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July 29, 2019

**VIA RESS AND COURIER**

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

Dear Ms. Walli:

**Re: Utility Remuneration and Responding to Distributed Energy Resources (DERs) Consultation Proceedings (the DERs Proceedings) and the Ontario Energy Board Decision on Cost Eligibility dated July 17, 2019 (the Decision) EB-2018-0287 and EB-2018-0288**

We are counsel to the Distributed Resource Coalition (**DRC**) in the above-referenced DERs Proceedings and DRC hereby reapplies for cost eligibility in accordance with the Decision.

DRC submits that the Board should determine it to be eligible for its costs in the DERs Proceedings on the grounds that: (i) DRC's intervention is entirely supported by sections 3.03, 3.04, and 3.05 of the Board's *Practice Direction on Cost Awards* (the **Practice Direction**); and (ii) failure to grant the only DER customer intervenor group, and granting only non-DER customer intervenors, cost eligibility in consultation proceedings explicitly focused on DERs creates a reasonable apprehension of bias and brings into question the legitimacy of the DERs Proceedings.

**Background on DRC, its members and governance.**

DRC members for this proceeding include the Electric Vehicle Society (**EVS**) and Plug'n Drive (**PnD**). EVS represents over 1,000 end-use, largely residential, individual electric vehicle (**EV**) electricity customers, which all pay membership fees to have their needs and preferences related to EVs and related DERs represented on matters that directly substantially impact them. EVS has 12 local chapters of electricity rate paying customers in Ontario. EVS is governed to ensure that individual rate payers are informed, consulted, and can independently raise their needs and preferences on matters of direct and substantial interest with the leaders of their local EVS chapters, and all such needs and preferences are communicated to and through the President of EVS. Those customer needs and preferences are aggregated and conveyed to jointly formulate DRC positions through the President of EVS through regular DRC monthly (or

more frequently, if required) teleconference meetings where decisions are recorded and confirmed. In this manner, the public interest in electrified transportation DER matters is reflected; it is not assumed or supposed. Further information on EVS, its more than 1,000 individual residential rate paying members, and its programs and activities may be found on its website at [www.evsociety.ca](http://www.evsociety.ca).

PnD is the authoritative convener of current and future EV customers and acts to provide access to facts and information to electricity and EV customers on electricity and electric mobility issues and choices. PnD works with each and all of electricity/EV customers, vehicle manufacturers, governments, and utilities to ensure that all are afforded best available information in order to make fact-based plans and choices. DRC has also been an active, Board-approved intervenor in the recent Toronto Hydro custom incentive rate proceeding (EB-2018-0165), providing the Board with expert evidence on the impact of electrified mobility on the matters at issue in order to inform its decision-making and set just and reasonable rates for a five-year time period. PnD regularly surveys, and/or collects aggregated information from, the thousands of rate paying customers that come to it through its programs and activities, website ([www.plugndrive.ca](http://www.plugndrive.ca), through which further detailed information on its programs and activities may be found), and/or Discovery Centre with their questions, needs, and preferences related to electrified transportation DERs. Those customer needs and preferences are aggregated and conveyed to jointly formulate DRC positions through the President and CEO of PnD through regular DRC monthly (or more frequently if required) teleconference meetings where decisions are recorded and confirmed.

We trust that this satisfies the Board's request for further information pursuant to section 3.03.1 of the Practice Direction.

### **The Practice Direction supports DRC's cost award eligibility.**

Ontario electric utilities have confirmed that that electrified mobility is "***truly the way of the future***", with one Ontario local distribution company (**LDC**) alone having more than 10,000 electric mobility, electricity customers in its service territory.<sup>1</sup> Further, that LDC indicated that its EV penetration number has been increasing 60% year over year for each of the past five years.<sup>2</sup> Moreover, Fleetcarma reports that the growth in EV adoption in Ontario has actually annually increased between 140% to 200%.<sup>3</sup>

DRC is both cost award eligible and should be granted cost award eligibility pursuant to section 3.03 of the Practice Direction on the grounds that:

- (a) DRC primarily represents the direct interests of a significant and exponentially growing number of consumers (e.g., ratepayers that have electrified mobility DERs) in relation to electricity and LDC services that are regulated by the Board, in accordance with section 3.03(a) of the Practice Direction;
- (b) DRC is the only intervenor that primarily represents an interest or policy perspective relevant to the Board's mandate set out in section 1 of the *Ontario Energy Board Act*,

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<sup>1</sup> EB-2019-0018, Application of Alectra Utilities Corporation, Exhibit 04, Tab 01, Sched. 1, Appendix A16 at p. 6.

<sup>2</sup> *Ibid.*

<sup>3</sup> FleetCarma, "Electric Vehicles Sales Update Q2 2018, Canada" (August 10, 2018), available online at: <https://www.fleetcarma.com/electric-vehicles-sales-update-q2-2018-canada/>;  
FleetCarma, "Electric Vehicles Sales Update Q2 2018, Canada" (August 10, 2018), available online at: <https://www.fleetcarma.com/electric-vehicles-sales-update-q2-2018-canada/>.

1998, as amended, and to the precise DERs Proceedings for which cost award eligibility is sought, in accordance with section 3.03(b) of the Practice Direction;

- (c) Both of DRC's members have direct access to and reflect the express views of the public interested in electrified mobility DERs, and are therefore among the purest reflections of this public interest in the context of other customer intervenor groups and in accordance with section 3.04(a) of the Practice Direction;
- (d) Both of DRC's members primarily represent end-use customers, and both are not-for-profit — and not commercial — entities, which are the only entities representing the public interest that is the explicit subject matter of the DERs Proceedings, in accordance with section 3.04(b) of the Practice Direction; and
- (e) Neither of DRC's members are otherwise precluded from cost eligibility pursuant to section 3.05 of the Practice Direction.

**Failure to grant DRC cost eligibility creates a reasonable apprehension of bias.**

The end-use, largely residential, electricity consumers represented by DRC are the only DER-focused customer group that represents DER “prosumers” before the Board in the DERs Proceedings. All other intervenor groups representing entities that are, or have the ability to act as, DERs have been expressly denied cost eligibility from the DERs Proceedings. DRC submits that if the Board fails to grant DRC cost eligibility and does not grant any of the currently denied DER providers cost eligibility, it creates more than a reasonable apprehension of a bias against DERs, and DER providers in the DERs Proceedings. This would be in clear contravention of the duty of procedural fairness and the rules of natural justice to which the Board must adhere. Further, it is difficult to imagine how the Board can legitimately review and consider the response to DERs and utility remuneration relating to DERs without the full and active participation of DER interests facilitated by cost eligibility. The continued exclusion of all DER providers from the DERs Proceedings through the cost eligibility process, would seriously call into question the legitimacy of the Board's process and findings in the DERs Proceedings.

DRC therefore respectfully requests that the Board review and vary its Decision to afford DRC cost eligibility in the DERs Proceedings.

Sincerely,



Lisa (Elisabeth) DeMarco

- c. Cara Clairman, Plug'n Drive  
Wilf Steimle, Electric Vehicle Society  
All Parties to EB-2018-0287 / EB-2018-0288