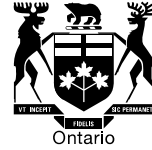


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NOTICE OF ISSUANCE OF A CODE
REVISED TRANSMISSION SYSTEM CODE
BOARD FILE NO.: RP-2004-0220

TO: All Participants in Proceeding RP-2004-0220
All Licensed Transmitters
All Licensed Distributors
All Licensed Generators
All Licensed Wholesalers
Electricity Distributors Association (EDA)
Association of Major Power Consumers in Ontario (AMPCO)
Association of Power Producers of Ontario (APPrO)
Independent Electricity System Operator (IESO)
Consumers' Association of Canada (CAC)
Vulnerable Energy Consumers Coalition (VECC)

The Ontario Energy Board (the "Board") has adopted a revised Transmission System Code (the "Revised Code") as indicated below, pursuant to section 70.2 of the *Ontario Energy Board Act, 1998*.

Background

By Notice of Proposal to Issue a Code dated December 17, 2004, the Board proposed to issue the Revised Code. Relative to the original version of the Transmission System Code issued by the Board on July 14, 2000 (the "July 2000 Code"), the Revised Code incorporates changes that were designed principally to implement the Board's June 8, 2004 decision in proceeding RP-2002-0120 (a proceeding initiated by the Board to conduct a broad-based review of the July 2000 Code). The Revised Code also incorporates changes designed to clarify and, in some cases, modify the rights and obligations of transmitters and transmission customers alike.

By Notice of Amended Proposal to Issue a Code dated June 2, 2005, the Board proposed amendments to the Revised Code. The Board received twelve submissions on the amended proposal. The Board has considered the submissions received from all parties on this matter and has determined that no material changes need to be made to the Revised Code as proposed on June 2, 2005. The Board has, however, made a number of non-material changes to the Revised Code relative to the version that was proposed on June 2, 2005.

Overview of Amendments to the Revised Code

The following is a summary of certain of the changes made by the Board to the Revised Code relative to the version that was proposed on June 2, 2005. All of the changes to the Revised Code relative to Board's amended proposal of June 2, 2005 are included in the comparison version of the Revised Code that is attached to this Notice of Issuance of a Code. A clean copy of the Revised Code, as adopted by the Board, is also attached to this Notice of Issuance of a Code.

1. *Application of Revised Code to Existing Customers: Sections 3.0.6 to 3.0.11 of the Revised Code*

A number of the submissions received on the Board's June 2, 2005 amended proposal included concerns or comments regarding sections 3.0.6 to 3.0.9 of the Revised Code. In response to those submissions, the Board has amended those sections to provide additional clarity and eliminate duplication.

The Board is aware that there are outstanding disputes between Hydro One Networks Inc. and certain of its transmission customers that arose under the July 2000 Code. These disputes relate to various issues, including by-pass and cost allocation. In some cases, agreements have been entered into "under protest" or have included provisions that provide for amendments to be made to the agreements in the event that the agreements are inconsistent with the Revised Code. The agreements in question may be connection agreements, or they may be "connection and cost recovery agreements". The Board is also aware that certain transmission customers have been awaiting completion of this proceeding prior to taking further action in relation to their disputes.

The primary intention of sections 3.0.7 to 3.0.11 of the Revised Code is to ensure that all transmitters and transmission customers are subject to the same set of rules on a going forward basis (section 3.0.7), while preserving elements of existing agreements that were freely negotiated between the parties and that are not contrary to or inconsistent with the Revised Code (section 3.0.8) and existing economic evaluations that are not in dispute (section 3.0.9). Section 3.0.8 is intended to address the situation where a transmitter has made special arrangements with a transmission customer to address customer-specific needs,

and to clarify that the transmitter is not released from those commitments on the grounds that the Revised Code, including the form of connection agreement set out in Appendix 1, do not contemplate those arrangements. Section 3.0.8 would also apply where the commitment in question was made by a transmission customer to a transmitter. While section 3.0.7 does address the issue of connection agreements going forward, section 3.0.6 is necessary in light of the fact that some of the provisions that are not intended by the Board to survive the transition to the Revised Code are contained in contractual documents other than connection agreements (notably, “connection and cost recovery agreements”).

The Board is not in a position to address, through the Revised Code, the variety of disputes that may currently be outstanding. While the Board is aware of the existence of certain disputes, it may not be aware of all of them. Nor does the Board have comprehensive information regarding the details of each dispute, including the terms of any agreement that may have been entered into or whether the agreement was entered into “under protest”. The Board wishes to clarify, however, that nothing in the Revised Code is intended to prejudice any transmitter or transmission customer in seeking the resolution of an outstanding dispute, nor to predetermine the outcome of that dispute. This is the intention of section 3.0.10.

2. Available Fault Current Levels: Sections 6.1.2 and 6.4.4 of the Revised Code and Sections 24.1 and 24.3 of Appendix 1

The submissions received on the Board’s June 2, 2005 amended proposal indicated that there was not sufficient clarity in respect of the manner in which increases in available fault current levels should be addressed by transmitters and transmission customers. The Board has therefore made amendments to these sections to clarify that:

- (a) when faced with an increase in the available fault current level, a transmission customer’s financial responsibility for upgrading its equipment to meet the increase is limited to upgrading equipment up to the maximum allowable fault level set out in Appendix 2 of the Code;
- (b) where new or modified facilities would result in an increase in the available fault current level that would exceed the maximum allowable level set out in Appendix 2 to the Revised Code, suitable financial arrangements must be made with any affected persons to mitigate the economic or financial impact of allowing the new available fault current level to exceed the maximum allowable level. Absent such arrangements, the new or modified facilities must be constructed in a manner that ensures that the new available fault current level does not exceed the maximum allowable level; and

- (c) the treatment of the available fault current level issue is not intended to detract from the overriding provisions in the Code regarding cost responsibility.

3. *Cost Responsibility for Incremental O&M Costs: Section 6.5.1 of the Revised Code*

The Board has amended section 6.5.1 to clarify that a transmitter may not include costs associated with incremental operating and maintenance costs as part of the economic evaluation in relation to the modification of transmitter-owned connection facilities to meet the needs of a generator customer. This is a position that was accepted by the Board in its June 8, 2004 Policy Decision in proceeding RP-2002-0120.

4. *Contestability: Section 6.6.2 of the Revised Code*

Section 6.6.2 has been revised to clarify that:

- (a) design work beyond that which is required to establish the transmitter's technical requirements and specifications in relation to a given connection project is contestable;
- (b) a transmitter bears the costs only of providing an initial estimate of the capital cost for contestable and uncontestable work based on the initial scope of the connection project; the transmission customer must pay the cost of additional design work needed to enhance the accuracy of the estimate to meet the customer's needs; and
- (c) while a transmitter need not warrant the accuracy of its estimates (but must nonetheless still indicate the degree of accuracy of its initial estimate), it is required to prepare all estimates in accordance with good utility practice and industry standards.

5. *Dispute Resolution: Sections 6.1.8 and 12.1.4(b) of the Revised Code*

Section 12.1.4(b) of the Revised Code describes those instances where the Board may ultimately resolve a dispute between the parties in respect of the negotiation of contractual arrangements under the Revised Code. The Board is of the view that the sole reference to the imposition of terms contrary to applicable law or regulatory requirements is too narrow. The Board has therefore expanded the scope of section 12.1.4(b) to cover circumstances where a party is refusing to include a provision that is required to give effect to the Code or the transmitter's connection procedures. For consistency, the same change has also

been made to section 6.1.8, which deals with disputes that may arise prior to the date on which the Board approves a transmitter's connection procedures.

Coming into Force

The Revised Code will come into force on the date on which it is published in the *Ontario Gazette*. As of that date, the Revised Code will replace the July 2000 Code.

The Board wishes to thank all participants in this proceeding for their significant efforts in assisting the Board in the development and refinement of the Revised Code.

The clean and comparison versions of the Revised Code will be available on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours. A brief Synopsis of the more significant changes to the July 2000 Code is also posted.

If you have any questions regarding the Revised Code, please contact Gordon Ryckman by phone at (416) 440-8109 or toll free at 1-888-632-6273, or by e-mail at gordon.ryckman@oeb.gov.on.ca.

DATED at Toronto, July 25, 2005.

ONTARIO ENERGY BOARD



John Zych
Board Secretary

Attachments:

Transmission System Code, July 25, 2005 (clean version)

Transmission System Code, July 25, 2005 (comparison version showing changes against June 2, 2005 version)

Synopsis of Changes to the Transmission System Code