



September 25, 2009

RESS & COURIER

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

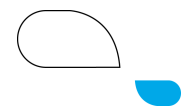
Re: CanWEA Comments on Notice of Revised Proposal to Amend the Distribution System Code (Board File No. EB-2009-0077)

These are the submissions of the Canadian Wind Energy Association (“CanWEA”) in respect of the Ontario Energy Board’s (the “Board”) Notice of Revised Proposed Amendments to the Distribution System Code (the “Notice”), Board File No. EB-2009-0077. CanWEA has provided comments at earlier stages of this proceeding and welcomes the opportunity to once again review and comment on the Board’s revised proposals.

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.

Generally, CanWEA and its members are supportive of the revised proposed amendments set out in the Notice, subject to the following concerns.

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1. Cost estimates for expansions must be binding on distributors so as to provide cost certainty for renewable energy generators

Cost estimates for expansions must be binding as between distributors and renewable generators. Where a distributor provides a cost estimate for an expansion that is in excess of the renewable energy expansion cost cap, the renewable generator must be entitled to rely upon that cost estimate and not be required to make a capital contribution based on actual expansion costs that turn out to be in excess of that estimated amount, unless such variance is directly caused by changes made to the renewable energy project by the generator. Similarly, where a distributor provides a cost estimate for an expansion that is below the cost cap, but actual expansion costs turn out to be in excess of the cost cap, the renewable generator should not then be required to make a capital contribution.

Renewable generators require cost certainty. Particularly for smaller scale renewable generation projects, even a small variance between estimated and actual expansion costs could have a significant detrimental impact on project economics. Moreover, such uncertainty can have implications for the financing of such projects. As such, expansion cost estimates should be binding as between distributors and renewable generators. Distributors that incur costs on expansion works in excess of estimates they have provided should instead seek recovery of such costs through other mechanisms under the authority of the Board.

Moreover, in the circumstance referred to above, where a distributor provides a cost estimate for an expansion that is below the cost cap, but actual expansion costs turn out to be in excess of the cost cap, the need for the cost estimate to be binding is particularly important. This is because a generator in this circumstance will not have had an opportunity to invoke the contestability or alternative bid provisions under the Distribution System Code. The Board confirms in Part B(vi) on page 12 of the Notice 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 . . . (and that) this is the case regardless of the dollar amount of the capital contribution.” It is assumed that the Board’s reference to “the cost of an expansion” here refers to the estimated cost of an expansion. Assuming this is the case, in a situation where no capital contribution is required on the basis of the initial estimated expansion cost, a generator will not have had the opportunity to take advantage of the contestability or alternative bid provisions. Cost certainty by means of a binding estimate as between the distributor and the renewable generator would address this dilemma by providing certainty to generators from the outset as to whether or not the contestability provisions will be available.

All of which is respectfully submitted on September 25, 2009.



Robert Hornung
President

cc: Valerie Helbronner, Torys LLP

