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BY EMAIL AND PERSONAL DELIVERY

December 9, 2009
Our File No. 2090382

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2009-0326 – MicroFIT Interim Charge

We are counsel for the School Energy Coalition in this proceeding. Pursuant to Procedural Order #2, we are providing herein our submissions on the issues.

General Comments

It is anticipated that schools will be one sector that implements MicroFIT projects early and in substantial numbers. Ontario's 5,000 publicly-funded elementary and secondary schools have natural advantages (such an abundance of large flat roofs, access to capital, and strong industry partnerships), and are being encouraged through government funding and programs to provide leadership in this area. Further, school boards understand the pedagogical value of onsite renewable generation, so have an additional benefit to be gained from participation. While some school projects will exceed 10 KW, many, perhaps most, will be within that range.

Schools are in the position that, as ratepayers, they want to ensure that the right customers bear the right costs. On the other hand, as potential generators they want to ensure that they pay only a fair amount for their services from the distributor, to ensure that the economics of their projects are not adversely affected.   These submissions seek to promote a balanced approach to the interim charge.

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We also note that the Board's approach in this matter is to walk before running. As the Board has done in other areas in which a regulated sector embarks on a new initiative, or embraces a new paradigm (or both, as in this case), the Board has proposed the implementation of an interim measure, with, we understand, the intention that as MicroFIT becomes more widespread the additional knowledge developed will be the foundation for a more rigorous rate-setting exercise. We believe that is the best approach in this case.

We have had an opportunity to review the thoughtful submissions of LPMA filed on December 7, 2009, and we are in general in agreement with the conclusions expressed there.

For example, we agree that lacking even the most basic information, LDCs are not as yet in a position to allocate costs in the traditional way to the provisions of service to MicroFIT generators. The interrogatory responses are replete with "too early to know" statements, and that is to be expected.

We also agree with LPMA that the proposal from Hydro One appears to provide the best interim proxy for a rate based on traditional cost causality. It seems to us that Hydro One has gone through a fairly thorough exercise of identifying the charges and credits that are already calculated, and that might be similar to the costs a microgenerator will cause, and have identified the USL monthly credit as the closest in general character. The fact that it is an amount that is already calculated promotes efficiency and simplicity, and the nature of the costs included in the credit [see SEC/Hydro One IR#3, Table 3] are generally those that might be caused by a MicroFIT project.

The USL credit is not the perfect proxy, as Hydro One points out [see Staff/Hydro One IR#3], but it is close. Those costs included that may not apply are likely offset by costs similar in size that are not included in this charge. In the context of a charge of $6.15 per month (for Hydro One), the differences are not material.

As a practical matter, the monthly charge proposed, which will vary from one distributor to another, but will still be relatively low in every case, should not have any significant impact on project economics. While we understand the policy direction of those, such as CanSIA, that would prefer no charge at all, in our submission a small charge that appears to pick up the key costs caused is better in the long run for all, including the generation customer.

We note the comments of LPMA about the incremental vs. fully allocated costing question implicit in many of the interrogatory responses. We also note in particular the useful comments of EnWin on fundamental questions of causality [see Staff/EnWin IR#2]. SEC fully supports the principle of cost causality, and within that principle the fully allocated costing methodology, because in our view every customer's costs are incremental to something, but in the context of the entire system no customer causes solely incremental costs. Renewable generation is not the altar on which to sacrifice the fundamental structure of cost allocation, unless the Board is directed to do so by a clear government policy statement.

That having been said, in our view this issue does not yet arise. The goal at this point is, it appears to us, to establish a reasonable proxy while the distributors and the Board gain experience with this fundamentally different type of distribution system participant. After a period of time (several years, as EnWin suggests in SEC/EnWin IR#4), there will be sufficient information to allow the interim rate to be replaced with a rate based on more rigorous cost allocation. At that time, we will be supporting fully allocated costing for that rate.

With those general comments, our responses on the five issues from the Issues List are as follows:

1. Service Classification

It is not clear to us why a small renewable generator that qualifies under the MicroFIT program would have a different rate than one that does not. However, it is our expectation that virtually all projects that do not qualify will cease to be economically viable, and so will not proceed, or in a very few cases will proceed on another basis such as net metering. The problem of handling non-qualifying projects fairly is not likely to arise. If it does, it will be rare, and the affected distributor can seek the Board's guidance at that time. In short, we do not believe it is necessary for the Board to solve a problem that has not arisen, and is not likely to arise soon.

With that caveat, the rate class is largely self-defining, and the Board's proposal captures that precisely.

2. Cost Elements to be Recovered

The distributors and the Board lack experience to be able to determine what cost elements will be applicable to this rate class, and in what proportions, and with what determinants. While the information provided by EDA is very useful, particularly in the context of evaluating the Hydro One proposal, any attempt to identify precise cost causality right now would, in our submission, be largely guesswork.

Once it is determined that a reasonable proxy is the best approach today, it is no longer necessary to speculate on cost differentials based on connection, ownership, or other such factors. When further information has been gathered, the Board and distributors will be in a position to include this rate class in a full cost allocation model, and produce a rate that capture the costs properly. During the course of that exercise, we would expect that any cost differentials of this nature would become apparent, and material ones, if any, could be reflected in the rate structure (or even separate classes).

Thus, our conclusion is that, for the current monthly charge, a simpler approach is better, and any potential cost differentials should not be reflected in the design of that charge.

3. Rate Design - Uniformity

As a general matter, we would prefer that the charge be the same for all distributors, to avoid having distribution charges as a factor in project siting. However, we understand that the differing cost structures of LDCs create a potential unfairness, and in any case the level at which this charge is likely to be imposed is sufficiently small that differences between LDCs are not likely to be material to any given project.

Therefore, in our view a rate set at the level of each distributor's USL credit, while not uniform across the province, is sufficiently similar to be appropriate in this case.

4. Rate Design – Fixed/Variable

We agree with the responses of the distributors that most costs related to a MicroFIT project are not likely to vary based on volume of generation.

5. Implementation

In our submission, this new rate - if it is equal to the USL credit - should be implemented by all distributors immediately, and be deemed to be incorporated into the Tariffs of each distributor as soon as the Board's decision is announced. We understand the suggestions by some that May 1, 2010 is a convenient date, but MicroFIT projects are going ahead right now. If an interim rate based on a known amount, like the USL credit, is selected by the Board, we see no reason to delay its implementation.

Conclusion

We thank the Board for allowing us to participate in this process, and hope that our input has been of assistance. We respectfully request that the Board order payment of our reasonably incurred costs associated with our participation.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.

Jay Shepherd

cc: Bob Williams, SEC (email)
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