

May 19, 2025

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street  
P.O. Box 2319  
Toronto, Ontario  
M4P 1E4

Dear Ms Marconi:

**EB-2024-0092– System Expansion for Housing Development – Distribution System Code Amendments**

Please find, attached, the Submissions of the Consumers Council of Canada pursuant to the above-referenced consultation process.

Please feel free to contact me if you have questions.

Yours truly,

**Julie E. Girvan**

Julie E. Girvan

CC: All parties

## **COMMENTS OF THE CONSUMERS COUNCIL OF CANADA**

### **RE: NOTICE OF PROPOSAL TO AMEND A CODE**

**EB-2024-0092**

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

##### **Introduction:**

On April 17, 2025, the Ontario Energy Board (OEB) issued a Notice of Proposal to amend the Distribution System Code (DSC). The proposed amendments are intended 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 the submissions of the Consumers Council of Canada (CCC) regarding the proposed CAM.

##### **Background:**

The Minister of Energy's Letter of Direction to the OEB issued on November 21, 2023, asked the OEB to undertake a review of the cost responsibility for housing connections. This request was made in response to the government's commitment to building 1.5 million homes and a desire to remove barriers. In response the OEB held a consultation regarding the cost recovery framework for electricity distribution expansions for housing developments. On June 28, 2024, the OEB submitted its Report to the Minister. The Report included the following recommendations:

1. Extending the connection horizon for housing development projects up to 15 years and extending the revenue horizon for residential customers to 40 years;
2. Developing a method to allocate capacity and expansion costs to facilitate large developments with multiple customers/developers requiring a significant system expansion, which maintains the "beneficiary pays" principle for allocating costs.

In the Minister's October 21, 2024, letter endorsing the recommendations he noted that the amendments should reduce expansion costs for homebuilders and other new customers – making housing more affordable, while simultaneously ensuring the burden will not be placed on existing ratepayers. In the December 19, 2024, Letter of Direction the Minister requested

the OEB implement its recommendations expeditiously to amend the DSC to extend the horizons and establish a CAM for multi-phased housing projects<sup>1</sup>.

The OEB amended the DSC on December 23, 2024, to extend the two horizons. In addition, the OEB established a working group to provide technical advice and support OEB staff in developing the CAM.

### **CAM Proposal:**

Under the current DSC the initial customer/developer in an area may bear the entire upfront cost of the expansion required to serve the new development area with the potential for rebates from additional connecting customers/developers even though that “first mover” will only require a portion of the capacity needed to supply the area. The financial burden to that initial customer/developer can be seen to be a barrier to development. As set out in the Notice, “The proposed approach is expected to facilitate housing by removing the requirement that the initial customer bear the upfront cost of that expansion.”<sup>2</sup>

The proposed CAM will allocate costs of large expansions based on a customer/developer’s requested capacity needs and recognizes that connections in a CAM qualifying development area will occur over the term of the CAM – which will be a maximum of 15 years. In designing the CAM-related expansion the distributor will take into consideration the capacity needs of the customers/developers that have committed to connections, and a forecast of future connections based on plans for defined development area, such as municipal plans and secondary plans, and the timing of connections. All connecting customers will be required to contribute to the cost of the CAM-related expansions based on their allocated share of capacity. All customers/developers connecting after the first year will be required to pay a financing charge. The financing charge will reimburse the ratepayers for the carrying costs related to the expansion, which will become part of rate base.<sup>3</sup>

The details and mechanics of the proposed CAM are sent out in the Appendix to the Proposed Amendments set out in the Notice.

### **Submissions:**

CCC understands that the OEB is looking to address the problem with “first movers”. The financial burden currently imposed on initial developers, as set out in the DSC, can be seen to a barrier to development. CCC also notes that the Minister’s letter states that amendments to the DSC should reduce expansion costs for homebuilders and other new customers – making housing more affordable, while simultaneously ensuring the burden will not be placed on

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<sup>1</sup> EB-2024-0092 - Notice of Proposal to Amend a Code – Proposed Amendments to the Distribution System Code to Establish a Capacity Allocation Model, p. 3

<sup>2</sup> EB-2024-0092 Notice of Proposal to Amend a Code dated April 17, 2025, pp. 1-2

<sup>3</sup> Ibid, p. 4

existing ratepayers. In addition, as noted above, the Minister has highlighted the need to maintain the “beneficiary pays” principle. CCC agrees that the “first mover” issue needs to be addressed and is not opposed to the development of a CAM. The working group established by the OEB undertook important work. CCC does not take issue with many of the specific details that the working group developed and what the OEB is proposing with respect to the CAM with one exception. In addressing the “first mover” issue the proposed amendments to the DSC shift potential costs and risks to existing ratepayers. This is inconsistent with both the Minister’s request to ensure reducing costs to developers will not burden ratepayers. It is also inconsistent with the “beneficiary pays” principle.

The OEB proposes that the total cost of system expansion under the CAM will be shared among:

- a. Customers with paid committed capacity. This includes customers who have fully paid the applicable capital contribution amount under the applicable CAM;
- b. Customers with agreed committed capacity. This includes customers who have not fully paid the capital contribution amount under the CAM, but have provided binding financial commitments in respect of their future capital contributions. These customers will make any remaining capital contribution payments in later years, prior to connection to the expansion and before the CAM term;
- c. Customers with uncommitted capacity. This includes distributor’s projections for future customer connections other than those above. These customers will be charges capital contribution payments prior to connecting to the expansion.<sup>4</sup>

For customers in b) and c) above the distributor, or more precisely ratepayers, will initially finance the unpaid cost of expansion through rates.

The OEB noted that some of the working group members suggested that investments made for future customer connections should be included in a deferral account until the connection 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.<sup>5</sup> CCC shares these concerns.

The OEB expressed its 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

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<sup>4</sup> Ibid, p. 10

<sup>5</sup> Ibid, p. 16

asset is either used or useful or it is not.<sup>6</sup> CCC does not see how a proposal like this would be not be analogous to the OEB's approved incremental Capital Module policy.

CCC is of the view that the proposed amendments to the DSC are not consistent with the OEB's objective to protect the interests of ratepayers with respect to prices and the adequacy, reliability and quality of electricity service. We are concerned that a portion of the costs of new developments may fall onto existing ratepayers that do not benefit from that new development. That is not consistent with the directives from the government.

The risks could materialize under the following scenarios:

- a. Customers/developers that have committed capacity cannot meet their financial commitments;
- b. Distributor forecasts regarding future customer/developer connections do not materialize.

From CCC's perspective it would be unfair for current ratepayers to bear this burden. The OEB's amendments to the DSC give a great deal of discretion to the distributors in their application of the DSC and the proposed CAM. If the OEB approves this discretion, the distributors and not their customers should bear the risk of forecasts or financial commitments going wrong.

CCC does not support the amendments as proposed given the interests of current ratepayers are not sufficiently protected. CCC suggests that the working group be reconvened to address how best to deal with the "first mover" problem while also addressing how to protect the interests of ratepayers in future system expansions. The currently proposed amendments are contrary to the concept of "beneficiary pays" and should not be approved.

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<sup>6</sup> Ibid, p. 16