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BY EMAIL ONLY

October 11, 2006

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

**Re: Determination Under Sections 1.8 and 3.2 of the Retail Settlement Code
Clarification of Settlement Rules for Embedded Retail Generators
Board File No. EB-2006-0226**

The Ontario Energy Board (the "Board") released a Notice of Proposal to Amend a Code on September 26, 2006 (the "Proposed Amendments"). As part of the Proposed Amendments, the Board stated that it would issue draft settlement rules for comment in relation to how distributors should settle embedded retail generators that have standard offer contracts. The proposed amendment to section 3.2 of the Retail Settlement Code (the "RSC") included a provision that stated that:

Notwithstanding any other provision of this Code, where an embedded retail generator has a contract with the Ontario Power Authority under which the Ontario Power Authority is purchasing output from the embedded generation facility, a distributor shall settle all applicable payments or charges associated with the contract, and shall do so in accordance with the pricing provisions of the contract and with such rules as may be determined by the Board.

The Board is now issuing for comment its rules referred to in the Proposed Amendments and the above proposed RSC amendment. While the Board may, under section 1.8 of the RSC, determine any matter under the RSC without a hearing at the Board's discretion, the Board has decided to provide interested parties with an

opportunity to comment on the Board's proposed determination. The proposed determination is being made in order to provide a clarification of the settlement rules for embedded retail generators that enter into contracts with the Ontario Power Authority (the "OPA").

The attachment to this letter sets out a proposed determination that is intended to clarify matters with respect to payments to embedded retail generators with an OPA contract that are indirectly connected to distributor's distribution system. Indirectly connected embedded retail generators are generation facilities that are connected on the customer side of a connection point to the distribution system (i.e., they are "behind-the-meter" generators).

The OPA issued its Renewable Energy Standard Offer Program Draft Program Rules (the "Draft Rules") in early September, 2006. The OPA provided interested parties with an opportunity to comment on the Draft Rules. Some provisions of the Draft Rules have implications for the settlement of accounts between distributors and embedded retail generators. In particular, section 6.2 of the Draft Rules stated that:

Regardless of the agreed upon metering configuration, a Load Customer will have its standard LDC load bill calculated in the normal manner without regard to the Electricity output of the Contract Facility. Even where a Contract Facility has its meter configured in a manner which reduces the metered amount of a Load Customer's energy consumption because of the Electricity output of the Contract Facility, the LDC will bill the Load Customer for the actual Electricity consumption prior to such reduction.

In its Report of the Board for the 2006 Electricity Distribution Rate Handbook, the Board stated that it would investigate the issues related to distributed generation at a future date. The Board has since announced that it will investigate matters concerning distributed generation as part of its Fundamental Rate Design initiative. The Board does not believe that now is the time to change the way load customers are charged for their distribution service, even if the load customers have a generation facility connected behind their meter. The Board does not want to pre-empt the work of the Fundamental Rate Design initiative nor does it want to allow embedded retail generators to be treated differently than other distributed generators. Therefore, the Board has decided that the current provisions of the RSC in relation to load customers and the proposed amendments to the RSC contained in the Proposed Amendments are appropriate at this time. Retail embedded generators with an OPA contract will be paid in accordance

with the contract. Load customers (including load customers with a "behind-the-meter" generator) will be charged by distributors for the electricity that the load customer consumes (as set out on the load customer's meter).

It is possible that there may be billing periods in which the electricity produced by the generation facility exceeds the electricity used by the associated load. The attached clarification is to ensure that in the situation described above, the distributor does not make any payments or provide any credits to the load customer. This clarification does not effect the settlement of payments to the generator under the contract with the OPA.

The actual terms of the settlement payments between the OPA and the generator with a standard offer contract remain matters for the OPA to determine in its contract with the generator. The Board understands that the OPA's final rules and the standard offer contract will be consistent with the settlement terms of generators specified in the RSC and the changes to section 3.2 of the RSC contained in the Proposed Amendments. The Board further understands that the OPA may be introducing some terms into the standard offer contracts to ensure that embedded standard offer generators that are connected behind a customer's connection point to the distribution system are paid appropriately for their output.

All interested parties are invited to provide written comments on the Board's proposed determination. Any person who wishes to provide a written comment with respect to the proposed determination 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 18, 2006**. Your comment 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 comments should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
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Electronic copies may be submitted on diskette or by e-mail to boardsec@oeb.gov.on.ca.

This letter, including the attached proposed determination, and all written comments received by the Board, 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.

Any questions relating to the proposed determination should be directed to Russ Houldin at 416-440-8112 or by email to russ.houldin@oeb.gov.on.ca. The Board's toll-free number is 1-888-632-6273.

Yours truly,

Original Signed By

Peter H. O'Dell
Assistant Board Secretary

Attachment - Proposed Determination Relating to Section 3.2 of the Retail Settlement Code

Attachment

Proposed Determination Relating to Section 3.2 of the Retail Settlement Code: Clarification of Rules for Embedded Retail Generators with an OPA Contract that are Indirectly Connected to a Distribution System

The Ontario Energy Board (the “Board”) has made this determination under sections 1.8 and 3.2 of the Retail Settlement Code (the “RSC”).

Definitions

“billing period” means the customary or usual period of time for which a distributor bills a load customer for the consumption of electricity provided by the distributor;

“embedded retail generator” has the same meaning as in the RSC;

“indirectly connected generator” means a generation facility that is connected on the customer side of a connection point to the distribution system whose owner has a contract with the OPA;

“load customer” means a person that consumes electricity provided by a distributor; and

“OPA” means the Ontario Power Authority.

Clarification Regarding Section 3.2 of the RSC

The following provision applies to any load customer that has an indirectly connected generator attached to it:

If in a billing period the recorded meter amounts for a load customer results in a negative payment by the load customer to the distributor (or equivalently, a credit to the load customer), the distributor shall treat the negative amounts as zero. The distributor shall not make any payment or provide any credit to the load customer. For greater clarity, this applies to any type of meter and any recorded quantity.