

May 11, 2022

Ontario Energy Board
2300 Yonge Street, 27th floor
P. O. Box 2319
Toronto, Ontario, M4P 1E4

Attn: Ms. N. Marconi
Registrar

Dear Ms. Marconi

Re: **EB-2022-0152**
Consultation on Proposed Code Amendments re Net Metering

Thank you for the opportunity to comment on the proposed amendments to the Ontario Energy Board's (OEB) codes that will support consumers participating in net metering.

These are the comments of the Electricity Distributors Association (EDA). We represent over 50 publicly and privately owned local distribution companies (LDC) that are the face of Ontario's electricity sector to the consumer. Ontario's LDCs safely and reliably deliver electricity to five million residential, commercial, industrial and institutional customers throughout the province. Consumers look to their LDC for information on how they can participate in programs designed to control electricity bill amounts.

We reviewed the recent amendments to O Reg 389/10 and O Reg 541/05 that enable third party ownership of net metered renewable energy generation facilities and retailing to consumers under these new arrangements. The OEB's proposed amendments to the Distribution System Code (DSC), Retail Settlement Code (RSC) and the Electricity Retailer Code of Conduct will operationalize these amendments to the regulations.

Our comments on the proposed amendments cover the following topics:

- Our members seek confirmation that they will continue to have a relationship with the consumer, have access to adequate and appropriate information and that they will not be liable to the third party that operates 'behind' or 'down stream' of the point of common coupling to the LDC's distribution system.
- While the proposed levels of consumer protection are workable, we offer suggestions on how they can be strengthened.

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Electricity Distributors Association

- Finally, there is a need for greater specificity on some practical aspects of how the proposed Code amendments will operate.

These issues are discussed in further detail below. Please note that, in these comments, ‘third party’ is used to identify the party that owns and operates the renewable generation facility, and that ‘consumer’ is used to identify the party that takes service from the LDC.

LDCs’ Need for Information

LDCs provide safe and reliable distribution service on an ongoing basis. We anticipate that third parties and consumers will provide the LDC with the appropriate information for the LDC to continue to do so. To be clear, we do not anticipate that the LDC will have any dealings with the third party other than those required to support the safe and reliable provision of distribution service, to fulfill the requirements of the regulations and of the OEB’s regulatory instruments and as required by any enabling agreements.

The proposed new section 6.7.6 of the DSC will require that a confirmation provided to a distributor be in a form as may be approved by the Board. We propose that the OEB consider augmenting the confirmation by requiring that third parties attest to the OEB that they:

- Will comply with the minimum requirements (e.g., that the information required in 7(1)(f) of the O Reg 541/05 will be provided, that the third party will adhere to the rules and requirements of the LDC’s Net Metering Program)
- Have identified and acknowledged their responsibilities to the LDC
- Have identified their liabilities to the LDC
- Will provide the LDC with the additional information that the LDC may seek

Alternatively, we propose that the OEB provide a form for LDCs to use to gather information from the third parties that intend to own/operate renewable generation facilities. The form could address the items named above as well demonstrate that the third party has read and understood certain clauses (e.g., by making appropriate use of boxes for the third party to initial). This form, or modifications to the Connection Agreement, could also establish that the LDC is not responsible for any aspect of the consumer-third party relationship and activities. We anticipate that an OEB provided form will achieve consistency and can be available as of the proposed July 1 coming into force date. We foresee advantages to the OEB coordinating this form with its standard form Connection Agreement.

We also propose that the OEB affirm that the consumer will, as is the case under today’s Net Metering Program, be responsible for the connection, be responsible for filing Connection Impact Assessment information and other documentation, and for entering into a Distribution Connection Agreement with the LDC.

Consumer Protection

We propose that the OEB consider enhancing consumer protection, for example to make the third party responsible for providing consumer protection in a timely manner.

We propose that the OEB clarify its expectations of the ongoing relationship between the consumer and the LDC in situations that typically arise (e.g., if the third party fails). This clarification will provide certainty to consumers as they make decisions and will affirm to both the consumer and the third party that, per the program's design, the LDC will bear no liability to either the third party or to the consumer. By extension, we propose that the OEB clarify whether LDCs may continue to use the legacy agreements that were developed for the original net metering program.

We also propose that the OEB clarify that the LDC is not under any circumstance to engage in resolving any dispute(s) between the consumer and the third party. We propose that the third party be required to:

- affirm that the consumer is to work with them exclusively on net metering program complaints, and
- provide the consumer with information on how to access and engage the third party's dispute resolution process (e.g., name or title, email address or phone number, maximum number of days for the third party to respond to the consumer's contact)

We anticipate that consumers will need to be able to understand how Power Purchase Agreements (PPA) operate. We propose that the OEB clarify that the PPA engages only the consumer and the third party, and we seek confirmation that the LDC is not expected to provide customer care or education with respect to a PPA. On a related point, we seek clarification of whether retailer enrolled customer data that is the subject of the PPA is to flow through the LDC's Electronic Business Transactions system. If it is, we seek clarification of whether third party enabled net metering will require an account that is separate from the retailer load account (e.g., whether there will be a load account and a separate generation account).

We seek clarification of the agreements that the LDC will be expected to enter into if a Regulated Price Plan (RPP) customer wishes to participate in net metering by engaging a third party, e.g., whether the RPP customer and the LDC will be expected to enter into a PPA.

Neither the regulations nor the proposed Code amendments address whether and how customers who currently participates in the net metering program can transition to third party ownership of their renewable generating facility. We propose that the government and/or the OEB provide guidance applicable to these transitions and ensure that an appropriate level of consumer protection exists.

We suggest that the OEB prepare a table depicting the responsibilities of the consumer, the third party and the LDC organized over time (e.g., beginning with pre-connection activities and concluding with retirement activities). We anticipate that the table will reflect that the LDC will routinely interface with the consumer and only interface with the third party when necessary (e.g., to acquire information).

Enhanced Specificity

Our members identified that some of the proposed code amendments can be rendered more specifically to increase certainty for all parties; they are discussed below.

We assume that the LDC is to continue to use data metered at the point of common coupling to support providing net metering credits to the consumer. We look forward to the OEB confirming this point. We seek confirmation that the LDC is not responsible for measuring or recording any data related to the generator's activity/operations. While the amendments propose that the LDC is not to include the cost of electricity supplied under the retail contract, the amendments do not describe if the LDC is to bill for commodity at Standard Supply rates or by using some other value. If Standard Supply rates are to be used, we seek clarification of whether Time of Use or Tiered values are to be relied on. We must point out that some LDCs' Customer Information Systems may only be able to use Tiered values.

Obviously, there will be a need to provide additional metering. We assume that OEB staff's March 23, 2022, bulletin describing its perspective on meter supply applies to third party net metering.

We propose that the OEB clarify that LDCs are permitted to continue to use their legacy net metering forms, unless customers advise the LDC that they will commence net metering with a third party.

While we foresee that LDCs will need to amend certain business processes to comply with the proposed Code amendments (e.g., the proposed amendment to the RSC that the distributor will not include the cost of the electricity supplied under the retail contract for billing), there is a risk that the required changes may be complex. While we optimistically anticipate that LDCs' existing technical requirements and processes will be capable of continuing to serve, as of today's date, LDCs have approximately 35 business days available to identify, design, make, test and commission any required changes. 35 days is likely inadequate if the required process changes are demanding or complex.

As is the case when any program is to be delivered in a way that is expected to result in increased interest, and ideally, participation, there is the possibility that LDCs will incur costs, either for the first time ever or at an increased level or will incur costs that are inefficient if they use manual processes rather than automated processes. We seek enhanced specificity of how an LDC that incurs additional costs is to recover them.

Thank you again for the opportunity to comment on these proposed Code amendments. We look forward to the OEB providing the needed rules that are suitably clear (e.g., free of ambiguity, appropriately comprehensive), so that LDCs can efficiently implement third-party net metering to optimally serve their customers.

If you have any questions or require any clarifications, please do not hesitate to contact Kathi Farmer, the EDA's Senior Regulatory Affairs Advisor, at kfarmer@eda-on.ca or at 416.659.1546.

Sincerely,

A handwritten signature in cursive script, appearing to read "Teresa Sarkesian".

Teresa Sarkesian
President & CEO