendments to the Distribution System Code (the "Notice"), Board File No: EB-2009-0077 (the "Proposed Amendments") dated June 5, 2009. The Proposed Amendments would change the Board's approach under the Distribution System Code (the "Code") to assigning cost responsibility as between distributors and generators in relation to the connection of renewable generation facilities to distribution systems.

CanWEA is a national, not-for-profit association that works on behalf of its members to promote the responsible and sustainable growth of wind energy in Canada. CanWEA has more than 420 members, including wind turbine manufacturers and component suppliers, wind energy project developers, owners and operators, and a broad range of service providers. CanWEA's activities in Ontario are guided by its Ontario Caucus, which consists of over 100 members.

CanWEA and its members generally support the proposed amendments and the objective of facilitating implementation of the Government's policy objectives with respect to renewable energy. With a view to enhancing the effectiveness of the Proposed Amendments, we offer the following comments on specific aspects of the proposal:

810 – 170 av. Laurier Ave. W/O
Ottawa ON Canada K1P 5V5
Toll free/Sans frais > 1 800 922.6932
T > 613 234.8716 F > 613 234.5642 www.canwea.ca

1. Greater clarity is needed regarding the allocation of costs

The Proposed Amendments should go further in articulating which costs will be borne by connecting generators and which costs will be borne by host distributors. In our view, the Code definitions of "connection assets", "expansions" and "renewable enabling improvements" would be assisted by the inclusion of expanded lists of specific work activities that fall within each type of investment. The work activities listed for each investment type should include those work activities that are commonly required when connecting renewable generation facilities to distribution systems and indicating that the definition includes, but is not limited to such work activities. In this way, the Proposed Amendments could provide greater certainty to distributors and generators while preserving some flexibility to address unique situations. Greater certainty would help avert debate with respect to cost responsibility as between generators and distributors.

As a starting point, it is noted that Attachment B to the Notice identifies several examples of expansion work (i.e. the rebuilding of existing lines with larger size conductors to the generation facility location) that are not actually included in the Proposed Amendments. The Proposed Amendments should include these specific descriptions of activities that fall within the meaning of "expansion" work.

Another specific recommendation relates to the proposed section 3.3.2. This section provides that the provision of protection against islanding (transfer trip or equivalent) would be classified as a renewable enabling improvement and therefore be the responsibility of the distributor. However, where transfer trip and islanding work is required for connection assets, the allocation of cost responsibility is less clear. As such, it would be helpful if the Proposed Amendments specified that the provision of *any* work associated with protection against islanding, including transfer trips or equivalent, will *always* be deemed to be a "renewable enabling improvement" type of investment.

Finally, to help articulate the distinction between the three types of investments, it might be helpful to include a clear statement to the effect that generators will be responsible for all work on the generator's side of the ownership demarcation point (i.e. connection assets) and distributors will be responsible for all work on the distributor's side of the ownership demarcation point (i.e. expansions and renewable enabling improvements), subject to (a) "expansion" costs beyond the proposed cap, which would be the responsibility of the generator, and (b) any "renewable enabling improvement" work that a distributor deems necessary on the generator's side of the ownership demarcation point, which would be the responsibility of the distributor.

2. Greater transparency and accountability is needed with respect to costs incurred by distributors for expansions

Under the element of the Proposed Amendments that introduces the "renewable energy expansion cost cap", a distributor would be responsible for "expansion" costs up to $90,000/MW and the connecting generator would be responsible for any incremental "expansion" costs beyond this cap. For this proposed approach to work fairly, the Proposed Amendments should clarify that only the distributor's direct costs, which are **not** already covered in rates, shall qualify as "expansion" costs.

Moreover, the Proposed Amendments should include specific requirements for distributors to maintain and provide to connecting generators detailed, itemized accounts that identify exactly which

costs are being attributed to "renewable enabling improvements" and which costs are being attributed to "expansion" work, with explanation as to why each item has been classified as such. Such cost breakdowns should refer to equipment and materials used, as well as labour costs to a level of detail that allows a connecting generator to see, for example, how many hours of work are attributed to the expansion work, by what type of employees and at what rates. The enhanced transparency and accountability that would result, would help ensure that distributors do not overspend on expansion work and that work other than expansion work is not inappropriately included in this category of investment.

3. Greater clarity is needed on the relationship between contestable work and the proposed cap

With respect to expansions, section 3.2.14 of the Code requires that distributors allow customers to obtain and use alternative bids for carrying out contestable work. Section 3.2.15 provides that the preliminary planning, design and engineering specifications for expansion and connection work and work involving existing distributor assets shall be uncontestable. While the Proposed Amendments do not change these provisions, the introduction of the cap for expansion costs raises questions about how the cap will be applied in respect of work that is contestable. Generally, greater clarity is needed in this area.

In particular, it is not clear as to how the proposed cap would apply to contestable work, which is carried out on behalf of a generator by a qualified contractor other than the distributor. The objective of the contestability provisions in the Code is to provide customers with the option of reducing the amount of their capital contribution, through the sourcing of less expensive construction services. This allows for the work to be completed on the most economic basis possible. It is important that customers, particularly renewable generators, not lose the benefit of the proposed cap if they choose to exercise their right to source less expensive construction services for expansion work. Rather, connecting generators that choose to source contestable work from a less costly construction services provider should enjoy the benefits of being able to complete more of the expansion work within the proposed cap than if the work were carried out by the applicable distributor.

4. Transition issues

The Notice of Proposal indicates the Board's proposal that the amendments come into force on the date they are published on the Board's website. The Board further states that, "with respect to expansions that are associated with an application to connect, the Board clarifies that the assignment of cost responsibility as set out in the Proposed Amendments would, if adopted, apply only to the extent that the expansion relates to an application to connect made after the date on which the Proposed Amendments come into force." Rather, in our view, the assignment of cost responsibility as set out in the Proposed Amendments, if adopted, should apply to the extent that the expansion relates to (a) an application to connect made after the date on which the Proposed Amendments come into force, and (b) an application to connect made prior to the date on which the Proposed Amendments come into force, if no Connection Cost Recovery Agreement has been executed in respect of that expansion as of the date the Proposed Amendments come into force. This would eliminate the inefficient and counterproductive incentive, which would be created by the current Board proposal, for those parties who have applied for connections but who do not yet have

executed CCRA's to withdraw and resubmit their applications for connections, as they would be entitled to do.

Further Submissions

Further to the Board's decision on cost eligibility in this proceeding, in which the Board expressed its expectation that participants make every effort to co-ordinate their participation with other participants who represent similar interests or classes of persons, CanWEA hereby advises the Board that CanWEA may file supplementary submissions in this proceeding once it has the opportunity to review and consider the submissions of certain other participants representing similar interests or classes of persons. Any such supplementary submissions would be filed by no later than July 7, 2009.

All of which is respectfully submitted on July 2, 2009.

Robert Hornung
President

cc: Valerie Helbronner, Torys LLP

810 – 170 av. Laurier Ave. W/O
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