

March 26, 2010

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VIA COURIER AND RESS FILING

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Nini Jones
Jeffrey Larry
Emily Lawrence
Denise Sayer
Danny Kastner
Tina H. Lie
Jean-Claude Killey
Jodi Martin
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Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

Re: Revised Proposed Amendments to the Distribution System Code Regarding the Application and Administration of Rebates Associated with the Connection of Renewable Generation Facilities to Distribution Systems (EB-2009-0077)

The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on the Revised Proposed Amendments to the Distribution System Code regarding the application and administration of rebates associated with the connection of renewable generation facilities to distribution systems (EB-2009-0077).

HONORARY COUNSEL

Ian G. Scott, Q.C., O.C.

(1934 - 2006)

We hope you will find the PWU's comments useful.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Original signed by

Richard P. Stephenson
RPS:JR

encl.

cc: Judy Kwik
John Sprackett

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List of PWU Employers

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Algoma Power
AMEC Nuclear Safety Solutions
Atomic Energy of Canada Limited (Chalk River Laboratories)
BPC District Energy Investments Limited Partnership
Brant County Power Incorporated
Brighton Beach Power Limited
Brookfield Power – Lake Superior Power
Brookfield Power – Mississagi Power Trust
Bruce Power Inc.
Capital Power Corporation Calstock Power Plant
Capital Power Corporation Kapuskasing Power Plant
Capital Power Corporation Nipigon Power Plant
Capital Power Corporation Tunis Power Plant
Coor Nuclear Services
Corporation of the City of Dryden – Dryden Municipal Telephone
Corporation of the County of Brant, The
Coulter Water Meter Service Inc.
CRU Solutions Inc.
Ecaliber (Canada)
Electrical Safety Authority
Electrical and Utilities Safety Association
Erie Thames Services and Powerlines
ES Fox
Grimsby Power Incorporated
Halton Hills Hydro Inc.
Hydro One Inc.
Independent Electricity System Operator
Inergi LP
Innisfil Hydro Distribution Systems Limited
Kenora Hydro Electric Corporation Ltd.
Kincardine Cable TV Ltd.
Kinectrics Inc.
Kitchener-Wilmot Hydro Inc.
London Hydro Corporation
Middlesex Power Distribution Corporation
Milton Hydro Distribution Inc.
New Horizon System Solutions
Newmarket Hydro Ltd.
Norfolk Power Distribution Inc.
Nuclear Waste Management Organization
Ontario Power Generation Inc.
Orangeville Hydro Limited
Portlands Energy Centre
PowerStream
PUC Services
Sioux Lookout Hydro Inc.
Sodexo Canada Ltd.
TransAlta Generation Partnership O.H.S.C.
Vertex Customer Management (Canada) Limited
Whitby Hydro Energy Services Corporation

**NOTICE OF PROPOSAL TO AMEND A CODE
REVISED PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE
BOARD FILE NO: EB-2009-0077**

Comments of the Power Workers' Union ("PWU")

I. INTRODUCTION

On March 11, 2010 the Ontario Energy Board ("OEB" or the "Board") issued a Notice of Revised Proposed Amendments (the "Revised Proposed Amendments") to the Distribution System Code ("Code" or "DSC") in relation to the application and administration of rebates associated with the connection of renewable generation facilities to distribution systems. The Board states that the Revised Proposed Amendments are required to revise its approach to the application and administration of rebates relative to the approach set out in amendments that were proposed on September 11, 2009 (the "September Proposed Amendments") and the subsequent notice of amendments issued on October 21, 2009 (the "October Notice").

II. BACKGROUND

1. The October Notice sets out amendments to the DSC that revised the Board's approach to assigning cost responsibility between a distributor and a generator in relation to the connection of renewable generation facilities to distribution systems.

2. In the process of developing the October Amendments, the Board had earlier issued the September Proposed Amendments regarding the application

and administration of rebates under the Board's then proposed revised approach to cost responsibility. Specifically, in the September Proposed Amendments, the Board proposed that no rebate be payable to a renewable generator whose connection costs were determined on the basis of the proposed new cost responsibility rules (i.e., whose expansion costs were determined based on the application of a renewable energy expansion cost cap). The Board's rationale for the proposal was that, under the proposed approach, the generator would have previously benefited from the reduction in connection costs provided by the proposed cost responsibility treatment for expansions and renewable enabling improvements¹.

3. In its notice of Revised Proposed Amendments the Board states that some stakeholders have recommended that the Board reconsider that proposal indicating that it could result in some generators delaying their connections in order to connect to expansions already paid for by earlier connecting renewable generators.

4. In the October Notice, the Board expressed its view that the rebate issue warranted further examination, including the questions of whether unforecasted customers that connect to an expansion that was initially constructed for a renewable generator to whom a renewable energy expansion cost cap applied should pay rebates and whether the rebate should avail to the benefit of the ratepayers that ultimately bore some or all of the costs of the initial expansion. The Board also advised in the October Notice that it would defer consideration of the proposed amendments regarding rebates and address the issue through a separate notice and comment process.

Accordingly, the Board is now proposing amendments to the DSC to address the issue of the application of rebates under the Board's new cost responsibility rules.

¹ Ontario Energy Board, EB-2009-0077, Notice of Revised Proposed Amendments to the DSC, page 6

A. PWU's Comments on the Proposed Rebate Amendments to the DSC

The Board notes that it is persuaded that it should revise its approach relative to the approach set out in the September Proposed Amendments. The Board is now of the view that an unforecasted customer that connects to a distribution system and benefits from an earlier expansion made to connect a renewable generation facility should contribute its share towards the cost of that expansion. Specifically, the Board is proposing that a rebate be paid to renewable generators whose connection costs are determined on the basis of the new cost responsibility rules ("new renewable generators") when an unforecasted customer connects to an expansion that was initially triggered by the new renewable generator's connection.

The Board makes a distinction between two types of unforecasted customers:

i. Where the Unforecasted Customer is also a New Renewable Generator

Where the unforecasted customer is also a new renewable generator (the "unforecasted generator") and the initial new renewable generator (the "initial generator") made a capital contribution (i.e., where the costs of the expansion exceeded the initial generator's expansion cost cap), the unforecasted generator would contribute its share towards the cost of the expansion and the initial generator would be entitled to a rebate. The rebate that is payable to the initial renewable generator would be the difference between the capital contribution made by the initial renewable generator towards the cost of the earlier expansion and the contribution it would have made had it and the unforecasted generator connected at the same time. Where, however, the initial generator did not make a capital contribution, no rebate would be payable because the initial generator did not bear any costs.

The PWU supports this proposal, which is intended to discourage customers from delaying connections in order to avoid capital contributions towards the cost of expansions.

ii. Where Unforecasted Customer is a Load or a Non-Renewable Generator

Similarly, the Board is proposing that, in cases where the unforecasted customer is a load customer or a non-renewable generator, the unforecasted customer would also contribute its share, in this case in accordance with section 3.2.27 of the DSC. The board proposes that the rebate be apportioned between the initial generator and the distributor based on the share of the cost of the initial expansion borne by each. Where the initial generator made a capital contribution (i.e., where the costs of the expansion exceeded the initial generator's expansion cost cap), the initial generator and the distributor would share the rebate on a pro-rata basis in proportion to their respective contributions to the cost of the initial expansion. Where the initial generator did not make a capital contribution, the rebate would avail to the benefit of the distributor.

The PWU agrees with the Board's proposal with respect to how the rebate to be paid by the unforecasted customer is apportioned between the initial generator and the distributor in instances when the initial generator has made a capital contribution for the expansion, presumably based on the rules of connection cost responsibility involving expansions under certain circumstances in which cost is shared between the distributor and the customer.

On the other hand, the PWU is not clear how section 3.2.27 of the Code, which is used to determine the amount of the rebate, is relevant and applicable in the case where the initial generator has not made a capital contribution i.e., where

the cost of the expansion does not exceed the initial generator's expansion cost cap. The proposed amendment of concern is Section 3.2.27D (b) which states:

(b) where the cost of the earlier expansion was at or below the initial renewable generator's renewable energy expansion cost cap, the distributor shall be entitled to a rebate in an amount determined in accordance with section 3.2.27.²

Section 3.2.27³ of the Code states that the amount of the rebate shall be determined as follows:

(a) for a period of up to the customer connection horizon as defined in Appendix B, the initial contributor shall be entitled to a rebate without interest, based on apportioned benefit for the remaining period; and

(b) the apportioned benefit shall be determined by considering such factors as the relative load level and the relative line length (in proportion to the line length being shared by both parties).

According to the above provisions section 3.2.27 is relevant to situations where the initial generator has made a capital contribution (i.e., initial contributions). Therefore, given the circumstance where the initial generator has not made a capital contribution using the above provisions to determine the rebate that the unforecasted generator should pay to the distributor raises several issues. The first is that in the circumstance where the initial generator was not required to pay a capital contribution the unforecasted load and/or non-renewable generators are connecting to an expansion that is fully funded by the distributor. The calculation of a rebate based on section 3.2.27 recognizes benefits shared by the initial generator; however, no rebate is paid to the initial generator because it has not made a capital contribution. Therefore the amount of rebate that will be paid to the distributor will be less than the full cost of the expansion. This benefits the

² Ontario Energy Board, EB-2009-0077, Notice of Revised Proposed Amendments to the Distribution System Code Regarding Rebates, March 11, 2010, Attachment A, Page 2

³ Ontario Energy Board, Distribution System Code, Last revised on October 21, 2009 , page 35

unforecasted load and non-renewable generators because they would have been responsible for the full cost of connection had they initiated the original connection. This can lead to a situation where local and provincial ratepayers potentially fund part of the connection costs of these unforecasted load customers and non-renewable generators. This can be particularly problematic at a time when clarity is being sought with regard to issues relating to rate protection and the determination of direct benefits. The PWU, therefore, suggests that the Board clearly articulate how, according to proposed Section 3.2.27D (b) of the Code the amount of rebate that is to be paid to the distributor should be determined in situations where the initial renewable generator did not make a capital contribution and an unforecasted load and/or non-renewable generator wants to connect.

All of which is respectfully submitted