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File 20741

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**VIA RESS FILING and EMAIL: [registrar@oeb.ca](mailto:registrar@oeb.ca)**

Nancy Marconi,  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
P.O. Box 2319  
Toronto, ON M4P 1E4

Dear Ms. Marconi,

**Re: EB-2019-0207 - Proposed Amendments to the Distribution System  
Code to Facilitate Connection of Distributed Energy Resources**

Attached please find the Comments of the Power Workers' Union in connection with the above-noted proceedings. An electronic copy has been filed through the Board's RESS filing system.

Yours very truly,  
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Daniel Rosenbluth  
DR:PB

Attach.

**Proposed Amendments to the Distribution System Code to Facilitate  
Connection of Distributed Energy Resources**

**Comments of the Power Workers' Union (PWU)**

**A. Background**

In August 2019, the Ontario Energy Board (“OEB” or “the Board”) initiated a policy consultation on the connection of distributed energy resources (DER Connections Review). The purpose of the DER Connections Review was to identify any barriers to the connection of DERs and to standardize and improve the connection process when appropriate.

In November 2019, the OEB announced the formation of the DER Connections Review Working Group (“the Working Group”), composed of various stakeholders representing generation proponents and developer proponent groups, distributors, a transmitter, the Electrical Safety Authority and the Independent Electricity System Operator (IESO). The Working Group has since been providing advice to OEB staff on issues and potential solutions relating to the connection of DERs, including appropriate revisions to the distributed system code (DSC). The Working Group’s first set of recommendations to amend the DSC were announced on March 22, 2022 when the OEB issued a Notice of Amendments to the DSC intended to reduce the overall timeline and to provide clarity and consistency in the process for connecting a DER to an electricity distributor’s system. Those amendments came into force on October 1, 2022.

The OEB is inviting comment on proposed amendments to the DSC which are based on the Working Group's latest recommendations that include: eliminating the exemption from a distributor's capacity allocation process for a "capacity allocation exempt small embedded generation facility"; eliminating capacity allocation deposits; and revising the connection deposit refund process and timeline.<sup>1</sup>

The PWU appreciates the opportunity to comment on the first two proposed amendments – eliminating the "Capacity Allocation Exempt Small Embedded Generation Facility" exemption and the elimination of "Capacity Allocation Deposits."

## **B. PWU Comments on the Proposed Amendments to the DSC**

### ***1. Eliminate the "Capacity Allocation Exempt Small Embedded Generation Facility" exemption***

The OEB is proposing amendments to sections 1.2, 6.2.4.2, 6.2.4.3, 6.2.8A, 6.2.8B and 6.2.12 to eliminate the exemption for capacity allocation exempt small embedded generation facilities. The DSC defines a "Capacity Allocation Exempt Small Embedded Generation Facility" as "an embedded generation facility which is not a micro-embedded generation facility and which has a name-plate rated capacity of 250 kW or less in the case of a facility connected to a less than 15 kV line and 500 kW or less in the case of a facility connected to a 15 kV or greater line". These facilities are exempt from the capacity allocation process described in section 6.2.4.1 of the DSC.

The PWU supports the proposal to eliminate the "Capacity Allocation Exempt Small Embedded Generation Facility" exemption for the following reasons:

- i) Obsolete rationales for the existing exemption

The PWU notes that the term "exempt small embedded generation facility" and the corresponding exemption were established by OEB-proposed DSC amendments in 2009.<sup>2</sup> The assumptions at the time were that generation projects in this category were

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<sup>1</sup> [Notice of Proposal to Amend DSC DER Connections Review 20230105 eSigned](#)

<sup>2</sup> Notice to Amend a Code - Amendments to the Distribution System Code (EB-2008-0102), Process for Connecting Small Generation Facilities. February 12, 2009

few in number; most distribution facilities in Ontario had sufficient available capacity to accommodate them; and therefore, the risk that they would displace other non-exempt projects in the queue would be minimal.<sup>3</sup>

The PWU submits these assumptions are no longer valid and agrees with the Working Group's observations that DER penetration rates are higher than in the past and the number of smaller projects has increased with DER adoption becoming more widespread. This means that, unlike in the past, smaller projects can now put significant pressure on the distribution system's capacity, and distributors may not be able to accommodate them without material distribution system upgrades. In other words, it is now significantly more difficult for distributors to make capacity readily available to smaller projects without displacing other non-exempt projects in the queue, which in turn complicates the distributor's ability to plan its system and undertake the capacity allocation process efficiently.

The PWU submits that the proposed amendments would enable distributors to better assess system capacity and technical requirements and to plan accordingly so as to facilitate the timely connection of DERs.

- ii) The proposed amendments would improve the fairness of the capacity allocation process

The PWU submits that the current exemption from the capacity allocation process of embedded generation facilities defined as *Capacity Allocation Exempt Small Embedded Generation Facility* is unfair and discriminatory.

In fact, as set out in its previous submissions to the IESO, the OEB and the Ministry of Energy of Ontario, the PWU is opposed to any preferential treatment of DERs in general regardless of size. The PWU recognizes the important role that DERs might play, especially in meeting peak demand; however, the PWU believes the prudent and rational reform of Ontario's electricity sector is one that supports integrated bulk system planning and investment decisions that minimize the overall system cost, help meet Ontario's net

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<sup>3</sup> [Notice of Revised Proposal to Amend a Code – Revised Proposed Amendments to the Distribution System Code](#) (EB-2008-0102), December 9, 2008, at p.6

zero carbon emissions target, and grow and enhance the competitiveness of Ontario's economy.

The PWU agrees with the Board that the current exemption from the capacity allocation process of *Capacity Allocation Exempt Small Embedded Generation Facility* could put other projects at a risk of delays in connection or increased costs because of these exempt smaller projects:

**The OEB also notes that the capacity allocation process includes a series of steps that allow distributors to process each project based on the current system capacity. If a distributor receives a capacity allocation exempt small generation facility connection request while processing other (non-exempt) projects on the same feeder or station, the distributor will likely need to restart the process for those other non-exempt projects, as previously available capacity will have been lost.<sup>4</sup>**

The PWU submits that removing the exemption for this category of generation facilities will create a more even playing field and ensure distributors allocate capacity on a more equitable basis.

## **2. Eliminate Capacity Allocation Deposits**

The OEB is proposing amendments to sections 6.2.18, 6.2.18A, 6.2.18B, 6.2.18D, 6.2.18H, 6.2.18I and 6.2A.3 of the DSC that would eliminate Capacity Allocation Deposit requirements. The DSC currently requires that "a capacity allocation deposit equal to \$20,000 per MW of capacity of the embedded generation facility must be paid within 60 days of the distributor's notice as a condition of the applicant maintaining its current capacity allocation".<sup>5</sup>

The original objective in establishing capacity allocation deposits in 2009 was "to ensure that generation projects that are not likely to proceed do not impede the allocation of capacity to more viable projects." The Working Group and the OEB state that this objective is no longer relevant for a number of reasons:<sup>6</sup>

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<sup>4</sup> [Notice of Proposal to Amend DSC DER Connections Review 20230105 eSigned](#), page 4

<sup>5</sup> Ibid.

<sup>6</sup> Ibid. pp 4-5

- project development costs serve a similar function to capacity allocation deposits, in that the development costs themselves will help ensure the projects continue to move forward to connection in a timely manner;
- the province is seeing many more DER projects moving forward and therefore the concerns that lead to requiring deposits to ensure projects do not block allocation of capacity to other projects does not appear necessary;
- the process of collecting and refunding the capacity allocation deposits creates additional administrative burden for distributors; and
- this amendment aligns with the Minister's requests of the OEB in his October 21, 2022 Letter of Direction in two ways: it facilitates innovation by removing a cost in the development of DERs; and it will reduce administrative burden for distributors, thereby supporting the OEB's work to reduce red tape.

The PWU notes that the capacity allocation deposit is refundable and as such is not strictly a price or cost incentive given to DERs. The PWU also acknowledges that the increased demand for connection from DER proponents and the provisions relating to development and connection cost agreements are sufficient to address the concern that some projects would block allocation of capacity to other projects. The PWU also acknowledges the Board's adherence to the Minister's Letter of Direction. For these reasons, the PWU is not opposed to the proposed elimination of capacity allocation deposits.

On the other hand, the PWU has concern over section 6.2.18H of the DSC which refers to "capacity allocation deposit," which reference will become inapt if the proposed amendments are implemented. Section 6.2.18H reads as follows:

**6.2.18 The distributor shall refund to the applicant the amount of any capacity allocation deposit or additional capacity allocation deposit, including interest as calculated according to section 6.2.18I, provided by the applicant to the distributor no later than the earlier of 30 calendar days after the applicant receives the distributor's permission to operate, or [the date that is 180 calendar days after the proposed amendments come into force].**

The Board's intent in keeping this section appears to be in reference to *any existing capacity allocation deposit* that distributors are currently holding or deposits they are

holding at the time the proposed amendments come into force. The PWU recommends that this be clarified so as to avoid any confusion.

ALL OF WHICH IS RESPECTFULLY SUBMITTED BY



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**Daniel Rosenbluth**  
Paliare Roland Rosenberg  
Rothstein LLP