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NOTICE OF PROPOSAL TO AMEND A CODE

PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE AND THE RETAIL SETTLEMENT CODE

BOARD FILE NO.: EB-2006-0226

**To: All Licensed Electricity Distributors
All Licensed Electricity Generators
All Participants in Proceeding EB-2005-0463
All Interested Parties**

Facilitating Distributed Generation

The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (the "Act") of proposed amendments to the Distribution System Code (the "DSC") and the Retail Settlement Code (the "RSC").

The Board will not be granting cost awards in this matter.

Background

One of the Board's key business objectives is to help meet Ontario's challenges for the renewal of energy infrastructure and supply. The Board is now proposing amendments to its Codes that will facilitate the connection of embedded generation facilities to distribution systems and address related settlement issues.

The proposed amendments will help ensure that the Board's regulatory instruments do not act as a barrier to investment in new generation capacity or the development of renewable energy, and that they promote enhanced connectivity to the electricity grid. The proposed amendments also clarify the roles and responsibilities of distributors and customers in relation to embedded generation facilities.

The proposed amendments will support the implementation of the Standard Offer Program (the "SOP") that is described in the *Joint Report to the Minister of Energy: Recommendations on a Standard Offer Program for Small Generators Connected to a Distribution System* (March 17, 2006) (the "Report") prepared by the Board and the Ontario Power Authority (the "OPA").

The Report contains recommendations that call for the Board to amend certain of its regulatory instruments in particular ways to address issues relating primarily to the connection of embedded generation facilities. Since issuance of the Report, the Board has worked closely with the OPA and stakeholders on implementation issues. As a result of that work, the Board has refined its approach to certain of the recommendations. Where this is the case, it is noted below as part of the discussion of the applicable proposed Code amendment.

In the Report, it was indicated that the Board would review the technical requirements in the DSC against changes in standards since 2003. The Board is not proposing changes to the technical requirements in the DSC at this time because technical standards are currently being updated by other agencies. The Board will update the technical requirements in the DSC once the other bodies complete their work.

Implementation of other recommendations set out in the Report has already been completed (for example, reductions in licence application and registration fees for smaller generators) or is continuing in parallel with these Code amendments (for example, simplification of the generation licence application form and amendments to the Board's Reporting and Record-Keeping Requirements).

Summary of the Proposed Amendments

A. The DSC

The following is a summary of some of the more significant proposed amendments to the DSC. The text of all of the proposed amendments to the DSC is set out in Attachment A to this Notice.

Definitions (sections 1.2 and 1.9)

The Board is proposing to revise the definition of “embedded generation facility” to clarify that it includes a generation facility that is used for load displacement purposes. Among other things, this is necessary to accommodate the expansion of the Standard Offer Program to cover “behind-the-meter” generation facilities. The revised definition of “micro-embedded generation facility” is to the same effect.

The Board is also proposing to:

- introduce a new definition of “embedded retail generator” to extend the existing RSC definition to include generators (including those that own load displacement facilities) that sell their output to the OPA; and
- amend the definition of “large embedded generation facility” and “mid-sized generation facility” to ensure that generators that are eligible for the Standard Offer Program are all classified as mid-sized or below and therefore benefit from a more expedited connection process.

Metering (section 5.2)

Section 5.2 of the DSC specifies the metering requirements for generation facilities and currently requires that embedded generation facilities have four-quadrant interval meters. In the Report, the Board did not recommend deviating from this requirement.

Since issuance of the Report, it has become clear that a four-quadrant interval meter may not be required for all embedded generation facilities. Accordingly, the Board is now proposing that, for embedded generation facilities that have a gross name-plate capacity of 10 MW or less, the metering requirements be determined with regard to the fuel type and technology of the facility, and to what is reasonably required for settlement purposes.

Queuing (sections 6.4.9.1 and 6.4.9.2)

In the Report, the Board recommended that a first-come/first-served queuing mechanism be established for the processing of connection applications, and that an application be removed from the queue if a connection agreement is not signed within 12 months of the date of the distributor's offer to connect.

During consultations on the Standard Offer Program, it became apparent that the 12-month period following the issuance of an offer to connect would not be sufficient in many cases. The Board has therefore refined its approach and is now proposing a first-come/first-served queuing process with the following attributes:

- an application to connect will be placed in the queue once the connection impact assessment has been completed;
- the applicant will have 12 months from the time its application is placed in the queue to sign a connection cost agreement;
- if the applicant does not sign a connection cost agreement within those 12 months, the application will be removed from the queue;
- the distributor will be required to give the applicant two months' notice prior to removing an application from the queue for failure to sign a connection cost agreement within the time allowed; and
- any material revisions to a connection impact assessment will result in the loss of queue position.

The queuing mechanism would not apply to micro-embedded generation facilities or embedded generation facilities that are used only for load displacement purposes.

Standard Form Connection Agreements (Appendix E)

Appendix E to the DSC currently has a standard form of connection agreement for micro-embedded generation facilities. The Board is proposing to amend this agreement

to allow the generator to be paid for the output of the generation facility if it has a contract with the OPA or is delivering electricity directly to a distributor.

In the Report, the Board recommended that standard form connection agreements be developed for small and mid-sized embedded generation facilities. While the Board considered having separate agreements for different sizes of generation facility, the Board believes that the rights and obligations of a small embedded generation facility are sufficiently similar to those of a mid-sized embedded generation facility that the same agreement is appropriate for both.

The Board is therefore proposing to amend the DSC to add a single standard form connection agreement applicable to small and mid-sized embedded generation facilities. The agreement is designed to be as simple as possible while ensuring that the key interests of distributors and generators are adequately protected in an appropriate manner. As contemplated in the Report, the standard form connection agreement contains a dispute resolution process in the form of binding arbitration.

Information Disclosure by Distributors (sections 6.2.3, 6.2.9.1 to 6.2.9.4 and various provisions of Appendix F)

Connections to a distribution system will be facilitated if more information is made available by distributors. To that end, the Board is proposing the following:

- distributors must provide a contact person and associated contact information for all inquiries regarding the connection of embedded generation facilities. This information must be provided as part of the “information package” that distributors must provide to anyone who requests the package. The Report recommended that this information be made readily available, including by means of posting on a distributor’s website. The Board will not mandate that this information be placed on a distributor’s website as the Board understands that not all distributors have websites. The Board does expect, however, that any distributor that is capable of putting this information on its website will do so; and
- distributors must provide: (i) a schematic map showing major distribution and sub-transmission lines, transformer and distribution stations, voltages used on different parts of the system and geographic references; and (ii) information regarding voltage levels, fault levels, and minimum/maximum feeder loadings for up to three locations. This information must be provided free of charge within the 15 days in which a distributor must respond to a prospective connection applicant that has requested a meeting and provided the necessary information to the distributor. Information regarding voltage levels, fault levels, and minimum/maximum feeder loadings for additional locations must also be provided if requested, but a reasonable charge may be levied for this supplementary information. The need for this information to be made available was identified in the Report, although the timing of the provision of the information as proposed in the attached amendments to the DSC differs in some respects from the timing suggested in the Report.

B. The RSC

The Board is proposing amendments to the RSC to facilitate settlement of electricity purchases from embedded generators that have entered into a contract with the OPA under the Standard Offer Program.

In the Report, it was contemplated that the OPA would enter into agency agreements with distributors, and that distributors would settle with generators that have standard offer contracts as agents for the OPA. During consultations on implementation of the Standard Offer Program, the electricity distributor working group determined that it would be simpler and less costly for distributors to settle with standard offer generators using existing settlement systems and processes.

The provisions of the RSC are currently designed to require settlement with embedded generators only at the Hourly Ontario Energy Price or “HOEP”. The Board is therefore proposing to amend the RSC to require all distributors to settle with an embedded standard offer generator in accordance with the terms of the generator’s contract with the OPA. The Board has also made provision for the development of settlement rules to clarify a distributor’s settlement obligations in relation to standard offer contracts. The Board will, in the near future, issue draft settlement rules for comment by interested parties. Among other things, the Board will wish to ensure that embedded standard offer generators are fairly paid for their output.

The Board is also proposing to amend the definition of “embedded retail generator” in the RSC to match the definition that is proposed to be added to the DSC, as described above.

The text of all of the proposed amendments to the RSC is set out in Attachment B to this Notice.

Anticipated Costs and Benefits of the Proposed Amendments

The Board anticipates that parties will benefit from the proposed amendments as they will facilitate the connection of embedded generation facilities to distribution systems. The proposed amendments will simplify the connection process for small and mid-sized embedded generation facilities (10 MW or less) by providing a standard form connection agreement, as well as allowing for less onerous metering requirements for all but the large (more than 10 MW) projects.

A standard form connection agreement will expedite the connection process as both parties will know their respective rights and obligations, and will no longer need to engage in lengthy and potentially costly negotiations.

The less onerous metering requirements for embedded retail generators of 10 MW or less will remove a potential barrier to the connection of embedded generation facilities to a distribution system.

The introduction of a queuing process will ensure that all connection applicants are treated fairly and that applicants with more speculative projects are not able to tie up available capacity that could be used by other projects that are moving ahead.

The requirement that distributors settle standard offer contracts on behalf of the OPA is essential to the successful, timely and cost-effective implementation of the Standard Offer Program. While distributors may incur costs in undertaking this settlement activity, it is the Board's understanding that this settlement can be done using existing settlement systems and processes at little incremental cost. By contrast, other settlement options that were considered during consultations on the implementation of the Standard Offer Program were significantly more costly, either for distributors or the OPA or both.

It is anticipated that distributors will incur costs in making certain information available to prospective embedded generators, as well as in establishing, maintaining and monitoring the queuing process. However, the Board believes that the overall benefits to the public in relation to increased energy supply from renewable resources will outweigh any costs that might be borne or incurred.

Coming Into Force

The Board proposes that the amendments to the DSC and the RSC described above and set out more fully in Attachment A and Attachment B to this Notice will come into force on the date that the final amendments are published on the Board's website.

Invitation to Comment

All interested parties are invited to make written submissions on the Board's proposed amendments to the DSC and the RSC. Any person who wishes to make a written submission with respect to the proposed amendments must file eight (8) paper copies of the submission, and electronic copies in Adobe Acrobat (PDF) and Word, if possible, with the Board Secretary by **4:30 p.m. on October 11, 2006**. Your submission must quote file number **EB-2006-0226** and include your name, address, telephone number and, where available, your e-mail address and fax number.

Written submissions should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board
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Electronic copies may be submitted on diskette or by e-mail to boardsec@oeb.gov.on.ca.

This Notice, including the attached proposed amendments to the DSC and the RSC, and all written submissions received by the Board in response to this Notice, will be available for public viewing on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

If you have any questions regarding the proposed amendments described in this Notice, please contact Beverley Jaffray at 416-440-8101. The Board's toll free number is 1-888-632-6273.

E-mail inquiries should be directed to Beverley.Jaffray@oeb.gov.on.ca.

DATED at Toronto, September 26, 2006.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Attachments:

Attachment A: Proposed Amendments to the Distribution System Code
Annex 1: Form of Connection Agreement for a Small
Embedded Generation Facility or a Mid-sized
Embedded Generation Facility
Attachment B: Proposed Amendments to the Retail Settlement Code