

ONTARIO ENERGY BOARD

PROPOSED AMENDMENTS TO DISTRIBUTION SYSTEM CODE (*DSC*)

Comments of the Electrical Contractors Association of Ontario (ECAO)

Introduction

1. ECAO is a not-for-profit corporation established to represent electrical contractors across Ontario. ECAO's 850 member contractors provide a broad range of electrical services in the institutional, commercial, industrial, residential and electrical utility construction and maintenance marketplace. The services provided include: the planning, siting, construction and maintenance of power lines, poles and transformers; the construction and maintenance of substations; the construction and maintenance of power generation equipment and facilities (powerhouses and all related inside and interconnection wiring); and the construction and maintenance of connection facilities.
2. ECAO's members have done extensive work constructing connection facilities for Ontario's privately developed electricity generators, and in particular for the wind powered electricity generators built and connected in Ontario over the past several years.
3. Historically, the division of connection work responsibilities under the alternative bid provisions of the *DSC* between electricity distributors and connecting customers has worked efficiently and effectively.
4. Co-operation of field crews retained by generation developers and those employed or engaged by distributors has ensured that connection work is done with minimum delay and without undue disruption to distribution system customers.
5. Safety issues have been effectively managed pursuant to the *Electrical Safety Rules* promulgated by the *Electrical & Utilities Safety Association*. These rules have been formally adopted by Hydro One Distribution. They govern, *inter alia*, the "limits of

approach" within which various levels of qualified electrical contractors may work within physical proximity to electrical conductors (wires) and other equipment of various voltage levels, and how such work is properly carried out.

6. All electrical engineers, whether employed by a distributor or an electrical contractor, are qualified and certified to the same province wide standards, and work under the same electrical safety rules.
7. In carrying out connection work under the *DSC's* alternative bid provisions, contractors working on behalf of generation developers have coordinated with distributors to isolated and/or de-energize lines and to install of line protection, as required, co-operatively, efficiently and always safely.
8. Notwithstanding a successful history of implementation of the alternative bid provisions of the *DSC*, some recent instances have highlighted the need to ensure crystal clarity of these provisions. In particular, a few distributors have recently changed their alternative bid policies, resulting in an inconsistency in the application of the relevant *DSC* provisions. ECAO is directly aware of some instances in which the connecting generator has been inappropriately precluded from availing itself of the *DSC's* alternative bid provisions. In the result, project connection has been delayed, connection costs have been increased, and tens of millions of dollars worth of electrical construction work has been inappropriately diverted from ECAO's members to the subject utility.
9. In these circumstances, ECAO submits that amending the *DSC* to clarify the Board's existing policy regarding the availability of alternative bid is both timely and important.

Scope of the Proposed Amendments

10. The Board's Notice indicates that the *DSC* amendments are proposed in order to provide greater clarity regarding application of the existing alternative bid provisions. That is, the

Board does not intend to alter its policy regarding the availability or operation of alternative bids.

11. The objective of the Board's current alternative bid policy is that customers who must make a contribution towards the capital cost of an expansion of the distribution system have the option of reducing the amount of the contribution and/or better controlling the timing of the required work through the sourcing of competitive construction services.
12. To accomplish this objective, the *DSC* has historically been applied so that:
 - (a) The distributor is responsible for the integrity and management of existing distribution assets, including the physical connection of newly built expansion facilities to pre-existing distribution assets.
 - (b) The distributor is responsible for the planning of distribution system expansions in such a way as to optimize current and future distribution system investment and operation.
 - (c) The detailed design of expansion assets is subject to alternative bid, with final design and specification reviewed and approved by the distributor. The construction of expansions is also subject to alternative bid, except at the stage where physical contact with pre-existing distribution assets is required.
13. ECAO believes that the clarifications proposed by the Board to those sections of the *DSC* governing alternative bids are consistent with the objective of the current alternative bid policy, and will ensure clarity on the rules regarding the availability and applicability of alternative bid.
14. ECAO proposes wording enhancement in one area, to ensure crystal clarity, and thus facilitate consistent and appropriate application, of the rules.

Comment on the Proposed Amendments

Obligation to transfer work done under alternative bid.

15. ECAO agrees that the alternative bid provisions apply only in the case of expansion facilities which are to be transferred to the distributor.
16. The facilities in question convey electricity at 50 kilovolts or less, and thus "distribute" electricity pursuant to the definitions contained in the *DSC* and section 3 of the *Ontario Energy Board Act, 2008*. Accordingly, unless the party constructing the facilities to bring electricity to or from the customer (load or generator) is licenced as a distributor, or exempt from such licencing, and thus plans and constructs the facilities for ownership and operation themselves, the expansion facilities must be transferred to, and operated by, a local licenced distributor.
17. The proposed addition to the first sentence of section 3.2.14 of the *DSC* to require the transfer to the distributor, upon completion, of expansion facilities constructed under the alternative bid provisions is thus appropriate.

Scope of alternative bid option - construction.

18. ECAO agrees that the appropriate approach to defining the scope of availability of the alternative bid option for construction work is by application of a "physical contact" standard.
19. Where physical contact with distribution assets pre-existing the expansion work is required, the distributor should have the authority to determine who does this work (its own personnel or a contractor retained by it or the developer).
20. ECAO notes in particular the Board's emphasis that only expansion work that actually requires physical contact is not subject to alternative bid. The alternative bid option is not precluded for other associated work that itself can be done without the need for such contact.

21. The words "requires" and "need" in the Board's explanation as set out in the Notice of Proposed Amendment indicate, as further stated in the Notice, that the potential for incidental physical contact with existing distribution assets does not preclude the alternative bid option. As noted above, there are well developed and consistently, carefully and professionally applied electrical construction safety standards (the *Electrical Safety Rules*) and practices (de-energisation, circuit reconnection equipment "hold-offs", and line protection, as required) which ensure the safety of the public, the integrity of the distribution system, and the safety of electrical workers whoever they work for.
22. To date, most generation connection expansions have entailed the erection of a new line of poles, which are located and sized to accommodate a new conductor (wire) to carry the energy from the connecting generator to the distribution system, and to also carry pre-existing distribution conductors. Following completion of the expansion, the generator opting for alternative bid will string its own conductor, which the distributor will then connect to the pre-existing distribution system at the designated connection point. The distributor's crews (or the generator's contractor, if the distributor so decides) will then transfer the pre-existing distribution conductors to the new line of poles, and remove the old, aging poles.
23. The three points at which this work "requires" physical contact with the existing distribution system are; i) when the expansion is physically connected to the pre-existing distribution system at the designated connection point; ii) when the pre-existing distribution conductor is transferred from the old distribution poles to the new expansion poles; and iii) when the old distribution poles are removed. This work is appropriately done by, or at the direction of, the distributor.
24. The construction of the expansion itself, and the stringing of the new conductor to convey electricity from the generator to the pre-existing distribution system connection point is properly (and historically has been) subject to alternative bid.

25. Proposed section 3.2.15A is the critical provision in defining the scope of alternative bid availability, insofar as it applies to expansion construction work. ECAO believes that the phrase "*Work that requires physical contact with the distributor's existing distribution system*", when read in light of the Board's policy explanation provided at pages 3 (bottom) and 4 of the Notice of Proposed Amendment, provides improved clarity regarding the scope of the alternative bid option for construction work.
26. ECAO takes the foregoing view on the understanding that the *DSC* definition of the term "*distribution system*" includes "*structures, equipment*" and similar physical assets, but does not extend to road allowances, utility rights of way or utility easements. However, some distributors have recently asserted the view that the defined term "*distribution system*" does extend beyond physical distribution assets to encompass such broader legal constructs. While ECAO is of the view that the existing *DSC* definition of "*distribution system*" is sufficiently clear, it is submitted that in light of some recently articulated positions to the contrary, clarification by the Board in this respect could usefully be provided. ECAO respectfully suggests that such clarification be provided through the Notice adopting the proposed *DSC* amendments.

Scope of alternative bid option - design.

27. For design work, the Board proposes to clarify the scope of the alternative bid option in revised section 3.2.15. Consistent with the Board's background discussion on design and specification as set out at page 4 of the Notice of Proposed Amendment, ECAO understands the Board to be distinguishing between prudent utility expansion planning on the one hand, and detailed development of the expansion itself on the other hand. The former is properly within the purview of the distributor, while the latter is properly available for alternative bid (when a capital contribution by the customers is required).
28. In line with such distinction, ECAO agrees that it remains appropriate for the distributor to determine;

- (a) where the expansion should be located; and
- (b) how it should be sized,

in order to support the ultimate use of the expansion facilities as a future part of the distribution system to serve other customers. This is the "planning" function associated with distribution.

- 29. The detailed construction and specification drawings, on the other hand, are intended to be available for alternative bid, subject to the ability of the distributor to verify that the final detailed expansion layout and design conforms to the distributor's planning specifications.
- 30. ECAO's recent experience with disputes regarding proper interpretation of the Board's alternative bid policy suggests that additional specificity in proposed section 3.2.15 would be advisable, in order to clearly distinguish between the distributor's "planning" function and the generator's ability to engage the detailed design of an expansion under the alternative bid provisions.
- 31. ECAO therefore respectfully suggests the following revisions to proposed section 3.2.15 (suggested revisions underlined):

Planning for distribution system expansion and the consequent development of general specifications for the design, engineering and layout of an expansion are not subject to alternative bid. Detailed construction planning, detailed specification and design drawings for a particular expansion are subject to alternative bid.

- 32. ECAO suggests consonant revisions to the proposed amendments to paragraph 3.2.16(d) and to proposed additional paragraph 3.2.16(d.1).

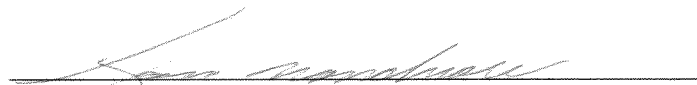
Other amendments.

- 33. ECAO believes that the balance of the clarifying amendments proposed by the Board are appropriate.

Conclusion

34. Until recent departure by a small number of Ontario electricity distributors from historical alternative bid policies and practices, the Board's alternative bid policy worked well "in the field". New distribution customers, in particular new distributed and renewable electricity generators, were provided the opportunity to ensure cost effective and timely connection work where they were required to pay for such work, and existing distribution customers were properly served by appropriate distribution expansion planning and appropriate attention to the integrity of the existing distribution system.
35. There is no need to change this alternative bid policy.
36. Given recent experiences, however, there is a need to clarify the scope and application of the alternative bid policy intended by the Board.
37. ECAO strongly endorses the *DSC* amendments proposed through this notice and comment process.
38. Subject to the clarification suggested above regarding the application of the Board's alternative bid policy to expansion design, ECAO believes that the proposed amendments, applied in conformance with the explanatory guidance provided by the Board in its Notices herein, will ensure that the alternative bid regime that has worked well in the past will continue to serve the government's energy policy objectives, this Board's distribution system regulatory responsibilities, and the interests of Ontario's distribution customers.

ALL OF WHICH IS RESPECTFULLY SUBMITTED:
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