



By electronic filing and by e-mail

December 1, 2008

Kirsten Walli
Board Secretary
Ontario Energy Board
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Dear Ms Walli,

Proposed Amendments to the Transmission System Code

Board File No.: EB-2008-0003

Our File No.: 339583-000014

We are writing on behalf of our client, Canadian Manufacturers & Exporters (“CME”), to provide comments on the Board’s Notice of Proposed Amendments (the “Notice”) to the Transmission System Code (the “Code”) dated October 29, 2008.

CME is concerned with the consumer impacts of the measures the Board proposes to implement.

After reviewing the Board’s Decision to implement the “hybrid option” described in the October 29, 2008 Notice, we understand that electricity transmitters the Board regulates will be required to incur the costs of constructing, owning, operating and eventually connecting enabler facilities for renewable resource clusters to new renewable resource electricity generators. Once these new generators have been connected to the transmission system, they will be required to pay their fully allocated share of the capital and operation and maintenance costs incurred by the transmitter to construct, own and operate the enabler facilities.

We understand that, conceptually, the intent is that new renewable resource generators will eventually assume full responsibility for all of the owning and operating costs of enabler facilities incurred by transmitters.

If we correctly understand the Board’s intent, then we invite the Board to clarify the wording of the Proposed Amendments to the Code to assure that the eventual costs to be absorbed by new renewable resource generators will include all of the carrying costs on the investment which transmitters will be required to make to construct, own and operate the facilities, including costs incurred between the outset of such projects and such time as the costs thereof have been fully absorbed by renewable recourse generators.

We submit that the extent to which transmitters should be permitted to recover, from electricity consumers in regulated transmission rates, the carrying costs they incur with respect to the construction, ownership and operation of enabler facilities is a matter that should be determined in the rate applications brought by transmitters which incur such costs. We submit that the issue of whether transmitters should be permitted to recover, from electricity consumers, a full rate of return on costs incurred with respect to enabler facilities, or something less than a full return, such as an Allowance for Funds Used During Construction (“AFUDC”), is a matter that should be determined in those rate proceedings.

It is in this context that we urge the Board to take care to assure that the amendments it is proposing to the Code to facilitate implementation of the hybrid option be worded in a way to assure that they will not prejudice the right of electricity consumers to contend that the full amount of the owning and operating costs incurred by transmitters, in relation to enabler facilities, will eventually be recoverable from the generators who need those facilities to connect their resources to the electricity grid in Ontario. In other words, the magnitude of the amount transmitters can recover in transmission rates for enabler facilities, and the related revenue requirement credit that eventually arises when full cost responsibility is assigned to generators will be determined in transmitter rate cases.

The principle which we submit should be clearly reflected in the Proposed Amendments to the Code is that all of the owning and operating costs of enabler facilities incurred by transmitters, including all of the carrying costs thereon incurred between the outset of construction of such facilities and the points in time when new generators are attached, will eventually be fully assigned to the new generators.

We question whether the wording of the amendments proposed to Articles 6.3.4, 6.3.8, 6.3.8A, 6.3.10, 6.3.14A and 6.5.1A is sufficiently broad to express this principle. We suggest that the wording of these provisions of the Proposed Amendments to the Code should be modified to clearly indicate that the eventual cost responsibility of generators includes their share of all of the carrying costs of owning and operating the facilities incurred by the transmitter between the date that construction of them is undertaken and the date that new generators are eventually connected to the transmission grid.

Please contact me if the Board requires any clarification of these comments.

Yours very truly,



Peter C.P. Thompson, Q.C.

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c. Participants EB-2008-0003

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