



## NOTICE OF PROPOSAL TO AMEND A CODE

### PROPOSED AMENDMENTS TO THE RETAIL SETTLEMENT CODE AND THE DISTRIBUTION SYSTEM CODE

BOARD FILE NO: EB-2009-0303

BY E-MAIL AND WEB POSTING

**To: All Licensed Electricity Distributors  
All Licensed Generators  
All Participants in Consultation Processes EB-2008-0102, EB -2009-0088  
and EB-2009-0077  
All Other Interested Parties**

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The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (the "Act") of proposed amendments to the Retail Settlement Code (the "RSC") and the Distribution System Code (the "DSC").

#### **I. Background**

##### **A. Current Regulatory Treatment of Embedded Retail Generation**

Under the current regulatory framework, an embedded retail generation facility (a facility whose output is sold to a distributor or is subject to a contract with the Ontario Power Authority ("OPA")) may be connected either directly or indirectly to a distribution system. An indirectly connected embedded retail generation facility may, in turn, be either metered "in parallel" electrically with an associated load customer (i.e., the meter for the generation facility is located upstream of the load meter) or "in series" with the associated load customer (i.e., the meter for the generation facility is located downstream of the load meter). The latter is often referred to as "behind-the-meter" generation.

In accordance with section 3.2 of the RSC, embedded retail generation facilities that are the subject of a contract with the OPA are settled in accordance with the pricing provisions of the contract and with such rules as may be determined by the Board.

Where an embedded retail generator is indirectly connected "in series", the load customer is settled on the basis of the electricity withdrawn from the distribution system net of the electricity supplied by the embedded generation facility. The alternative

would be for the load customer to be settled on the basis of all of the energy consumed by it regardless of whether the energy was provided by the embedded retail generator or the distributor (often referred to as “gross load billing”). Among other things, the current “net load billing” approach means that the load customer’s charges for non-competitive electricity costs (“NCEC”) and other volume-based charges are calculated on the basis of the customer’s (lower) net load rather than on its (higher) gross load. On November 1, 2006, the Board issued a determination under sections 1.8 and 3.2 of the RSC regarding the settlement rules for embedded retail generators (the “Settlement Determination”). In accordance with the Settlement Determination, the netting of load cannot result in a credit or payment being made to the load customer.

Where an embedded retail generator is indirectly connected “in parallel”, the generator and the associated load customer are treated independently for settlement purposes. The load customer is billed on the basis of all of the energy consumed by it, without regard to energy that may have been provided to the distribution system by the embedded generation facility.

There are currently a relatively small number of indirectly connected embedded retail generators in place in any given distributor’s service area. Settlement in the indirectly connected “in series” scenario is more complex and costly than is the case for the indirectly connected “in parallel” and directly connected configurations. It is the Board’s understanding that most, if not all, distributors are currently settling “in series” embedded retail generators manually, and that changes to their customer information systems (“CIS”) would be required to enable the automated settlement of those embedded retail generators.

## **B. The *Green Energy and Green Economy Act, 2009* and the Feed-in-Tariff Program**

The regulatory framework applicable to embedded retail generators was revised in 2006 in anticipation of the implementation by the OPA of a standard offer program (since become known as the “Renewable Energy Standard Offer Program” or “RESOP”), and has overall been well-suited to the RESOP program.

The *Green Energy and Green Economy Act, 2009* (the “GEGEA”) has now received Royal Assent, although no sections have yet been proclaimed into force. Once proclaimed the GEGEA will, among other things, amend the *Electricity Act, 1998* to make provision for the implementation of a “feed-in-tariff” (“FIT”) program by the OPA. The FIT program is designed to procure energy from renewable energy sources using standard program rules, standard contracts and standard pricing. Under amendments to the Act also set out in the GEGEA (once proclaimed), the Board will have as an objective to promote the use and generation of electricity from renewable energy sources, including generation that is subject to a FIT contract.

As part of the FIT initiative, the OPA is developing rules that are specific to - and that are intended to facilitate the increased development and use of - renewable generation of 10 kW or less. These rules, referred to as “microFIT”, are expected to greatly increase roof-mounted solar photovoltaic generation. Most of the microFIT projects are expected to have an associated load.

On July 17, 2009, the Board issued a letter indicating that it is examining its policies and regulatory instruments relating to the metering, settlement and billing of generation facilities that would qualify under the microFIT rules, and that the Board would also consider whether any microFIT-related changes should also apply to larger FIT generation. This Notice is being issued in furtherance of that initiative.

## **II. Proposed Amendments to the RSC and the DSC**

As indicated above, the FIT program is expected to result in a significant increase in the number of embedded retail generators, particularly those that are of a size to qualify under the microFIT rules.

As discussed below, the Board believes that revisions to the RSC and the DSC are warranted in order to facilitate the timely and efficient implementation of the FIT program and the more orderly administration of that program by distributors. The Board sees no reason why the proposed revisions should apply only to the microFIT portion of the FIT program, and is therefore proposing that the revisions to the RSC and the DSC apply to all embedded retail generators that are the subject of a FIT contract, regardless of size. The text of the proposed amendments to the RSC is set out in Attachment A and the text of the proposed amendment to the DSC is set out in Attachment B.

The Board acknowledges that, in the letter accompanying the Settlement Determination, the Board stated that it did not wish to pre-empt the work of the “Fundamental Rate Design” initiative (EB-2007-0031), nor did it want to allow embedded retail generators to be treated differently than other distributed generators. As indicated in the Board’s April 16, 2009 Notice of Hearing for Cost Awards, the Board has decided to defer the Fundamental Rate Design initiative. The advent of the GEGEA and the imminent implementation of the FIT program necessitate that resolution of these issues be addressed in the near term, and that they be addressed in a manner that reflects the Board’s objectives as revised by the GEGEA (once proclaimed).

### **A. Customer Choice for Connection Configurations**

As noted above, embedded retail generators may be connected to a distribution system under different configurations. The cost of the installation can vary depending on the configuration that is chosen. In some instances, the cost of connecting indirectly “in series” is far less than the cost of connecting indirectly “in parallel”.

In the Board’s view, it remains appropriate to allow customers to choose the configuration that they consider optimal. The Board is therefore not proposing to impose limitations on the type of connection configuration that can be implemented.

### **B. Standardizing Settlement for Connection Configurations**

The Board believes that the timely and efficient implementation and administration of the FIT program will be supported by billing and settlement rules that:

- are as administratively simple as possible for distributors, generators and load customers;
- provide for the uniform application of charges for all customers, regardless of connection configuration; and
- avoid or defer potentially costly CIS system investments or upgrades.

### 1. *Gross Load Billing*

The Board believes that settlement and billing based on a “gross load billing” approach satisfies the above criteria. It will provide consistency in metering, settlement and billing for all FIT-contracted embedded retail generation, regardless of configuration. It will also simplify the administration of the FIT program by distributors, both in relation to settlement with the OPA and in relation to settlement with the embedded retail generator and the associated load customer. Standardization of the approach to settlement and billing is consistent with the standardized nature of the FIT program, and in the Board’s view will also facilitate customer understanding of the program and therefore potentially increase uptake.

The Board acknowledges that, under the gross load billing approach, a load customer associated with a FIT-contracted embedded retail generator that is indirectly connected “in series” would be required to pay NCEC and other volume-based charges which would be avoided (in part) if these were determined based on a net load billing approach. However, it is the Board’s understanding that the prices to be paid under the FIT program are being set by the OPA at a level that would allow for a reasonable rate of return, and that no assumption is being made that the load customer might reduce its load bill by choosing an “in series” configuration. The Board also notes that the gross load billing approach will provide load customers with stronger incentives to undertake energy efficiency and conservation measures to reduce their total load bill, in keeping with the government’s policy objectives in relation to electricity conservation and demand management as reflected in the GEGEA.

The Board is proposing that the above approach apply only in relation to a renewable generation facility that has a contract with the OPA under the FIT program. All other embedded retail generation, including those with a RESOP contract, will remain subject to the settlement and billing rules as they currently exist. Upon completion of this notice and comment process, if the Board adopts the proposed amendments to the RSC as set out in Attachment A the Board will also revise the Settlement Determination to clarify that it does not apply to FIT-contracted generation.

The Board is proposing to amend sections 3.2, 4.1 and 4.2 of the RSC to give effect to the approach described above. The Board notes that appropriate metering will be required to ensure that settlement in relation to an indirectly connected “in series” configuration is based on total consumption, whether withdrawn from the distribution system or supplied by the embedded retail generator. However, the Board does not believe that any amendments to the RSC or the DSC are required in that regard.

## 2. *Customer Accounts and Service Charges*

At the present time, distributors are expected to treat embedded retail generators differently in terms of customer accounts depending on the configuration. Specifically, embedded retail generators that are directly connected or indirectly connected “in parallel” are expected to be treated as separate customer accounts, whereas embedded retail generators that are indirectly connected “in series” are not. This was appropriate in the context of the RESOP program and of the Settlement Determination. However, as noted above, the Settlement Determination is not proposed to apply in the context of FIT-contracted embedded retail generation. In addition, the Board anticipates that under the FIT program, there may be a greater likelihood that an embedded retail generation facility will not be owned by the associated load customer.

The Board is therefore proposing to amend the DSC (section 1.10) to require distributors to open a separate account for any embedded retail generator that has a FIT contract, regardless of configuration, and to treat such embedded retail generator as a separate customer for settlement purposes (separate and apart from the associated load customer).

The Board recognizes that there is no uniform practice amongst distributors with respect to the amount or billing of service charges in relation to embedded retail generators. The Board believes that standardization across the Province is desirable in relation to this issue, in keeping with the standardized nature of the FIT program. The Board intends to initiate a separate proceeding to determine an appropriate standard service charge applicable to FIT-contracted embedded retail generators. Accordingly, this issue is not addressed in the proposed amendments.

## III. **Anticipated Costs and Benefits**

The proposed amendments to the RSC and the DSC as described above and set out in Attachments A and B will facilitate the timely, efficient and orderly implementation and administration of the FIT program, and therefore promote the connection and use of renewable resources in keeping with the government’s policy objectives as reflected in the GEGEA.

The Board anticipates that distributors will be required to incur costs in relation to FIT-contracted generation regardless of the approach taken by the Board in terms of settlement and billing. However, the Board believes that standardization of settlement and billing across all connection configurations will minimize those costs, including in relation to CIS system investments or upgrades.

Under the proposed amendments to the RSC, load customers associated with FIT-contracted generators that are indirectly connected “in series” would not be able to avoid the payment of NCEC or other volume-based charges associated with distribution system withdrawals that have been displaced by the embedded retail generation facility. However, customers will retain the ability to choose the configuration that they consider optimal, and in some instances the choice of the “in series” configuration can substantially reduce their installation costs.

The proposed amendment to the DSC will ensure that all FIT-contracted embedded retail generators are treated in the same manner in relation to customer accounts regardless of the service area in which they are located and regardless of configuration. This approach will also provide distributors with the necessary flexibility to accommodate settlement in circumstances where the embedded retail generator and the load customer are not the same person or entity. While distributors may incur incremental costs in relation to the administration of a second account, the Board anticipates that these costs will be more than off-set by the savings that are expected to result from the proposal to settle “in series” embedded retail generation configurations on a gross load billing basis.

The Board believes that the benefits of the proposed amendments will outweigh any costs.

#### **IV. Coming Into Force**

The Board is proposing that the proposed amendments to the RSC set out in Attachment A and the proposed amendment to the DSC set out in Attachment B come into force on the date on which they are published on the Board’s website after having been made by the Board.

#### **V. Cost Awards**

Cost awards will be available under section 30 of the Act to eligible persons in relation to the provision of comments on the proposed amendments to the RSC and the DSC set out in Attachments A and B. Costs awarded will be recovered from all licensed electricity distributors based on their respective distribution revenues. Attachment C contains important information regarding cost awards for this notice and comment process, including in relation to eligibility requests and objections.

**In order to facilitate a timely decision on cost eligibility, the deadlines for filing cost eligibility requests and objections will be strictly enforced.**

#### **VI. Invitation to Comment**

All interested parties are invited to make written comments on the proposed amendments to the RSC and the DSC set out in Attachments A and B by **August 26, 2009**.

Three (3) paper copies of each filing must be provided, and should be sent to:

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

The Board requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca). A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca), and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on the "e-filing services" webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at [boardsec@oeb.gov.on.ca](mailto:boardsec@oeb.gov.on.ca).

Those that do not have internet access should provide a CD or diskette containing their filing in PDF format.

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2009-0303** and include your name, address, telephone number and, where available, your e-mail address and fax number.

This Notice, including the attached proposed amendments to the RSC and the DSC and all written comments received by the Board in response to this Notice, will be available for public viewing on the Board's web site at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) and at the office of the Board during normal business hours.

If you have any questions regarding the proposed amendments to the RSC and the DSC described in this Notice and set out in Attachments A and B, please contact Russ Houldin at 416-440-8112. The Board's toll free number is 1-888-632-6273.

**DATED** at Toronto, August 5, 2009.  
**ONTARIO ENERGY BOARD**

Original signed by

Kirsten Walli  
Board Secretary

Attachments:

Attachment A: Proposed Amendments to the Retail Settlement Code  
Attachment B: Proposed Amendments to the Distribution System Code  
Attachment C: Cost Awards

## Attachment A

### Proposed Amendments to the Retail Settlement Code

**Note: The text of the proposed amendments is set out in italics below, for ease of identification only.**

1. Section 3.2 of the Retail Settlement Code is amended by adding the following paragraph immediately before Equation 3.2(e):

*Notwithstanding any other provision of this Code, where an embedded retail generator that has a contract issued under the feed-in-tariff program referred to in section 25.35 of the Electricity Act is connected on the customer side of a connection point (as set out in section 1.9 of the Distribution System Code), the charges for competitive electricity costs payable by the associated load customer shall be calculated based on the total amount of electricity consumed at the load customer's premises, whether withdrawn from the distribution system or supplied by the embedded retail generator. This rule applies regardless of the electrical configuration of the load and generation meters.*

2. Section 4.1 of the Retail Settlement Code is amended by adding the following paragraph to the end of that section:

*Notwithstanding any other provision of this Code, where an embedded retail generator that has a contract issued under the feed-in-tariff program referred to in section 25.35 of the Electricity Act is connected on the customer side of a connection point (as set out in section 1.9 of the Distribution System Code), the charges for non-competitive electricity costs payable by the associated load customer shall be calculated based on the total amount of electricity consumed at the load customer's premises, whether withdrawn from the distribution system or supplied by the embedded retail generator. This rule applies regardless of the electrical configuration of the load and generation meters.*

3. Section 4.2 of the Retail Settlement Code is amended by adding the following paragraph to the end of that section:

*Notwithstanding any other provision of this Code, where an embedded retail generator that has a contract issued under the feed-in-tariff program referred to in section 25.35 of the Electricity Act is connected on the customer side of a connection point (as set out in section 1.9 of the Distribution System Code), the charges for distribution services payable by the associated load customer shall be calculated based on the total amount of electricity consumed at the load customer's premises, whether withdrawn from the distribution system or supplied by the embedded retail generator. This rule applies regardless of the electrical configuration of the load and generation meters.*



## Attachment B

### Proposed Amendment to the Distribution System Code

**Note: The text of the proposed amendment is set out in italics below, for ease of identification only.**

Section 1 of the Distribution System Code is amended by adding the following immediately after section 1.9:

#### **1.10 *Separate Accounts for Embedded Retail Generators***

*Where an embedded retail generator that has a contract issued under the feed-in-tariff program referred to in section 25.35 of the Electricity Act is connected on the customer side of a connection point (as set out in section 1.9), the distributor shall open a separate account for the embedded retail generator and shall for settlement purposes treat the embedded retail generator as a separate customer, separate and apart from any associated load customer. This rule applies regardless of the electrical configuration of the load and generation meters and regardless of whether the embedded retail generator and the associated load customer are the same person or entity.*

## Attachment C

### Cost Awards

#### Cost Award Eligibility

The Board will determine eligibility for costs in accordance with its *Practice Direction on Cost Awards*. Any person intending to request an award of costs must file with the Board a written submission to that effect by **August 12, 2009**, identifying the nature of the person's interest in this process and the grounds on which the person believes that it is eligible for an award of costs (addressing the Board's cost eligibility criteria as set out in section 3 of the Board's *Practice Direction on Cost Awards*). An explanation of any other funding to which the person has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known. All requests for cost eligibility will be posted on the Board's website.

Licensed electricity distributors will be provided with an opportunity to object to any of the requests for cost award eligibility. If an electricity distributor has any objections to any of the requests for cost eligibility, such objections must be filed with the Board by **August 17, 2009**. Any objections will be posted on the Board's website. The Board will then make a final determination on the cost eligibility of the requesting participants.

#### Eligible Activities

Cost awards will be available in relation to the provision of comments on the proposed amendments to the RSC and the DSC set out in Attachments A and B **to a maximum of 10 hours**.

#### Cost Awards

When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied. The Board expects that groups representing the same interests or class of persons will make every effort to communicate and co-ordinate their participation in this process.

The Board will use the process set out in section 12 of its *Practice Direction on Cost Awards* to implement the payment of the cost awards. Therefore, the Board will act as a clearing house for all payments of cost awards in this process. For more information on this process, please see the Board's *Practice Direction on Cost Awards* and the October 27, 2005 letter regarding the rationale for the Board acting as a clearing house for the cost award payments. These documents can be found on the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) on the "Rules, Guidelines and Forms" webpage.