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March 6, 2015

VIA E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Dear Ms. Walli:

**Re: EB-2015-0006
Proposed Amendments to the Distribution System Code
Comments of the Vulnerable Energy Consumers Coalition (VECC)**

Please find enclosed the comments of VECC in the above notes proceeding.

Yours truly,

A handwritten signature in black ink, appearing to be 'Michael Janigan', written in a cursive style.

Michael Janigan
Counsel for VECC

cc: OEB - Chris Cincar - Chris.Cincar@ontarioenergyboard.ca

ONTARIO ENERGY BOARD

**Proposed Amendments to the Distribution System Code
Elimination of Load Transfers**

INTRODUCTORY COMMENTS

1. The Vulnerable Energy Consumers Coalition (VECC) welcomes the opportunity to make comments on the proposed amendment to the Distribution System Code (DSC) to eliminate load transfers.
2. The Board has articulated the issue of load transfers succinctly and precisely. We agree with the characterization of the issue summarized in the proposed amendment. As noted it has been a long-standing policy of the Ontario Energy Board to eliminate load transfers.
3. These arrangements are a legacy of the pre-2000 electricity distribution system under which municipal boundaries formed the basis for the electricity distribution. Where practical plant matters dictated municipal utility departments would enter into arrangements with another utility (usually Ontario Hydro but sometimes another adjoining municipal utility) to serve certain customers. As such these arrangements encompassed the most efficient physical organization of distribution plant. The customer would then be “transferred” back to the utility which had the right or obligation to serve that customer under the current legislation.
4. The “municipal boundary” concept of allocating distribution service among utilities became defunct with the passing of the *Energy Competition Act, 1998*. As part of this change the Ontario Energy Board was required to provide licenced service territory. With the large amounts of utilities at the

time of change (in excess of 200) the Board as a matter of convenience and with little scrutiny accepted in most cases the description of the municipal boundaries as the licence service territory¹.

5. In our submission some utilities have the mistaken view that there is a necessary relationship between municipal boundaries and licensed service territories. There is not.
6. There may have been some circumstances under which load transfers represented necessary and temporary adjustments for efficient service. The Board has given ample opportunity for these circumstances to be addressed. In our view a number of utilities have resisted making changes to load transfer arrangements in an attempt to “permanently seize” service territory granted by the Board where they do not actually serve customers, but where through the happenstance of history they have load transfer customers.
7. In order to physically acquire these customers utilities have at times proposed expensive and, in our view uneconomical, expansions of their distribution system. The case of Fort Frances Power Corporation is demonstrative of the inefficiencies which can arise from having to force, after the fact, an alignment of municipal and licence service territory. In this case the Applicant proposed, and the Board (largely) accepted, the expenditure of nearly twice the Utility’s average annual capital budget to connect 14 customers. At the same time Hydro One serves both these customers within municipal boundaries and the much larger local airport located just outside of the municipal boundaries².
8. It is self-evident that the benefits of the proposed amendments outweigh the costs. Simply put there is no way for it to be more efficient for a physical

¹ For example North Bay Hydro Distribution Limited’s licence (ED-2003-0024) describes its service territory as “*the City of North Bay as of January 1, 1968.*”

² We accept the Board found in this case, EB-2013-0130, that the customers did not meet the definition of a load transfer customer because Hydro One was providing both billing and physical service. In this case the Board was also concerned with ancillary benefits to customers occurring from a pre-existing power generation agreement. Our point is that the case shows the challenges of moving from legacy municipal boundaries to more efficient licenced territories.

distributor to serve the customer through an intermediary. Such arrangements involve costly extra steps of transferring billing, coordinating customer service calls to the geographical distributor and coordinating them with the physical service provider and maintaining the utility-to-utility business arrangements. One should also not confuse the cost to a customer with efficiency. A customer may have a higher or lower cost due to the particular efficiencies of a distribution utility, but that does not make the overall physical distribution system more or less efficient. The fact is that by their very existence load transfers represent the agreement of two utilities of the most efficient physical plant arrangement. If it were otherwise, the geographical server would already be serving the customer.

9. We would also note that the elimination of load transfers is not the forced sale or acquisition of assets. In the simplest case all the assets are already owned by the physical distributor. What is “taken” so to speak, is part of the licenced service territory of the geographical distributor. However, service territories are not owned by utilities, but rather are granted franchises. They cannot be bought or sold without the permission of the Regulator. When such purchases are allowed any market premiums are carefully scrutinized so that market values are not extracted from ratepayers. As such, geographical distributors have no inherent right to their service territories as they might to their physical assets.

10. In some cases the physical distributor may own the circuit while the geographical distributor owns the meter. In these cases there must be a sale (and acquisition) of an asset. In our submission, the Board has the authority to force such change irrespective of the financial compensation for any metering assets changes as between geographical and physical distributor. That is because the Board can deal with any cost consequence of the issue in the setting of rates. For example, where (in the extreme) one distributor refuses to provide compensation/transfer of a meter asset the Board can

allow or disallow as the case may be, the cost consequences arising out of the unresolved dispute.

11. In our view, the proposed Code amendments offer an elegant and fair way to move customers back to the utility which physically serves that customer. The amendment strives to make the distribution system as viewed as a whole to be more efficient. Our only suggestion is that the Board may wish to consider sponsoring an informal panel (of Board members, Staff, Utility or Customer representatives) to help resolve contentious issues and in order to expedite the process and reduce the regulatory burden.

12. All of which is respectfully submitted.

DATED AT TORONTO, MARCH 6, 2015