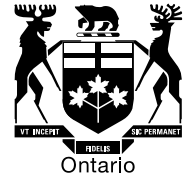


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**BY EMAIL AND WEB POSTING**

**May 17, 2013**

## **NOTICE OF PROPOSAL TO AMEND A CODE**

### **PROPOSED AMENDMENTS TO THE TRANSMISSION SYSTEM CODE AND THE DISTRIBUTION SYSTEM CODE**

**BOARD FILE NO.: EB-2011-0043**

**To: All Licensed Electricity Distributors  
All Licensed Electricity Transmitters  
All Participants in Consultation Process EB-2011-0043  
All Other Interested Parties**

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The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (the "Act") of proposed amendments to the Transmission System Code (the "TSC") and the Distribution System Code (the "DSC").

#### **A. Background**

The purpose of the proposed revisions to the TSC and the DSC is to implement the Board's policies set out in its October 18, 2012 [Report of the Board – A Renewed Regulatory Framework for Electricity Distributors: A Performance Based Approach](#) (the "RRFE Board Report") related to:

- I. the establishment of a process in order to move to a more structured approach to regional infrastructure planning; and
- II. the determination of the appropriate redefinition of certain line connection assets and modifications to the TSC cost responsibility rules to facilitate regional planning and the execution of regional infrastructure plans.

In developing the proposed code amendments set out in this Notice, the Board has been informed by an extensive consultation process. On April 1, 2011, the Board issued a letter initiating a consultation process aimed at promoting the cost-effective development of electricity infrastructure through coordinated planning on a regional basis between licensed electricity distributors and transmitters. The first stage in the consultation process was a stakeholder meeting held on May 12, 2011. On November 8, 2011, the Board subsequently issued a Board staff Discussion Paper with proposals for stakeholder comment. Following the inclusion of this matter in the Board's broader Renewed Regulatory Framework for Electricity ("RRFE") consultation process, the Board gained further stakeholder input through a series of Executive Roundtable Meetings during February and March 2012 as well as a Stakeholder Conference which was held for three days from March 28 – 30, 2012. The Board also established two working groups involving stakeholders following the issuance of the RRFE Board Report which are discussed in more detail below.

### **Regional Planning Process**

In the RRFE Board Report, the Board concluded that infrastructure planning on a regional basis is required to ensure that regional issues and requirements are effectively integrated into utility planning processes. As a consequence, distributors and transmitters will be expected to file evidence in rate and leave to construct proceedings that demonstrates regional issues have been appropriately considered in accordance with the Board's revised filing requirements.

The Board also concluded in the RRFE Board Report that effective regional infrastructure planning would be best achieved by allowing relevant stakeholders a further opportunity to build on their practical experience and on the input received through the consultation on the RRFE. The Board therefore convened a stakeholder working group (the "Planning Process Working Group") to prepare a report to the Board (the "Working Group Report") that set out the details of an appropriate regional infrastructure planning process and identified any changes to the Board's regulatory instruments that may be needed to support the process.

Following a series of working group meetings, the Planning Process Working Group prepared its Working Group Report and issued it for broader stakeholder comment on February 5, 2013. After considering those comments, the Planning Process Working

Group submitted its Working Group Report to the Board setting out its proposed approach to bring more structure to regional planning in Ontario. The Planning Process Working Group's report is included as Attachment A to this Notice.

The Board believes that the process set out in the Working Group Report is appropriate. As such, the Board expects transmitters and distributors to follow that process. The proposed amendments to the TSC and the DSC set out in this Notice focus largely on attaching proposed timelines to the key obligations of transmitters and distributors in respect of their regional planning activities as contemplated in the Working Group Report. The Board therefore requests that any comments on the proposed code amendments include feedback in relation to the timelines set out in the proposed code amendments. While the Board believes such timelines are necessary to foster an efficient and effective process, the Board also wants to ensure the proposed timelines are reasonable.

It is the Board's intention that the Planning Process Working Group will remain in place, as the Regional Planning Standing Committee, and will meet from time to time to consider the need for revisions to the regional planning process, and will update the Working Group Report accordingly. The Board will expect distributors and transmitters to follow the process as it may be revised from time to time.

Any proposed changes to the Ontario Power Authority's ("OPA") licence that the Board believes are necessary for the purpose of facilitating regional planning will be addressed separately.

### **Facilitating Regional Planning and Regional Infrastructure Plan Execution**

The Board also concluded in the RRFE Board Report that changes to the cost responsibility regime in relation to certain transmission connection assets are needed to remove potential barriers related to regional planning and the execution of Regional Infrastructure Plans. Those changes include the redefinition of certain transmission line connection assets as network assets to better reflect the function that each transmission asset performs. Other changes are related to existing rules in the TSC related to the "otherwise planned" and "refund" provisions.

#### *Asset Redefinition*

In relation to the redefinition of certain transmission line connection assets, the RRFE

Board Report identified that all 115/230 kV auto-transformers and the associated switchgear should consistently be defined as network assets. The rationale for that conclusion was that about 50% are currently defined as line connection assets and the other 50% are defined as network assets. In addition, as the Board noted, these are unique system elements that accommodate loads beyond a customer's requirement and auto-transformers optimize use of the transmission system as a whole in accommodating new loads safely, reliably and in a timely manner.

The redefinition of other line connection assets that perform one or more functions beyond supplying the distributor is more complex and technical in nature. As such, the Board established a second stakeholder working group (the "Asset Redefinition Working Group") to provide input to Board staff related to the development of a set of criteria for connection asset redefinition purposes based on the function(s) that line connection assets perform. The proposed TSC amendments in relation to those criteria have been informed by input provided by the Asset Redefinition Working Group.

#### *Otherwise Planned and Refund Issue*

As noted above, the other changes to the cost responsibility regime identified in the RRFE Board Report focused on changes to the existing TSC rules; specifically, the "Otherwise Planned and Refund" issue which is centered on sections 6.3.6 and 6.2.24 of the TSC. As a general rule under the TSC, cost responsibility for transmission connection assets lies with the transmission customer, who may be required to make a capital contribution before the asset is built.

Section 6.3.6 of the TSC creates an exception by stating that a capital contribution is not required for connection facilities that are "otherwise planned" by the transmitter. In the RRFE Board Report, the Board concluded that the "otherwise planned" provision set out in section 6.3.6 of the TSC is incompatible with its approach to regional infrastructure planning as the section implies that a transmitter is expected to plan investments without the input of transmission customers, including distributors. The Board therefore also concluded that it would propose the removal of section 6.3.6.

Section 6.2.24 of the TSC contemplates that, where a customer has made a capital contribution for the construction of a connection facility and that capital contribution includes the cost of capacity not needed by the customer, the customer is entitled to a refund of a portion of the capital contribution if that capacity is later assigned to another

customer. However, that entitlement to a refund ends five years after the connection facility comes into service.

In the RRFE Board Report, the Board concluded that a change was needed to the five year limit on the requirement to provide a refund to the initial transmission customer(s) that provided a capital contribution because the limit may be creating unintended effects which are not conducive to regional planning.

The Board identified that, once the working group process had been completed, it would propose amendments to the relevant provisions of the TSC with a view to integrating the new treatment of all applicable line connection assets, and would also proceed with any other changes to its regulatory instruments as may be required to give effect to those amendments.

## **B. Proposed Amendments to the TSC and the DSC**

Attachments B and C to this Notice contain the proposed amendments to the TSC and the DSC, respectively. The following is a high level summary of some of the more material proposed amendments.

### **Proposed TSC Amendments**

#### **Definitions (new section 3C.1)**

In order to support the proposed TSC and DSC amendments set out in this Notice related to implementing a more structured regional planning process, the Board is proposing to add a number of definitions to both the TSC and DSC. These definitions capture the key concepts set out in the Working Group Report; specifically, (i) the regional infrastructure planning process, which is led by transmitters and includes the needs assessment determination; (ii) the integrated regional resource planning process, which is led by the OPA; (iii) the Regional Infrastructure Plans and Integrated Regional Resource Plans that can be the outputs of the two preceding processes; and (iv) regions. The concept of “regional planning” encompasses both the regional infrastructure planning process and the integrated regional resource planning process.

### **Regional Planning Process (new sections 3C.1 and 3C.2)**

The Board confirms the view set out in the RRFE Board Report that a more structured approach to regional infrastructure planning requires lead responsibility to be assigned and that this responsibility should lie with the applicable transmitter, as the transmitter has a direct relationship with distributors that are their transmission customers. The Board is therefore proposing to amend the TSC to add section 3C.2.1 which would require transmitters to lead regional infrastructure planning processes and develop regional infrastructure plans for each region, as required, in consultation with applicable licensed distributors, other licensed transmitters and the OPA, as appropriate.

The Planning Process Working Group has established regions within the Province that it proposes be used for the purpose of regional planning, which are set out in the Working Group Report. Some of those regions may be served by more than one transmitter. The Board is therefore proposing to add section 3C.1.2 which would require the transmitters to come to agreement in relation to which transmitter will be designated as the lead transmitter for regional infrastructure planning purposes, and to do so within 30 days of these code amendments coming into force.

The Board recognizes that there may be a need for regional boundaries to change over time. As such, the Board proposes to add section 3C.2.2(a) which would require the lead transmitter to undertake a review of the regions at least every five years, in consultation with the OPA, to determine if the regional boundaries need to be changed.

Based on past experience with regional planning in the Province, it is expected that only certain regions in Ontario will require regional infrastructure planning. As such, the Board is proposing to add section 3C.2.2(c) which would place an obligation on the transmitter to carry out a needs assessment to determine if regional planning is necessary, for each region. In addition to determining the regions that require regional planning, the needs assessment would also determine the licensed distributors, within each region, that need to be involved in the process where regional planning is determined to be necessary. It is proposed that the transmitter will identify and document (i.e., list) the distributors in a region that are both required and not required to participate in a regional planning process in order to demonstrate that regional requirements have been considered for all licensed distributors. For a specific region, the Board is proposing that the transmitter complete the needs assessment within 60 days of receiving the necessary information discussed below from the OPA and licensed utilities in the region.

The Board expects that the regional requirements of distributors will change over time. It will be important to take those changes into account on an ongoing basis. The Board therefore proposes to include an obligation in section 3C.2.2(c) requiring the transmitter to carry out the needs assessment discussed above at least once every five years for each region.

In order to undertake the needs assessment discussed above, the lead transmitter will require certain information from the OPA and utilities in the region. The Board therefore proposes to add section 3C.2.2(b) obligating the transmitter to request the necessary information from the OPA and distributors and any other transmitters in a region.

The most optimal solution(s) to address regional requirements will not always be limited to transmission and/or distribution infrastructure investments. In some cases, conservation and demand management (“CDM”) or distributed generation options may represent potential solutions. Accordingly, where a needs assessment indicates that further regional planning activities are required for a region, the transmitter will need to notify the OPA. The OPA would then determine the appropriate regional planning approach; specifically, whether a *regional infrastructure planning process* should be implemented immediately to determine the appropriate investment in transmission and/or distribution facilities to address a need or whether an *integrated regional resource planning process* should be implemented first for the purpose of also taking the potential CDM and generation solutions into consideration in the assessment. The Board therefore proposes to amend the TSC to add section 3C.2.2(d) which would require that the transmitter produce a report for each region to reflect the results of the needs assessment including the identity of the distributors that will and will not need to be involved in the development of a Regional Infrastructure Plan. The transmitter would be required to provide the needs assessment report to the OPA within 10 days of it being completed. Under the proposed amendment, the IESO and distributors and transmitters in the region would also be provided with the report. The report would be provided to all licensed distributors regardless of whether their involvement in a regional planning process is necessary or not. As discussed in more detail below, the proposed DSC amendments (section 8.3.6) would require distributors to submit the needs assessment report, in support of an application, where the transmitter determines they do not need to be involved in a regional planning process.

As noted above, in some cases, an integrated regional resource planning process may be necessary prior to the implementation of a regional infrastructure planning process.

Where that is the case, it will be important for the transmitter to work with the OPA to identify where CDM programs or investments in generation facilities represent potential solutions. As such, the Board is proposing to add section 3C.2.2(f) which would require the transmitter to participate in the integrated regional resource planning process, as required, and provide the OPA with such information as the OPA requires for that purpose, within 30 days of a request by the OPA.

Where a Regional Infrastructure Plan is determined to be necessary or the Plan needs to be updated, the Board believes that six months is an adequate amount of time for a transmitter to complete or revise the Plan; particularly, where an integrated regional resource planning process has preceded the development of a Regional Infrastructure Plan. The Board is therefore proposing to add section 3C.2.2(e) which would require the transmitter to complete the Regional Infrastructure Plan within six months of receiving a report or a plan from the OPA identifying that the needs of the region should be met, in whole or in part, by coordinated investment in transmission and/or distribution facilities. Once it has been completed, the lead transmitter would post the Plan on its website for transparency purposes and so utilities in the applicable region have easy access to the final version of the Plan for application purposes.

There may be cases where a Regional Infrastructure Plan has not been completed at the time that a distributor or a transmitter submits an application to the Board for approval. As such, the Board is proposing to include in section 3C.2.2(g) to require the lead transmitter to provide a letter, within 30 days of it being requested by a distributor or a transmitter, that is suitable for the purpose of supporting an application and explains the status of regional planning in the relevant region.

### **Monitoring and Reporting (new section 3C.3)**

While the Board does not intend to approve Regional Infrastructure Plans, the Board will approve proposed transmission and/or distribution facility investments included in the Plan that it determines are appropriate, through the application process. Once a Regional Infrastructure Plan has been completed, it will be important for implementation of the Plan to be monitored for two purposes. First, for purpose of assessing the status of investments relative to the schedule set out in the Plan. Second, for the purpose of determining if the Plan needs to be updated in advance of the next scheduled needs assessment for the region. The Board is therefore proposing to add section 3C.3.1 which would require the lead transmitter to monitor implementation by undertaking an annual review in consultation with the OPA and all applicable distributors and transmitters in a



region.

The Board will need to be kept informed regarding the status of all the regions in the Province in relation to the regional planning process. The Board is therefore proposing to add section 3C.3.3 which would obligate the lead transmitter to submit an annual report to the Board reflecting the status of regional planning for each region within its transmission system, on November 1<sup>st</sup> of each year. To promote transparency and ease of access, the Board further proposes that the transmitter be required to post the annual report on its website.

In some cases, it may be more appropriate for a distributor that is involved in the development of a Regional Infrastructure Plan to undertake the annual review discussed above. This could be the case, for example, where all or most of the investments in the Regional Infrastructure Plan are investments in distribution facilities. As such, the Board is proposing to add section 3C.3.2 to the TSC which would allow the transmitter to make arrangements for a distributor, within the region, to take on the responsibility identified in section 3C.3.1(a); i.e., undertake the annual review for the purpose of assessing the status of investments relative to the schedule set out in the Plan. In such a case, the transmitter will be required to request a report from the distributor that sets out the status of the applicable investments that are identified in the Plan at least 60 days before the transmitter submits its annual status report to the Board. The transmitter would, however, continue to be responsible for carrying out the monitoring obligation in section 3C.3.1(b); i.e., determining whether any Regional Infrastructure Plan needs to be updated in advance of the next scheduled needs assessment. The Board believes that this latter responsibility should remain with the lead transmitter regardless of which entity undertakes the annual review of the status of investments set out in a Regional Infrastructure Plan.

#### **Transition (new section 3C.4)**

The Board believes it will be necessary to have a transition process before regular regional planning cycles can be implemented. This is largely due to the fact that one transmitter will be responsible for leading regional planning processes for 21 regions in the Province, and will not be able to do so for all regions at the same time once the code amendments come into effect. As proposed in the Working Group Report, the Board believes that regions should be prioritized in terms of the need for investment. The Board is therefore proposing to add section 3C.4.2 which would require a transmitter to complete a review of all regions in which its transmission system is located for the purpose of prioritizing them

based on the potential need for investment in transmission and/or distribution facilities, and to do so within 90 days of these code amendments coming into force. Needs assessments would be undertaken by the transmitter in accordance with the priority list. The Board also proposes that the transmitter be required to review the prioritization of regions every 12 months to determine whether revisions to the priority list are required. It is further proposed that the transmitter be obligated to post an up to date priority list on its website to keep distributors, the OPA and all other interested parties informed. The Process Planning Working Group has already completed an initial prioritization of the 21 regions noted above, based on the need for investment, and accordingly placed them into three groups as reflected in the Working Group Report.

For the purpose of the prioritization of regions discussed above, the Board is proposing to add section 3C.4.1 which would require transmitters to request an initial letter from all distributors connected to its transmission system identifying whether the distributor foresees a need for a material investment in transmission infrastructure to support the needs of the distributor's distribution system, over the next five years. That request for the letter would need to be made within 10 days of these code amendments coming into force. This letter is intended to inform the lead transmitter as to whether the initial prioritization discussed above needs to be refined.

The Board is also proposing that, within 10 days of completing a prioritization review of the regions (including the initial review), the transmitter notify the distributors and transmitters in each region regarding whether they need to be involved in a regional planning process for the region (proposed section 3C.4.3). Under the same proposed section, the transmitter would also be required to provide a report to the OPA identifying whether regional planning is necessary for each region and, where it is required, the identity of the distributors and transmitter(s) in the region that need to be involved.

The Board understands that it will take approximately four years to complete the transitional regional planning process set out in the Working Group Report for all of the regions in the Province. The Board is therefore proposing to add section 3C.4.3 requiring transmitters to complete an initial needs assessment and a Regional Infrastructure Plan, where required, for all regions within four years of these code amendments coming into force.

## **Proposed DSC Amendments**

### **Regional Planning Process (new sections 8.1 to 8.3)**

Subject to such modifications as are required by the context, the Board is proposing to add the same definitions to the DSC (proposed section 8.1), as it is proposing for the TSC. In addition, the Board is proposing to add a further defined term – “transmission-connected distributor” – to capture distributors whose distribution system is connected to the transmission system of a licensed transmitter. This is necessary to reflect the fact that, under the Board’s proposed approach to regional planning, embedded distributors will generally communicate with their host distributor, and transmission-connected distributors will generally communicate with the transmitter and/or the OPA. Where a transmission-connected distributor is a host distributor, it will need to integrate information coming from its embedded distributors.

The Board is of the view that, where a transmitter or the OPA has determined that a distributor’s participation is necessary in regional planning, there is a need to ensure that the distributor participates. The Board believes this is necessary for a number of reasons. For example, all or part of the optimal solution, from a cost and reliability perspective, may be a shared investment in distribution facilities between two neighbouring distributors. If participation is left to the discretion of distributors and one of those distributors chose not to participate, that optimal investment would likely not be made. Such an outcome would be contrary to the Board’s objectives associated with implementing a more structured regional planning process. The Board is therefore proposing to add sections 8.2.1 (transmission-connected distributors) and 8.2.2 (embedded distributors) to the DSC which would require *host* and *embedded* distributors to participate in regional planning activities where their involvement is considered necessary by the OPA, the transmitter or a host distributor, as applicable.

As noted above, in order for a transmitter to carry out a needs assessment, the transmitter will require certain information from distributors within a region. It will be important that the information be provided to the transmitter in a timely and consistent manner. The Board therefore proposes to amend the DSC to add sections 8.3.1(a) (transmission-connected distributors) and 8.3.3(a) (embedded distributors) which would require distributors to provide the necessary information for regional planning purposes on a timely basis (30 days for an embedded distributor and 60 days for a transmission-connected distributor). The Board expects that the information to be so provided will be in keeping with the

information that the industry has identified as necessary for regional planning purposes as set out in the Working Group Report.

Unplanned developments may occur that have a material impact on the forecast requirements of a distributor outside of the regular regional planning cycle (i.e., in advance of the next scheduled needs assessment). Where this is the case, the Board believes that it is important for such information to be shared on a timely basis for regional planning purposes. For example, it could either: (1) trigger the need for a regional planning process (where it was previously determined regional planning was not necessary); or (2) trigger the need to make changes to an existing Regional Infrastructure Plan. As a consequence, it is proposed that the DSC be amended, by adding sections 8.3.1(b) (transmission-connected distributors) and 8.3.3(b) (embedded distributors), obligating them to provide prompt notice of such developments to the transmitter or host distributor, as applicable.

Where the transmitter determines that regional planning is necessary, additional information may be required from the distributors that the lead transmitter determines need to participate in the regional planning process for the purpose of facilitating a more detailed assessment. It is proposed that the DSC be amended by adding section 8.3.2 which would require distributors to provide that additional information to the OPA within 30 days of it being requested for the purpose of carrying out the determination of the appropriate regional planning approach. That is, whether a Regional Infrastructure Plan should be implemented immediately or an Integrated Regional Resource Plan ("IRRP") needs to be undertaken before the Regional Infrastructure Plan is implemented. An IRRP would be necessary where it is determined that the potential solutions to address the electricity needs of a region involve additional conservation and/or generation (i.e., not limited to investment in transmission and/or distribution facilities). The OPA may also require additional information from distributors to support the IRRP process, where such a process has been implemented.

As noted above, the intention of the Board is to require distributors to submit a Regional Infrastructure Plan or other documentation demonstrating regional considerations have been taken into consideration, for the purpose of supporting its application(s) to the Board.<sup>1</sup> In some cases, the Regional Infrastructure Plan may not be finalized when the distributor submits its application. As such, the Board is proposing to add section 8.3.4 which would require the distributor, including an embedded distributor, to request a letter from the

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<sup>1</sup> The Board's Filing Requirements will also be amended to reflect the appropriate documentation that will need to be submitted as part of an application in relation to regional planning.

transmitter setting out the status of the regional planning process that is suitable for the purpose of supporting an application. The purpose of the letter is to demonstrate that regional considerations have been taken into account in the absence of a finalized Regional Infrastructure Plan. Under this proposed section, the distributor would be required to request the letter at least 60 days in advance of requiring the letter. Where a Regional Infrastructure Plan has been completed, the Plan would be made publically available by the lead transmitter on its website. As such, the applicable utilities will have easy access to it for application purposes.

As discussed above, a needs assessment report prepared by a transmitter will identify all distributors in a region that do and do not need to be involved in further regional planning activities. Where the needs assessment report identifies that a distributor's involvement in regional planning is not necessary, a customized letter from a lead transmitter referred to above explaining the status of regional planning will not be necessary. Rather, the needs assessment report will be adequate for the purpose of supporting an application(s) by a distributor, in such cases, as set out in section 8.3.5. It is proposed that a transmission-connected distributor or embedded distributor request a needs assessment report from the lead transmitter at least 10 days before it is required for purposes of the distributor's application.

For clarity, distributors and other transmitters will be required to submit one of the following documents in support of an application:

- (1) Regional Infrastructure Plan, where one was determined to be necessary and has been completed;
- (2) Letter from the lead transmitter identifying the status of regional planning, where a Regional Infrastructure Plan is necessary but not yet completed; or
- (3) Needs assessment report, where their involvement in a regional planning process is not necessary.

#### **Monitoring and Reporting (new section 8.4)**

As noted above, it will be important to monitor investments in Regional Infrastructure Plans to assess the status of investments relative to the schedule set out in the Plan. As such, the Board proposes to add section 8.4.1 which would obligate a distributor to provide an update, within 30 days, regarding the status of any applicable investment(s) within its distribution system where the transmitter requests the distributor to do so. An embedded

distributor would similarly be required to provide an update to its host distributor under this section.

As also noted above, the Board is proposing to permit a transmitter to make arrangements for a distributor to take on the obligation to monitor whether the investments in transmission facilities and/or distribution facilities identified in a Regional Infrastructure Plan are being implemented in accordance with the schedule set out in the Plan. In cases where such arrangements are made, it will be important to ensure that the transmitter is aware of the results related to such a review. As a consequence, the Board is proposing to add section 8.4.2 obligating the distributor undertaking such a review to provide the transmitter with a report identifying the status of the investments set out in the Regional Infrastructure Plan, within 60 days of being requested to do so. Where such arrangements are made, the other distributors, in the region, that are involved in the development of the Regional Infrastructure Plan would be required to provide the status update related to any applicable investment(s), referred to in section 8.4.1 above, to the distributor leading the review.

#### **Transition (new section 8.5)**

As discussed above, the Board is proposing that the transmitter be required to prioritize the regions for implementation purposes. As such, for the purpose of that prioritization, the Board is proposing to add section 8.5.1 which would require a distributor to provide the transmitter with a letter, within 45 days of a request for the letter from the lead transmitter, that identifies whether the distributor foresees a need for a material investment in transmission facilities over the next five years. The Board is also proposing to add section 8.5.2 which would place the same obligation on an embedded distributor to provide such a letter within 15 days of a request from the its host distributor.

#### **Continuing Obligation: Distribution System (new section 8.6)**

The Board also proposes the addition of section 8.6.1 which would clarify that involvement in a regional planning does not limit a distributor's obligation to maintain the reliability and integrity of its distribution system in order to meet load growth within its service area.

## **Proposed TSC Amendments**

### **Facilitating Regional Planning and Regional Infrastructure Plan Execution**

#### *Otherwise Planned and Refund Issue*

*(new section 3B, sections 6.3.6, 6.2.24 and 6.3.17 and other consequential amendments)*

The Board remains of the view that the “otherwise planned” provision in section 6.3.6 of the TSC is not compatible with its approach to regional planning. The Board also believes that removing section 6.3.6 from the TSC will result in greater regulatory predictability and fairness amongst transmission customers in relation to cost responsibility (i.e., the transmission customer(s) that benefit from a transmission connection investment will pay for the upgrade regardless of how the investment is planned). The Board is therefore proposing to remove section 6.3.6 from the TSC.

Section 6.1.4(i) of the TSC currently places an obligation on the transmitter to provide a customer with the most recent version of the plans associated with section 6.3.6 that cover the applicable portion of its transmission system. Consistent with the proposed removal of section 6.3.6 from the TSC and with the implementation of regional planning throughout the Province, as discussed above, the Board proposes to amend section 6.1.4(i) to require the transmitter to instead provide the most recent version of Regional Infrastructure Plan or Integrated Regional Resource Plan.

Section 6.3.6 also currently places an obligation on a transmitter to develop and maintain plans to meet load growth and to maintain the reliability and integrity of its transmission system. The Board believes it is important to retain that concept in the TSC. The Board is therefore proposing to add section 3B.1 which would confirm a transmitter’s obligation to maintain the reliability and integrity of its transmission system and to reinforce or expand its transmission system as required to meet load growth.

The Board also remains of the view that the five year limit associated with the requirement to provide a refund to the initial transmission customer(s) that provided a capital contribution has the potential to create unintended effects that may not be supportive of regional planning and may impede the execution of regional infrastructure plans. For example, it may provide a distributor with an incentive not to identify its additional capacity requirements until after the five year period expires and to make sub-optimal investments within its distribution system to address those capacity needs, in the interim period, for the

purpose of avoiding the requirement to provide a capital contribution. The Board considered removing the sunset period from all applicable sections of the TSC. However, the Board has taken into consideration that there will be a point in time where the appropriate refund will become immaterial, and requiring the transmitter to continue to track it beyond that point in time would result in unnecessary administrative costs for the transmitter. The Board is therefore proposing to extend the sunset period from five to 15 years. This period of time is consistent with the distributor true-up calculation provisions associated with capital contributions in section 6.5.3 of the TSC. The Board believes that this proposed change strikes an appropriate balance between mitigating any unintended effects and avoiding unnecessary administrative costs.

In addition to section 6.2.24 of the TSC, which was the focus of the RRFE Board Report in relation to the sunset period, section 6.3.17 of the TSC also includes a similar sunset period. The Board believes that the entitlement to a refund for up to 15 years should apply regardless of the reasons for which excess capacity is included on a facility. The Board is therefore proposing to retain only one section that deals with this issue, and to eliminate the other. Specifically, the Board is proposing to delete section 6.2.24 and to amend section 6.3.17 to make it applicable to all circumstances in which excess capacity might be included on a facility. This would place all cost responsibility-related provisions in section 6.3.

Consistent with this proposed change, the Board is also proposing consequential amendments as follows: (1) removing the reference to section 6.2.24 from sections 6.2.3, 6.2.25, 6.7.8 and 6.9.1 of the TSC; and (2) moving section 6.2.25 (which deals with the calculation of refunds) so that it follows section 6.3.17 and becomes section 6.3.17A.

As contemplated in the RRFE Board Report, the extension of the sunset period to 15 years will only apply on a going-forward basis; that is, to customers that make a capital contribution on or after the code amendments come into force.

#### *The Transmission Asset Definition Issue*

*(new and amended definitions and new sections 3.0.14 and 3.0.15)*

As noted above, the Board concluded in the RRFE Board Report that certain line connection assets should be redefined, where appropriate, to better reflect the function they perform, and to facilitate regional infrastructure planning and the associated execution of regional plans. For that purpose, based on input provided by the Asset



Redefinition Working Group, the Board is proposing to broaden the definition of “network facilities” in new section 3.0.14(a) of the TSC to include any line that forms part of the physical path between (i) two network stations; or (ii) a network station and the transmission system of a neighbouring Ontario transmitter or a transmission system outside Ontario, such that electricity can be transmitted along the entire path under some operating conditions. This would apply regardless of whether it reflects normal operating conditions. The existing definition of “connection facilities” (section 2.0.13) is also proposed to be amended to exclude any lines that would be included in this broadened definition of “network facilities”.

As currently defined in the TSC, “network facilities” include network stations. There is currently no definition of “network station” in the TSC. For the purpose of adding clarity to the TSC, particularly in the context of the proposal to expand the concept of “network station” as described below, the Board is proposing to add a new definition of “network station” (new section 2.0.45A) as follows:

- i. a 500 kV element, including a 500/230 kV or a 500/115 kV autotransformer;
- ii. a 230 kV or 115 kV element that switches lines that normally operate in parallel with lines that connect transmission stations containing 500 kV elements;
- iii. a 345 kV, 230 kV or 115 kV element that switches a 345 kV, 230 kV or 115 kV line that connects with the transmission system of a neighbouring Ontario transmitter or with a transmission system outside Ontario, including a 345/115 kV autotransformer; or
- iv. a 345 kV, 230 kV or 115 kV element that switches a 345 kV, 230 kV or 115 kV line that connects interconnection circuits to any network station referred to in any of (i) to (iii) above.

The Board understands that the above comprise what are normally understood by the industry to be “network stations” and that it is consistent with previous Board Decisions.

The Board is also proposing a broader definition of “network station” in new section 3.0.14(b) to include any station with one or more of the following attributes:

- i. an element that is greater than 500 kV;

- ii. an autotransformer that steps down voltage from a higher transmission level to a lower transmission level; or
- iii. a transmission switchyard to which all of the following are connected to:
  - a. one or more generation facilities with a minimum aggregate installed rated capacity of 250 MW;
  - b. one or more load facilities with a minimum aggregate load of 150 MW; and
  - c. a minimum of four transmission circuits.

The Board notes that only new facilities or future upgrades to existing facilities will have the potential to present a barrier to regional planning and the execution of Regional Infrastructure Plans. As such, the Board is proposing to add new section 3.0.15 to the TSC to identify that the broader definition of “network facility” and the broader definition of “network station” would only apply to the line referred to in 3.0.14(a) or the station referred to in section 3.0.14(b) that are constructed, or reinforced or expanded to add capacity on a go forward basis; specifically, on or after the date that these TSC amendments come into force.

### **C. Anticipated Costs and Benefits**

The Board believes the code amendments set out in this Notice will result in benefits that exceed any additional costs.

The Board expects that an increase in coordinated planning, on a regional basis, amongst electric utilities will result in more cost-effective investments in relation to transmission and distribution facilities. Investments in such facilities to address capacity needs tend to be lumpy in nature and therefore often involve capacity that exceeds the requirements of a single utility. Coordinated planning amongst utilities should reduce the potential for utilities to duplicate investments and minimize unnecessary excess capacity on transmission and distribution systems in Ontario. Achievement of such an outcome will benefit consumers through lower delivery charges on their electricity bills.

While regional planning is already occurring to some extent in Ontario, it is doing so on a somewhat ad hoc basis. The Board believes these code amendments will achieve the following beneficial outcomes:

- Ensure regional plans are being developed throughout the Province where it is determined to be necessary;
- Increase utility accountability in the regional planning process;
- Incorporate strict timelines into various aspects of the process such as the provision of the necessary information, completion of deliverables (e.g., Regional Infrastructure Plan), etc.;
- Increase transparency in the process through the posting of an annual report by the transmitter identifying the status of the regional planning process for all regions; and
- Underpin and facilitate the implementation of the regional planning process in a manner that is consistent with the process set out in the Working Group Report, which in turn allows for stakeholder consultation in the regional planning process.

In addition to facilitating the development of Regional Infrastructure Plans through the enhanced planning process discussed above, the proposed amendments also have other benefits related to cost responsibility, including those discussed below.

The Board believes that the proposed removal of section 6.3.6 will result in a more appropriate allocation of costs, where applicable. Investments in transmission connection facilities are made to meet the needs of a specific customer or group of customers. However, if those investments are “otherwise planned” by the transmitter, under section 6.3.6, the costs are recovered from all electricity consumers in the Province, including from consumers that do not benefit from the investment. The elimination of section 6.3.6 will better ensure that the customers that benefit from the investment will bear the cost regardless of how the investment is planned. The Board also believes removing that section of the TSC will enhance regulatory predictability, which is important within the context of large capital investments.

In addition, as previously noted, where a customer is entitled to a refund of a portion of a capital contribution because capacity on a connection facility was assigned to another customer, the entitlement to that refund currently ends after five years. Extending that period from five to 15 years would maintain that entitlement until the refund would become immaterial. Similar to the removal of section 6.3.6, this change would also be more consistent with the beneficiary pays principle and will therefore result in a more appropriate allocation and recovery of costs.

All of the proposed changes related to cost responsibility set out in this Notice, including the proposed redefinition of certain connection assets, will therefore create a stronger

alignment between the customers that benefit from investments in transmission connection facilities and the customers that pay the costs of those investments. The Board believes that this outcome will enhance cost discipline amongst utilities and therefore result in lower electricity bills for end use consumers.

The Board expects that the proposed amendments to the TSC and the DSC, particularly those relating to regional planning, will result in transmitters and distributors incurring additional administrative costs. At the same time, given that the results of regional planning will need to be submitted in support of utility applications, the Board believes that a more efficient hearing process will ensue, with associated cost savings that can offset some of those additional administrative costs. In addition, as noted above, regional planning is already taking place in some parts of the Province. To the extent this is already occurring, there should be little or no additional administrative costs.

#### **D. Coming into Force**

The Board proposes that the proposed amendments to the TSC and the DSC, as set out in Attachments B and C, come into force on the date that the final code amendments are published on the Board's website after having been made by the Board.

#### **E. Cost Awards**

As noted in the Board's October 18, 2012 letter accompanying the RRFE Board Report, cost awards will be available under section 30 of the Act to eligible persons in relation to the provision of comments on the proposed amendments to the TSC and the DSC set out in this Notice. Cost awards will be available to a **maximum of 15 hours** per eligible participant, and will be recovered from all rate-regulated licensed electricity distributors (65% of the costs awarded) and all rate-regulated licensed transmitters (35% of the costs awarded).

Attachment D contains important information regarding cost awards for this Notice and comment process, including in relation to eligibility requests and objections. In order to facilitate a timely decision on cost eligibility, the deadlines for filing cost eligibility requests and objections will be strictly enforced.

The following stakeholders need not submit a further request for cost eligibility: (a) members of the Planning Process Working Group that were eligible for cost awards in

relation to their participation on that Working Group and related activities; and (b) stakeholders that have been determined to be eligible for an award of costs in relation to regional planning consultation activities subsequent to the issuance of the RRFE Board Report.

**F. Invitation to Comment**

All interested parties are invited to submit written comments on the proposed amendments to the TSC and the DSC as set out in Attachments B and C by **June 17, 2013**.

Three (3) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto, Ontario, M4P 1E4

The Board requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca), and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca).

Those that do not have internet access should provide a CD containing their filing in PDF format.

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB- 2011-0043** and include your name, address, telephone number and, where available, your e-mail address and fax number.

If the written comment is from a private citizen (i.e., not a lawyer representing a client, not a consultant representing a client or organization, not an individual in an organization that represents the interests of consumers or other groups, and not an individual from a regulated entity), before making the written comment available for viewing at the Board's offices or placing the written comment on the Board's website, the Board will remove any personal (i.e., not business) contact information from the written comment (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the written comment will be available for viewing at the Board's offices and will be placed on the Board's website.

This Notice, including the proposed amendments to the TSC and the DSC set out in Attachments B and C, and all written comments received by the Board in response to this Notice will be available for public viewing on the Board's web site at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca) and at the office of the Board during normal business hours.

If you have any questions regarding the proposed amendments to the codes described in this Notice, please contact Chris Cincar at [Chris.Cincar@OntarioEnergyBoard.ca](mailto:Chris.Cincar@OntarioEnergyBoard.ca) or at 416-440-7696. The Board's toll free number is 1-888-632-6273.

**DATED** at Toronto, May 17, 2013

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

Attachments:

- Attachment A — Planning Process Working Group Report to the Board: The Process for Regional Infrastructure Planning in Ontario
- Attachment B — Proposed Amendments to the Transmission System Code
- Attachment C — Proposed Amendments to the Distribution System Code
- Attachment D — Cost Awards

**Attachment A  
to  
Notice of Proposed Amendments to the Transmission System Code and the  
Distribution System Code**

**May 17, 2013**

**EB-2011-0043**

**Working Group Report to the Board:  
The Process for Regional Infrastructure Planning in Ontario**

[see separate document attached]

**Attachment B  
to  
Notice of Proposed Amendments to the Transmission System Code and the  
Distribution System Code**

**May 17, 2013**

**EB-2011-0043**

**Proposed Amendments to the Transmission System Code**

*Note: Underlined text indicates proposed additions to the Transmission System Code and strikethrough text indicates proposed deletions from the Transmission System Code. Numbered titles are included for convenience of reference only.*

**I. Regional Planning Process**

1. Section 3 of the Transmission System Code is amended by adding new section 3C as follows:

**3C. Regional Planning**

**3C.1 Definitions and Lead Responsibility Where More than One  
Transmitter in a Region**

3C.1.1 For the purposes of this section 3C:

“Integrated Regional Resource Plan” means a document prepared by the OPA that identifies the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

“integrated regional resource planning process” means a planning process led by the OPA for the purpose of determining the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

“needs assessment” means a process led by a transmitter to determine if a Regional Infrastructure Plan or an Integrated Regional Resource Plan is required



or needs to be updated for a region;

“region”, in respect of a transmitter, means an area that is within which the transmitter’s transmission system is located, in whole or in part, and that has been designated as such by the transmitter, in consultation with the OPA, under section 3C.2.2(a) for regional planning purposes;

“Regional Infrastructure Plan” means a document prepared by the transmitter leading a regional infrastructure planning process that identifies investments in transmission facilities, distribution facilities or both that should be developed and implemented on a coordinated basis to meet the electricity infrastructure needs within a region;

“regional infrastructure planning process” means a planning process led by a transmitter in accordance with this section 3C for the purpose of determining the investments in transmission facilities, distribution facilities or both that should be developed and implemented on a coordinated basis to meet the electricity infrastructure needs within a region; and

“regional planning” means a planning process involving licensed transmitter(s), licensed distributor(s), and the OPA for the purpose of determining whether a Regional Infrastructure Plan and/or an Integrated Regional Resource Plan is required for a region and, where required, developing or updating a Regional Infrastructure Plan and/or an Integrated Regional Resource Plan.

3C.1.2 For the purposes of this section 3C, where the transmission system of more than one licensed transmitter is connected to customers in a region, the applicable transmitters shall determine which among them will be responsible for leading the regional infrastructure planning processes for the region at any given time. The applicable transmitters shall make that determination within 30 days of *[insert date of coming into force of the amendments]*, and may agree to change that determination from time to time thereafter. The transmitter that has been so designated at any given time shall be responsible for complying with the obligations set out in this section 3C. The other transmitter(s) shall participate in any regional infrastructure planning process or integrated regional resource planning process for the region as reasonably required by the lead transmitter or

the OPA, as applicable, but shall not otherwise be required to comply with the obligations set out in this section 3C.

### **3C.2 Obligation to Lead Regional Infrastructure Planning Process**

3C.2.1 A transmitter shall, in consultation with the OPA and with all applicable licensed distributors and licensed transmitters in a region, lead a regional infrastructure planning process for each region and participate in any integrated regional resource planning process for the region.

3C.2.2 For the purposes of section 3C.2.1, a transmitter shall:

- (a) review the boundaries of the regions, in consultation with the OPA, no less than once every five years to determine whether they need to be modified;
- (b) from time to time as required, and on a timely basis, request information from all licensed distributors and licensed transmitters in a region and from the OPA that the transmitter considers is reasonably required for the purpose of undertaking a needs assessment in relation to the region;
- (c) for each region, conduct a needs assessment at least every five years, and more frequently if required by reason of forecasted load or demand growth within a distributor's licensed service area, request(s) for connection received by the transmitter or other events that the transmitter believes may trigger the need for investment in transmission facilities, distribution facilities or both in a region. The needs assessment, for a region, shall be completed within 60 days of receipt of the information referred to in section 3C.2.2(b);
- (d) within 10 days of completion of a needs assessment for a region, provide a report to the OPA, the IESO, and all licensed distributors and licensed transmitters within the region that reflects the results of the needs assessment, including the identity of the licensed distributors that will and will not need to be involved in further regional planning

activities for the region. The lead transmitter shall also post the needs assessment report on its website upon its completion;

- (e) where a needs assessment identifies that a Regional Infrastructure Plan may be required (where one is not yet in place) or may need to be updated (where one is already in place) for a region and the OPA confirms that the electricity needs of the region should be met, in whole or in part, by investments in transmission facilities, distribution facilities or both that are developed and implemented on a coordinated basis, complete or update a Regional Infrastructure Plan for the region, within six months of the date of receipt of such confirmation from the OPA, and post the Regional Infrastructure Plan on its website upon its completion;
- (f) where the OPA determines that an integrated regional resource planning process is required for a region, (i) participate in the integrated regional resource planning process as may be reasonably required by the OPA, and (ii) provide the OPA with such information as the OPA may from time to time reasonably require for the purposes of the integrated regional resource planning process within 30 days of receipt of a request by the OPA for the information;
- (g) within 30 days of being requested to do so, provide a letter to a licensed distributor or a licensed transmitter confirming the status of regional planning for a region, including any Regional Infrastructure Plan that is being developed for the region that includes the distributor's licensed service area or within which the transmitter's transmission system is located, suitable for the purpose of supporting an application proposed to be filed with the Board by the distributor or transmitter.

### **3C.3 Monitoring and Reporting**

3C.3.1 Subject to section 3C.3.2, a transmitter shall, in consultation with the OPA and with all applicable licensed distributors and licensed transmitters in a region for which a Regional Infrastructure Plan has been completed, undertake a review every 12 months following the completion of the

Regional Infrastructure Plan for the purpose of determining:

- (a) whether the investments in transmission facilities, distribution facilities or both, as applicable, identified in the Regional Infrastructure Plan are being implemented in accordance with the schedule set out in the Plan; and
- (b) whether the Regional Infrastructure Plan needs to be updated in advance of the next scheduled needs assessment for the region.

3C.3.2 For a given region, a transmitter may make arrangements for a licensed distributor in the region to conduct the review referred to in section 3C.3.1(a) rather than conducting the review itself. In such a case, the transmitter shall request a report from the distributor setting out the status of the investments in transmission facilities, distribution facilities or both, as applicable, set out in the Regional Infrastructure Plan at least 60 days in advance of the filing of the annual status report referred to in section 3C.3.3.

3C.3.3 A transmitter shall submit an annual report to the Board, on November 1<sup>st</sup> of each year, that identifies the status of regional planning for all regions, within its transmission system, and shall post the report on its website.

### **3C.4 Transition**

3C.4.1 A transmitter shall, within 10 days of *[insert date of coming into force of amendments]*, request from each licensed distributor whose distribution system is connected to its transmission system a letter identifying whether the distributor foresees a need for a material investment in transmission infrastructure to support the needs of the distributor's distribution system and of the distribution system of any of that distributor's embedded licensed distributors over the next five years.

3C.4.2 A transmitter shall, within 90 days of *[insert date of coming into force of amendments]*, complete a review of all regions to prioritize them based on the anticipated timing of the need for investment in transmission facilities, distribution facilities or both. Every 12 months following *[insert date of coming into force of amendments]*, the transmitter shall review the

prioritization of regions and revise it as required to reflect emerging needs in the regions. The transmitter shall maintain a priority list, post it on its website and update it as required to reflect any changes in prioritization.

3C.4.3 A transmitter shall, within 10 days of completing a review referred to in section 3C.4.2:

- (a) notify the licensed distributors and licensed transmitters within a region regarding whether they need to be involved in regional planning for the region; and
- (b) provide a report to the OPA identifying whether regional planning is required for each region and, where it is required, the identity of the licensed distributors and licensed transmitters in the region that need to be involved in regional planning for the region.

3C.4.4 A transmitter shall undertake a needs assessments for each region in accordance with the priority list referred to in section 3C.4.2. Within four years of [insert date of coming into force of amendments], the transmitter shall complete a needs assessment for all regions, and complete a Regional Infrastructure Plan for each region where one is required.

## **II. Facilitating Regional Planning and Regional Infrastructure Plan Execution**

### *1. Otherwise Planned and Refund Issue*

1. Section 3 of the Transmission System Code is amended by adding new section 3B as follows:

### **3B. Reliability and Integrity of Transmission System**

3B.1 A transmitter shall, in accordance with the Act, its licence and this Code, maintain the reliability and integrity of its transmission system and reinforce or expand its transmission system as required to meet load growth.

2. Section 6.1.4(i) of the Transmission System Code is amended by deleting the phrase “plans required by section 6.3.6” and replacing it with the phrase “Regional Infrastructure Plan or the Integrated Regional Resource Plan referred to in section 3C, if any”:

6.1.4 A transmitter's connection procedures referred to in section 6.1.3 shall include the following:

...

- (i) an obligation on the transmitter to provide a customer with the most recent version of the plans required by section 6.3 Regional Infrastructure Plan or the Integrated Regional Resource Plan referred to in section 3C, if any, that covers the applicable portion of the transmitter's transmission system.

3. Section 6.2.3 of the Transmission System Code is amended as follows:

6.2.3 Where an economic evaluation, including an economic evaluation referred to in section ~~6.2.24~~, 6.3.9 or 6.3.17A, was conducted by a transmitter for a load customer in relation to a connection facility on the basis of a load forecast, that customer's contracted capacity shall, during the economic evaluation period to which the economic evaluation relates, be equal to the load identified in that load forecast or in any subsequent forecast used for purposes of giving effect to the true-up provisions of section 6.5.

4. The Transmission System Code is amended by deleting sections 6.2.24, 6.2.25 and 6.3.6.

~~6.3.6 A transmitter shall develop and maintain plans to meet load growth and maintain the reliability and integrity of its transmission system. The transmitter shall not require a customer to make a capital contribution for a connection facility that was otherwise planned by the transmitter; except for advancement costs.~~

~~6.2.24 Where a customer has made a capital contribution for the construction of a connection facility other than an enabler facility, and where that capital contribution includes the cost of capacity on the connection facility not needed by the customer, the transmitter shall provide a refund, calculated in accordance~~

~~with section 6.2.25, to the customer if that capacity is assigned to another load customer within five years of the date on which the connection facility comes into service. Where such a refund is required under section 6.2.25, the transmitter shall require a financial contribution, calculated in accordance with section 6.2.25, from the subsequent customer.~~

~~6.2.25 For purposes of sections 6.2.24 and 6.3.17, the transmitter shall determine the amount of the refund to the initial customer and of the financial contribution from the subsequent customer by calculating.....~~

5. Section 6.3.17 of the Transmission System Code is amended as follows:

6.3.17 Where a customer has made a capital contribution for the construction of a connection facility other than an enabler facility, and where that capital contribution includes the cost of capacity on the connection facility in excess of the customer's needs in order to comply with facilities standards or good utility practice, the transmitter shall provide a refund, calculated in accordance with section ~~6.2.25~~6.3.17A, to the customer as follows:

- a) where the customer made the capital contribution before *[insert date of coming into force of amendments]*, the refund shall be provided if that excess capacity is assigned to another customer within five years of the date on which the connection facility comes into service; or
- b) where the customer makes the capital contribution on or after *[insert date of coming into force of amendments]*, the refund shall be provided if that excess capacity is assigned to another customer within fifteen years after the date on which the connection facility comes into service.

~~if that available capacity is assigned to another customer within five years of the date on which the connection facility comes into service. Where such a refund is required, the transmitter shall require a financial contribution from the subsequent customer to cover the amount of that refund.~~

6. The Transmission System Code is amended by adding new section 6.3.17A to replace section 6.2.25 as follows:

6.3.17A~~6.2.25~~ For purposes of sections ~~6.2.24~~ and 6.3.17, the transmitter shall determine the amount of the refund to the initial customer and of the financial contribution from the subsequent customer by calculating a revised capital contribution amount using the prescribed economic evaluation methodology set out in section 6.5 and the same inputs as used in the original economic evaluation except for load, which will be based on the actual load of the initial customer up to the time of connection of the subsequent customer and a revised load forecast for the remainder of the economic evaluation period. The revised load forecast will include an updated load forecast of the initial customer plus the load forecast of the subsequent customer. The transmitter will then use the methodology set out in sections 6.3.14, 6.3.15 or 6.3.16 to allocate the revised capital contribution amount to the initial and subsequent customers. The refund to the initial customer shall be determined by subtracting the initial customer's allocated share of the revised capital contribution amount from the original capital contribution amount paid by the initial customer.

7. Section 6.7.8 of the Transmission System Code is amended as follows:

6.7.8 Where an economic evaluation, including an economic evaluation referred to in section ~~6.2.24~~, 6.3.9 or 6.3.17A, was conducted by a transmitter for a load customer in relation to a connection facility on the basis of a load forecast, a transmitter shall not, during the economic evaluation period to which the economic evaluation relates, require bypass compensation from a customer under section 6.7.6 in relation to any load that represents that customer's contracted capacity.

8. Section 6.9.1 of the Transmission System Code is amended as follows:

6.9.1 A transmitter shall maintain complete and accurate records of all economic evaluations required to be carried out under this Code, including the economic evaluations referred to in sections ~~6.2.24~~, 6.3.9 and 6.3.17A. Each record must show the details of the economic evaluation, including the



determination of the risk classification and the resulting economic evaluation period, the load forecast, the project capital costs, the ongoing operation and maintenance costs, and the project after tax incremental cost of capital, and must include the justification for all of the study parameters.

2. *The Transmission Asset Definition Issue*

1. Section 2.0.13 of the Transmission System Code is amended as follows:

2.0.13 "connection facilities" means line connection facilities and transformation connection facilities that connect a transmitter's transmission system with the facilities of another person, and includes an enabler facility but excludes any line referred to in section 3.0.14(a) and any station referred to in section 3.0.14(b);

2. Section 2.0.45 of the Transmission System Code is amended as follows:

2.0.45 "network facilities" means those facilities, other than connection facilities, that form part of a transmission system that are shared by all users, comprised of network stations and the transmission lines connecting them, and has the extended meaning given to it in section 3.0.14;

3. Section 2 of the Transmission System Code is amended by adding new section 2.0.45A as follows:

2.0.45A "network station" means:

- (a) any station with one or more of the following:

- i. a 500 kV element, including a 500/230 kV or a 500/115 kV autotransformer;

- ii. a 230 kV or 115 kV element that switches lines that normally operate in parallel with lines that connect transmission stations containing 500 kV elements;
- iii. a 345 kV, 230 kV or 115 kV element that switches a 345 kV, 230 kV or 115 kV line that connects with the transmission system of a neighbouring Ontario transmitter or with a transmission system outside Ontario, including a 345/115 kV autotransformer; or
- iv. a 345 kV, 230 kV or 115 kV element that switches a 345 kV, 230 kV or 115 kV line that connects interconnection circuits to any network station referred to in any of (i) to (iii) above;

(b) any station that the Board has determined in a previous Decision and Order of the Board, that is treated as a network facility and has the extended meaning given to it in section 3.0.14;

4. Section 3 of the Transmission System Code is amended by adding new sections 3.0.14 and 3.0.15 as follows:

3.0.14 Subject to section 3.0.15:

(a) a “network facility” includes any line that forms part of the physical path between:

- i. two network stations; or
- ii. a network station and the transmission system of a neighbouring Ontario transmitter or a transmission system outside Ontario,

such that electricity can be transmitted along the entire path under some operating conditions, which may or may not reflect normal operating conditions; and

(b) a “network station” includes any station with one or more of the following:

- i. an element that is greater than 500 kV;
- ii. an autotransformer that steps down voltage from a higher transmission level to a lower transmission level;
- iii. a transmission switchyard to which all of the following are connected:
  - (A) one or more generation facilities with a minimum aggregate installed rated capacity of 250 MW;
  - (B) one or more load facilities with a minimum aggregate load of 150 MW; and
  - (C) a minimum of four transmission circuits.

3.0.15 Section 3.0.14 only applies where the line referred to in section 3.0.14(a) or the station referred to in section 3.0.14(b):

- (a) commences to be constructed on or after *[insert date of coming into force of amendments]*; or
- (b) is being expanded or reinforced on or after *[insert date of coming into force of amendments]* for the purposes of increasing its capacity, regardless of when the network facility or network station was constructed.

**Attachment C  
to  
Notice of Proposed Amendments to the Transmission System Code and the  
Distribution System Code**

**May 17, 2013**

**EB-2011-0043**

**Proposed Amendments to the Distribution System Code**

*Note: Underlined text indicates proposed additions to the Distribution System Code. Numbered titles are included for convenience of reference only.*

The Distribution System Code is amended by adding new section 8 as follows:

**8. Regional Planning**

**8.1 Definitions**

**8.1.1 In this section 8:**

“Integrated Regional Resource Plan” means a document prepared by the OPA that identifies the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

“integrated regional resource planning process” means a planning process led by the OPA for the purpose of determining the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

“needs assessment” means a process led by a transmitter in accordance with section 3C of the Transmission System Code to determine if a Regional Infrastructure Plan or an Integrated Regional Resource Plan is required or needs to be updated for a region;

“region” means an area that has been designated as such by a transmitter, in consultation with the OPA, under section 3C.2.2(a) of the Transmission System Code for regional planning purposes;

“Regional Infrastructure Plan” means a document prepared by the transmitter leading a regional infrastructure planning process that identifies investments in transmission facilities, distribution facilities or both that should be developed and implemented on a coordinated basis to meet the electricity infrastructure needs within a region;

“regional infrastructure planning process” means a planning process led by a transmitter in accordance with section 3C of the Transmission System Code for the purpose of determining the investments in transmission facilities, distribution facilities or both that should be developed and implemented on a coordinated basis to meet the electricity infrastructure needs within a region;

“regional planning” means a planning process involving licensed transmitter(s), licensed distributor(s), and the OPA for the purpose of determining whether a Regional Infrastructure Plan and/or an Integrated Regional Resource Plan is required for a region and, where required, developing or updating a Regional Infrastructure Plan and/or an Integrated Regional Resource Plan; and

“transmission-connected distributor” means a distributor whose distribution system is connected to the transmission system of a licensed transmitter.

## **8.2 Participation in Regional Planning**

8.2.1 A transmission-connected distributor shall participate in regional planning upon being requested to do so by the transmitter that is leading a regional infrastructure planning process or by the OPA that is leading an integrated

regional resource planning process for the region within which the distributor's licensed service area is located, in whole or in part, and shall do so to such extent and in such manner as may reasonably be required by the transmitter or the OPA.

8.2.2 An embedded distributor shall participate in regional planning upon being requested to do so by its host distributor or by the transmitter that is leading a regional infrastructure planning process or is involved in an integrated regional resource planning process for the region within which the embedded distributor's licensed service area is located, in whole or in part, and shall do so to such extent and in such manner as may reasonably be required by the host distributor or the transmitter.

### **8.3 Provision of and Requests for Information**

8.3.1 A transmission-connected distributor shall provide the transmitter that is leading a regional infrastructure planning process or is involved in an integrated regional resource planning process, for the region within which the distributor's licensed service area is located, in whole or in part, with the following:

- (a) such information as the transmitter may from time to time reasonably require to support regional planning, and shall do so within 60 days of the transmitter's request; and
- (b) prompt notice of any developments in that part of the region in which its licensed service area is located that may trigger the need for investments in transmission facilities, distribution facilities or both, as applicable, or that may otherwise reasonably be expected to affect the transmitter's conduct of a needs assessment for the region.

Where the distributor is a host distributor, the information provided to the transmitter shall reflect any information provided to it by any of its embedded distributors under section 8.3.3.

8.3.2 A transmission-connected distributor shall provide the OPA with such information as the OPA may from time to time reasonably require, for the purpose of supporting regional planning, and shall do so within 30 days of the OPA's request. Where the distributor is a host distributor, the information provided to the transmitter shall reflect any information provided to it by any of its embedded distributors under section 8.3.3.

8.3.3 An embedded distributor shall provide its host distributor with the following:

- (a) such information as may from time to time reasonably be required by the host distributor to support regional planning, and shall do so within 15 days of receipt of the request for information; and
- (b) prompt notice of any developments in that part of the region in which its licensed service area is located that may trigger the need for investments in transmission facilities, distribution facilities or both, as applicable, or that may otherwise reasonably be expected to affect a transmitter's conduct of a needs assessment for the region.

8.3.4 Where, for the purpose of supporting an application proposed to be filed with the Board, a distributor requires information related to the status of regional planning for a region, including any Regional Infrastructure Plan that is being developed for the region, the transmission-connected distributor or embedded distributor shall request a letter confirming the status from the transmitter that is leading the regional infrastructure planning process or is involved in an integrated regional resource planning

process for the region no less than 60 days before the distributor requires the letter.

8.3.5 Where a needs assessment determines that the participation of a distributor in a regional planning process is not necessary, the transmission-connected distributor or embedded distributor shall request a needs assessment report from the transmitter that is leading the regional planning process confirming its involvement is not required no less than 10 days before the embedded distributor requires the report for the purpose of supporting an application proposed to be filed with the Board.

## **8. Monitoring and Reporting**

8.4.1 Where a Regional Infrastructure Plan identifies the need for a distributor to make an investment in its distribution system, the distributor shall, upon request by the applicable licensed transmitter or host distributor or by a distributor referred to in section 8.4.2, provide an update regarding the status of the investment, and shall do so within 30 days of receipt of the request. Where the distributor is a host distributor, the letter shall reflect any investment update(s) provided to it by any of its embedded distributor(s).

8.4.2 Where a distributor has agreed to conduct the review referred to in section 3C.3.1(a) of the Transmission System Code, the distributor shall provide a report to the applicable licensed transmitter setting out the status of the investments set out in the applicable Regional Infrastructure Plan within 60 days of being requested to do so by the transmitter.

## **8.5 Transition**

8.5.1 A transmission-connected distributor shall, within 45 days of a request by the lead transmitter, provide the transmitter to whose transmission system



the distributor's distribution system is connected with a letter identifying whether the distributor foresees a need for a material investment in transmission infrastructure to support the needs of the distributor's distribution system over the next five years. Where the distributor is a host distributor, the letter shall reflect any information provided to it by any of its embedded distributors under section 8.5.2.

8.5.2 An embedded distributor shall, within 15 days of a request from its host distributor, provide its host distributor with a letter identifying whether the embedded distributor foresees a need for a material investment in transmission infrastructure to support the needs of the embedded distributor's distribution system over the next five years.

## **8.6 Continuing Obligations Re Distribution System**

8.6.1 Nothing in this section 8 shall limit any obligation of the distributor to maintain the reliability and integrity of its distribution system or to meet load growth within its licensed service area.

**Attachment D  
to  
Notice of Proposed Amendments to the Transmission System Code and the  
Distribution System Code**

**May 17, 2013**

**EB-2011-0043**

**Cost Awards**

**Cost Award Eligibility**

The Board will determine eligibility for costs in accordance with its *Practice Direction on Cost Awards*. Any person intending to request an award of costs must file with the Board a written submission to that effect by **May 29, 2013**, identifying the nature of the person's interest in this process and the grounds on which the person believes that it is eligible for an award of costs (addressing the Board's cost eligibility criteria as set out in section 3 of the Board's *Practice Direction on Cost Awards*). An explanation of any other funding to which the person has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known. All requests for cost eligibility will be posted on the Board's website.

Licensed electricity transmitters and licensed electricity distributors will be provided with an opportunity to object to any of the requests for cost award eligibility. If an electricity transmitter or distributor has any objections to any of the requests for cost eligibility, such objections must be filed with the Board by **June 7, 2013**. Any objections will be posted on the Board's website. The Board will then make a final determination on the cost eligibility of the requesting participants.

**Eligible Activities**

Cost awards will be available in relation to the provision of comments on the proposed amendments to the TSC and DSC set out in Attachments B and C, to a **maximum of 15 hours**.

## Cost Awards

When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied. The Board expects that groups representing the same interests or class of persons will make every effort to communicate and co-ordinate their participation in this process. Interested parties are reminded that cost awards are made available on a per eligible participant basis, regardless of the number of professional advisors that an eligible participant may wish to retain.

The Board will use the process set out in section 12 of its *Practice Direction on Cost Awards* to implement the payment of the cost awards. Therefore, the Board will act as a clearing house for all payments of cost awards in this process. For more information on this process, please see the Board's *Practice Direction on Cost Awards* and the October 27, 2005 letter regarding the rationale for the Board acting as a clearing house for the cost award payments. These documents can be found on the Board's website at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca) on the "Rules, Codes, Guidelines & Forms" webpage.