NOTICE OF REVISED PROPOSAL TO AMEND A CODE

REVISED PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE

BOARD FILE NO: EB-2009-0077

To: All Licensed Electricity Distributors
All Licensed Generators
All Participants in Consultation Process EB-2009-0077

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

I. Background

A. The June Proposed Amendments

On June 5, 2009, the Board issued a Notice of Proposal to Amend a Code (the "June Notice") in which it proposed a number of amendments to the DSC (the "June Proposed Amendments") that would revise the Board's current approach to assigning cost responsibility as between a distributor and a generator in relation to the connection of renewable generation facilities to distribution systems in a manner that would facilitate implementation of the Government's policy objectives regarding renewable generation. Under the June Proposed Amendments:

- distribution system investments related to the connection of renewable generation facilities would be classified within three general categories: "connection assets"; "expansions"; and "renewable enabling improvements";

- "connection assets" would continue to be paid for by generators;

- cost responsibility for "expansions" would be assigned as follows:

- where the expansion is in a Board-approved plan or is otherwise approved or mandated by the Board, the distributor would be responsible for all of the costs of the expansion; and

- in all other cases, the distributor would be responsible for the costs of the expansion up to a "renewable energy expansion cost cap" ($90,000 per MW of capacity of the connecting generator), and the generator would be responsible for all costs above that amount; and

- the distributor would bear all of the costs of "renewable enabling improvements".

The Board received 28 comments on the June Proposed Amendments from a variety of stakeholders, including the Ontario Power Authority ("OPA"), the Ontario Ministry of Agriculture, Food and Rural Affairs ("OMAFRA"), and representatives of distributors, generators, ratepayers and aboriginal communities. These are available for viewing on the Board's website at www.oeb.gov.on.ca on the "Distribution Connection Cost Responsibility" webpage which can be accessed from the "Green Energy Initiatives" portion of the website.

The Board has considered the comments received and has determined that revisions should be proposed to the June Proposed Amendments. The text of the revised proposed amendments (the "Revised Proposed Amendments") is set out in Attachment A to this Notice. For convenience, Attachment B contains a comparison version that shows all of the proposed revisions relative to the June Proposed Amendments.

B. Legislative Developments Since Issuance of the June Proposed Amendments

When the Board issued the June Proposed Amendments, the *Green Energy and Green Economy Act, 2009* had received Royal Assent, but had not yet been proclaimed. As noted in sections II and III.B below, in response to the June Notice a number of participants expressed concern regarding the Board proceeding with amendments regarding cost responsibility until the associated legislative framework has been completed.

The Board notes that all of the amendments to the *Electricity Act, 1998* and all of the amendments to the *Ontario Energy Board Act, 1998* contained in the *Green Energy and Green Economy Act, 2009* that are relevant to the subject-matter of this consultation were proclaimed into force on September 9, 2009. These include the amendment to the Act (subsection 1(1)) that adds a new objective for the Board in relation to the promotion of generation from renewable energy

sources, as well as the amendment to the Act (section 79.1) regarding the recovery of distributor costs associated with generator connections.

In addition, on September 9, 2009 a regulation was filed that completes the legislative framework for the cost recovery mechanism set out in section 79.1 of the Act (O. Reg. 330/09 (Cost Recovery re Section 79.1 of the Act)). In summary, the legislative framework provides as follows:

- a distributor is entitled to compensation (also referred to as rate protection) for Board-approved costs incurred in making an "eligible investment" to connect or enable the connection of a "qualifying generation facility";

- an investment is an "eligible investment" if the associated costs are the responsibility of the distributor as set out in the DSC;

- a "qualifying generation facility" is a generation facility that satisfies the criteria necessary to be a renewable energy generation facility;

- the compensation to which a distributor is entitled will be recovered from consumers throughout the Province; and

- the compensation to which a distributor is entitled in relation to any given eligible investment will be calculated as the distributor's costs associated with the investment less any amount that the Board determines to represent the direct benefits that accrue to the distributor's consumers as a result of all or part of the investment.

The June Proposed Amendments proposed to shift responsibility for certain costs associated with the connection of renewable generation facilities from generators to distributors. The recent legislative developments make it clear that distributors are eligible for compensation or rate protection under section 79.1 of the Act in relation to all renewable generation connection costs that are proposed to be their responsibility under the DSC, provided that they are approved by the Board and subject to the Board's assessment of any associated local benefits.

In the June Notice, the Board indicated that cost recovery is an issue that can be addressed separate and apart from that of cost responsibility. The Board remains of that view. Nonetheless, the Board confirms that its proposed approach to cost responsibility as set out in the June Proposed Amendments remains appropriate in the context of O. Reg. 330/09, subject only to the proposed revisions described in section III.A below.

II. Overview of Comments Received

The comments received from stakeholders covered a number of issues associated with the Board's proposed approach as described in the June Notice and the June Proposed Amendments. Distributor and generator representatives were generally supportive of the overall approach, although some sought greater clarity and some favoured reducing the cost burden borne by generators by more than that proposed in the June Proposed Amendments. Representatives of ratepayers were generally not supportive of the proposed approach, favouring retention of the Board's current cost responsibility model in which all of the costs of connection are borne by generators.

A number of participants expressed concern regarding the Board proceeding with amendments regarding connection cost responsibility until the legislative framework related to connection cost responsibility has been completed. This includes, notably, the regulations contemplated in section 79.1 of the Act (as noted above, this particular regulation has now been made) regarding the recovery of costs associated with generator connections. Other comments related to the definitions for each of the three investment categories, the basis for and the level of the "renewable energy expansion cost cap", the administration of rebates, and the application of the June Proposed Amendments to certain projects.

Further detail regarding the comments received, and the extent to and manner in which they are proposed to be addressed by the Board, is set out in section III below.

III. Proposed Revisions to the June Proposed Amendments

A. Issues Where Revisions to the June Proposed Amendments are Proposed

As discussed in section III.B below, the Board is proposing to retain the overall approach to generation connection cost responsibility as set out in the June Notice and the June Proposed Amendments. However, based on the comments received, the Board is proposing a certain number of revisions to the June Proposed Amendments. This section describes those proposed revisions.

i. *Definition of "Connection Assets"*

A number of stakeholders expressed a need for greater clarity regarding the definition of "connection assets" in order to reduce uncertainty regarding cost responsibility. Specifically, some stakeholders expressed a need for greater clarity regarding the interpretation of the phrase "is not, at the time of construction, reasonably expected to connect any other customer".

Connection assets are, by nature and design, assets that generally have the potential to serve only the connecting customer. However, given the concerns expressed by stakeholders the Board is proposing to delete the proposed amendment that would have added the phrase referred to above, and to leave the existing definition as is. Instead, the Board is proposing to provide further clarity by revising the definitions of "expansion" and "renewable enabling improvement" as described below.

The Board takes this opportunity to remind distributors that the Board expects distributors to expand or build out their distribution systems to reach connecting customers, and not the other way around. As such, the Board expects that distributors will not classify as connection assets lines designed to reach from the existing main distribution system to the customer's location.

ii. *Definition of "Expansion"*

A number of stakeholders expressed a need for greater clarity about the assets and facilities that would fall into the category of "expansions" in order to reduce uncertainty regarding cost responsibility. The Board agrees that it would be useful to provide greater clarity in this area and is proposing to revise the definition of "expansion" in section 1.2 of the DSC and add a new section 3.2.30 to the DSC that provides an expanded list of specific investments or assets that fall within the category of "expansions". These proposed revisions are based, in large part, on input provided by Hydro One.

In response to stakeholder comments, the Board is also proposing to revise the definition of "expansion" to make it clear that an expansion may be triggered by either one or more than one connection request.

iii. *Definition of "Renewable Enabling Improvement"*

A number of stakeholders expressed a need for greater clarity about the assets and facilities that would fall into the category of "renewable enabling improvements" in order to reduce uncertainty regarding cost responsibility. The Board agrees that it would be useful to provide greater clarity in this area and is proposing to revise section 3.3.2 of the DSC accordingly by providing an expanded list of specific investments or assets that fall within the category of "renewable enabling improvements". These revisions are also based, in large part, on input provided by Hydro One.

The list of investments set out in section 3.3.2 of the DSC includes "the provision of protection against islanding (transfer trip or equivalent)". Some stakeholders requested clarity about whether this means that transfer trip equipment located at a renewable generation facility is a "renewable enabling improvement". The Board's confirms that any assets or equipment located on the customer side of the point of connection do not form part of the main distribution system and are

properly classified as connection assets, even if they are assets or equipment identified in section 3.3.2.

iv. *Administration of Rebates*

Some stakeholders expressed concerns regarding the administration of rebates under the Board's proposed approach to cost responsibility.

Section 3.2.27 of the DSC addresses rebates to initial contributor(s) in the event that unforecasted customers connect to assets for which the initial contributor(s) made a capital contribution. The Board acknowledges that some revisions to the DSC are warranted to clarify how rebates are to be treated in the following circumstances: (a) when a renewable energy generator connects to the distribution system in respect of an expansion that was initially funded by either a load customer or a generator customer to whom the renewable energy expansion cost cap does not apply (i.e., generation projects that would pre-date the coming into force of the Revised Proposed Amendments); and (b) when a new customer connects to the distribution system in respect of an expansion that was previously funded by a renewable energy generator (i.e., where the cost of the expansion exceeded the initial generator's renewable energy expansion cost cap).

With respect to (a), the Board is proposing that a rebate be paid to the initial contributor(s). The rebate would be paid by the distributor to the initial contributor(s) and the connecting renewable generator's renewable energy expansion cost cap would be reduced by an equivalent amount. For example, if the connecting renewable generator's project is 1 MW and the rebate payable to the initial contributor is $30,000, the distributor would pay $30,000 to the initial contributor and reduce the generator's renewable energy expansion cost cap to $60,000 ($90,000 minus $30,000). Where the amount of the rebate exceeds the connecting generator's renewable energy expansion cost cap, the distributor would collect any amount of the rebate that exceeds the cap from the connecting generator. For example, if the connecting renewable generator's project is 1 MW and the rebate payable to the initial contributor is $120,000, the distributor would pay $120,000 to the initial contributor and collect $30,000 from the connecting generator ($120,000 minus $90,000).

With respect to (b), the Board is of the view that there should be no rebate payable to the initial renewable energy generator because, under the proposed approach, the generator would have previously benefitted from the reduction in connection costs provided by the proposed cost responsibility treatment for expansions and renewable enabling improvements.

The Board is proposing to amend the DSC (new sections 3.2.27A and 3.2.27B) to reflect the above approach.

v. *Application of the "Renewable Energy Expansion Cost Cap" where Multiple Generators Connect*

Some stakeholders requested clarification regarding how the renewable energy expansion cost cap would be applied and the remaining costs allocated in the event that an expansion was undertaken in response to more than one connection request. The Board believes that, in such a case, the renewable energy expansion cost cap should be determined based on the aggregate capacity of the generation projects (for example, if three projects of 5 MW each sought to connect, the aggregate capacity would be 15 MW and the available renewable energy expansion cost cap would be $1.35 million). Any costs in excess of the cap would be allocated to the connecting renewable generators on a pro rata basis based on the name-plate rated capacity of each of the connecting generation facilities. The Board is proposing to amend the DSC (new sections 3.2.5B and 3.2.5C) accordingly.

vi. *Enhancement Costs*

The June Proposed Amendments included proposed amendments to the DSC in relation to cost responsibility for "enhancements". As indicated in the June Notice, the concept of enhancements lends itself to system investments that are planned and effected to address matters related to loads. The Board proposed to revise the definition of "enhancement" accordingly to clarify that enhancements do not include renewable enabling improvements. The Board also proposed to create symmetry in the assignment of cost responsibility for renewable enabling improvements and enhancements by having distributors bear the costs of enhancements (section 3.3.3 and section B.1 of Appendix B of the DSC).

Distributors expressed concern about the proposed amendments to section 3.3.3 and section B.1 of Appendix B of the DSC. Specifically, they noted that many distributors have had their rates set or are filing their cost of service applications based in part on the application of the existing methodology for determining cost responsibility and that these proposed amendments may have a significant impact on their capital requirements. The Board acknowledges this concern, and is proposing to revise the June Proposed Amendments (new section 3.3.4 and new paragraph (d.1) in section B.1 of Appendix B of the DSC) to confirm that those proposed amendments do not apply to a distributor until the distributor's rates have been rebased.

B. Issues Where No Revisions to the June Proposed Amendments are Proposed

This section sets out the Board's views on a number of issues associated with the June Proposed Amendments with respect to which the Board is not proposing any revisions.

i. *Approach to Connection Cost Responsibility*

Representatives of ratepayers expressed objections to the June Proposed Amendments on two main grounds. First, they commented that the June Proposed Amendments are inappropriate because they are incompatible with the principle of cost causality. Second, as noted above, they commented that the issue of cost recovery cannot be addressed separate and apart from that of cost responsibility, and therefore that any changes to the DSC should be delayed because, among other things, the Government had not yet made: (a) any regulation under section 79.1 of the Act; and (b) the new regulation-making power that empowers the Lieutenant Governor in Council to make regulations prescribing circumstances under which a transmitter or distributor shall bear the costs of construction, expansion or reinforcement associated with the connection of a renewable energy generation facility to the transmitter's transmission system or the distributor's distribution system (subsection 88(1)(g)(6.0.1) of the Act, added by the *Green Energy and Green Economy Act, 2009*).

As noted by the Board in the June Notice, the amendments to the Act set out in the *Green Energy and Green Economy Act, 2009* make it clear that the connection of renewable energy generation facilities is a policy matter of priority for the Government. The June Proposed Amendments were developed by the Board in order to facilitate the implementation of that policy. The Board remains of the view that the approach to connection cost responsibility embodied in the June Proposed Amendments will achieve that objective in a manner that is efficient, reflective of the anticipated beneficiary(ies) of different types of distribution system investments, and aligns the Board's cost responsibility rules with the obligations of distributors to plan to expand their systems as directed by the Board in order to accommodate renewable generation.

While cost causality is an important rate-making principle, the Board can and does apply other principles and account for other considerations in its decision-making. Other factors (i.e., the *Green Energy and Green Economy Act, 2009*) may come into play that the Board should consider.

With regards to cost recovery under section 79.1 of the Act versus cost responsibility, as discussed in section I.B above, the relevant regulation has now been made. As stated in the June Notice, the Board is aware of the new regulation-making power set out in subsection 88(1)(g)(6.0.1) of the Act, and recognizes that as and when any such regulations are made, the Board may

need to revisit the policies proposed in the June Notice and in this Notice. However, the Board is not persuaded that it is necessary or appropriate to defer completion of this initiative for that reason.

In addition to the views expressed by representatives of ratepayers, some representatives of distributors articulated a general concern about the shifting of cost responsibility for expansions and renewable enabling improvements that underlies the Board's proposed approach. Specifically, they were concerned that the proposed rules could impose a significant financial burden on distributors. As noted above, in accordance with O. Reg. 330/09 the cost of all of the investments that are proposed to be funded by a distributor are eligible to be recovered from consumers across the Province, provided that they are approved by the Board and subject to the Board's assessment of any associated local benefits. This will assist in mitigating the financial impact of the proposed approach on a given distributor. In addition, as set out in the Board's "Guidelines: Deemed Conditions of Licence: Distribution System Planning" (G-2009-0087), distributors who anticipate substantial expenses related to qualifying renewable connection investments and activities may apply for a funding adder to obtain advance funding for these investments and activities.

The Board notes the concerns expressed by some stakeholders to the effect that the Board's proposed approach does not create incentives for either distributors or generators to minimize costs. As discussed below, the Board's proposal to retain generator cost responsibility for upstream upgrades is expected to preserve incentives for generators to select more efficient connection points. With respect to distributors, the Board is satisfied that its regulatory oversight of distributor activities will allow it to ensure that distributor investments are prudent and reasonable in the circumstances.

ii. *Definition of "Main Distribution System"*

Some stakeholders stated that the term "main distribution system" in the DSC should be defined. The term "main distribution system" has been used in the DSC for some time to distinguish between connection assets (which are not part of the "main distribution system") and all other portions of a distribution system. The Board is not aware of this concept having been previously identified as a source of uncertainty, and does not believe that any further revisions to the DSC are required in relation to this issue.

iii. *Determining the "Renewable Energy Expansion Cost Cap"*

Many stakeholders commented on the level of the renewable energy expansion cost cap in the June Proposed Amendments ($90,000 for each MW of capacity). Representatives of generators generally argued that it is too low (for example, one generator representative recommended that the cap be raised to $125,000 per MW of capacity). In contrast, one distributor representative and ratepayer representatives generally argued that the cap is too high (for example, the

distributor representative recommended that the cap be lowered to $75,000 per MW of capacity).

Stakeholders also commented on the basis of the cap. Some recommended that the cap be based on a generation facility's anticipated production or capacity factor rather than on name-plate rated capacity (per MW). Some stakeholders suggested that the cap could be based on a $/km basis. In addition, some commented that it may be appropriate for the cap to vary by distributor or region (e.g., rural vs. urban), while others suggested that more should be done to reduce connection costs for farm and community-based renewable energy projects.

The Board acknowledges that there are alternatives to the methodology that the Board has proposed for setting the renewable energy expansion cost cap that may not be inappropriate. However, the alternatives suggested by stakeholders, such as those based on anticipated production and capacity factor, would appear to entail greater complexity, and the Board is not persuaded that any incremental benefits or advantages that may flow from an alternative methodology are sufficient to outweigh the added complexity. In addition, the Board believes that a thorough evaluation and the appropriate implementation of any alternative methodology cannot be done without actual production and connection cost data that will only become available as the connection of renewable generation facilities to distribution systems becomes more widespread. The Board has therefore concluded that the basis for determining the renewable energy expansion cost cap (based on representative expansion costs) as set out in the June Proposed Amendments should not be changed at this time.

With respect to the amount of the cap, as stated in the June Notice the Board's proposed cap of $90,000 per MW of capacity was developed based on a review of distributor rate applications and discussions with certain distributors. The Board indicated in the June Notice that it would be assisted in particular by further data regarding the expansion costs typically associated with the connection of generation facilities. The comments received in response to the June Notice generally did not provide such data, or did not provide it at a necessary level of detail. Accordingly, the Board has no basis on which to believe that the cap as proposed materially underestimates or overestimates expansion costs. The Board may, with the benefit of additional data and further experience regarding expansion costs associated with the connection of renewable generation facilities, revisit the amount of the cap if warranted.

iv. *Upstream Costs*

Some stakeholders commented that it was unclear how cost responsibility for upstream costs for certain investments would be assigned. In particular, some stakeholders expressed uncertainty about who would bear the costs of upstream renewable enabling improvements. As indicated in the June Notice, the DSC is

generally silent on the issue of cost responsibility for upstream upgrades, and the practice is for distributors to pass these costs on to the connecting generator. The Board confirms that the cost responsibility rules set out in the June Proposed Amendments and in these Revised Proposed Amendments relate specifically to investments made by the distributor to whose system the renewable generation facility is connecting. The costs of any upgrades to the system of a host distributor or of a transmitter, including upgrades that would qualify as a renewable enabling improvement if made by the distributor to which the generation facility is connecting, would continue to be the responsibility of the generator.

Some stakeholders recommended that the renewable energy expansion cost cap should be applied towards the funding of upstream host distributor and transmitter upgrade costs triggered by the generator connection. In other words, where the cost of connecting to a distribution system is below the cap, the remaining amount should be available to the generator to off-set the cost of any host distributor or transmitter upgrades.

The Board believes that inclusion of these upstream costs for purposes of calculating the renewable energy expansion cost cap may reduce incentives for renewable generation proponents to select efficient connection points. For example, if upstream costs were included as part of the cap, a 10 MW generator (with a $900,000 renewable energy expansion cost cap) would be indifferent between: (1) a connection point at an embedded distribution system which triggered embedded expansion costs of $400,000 and upstream (host distributor) expansion costs of $500,000; and (2) connecting to the host distributor triggering $500,000 in expansion costs with no further upstream costs. In such situations, the generator's preferred connection point would be based on minimizing the costs of its connection assets without regard for the costs associated with the expansion of the distribution and/or transmission system.

Therefore, excluding upstream costs from the calculation of the renewable energy expansion cost cap will impose discipline on the costs associated with the connection of distributed renewable generation by providing incentives for generators to seek out lower cost connection points.

The Board recognizes that some generation proponents will have greater flexibility in terms of siting than others. The Board expects that host distributors will be mindful of the implications of renewable generation connections that are anticipated to occur to the systems of their embedded distributors, and will plan their own systems accordingly. This is part and parcel of responsible planning to accommodate renewable generation. As such, the Board therefore also expects that the distribution system planning process, and the cost responsibility consequences that flow from it particularly in relation to renewable enabling improvements, can mitigate the implications of limited siting flexibility.

v. *Aboriginal Consultation and First Nations/Northern Communities*

The national representative organization for the First Nations in Canada recommended that, because of certain issues of a predominantly socio-economic nature relating to First Nations communities, the Board should exempt renewable energy generation projects from all connection related costs where there is an aboriginal or aboriginal partnership proponent.

The Board understands these concerns, but believes that any resolution of these issues is more properly addressed by means other than rules associated with cost responsibility for connecting distributed renewable generation. The Board notes, in this regard, that the *Green Energy and Green Economy Act, 2009* gives the Minister of Energy and Infrastructure the authority to direct the OPA to implement procedures for consulting aboriginal peoples (among others) in relation to the planning and development of distribution systems and to establish measures to facilitate the participation of aboriginal peoples in the development of renewable generation facilities and distribution systems.

vi. *Contestable Work/Alternative Bid Option*

Some stakeholders expressed a need for greater clarity regarding the application of the DSC rules regarding contestable work and the alternative bid option for projects that would be subject to the proposed new cost responsibility rules.

Under section 3.2.14 of the DSC, a customer that is required to pay a capital contribution is entitled to obtain and use alternative bids for contestable work associated with an expansion. The Board confirms that the contestability and alternative bid provisions of the DSC apply in circumstances where the cost of an expansion exceeds the renewable energy expansion cost cap, such that the renewable generator is making a capital contribution towards the cost of the expansion. The Board confirms that this is the case regardless of the dollar amount of the capital contribution.

vii. *Combined Heat and Power Generation*

Some stakeholders commented that the proposed approach to connection cost responsibility should be extended to distributed combined heat and power ("CHP") generation projects. The Board notes that the *Green Energy and Green Economy Act, 2009* is intended to facilitate and promote the connection of *renewable generation,* and that the Board's new objective is worded as such. A CHP generation project that wished to be subject to the proposed new cost responsibility rules could achieve that end by qualifying as a "renewable energy generation facility".

IV. Anticipated Costs and Benefits

The anticipated costs and benefits of the June Proposed Amendments were set out in the June Notice, and interested parties should refer to the June Notice for further information in that regard.

The Board believes that the Revised Proposed Amendments will provide greater clarity in terms of the implementation of the proposed connection cost responsibility rules relative to the June Proposed Amendments. The Board does not believe that the Revised Proposed Amendments will result in incremental costs for distributors, generators or ratepayers relative to the costs associated with implementation of the June Proposed Amendments.

V. Coming Into Force

As was the case with the June Proposed Amendments, the Board is proposing that the Revised Proposed Amendments to the DSC come into force on the date on which they are published on the Board's website after having been made by the Board.

In the June Notice, the Board stated that the assignment of cost responsibility under the June Proposed Amendments would only apply on a prospective basis to expansions that relate to an application to connect made after the date on which the June Proposed Amendments come into force. Some stakeholders requested more clarity regarding the meaning of an "application to connect" with respect to the projects that would be captured by the June Proposed Amendments. Further, some stakeholders recommended that certain generation projects in the process of connecting to the distribution system prior to the coming into force of the proposed amendments should benefit from the proposed amendments. For example, one stakeholder recommended that the June Proposed Amendments should apply to all generation projects other than those that have been connected to the distribution system and reached commercial operations by the date of coming into force of the June Proposed Amendments.

The Board does not believe that generation projects that commenced the connection process prior to the date of coming into force of the proposed new connection cost responsibility rules should be subject to those rules. Such projects were developed and proceeded with the connection process on the basis of the current cost responsibility rules and those rules and the resultant costs would have been factored in to the project economics.

With respect to distribution system investments related to the connection of renewable generation facilities that are intended to be covered by the Revised Proposed Amendments, the Board confirms that the Revised Proposed Amendments would, if adopted, apply only to investments associated with renewable generation projects for which an application to connect was made on,

or after, the date on which the Revised Proposed Amendments come into force. The date of application means the date on which the generator files with a distributor the necessary materials to formally request a connection to the distribution system as described in the applicable portion of Appendix F of the DSC ("Process and Technical Requirements for Connecting Embedded Generation Facilities"), which describes the different steps in the connection process for different sizes of generation facility. As set out in Appendix F of the DSC, in applicable cases the application to connect would include a request for a connection impact assessment.

VI. 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 Revised Proposed Amendments set out in Attachment A, **to a maximum of 10 hours**.

VII. Invitation to Comment

All interested parties are invited to comment in writing on the Revised Proposed Amendments to the DSC set out in Attachment A by **September 25, 2009**. The Board does not intend to revisit its proposal to adopt the approach to connection cost responsibility, the basis and level of the "renewable energy expansion cost cap", or the approach to the issues identified in section III.B above, and therefore asks interested parties to restrict their comments to the proposed revisions set out in section III.A above.

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. 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, 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**.**

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-2009-0077** and include your name, address, telephone number and, where available, your e-mail address and fax number.

This Notice, including the Revised Proposed Amendments to the DSC set out in Attachment A, and all written comments received by the Board in response to this Notice, will be available for public inspection on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

Any questions relating to this consultation should be directed to Roy Hrab at 416-440-7745 or by e-mail to: roy.hrab@oeb.gov.on.ca. The Board's toll free number is 1-888-632-6273.

DATED at Toronto, September 11, 2009.

ONTARIO ENERGY BOARD

Yours truly,

Original Signed By

Kirsten Walli
Board Secretary

Attachs: Attachment A: Revised Proposed Amendments to the Distribution System Code

Attachment B: Comparison Version Showing Revised Proposed Amendments to the Distribution System Code relative to the June Proposed Amendments (for information purposes only)

Revised Proposed Amendments to the Distribution System Code

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

1. Section 1.2 of the Distribution System Code is amended as follows:

(a) by deleting the definition of “enhancement” and replacing it with the following:

“enhancement” means a modification to the main distribution system that is made to improve system operating characteristics such as reliability or power quality or to relieve system capacity constraints resulting, for example, from general load growth, but does not include a renewable enabling improvement;

(b) by deleting the definition of “expansion” and replacing it with the following:

“expansion” means a modification or addition to the main distribution system in response to one or more requests for one or more additional customer connections that otherwise could not be made, for example, by increasing the length of the main distribution system, but in respect of a renewable energy generation facility excludes a renewable enabling improvement, and includes the modifications or additions to the main distribution system identified in section 3.2.30;

and

(c) by adding the following immediately after the definition of “Regulations”:

“renewable enabling improvement” means a modification or addition to the main distribution system identified in section 3.3.2 that is made to enable the main distribution system to accommodate generation from renewable energy generation facilities;

“renewable energy expansion cost cap” means, in relation to a renewable energy generation facility, the dollar amount determined by multiplying the total name-plate rated capacity of the renewable energy generation facility referred to in section 6.2.9(a) (in MW) by $90,000, reduced where applicable in accordance with section 3.2.27A;

"renewable energy generation facility" has the meaning given to it in the Act;

"renewable energy source" has the meaning given to it in the Act;

2. Section 3.2 of the Distribution System Code is amended by adding the following immediately after section 3.2.5:

3.2.5A Notwithstanding section 3.2.5 but subject to section 3.2.5B, a distributor shall not charge a generator to construct an expansion to connect a renewable energy generation facility:

(a) if the expansion is in a Board-approved plan filed with the Board by the distributor pursuant to the deemed condition of the distributor's licence referred to in paragraph 2 of subsection 70(2.1) of the Act, or is otherwise approved or mandated by the Board; or

(b) in any other case, for any costs of the expansion that are at or below the renewable energy generation facility's renewable energy expansion cost cap.

For greater clarity, the distributor shall bear all costs of constructing an expansion referred to in (a) and, in the case of (b), shall bear all costs of constructing the expansion that are at or below the renewable energy generation facility's renewable energy expansion cost cap.

3.2.5B Where an expansion is undertaken in response to a request for the connection of more than one renewable energy generation facility, a distributor shall not charge any of the requesting generators to construct the expansion:

(a) if the expansion is in a Board-approved plan filed with the Board by the distributor pursuant to the deemed condition of the distributor's licence referred to in paragraph 2 of subsection 70(2.1) of the Act, or is otherwise approved or mandated by the Board; or

(b) in any other case, for any costs of the expansion that are at or below the amount that results from adding the total name-plate rated capacity of each renewable energy generation facility referred to in section 6.2.9(a) (in MW) and then multiplying that number by $90,000.

For greater clarity, the distributor shall bear all costs of constructing an expansion referred to in (a) and, in the case of (b), shall bear all costs of constructing the expansion that are at or below the number that results from the calculation referred to in (b).

3.2.5C Where, in accordance with the calculation referred to in section 3.2.5B(b), a capital contribution is payable by the requesting generators, the distributor shall apportion the amount of the capital contribution among the requesting generators on a pro-rata basis based on the total name-plate rated capacity of the renewable energy generation facility referred to in section 6.2.9(a) (in MW).

3. Section 3.2 of the Distribution System Code is amended by adding the following immediately after section 3.2.27:

3.2.27A Notwithstanding section 3.2.27, when the unforecasted customer is a renewable energy generation facility to which section 3.2.5A or 3.2.5B applies and the customer entitled to a rebate under section 3.2.27 is a load customer or a generation customer to which neither section 3.2.5A nor 3.2.5B applies, the initial contributors shall be entitled to a rebate from the distributor in an amount determined in accordance with section 3.2.27. The distributor shall reduce the connecting renewable energy generation facility's renewable energy expansion cost cap by an amount equal to the rebate. If the amount of the rebate exceeds the connecting renewable generation facility's renewable energy expansion cost cap, the distributor shall also collect the difference from the connecting renewable energy generation customer.

3.2.27B Notwithstanding section 3.2.27, where the initial contributor was a renewable energy generation facility to which section 3.2.5A or 3.2.5B applies, the renewable energy generation customer shall not be entitled to any rebate from the distributor in the event of the connection of any unforecasted customer(s).

4. Section 3.2 of the Distribution System Code is amended by adding the following immediately after section 3.2.29:

3.2.30 In the case of a generator customer connecting a renewable energy generation facility, an expansion of the main distribution system includes:

(a) building a new line to serve the renewable energy generation facility;

(b) rebuilding a single-phase line to three-phase to serve the renewable energy generation facility;

(c) rebuilding an existing line with a larger size conductor to serve the renewable energy generation facility;

(d) rebuilding or overbuilding an existing line to provide an additional circuit to serve the renewable energy generation facility;

(e) converting a lower voltage line to operate at higher voltage;

(f) replacing a transformer to a larger MVA size;

(g) upgrading a regulating station transformer to a larger MVA size; and

(h) adding or upgrading capacitor banks to accommodate the connection of the renewable energy generation facility.

5. Section 3.3 of the Distribution System Code is amended by adding the following immediately after section 3.3.1:

3.3.2 Renewable enabling improvements to the main distribution system to accommodate the connection of renewable energy generation facilities are the following:

(a) modifications to, or the addition of, electrical protection equipment;

(b) modifications to, or the addition of, voltage regulating equipment;

(c) the provision of protection against islanding (transfer trip or equivalent);

(d) bidirectional reclosers;

(e) tap-changer controls or relays;

(f) replacing breaker protection relays;

(g) Supervisory Control and Data Acquisition system design, construction and connection;

(h) any other modifications or additions to allow for and accommodate 2-way electrical flows or reverse flows; and

(i) communication systems to facilitate the connection of renewable energy generation facilities.

3.3.3 Subject to section 3.3.4, the distributor shall bear the cost of constructing an enhancement or making a renewable enabling improvement, and therefore shall not charge:

(a) a customer a capital contribution to construct an enhancement; or

(b) a customer that is connecting a renewable energy generation facility a capital contribution to make a renewable enabling improvement.

3.3.4 Section 3.3.3(a) shall not apply to a distributor until the distributor's rates are set based on a cost of service application for the first time after this section comes into force.

6. Section B.1 of Appendix B of the Distribution System Code is amended by adding the following immediately after paragraph (d) under the heading "Capital Costs":

(d.1) paragraph (d) shall cease to apply to a distributor as of the date on which the distributor's rates are set based on a cost of service application for the first time after this paragraph comes into force.