January 18, 2010

BY RESS AND BY COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St., Suite 2700
Toronto, ON, M4P 1E4

Dear Ms. Walli:

RE: **CLD Response to Staff Discussion Paper on the Proposed Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under Ontario Regulation 330/09**

Board File Number: EB-2009-0349

This submission is filed on behalf of the Coalition of Large Distributors ("CLD") in response to the Board Staff Discussion Paper dated December 14, 2009 regarding Rate Protection and the Determination of Direct Benefits under Ontario Regulation 330/09 ("Discussion Paper"). The CLD is comprised of Enersource Hydro Mississauga Inc., Horizon Utilities Corporation, Hydro Ottawa Limited, PowerStream , Toronto Hydro-Electric System Limited, and Veridian Connections.

The Board has invited stakeholders to comment, and in particular, has sought stakeholder input on the questions it set out in the Discussion Paper.

The CLD appreciates the opportunity to provide comments which are embedded in the responses to the questions contained in the Discussion Paper.

QUESTION #1

Re: Section 3.2 Identifying the Direct Benefits

In addition to the two types of direct benefits identified above (i.e. reduced transmission and WMSC charges, improved capability of the distribution system), should the Board take into account any other direct benefits that accrue to customers of the distributor making the investment?

RESPONSE

The CLD believes that at this early stage of implementing O. Reg. 330/09, the Board should focus on benefits that are directly attributable to avoided distribution costs. Transmission costs and Wholesale Market Service (WMS) Charges are indirectly related and should not be combined or confused with distribution related costs or 'rate protection' of a distributor's revenue requirement. The CLD suggests that the issue of the impact of the implementation of the Green Energy and Green Economy Act, and not just renewable generation, on transmission rates needs to be addressed in a separate consultation.

The Discussion Paper proposes two categories of direct benefits, as follows:

1. Reduced Network Transmission and WMSC Charges
2. Improved Capability of Distribution System for Load Customers

The CLD believes that it is a conceptual error to include benefits from the first category in this analysis. However, the CLD certainly agrees that there is an issue requiring the Board's determination around changes to the relative revenue responsibilities of customers of different utilities with respect to both transmission charges and WMS charges.

The installation of incremental renewable generation capacity across the province will have (at least) two major implications. First, in some but not all instances, that installation will require incremental investments on the part of local distribution companies ("LDCs") and will be included in the LDC's rate base. Any investment that is necessitated, in whole or in part, by the requirement to connect[1] such generation yields a benefit, by way of the connection of that generation, to provincial electricity consumers generally, and the CLD agrees that the incremental distribution revenue requirement that arises from that investment (including both capital-related and operating costs) should not be borne strictly by the customers of the LDC making that investment, but by all provincial electricity customers.

[1] The term 'connect' is used generally here to denote the entire process of attaching a generator to the distribution system, and is not intended to specifically refer to 'connection' versus e.g., enhancement costs.

The CLD believes that the intention of O. Reg. 330/09 is to provide for an orderly, rational and fair system of determining what portion of the incremental distribution revenue requirement should be allocated to provincial ratepayers. As such, O. Reg. 330/09 has only to do with distribution revenue requirements and how, and from whom, those revenue requirements should be recovered.

As an entirely separate matter, the widespread and substantial development of embedded renewable generation may have significant effects on the revenues derived from different LDCs for both transmission charges and WMS charges. However, this effect is independent of specific distribution system investments and in any event is strictly not a part of distribution revenue requirements.

For example, Utility A may be able to connect 100 MW of renewable generation with no incremental investment given the configuration of its existing system, while Utility B may require an investment of $10 million to connect 100 MW of renewable generation.

In both cases exactly the same transmission and WMS load is displaced. With other factors remaining the same, the effect of this on transmission would be a revenue shortfall borne by transmitters until transmission rates were rebased on updated load forecasts, and thereafter a change in the proportional revenue responsibilities of all LDCs for transmission costs.

Importantly, in neither case were any existing transmission costs actually avoided; the displacement of load previously served by the transmission network through the installation of embedded generation has zero impact on the sunk costs of the transmission network.

With respect to WMS costs, it is unclear to the CLD to what degree any of those are actually avoided through load displacement embedded generation. To the extent that resource costs are actually avoided, the CLD agrees that a real benefit is produced and those who realize the benefit should be responsible for paying for its production. Otherwise, the situation is parallel to that of transmission; no resource cost saving is produced; no benefit is realized and all that occurs is a transfer of revenue responsibility among parties.

With respect to both transmission and WMS costs then, the load displacement effects of embedded renewable generation, and the related revenue responsibility issues, are highly analogous to those examined and determined by the Board in RP-1999-0044 under the rubric of ‘Gross vs. Net Load Billing’. The CLD agrees that these issues are important and deserving of

review by the Board; the point of disagreement is whether those issues belong in any analysis, much less a calculation of, direct benefits stemming from distribution investments in connecting renewable generation.

The Discussion Paper proposals are flawed because they treat transfers of transmission and WMS revenue responsibility as resource cost savings or direct benefits to be reflected in distribution revenue requirements. First, there is a relevant and significant distinction between distribution revenue requirements and upstream revenue requirements. Second, although in the example above the so-called 'benefits' produced by the embedded renewable generation in each utility are identical, they are ignored in the case of Utility A since it would have no eligible expenditures. Therefore under the Discussion Paper proposal, projects with otherwise identical features would be accorded contrasting treatment based on an accident of distribution system configuration. If the so-called 'benefits' are material enough to warrant consideration in the first place, they ought to be treated in a coherent and consistent manner.

More generally, in this matter the CLD recommends that the Board retain its proven, traditional approach to cost allocation which is based on the concept of cost causation. In reviewing the prudence, relative merits, and cost allocation of different utility programs and investments, the Board has not attempted to quantify how customers in different rate classes value the 'benefits' of a given distribution investment; instead the approach has been to determine what classes of customers 'caused' the costs to be incurred. That approach can be used in a straight forward manner in this case. For example, with respect to a given project that does connect a renewable generator, it is meaningful and relevant to ask what part of the overall costs would not be incurred were it not for the requirement to connect the generator. That portion of the total cost can reasonably be considered to be allocable to the generator and thus recoverable from the provincial customer base, with the balance remaining in the LDC distribution revenue requirement.

Summary

1. Transfers in upstream revenue responsibility do not represent resource cost savings or 'direct benefits' and should be excluded from this analysis.
2. Nevertheless, such transfers in #1 (above) may represent a live policy issue deserving of the Board's consideration and possible action.
3. For present purposes, the analysis should be confined to the allocation of incremental distribution revenue requirements incurred to 'connect' embedded renewable generation.

4. At this early stage it is reasonable and constructive to deem that 'direct benefits' are produced by the connection of embedded generation to the electricity system, and that such benefits are proportional to the revenue requirement incurred to enable such connection. On that basis, the Board can use traditional and proven approaches including cost causality to allocate the incremental revenue requirements arising from renewable generation connection as between local ratepayers and provincial ratepayers.

If the Board ultimately resolves that transmission costs and WMS costs (WMSC) represent direct benefits, then the CLD observes the following:

i) Some of the benefits may be small, relative to the amount of time required to calculate them. The amounts of the calculated benefit (WMSC, the network and connections charges), will not apply equally to all distributors. In addition, despite the insignificance of the amount, there can be a great deal of complexity involved in calculating the benefit for some distributors. A possible solution is the use of a materiality test, or a threshold amount, to ensure the time and resources spent calculating the benefit is warranted by the amount of the benefit. In most other OEB guidelines, the concept of materiality is a fundamental aspect of that guideline. The same materiality principle should be taken into consideration in this matter.

ii) It is expected that the actual benefits (and costs) will differ from those used in the initial estimated and forecasted calculation. For example unanticipated, additional customer load that becomes part of the system will add to the benefits, as it was not part of the initial calculation. As another example, the Retail Transmission Rates change occasionally which would thereby change the costs initially used in the calculations. Ideally, a true up mechanism of the actual costs and benefits compared to the estimated and forecasted calculations (perhaps every few years) needs to be considered to ensure equity for all customers both within the utility and those within the provincial pool. Unless transmission system network costs are actually reduced by the construction and installation of renewable generation projects, then in actuality, there are no real savings (reduction) in network charges to LDC's. Simply put a reduction in network revenue to the transmitter in one year will only increase the network charge rate in the following year. The reduction in network charges is highly speculative and perhaps optimistic.

iii) The calculation and determination of the benefits accruing from 'improved capability of the distribution system' is not self evident. A specific mechanism to give direction is

required. Absent this direction, the interpretation and calculation of the benefits will be inconsistent, and, perhaps, in conflict with the purposes of such calculations. Further, the interpretive nature of such terminology should be avoided when possible. Although it is acknowledged that each utility is unique, to the extent possible, a specific mechanism or guide will ensure that the individual utility interpretations remain within the general parameters and broad objectives to achieve consistency and equitability. In situations where existing load customers are served adequately for the foreseeable future, by existing distribution system plant, it is not apparent how 'improved capacity of the distribution system' can be monetarily quantified as a direct benefit. There may be situations where 'improved capacity of the distribution system' does not translate into a quantifiable direct benefit and the proposed mechanism should be flexible enough to recognize this.

iv) The timing of the clearing of the variance accounts is an issue for consideration. It is anticipated that there will be an increase (i.e. owing to the customer) in the WMSC variance account due to the fact that LDCs will continue to collect WMSC on all electricity consumed but only be charged by the IESO for electricity delivered by the transmitter. This will not be paid back to the customer until the variance account is cleared which could potentially be four years into the future. The IRM provides for an annual clearing of the accounts, subject to materiality thresholds. The time value of money needs to be considered in this instance.

v) It appears that there is a mixture of the concepts of distribution revenue requirements and capital expenditures in the formula 'A = B – C'. 'A' includes the amount of rate protection to be provided (the amount of revenue requirement that will not be collected from the LDC's customers but will be provided through, what is called in O. Reg 330/09, rate protection, made up of return on capital, interest, OM&A, PILs and amortization), 'B' is capital expenditures and 'C' is the amount the Board determines to represent the direct benefits. The determination of both 'A' and 'C' adds or subtracts revenue requirement and capital expenditures which are not necessarily additive categories.

QUESTION #2

Re: Section 3.3 Quantifying the Direct Benefits

Reduced Network Transmission and WMSC Charges

Are there any circumstances under which a distributor should be permitted to deviate from the proposed *ex-post* approach and use an *ex-ante* (i.e. forward looking forecast) approach?

RESPONSE

The CLD believes that in most circumstances, the distributor would use the ex-post approach.

A noteworthy exception is the first year of calculating the benefits where at that stage, there is no data with which to work. Since there is no precedent actual year, the question is what 'actual' will be used. Consideration needs to be given to compensating LDCs for the time value of money during the one year lag. The regulated rate of return applicable to the variance account could compensate, at least in part, for the time lag.

The CLD would also like to point out that in cost of service applications, the concept of future year information is well established by the use of bridge year and test year data. Using the ex-post approach is not consistent with the future year information and there may be circumstances in which using both the future year data and past year data may cause confusion and unexpected challenges.

QUESTION #3

Improved Capability of the Distribution System for Load Customers

Proposed Guiding Principles

Are there any potential refinements to the proposed Guiding Principles discussed above?

RESPONSE

The Discussion Paper proposes the following Guiding Principles.

- The benefit is directly attributable to only the customers of the distributor making the investment (i.e. limited to distribution system investments) and the benefit is readily quantified in monetary terms.

- The level of detail and analysis provided by a distributor underlying the estimation of the direct benefits should be commensurate with the circumstances of the distributor.

- Portions of certain eligible investments may not ultimately be used by only qualifying renewable generation facilities to which the Board's new cost responsibility policies apply. To the extent the investment is used for other purposes, that portion of the investment would not be recovered through the provincial recovery mechanism.

- Where any existing distribution asset is replaced to accommodate qualifying renewable generation, customers of the distributor making the investment will realize a direct benefit of some magnitude and therefore a certain portion of the costs should not be recovered through the provincial recovery mechanism.

- To the extent certain eligible investments that accommodate qualifying renewable generation are expected to improve service quality for the load customers of the distributor making the investment, such service quality improvements will represent a direct benefit to the customers of that distributor only. (i.e. not paid for under the provincial recovery mechanism).

- Distributors should not be required to estimate certain benefits that may, in theory, sometimes be associated with distributed generation in a generic sense, but do not take into consideration the practical circumstances unique to Ontario under the Green Energy and Green Economy Act ("GEA").

The CLD believes that the Guiding Principles can be improved with the following refinements.

As written, the Guiding Principles could be subject to interpretation, ambiguity, and possible inconsistent application when put into practice. An example is the phrase 'commensurate with circumstances'. As mentioned in the response to #1 above, a common mechanism with specific guidelines could begin to address the danger of inconsistent and inequitable interpretation.

Putting a monetary value on (i.e. quantifying) some of the principles will be very challenging, if not impossible, without guidelines.

The Discussion Paper suggests that service quality improvements will represent a direct benefit to the customers of the investing distributor. The CLD is concerned that the measurement of 'service quality' improvements may be subject to inconsistent interpretation unless it is defined. Renewable Enabling Improvements (two-way flow management, etc) do not necessarily improve service quality to existing load customers. Where the existing quality of service is determined to

be acceptable, additional improvements to service quality may not provide any tangible or quantifiable benefits. Further, SQI are largely affected by factors such as weather, and other factors unrelated to generation and outside the control of the utility.

As mentioned elsewhere in this response as a matter of principle, the CLD believes that a materiality threshold should be one of the Guiding Principles. In addition, a maximum 'cost per customer' amount should be considered as a guiding principle, to ensure the inefficiencies of some utilities are not borne by the provincial pool.

QUESTION #4

Should any additional Guiding Principles be considered by the Board?

RESPONSE

The CLD believes that the refinements mentioned above should also be stated as standalone Guiding Principles.

Consistent with other OEB Guidelines, the CLD would like the Board to consider a standalone guiding principle that sets out materiality as part of the benefit calculation.

In addition, the CLD believes that more specific guidelines will eliminate the interpretive nature of many of the existing guidelines. To ensure consistency and equity, guidelines for all utilities must be established.

Both a minimum and a maximum 'cost per customer' that can be added to the provincial pool should be established.

It is not clear whether 'avoided costs' are to be included in the benefits calculation. One would assume that they are to be included since, as a result of a generation project, a smaller transformer may be used than otherwise would have been needed. It is not clear as to how this would be calculated; validation of such 'avoided costs' would be a challenge.

Further questions arise including: i) will the calculations and proposals put forward by each utility be subject to OEB prudence review? and ii) Will the resulting pooled costs be subject to a similar review? With recognition that distribution utilities are unique throughout the province,

the CLD is concerned that individual utility inefficiencies (or efficiencies) will be effectively ignored, as the costs ultimately are absorbed into the provincial pool.

Conversely, a generation connection may have negative impacts on existing customers. Voltage fluctuations are an example. It is not clear as to how these costs would be calculated.

The CLD understands that the rate protection funds will be in the form of distribution revenue and that all of the applicable assets will be added to the distributor's rate base. If this understanding is incorrect, the CLD seeks further clarification.

QUESTION #5

The Board Staff Paper suggests, because of the extreme diversity of distributors, such diversity should be recognized. The specific proposed criteria are comprised of the following:
-Portion of Eligible Investments not used by Qualifying Generators
-Customer Load Growth
-Asset Condition
-Size of Renewable Energy Generator(s)
-Service Quality Improvements
-Line Losses
-Alternative Criteria for Specific Investments

Re: Proposed Criteria

Are there any potential refinements to the proposed criteria discussed above for the purpose of estimating the direct benefits?

RESPONSE

The CLD believes there are some potential refinements to the proposed criteria for the purpose of estimating the direct benefits. As has been mentioned elsewhere in this document, potential refinements include the concept of materiality and more specific guidelines to ensure consistency and equity.

QUESTION #6

Re: Proposed Criteria

Are the any other criteria that the Board should potentially take into consideration or should certain criterion listed above not be taken into account? In proposing the addition and/or elimination of certain criteria, a solid business case should be made for the Board to consider the merits.

RESPONSE

The CLD believes that the criteria as listed are appropriate and no other criteria needs to be taken into consideration. However the value of some of the proposed criteria may be minimal, or difficult to quantify, depending on the specific characteristics of utilities. For example:

- Customer load growth may be quite minimal for utilities with mature service areas;
- Assessing asset condition can be a very subjective undertaking;
- It may be more useful and relevant to incorporate the impact of renewable generation and the cost for connection of renewable generation rather than size of renewable generation; and
- Service quality improvement may not have any quantifiable value when existing service quality is already acceptable

QUESTION #7

Re: Proposed Criteria

Is a ranking or weighting of the criteria above necessary? If so, please propose an appropriate ranking or weighting, from most to least applicable, and provide a supporting justification.

RESPONSE

The CLD believes that ranking is not appropriate because the ranking can change depending on the characteristics of each utility.

QUESTION #8

Re: Proposed Criteria

Are there any information limitations that may prevent certain distributors from providing an assessment of any criteria above?

RESPONSE

The CLD believes that there are many information limitations that may prevent certain distributors from providing an assessment of the criteria. Some utilities will not have the information systems in place to estimate some of the criteria. For example, as part of the calculation of the portion of eligible investments not used by Qualifying Generators, the distributors are expected to estimate that portion that will be utilized by non-qualifying generators. The outcome of that estimate is highly dependent on the parameters used, (i.e. the peak kW output of generator vs. peak kW of feeder load, kWh output of generator vs. kWh of feeder load, etc.). It is of critical importance that all utilities use the same parameters and formulas to estimate that portion not used by Qualifying Generators.

For utilities without specific feeder or transformer information, the estimation process will be very challenging. The results of estimation could be considerably different from one utility to the next, resulting in inconsistent information. This is an area fraught with inconsistency and is open to interpretation and subjectivity. A more detailed process may be required to eliminate the concerns.

QUESTION #9

Re: Proposed Criteria

In the absence of having the best available information possible (e.g. recently completed study), are there any factors above for which a distributor would not be able to provide a reasonable estimate?

RESPONSE

Please refer to the answer to #8 as the same concerns apply here.

QUESTION #10

Re: Proposed Criteria

What information should all distributors already have on hand (e.g. for distribution planning) that would allow for a reasonable estimate that is specific to certain areas of a distributor's territory of: (1) load growth; and (2) customer density?

RESPONSE

Ideally, all utilities should have consistent feeder by feeder, and transformer information on hand that is applicable in this instance. Customer density information may be available on a utility wide basis but may not be available by specific service area. The success of CDM programs may mask the real customer load growth, or result in a negative load growth for some utilities. Also, load growth and customer density (on a feeder level) can be difficult to assess where a utility has multiple feeders in a given area, and operational practices frequently result in customers being rotated between two or more feeders.

QUESTION #11

Re: Proposed Criteria

Where provincial ratepayers have provided rate protection and the asset is not ultimately used by the distributor as an eligible investment, Board staff proposed that the amount of rate protection should be reduced accordingly going forward to reflect the use of the investment for other purposes. In such cases, are there any circumstances under which the amount of rate protection provided by provincial ratepayers should not be reduced? If so, please explain.

RESPONSE

The CLD is of the opinion that if the costs are considered 'pooled' at the outset, they should remain 'pooled', regardless of subsequent events that are out of the control of the local distribution company.

QUESTION #12

RE: Potential Future Option

Should the Board consider a certain standardized approach? If so, how should the approach be standardized?

RESPONSE

The CLD believes that there should be a standardized approach to ensure consistency and equity. The approach could be standardized in two ways. For example:

1) The concept of a 'per customer cap' on the amount to be added to the pool could be considered. This is the maximum amount that may be added to the pool. This mechanism would mitigate the burden on the provincial pool from the possible inefficiencies of certain utilities.

2) Similarly, a minimum threshold amount can be considered. A very small amount, that falls below the threshold, cannot be added to the pool. This allows the materiality concept to be applied and hopefully reduces administrative burdens for distributors.

QUESTION #13

RE: Potential Future Option

Would a certain percentage of expansion investments and a certain percentage of REI investments (using a historical "baseline" specific to each distributor) provide a reasonable estimate on a go forward basis?

RESPONSE

The CLD believes that a certain percentage of expansion investments and a certain percentage of REI investments would provide a reasonable estimate on a going forward basis.

QUESTION #14

RE: Potential Future Option

If the Board decided a standardized approach would be appropriate for certain distributors:

(i) What *timeframe* would be suitable for implementation?

RESPONSE

The CLD believes that if the Board decided a standardized approach would be appropriate for certain distributors, the timeframe for implementation should be as soon as possible, since LDCs are now beginning to process FIT projects and to develop the GEA System Plans.

The CLD is concerned when a standardized approach may be applied to 'certain' distributors. The approach, in order to be consistent and fair, must apply to all distributors.

(ii) **What would an appropriate threshold be to determine which distributors could proceed under a standardized approach and which distributors should be required to continue under the more rigorous assessment discussed in section 3.3.2.1?**

RESPONSE

The CLD believes that the appropriate threshold to determine which distributors could proceed under a standardized approach and which distributors should be required to continue under the more rigorous assessment should be a materiality threshold based on the percentage of rate base. This approach is consistent with other guidelines established by the OEB.

CONCLUSION

The CLD is in agreement with the general concept of the calculations and determinations of rate protection and determination of direct benefits that accrue to the customers of an electricity distributor as a result of an eligible investment made or planned to be made by the distributor, to accommodate a renewable energy generation facility. However, the CLD repeats its concerns regarding the potential of combining two different regulatory concepts, which are: incorrectly combining distribution revenue requirement with transmission costs and WMSC variance account balances. The CLD looks forward to the next steps in this process and welcomes the opportunity to be part of the future consultation process.

The CLD has two more general comments that should be incorporated into the final rate protection and the determination of direct benefits. First, it is important to note that every distributor is unique. They are unique in many ways such as density, customer mix, age of infrastructure.. To eliminate the uniqueness affecting the pool, both a maximum and a minimum amount per customer that can be added to the pool has been suggested. Any amounts above the maximum, or below the minimum, would be ineligible for rate protection. Second, the concept of materiality is inherent in virtually all applications and should be part of the determination of the direct benefits.

The CLD believes that both minimum and maximum thresholds and the concept of materiality will more efficiently and effectively address the matter of diverse utilities and will eliminate the necessity of having two different approaches based on the circumstances of the distributors. One common detailed guideline is the recommended approach.

Thank you for the opportunity to comment on the Discussion paper. If you have any questions regarding the comments provided by the CLD, please do not hesitate to contact me.

Yours truly,

(Original signed on behalf of the CLD by)

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