NOTICE OF PROPOSAL TO AMEND A CODE

PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE TO ESTABLISH A CAPACITY ALLOCATION MODEL

BOARD FILE NO. EB-2024-0092

VECC COMMENTS MAY 16, 2025

On April 17, the Ontario Energy Board (OEB) gave notice under section 70.2 of the *Ontario Energy Board Act, 1998* (ACT) of proposed amendments to the Distribution System Code (DSC) to establish a Capacity Allocation Model (CAM) to support a fair allocation of capacity and costs associated with system expansions to accommodate multiple residential subdivisions and other customer connections in a qualifying development area.

These are VECC's submissions on the proposed DSC amendments.

Background

Under the OEB's existing rules, the upfront costs associated with system expansion to serve a new development area may be borne entirely by the initial connecting customer/developer (known as the first mover) even though it will only require a portion of the capacity needed to supply the area. Although there is potential for reimbursement from additional connecting customers, the financial burden to the initial customer can be a barrier to development.

In the Minister's November 21, 2023 Letter of Direction, the OEB was asked to review potential models for cost recovery that could help to ensure infrastructure costs are kept low and are not a barrier to growth in the province. This request is in response to the government's commitment to building 1.5 million homes by 2031. In addition, the OEB was asked to review its electricity distribution system expansion connection horizon and revenue horizon direction to ensure that the balance of growth and ratepayer costs remains appropriate.

In response to the Minister's direction, the OEB prepared a Report back to the Minister on System Expansion for Housing Developments dated June 28, 2024. The Report proposed to extend the connection horizon for housing development projects to up to 15 years and extend the revenue horizon for residential customers to 40 years. Following a consultation process, the OEB amended the DSC on December 23, 2024 to extend the two horizons.

The OEB Report also recommended developing a capacity allocation model that specifically addresses multi-year, multi-party developments and ensures a fair allocation of costs among connecting parties.[1]

[1] Report Back to the Minister on System Expansion for Housing Developments, June 28, 2024. p.10

To move this forward, the OEB established and facilitated a technical advisory Working Group, the CAM Advisory Group (CAMAG) from December 2024 to April 2025 to develop a CAM to address issues related to system expansions for connecting housing developments and develop rules for its implementation. VECC participated on the CAMAG as a representative of ratepayers.

Summary of VECC's Position

Ontario and local municipalities are working to increase housing supply and affordability to respond to the province's ambitious target of building 1.5 million homes over 10 years. VECC strongly supports initiatives that enable new affordable housing for residents in Ontario.

VECC understands the need to solve the current first mover issue which can place a significant financial burden on the initial developer. With the Province's new housing targets there will be more multi-year projects with multi-customers/developers emerging. VECC supports the establishment of a CAM to allocate capacity and infrastructure costs amongst multiple parties over multiple years.

However, as discussed below, VECC has concerns that under the proposed CAM cost sharing mechanics related to uncommitted customer connections, an unreasonable financial and risk burden has now shifted onto existing ratepayers to fund the unpaid expansion costs with no benefit and no remedy. In VECC's view under this cost sharing proposal the interests of ratepayers are not being properly protected.

VECC supports a CAM that includes a deferral account or other mechanism to capture the unpaid expansion costs so that existing ratepayers are not temporarily burdened with these costs and the resulting rate increases as a result of the CAM.

Summary of CAM

The CAM will be used by Distributors to allocate capacity and costs related to a system expansion to accommodate multiple residential subdivisions (and other customer connections) in a qualifying development area. The CAM is not applicable to any system expansion to only accommodate a single customer connection that will be completed in a single year.

The OEB proposes that the Distributor (in consultation with customers/developers) will:

- Determine the need for and scope of a CAM based on the eligibility criteria for a qualifying development area.[2]
- Prepare a plan for the expansion based on:
    - information from municipal official plans and official plan amendments (secondary plans), developers' forecasts and the Distributor's Distribution System Plan;
    - committed capacity needs of developer/customer;

[2] Appendix A Section 3.2A.1

    - a forecast of new customer connections within the CAM term and development area; and
    - the distributor's identified necessary system requirements[3] that will not be part of the CAM cost sharing.
- Make available information on the typical demand values for different building types, for the purpose of ensuring consistent forecasting by the developers and other customers for requested capacity, by posting this information on the distributor's website.[4]
- Be required to ensure capacity is available for customers who have committed to their capacity needs and manage requests from uncommitted and unforecasted customers on a first-come, first-served basis.[5]
- Have the flexibility to establish multiple CAMs for expansions connecting different portions of the qualifying development area or alternatively establish a single CAM for the entire qualifying development area.
- Make the final decision on the model.[6]

VECC supports the above features of the CAM as it relates to Distributors, as it relies on appropriate input on forecasts from developers and municipal plans and allows flexibility for Distributors to design and apply a CAM that meets their unique situations, circumstances and challenges within a development area. Where VECC has concerns is the proposed cost sharing.

Cost Sharing

With respect to the allocation of the total cost of system expansion under the CAM, all connecting customers will be required to contribute to the cost of the CAM-related expansions based on their allocated share of the capacity. The OEB is proposing the costs be shared among customers under three categories: customers with paid committed capacity; customers with agreed committed capacity[7]; and customers with uncommitted capacity.[8] The OEB is proposing a maximum of 15 years for the term of the CAM and a financing charge will apply for connecting customers who pay their capital contribution after the first year of the CAM term. Connections will occur over the term of the CAM.

For customers that have not paid for committed capacity upfront, the OEB's proposal is that the Distributor will initially finance the unpaid costs of the expansion through rates which ultimately means the ratepayer is financing the unpaid costs, resulting in increased electricity

[3] such as additional capacity for energy transition and electrification, as well as additional infrastructure for enhancing reliability and system operating characteristics

[4] including but not limited to: detached homes, other housing types, and commercial buildings

[5] Notice of Proposal p. 6

[6] Notice of Proposal p. 5

[7] Agreed Committed Capacity = customers have provided binding financial commitments, such as letter(s) of credit from a bank or surety bond(s), to commit to their future capital contributions

[8] Uncommitted Capacity = capacity that remains available for future customer connections, and not yet allocated or committed through capital contribution payments or binding financial commitments under the CAM. This includes unforecasted customer connections.

rates. These costs will be recovered over time through a financing charge collected by the Distributor in addition to the capital contribution payments received from those future customers as they connect. The financing charge will be set equal to the cost of financing the investment in rates and connecting customers after year one will reimburse the rate base for those costs which the ratepayer has already paid.

Although the financing is designed to eventually reimburse the ratepayer over the CAM term, electricity rates will be higher over the term and the existing ratepayer bears the risk of recovery of the capital cost. There is a risk that the Distributor's forecast of uncommitted load may not materialize as planned, and the remaining expansion capacity has gone unused and as a result any unassigned capacity after the end of the CAM term will be part of rate base costs.

The guiding principle that underlies the current allocation of the costs associated with distribution expansion and connection investments is "beneficiary pays," which means that persons who directly benefit from an infrastructure investment should pay the full cost of the investment. Costs should not be allocated to any consumer, distributor or generator that will not benefit from the investment.

VECC submits it is not fair under this proposal that ratepayers are required to carry unpaid expansion costs and take on the risk of overbuilding when ratepayers do not directly benefit from the infrastructure investment. None of these developer expansion costs are currently paid for by existing ratepayers. This proposal represents a significant change in who pays.

To address the issue of fairness, some members of the CAMAG suggested that investments made for future customer connections should be included in a deferral account until the connecting customers pay their contribution and the expansion is used to serve those customers. These members expressed concerns that adding large amounts of CAM-related expansion costs to rates could have significant impacts on customers and affordability.[9] Under the deferral account proposal no eligible unpaid expansion costs would be added to rate base. Rather the costs would be captured in a deferral account and as customers connect their capital contributions would be credited to the account thereby reducing the balance over time until theoretically the balance is zero.

VECC shares the above concerns. VECC does not support a CAM that automatically allocates costs to existing customers who obtain no benefit from bearing those costs and are taking on the risk that the costs may not be repaid. VECC submits that the CAM should not be implemented without a mechanism such as a deferral account to ensure the unpaid expansion costs are not paid for by existing ratepayers upfront, even on a temporary basis.

The Minister's October 21, 2024 letter states that establishing a capacity allocation model that considers multi customer, multi-year projects should reduce expansion costs for homebuilders and other new customers – making housing more affordable, while simultaneously ensuring the

[9] Notice of Proposal p.16

burden will not be placed on existing ratepayers. Under this proposed CAM a burden could be placed on existing ratepayers for well more than a decade.

The CAM has the potential to significantly increase rates for existing customers over a 15-year term, especially if there are multiple instances where a CAM is applied in a utility's service territory.

The OEB is of the view that the proposal to use a deferral account would not be consistent with its approach to ratemaking given a portion of the expansion serving the initial customers is immediately used in the distribution of electricity and should therefore be considered an asset for the rate base. The OEB does not have a policy to allocate portions of assets to rate base; an asset is either used and useful or it is not.[10]

VECC wishes to point out that under the OEB's established ICM policy, for rate setting purposes, in principle portions of assets are accepted as rate base. Ther distributor calculates the revenue requirement (i.e. the cost of capital, depreciation, and PILs) associated with the ICM capital project to be funded and at the time of the next cost of service or Custom IR application, a distributor calculates the actual ICM amounts to be incorporated into the test year rate base.

Whether it is a deferral account or some other creative solution, VECC submits that a mechanism is required as part of the CAM to respond to uncommitted customer connections, so the unpaid expansion costs are not the responsibility of existing ratepayers, even if on a temporary basis as proposed. The potential risks and rate impacts are too high. In VECC's view, the deferral account approach provides a better balance of the interests of developers with those of existing electricity consumers.

The OEB believes that, although the establishment and management of a CAM should be a collaborative effort between the distributor and customers, the distributor is ultimately in the best position to make the final decision on the model. Thus, the OEB proposed amendments that focus on the overall framework for capacity and cost sharing, without addressing individual scenarios, thereby allowing distributors sufficient flexibility to apply the framework to specific situations.[11] VECC summarized the key features of the CAM as it relates to Distributors on page 2 of its submissions.

Given the noted discretion and flexibility Distributors have regarding the application, scope and design of the CAM including establishing the forecasted load, VECC submits that with that flexibility comes responsibility to ensure the model is reasonable and the outcome is prudent for ratepayers. Thus, if at the end of the CAM term, the balance in the deferral account is greater than zero, VECC submits the Distributor should be held accountable and the OEB should not allow the Distributor to clear the balance in the account at the expense of ratepayers.

[10] Notice of Proposal p. 16
[11] Notice of Proposal p. 5

Other Issues

Constructed Capacity

The capital contribution charged to developers or other customers in an area subject to a CAM is determined based on the following formula:

Total Cost of CAM Expansion X Requested Capacity/
Constructed Capacity

Members of the CAMAG discussed what should serve as the denominator. Distributors indicted that due to the nature of electrical infrastructure design, they often cannot build the exact capacity required by the developer, due to the minimum build based on the distributor's design standards, and therefore Constructed Capacity should be the denominator.

Developers believe they should only pay for the capacity they require, not the capacity that the distributor decides to build, even if it is the minimum reasonable build.

The OEB proposes that for the purpose of cost allocation Constructed Capacity should be used as the denominator. Constructed Capacity is defined as the total capacity built by the distributor, excluding any capacity identified specifically for system requirements.

VECC supports this approach for the reasons given that it recognizes the Distributor will be required to consider the best design for the CAM-related expansion to meet system and electrical design requirements It also considers the importance of simplicity and clarity in establishing a workable CAM.[12]

Term of the CAM

The "CAM term" means that term over which CAM capital contributions are forecasted to be paid by customers.

The term of a CAM will be limited to a maximum of 15 years, after which any connecting customers will not be required to contribute to the CAM-related expansion and will be subject to the expansion provisions set out in section 3.2 of the DSC.

VECC takes no issue with this proposal as it aligns with the revised connection horizon for housing development projects.

[12] Notice of Proposal p.13