November 8, 2017

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

Dear Ms. Walli:

Re: EB-2016-0003- Amendments to TSC and DSC to Facilitate Regional Planning

We are representing the Consumers Council of Canada ("Council") in the above-referenced consultation process. Please find attached the comments of the Council in response to the Ontario Energy Board's "Notice to Amend a Code" - Proposed Amendments to the Transmission System Code and the Distribution System Code to Facilitate Regional Planning dated September 21, 2017.

Yours truly,

Julie E. Girvan

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I. INTRODUCTION:

On January 7, 2016 the Ontario Energy Board ("OEB") 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 the Distribution System Code ("DSC") are aligned and facilitate the implementation of regional plans.

This consultation arose in part in response to an application by Hydro One Networks Inc. ("HON") for approval of a project referred to as the "Supply to Essex County Transmission Reinforcement" ("SECTR"). HON was seeking approval within the context of that project for a proportional benefit approach to cost apportionment that involved apportioning some transmission connection asset costs to all ratepayers. The methodology proposed by HON in that application was not contemplated in the TSC. The application also 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.

The OEB determined that the cost allocation issues identified in the SECTR Application should be reviewed from a policy perspective. The OEB also added the following additional issues to its review:

- To determine whether changes to the DSC are needed to facilitate regional planning and the implementation of regional infrastructure plans;

- To identify potential inconsistencies between the TSC and the DSC and, to the extent any exist, determine whether those inconsistencies should be aligned or whether they remain appropriate; and

- To identify potential gaps in the TSC and DSC related to cost responsibility and regional planning that should be addressed.

On September 21, 2017, the OEB issued a Notice of Proposal to Amend a Code. That Notice included proposed amendments to the TSC and DSC in order to facilitate regional planning. These are the submissions of the Consumers Council of Canada ("Council") regarding the proposed amendments. The Council does not intend to comment on each and every proposed amendment, and will focus primarily on some of the higher-level policy issues.

II. SUBMISSIONS:

GUIDING PRINCIPLES:

The OEB has identified three guiding principles that it intends to consider in determining the appropriate approach to allocating the costs associated with distribution and transmission connected investments:

- **Optimal Infrastructure Solution** – Optimal solutions are infrastructure investments that meet regional needs at the lowest cost;

- **Beneficiary Pays** – Beneficiaries of an investment will contribute to the cost of an investment. Cost allocation will be determined based on the customer's proportional use of the connection asset set out in a regional plan. Costs should not be allocated to any load customer (consumer or distributor) or generator that will not benefit from the investment;

- **Open, Transparent and Inclusive** – The process used to determine the cost of an infrastructure investment and the appropriate allocation of those costs to the beneficiaries should be transparent and include all affected parties. [1]

The Council is supportive of the guiding principles established by the OEB. Clearly customers would expect the optimal solutions are the ones that meet the regional needs at the lowest cost.

With respect to "beneficiary pays" this makes perfect sense from the Council's perspective. Those that benefit from an investment should pay for that investment. However, the code amendments are not clear in terms of defining "beneficiaries". It is also not clear under the code amendments whether the actual beneficiaries of the investments will be the actual parties that pay for those investments. It will be important for the OEB to determine in each case those that contributed to the need for the investment and those that did not. The ultimate beneficiaries will be different in each and every case. In its applying the beneficiary pays principle the OEB will have to assess each proposal carefully to ensure that cross-subsidization across the system is minimized to the extent possible.

The Council notes that the OEB is proposing a proportional benefit methodology as a way of implementing its "beneficiary pays" principle. In describing its approach the OEB stated, "The OEB believes there would be a need for an OEB adjudicative process to review requests for such apportionment, on a case by case basis, to ensure there is not an over-allocation to the network pool (i.e., all customers)."[2]

This approach is consistent with the third guiding principle - that the process used to determine the cost of infrastructure investments and the appropriate allocation of those costs to the beneficiaries should be transparent and include all affected

[1] Notice of Proposal to Amend a Code, dated September 21, 2017, pp. 3-4
[2] Ibid, p. 7

parties. Each case will be unique and it will be important to engage all affected parties.

The Council is of the view that in all cases where connection investments are being made the OEB should have a full adjudicative process to determine the beneficiaries of the project and to determine the appropriate allocation of costs. This should include cases where the OEB needs to determine how to allocate costs between the customers that caused the need for the connection investment and all ratepayers. It should also include cases where a distributor is allocating the costs of the investment to embedded distributors.

In order to ensure that the principle of "beneficiary pays" is applied the OEB will also have to consider in these proceedings how distributors allocate the costs among their distribution customers. The allocation of costs within a distribution system should be tied to the benefits. Some rate classes might be benefiting from a connection investment whereas some might not. This should ultimately be reflected in the cost allocation policies and rates of the subject distributors.

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

The Council supports the proportional benefits approach as described in the Notice. This will ensure that transmission connection investment costs are appropriately shared between the beneficiaries which in many cases might be the connection customer(s) and the overall network customers. The current TSC does not allow for this sharing.

As noted above the OEB has, in the Notice, reinforced the need for an adjudicative process to review requests for such apportionment, on case by case basis. The Council fully supports the requirement for an adjudicative review in each of these cases especially in light of the fact that in each case the circumstances will be different. The Council does not believe it would be appropriate to fully prescribe in the TSC how the allocations should be carried out.

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

The Council supports the proposal of the OEB to address the inconsistency between the DSC and the TSC regarding the requirements for capital contributions from distributors. The proposed changes allow for contributions from embedded distributors when they are beneficiaries of connection investments. This will eliminate circumstances where the customers of the host distributor subsidize the customers of the embedded distributor.

The proposed amendments include a threshold for large load customers based on non-coincident peak that meets or exceeds 3MW.[3] The OEB believes that 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 Council acknowledges that establishing the 3 MW threshold might not be the most appropriate approach. There is the possibility under this approach that these large load customers would pay twice for a connection – once through a contribution and again through the LDC's rates. The Council is of the view that rather than setting a fixed threshold that the OEB consider contributions by larger load customers on a case by case basis. Large customers should be responsible for connection costs they cause, but should not be required to pay twice.

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

The Notice refers to a scenario where a customer's load has materially declined over time. In that the case the OEB expects that the transmitter would apply the appropriate judgment and replace the end-of-life ("EOL") asset with a new connection asset that meets the lower forecast need of the customer at its EOL. [4] The intent is to reduce the cost allocated to all Ontario consumers and result in a more efficient transmission system by avoiding an investment in unnecessary capacity.

The OEB, however, is not proposing to include a requirement to "right-size" to a lower capacity.[5] The Council submits that the TSC should include a specific requirement to right-size in these circumstance. This will ensure that the transmitters are not putting in unnecessary facilities at an unnecessary cost.

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

The OEB has proposed code changes to address the fact that transmission connection upgrade tend to be "lumpy" in nature, whereas load growth within the distribution system tends to be gradual. This can result in distribution financing issues and significant customer bill impacts. In order to address these issues and to facilitate more optimal regional planning the OEB has proposed three financing options.

1. Annual Installment Approach

This approach would involve a capital contribution being provided via multiple annual installment payments over a certain number of years instead of the status

[3] Ibid, p. 10
[4] Ibid, p. 12
[5] Ibid, p. 12

quo which entails a single lump sum payment to the transmitter.[6] The existing true-up process would remain in place. The OEB is also proposing that the payment period would not exceed 5 years.

The Council agrees that this approach is appropriate, as it would mitigate the bill impacts associated with large investments. With respect to the five-year cap, the Council submits that distributors should be permitted to apply for a longer payment period if required. A significantly large investment might have bill impacts that would be better mitigated over a longer period of time.

2. Upstream Capacity Payment Approach:

Under this approach distributors would apply a per kW payment reflecting the forecast costs paid by customers before an upstream transmission investment is made and before a capital contribution is provided to the transmitter. The forecast cost of the upstream transmission investment would be based on the most recent regional plan. [7]

The Council is opposed to the concept of advanced funding. Customers should not be required to fund projects before they go into service. This is not the way rates are set and would represent a significant departure from generally accepted ratemaking principles. Customers pay for assets once they go into service.

One of the fundamental problems with this approach is that capital projects are often delayed which could mean customers are paying up front for assets over along period of time. In addition, the projects may not go ahead if the projected load growth does not materialize. It is also not clear as to whether this approach might result in double counting. Customers who have paid the advanced funds might also be required to pay for the outstanding balance of the capital contribution through distribution rates.

3. Upstream Connection Adder

This approach 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 from the previous approach is it would allow for the collection of funds by adding a rate rider to the bills of all of the distributor's customers, rather than applying a kW charge to new and expansion customers.[8]

The Council is also opposed to this approach for the same reasons set out above. It represents a departure from generally accepted rate-making principles. Customers

[6] Ibid, p. 17
[7] Ibid, p. 19
[8] Ibid, p. 20-21

would be paying up-front for assets that are not in-service, and may never go into service. The Council sees no rationale for the OEB to adopt either of the advanced funding approaches.