Aiken & Associates
578 McNaughton Ave. West
Chatham, Ontario, N7L 4J6
Phone: (519) 351-8624
E-mail: randy.aiken@sympatico.ca

November 6, 2017

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli,

RE: EB-2016-0003 – Proposed Amendments to the Transmission System Code and the Distribution System Code to Facilitate Regional Planning - Written Comments of LPMA

Please find attached the written comments of the London Property Management Association ("LPMA") in the above noted policy consultation.

Sincerely,

Randy Aiken

Randy Aiken
Aiken & Associates

WRITTEN COMMENTS
OF
LONDON PROPERTY MANAGEMENT ASSOCIATION

A. BACKGROUND

The Ontario Energy Board ("OEB") initiated a policy consultation aimed at ensuring the cost responsibility provisions for load customers in the OEB's Transmission System Code ("TSC") and Distribution System Code ("DSC") were aligned and facilitated the implementation of regional plans. This consultation began with the letter issued by OEB on January 7, 2016.

One of the drivers for the need for this consultation was a leave to construct application filed by Hydro One Networks Inc. ("HONI") in January 2014 for the Supply to Essex County Transmission Reinforcement ("SECTR") project. That application included a proportional benefit approach to allocate costs that involve the allocation of some transmission connection assets costs to all ratepayers. HONI's proposed methodology is not currently contemplated in the TSC. The SECTR application also included a proposal to allocate upstream transmission connections to distribution connected customers – including embedded distributors – in a manner that was not consistent with the current cost responsibility rules in the DSC.

The OEB determined that these cost allocation issues should be reviewed from a policy perspective and initiated the current consultation. A number of other issues were identified in the January 7, 2016 letter including whether changes to the DSC were needed to facilitate regional planning and the implementation of regional infrastructure plans, potential gaps in the TSC and DSC related to cost responsibility and regional planning and to identify potential inconsistencies between the TSC and the DSC and, where appropriate, to eliminate any such inconsistencies.

The OEB established a working group to provide input to OEB staff on issues and potential solutions that would help inform which revisions to the TSC and/or DSC would be desirable.

The London Property Management Association ("LPMA") was a member of the working group, which met three times during which a number of issues were identified and discussed.

The following are the comments of the LPMA with respect to the proposed amendments to the TSC and DSC. The comments generally follow the outline provided in part B of the Notice of Proposal to Amend a Code ("Notice") provided in the letter dated September 21, 2017.

B. PROPOSED AMENDMENTS TO THE TSC AND THE DSC

LPMA has provided comments on each of the five sections listed in the Notice. LPMA is also providing some general comments under this heading.

LPMA supports each of the three guiding principles and believes that they are fundamental for the basis of any changes to the code amendments. These guiding principles need to lead to outcomes that are valued by ratepayers.

Ratepayers expect the industry and the OEB to implement the optimal infrastructure solution. These infrastructure investments need to meet the regional needs at the lowest costs. Any other approach leads to the failure to meet regional needs and/or higher rates for customers than are necessary.

Ratepayers also expect that the costs will be recovered from those customers who benefit from the investment. To do otherwise would mean that customers that do not benefit from or need the investment would be subsidizing those customers the need the investment and/or benefit from it. In particular, LPMA supports the beneficiary pays principle so that costs should not be allocated to any load customer (consumer or distributor) or generator that will not benefit from the investment.

LPMA is concerned, however, about the lack of a clear definition of a beneficiary. This is a clear delineation in who pays and who does not pay for the investment. LPMA submits that the codes should provide some guidance as to what constitutes a beneficiary.

If a distributor is operating at capacity from the transmission system, then any load growth, whether customer specific, or based on the growth in a rate class, the assignment of beneficiary status should be straight forward. However, a distributor may have some excess capacity available and it is only growth over this amount that results in additional infrastructure investment. Do the beneficiaries in this case include all customers and/or rate classes that are driving the need for increased capacity or are the beneficiaries only those customers and/or rate classes that push the incremental capacity requirements above the existing capacity?

Another example is a distributor that needs additional capacity from the transmission system because of growth in a general service class of customers or a number of individual (existing and/or new) customers, while the residential load is flat (or declining). Because of the lumpiness of the infrastructure investment, there may be excess capacity available after taking into account the projected growth at the individual customers and the general service customers. This excess capacity could be said to increase reliability to all customers. If reliability has been poor, then there is an argument to allocate those costs to all customers. However, if reliability is already in excess of the OEB targets, then no customers should be expected to pay for increased reliability. Why should residential customers, which as a group are not contributing to the need for the investment and who are satisfied with their current level of reliability, be labelled as beneficiaries and allocated any costs associated with the investment?

This leads to the third guiding principle – open, transparent and inclusive. LPMA strongly supports the need for a process where the cost of an infrastructure investment and the appropriate allocation of the costs to the beneficiaries is open to all affected customers/customer groups/rate classes and is transparent and inclusive.

LPMA further notes that there may be changes required to the distributor cost allocation model to ensure the appropriate allocation of costs to beneficiaries. For example, if a distributor is required to pay a capital contribution for an infrastructure investment and then recovers a portion of that contribution from a large customer or large customers (3 MW or higher), there remains a portion of the contribution paid that is added to rate base. If a particular rate class does not benefit from the investment (the residential class in the above example) then the beneficiary pays principle requires that no costs be allocated to the residential class for this remaining capital contribution.

This also becomes an issue when all rate classes may be considered beneficiaries, but the degree of benefits varies from one rate class to another. The distributor cost allocation model must be flexible enough to allow distributors to allocate the related costs of the capital contribution for a project on a direct basis to rate classes, based on the appropriate allocation based on the benefits received from the investment.

As the OEB is aware, the renewed regulatory framework has an emphasis on customers and customer engagement. LPMA submits that customer engagement is as important as, or even more so, on infrastructure investment projects than it is in rate cases. Infrastructure investments are a major driver in rate increases sought in rate cases. If a project is approved, there is little that can be done through customer engagement at a rate proceeding related to the associated revenue requirement of the project. On the other hand, customer engagement at the project level will help determine the need for a project

and who the beneficiaries of the project are. It will also address a key issue of ratepayers, which is reliability. Do customers want to pay more for additional reliability, or do they prefer the current level of reliability with no incremental costs? This is where customer engagement can be extremely useful.

B.1 PROPOSED TSC AMENDMENTS: APPROACHES TO 'APPORTION' TRANSMISSION CONNECTION INVESTMENT COSTS TO THE NETWORK POOL

LPMA supports the use of the proportional benefit approached as proposed in the Notice.

LPMA also agrees with the OEB assessment that an OEB adjudicative process to review the requests for the apportionment of the costs will be needed. This will ensure that there is an appropriate allocation of the costs between the network pool (and all customers) and the customer needs. The customer need could be a single ratepayer or a number of individual customers and a number of distributors, included embedded distributors.

LPMA also agrees with the OEB assessment that a case by case application approach will be needed. It is most likely that each investment will be driven by a different mix of projects that would meet system needs and customer needs, and the single integrated optimal solution. These are the key parameters that would be used to develop the proportions allocated to the network pool and the local customers/distributors.

LPMA notes that this section is silent on the apportionment of distributor costs to customers and/or rate classes. The Board should determine, as part of its policy, whether the allocation of these distributor related costs to its customers and rate classes (including embedded distributors) would be done as part of the OEB adjudicative process to allocate costs to the network pool and to customers/distributors, or whether separate distributor cost allocation/rate adjustment applications would deal with the allocation of its incremental costs to ensure that the beneficiary pays principle is upheld at the distributor level.

Further guidance should also be provided to distributors and ratepayers as to how this cost allocation exercise that is needed to uphold the beneficiary pays principle would be implemented under the various options that distributors have for setting rates. While a fairly straight forward exercise under a cost of service rebasing application, it is less clear how the allocation and recovery of costs would be dealt with under the incentive rate making methods. For example, under a five-year price cap, the distributor has the ability to include costs through the incremental capital module. However, there is no option to

change the allocation of these costs. This will be necessary to ensure the beneficiary pays principle is upheld for the ratepayers of the distributor.

B.2 PROPOSED TSC AND DSC AMENDMENTS: APPROACHES TO 'APPORTION' UPSTREAM TRANSMISSION CONNECTION INVESTMENT COSTS

a) Upstream Transmission Connection Investments – Treatment of Embedded Distributors

LPMA agrees with the OEB proposal that the beneficiary pays principle should apply to all distributors regardless of whether they are connected to the transmission system or embedded within a distribution system. Moreover, the allocation of costs should reflect the extent to which each distributor (and its customers) caused the need for and benefit from a connection facility investment.
This ensures that all distributors are treated equally and that the customers of the host distributor do not subsidize the customers of the embedded distributor.

LPMA notes that there may be circumstances where a distributor does not have an embedded distributor rate because it may not have an embedded distributor, but as a result of the connection facility investment the distributor now becomes a host distributor.

In this situation, LPMA believes that the capital contribution payable by the embedded distributor would likely be based, in part, on the revenue generated by the host distributor using the GS>50 rate for the embedded distributor. In a situation where there are two different host and embedded distributors where there is an existing embedded distributor rate, the capital contribution of the embedded distributor would likely be different since the revenue generated under an embedded distributor rate would likely be different than that generated through a GS>50 rate. This illustrates the problem that if the overall costs allocated to the embedded distributors were the same, the capital contribution would be different simply because in one case there is an existing embedded distributor rate and in the other case there is not. In both cases the beneficiary pays principle is upheld, but the quantum of the payment would be different. This does appear to be reasonable to LPMA.

It should also be noted that while the capital contribution may be calculated based on revenues generated using the GS>50 rate, the rate charged to the embedded distributor may be changed to an embedded distributor rate at the next rebasing application of the host distributor. This change in rate should be taken into account for any true up of the capital contribution in the future.

The OEB should provide to the host and embedded distributors, where there is no existing embedded distributor rate, an option to design and implement an embedded distributor rate that be used to calculate the capital contribution. The rate could be set so that no contribution is required or it could be set such that a lower contribution is required from the embedded distributor than if the GS>50 rate was used. This option would provide more financing flexibility for the embedded distributor. In many cases the embedded distributor may be a small distributor and the capital contribution may be beyond its financing capability. Setting the capital contribution to amount that the small distributor can finance and then setting the embedded distributor rate to effectively recover the remainder of the cost in the net present value calculation could provide benefits to the small distributor.

b) Upstream Transmission Connection Investments- Treatment of Large Load Customers

LPMA agrees with the OEB that the treatment of a large load customer should be the same regardless of whether they are connected to the system of a transmitter, host distributor or embedded distributor when it comes to cost responsibility.

LPMA also notes that an investment may be driven by the needs of a new customer that qualifies for a large use rate, but the distributor does not have any such customers. This gives rise to the same issues discussed above with respect to embedded distributors and whether or not there is an appropriate rate for them. LPMA's comments on that, including the inclusion in the true up for the capital contribution, are equally applicable to a new and first large use customer as they were to a new and first embedded customer.

With respect to the proposed threshold of 3 MW for large load customers, based on non-coincident peak demand, LPMA notes that this means some customers in the GS>50 class would be required to pay a capital contribution while a slightly smaller customer in the same rate class would not be required to pay a specific capital contribution. These costs would, in comparison, be allocated to the entire GS>50 class. This would mean that customers in the GS>50 class that do not benefit from the infrastructure investment would not be paying higher rates for a customer that has a non-coincident peak demand of 3MW to 5MW (cut off for a large use customer), but would be paying more for a customer with a non-coincident peak demand of less than 3MW. It is clear that this violates the beneficiary pays principle.

However, LPMA does not have information on the number of customers in the GS>50 class that would be above 3MW or the number of customers in various stratifications below 3MW, such as 2 MW to 3MW and 1MW to 2 MW to determine the potential for cross subsidization.

LPMA recommends that the large load customer threshold should be determined on a case by case basis. The specific circumstances should be taken into account in determining how the capital contribution costs should be allocated. The situation where a customer has a 2.5 MW incremental (or new) non-coincident peak demand but represents 50% of the incremental capacity/costs allocated to a distributor is significantly different from the situation where a customer with a 3.5 MW incremental (or new) non-coincident peak demand but represents less than 5% of the incremental capacity/costs allocated to a distributor. This would ensure that the level of subsidization by other customers in the GS>50 class could be minimized and provide for greater adherence to the beneficiary pays principle.

B.3 PROPOSED TSC AND DSC AMENDMENTS: APPROACHES TO 'APPORTION' COSTS FOR THE END-OF-LIFE CONNECTION REPLACEMENTS AND MULTI-DISTRIBUTOR REGIONAL SOLUTIONS

a) Replacement of End-of-Life Transmission Connection Assets: Not Like-for-Like

LPMA agrees with the OEB that in the situation where a customer wants an upgrade to replace a connection asset that is at its end of life, that customer should only be required to pay the incremental cost of the upgrade, that being the amount that exceeds the cost of a like-for-like replacement.

With respect to the scenario where a customer requests the replacement of a connection asset that has not reached its end of life, LPMA agrees with the OEB that the customer should pay the remaining net book value of the connection asset and not the full cost of the asset.

The OEB has described a third scenario that it wants to address. In this scenario a customer's load has materially declined from the time the connection facility initially went into service to when it reached its end of life and there is an expectation that the customer's load will not grow in the future.

The OEB states that the standard industry practice is for the transmitter to replace the connection asset with a like-for-like connection asset. This results in an over-investment in capacity and excess costs to be paid for by ratepayers. The transmitter, of course, continues to earn a return on the over-investment and is therefore biased towards continuing the current industry practice.

The OEB states that it expects the transmitter would apply the appropriate judgement and replace the end of life asset with a new connection asset that meets the lower forecast need of the customer at its end of life. The OEB calls this the "right-size" approach.

LPMA agrees with the OEB that this approach would reduce the cost allocated to all Ontario consumers and result in a more efficient transmission system by avoiding an investment in unnecessary capacity. However, as noted above, there is a financial incentive for the transmitter to oversize the connection asset.

The OEB inexplicably states that it is not proposing to include a code requirement to "right-size" to a lower capacity, but that the TSC will simply be amended to make it clear that a lower capacity replacement connection asset is a potential outcome. LPMA submits that this is ridiculous. The OEB should include in the code the need to "right-size". The default option should be to "right-size". The onus should be on the transmitter to justify why a larger sized option should be approved.

b) Replacement of End-of-Life Distribution Connection Assets

LPMA agrees with the intent of the OEB to change the DSC so that it aligns with the proposed amendments to the TSC, with the exception related to the default option of right sizing for the potential lower forecast need when an asset reaches its end of life.

As the OEB states, changes in customer expectations and demands on the electricity system, along with the evolution of technology, are likely to have even more pronounced impacts on the distribution system than on the transmission system. Ratepayers should not pay more for an oversized asset when a right-sized asset will do the job. Again, distributors are incented to grow rate base so they can earn more dollars in return. Putting in a larger than needed asset benefits the distributor shareholders at the expense of the ratepayers. The default option again needs to be to right-size and if the distributor wants to depart from this, it must prepare evidence as to why the right-size option is not appropriate. In other words, the onus is on the distributor if it wants to build a larger than necessary asset to serve its customers demands.

LPMA is also concerned with the requirement for distributors to only consult with those customers that are considered to be large customers (3 MW and above) at the time of replacement of an asset. LPMA believes that the distributor should consult with local municipal authorities and others to determine the future needs for all customers. While the individual customers may have demands of less than 3 MW, a group of such customers could be substantially above this threshold. The location of the increase in demand, even if it is less than 3 MW, could also be a key factor in the need for increased

connection capacity at one point, while having a marginal impact on the distributor in total if that distributor has several connection points to the transmission system.

c) Regional Distribution Solution – LDC Feeder Transfer

LPMA supports the proposal with respect to the LDC feeder transfer proposal. If available capacity through another distributor is available and is cheaper than a transmission connection option, then it should be the preferred option. The customers of the facilitating distributor should be kept whole and end up providing any subsidy to the customers of the connecting distributor.

B.4 PROPOSED TSC AND DSC AMENDMENTS: FACILITATING REGIONAL PLAN IMPLEMENTATION AND MITIGATING ELECTRICITY BILL IMPACTS

LPMA supports the annual installment option (for distributors) for the reasons identified by the OEB.

However, the OEB is proposing that the period of time over which the full capital contribution would be provided would not be permitted to exceed five years. LPMA submits that that the maximum five-year term should be set as a default and if a distributor determines that a longer term would be beneficial, it should be allowed to provide evidence as to why the longer term would be appropriate. Again, each infrastructure investment will be unique and will be heavily influenced by the relative size of the capital contribution to the rate base of the distributors.

LPMA opposes both of the advanced funding options, for several reasons.

First, the time between when a new or upgraded investment goes into service can, and has, deviated significantly from that forecast. The OEB is aware of several connection related projects that are several years behind forecast. This raises the issue of how many years in advance of a project being put into service should customers be expected to pay an advanced funding cost.

Second, there is no guarantee that a project that is on the drawing board will ever be constructed and put into service. Because of the long lead times involved in these projects, circumstances can change significantly. The need for an upgraded connection asset may disappear if a large or even medium sized customer reduces or eliminates its demand because of business conditions, closures or relocations. How would the advance funds paid for by ratepayers (along with the interest on the balances) be returned to those

ratepayers once it was determined that the project would no longer proceed? How would the issues related to intergenerational inequity be dealt with? This could be a major issue given the number of customers that may leave a system (due to death, movement out of the distributor's area, etc.) and the number of customers that come on to the system for the first time (new subdivisions or business areas, movement into existing properties, etc.). After a few years, there may be little correlation to the customers that paid the advance funding and those who would get the rebate.

Third, while the upstream capacity payment approach appears to align with the beneficiary pays principle, there is no doubt that the upstream connection adder violates that principle. All existing customers would pay the adder, but not all of the customers are likely to be beneficiaries of the investment. For example, the residential class a whole may have a total demand that is flat or even falling as the result of efficiency gains and DSM programs, while the need for the project is driven by a relatively few large customers, some of which may not be customers until the capacity increase has taken place. In this situation, the residential customers are paying the adder despite not being beneficiaries of the project. Existing large customers would also be paying, and some of them may not be beneficiaries, because they are becoming more efficient or reducing output, thereby reducing their demand. They then effectively subsidize the large use customer that does not connect to the system until the capacity is available.

Fourth, with respect to the upstream capacity payment approach, LPMA believes that applying it to developers would be straight forward, given that the distributors already, in effect, charge these developers for the distribution system costs when they begin to connect to the system. Adding on costs related to the upstream capacity payment should be easy. However, it is not clear now the upstream capacity payment approach would work for the large load customers. These customers typically connect very close to when they begin full production and require their full capacity.

LPMA's concern with this approach is that some new customers could be paying the upstream capacity payment for several years before the capital contribution is required and payed to the transmitter, while other customers may end up paying it for only a few months. If the benefits are comparable, then it would appear that the beneficiaries pay principle has not been upheld. Some beneficiaries pay more than others, despite receiving similar benefits.

Fifth, the advance funding options seem to be driven from the distributor perspective. By having customers (whether new or existing) pay in advance, the distributor can borrow less money when it comes to paying the capital contribution, since a portion of it will be funded by ratepayers in advance. The revenue requirement associated with this lower

amount included in rate base is then collected from ratepayers over the life of the assets (for example, 50 years).

From the ratepayer perspective, the lower capital contribution that goes into the rate base of the distributor results in lower rates over the life the asset. However, offsetting this is the higher rates paid by the ratepayers in advance of the asset going into service. It is not clear to LPMA that the net present value of the stream of difference in costs to the ratepayers (additional payments provided through the advance funding and lower rates over the life of the asset once it is placed into service) is positive or negative. In other words, the net present value of the additional costs incurred up front by ratepayers may be more than the net present value of the savings incurred once the asset goes into service.

In order to avail themselves of either of the advanced funding options, LPMA submits that the distributor must provide evidence that the advance funding (from existing or new customers) provides a net present positive value to ratepayers.

LPMA notes that the OEB states that transmitters would be required to accept the provision of the capital contribution by distributors in annual installments over a period of time of up to five years. Under this option the distributor is responsible for any associated financing costs to ensure that the transmitter is not worse or better off. The OEB has proposed to include a requirement for the transmitter to include financing costs from the date the asset goes into service in each installment payment. Further the OEB is proposing to use the prescribed construction work in progress ("CWIP") rate for calculating the financing cost.

LPMA takes this to mean that the transmitter cannot include the unpaid amounts of the capital contribution in its rate base. If it were to do so, it would be compensated twice for the installment payments it is to receive from the distributor – once through the revenue requirement associated with the amount included in rate base at the average weighted after tax cost of capital, and once again based on CWIP.

While the OEB has indicated that funds generated through the advanced funding options (including any interest that accrued) are to be held in a separate account until the capital contribution related to the new upstream connection asset is provided to the transmitter, the OEB is silent on what rate should be applied to the ratepayer funds accruing in this account.

LPMA submits that ratepayer funds are as valuable to them as is the financing cost of the transmitter. Therefore, the ratepayer funds should attract the same CWIP rate as do the

amounts payable by the distributor to the transmitter. There is no valid reason to pay ratepayers less for their money than what is paid to the transmitter for their money.

Indeed, if the OEB determined that ratepayer money was worth less than transmitter money, then it should allow distributors the option of providing advanced funding to the transmitter. If the OEB believes that the advanced funding options are beneficial to ratepayers over the longer term, then the same outcome should be available to distributors. Providing advanced funding to the transmitter and with those funds attracting the CWIP rate, the distributors should be better off (just like their ratepayers) over the longer term.

Rather than having the advanced funds from ratepayers accumulating in an account on the distributors books at a potentially lower carrying cost rate than distributors would have to pay the transmitter, the advanced funds from ratepayers should accumulate in an account on the transmitters books at the CWIP rate. There is no reason for the funds to reside with the distributor, since they are not incurring any expense until the project is in service and the capital contribution is due (either as a lump sum payment or in installments). The transmitter, however, is incurring financing costs before the connection asset is placed into service, through the construction work in progress. By transferring the advanced funding money to the transmitter, the CWIP is reduced, resulting in lower financing costs, lower project costs, lower capital contributions and rate base amounts, and ultimately, lower costs for ratepayers.

B.5 PROPOSED TSC AND DSC AMENDMENTS: ADDRESSING INCONSISTENCIES AND GAPS

LPMA supports the revisions to the DSC to more align it with the TSC related to cost responsibility.

LPMA also supports the change from five years to fifteen years in the DSC related to the timeframe for capital contribution refunds to initial customers. This bring the DSC in line with the TSC. LPMA also supports the threshold of 3 MW, subject to the earlier comments regarding the 3 MW figure. For customers below the threshold, LPMA believes that the current five-year period remains reasonable.

LPMA supports the proposed changes to the DSC related to bypass compensation. LPMA submits that the beneficiary pays principle should be upheld when it comes to bypass. A customer that chooses to bypass the distribution system and benefits from reduced or no distribution charges should be responsible for the related stranded costs.

All other customers, who do not benefit from this action, should not be responsible for the stranded costs.

LPMA supports the alignment of the DSC with the TSC with respect to the costs associated with the relocation of assets. The full cost of relocating an asset where the customer requested the relocation should be allocated to the requesting customer. Other customers should not be responsible for any such costs.