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By Email

Announcement

July 27, 2006

To: All Participants in EB-2005-0488
All Licensed Electricity Distributors
All Other Interested Parties

Announcement of Amendment to the Distribution System Code (EB-2005-0488)

Today, the Ontario Energy Board has issued its Notice of Amendment to the Distribution System Code.

The documents are available for public inspection on the Board's web site at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

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EB-2005-0488

NOTICE OF AMENDMENT TO A CODE

AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE

BOARD FILE NO: EB-2005-0488

To: All Participants in EB-2005-0488
All Licensed Electricity Distributors
All Other Interested Parties

The Ontario Energy Board (the "Board") has today issued amendments to the Distribution System Code (the "Code") under section 70.2 of the *Ontario Energy Board Act, 1988* (the "Act").

These amendments clarify the provisions in Chapter 3 of the Code related to expansions, alternative bids, and enhancements and provide greater clarity regarding the rights and obligations of electricity distributors and customers with respect to distribution system expansions.

Background

On November 17, 2005, the Board issued a Notice of Proposal to Amend the Distribution System Code. The Board received 17 submissions in response to that Notice. On March 21, 2006, the Board issued a Notice of Amended Proposal to Amend the Distribution System Code. The Board received 11 submissions in response to that Notice. On May 19, 2006, the Board issued an additional Notice of Amended Proposal to Amend the Distribution System Code (the "May 19, 2006 Proposed Amendments").

The Board received four submissions in response to the May 19, 2006 Proposed Amendments. The Board has considered the submissions received and has determined that no material changes need to be made relative to the May 19, 2006 Proposed Amendments. In light of comments received, the Board has, however, made four minor revisions in order to improve the clarity of the amendments.

July 27, 2006

The Revisions

The revisions to the May 19, 2006 Proposed Amendments are outlined in Attachment A. The only sections included in Attachment A are the sections that contain changes relative to the May 19, 2006 Proposed Amendments. The rest of the amendments contained in the May 19, 2006 Proposed Amendments remain as they were presented at that time. Attachment B contains a clean copy of all of the amendments to Chapter 3 of the Code.

In order to clarify the possible separation of payments referred to in section 3.2.8(e), the words "from the capital contribution referred to in section 3.2.8(c)" have been added following the phrase "will be charged separately".

Section 3.2.9(f) and section (e) of Appendix B.1 (under the heading "Common Elements of the Discounted Cash Flow Model") have been changed to refer to "the cost of the basic connection" instead of "connection charges" in order to keep the wording consistent with section 3.1.4 of the Code.

The words "of the Code" have been added in to section (f) of Appendix B.1 (under the heading "Common Elements of the Discounted Cash Flow Model") in order to keep that wording consistent with section (e) of Appendix B.1 (under the heading "Common Elements of the Discounted Cash Flow Model").

The Board also takes this opportunity to clarify that the amendments dealing with expansion deposits do not and cannot affect the ability of municipalities to seek on their own behalf further security related to subdivision development. The procurement of such security is beyond the scope of the Code.

Adoption of the Revised Amendments

The amendments to the Code as adopted are set out in Attachment B to this notice.

Coming into Force

As noted in the amendment to section 1.7 of the Code, the amendments to the Code set out in Attachment B will come into effect 180 days after today's date.

This notice, the accompanying amendments, and all written representations received by the Board with respect to the amendments are available for public inspection on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

Please direct any questions you may have on this matter to the Market Participant hotline at 416-440-7604 or by e-mail at market.operations@oeb.gov.on.ca.

DATED at Toronto, July 27, 2006.

ONTARIO ENERGY BOARD

original signed by

Peter H. O'Dell
Assistant Board Secretary

- Attachments: A – Revisions to the May 19, 2006 Proposed Amendments (track changes)
B – All Amendments to Chapter 3 and Appendix B of the Distribution System Code (clean)

Attachment A - Revisions to the May 19, 2006 Proposed Amendments (Track Changes)

- 3.2.8 If an expansion is needed in order for a distributor to connect a customer, the distributor shall make an initial offer to connect the customer and build the expansion. A distributor's initial offer shall include, at no cost to the customer:
- (a) a statement as to whether the offer is a firm offer or is an estimate of the costs that would be revised in the future to reflect actual costs incurred;
 - (b) a reference to the distributor's Conditions of Service and information on how the customer requesting the connection may obtain a copy of them;
 - (c) a statement as to whether a capital contribution will be required from the customer;
 - (d) a statement as to whether an expansion deposit will be required from the customer and if the distributor will require an expansion deposit from the customer, the amount of the expansion deposit that the customer will have to provide; and
 - (e) a statement as to whether the connection charges referred to in sections 3.1.5 and 3.1.6 will be charged separately from the capital contribution referred to in section 3.2.8(c), and a description of, and if known, the amount for, those connection charges.
- 3.2.9 If the distributor will require a customer to pay a capital contribution, the distributor must, in addition to complying with section 3.2.8, also include in its initial offer, at no cost to the customer:
- (a) the amount of the capital contribution that the customer will have to pay for the expansion;
 - (b) the calculation used to determine the amount of the capital contribution to be paid by the customer including all of the assumptions and inputs used to produce the economic evaluation as described in Appendix B;
 - (c) a statement as to whether the offer includes work for which the customer may obtain an alternative bid and, if so, the process by which the customer may obtain the alternative bid;
 - (d) a description of, and costs for, the contestable work and the uncontestable work associated with the expansion broken down into the following categories:

- (i) labour (including design, engineering and construction);
 - (ii) materials;
 - (iii) equipment; and
 - (iv) overhead (including administration);
- (e) an amount for any additional costs that will occur as a result of the alternative bid option being chosen (including, but not limited to, inspection costs);
- (f) if the offer is for a residential customer, a description of, and the amount for, the basic cost of connection referred to in section 3.1.4 that has been factored into the economic evaluation; and
- (g) if the offer is for a non-residential customer and if the distributor has chosen to recover the non-residential basic connection charge as part of its revenue requirement, a description of, and the amount for, the connection charges referred to in section 3.1.5 that have been factored into the economic evaluation.

APPENDIX B

The amendments set out below will be made to Appendix B of the Code.

In Appendix B.1, entitled “COMMON ELEMENTS OF THE DISCOUNTED CASH FLOW MODEL”, the following section will be added under the heading “Capital Costs”:

- (e) For residential customers, the amount for the basic cost of connection referred to in section 3.1.4 of the Code.
- (f) For non-residential customers, if the distributor has chosen to recover the non-residential basic connection charge as part of its revenue requirement, a description of, and the amount for, the connection charges referred to in section 3.1.5 of the Code that have been factored into the economic evaluation.

Attachment B – All Amendments to Chapter 3 and Appendix B of the Distribution System Code (clean)

1 GENERAL AND ADMINISTRATIVE PROVISIONS

Section 1.7 of the Code will be amended by adding the following sentence to the end of the section:

The amendments to this Code made by the Board on July 27, 2006, will come into effect 180 days after that date. The amendments will only apply to expansions where the distributor's initial offer to connect the customer and build the expansion, as set out in sections 3.2.8 and 3.2.9, occurs on or after the date the amendments come into force.

3 CONNECTIONS AND EXPANSIONS

The text set out below will replace the text currently in Chapter 3 of the Code.

3.1 Connections

- 3.1.1 In establishing its connection policy as specified in its Conditions of Service, and determining how to comply with its obligations under section 28 of the *Electricity Act*, a distributor may consider the following reasons to refuse to connect, or continue to connect, a customer:
- (a) contravention of the laws of Canada or the Province of Ontario including the Ontario Electrical Safety Code;
 - (b) violation of conditions in a distributor's licence;
 - (c) materially adverse effect on the reliability or safety of the distribution system;
 - (d) imposition of an unsafe worker situation beyond normal risks inherent in the operation of the distribution system;
 - (e) a material decrease in the efficiency of the distributor's distribution system;
 - (f) a materially adverse effect on the quality of distribution services received by an existing connection; and
 - (g) if the person requesting the connection owes the distributor money for distribution services, or for non-payment of a security deposit. The

distributor shall give the person a reasonable opportunity to provide the security deposit consistent with section 2.4.20.

- 3.1.2 A distributor shall ensure that all electrical connections to its system meet the distributor's design requirements, unless the electrical connections are separated by a protection device that has been approved by the distributor. If an electrical connection does not meet the distributor's design requirements, a distributor may refuse connection.
- 3.1.3 If a distributor refuses to connect a customer, the distributor shall inform the person requesting the connection of the reason(s) for not connecting and, where the distributor is able to provide a remedy, make an offer to connect. If the distributor is unable to provide a remedy to resolve the issue, it is the responsibility of the customer to do so before a connection may be made.
- 3.1.4 For residential customers, a distributor shall define a basic connection and recover the cost of the basic connection as part of its revenue requirement. The basic connection for each customer shall include, at a minimum:
- (a) supply and installation of overhead distribution transformation capacity or an equivalent credit for transformation equipment; and
 - (b) up to 30 meters of overhead conductor or an equivalent credit for underground services.
- 3.1.5 For non-residential customers, a distributor may define a basic connection by rate class and recover the cost of connection either as part of its revenue requirement, or through a basic connection charge to the customer.
- 3.1.6 All customer classes shall be subject to a variable connection charge to be calculated as the costs associated with the installation of connection assets above and beyond the basic connection. A distributor may recover this amount from a customer through a connection charge or equivalent payment.
- 3.2 Expansions**
- 3.2.1 If a distributor must construct new facilities to its main distribution system or increase the capacity of existing distribution system facilities in order to be able to connect a specific customer or group of customers, the distributor shall perform an initial economic evaluation based on estimated costs and forecasted revenues, as described in Appendix B, of the expansion project to

determine if the future revenue from the customer(s) will pay for the capital cost and on-going maintenance costs of the expansion project.

- 3.2.2 If the distributor's offer was an estimate, the distributor shall carry out a final economic evaluation once the facilities are energized. The final economic evaluation shall be based on forecasted revenues, actual costs incurred (including, but not limited to, the costs for the uncontestable work, and any transfer price paid by the distributor to the customer) and the methodology described in Appendix B.
- 3.2.3 If the distributor's offer was a firm offer, and if the alternative bid option was chosen and the facilities are transferred to the distributor, the distributor shall carry out a final economic evaluation once the facilities are energized. The final economic evaluation shall be based on the amounts used in the firm offer for costs and forecasted revenues, any transfer price paid by the distributor to the customer, and the methodology described in Appendix B.
- 3.2.4 The capital contribution that a distributor may charge a customer other than a generator or distributor to construct an expansion shall not exceed that customer's share of the difference between the present value of the projected capital costs and on-going maintenance costs for the facilities and the present value of the projected revenue for distribution services provided by those facilities. The methodology and inputs that a distributor shall use to calculate this amount are described in Appendix B.
- 3.2.5 The capital contribution that a distributor may charge a generator to construct an expansion to connect a generation facility to the distributor's distribution system shall not exceed the generator's share of the present value of the projected capital costs and on-going maintenance costs for the facilities. Projected revenue and avoided costs from the generation facility shall be assumed to be zero, unless otherwise determined by rates approved by the Board. The methodology and inputs that a distributor shall use to calculate this amount are described in Appendix B.
- 3.2.6 If a shortfall between the present value of the projected costs and revenues is calculated under section 3.2.1, the distributor may propose to collect all or a portion of that amount from the customer in the form of a capital contribution, in accordance with the distributor's documented policy on capital contributions by customer class.

- 3.2.7 If the capital contribution amount resulting from the final economic evaluation provided for in section 3.2.2 or 3.2.3 differs from the capital contribution amount resulting from the initial economic evaluation calculation, the distributor shall obtain from the customer, or credit the customer for, any difference between the two calculations.
- 3.2.8 If an expansion is needed in order for a distributor to connect a customer, the distributor shall make an initial offer to connect the customer and build the expansion. A distributor's initial offer shall include, at no cost to the customer:
- (a) a statement as to whether the offer is a firm offer or is an estimate of the costs that would be revised in the future to reflect actual costs incurred;
 - (b) a reference to the distributor's Conditions of Service and information on how the customer requesting the connection may obtain a copy of them;
 - (c) a statement as to whether a capital contribution will be required from the customer;
 - (d) a statement as to whether an expansion deposit will be required from the customer and if the distributor will require an expansion deposit from the customer, the amount of the expansion deposit that the customer will have to provide; and
 - (e) a statement as to whether the connection charges referred to in sections 3.1.5 and 3.1.6 will be charged separately from the capital contribution referred to in section 3.2.8(c), and a description of, and if known, the amount for, those connection charges.
- 3.2.9 If the distributor will require a customer to pay a capital contribution, the distributor must, in addition to complying with section 3.2.8, also include in its initial offer, at no cost to the customer:
- (a) the amount of the capital contribution that the customer will have to pay for the expansion;
 - (b) the calculation used to determine the amount of the capital contribution to be paid by the customer including all of the assumptions and inputs used to produce the economic evaluation as described in Appendix B;
 - (c) a statement as to whether the offer includes work for which the customer may obtain an alternative bid and, if so, the process by which the customer may obtain the alternative bid;
 - (d) a description of, and costs for, the contestable work and the uncontestable work associated with the expansion broken down into the following categories:

- (i) labour (including design, engineering and construction);
 - (ii) materials;
 - (iii) equipment; and
 - (iv) overhead (including administration);
- (e) an amount for any additional costs that will occur as a result of the alternative bid option being chosen (including, but not limited to, inspection costs);
- (f) if the offer is for a residential customer, a description of, and the amount for, the cost of the basic connection referred to in section 3.1.4 that has been factored into the economic evaluation; and
- (g) if the offer is for a non-residential customer and if the distributor has chosen to recover the non-residential basic connection charge as part of its revenue requirement, a description of, and the amount for, the connection charges referred to in section 3.1.5 that have been factored into the economic evaluation.
- 3.2.10 Once the customer has accepted the distributor's offer, and if the customer requests it, the distributor shall provide to the customer, at cost, an itemized list of the costs for the major items in each of the categories listed in section 3.2.9(d) and shall be done in the following manner:
- (a) if the customer has not chosen to pursue an alternative bid, the distributor shall provide the itemized list for all of the work; or
 - (b) if the customer has chosen to pursue the alternative bid option, the distributor shall only be required to provide the itemized list for the uncontestable work.
- 3.2.11 If the customer submits revised plans or requires additional design work, the distributor may provide, at cost, a new offer based on the revised plans or the additional design work.
- 3.2.12 The distributor shall provide the customer with the calculation used to determine the final capital contribution amount including all of the assumptions and inputs used to produce the final economic evaluation as provided for in sections 3.2.2 and 3.2.3. The distributor shall provide the final economic evaluation and final capital contribution amount to the customer at no cost to the customer.

- 3.2.13 The last sentence of section 3.2.12 does not apply to a customer who is a generator or is proposing to become a generator unless the customer's proposed or existing generation facility is an emergency backup generation facility.
- 3.2.14 Where the distributor requires a capital contribution from the customer, the distributor shall allow the customer to obtain and use alternative bids for the contestable work. The distributor shall require the customer to use a qualified contractor for the contestable work.
- 3.2.15 The following work shall be uncontestable:
- (a) the preliminary planning, design and engineering specifications of the work required for the distribution system expansion and connection (specifications shall be made in accordance with the distributor's design and technical standards and specifications); and
 - (b) work involving existing distributor assets.
- 3.2.16 If a customer chooses to pursue an alternative bid and uses the services of a qualified contractor for the contestable work, the distributor shall:
- (a) require the customer to complete all of the contestable work;
 - (b) require the customer to:
 - (i) select and hire the contractor;
 - (ii) pay the contractor's costs for the contestable work; and
 - (iii) assume full responsibility for the construction of that aspect of the expansion;
 - (c) require the customer to be responsible for administering the contract (including the acquisition of all required permissions, permits and easements) or have the customer pay the distributor to do this activity;
 - (d) require the customer to ensure that the contestable work is done in accordance with the distributor's design and technical standards and specifications; and
 - (e) inspect and approve, at cost, all aspects of the constructed facilities as part of a system commissioning activity, prior to connecting the constructed facilities to the existing distribution system.

- 3.2.17 In addition to the capital contribution amounts in sections 3.2.4 and 3.2.5, the distributor may also charge a customer that chooses to pursue an alternative bid any costs incurred by the distributor associated with the expansion including, but not limited to, the following:
- (a) costs for additional design, engineering, or installation of facilities required to complete the project;
 - (b) costs for administering the contract between the customer and the contractor hired by the customer if the distributor is asked to do so by the customer and the distributor agrees to do it; and
 - (c) costs for inspection or approval of the work performed by the contractor hired by the customer.

When the customer transfers the expansion facilities to the distributor in accordance with section 3.2.18 and 3.2.19, the charges referred to above shall be included as part of the customer's costs for the purposes of determining the transfer price.

- 3.2.18 When the customer transfers the expansion facilities that were constructed under the alternative bid option to the distributor, and provided that the distributor has inspected and approved the constructed facilities, the distributor shall pay the customer a transfer price. The transfer price shall be the lower of the cost to the customer to construct the expansion facilities or the amount set out in the distributor's initial offer to do the contestable work. If the customer does not provide the distributor with the customer's cost information in a timely manner, then the distributor may use the amount for the contestable work as set out in its initial offer for the transfer price instead of the customer's cost.
- 3.2.19 Where a distributor is required to pay a transfer price under section 3.2.18, the transfer price shall be considered a cost to the distributor for the purposes of completing the final economic evaluation.
- 3.2.20 For expansions that require a capital contribution, a distributor may require the customer to provide an expansion deposit for up to 100% of the present value of the forecasted revenues as described in Appendix B. For expansions that do not require a capital contribution, a distributor may require the customer to provide an expansion deposit for up to 100% of the present value of the projected capital costs and on-going maintenance costs of the expansion project.

- 3.2.21 If an expansion deposit is collected under section 3.2.20, the expansion deposit shall cover both the forecast risk (the risk associated with whether the projected revenue for the expansion will materialize as forecasted) and the asset risk (the risk associated with ensuring that the expansion is constructed, that it is completed to the proper design and technical standards and specifications, and that the facilities operate properly when energized) related to the expansion.
- 3.2.22 If the alternative bid option was chosen, a distributor shall be allowed to retain and use the expansion deposit to cover the distributor's costs if the distributor must complete, repair, or bring up to standard the facilities. Complete, repair, or bring up to standard includes costs the distributor incurs to ensure that the expansion is completed to the proper design and technical standards and specifications, and that the facilities operate properly when energized.
- 3.2.23 Once the facilities are energized and subject to sections 3.2.22 and 3.2.24, the distributor shall annually return the percentage of the expansion deposit in proportion to the actual connections (for residential developments) or actual demand (for commercial and industrial developments) that materialized in that year (i.e., if twenty percent of the forecasted connections or demand materialized in that year, then the distributor shall return to the customer twenty percent of the expansion deposit). This annual calculation shall only be done for the duration of the customer connection horizon as defined in Appendix B. If at the end of the customer connection horizon the forecasted connections (for residential developments) or forecasted demand (for commercial and industrial developments) have not materialized, the distributor shall be allowed to retain the remaining portion of the expansion deposit.
- 3.2.24 If the alternative bid option was chosen, the distributor may retain up to ten percent of the expansion deposit for a warranty period of up to two years. This portion of the expansion deposit can be applied to any work required to repair the expansion facilities within the two year warranty period. The two year warranty period begins:
- (a) when the last forecasted connection in the expansion project materializes (for residential developments) or the last forecasted demand materializes (for commercial and industrial developments); or
 - (b) at the end of the customer connection horizon as defined in Appendix B,

whichever is first. The distributor shall return any remaining portion of this part of the expansion deposit at the end of the two year warranty period.

- 3.2.25 Any expansion deposit required under section 3.2.20 shall be in the form of cash, letter of credit from a bank as defined in the *Bank Act*, or surety bond. The distributor shall allow the customer to select the form of the expansion deposit.
- 3.2.26 Where any expansion deposit is in the form of cash, the distributor shall return the expansion deposit to the customer together with interest in accordance with the following conditions:
- (a) interest shall accrue monthly on the expansion deposit commencing on receipt of the total deposit required by the distributor; and
 - (b) the interest rate shall be at the Prime Business Rate set by the Bank of Canada less 2 percent.
- 3.2.27 Unforecasted customers that connect to the distribution system during the customer connection horizon as defined in Appendix B will benefit from the earlier expansion and should contribute their share. In such an event, the initial contributors shall be entitled to a rebate from the distributor. A distributor shall collect from the unforecasted customers an amount equal to the rebate the distributor shall pay to the initial contributors. The amount of the rebate shall be determined as follows:
- (a) for a period of up to the customer connection horizon as defined in Appendix B, the initial contributor shall be entitled to a rebate without interest, based on apportioned benefit for the remaining period; and
 - (b) the apportioned benefit shall be determined by considering such factors as the relative load level and the relative line length (in proportion to the line length being shared by both parties).
- 3.2.28 A distributor shall prepare all estimates and offers required by section 3.2 in accordance with good utility practice and industry standards.
- 3.2.29 The distributor shall perform all of its responsibilities and obligations under section 3.2 in a timely manner.

3.3 Enhancements

3.3.1 A distributor shall continue to plan and build the distribution system for reasonable forecast load growth. A distributor may perform enhancements to its distribution system for purposes of improving system operating characteristics or for relieving system capacity constraints. In determining system enhancements to be performed on its distribution system, a distributor shall consider the following:

- (a) good utility practice;
- (b) improvement of the system to either meet or maintain required performance-based indices;
- (c) current levels of customer service and reliability and potential improvement from the enhancement; and
- (d) costs to customers associated with distribution reliability and potential improvement from the enhancement.

3.4 Relocation of Plant

3.4.1 When requested to relocate distribution plant, a distributor shall exercise its rights and discharge its obligations in accordance with existing legislation such as the *Public Service Works on Highways Act*, regulations, formal agreements, easements and common law. In the absence of existing arrangements, a distributor is not obligated to relocate the plant. However, the distributor shall resolve the issue in a fair and reasonable manner. Resolution in a fair and reasonable manner shall include a response to the requesting party that explains the feasibility or infeasibility of the relocation and a fair and reasonable charge for relocation based on cost recovery principles.

APPENDIX B

The amendments set out below will be made to Appendix B of the Code.

In Appendix B.1, entitled "COMMON ELEMENTS OF THE DISCOUNTED CASH FLOW MODEL", the following section will be added under the heading "Capital Costs":

- (d) A per kilowatt enhancement cost estimate – the per kilowatt enhancement cost estimate shall be set annually and shall be based on a historical three to five year rolling average of actual enhancement costs incurred in system expansions.

- (e) For residential customers, the amount the cost of the basic connection referred to in section 3.1.4 of the Code.
- (f) For non-residential customers, if the distributor has chosen to recover the non-residential basic connection charge as part of its revenue requirement, a description of, and the amount for, the connection charges referred to in section 3.1.5 of the Code that have been factored into the economic evaluation.

Specific Parameters/Assumptions

Specific parameters of the common elements include the following:

- (a) A maximum customer connection horizon of five (5) years, calculated from the energization date of the facilities.¹

¹ For customer connection periods of greater than 5 years an explanation of the extension of the period will be provided to the Board.