

Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Attn: Ms. K. Walli
Board Secretary

January 9, 2019

Dear Ms. Walli

Re: EB-2016-0003 – Supplementary Proposed Amendments to the Distribution System Code to Facilitate Regional Planning

The Electricity Distributors Association (EDA) is writing to provide comments in the above named matter. The EDA is the voice of Ontario's local electricity distribution sector, which consists of municipally and privately owned local distribution companies (LDCs). The distribution sector employs over 10,000 people directly and contributes hundreds of millions of dollars annually to municipal and provincial revenues. LDCs deliver electricity to over 5 million residential, commercial, industrial, and institutional customers across Ontario and are the trusted face of the electricity sector for consumers. While the OEB is the regulator of LDCs, the municipal ownership of the majority of Ontario's LDCs ensures an added level of accountability to Ontario's electricity consumers. This accountability covers all aspects of the LDC, including customer service, investment decisions and deployment of traditional and innovative technologies.

The EDA's comments are structured as follows:

- Comments on the Proposed Supplementary Amendment to the Distribution System Code (DSC);
- Comments on the minor revisions; and
- Comments on an unaddressed issue previously raised by the EDA.

These comments reflect the views of the members of the EDA's Regulatory Council, Operations and Engineering Council and its Finance and Corporate Affairs Council which represent a cross section of LDCs across Ontario.

The Proposed Supplementary Amendment to DSC

The EDA seeks further information on the OEB's proposed amendment to section 3.2.4 of the DSC, chiefly to understand:

- the appropriateness of the proposed amendment to the DSC;
- the appropriateness of aligning the DSC's treatment of this issue with that set out in the Transmission System Code (TSC); and
- assuming the amendment is appropriate, to understand how to appropriately operationalize it.

The OEB's Notice, in particular its summary of the Industry Relations contact that prompted the OEB to propose this supplementary amendment, does not align with the wording of the proposed amendment provided at Appendix E to the Notice. The proposed amendment to the DSC is worded generally and, as written, relieves a residential developer of responsibility to remit a contribution for the expansion of distributor owned distribution facilities as well as distributor owned transmission facilities.

The enquiry made to the OEB's Industry Relations email box that prompted the proposed amendment related to a particular circumstance, namely that a residential development was to be served by an upstream transmission asset owned by the distributor and was deemed to be a distribution asset. The enquiry noted a discrepancy in the developer's responsibility for the contribution depending on whether the TSC applied – which would not require the developer to remit a contribution – versus the DSC – which would. The EDA understands that sound policy should be principled and not result in financial responsibility based on whether the owner of the asset is a transmitter or a distributor.

The EDA reviewed the Board Notice for its analysis of the appropriateness of the proposed amendment, and, of the inappropriateness of adopting the identified alternative. The OEB's Notice references that the Board finds the proposed amendment appropriate as it is consistent with the Board's position that commercial and industrial (C&I) customers should be responsible for contributions, and that it achieves consistency with the newly made section 3.6.1 of the DSC. The Notice provides no other analysis, such as a scenario analysis, or a stakeholder analysis (e.g., of the consequences to developers, of the fairness of exempting only residential developers from responsibility for remitting contributions) or of the need for or suitability of aligning these provisions as proposed. The EDA suggests that the OEB should provide all the analysis it relied on when originally deciding to amend section 3.6.1 of the DSC and when deciding not to further amend 3.6.1, for example to clarify that a 'load customer ... equal to or greater than 5 MW that is not a residential developer ...'. The EDA notes it has previously sought such supporting analysis; in the Board's September 2017 consultation on proposed Code amendments the EDA sought

supporting analysis or access to the Working Group's materials so that it could better understand the Board's thinking of the appropriateness of amending 3.2.4A to apply to customers whose loads were greater than 3MW for the first time ever.

If it is the Board's intention to relieve residential developments of responsibility for remitting contributions, as the amendment conveys, it will be advisable for the Board to clarify the application of the rules for computing contributions. For example, do all other eligible loads remit the full contribution? If not, how is the unremitted portion to be accounted for? The Board should analyze these outcomes to assure itself that the amendment is consistent with the beneficiary pays principle and with section 3.1.9 of the DSC. It will also be advisable for the Board to clarify how true up amounts are to be computed and their subsequent incorporation in rate base. Consider the scenario at the 5-year anniversary if the assumed loads or costs are different such that the contribution is increased. Would the Cost Allocation model operate to socialize responsibility for the associated Revenue Requirement impact across the residential customers who are not in the subject development? The Board should analyze these equity, fairness and rate simplicity issues prospectively. The Board's analysis should also address the policy's impact to distribution rates.

There are other practical issues that the Board should anticipate before deciding the policy:

- Whether the loads of the other structures and applications (e.g., institutional loads such as schools, community centres, libraries; commercial loads such as strip malls, retailers, restaurants; street lighting load) that will be included in the development are to be relieved of responsibility for the contribution;
- That transmission expansions are rarely attributable to a single event or load;
- The timeline for bringing a transmission expansion to the deployment stage does not reconcile with the timeline of typical community-oriented land developments, including residential developments.

The EDA notes that a residential development sufficiently large as to require an increase in transmission infrastructure likely is a component of a developing community, rather than residences in isolation. The EDA also notes that new developments typically incorporate technological innovations (e.g., CDM, renewables, green energy initiatives) that, all other things being equal, imply that the development will be more extensive than that of a traditional pure load development that does not incorporate such technological innovations or consumer centric modifications.

Typically, an LDC anticipates a need for expanded transmission infrastructure for a variety of reasons that may include system stability, system reliability, diversity of supply points, projected load growth. Our members note that if it were the case that a residential development in isolation

supports the need for increased transmission capacity that the planning, engineering, construction and commissioning of the transmission infrastructure – which could be as long as 10 years – exceeds that of a typical residential only development.

LDCs are unclear on how to operationalize this proposed amendment and note that a definition of ‘residential developer’ will assist. The requested definition will assist in operationalizing the proposed amendment as it will clarify which developments are eligible for relief from contributions and which are not. If the OEB’s intention is to relieve the residential developer of the portion of the contribution attributable to a specific customer class (e.g., residential) then it will be beneficial to reflect this when computing the Retail Transmission Service Rate for that class.

In summary, the EDA proposes that additional analysis be performed and provided as part of a further consultation on the proposed supplementary amendment. Rather than adhering to the premise that Commercial and Industrial customers should be responsible for contributions (which through a previous Code amendment crystallized a residential developer’s insight that the Code would inappropriately confer responsibility for contributions depending on who owned the infrastructure), the EDA suggests that the OEB examine the policy more robustly. For example, the OEB could adjudicate this policy proposal, potentially by commencing a proceeding on its own motion, so that its appropriateness can be objectively tested and, assuming that its appropriateness is demonstrated, that it can be appropriately operationalized.

Comments on the Minor Revisions

TSC 6.3.20

As the EDA suggested in its September 20, 2018 comments it will be essential for the transmitter to be available to support the distributor as it provides good customer care to customers affected by true ups. The EDA suggests that the transmitter provide a dedicated point of contact and have staff conversant with the data and methodology readily available to respond to customers needs and inquiries. In addition, LDCs suggest that it would be helpful for the Board to specify the maximum timeline to respond to a customer inquiry, and to calibrate the timeline to reflect that both the distributor and the transmitter will be engaged. We also suggest that the transmitter review its records and record keeping to assure itself of its ability to provide correct and accurate responses.

DSC 3.1.7 (new section)

The EDA seeks further information on the contemplated policy proceeding on remuneration. LDCs must be able to make decisions about asset renewal at End-of-Life on an ongoing basis and look forward to any further guidance that the Board is able to provide.

DSC 3.2.23

Our members seek confirmation that the forms of security set out at section 3.2.25 of the DSC continue to be acceptable.

DSC 3.5.3 (new section)

LDCs view this provision as constructive and point out that it will not fully overcome a proponent's ability to 'game' the rules in the proponent's favour. LDCs acknowledge that a proponent may invoke timelines when the outcomes are suitable from their perspective, rather than from the perspective of achieving fairness and equity among and between affected parties. LDCs suggest that this provision be included in the issues to be examined in the Board's C&I Rate review.

The EDA looks forward to the Board's consideration of the interplay between a capacity reservation charge and bypass compensation. Our members seek clarity on the appropriateness of using Gross Load, Net Load and other data when quantifying the effects of system bypass and allocating economic responsibility.

Comments on an unaddressed issue previously raised by the EDA.

In its September 20, 2018 comments the EDA sought clarity on the allocation of the costs incurred with respect to the SECTR project and recorded in a Board authorized deferral account, in particular whether the OEB will rely on the proposed amendments to the DSC and TSC or the versions of the Code that prevailed at the time the costs were incurred. As was previously noted, the key decisions on the SECTR project, including decision taken by the E3 LDCs, were supported by the Codes that were in force at the time. The SECTR project was ultimately physically constructed and was energized early in 2018. The OEB's Notice does not clarify if the proposed amendments will apply when the costs of the SECTR project are allocated. This clarity is needed by those LDCs and by their customers.

Please refer any questions or comments to Kathi Farmer, the EDA's Senior Regulatory Affairs Advisor at kfarmer@eda-on.ca or at 905.265.5333.

Sincerely

Original signed by

Justin Rangooni
Vice President, Policy & Government Affairs