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VIA MAIL AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor
2300 Yonge Street
Toronto, ON
M4P 1E4

Dear Ms. Walli:

Re: Notice of Revised Proposed Amendments to the Distribution System Code
Board File Number: EB-2009-0077

Comments of the Vulnerable Energy Consumers Coalition (VECC)

As Counsel to the Vulnerable Energy Consumer's Coalition (VECC), I am writing (per the Board's Notice of September 11, 2009) to provide VECC's comments on the proposed revised amendments to the Distribution System Code to deal with the issue of cost responsibility as between distributors and generators in relation to the connection of renewable generation facilities. The comments are organized based on the issues where revisions are proposed.

Definition of "Connection Assets"

In VECC's view the second paragraph on page 5 serves to confuse as opposed to clarify the definition of "connection assets, particularly the statement that "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". Taken on its face this statement suggests that it is the responsibility of the distributor to construct (and pay for) any new lines required to deliver power to the customer's location. This is inconsistent with the overall concept of cost responsibility for "expansions" as set out in Section 3.2.1 of the DSC. VECC acknowledges that a distributor must plan (and expand) its system based on anticipated load growth. However, in VECC's submission this does not require constructing (fully at its own expense) feeders out to each and every customer's location. Rather good utility practice should required distributors to plan for the expansion of their system to the proximity of anticipated new loads – where such loads are expected to justify the cost of the expansion.

Definition of Expansion

The text on page 5 suggests that the DSC will be revised to more clearly define what assets and facilities fall into the category of "expansions", the proposed new section 3.2.30 states that the examples only apply to renewable energy generation facilities. However, by making the list unique to renewable energy generation facilities the proposed amendments create uncertainty as to what facilities are would be considered "expansion" for loads and non-renewable energy generation facilities. In VECC's view it is not at all clear why these same examples would not apply to loads and non-renewable energy generation facilities connecting to the system such that the examples would apply generically to all expansions.

Definition of "Renewable Enabling Improvement"

The proposed amendments include examples of what would be considered "renewable enabling improvements". Presumably if any of these "improvements" were required to support the connection of a new load customer or a non-renewable energy generation facility then they would fall under the category of "expansion". In VECC's view, the Code should clarify this.

Administration of Rebates

Would be useful to clarify that under case two (where the rebate exceeds the cap) of circumstance (a) the "cap" is reduced to zero due to the payment of rebate.

It is not immediately clear to VECC why there is no rebate payable to the initial renewable energy generator under circumstance (b). Presumably if the new customer had connected at the same time as the initial customer then the contribution (in excess of the cap) required from the initial renewable energy generator would have been reduced. It is not obvious why the initial customer should not receive a similar benefit if the new customer connects at a later date.

Application of the "Renewable Energy Expansion Cost Cap" Where Multiple Generators Connect

VECC has no comments on the proposed revisions

Enhancement Costs

VECC notes that definition of “expansion” includes “modifications” to the main distribution system in response to one or more requests for one or more additional customer connections that could not otherwise be made. VECC also notes that “enhancement” means a modification to the main distribution system that is made to improve operating characteristics such as reliability or power quality or to relieve system constraints resulting, for example, form load growth. It is not immediately clear to VECC that these to definitions are mutually exclusive or if such was even the Board’s intent.

One interpretation could be that “expansions” include any “enhancements” required directly as a result of specific connection requests (e.g. an enhancement to relieve system congestion where without such relief the new connection could not be made). An alternative interpretation is that is that the two are mutually exclusive in that enhancements are aimed at improving operating characteristics where as an expansion is not concerned with “improving” system operating characteristics. VECC notes clarification of this issue is important as distributors will no longer be allowed to include a general allowance for “enhancement” in their economic evaluations of system expansions (Revised Amendment #6) but will still be allowed to include “all capital costs directly associated with the expansion to allow forecast customer additions” (Appendix B, Section B.1, Capital Costs, part (a)).

VECC submits that modifications (i.e., enhancements) required to the main distribution without which a new customer could not connect should generally be considered as “expansion costs” for purposes of section 3.2.1 of the DSC. This definition can then be “qualified” by excluding renewable enabling improvements as is proposed in Section 1.2 for the definitions of both “enhancement” and “expansion”.

The Board states that its proposed changes are aimed at creating symmetry in the assignment of cost responsibility. VECC notes that while the proposed amendments to the DSC create symmetry in terms of cost responsibility for connecting customers such is <u>not</u> the case for the distributor’s current ratepayers. Based on Ontario Regulation 330/09 some of the expansion and enhancement costs associated with the connection of renewable energy generation facilities initially assigned to the distributor will subsequently be recovered from all customers in the province based on a determination that they do not provide a direct benefit to the distributor’s existing customers. However, in the case of loads and non-renewable energy generation facilities, all such assigned costs (even those that provide no direct benefit) will be the responsibility of the distributor and its ratepayers.

One way to help maintain symmetry from a ratepayer perspective is to ensure that the interpretation of expansion costs for purposes of Section 3.2.1 includes any enhancements (i.e., modifications to the main distribution system) required for the new customer to connect while <u>maintaining</u> (as opposed to improving) system operating characteristics. VECC notes that this interpretation would not capture any enhancements related to renewable energy generation facilities as they would be considered “renewable enabling improvements” and be automatically excluded based on the proposed definitions. Under this approach, any differences in costs paid by new connecting customers would solely reflect the government’s policy to encourage the connection of renewable energy generation facilities and the associated cost transfer would be borne by all customers in the province.

Thank you for the opportunity to comment.

Yours truly,

Michael Buonaguro