



September 20, 2018

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge St., Suite 2700  
Toronto, ON M4P 1E4

**via RESS and Courier**

Dear Ms. Walli:

**Re: Revised Proposed Amendments to the Transmission System Code and the Distribution System Code to Facilitate Regional Planning – EB-2016-0003**

On August 23, 2018, the Ontario Energy Board (“OEB” or “the Board”) published a Notice of Revised Proposal to Amend a Code (“Notice”). The Notice sets forth revised proposed amendments to both the Transmission System Code (“TSC”) and the Distribution System Code (“DSC”) to support regional planning processes. Consistent with the OEB’s Notice, these amendments are hereinafter referred to as the “Revised Proposed Amendments”.

The Coalition of Large Distributors (“CLD”) is pleased to offer comments on the Revised Proposed Amendments. The CLD consists of Alectra Utilities Corporation, Hydro Ottawa Limited, Toronto Hydro-Electric System Limited (“THESL”), and Veridian Connections Inc.

**A. SUMMARY OF KEY MESSAGES & RECOMMENDATIONS**

The following comprise the CLD’s key messages and recommendations:

1. As a general matter, the CLD maintains its position that more detailed analysis should be provided to support the adoption of proposed code amendments of this nature – particularly regarding anticipated costs and benefits, and as to how the amendments represent a substantial improvement upon the status quo.
2. Proposed TSC Amendments: Approach to “Apportion” Transmission Connection Investment Costs to the Network Pool
  - The CLD remains supportive of the adoption of the “beneficiary pays” principle, including in relation to applying this principle to generator customers.
  - The CLD looks forward to working with the OEB to develop a streamlined approach for the adjudicative process for determining the appropriate apportionment of costs.
  - The CLD appreciates the OEB’s expression of support for the proposal to adopt criteria similar to those used in Z-factor applications to govern the scope of benefits associated with transmission connection investments.

3. Proposed TSC and DSC Amendments: Approaches to “Apportion” Upstream Transmission Connection Investment Costs
  - The CLD supports the proposed increase in the threshold to define a “large load” customer – i.e. from 3 MW to 5 MW. Notwithstanding this support, the CLD maintains its view that the establishment of this large load customer threshold may have unintended consequences. The CLD urges the OEB to remain sensitive to the potential impacts of this proposal on affected customers and believes that action is required to educate this community of customers in advance of these proposals coming into force.
  - The CLD has concerns with the proposal to assign exclusive responsibility to transmitters for performing the economic evaluation for capital contributions in respect of upstream transmission connection investments. At a minimum, requirements should be established to ensure responsiveness on the part of transmitters to the needs of distributors and their customers, and to ensure transparency in the administration of the economic evaluation process.
  - The Board should clarify its rationale for proposing to add the term “new” to transmission assets in section 3.2.4A of the DSC.
  
4. Proposed TSC and DSC Amendments: Approaches to “Apportion” Costs for End-of-Life Connection Replacements and Multi-Distributor Regional Solutions
  - With respect to “right-sizing” for lower capacity, the CLD remains of the view that transmitter and distributor judgment is paramount to understanding the unique circumstances that may prevail. The CLD therefore supports the decision not to codify an obligation to “right-size” through TSC and DSC amendments. Further, the CLD is confident that the issue can be advanced through the OEB’s Regional Planning Process Advisory Group (“RPPAG”) and the parallel consultation being led by the Independent Electricity System Operator (“IESO”).
  - The CLD supports the revised proposal requiring consultation on distribution stations and distribution lines connecting large commercial and industrial (“C&I”) customers, rather than consultation for all distributor-owned assets.
  - The CLD remains concerned that the Local Distribution Company (“LDC”) Feeder Transfer proposal may serve to discourage contiguous consolidation proposals among distributors.
  
5. Proposed TSC and DSC Amendments: Facilitating Regional Plan Implementation and Mitigating Electricity Bill Impacts
  - The CLD supports the establishment of an annual installment option to allow payment of a capital contribution over a five year period.
  - The CLD supports the proposal to remove consideration of additional funding alternatives from amendments to the TSC and DSC.

6. Proposed TSC and DSC Amendments: Addressing Inconsistencies and Gaps
  - The CLD supports the removal of the 15-year repayment period in favour of maintaining the five year repayment period, in the context of capital contribution refunds, rebates, true-ups, and expansion deposits.
  - Based on experience with the regional planning process, the CLD respectfully suggests that there are certain issues related to capital contribution refunds, rebates, and true-ups that are ripe for further examination within the RPPAG.
  - The CLD looks forward to further engagement with the Board on measures that will help distributors and customers understand the framework and rules regarding Capacity Reserve Charges (“CRCs”) and bypass charges.
  
7. Other Proposed TSC and DSC Amendments
  - The CLD interprets the proposed new definition of “distributor-owned asset” as generally referring to expansion activity, and as such, has no objection to this definition.
  - Alternatively, for the purposes of defining the scope of distribution assets to which the Revised Proposed Amendments are intended to apply, the OEB may wish to consider employing a term that is already found in the DSC – “main distribution system.”
  
8. Other Issues – Non-wires Solutions
  - The CLD wishes to echo its call for the OEB to launch an initiative to examine the issue of investments in non-wires solutions, as part of ongoing efforts to implement optimal investment planning decisions by transmitters and distributors. The CLD urges the OEB to assign this initiative priority status and to move forward with execution in a timely manner.

## **B. BACKGROUND**

The review of the TSC and DSC was prompted by the leave to construct (“LTC”) application filed by Hydro One with the OEB in 2014. The Supply to Essex County Transmission Reinforcement (“SECTR”) project applied a proportional benefit test to allocate part of the transmission asset connection costs to all ratepayers. Upon further review of Hydro One’s LTC application, the OEB stated that the cost allocation issues that arose from the SECTR project should be reviewed from a policy perspective.

On January 7, 2016, the OEB initiated this consultation by forming a Working Group. Three meetings were held over the following 16 months.

On September 21, 2017, the OEB gave notice to amend the TSC and DSC under section 70.2 of the *Ontario Energy Board Act, 1998*. Consistent with the OEB’s Notice, these specific amendments are hereinafter referred to as the “September Proposed Amendments”. The CLD

submitted comments on the September Proposed Amendments on November 6, 2017. The CLD's general view was that the September Proposed Amendments constituted a significant departure from current OEB policy.

Following a review of the written comments received, the OEB invited stakeholders to a meeting on February 5, 2018 to further discuss the September Proposed Amendments and the related comments received from stakeholders. After considering the comments received, the OEB has now released further revisions to the September Proposed Amendments.

## **C. COMMENTS – GENERAL**

### (i) Provision of Additional Analysis in Support of Proposed Code Amendments

In its November 2017 comments, the CLD observed that the September Proposed Amendments represented a major shift in OEB rules and requirements related to regional planning and cost allocation. In those comments, the CLD included several recommendations and requests for additional analysis to be performed, to help provide robust rationale and justification for several of the proposals contemplated by OEB. In light of the significant nature of many of the proposed amendments, the CLD believed that such requests were reasonable.

At this time, the CLD maintains its position that more detailed analysis should be provided to support the adoption of the Revised Proposed Amendments – especially in relation to anticipated costs and benefits, and to how the amendments represent a substantial improvement upon the status quo.

For example, with regards to the former, the CLD observes that discussion of the projected costs and benefits is strictly qualitative in nature, and that there is no quantitative data or analysis presented to support the statement that the expected benefits are likely to exceed any additional costs. Similarly, while the Notice asserts that certain proposals addressing issues related to “lumpy” investments and affordability would result in lower electricity bills for consumers, the projected reductions have not been quantified.

With regards to the latter, since the Working Group stage, many participants have requested side-by-side comparisons – and cost-benefit analysis – of existing TSC and DSC provisions and the reforms that are being proposed. To date, such information has not been provided. The flowcharts included in the Compendium Document prepared in July 2016, in advance of the Working Group's second meeting, were very well-received by stakeholders, on account of their helpful high-level illustration of TSC and DSC cost responsibility provisions. The CLD believes that the preparation of analogous resources indicating the new cost responsibility provisions under the Revised Proposed Amendments, accompanied by quantification of their benefits and costs relative to the status quo, would yield significant value to all parties – especially large load customers, who are shouldering such responsibilities for the first time. The CLD continues to

believe that analysis of this nature would better position stakeholders to prepare for the implementation of the proposed amendments.

In addition to a more rigorous analytical approach, the CLD also requests that the OEB adopt a measured approach and pace to implementation. The CLD believes that such an approach is warranted, in light of the complexity and novelty of many of the proposals set to come into force. To this end, the CLD appreciates the clarification included in the Notice that the OEB's intent is for the Revised Proposed Amendments to apply strictly on a prospective basis.

#### (ii) Non-Wires Solutions

The CLD wishes to reiterate the strong support expressed in its prior comments for further consideration by the OEB of the issue of investments in non-wires solutions. The CLD observes that the Notice is largely silent on the issue of non-wires solutions, as well as on the potential timing of the future initiative that the OEB had signaled through its September Notice was being contemplated to examine this issue more closely.<sup>1</sup> CLD members would encourage the OEB and all stakeholders not to lose sight of this important issue, and would echo the call for an initiative to be launched on a timely basis to enable more focused discussion and action.

### **D. COMMENTS – SPECIFIC**

The comments that follow are organized around the five specific topic areas presented in Section B of the Notice.

#### **1. Proposed TSC Amendments: Approach to “Apportion” Transmission Connection Investment Costs to the Network Pool (new sections 6.3.18A and 6.3.18B of TSC)**

In the September Proposed Amendments, the OEB proposed the addition of new sections to the TSC to reflect a shift in perspective towards the notion of a “beneficiary pays” approach. Under the proposed TSC requirement, the costs associated with the transmission connection investment would be apportioned between individual customers and the network pool (paid for by all ratepayers), in proportion to the benefits which they receive from the investment. An adjudicative process would test and review requests for such apportionment on a case-by-case basis.

In its Revised Proposed Amendments, the Board has indicated that there was broad support for allowing the apportionment of costs associated with transmission connection investments

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<sup>1</sup> The only reference to the issue of non-wires solutions appears at page 12, where the OEB expresses concern that “the current wording in the TSC can imply that wires replacement is the only option when an asset reaches EOL. That is not consistent with the OEB's vision.” The CLD welcomes the opportunity to engage in more comprehensive discussion regarding the adoption of non-wires alternatives for regional planning, including as it relates to the replacement of end-of-life assets.



triggered by a specific customer to be recovered from all ratepayers where the investment also provides benefits to the larger network system.

The CLD wishes to reiterate its general support for the adoption of the “beneficiary pays” principle.

#### *Broaden to Include Generation Customers*

The Board is proposing to include generator customers within section 6.3.18A, to ensure that all generator customers are treated the same and pay their fair share in accordance with the beneficiary pays principle.

In step with its broader support for the beneficiary pays principle, the CLD supports this proposal.

#### *Apportionment Process to Determine Apportionment*

The OEB will continue to rely on the adjudicative process to determine the appropriate apportionment of benefits and costs, as proposed in the September Proposed Amendments. However, the Board also recognizes that there may be an opportunity to make the process more streamlined once a number of applications that involve different circumstances have been tested.

The CLD looks forward to the ultimate adoption of a streamlined process. The CLD wishes to reiterate that, in formulating the Filing Guidelines governing such applications, the OEB should not stipulate that an amended Regional Infrastructure Plan (“RIP”) or Integrated Regional Resource Plan (“IRRP”) would be a requirement in order to proceed. Any adoption of such a requirement would materially impair timely decision-making and, by extension, implementation.

#### *Scope of Benefits*

The Board indicates that the type of benefits that would fall under the category of “system needs” should remain broad and expansive, allowing for flexibility in application. As a result, the Board is not proposing to codify specific types of benefits into the TSC.

The CLD is supportive of this approach, as the number and type of benefits that may apply in different circumstances may be wide and varied. Furthermore, the CLD appreciates the OEB’s adoption of the CLD’s recommendation that the criteria governing the acceptable types of benefits should be similar to those used in Z-factor applications – namely, identifiable, quantifiable, and material.

## **2. Proposed TSC and DSC Amendments: Approaches to “Apportion” Upstream Transmission Connection Investment Costs**



***Upstream Transmission Connection Investments – Treatment of Embedded Distributors and Large Load Customers (new section 3.2.4A of DSC, new section 6.3.20 in TSC)***

The September Proposed Amendments sought to apply the beneficiary pays principle to embedded distributors, as well as to large load customers, defined as those with a peak demand greater than 3 MW.

The Notice describes the Board's view in maintaining the beneficiary pays principle, insofar as beneficiaries should be required to pay a capital contribution whether they are connected to the distribution system or the transmission system.

The Board notes that, over the course of the consultation process, several stakeholders (including the CLD) expressed concern with the proposed use of a 3 MW materiality threshold, in order to determine which customers should be considered large load customers. However, as the Board has also observed, there was generally broad support for use of a 5 MW threshold. In the Revised Proposed Amendments, the Board has proposed to adopt this 5 MW threshold.

While the CLD believes that this is a more appropriate threshold, the CLD nevertheless maintains that this proposal presents the prospects of challenges and unintended consequences. The CLD urges the OEB to remain sensitive to the potential impacts of this new capital contribution requirement on affected customers. Although it is difficult to predict with any degree of certainty what the impacts and effects of this new proposal will be, it seems reasonable to conclude that it will introduce a significant new variable into large customers' business and investment plans. Accordingly, the CLD strongly believes that steps should be taken to educate the large customer segment in advance of these proposals coming into force, so that they are able to adjust and plan effectively for the imposition of this new obligation.

Other issues associated with this second category of proposed amendments which the CLD wishes to address are the following:

- *Economic evaluation methodology for capital contribution calculations related to upstream transmission connection assets* – the Board proposes that the transmitter should be the custodian of the economic evaluation model in respect of upstream transmission connection investments, whether driven by an embedded distributor or a large load customer. The stated purpose is to ensure that confusion does not arise between applications of the Distributor model, as described in the DSC, relative to the Transmitter model, as described in the TSC. As a result, distributors are expected to request the transmitter to calculate the appropriate capital contribution for each beneficiary connected to the distributor using the methodology in Appendix 5 of the TSC, when the need arises.

While the CLD recognizes that the aim of this proposal is to achieve greater efficiency in the process, the CLD does have several concerns. First, tasking the transmitter with running such a model may place the transmitter in a position whereby it can exercise undue influence and control over the process. Secondly, it does not appear that, as currently written, this proposal would provide any assurance of transparency in the economic evaluation process performed by the transmitter. Thirdly, it is unclear to the CLD what the practical effect of this proposal would be, as it relates to the role of the distributor vis-à-vis the customer.

If the OEB ultimately chooses to proceed with this proposed approach, the CLD respectfully requests that the aforementioned concerns be considered and addressed. At a minimum, the transmitter should be expected to be responsive to the needs of distributors and their customers throughout this process, and to administer the process transparently. The CLD recommends that the TSC codify expectations and requirements to that effect (e.g. 30-day time limit in which to respond to distributor and customer inquiries).

In the CLD's view, an optimal approach to structuring this process would involve the transmitter performing an assessment of costs to be assigned to the LDC (and the LDC's customers), which would flow to the transmitter's rate base. The LDC would then use that cost from the transmitter in its own analysis of discounted cash flows, in order to determine the cost apportionment between the LDC's rate base and the specific customer using the LDC's economic evaluation. In this way, the LDC remains the main contact point for the customer. It also ensures a recognition that the LDC will need to factor in costs (including those from the transmitter) and revenues (from the customer), with consideration given to the LDC's rates and/or other unique circumstances.

- *Reference to “new” as well as “modified” transmission assets in proposed new DSC section 3.2.4A* – the Board proposes to add the term “new” to transmission assets into this section. However, the Board also indicates that whether an investment need is on account of new or modified assets is irrelevant. It is confusing, then, as to why the Board would choose to codify the term “new.” If the nature of the cause for the investment is irrelevant, as the Board states, then the word “new” should not be adopted.

### **3. Proposed TSC and DSC Amendments: Approaches to “Apportion” Costs for End-of-Life Connection Replacements and Multi-Distributor Regional Solutions**

#### ***Replacement of End-of-Life Transmission and Distribution Connection Assets (section 6.7.2 of TSC, new section 3.1.17 in DSC)***

The September Proposed Amendments proposed to deal with several end-of-life (“EOL”) replacement scenarios, including: (1) *like-for-like*, (2) *additional capacity*, and (3) *lower capacity*. The amendments can be summarized as follows:



(1) In the like-for-like scenario, when the replacement for a connection asset is the same capacity or “right-sized” to lower capacity, the customer would not be responsible for any replacement costs.

(2) In the additional capacity scenario, when the replacement involves an upgrade, the customer would be responsible for only the incremental cost (i.e. the amount that exceeds the cost of a like-for-like replacement), not the full cost.

(3) In the lower capacity scenario, when a connection asset reaches its EOL but a customer’s load has declined over time, the transmitter should use judgment to replace the EOL asset with a new connection asset that meets the lower forecast (i.e. “right-size”).

In addition, in the September Notice, the OEB expressed the view that the customer should pay, if the customer requests the replacement of a connection asset *before* it has reached its EOL. However, the customer would be obligated to pay only the remaining net book value (“NBV”) of the asset, not the full cost.

Moreover, the September Proposed Amendments sought to align the DSC with the TSC by adding a new section 3.1.17 to the DSC to capture the three scenarios presented above. It was also proposed that distributors be required to consult with large load customers when an EOL scenario arises.

In the Revised Proposed Amendments, the Board has specifically recognized that not all EOL assessments will be conducted or addressed through a regional planning process, as some are addressed through local planning. The OEB also clarifies that the wording in the TSC is not meant to imply that a wires replacement is the only alternative when an asset reaches its EOL. As a result, the OEB is proposing amendments to indicate that section 6.7.2 of the TSC and 3.1.17 of the DSC will only apply where a wires replacement at EOL has been determined to be the optimal solution.

As it is expected that the number and type of distributed energy resources will continue to proliferate over time, the CLD is supportive of the proposed amendments. In addition, as stated in its previous comments in this proceeding, the CLD believes that an appropriate incentive for the downsizing of transmission connection assets would be for savings to accrue to LDC customers, rather than the transmission network pool.

Furthermore, with respect to the determination of what constitutes an optimal solution for planning purposes, the CLD does not take issue with the OEB’s assertion that the regional planning process will always be used in scenarios involving regional considerations. This is predicated on the assumption, however, that the parties involved in regional planning recognize that the scope of an RIP is limited to the bulk system and the interface between the

transmission and distribution system, and does not reach into planning considerations which are strictly at the distribution level.

The CLD also appreciates the OEB's acknowledgement that, in a local planning context, determinations of optimal solutions can be made by a single distributor potentially (but not necessarily) in collaboration with the applicable transmitter.

In addition, the CLD wishes to underscore its view that guiding principles in any determination of an optimal solution for planning purposes should be minimizing impacts to ratepayers and ensuring reliability of the system.

Comments related to further subsections within this area of the Revised Proposed Amendments are addressed below.

#### "Right-sizing" to Lower Capacity

The OEB is proposing to maintain the approach outlined in the September Proposed Amendments in regard to right-sizing transmission connection assets. On the one hand, the Board appears to be expressing some reluctance about relying on utility judgment with respect to right-sizing. However, the Board has also not found merit in obligating requirements to right-size. The Board has further indicated that it will consider if any additional action is required related to EOL analyses, once the applicable work of the RPPAG and the IESO's parallel consultation are complete.

The CLD supports the OEB's decision not to enshrine an obligation to right-size in the Revised Proposed Amendments. The CLD remains of the view that transmitter and distributor judgment is paramount to understanding the unique circumstances that may prevail in the context of regional and local planning. Further, the CLD is satisfied that the issue can be effectively addressed through the RPPAG and IESO-led consultative.

#### Replacement before EOL

The Notice indicates that there was broad support in relation to not requiring payment of the full replacement cost in cases where a customer requests replacement before EOL. However, the Board notes that such customers should also be required to pay not only the remaining NBV, but also an amount in relation to advancement costs. That is, the customer requesting the advancement should also bear the cost of financing, rather than all network customers.

The CLD is supportive of this proposed amendment.

#### Other End-of-Life Issues

In the Revised Proposed Amendments, the Board has acknowledged distributors' concerns that an obligation to consult before every distributor-owned asset is replaced is overly burdensome due to the large number of customers served. Therefore, the Board has limited the requirement

to consult to situations involving distribution stations connected to the transmission system and distribution lines connecting large C&I customers (i.e. at or above the 5 MW threshold).

The CLD appreciates the Board's response to the concerns expressed by distributors and supports this proposed amendment. The CLD observes that there will be several options available to distributors in performing this consultation – for example, through existing processes which are prescribed by OEB requirements or through discrete, ad hoc processes. CLD members request that distributors be granted discretion to employ whichever process suits the specific needs and circumstances of the situation, as well as those of their customers, for purposes of fulfilling this consultation responsibility.

In addition, the CLD observes that an important point of clarity set forth in the September Notice is not reflected in Attachment B and Attachment D. The September Notice stated that “[t]he 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.”<sup>2</sup> However, as outlined in Attachment B and Attachment D, section 3.1.17 simply states that distributors must consult with “the applicable customers.” The CLD therefore requests more explicit clarification in the DSC amendments that distributors are required to consult with large load customers specifically when an EOL scenario arises.

### ***Regional Distribution Solution – LDC Feeder Transfer (new section 3.1.18 of DSC)***

The September Proposed Amendments proposed an “LDC Feeder Transfer” solution, whereby a facilitating distributor that has excess capacity and no future growth expected can provide its spare capacity to a connecting distributor that requires more transmission connection capacity. The connecting distributor would make an investment to the facilitating distributor to use the excess capacity, and both distributors would be required to submit a joint application to the OEB for approval.

In the Revised Proposed Amendments, the Board has signalled its intent to retain this proposal, with the stated aim of avoiding potentially more costly upstream transmission connection upgrades. The Board further notes that such a condition may give rise to a requirement for a distributor to invest in existing assets in order to facilitate such a plan, and therefore the Board proposes to reflect this within the context of the proposed amendment to the DSC. The Board also expects the joint utility application to be supported by a RIP, along with confirmation from the IESO that the proposed investment results in an optimal wires solution from a regional planning perspective.

The CLD remains concerned that this proposal may serve to discourage contiguous consolidation proposals among distributors going forward, seeing as it provides an alternative to eliminating such boundaries. While it may provide an alternative, it does not provide overall synergy savings and benefits to customers. What's more, it is the view of the CLD that consolidation within the sector reduces the total length of service territory divisions across which

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<sup>2</sup> September Notice, p. 13.



these issues can arise, which makes consolidation a more efficient way of dealing with lower-cost connections.

#### **4. Proposed TSC and DSC Amendments: Facilitating Regional Plan Implementation and Mitigating Electricity Bill Impacts**

##### ***Distributor “Incremental” Load Growth vs. “Lumpy” Transmission Connection Investments***

The September Proposed Amendments contemplated amending the TSC to require transmitters to accept provision of capital contributions in annual installments over a period of time of up to five years. The proposals also sought to enable (but not require) the use of alternative mechanisms for advance funding (the Upstream Capacity Payment and the Upstream Connection Adder). The OEB stated that it would issue Filing Guidelines related to such advance funding mechanisms at a future date.

The OEB’s stated purpose for making such changes is to address the “lumpy” nature of transmission connection upgrade requirements vis-à-vis more gradual distribution system load growth, which can cause excess capacity in the early years of an investment cycle.

##### **Annual Installment Option (new section 6.3.19 of TSC)**

The Board indicates that there was broad support for an annual installment option over a five year period. In addition, the Board is proposing to allow for cases with an extended time period, subject to an application and approval by the Board on a case-by-case basis. Finally, for any time period greater than a year, a financing charge at the Board-prescribed construction work in progress (“CWIP”) rate will apply.

The CLD supports the establishment of an annual installment over a five year period and appreciates that this would remain an option for distributors to consider. However, as noted in the CLD’s November 2017 comments, the CLD is not convinced that any appreciable customer savings will result, since the remaining balance to be paid to the transmitter will earn the full cost of capital in the transmitter’s rate base and the CWIP rate will apply to unpaid balances.

##### **Advanced Funding Options**

In the Revised Proposed Amendments, the Board notes that it will defer consideration of additional funding alternatives until the development of Filing Guidelines. As a result, the OEB is no longer proposing to revise the applicable appendices of the TSC and DSC to accommodate the advanced funding options.

The CLD supports the proposal by the Board to remove consideration of additional funding alternatives from amendments to the TSC and DSC. In addition, consistent with its prior comments, the CLD submits that future consideration of alternative funding mechanisms should ensure that these options are made available in situations involving distributor-owned

transmission assets in the same way that they are intended to be made available in the context of transmitter-owned transmission assets. That is, whether a transmission station is to be built and owned by a transmitter or distributor, these funding options should be made available. Otherwise, there would be a misalignment providing a preferential treatment to the funding of transmission stations that are built and owned by transmitters. The CLD will reserve any further comments on this issue until such time as further consultation takes place.

## **5. Proposed TSC and DSC Amendments: Addressing Inconsistencies and Gaps**

### ***Utility Discretion – Cost Responsibility Code Provisions***

The September Proposed Amendments proposed to remove utility discretion from the recovery of costs that require a contribution from a load customer. The Board indicates that this is aligned with the beneficiary pays principle and will ensure that there is consistent treatment among all load customers across the province. As a result, the OEB is continuing to propose the change from “may” to “shall” in respect of the collection of contribution amounts.

Consistent with its prior comments in this proceeding, the CLD has no objections to this proposal.

### ***Capital Contribution Refund / Rebate to Initial Customer (sections 3.2.27 and 3.2.23 of DSC)***

The Board originally proposed to amend the DSC to increase the timeframe for refund or rebate from five to 15 years in order to align with the TSC. As reflected in the Revised Proposed Amendments, the Board has reconsidered its approach, noting that this may result in unfair treatment among customers that have contributed to similar investments. Therefore, the OEB is proposing to maintain the status quo in the DSC (i.e. a five year period for all customers).

In its prior comments, the CLD had expressed strong concern with this proposal. The CLD therefore appreciates the OEB’s willingness not to move forward with it.

### ***Capital Contribution True-Ups and Load Forecasts (sections 3.2.20 and 3.2.24 of DSC)***

The OEB remains of the view that distributor discretion to require an expansion deposit should be removed where a capital contribution is required so that non-beneficiaries do not bear the risk of non-payment. The OEB does agree that the risks in relation to the distribution system are not the same as they are for the transmission system and that the incremental risk mitigation (by allowing a longer repayment period) would not justify the increase in distributors’ administrative costs. Therefore, as outlined in the Revised Proposed Amendments, the Board is proposing to maintain a five year return period for all customers.

The CLD supports the removal of the 15-year repayment period in favour of maintaining the five year period.

In addition, the CLD believes that experience with regional planning has shown that there is room for improving certain aspects related to capital contribution refunds, rebates, and true-ups. Several CLD members have encountered situations in which, despite forecasted load ultimately having not materialized, these members were nevertheless required to make significant Connection Cost Recovery Agreement (“CCRA”) payments to the transmitter that exceeded the costs of the original asset investment. Similar challenges are experienced when more load materializes than originally forecasted and the true-up period concludes early. In these scenarios, distributors are not refunded for the original capital contributions. Likewise, load allocation between CCRA is not transferable in situations where load growth may be high in one area, but low in another. The CLD respectfully suggests that the aforementioned issues are ripe for further examination within the RPPAG.

***Mix of load and generator customers on a connection asset (new section 3.1.9 in DSC, section 6.3.16 of TSC)***

In the September Proposed Amendments, the OEB had proposed addressing cost responsibility in cases where the needs of both load and generator customers are to be considered within a new DSC section 3.1.9. Under the Revised Proposed Amendments, the OEB is not proposing any adjustment to this approach. However, the OEB will consider reordering this provision within the respective codes once the Board issues Final Code amendments.

The CLD has no issue with the proposed amendment.

***Bypass Compensation (new section 3.5.1 of DSC, section 11.2.1 of TSC)***

The September Proposed Amendments relating to bypass were meant to ensure that all customers of a distributor were not required to pay the costs related to stranded assets in the case or event that an individual load customer bypasses distributor-owned facilities.

**Relationship to CRC**

The CRC is currently under review in a separate policy consultation on C&I rate design (EB-2015-0043). In the Revised Proposed Amendments, the Board has signaled its intent to clarify the relationship between the CRC and the proposed bypass charge once it has reached a conclusion on the CRC in the C&I policy consultation.

The CLD looks forward to further engagement with the Board on measures that will help distributors and customers understand the framework and rules regarding CRCs and bypass charges.

**Partial Bypass**

As indicated in the Notice, whether a C&I customer or embedded distributor shifts all or most of its existing load, it results in bypass. In both cases, existing load is removed and distribution assets become stranded. The OEB points out that the potential for this to occur on the distribution system is expected to increase over time as markets evolve and customers become



more engaged with distributed energy resources. The Board proposes to revise section 3.5.1 of the DSC to clarify that bypass compensation would also apply in situations of partial bypass.

The CLD supports this proposed amendment.

#### Clarification – Load Management

In its November 2017 comments, the CLD sought clarification regarding the specific definition for “load management” as it relates to bypass compensation. The Notice explains that the intended meaning for “load management” is similar to that which is conveyed through use of the term “conservation.” That is, load management refers to conservation and demand management (“CDM”) programs administered by the IESO and to activities identified in the CDM Guidelines which would otherwise lead to deferral of infrastructure investment.

The CLD appreciates the Board’s clarification of this issue.

Finally, the CLD notes that the new section 3.5.1 – as presented in Attachment D – refers to the previous large load customer peak demand threshold of 3 MW, and should be revised to 5 MW.

#### **Relocation of Connection Assets (new sections 3.1.20 and 3.1.21 of DSC)**

The September Notice conveyed the Board’s intent that, where a customer requests a relocation, the customer would be responsible for all of the costs incurred to undertake such relocation. If the decision to relocate was initiated by the distributor, then the customer would not pay. In its prior comments, the CLD indicated that according to the *Public Service Works on Highways Act, R.S.O. 1990*, distributors are only eligible to recover up to 50% of the costs from a customer in certain cases. As a result, the OEB is proposing to amend section 3.1.20 of the DSC to accommodate this condition.

The CLD supports this proposed amendment.

#### **Definition of “Customer”**

In the Notice, the OEB is proposing an approach to deem embedded distributors as customers in relation to the sections of the DSC dealing with cost responsibility (with the exception of section 3.3).

The CLD has no objection to this proposal.

#### **Distributor-Owned Assets**

An issue arose through the consultation over the OEB’s use of the term “distributor-owned asset.” In the Notice, the OEB is proposing a definition for “distributor-owned asset” to mean any asset that excludes assets installed as part of a basic connection.

The CLD interprets this new definition as generally referring to expansion activity, and as such, has no objection to this definition. What’s more, as discussed above, the CLD supports limiting

the applicable scope of this term in the context of distributors' consultations with affected customers where EOL assets are involved to distribution stations that are connected to the transmission system and distribution lines that connect large customers (i.e. those customers at or above a 5 MW threshold).

Alternatively, for the purposes of defining the scope of distribution assets to which the Revised Proposed Amendments are intended to apply, the OEB may wish to consider employing a term that is already found in the DSC – “main distribution system.” Utilization of this existing term may achieve the same intended outcome and may help reduce confusion or inefficiencies that may arise as a result of potentially conflicting interpretations of “distributor-owned assets.”

## 6. Other Proposed TSC and DSC Amendments

### ***Definition of “Embedded Distributor” (section 9.7.1 of DSC)***

The Notice proposes to amend the definition of “embedded distributor” in the DSC, but to exclude the reference to an embedded distributor being a “wholesale market participant.” In effect, this means that all embedded distributors will meet the definition.

The CLD has no objection to this proposed amendment.

### ***Clarification on Capital Contribution Refunds (section 6.3.17A of TSC)***

The OEB is proposing to amend section 6.3.17A of the TSC to add clarity with respect to the treatment of load forecasts and the determination of capital contribution refunds for an initial customer and a subsequent customer. The Revised Proposed Amendments confirm that it is not the intent for the load forecasts to be aggregated.

The CLD has no concern with the clarity that has been proposed.

### ***Treatment of “Overload”***

The OEB's view, appropriately, is that overloading of facilities should be avoided, particularly on a constant basis and/or where the limited time rating (“LTR”) is exceeded. The Board indicates that the focus should be on managing the load on the assets in an appropriate manner to ensure customer reliability is not negatively impacted and asset end-of-life is not advanced.

The CLD agrees with the Board's assessment and confirms that system planning over the long term works to ensure cases of overloading are avoided or minimized. In the short- and medium-terms, utilities make use of provisions either in rebasing or through the Incremental Capital Module to avoid such situations or to propose certain alternatives that may be unique to a particular situation. This flexibility is paramount in the operation of the distribution system so as to avoid customer reliability issues and to ensure that asset end of life is not advanced more than necessary or reasonable.



## E. CONCLUSION

The CLD appreciates the opportunity to provide comments on the Revised Proposed Amendments and respectfully requests that any subsequent action taken by OEB be consistent with the comments set forth herein.

If you have any questions with respect to any of the above, please contact the undersigned.

Sincerely,

*Original signed by Indy J. Butany-DeSouza*

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