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VIA RESS FILING and COURIER

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

Dear Ms. Walli,

Re: Proposed Amendments to the Transmission System Code and the Distribution System Code to Facilitate Regional Planning (EB-2016-0003)

Attached please find the Power Workers' Union's Submissions in connection with the above-noted proceedings. An electronic copy has been filed through the Board's RESS filing system, and one paper copy will follow by courier delivery.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Richard P. Stephenson
RPS:pb

Attach.

Doc 2329738 v1

EB-2016-0003

PROPOSED AMENDMENTS TO THE TRANSMISSION SYSTEM CODE AND THE DISTRIBUTION SYSTEM CODE TO FACILITATE REGIONAL PLANNING

COMMENTS OF THE POWER WORKERS' UNION

BACKGROUND

On January 7, 2016, the Ontario Energy Board (OEB or the "Board") issued a letter initiating 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") are aligned and facilitate the implementation of regional plans.

The Board cites a leave to construct ("LTC") application —Supply to Essex County Transmission Reinforcement ("SECTR") — which was filed with the OEB by Hydro One Networks Inc. ("Hydro One") in January 2014 as a primary reason for initiating this consultation. That LTC application included a proportional benefit approach to cost apportionment that involved apportioning some transmission connection asset costs to all ratepayers.

Hydro One's SECTR application included a proposal to allocate upstream transmission connection costs to distribution-connected customers (including embedded distributors) in a manner that was not consistent with the current cost responsibility rules in the DSC.

On September 21, 2017, the Board issued notice of proposed amendments to the TSC and the DSC.

The following are comments of the Power Workers' Union ("PWU") on the proposed TSC and DSC amendments.

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

The issue is whether it is appropriate to allow for a portion of the costs associated with a transmission connection investment that is triggered by specific customers to be recovered from all ratepayers. Under the current TSC, the costs associated with transmission connection (line and transformation) investments are recovered from a load customer or group of load customers that caused the need for the investment while the costs associated with transmission network investments are recovered from all ratepayers since presumably all Ontario consumers benefit.

The OEB is of the view that a specific customer should not be required to pay all costs associated with a connection investment where the investment also addresses a broader network system need (e. g., reliability). The Board is proposing a 'proportional benefit' approach that is premised on a transmitter making incremental transmission connection investments that exceed the capacity needs of those customer(s) because they would avoid a more expensive upstream transmission network asset upgrade (i.e., avoided cost methodology). Under this approach, the incremental connection investment costs would be apportioned to the network pool (like the avoided network investment costs would have been). In such instances, this would reduce the amount apportioned to the applicable network pool (i.e., all ratepayers) relative to the cost of the network solution.

The OEB is therefore proposing to amend the TSC by adding sections 6.13A and 6.13B to allow costs associated with transmitter-owned connection investments to be apportioned between the customer(s) that caused the need for the connection investment and all ratepayers, based on the proportional benefit between the connecting customer(s) and the overall system.

The PWU supports the OEB proposal to amend the TSC by adding sections 6.13A and 6.13B as described above because the approach is consistent with the beneficiary pays principle since both the customers that caused the need for the investment and the broader system benefit. It is also consistent with the OEB's goal for regional planning —

providing the lowest cost wires solution. The PWU also agrees that there should be an OEB adjudicative process to review requests for such apportionment on a case by case application basis as the apportionment can change depending on specific circumstances.

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

a. ***Upstream Transmission Connection Investments – Treatment of Embedded Distributors***

Under the current TSC, a transmission connected distributor is treated like all directly connected transmission customers and must provide a capital contribution (based on an economic evaluation) to the transmitter in relation to a connection investment where it is the beneficiary. The DSC, on the other hand, does not allow a host distributor that provided the capital contribution to the transmitter to, in turn, require a capital contribution from an embedded distributor where the latter is also a beneficiary of the same upstream transmission connection investment. In other words, the customers of the host distributor subsidize the customers of the embedded distributor under the status quo.

The OEB is therefore proposing to amend section 3.2.4 of the DSC so that embedded distributors are no longer exempt from providing a capital contribution. Section 3.2.4 would be further amended to change "may" to "shall" to further ensure consistent treatment of customers across distributors. The OEB does not believe it should be left to each distributor to decide whether to apply the beneficiary pays principle.

The PWU supports the proposed amendments because they would result in a consistent application of the beneficiary pays principle to all distributors regardless of whether they are directly connected to the transmission system or embedded within a distribution system. Accordingly, embedded distributors should pay for a portion of the cost of an upstream transmission connection investment so long as they are

beneficiaries of the investment. Under the status quo, the customers of the host distributor subsidize the customers of the embedded distributor.

b. ***Upstream Transmission Connection Investments – Treatment of Large Load Customers***

The Board is of the view that the same concept described above should also apply to all large load customers (e.g., industrial), i.e., all large load customers should be treated the same in terms of cost responsibility whether they are connected to the system of a transmitter, host distributor or embedded distributor. The Board also recognizes that it is impractical for distributors to require a capital contribution from all load customers (e.g., residential, small business) related to upstream transmission connection investments and, therefore, there is a need to strike a balance between precision and administrative burden. The OEB is therefore proposing a materiality threshold for 'large' load customers of distributors (that are not embedded distributors). The proposed threshold is based on non-coincident peak demand that meets or exceeds 3 MW. Under this proposed approach, a capital contribution would not be required from customers that are below that threshold, including those considered low volume consumers (i.e., residential, small business). The OEB believes this threshold would strike that appropriate balance between precision in terms of allocating costs and administrative burden for distributors.

The OEB is therefore proposing to add new section 3.2.4A to the DSC reflecting the above.

The PWU agrees in principle that the concept of beneficiary pays and the associated cost responsibility should apply to large load customers as well. The PWU also recognizes the administrative burden on distributors that would arise if all load customers including low volume consumers were required to contribute capital related to upstream transmission connection investments.

The PWU defers to distributors to comment on the appropriateness of the proposed cut off, 3 MW or greater. In the PWU's view, the significance of the proposed cut off, such as the share of existing or potential load customers that fall under the proposed cut off,

differs from distributor to distributor. It is possible, for example, the proposed cut off could discourage load customers from connecting to the distributor and instead look for alternative solutions (like DER solutions) thereby resulting in loss of revenue for the distributor which in turn would be forced to make sub optimal investments within the distribution system to avoid an upstream transmission connection investment.

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

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

Section 6.7.2 of the TSC includes a provision that addresses when an upstream transmission connection asset reaches its end-of-life ("EOL") and needs to be replaced with a like-for-like connection asset (i.e., same capacity). Under that section, the transmitter must replace the asset at no cost to the distributor or commercial customer since the cost of the asset has been recovered through the rates they have paid.

Also, under the current TSC, the customer pays 100% of the cost where a connection asset reaches its EOL but the customer does not want a like-for-like replacement and instead requires an upgrade (e.g., additional capacity) to replace the EOL connection asset. During the Working Group process, the IESO suggested a change to the TSC such that the customer should only be required to pay the incremental cost (i.e., amount that exceeds the cost of a like-for-like replacement) to the transmitter. The OEB is of the view that a change to the TSC to implement this approach would result in greater fairness among all load customers as they would be treated the same – all load customers would essentially receive a credit equal to the cost of a like-for-like replacement asset which could be applied to the cost whether it is the same capacity (fully offset) or an upgraded connection (partially offset).

The Board also notes that if the customer requests the replacement of a connection asset that has not reached its EOL, the customer should pay; however, the Board is also of the view that the amount they pay should be limited to the remaining net book

value – not the full cost – since the asset being replaced remains 'used and useful' but it has also been partially (or fully) paid for by that customer through rates.

Finally, the Board is considering a scenario wherein a customer's load has materially declined from the time the connection facility initially went into service to when it reached its EOL, and there is an expectation that the customer's load will not grow in the future. Currently, the standard industry practice is for the transmitter to replace it with a like-for-like connection asset (i.e., same capacity). The outcome, in such cases, would be an over-investment in capacity since some of it would no longer be needed. As noted above, the customer does not pay for a like-for-like connection asset replacement at its EOL. Instead, all ratepayers pay through the applicable connection pool and, in this instance, they would pay for an over-investment. However, the OEB is not proposing to include a code requirement to 'right-size' to a lower capacity. The OEB acknowledges that there will be a need for some transmitter judgment. Instead, the Board is proposing to amend the TSC to make it clear that a lower capacity replacement connection asset is a potential outcome.

The OEB is therefore proposing that section 6.7.2 of the TSC be amended to include three subsections that address all three EOL scenarios discussed above: (1) like-for-like, (2) additional capacity, and (3) lower capacity.

The OEB is also proposing to further amend section 6.7.2 of the TSC to require the transmitter to consult with their customers – distributors and commercial – that are served by a facility before the transmitter replaces it.

The PWU agrees with the proposed amendments. The PWU also shares the Board's view that in cases where a customer's load has materially declined over time, it should be up to the transmitter to apply the appropriate judgment and replace the EOL asset with a new connection asset that meets the lower forecast need of the customer at its EOL as opposed to including a code that would require the transmitter 'right-size' to a lower capacity.

b. ***Replacement of End-of-Life Distribution Connection Assets***

Unlike the TSC, the DSC does not address cost responsibility in relation to the replacement of a distributor-owned connection asset that has reached its EOL. At the same time, changes in customer expectations and demands on the electricity system, and the evolution of technology are even more pronounced at the distribution system level.

The OEB is therefore proposing to add new section 3.17 to the DSC that aligns with the proposed amendments to section 6.7.2 of the TSC. The proposed new section would capture all three scenarios discussed above involving the replacement of EOL transmission connection assets, to ensure consistency between the two codes. The requirement for distributors to consult with customers, at the time of replacement of an asset, will be limited to those considered to be large customers (3 MW and above), as described in the section above.

The PWU agrees with the proposed amendments since they ensure consistency between the TSC and the DSC. Subject to the PWU's comment on the 3 MW cut off provided in Section II above, the PWU also supports the requirement for distributors to consult with customers, at the time of replacement of an asset, to be limited to those considered to be large customers.

c. ***Regional Distribution Solution – LDC Feeder Transfer***

This refers to an IESO-proposed distribution solution involving more than one distributor that would avoid a higher cost upstream transmission connection upgrade, as a way to further leverage regional planning. An example would be where one distributor – LDC (A) – that requires more transmission connection capacity (connecting distributor) would make an investment to connect to a distribution line of another distributor – LDC (B) – which has *excess capacity* and *no future growth* is expected (facilitating distributor).

The OEB expects these changes to result in less excess capacity on the system, i.e., improved utilization of existing assets since the 'facilitating' distributor's unused capacity would be used by the 'connecting' distributor.

The OEB is therefore proposing to amend the DSC to add section 3.1.8. Under this proposed amendment, the non-beneficiary ('facilitating' distributor) would be compensated by the beneficiary ('connecting' distributor) to the extent the 'facilitating' distributor had to make any investments and/or incurred additional costs in the future to facilitate such a solution. The OEB would expect that the two distributors would reach an agreement that would ensure the customers of the 'facilitating' distributor were not negatively affected in any way, including from a reliability perspective.

The PWU believes that excess capacity should be utilized whenever there is opportunity to do so and supports the proposed amendments provided that:

- *The connecting distributor refunds the facilitating distributor any capital contribution that the latter had paid the transmitter for capacity in relation to a transmission connection facility that will be used by the 'connecting' distributor, and compensate the facilitating distributor for any incremental charges*
- *The two distributors file a joint application to the OEB for approval of the proposed investment and the compensation agreed upon*
- *The two distributors demonstrate that there is an adequate amount of excess capacity on the transmission connection facility to meet the forecast needs of both distributors in order to avoid potential negative impacts on reliability of the system.*
- *There is close coordination and agreement among the transmitter and the distributors involved*
- *The distributors present an assessment from the IESO confirming that the distribution solution is more cost effective than an upgrade to the transmission connection facility*

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

Distributor 'incremental' load growth vs. 'lumpy' transmission connection investments

The Board states that transmission connection upgrades are *lumpy* in nature, while any load growth within the distribution system tends to be *gradual*. Load growth (i.e., *demand*) and the assets to *supply* it are therefore rarely aligned. As a result, when a connection asset upgrade associated with a distributor is implemented, there is often much *excess* capacity. This in turn can result in significant bill impacts for the customers of distributors and a barrier to the implementation of regional plans due to the capital contribution that must be provided by the distributor to the transmitter. An issue arises because the capital contribution also reflects both the incremental capacity required by the distributor to meet its near term needs, as well as excess capacity since these investments cannot be sized to exactly match the distributor's forecast needs. An example is line connections which come in only two discrete sizes – 115 kV and 230 kV – in Ontario. A 230 kV line accommodates about 400 MW of load, while a 115 kV line accommodates only about 150 MW of load – a 250 MW differential. As a consequence, if a 115 kV line comes close but falls short of meeting a distributor's forecast needs, a 230 kV line would be required which would include much excess capacity under such circumstances. The capital contribution would be substantial in such a case since the distributor would not recover any transmission rate revenues on that excess capacity. As a result, many distributors in Ontario may not implement the 'optimal' transmission connection investments identified in regional plans. In those cases, the primary reason for that is the current approach can result in distributor financing issues and significant customer bill impacts.

The Board is proposing three approaches which are intended to address this issue, adding that its preference is to implement all of them, including the status quo approach wherein a single lump sum payment is made in order to provide for flexibility and adaptability to different scenarios of development within distributor territories. The three approaches are:

a) *Annual Installment Option (for distributors):* This would involve a capital contribution being provided via multiple annual installment payments over a certain number of years instead of the status quo which is a single lump sum payment to the transmitter.

b) *Upstream Capacity Payment Approach (Advanced funding):* involves a distributor including in its economic evaluation a payment reflecting future upstream system costs. The payment for capacity ensures the new customer that is connecting to the system and therefore benefitting from existing available capacity (or a new transmission connection asset) pays towards the cost of its future capacity requirements. Under this approach, distributors would apply a per kW payment reflecting the forecast costs to be paid by customers (e.g., developers) before an upstream transmission investment is made and before a capital contribution is provided to the transmitter. Distributors would hold the funds collected through such charges (including any interest that accrued) in a separate account until the capital contribution related to the new upstream connection asset is provided to the transmitter. The capacity payments collected by the distributor would be included in the capital contribution provided to the transmitter.

c) *Upstream Connection Adder* (Advanced funding): It would be similar to the Upstream Capacity Payment approach in that it would provide advance funding to the distributor before the upstream connection asset goes into service and before a capital contribution needs to be provided to the transmitter. Where it differs is it would collect the funds by adding a rate rider to the bills of all the distributor's customers, rather than applying a per kW charge to new and expansion customers.

In the PWU's view, the proposed amendments are premised on two considerations: the magnitude of the capital contributions that distributors might be required to make under the status quo and bill impacts on ratepayers. In the PWU's view, neither of these considerations justifies the proposed changes.

Distributors vary in their specific circumstances and it is misguided to assume that all distributors are unable to raise the capital contribution needed for transmission connection investments. Also, a distributor whose forecast need is 160MW requires a

230Kv line connection, just as another distributor whose forecast need is 380MW would. The excess capacity differential in the two scenarios is not the same. The distributor whose need is for 380MW can recover most of its cost in rates revenue because the excess capacity is not substantial compared to the distributor with a 160MW load forecast.

With respect to bill impact, the PWU understands that it is an important consideration in system planning. The PWU also notes that there are rate mitigation mechanisms at the Board's disposal that could be applied when required. The total bill impact on the ratepayer is an outcome but there are a number of other factors such as commodity price, conservation efforts and government relief programs that determine the magnitude of the bill impact. There is no evidence that existing mechanisms are inadequate to appropriately address bill impacts.

The proposed approaches are likely to transfer risk from the distributor to the transmitter (Installment Funding option), put administrative burden in forecasting future capacity requirements, associated future upstream system costs to be paid by customers before an upstream transmission investment is made (Upstream Capacity Payment Approach) and require the ratepayer to bear associated financing costs that are avoidable otherwise.

The PWU notes that the Board is proposing to implement all the three approaches and to maintain the status quo approach. While the Board's proposal affords distributors the flexibility to choose the approach that is appropriate to their specific circumstances, the PWU's preference is the status quo approach, i.e., a single lump sum payment of capital contribution.

V. PROPOSED TSC AND DSC AMENDMENTS: ADDRESSING INCONSISTENCIES AND GAPS

In this section, the Board is proposing code amendments that are intended to address inconsistencies between and gaps within the TSC and DSC, including inconsistencies and gaps with respect to definition of terms and code amendments discussed in the foregoing sections.

Subject to PWU's foregoing comments, the PWU has no issues with the proposed code amendments.

All of which is respectfully submitted.