Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL AND WEB POSTING

May 16, 2025

NOTICE OF PROPOSAL TO AMEND A CODE

PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE REGARDING A MARGIN ON PAYMENT INCENTIVE MECHANISM FOR THE USE OF THIRD-PARTY DISTRIBUTED ENERGY RESOURCES AS NON-WIRES SOLUTIONS

FILE NO. EB-2025-0083

To: All Rate-regulated Electricity Distributors
All Participants in Consultation EB-2021-0118
All Other Interested Parties

The Ontario Energy Board (OEB) is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (Act) of proposed amendments to the Distribution System Code (DSC). The proposed amendments build on existing guidance to establish a methodology for the setting of rates to include a margin on payments (MoP) incentive related to the use of third-party distributed energy resources (DERs) as non-wires solutions (NWSs) to meet a distribution system need. For proposals that include a MoP, and where the eligibility and other requirements set out in the proposed DSC amendments are met, a distributor's rates will be set to include the MoP incentive it applied for through a rate order provided that the MoP incentive is no higher than the default value set out in the proposed amendments. The proposed amendments also allow distributors to seek OEB approval for a MoP incentive that does not meet one of the eligibility requirements as long as the requested MoP incentive is not above the default value.

A. Background

In January 2023, the OEB released its Framework for Energy Innovation: Setting a Path Forward for DER Integration report (FEI Report), outlining the OEB's policy determinations and next steps towards facilitating DER integration. The FEI Report set out the OEB's expectations that distributors consider DER solutions as NWSs when assessing options for meeting electricity system needs, and that distributors consider the use of third-party owned DERs (i.e., DERs not owned by distributors) before proposing investments in distributor-owned DER solutions.

The FEI Report invited distributors to apply for one of the following incentives to use third-party owned DERs as NWSs, either as part of a rebasing application or as a stand-alone application:

1. Shared savings mechanism
2. Performance target or scorecard-based incentive
3. Margin on payments

In March 2023, the OEB issued its Filing Guidelines for Incentives for Electricity Distributors to Use Third-Party DERs as Non-Wires Alternatives (Filing Guidelines). This document provides guidance on the information that distributors should include in their applications for incentive mechanisms to assist in the development of such applications and facilitate effective and timely regulatory review. To provide further guidance on the application of the Filing Guidelines, the OEB held a webinar in November 2023 to present examples of incentive proposals. The OEB has received one application to date seeking to use the FEI incentives (scorecard incentive).

The OEB expects that codifying the requirements for a MoP incentive for the use of a third-party DER and making provision for a default MoP value will enhance regulatory predictability and preserve flexibility in appropriate circumstances. The shared savings and performance target or scorecard-based mechanisms remain available to distributors, and distributors can continue to use the Filing Guidelines to support the development of proposals for these mechanisms.

B. Consultant Report: Options for Margin on Payments Incentive Mechanisms

To assist with the development of the proposed DSC amendments, the OEB engaged Guidehouse Canada Ltd. to prepare a report (Consultant Report) with recommendations on a default MoP value and options for eligibility criteria. The Consultant Report used design principles intended to ensure the recommendations are aligned with the guiding principles that informed the FEI Report's policy guidance. The recommendations were also informed by how similar incentive mechanisms in other jurisdictions supported the consideration of NWSs in meeting distribution system needs.

The Consultant Report has helped the OEB in developing the proposed DSC amendments set out in this Notice. Interested parties are encouraged to review the Consultant Report, in conjunction with this Notice, to gain a better understanding of how the consultant's recommendations informed the proposed amendments. The consultant report is available for public viewing on the Framework for Energy Innovation 2.0: Non-Wires Solution Incentives (Margin on Payments) page.

C. Proposed Amendments to the DSC

This section describes the proposed amendments to the DSC (a new section 11) to address MoP incentive applications related to the use of a third-party DER as a NWS to meet a distribution system need. Definitions for these and other terms are included in the proposed amendments (section 11.1). Appendix A to this Notice contains the proposed amendments.

In proposing these amendments, the OEB has been guided by its statutory objectives to promote economic efficiency and cost effectiveness in the distribution of electricity, facilitate innovation and protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service. These objectives informed the guiding principles underlying the policies set out the in FEI Report: encouraging positive customer outcomes, enhancing regulatory effectiveness and driving sector performance. The OEB anticipates that the proposed amendments will contribute to a clear and predictable regulatory framework, encourage outcomes that deliver customer value, and support distributor's near-term consideration of NWSs.

a. Default MoP Value (proposed new section 11.3)

The OEB proposes to establish a default MoP value of 25% of the total payments to the third-party DER provider as recommended in the Consultant Report. A distributor may seek a lower MoP value if needed to meet one of the eligibility criteria described in (b) below or for some other reason, such as a lower rate impact on the distributor's customers.

Three jurisdictions reviewed in the Consultant Report have an established MoP incentive mechanism: California (4%), Michigan (up to 15%) and Australia (50%). In determining these values, regulators attempted to balance their jurisdictional goals related to DERs and NWSs with ensuring the incentive delivered value to the utility's customers.

California's incentive was offered to three investor-owned utilities as part of a pilot program. The Consultant Report noted that the participating utilities did not complete any projects under the pilot, suggesting that the incentive was not effective in supporting utilities' consideration of third-party DERs.

The Consultant Report noted that Australia's MoP incentive program has been effective in supporting utilities' use of third-party DERs. However, this program includes a requirement that the proposed solution undergo a third-party evaluation to confirm that it delivers the highest net benefit of available options. The OEB is not establishing a similar requirement, and for this reason believes it is appropriate to establish a value lower than the value established in Australia.

Michigan does not have an eligibility criterion requiring the incentive payment to be less than a defined share of net benefits. Furthermore, the incentive is only available for discrete demand response targets that the Michigan Public Service Commission requires utilities to meet. The OEB believes it is appropriate to establish a MoP value higher than that provided in Michigan, since the OEB's MoP incentive is intended to support distributors' consideration of all NWSs. Furthermore, the OEB is proposing eligibility criteria to ensure the incentive will be limited to a defined share of the net benefit, as described in (b) below.

The OEB proposes to accept the Consultant Report's recommendation and believes that a 25% MoP value, in combination with the proposed eligibility criteria, will be sufficient to support consideration of third-party DERs to meet distribution system needs while protecting the interests of consumers.

b. MoP Incentive Eligibility Criteria (proposed new section 11.5)

To ensure that a third-party DER solution delivers value to customers, the OEB is proposing two eligibility criteria:

1. The third-party owned solution must have a positive forecast net benefit, as calculated using the quantitative impact categories identified in the Distribution System Test (DST) set out in the OEB's Benefit-Cost Analysis Framework for Addressing Electricity System Needs (BCA Framework); and,

2. The net present value of the forecast MoP incentive amount cannot exceed 50% of the net present value of the forecast net benefit of the proposed third-party DER solution.

The OEB expects that this approach will ensure customer value from the DER solution while providing a sufficient incentive to support distributors in considering NWS to meet system needs.

The proposed amendments to the DSC require distributors to complete a benefit-cost analysis (BCA) for the third-party DER as set out in the BCA Framework to apply for a MoP incentive. Although the application of the BCA will otherwise be mandatory only starting in 2026 and only for proposed solutions with an expected capital cost above the materiality threshold (currently $2 million), the OEB believes that requiring the use of the BCA for the purposes of the MoP incentive, regardless of the cost of the solution or date of application, will allow for consistency in the evaluation of incentive applications and contribute to a more streamlined review and decision process.

The following provides additional detail regarding the proposed eligibility criteria:

1. The results of the DST from the OEB's BCA Framework must show a positive quantitative net benefit (i.e., the net present value of the net benefit must be greater than 0) for the third-party DER solution. For greater certainty, distributors may not use the qualitative impact categories identified in the DST for the purposes of determining the net benefit of the MoP incentive. The DST must be calculated for the same period for which the incentive is sought (i.e., the incentive term).

2. The net present value of the forecast MoP incentive cannot exceed 50% of the net present value of the forecast net benefit, calculated using the quantitative impact categories of the DST. To illustrate, this criterion can be checked using the following equation:

$$\frac{MoP\ (\%) \times DER\ Payments\ (\$)}{Net\ Benefit\ (\$)} \times 100\% \leq 50\%$$

   where:

   MoP (%) is the percentage value of the MoP incentive requested in the application.

   DER Payments ($) is the forecast net present value of total payments to be paid to a third-party DER provider for services rendered to the distribution system over the period for which the incentive is requested, excluding any payments made from sources other than rates.

   Net Benefit ($) is the forecast net present value of the quantitative net benefit calculated through the quantitative impacts categories in the DST.

50% is the maximum share of the net benefit of a proposed third-party DER solution which an electricity distributor may obtain through a MoP incentive, subject to the flexibility described in (c).

c. Flexibility (proposed new section 11.7)

The proposed amendments provide flexibility for distributors to apply for a MoP incentive of up to the default value of 25% where the “50% of net benefits” criterion is not met. Distributors applying for a MoP incentive that exceeds 50% of net benefits will need to justify the incentive using appropriate evidence (e.g., Assessment of qualitative benefits of the proposed third-party DER that cannot be assessed by the quantitative impact categories in the DST). The OEB believes maintaining this flexibility is appropriate to ensure a regulatory framework that is clear and predictable but also adaptable.

d. Implementing and Recovering the MoP Incentive (proposed new sections 11.6 (g))

An application for a MoP incentive must include the distributor’s proposal for implementing and recovering the MoP incentive in alignment with section 2.4 of the Filing Guidelines. The proposed DSC amendments only address the MoP, and applicants will also be required to provide evidence of the prudence of the proposed NWS itself in alignment with s. 3 of the NWS Guidelines.

For clarity, it is expected that any net earning by a distributor for its use of a third-party DER would likely be included as “earnings” for the purpose of calculating any Earning Sharing Mechanism (ESM).

e. Accounting and Reporting (proposed new sections 11.8 and 11.9)

A distributor whose rates have been set to include a MoP incentive will be required to maintain a record of all payments made to the third-party DER provider. The distributor will also be required to provide the OEB with such information as the OEB may from time to time require regarding the MoP incentive, the third-party DER to which it relates and the benefits to the distributor’s distribution system, both during and after the end of the incentive term. Section 6 of the Filing Guidelines provides an indication of the kinds of information that may be required. The OEB will use this information to assess the outcomes and implications of the use of incentives for third-party DER solutions.

D. Anticipated Costs and Benefits

Although a MoP incentive will be a cost for ratepayers, this will be offset by the requirement that a MoP incentive application demonstrate the cost-effectiveness of the proposed solution as compared to other alternatives through the BCA. The potential risk to ratepayers is also mitigated by capping the MoP incentive at 25% and by ensuring that the MoP incentive generally does not exceed 50% of the net benefit value of the third-party DER solution. In cases where distributors seek approval for a 25% MoP that does not meet that eligibility criterion, they will need to file appropriate evidence and analysis to justify the requested incentive.

Distributors may incur some administrative costs to complete the BCA, but the magnitude of such costs is expected to be minimal relative to the magnitude of the potential incentive available to distributors. In addition, the greater clarity provided in the proposed amendments regarding applications for a MoP incentive may reduce the costs of developing such applications and obtaining the related rate order.

More broadly, the OEB expects that the proposed amendments may encourage greater consideration of cost-effective, third-party DER solutions to meet distribution system needs, to the benefit of the distributor’s customers. The OEB expects that the additional costs associated with the MoP incentives will be outweighed by the benefits and value to customers. In the short term, the incentives will support the adoption of cost-effective solutions to meet distribution system needs through the requirement to demonstrate that the third-party NWS is cost-effective while ensuring that customers will share in the net benefit through the application of the “50% of the net benefit” criterion. In the longer term, the proposed approach is expected to encourage distributors to make greater use of cost-effective NWSs in meeting system needs and increase distributor confidence in DER-based solutions that have the potential to reduce distribution system costs as the energy transition unfolds.

E. Coming Into Force

The proposed amendments to the DSC are proposed to come into force on the date on which the OEB publishes the final amendments on the OEB’s website.

F. Invitation to Comment and Filing Instructions

The OEB invites comments from all interested parties on the proposed amendments to the DSC set out in Appendix A. Comments are due **June 9, 2025**.

Persons filing materials with the OEB are responsible for ensuring that any documents they file with the OEB do **not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's Rules of Practice and Procedure.

Please quote file number, **EB-2025-0083** for all materials filed and submit them in a searchable/unrestricted PDF format with a digital signature through the OEB's online filing portal.

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming convention and documentation submission standards outlined in the Regulatory Electronic Submission System (RESS) Document Guide found on the Filing Systems page of the OEB's website.
- Stakeholders are encouraged to use RESS. Those who have not yet setup an account or require assistance using the online filing portal should contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the OEB's website for more information on how to file documents online. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the Practice Direction on Cost Awards.

All filings must be received by **4:45 pm** on the required date.

G. Cost Awards

Cost awards will be available under section 30 of the Act to eligible participants in relation to written comments provided on the proposed DSC amendments set out in Appendix A to this Notice. Costs will be recovered from all rate-regulated electricity distributors apportioned based on their respective customer numbers.

Appendix B contains important information regarding cost awards for this Notice and comment process, including in relation to eligibility requests, objections and eligible activities. The deadlines for filing cost eligibility requests and objections will be strictly enforced to facilitate a timely decision on cost eligibility.

This Notice and all other project materials, including all written comments and filings relating to cost awards received by the OEB, will be available for public viewing on the Framework for Energy Innovation 2.0: Non-Wires Solution Incentives (Margin on Payments*)* page.

Any questions relating to this letter should be directed to Andrew Brinn, Senior Advisor, Innovation at andrew.brinn@oeb.ca. The OEB's toll-free number is 1-888-632-6273.

Yours truly,

Ritchie Murray

Digitally signed by Ritchie Murray
Date: 2025.05.16 15:01:29 -04'00'

Ritchie Murray
Acting Registrar

Attachments:

Appendix A – Proposed Amendments to the Distribution System Code
Appendix B – Cost Awards

Appendix A

Notice of Proposed Amendments to the Distribution System Code

May 16, 2025

EB-2025-0083

Proposed Amendments to the Distribution System Code

1. The Distribution System Code is amended by adding a new section 11 as follows:

This section sets out the method for determining a rate-regulated distributor's rates in respect of an incentive for the use of certain distributed energy resources as a non-wires solution to meet a distribution system need.

Definitions

11.1 For the purposes of this section 11:

"BCA " means the benefit-cost analysis methodology that electricity distributors are to employ when assessing the economic feasibility of using DERs as a NWS to address defined electricity system needs, as set out in the Board's *Benefit-Cost Analysis Framework for Addressing Electricity System Needs;*

"DER" includes any resource or program, whether in-front or behind-the-meter, which could provide an alternative to traditional electricity distributor solutions to meet distribution system needs;

"DSP" means a Distribution System Plan as described in the Board's *Handbook for Utility Rate Applications* that is filed with the Board by a distributor for the purpose of setting the distributor's rates and that supports the distributor's specific capital and operational plans and programs, and the associated budgets, which form the distributor's overall business plan;

"DST" means the Distribution Service Test to be employed by a distributor in conducting a BCA as set out in section 4.1 the Board's *Benefit-Cost Analysis Framework for Addressing Electricity System Needs;*

"Margin on Payments incentive" means a financial incentive for the use of a Third-party DER as a NWS, expressed as a percentage of the payments made to the Third-party DER provider other than payments funded through a source other than rates;

"Net benefit" means the net present value of the quantitative benefits minus the net present value of all quantitative costs associated with a Third-Party DER solution to meet a distribution system need, as evaluated using the DST;

“NWS” means a non-wires solution;

“Third-party DER” means a DER that is not owned by the distributor to whose distribution system the DER is or will be connected; and,

“Third-party DER provider” means a person who has connected, or requests to connect, a Third-party DER to a distribution system.

11.2 A distributor may apply for a Margin on Payments incentive in relation to the use of a Third-party DER as a NWS to meet a distribution system need, either as a stand-alone rate application or as part of a broader rate application.

Margin on Payments Incentive where All Requirements are Met

11.3 Where the Board is satisfied that an application for a Margin on Payments incentive meets the requirements of sections 11.5 to 11.7, a distributor’s rates shall be set by including a Margin on Payments incentive of 25%, or such lesser amount as may be requested by the distributor to meet the criterion in section 11.5 or for some other reason.

11.4 The incentive term for the Margin on Payments incentive, being the effective date and duration of the Margin on Payments incentive, shall be determined as follows:

a. where the Margin on Payments incentive application is part of a distributor’s rebasing application, the incentive term is the duration of the ensuing rate term or such shorter period as the distributor may specify; and,

b. in any other case, the incentive term is the remainder of the current rate term or such shorter period as the distributor may specify.

11.5 The following criteria must be met as a condition of obtaining a Margin on Payments incentive:

a. the net present value of the forecast net benefit of the Third-party DER, calculated in accordance with section 11.6 (f), must be a numerical value greater than zero; and

b. the net present value of the forecast Margin on Payment incentive amount calculated under section 11.6 (e) cannot exceed 50 percent of the net present value of the forecast net benefit referred to in paragraph (a).

11.6 An application for a Margin on Payments incentive shall include the following information:

a. an overview of the Third-party DER proposal;

b. the incentive term determined in accordance with section 11.4;

c. the forecast of annual payments to the Third-party DER provider over the incentive term as well as the net present value of total payments to the Third-party DER provider over the incentive term, broken down where applicable by costs proposed to be funded through rates and costs proposed to be recovered from any sources of funding other than rates;

d. the requested percentage value of the Margin on Payments incentive, which cannot exceed 25%;

e. the forecast of the net present value of the total Margin on Payments incentive, calculated as the percentage set out in paragraph (d) multiplied by the forecast net present value of the payments to the Third-party DER provider other than any payments funded through a source other than rates;

f. a completed BCA for the Third-party DER that includes the quantitative net benefit result of the DST and that is completed for the same period as the incentive term referred to in paragraph (a); and

g. the distributor's proposed method for implementing and recovering the Margin on Payments incentive, having regard to section 2.4 of the Board's *Filing Guidelines for Incentives for Third-Party DERs as Non-Wires Alternatives;*

Margin on Payments Incentive where not all Requirements are Met

11.7 A distributor may apply for a Margin on Payments incentive that otherwise meets the requirements of this section 11 other than the criterion set out in section 11.5(b). The Board may approve the inclusion of such an incentive in the distributor's rates if it is satisfied that the Margin on Payments is justified in the circumstances despite not meeting that criterion, provided for greater certainty that the Margin on Payments incentive shall not exceed 25%.

Accounting and Reporting

11.8 A distributor whose rates have been set to include a Margin on Payments incentive shall maintain a record of all payments made to the Third-party DER provider for the Third-party DER to which the Margin on Payments incentive relates.

11.9 A distributor whose rates have been set to include a Margin on Payments incentive shall provide such information as may be required by the Board from time to time, both during and after the incentive term.

Appendix B
Cost Award Matters

Cost Award Eligibility

The OEB will determine eligibility for costs in accordance with its Practice Direction on Cost Awards. Any person intending to request an award of costs must file with the OEB a written submission to that effect by **May 26, 2025.** The submission must identify the following:

- The grounds on which the person believes that it is eligible for an award of costs (addressing the OEB's cost eligibility criteria as set out in section 3 of the *Practice Direction on Cost Awards*).
- An explanation of any other funding to which the person has access.
- The name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known.

All requests for cost eligibility will be posted on the OEB's website. If a licensed rate-regulated electricity distributor has any objections to any of the requests for cost eligibility, such objections must be filed with the OEB by **May 29, 2025.** Any objections will be posted on the OEB's website. The OEB will then make a final determination on the cost eligibility of the requesting participants.

Eligible Activities

Cost awards will be available in relation to providing comments on the proposed DSC amendments in Appendix A to a maximum of 5 hours.

Cost Awards

When determining the amount of the cost awards, the OEB will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Cost Awards Tariff will also be applied. The OEB expects that groups representing the same interests or class of persons will make every effort to communicate and co-ordinate their participation in this process. Cost awards are made available on a per eligible participant basis, regardless of the number of professional advisors that an eligible participant may wish to retain.

In accordance with section 12 of its *Practice Direction on Cost Awards*, the OEB will act as a clearing house for all payments of cost awards in this process. For more information on this process, please see the OEB's *Practice Direction on Cost Awards*.