



BY E-MAIL AND WEB POSTING

NOTICE OF PROPOSAL TO AMEND A CODE

PROPOSED AMENDMENTS TO THE TRANSMISSION SYSTEM CODE

BOARD FILE NO: EB-2008-0003

To: All Licensed Electricity Transmitters
All Participants in Consultation Process EB-2008-0003
All Other Interested Parties

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 Transmission System Code (the "Code").

I. Background

A. Government Policy Context

The government has as one of its policy objectives to promote the development of generation facilities that use renewable resources. This objective is reflected in the following:

- directions issued by the Minister of Energy to the Ontario Power Authority (the "OPA") to procure renewable energy supply (for example, the direction issued on August 27, 2007 to procure 2,000 MW of renewable energy supply);
- the direction issued by the Minister of Energy to the OPA on June 13, 2006 (the "Supply Mix Directive") which includes, as one of the goals to be met by the Integrated Power System Plan (the "IPSP"), to increase Ontario's use of renewable energy for electricity generation; and
- the direction issued by the Minister of Energy and Infrastructure to the OPA on September 17, 2008 (the "2008 IPSP Directive") to revisit the IPSP with a view to establishing new targets in relation to, among others, the amount and diversity of

renewable energy sources in the supply mix, in a manner consistent with further enhancing the current emphasis in this area. The 2008 IPSP Directive also requires the OPA to revisit the IPSP with a view to improving transmission capacity in parts of the Province that is limiting the development of new renewable energy supply.

The proposal to amend the Code as set out in this Notice will promote the implementation of these objectives by facilitating the timely and economically efficient connection of renewable generation facilities in a manner that does not create undue risk for ratepayers.

B. Connection Cost Responsibility Under the Code

Cost responsibility associated with investments in transmission infrastructure is governed principally by the Code, and is also affected by the manner in which the different transmission cost pools (line connection, transformation connection and network) are defined.

Cost responsibility varies depending on whether the facility in question is a “connection facility” or a “network facility”. The Code defines a “connection facility” as a line connection facility or a transformation connection facility that connects a transmitter’s transmission system with the facilities of another person. “Network facilities” are defined as facilities, other than connection facilities, that form part of a transmission system that are shared by all users, comprised of network stations and the transmission lines connecting them.

The Board’s current cost responsibility policies in relation to connection facilities, as embodied in the Code, can be summarized in three points as follows:

- i. cost responsibility for customer-driven connection facilities should rest with the customer;
- ii. this is also the case where the connection facilities are triggered by the needs of more than one customer; and
- iii. there is an exception that applies where a connection facility was otherwise planned by the transmitter to meet load growth and maintain system reliability and integrity.

Under the Code, cost responsibility for network facilities that are required to accommodate a new or modified connection currently rests with the transmitter, unless the Board determines that exceptional circumstances require that cost allocation be dealt with differently.

C. The Transmission Connection Cost Responsibility Review

On January 4, 2008, the Board initiated a consultation process – the “Transmission Connection Cost Responsibility Review” or “TCCRR” – to examine the issue of cost responsibility associated with the connection of generation and load facilities to electricity transmission systems. As noted in the Board’s January 4, 2008 letter, the TCCRR consultation process was launched to assist the Board in determining whether its existing transmission connection cost responsibility policies facilitate the rational and optimal development of transmission infrastructure in a manner that reflects the evolving needs of the electricity sector and of the Province as a whole.

Examination of the Board’s connection cost responsibility policies was considered desirable for a variety of reasons, including the rapid expansion of generation facilities that will require numerous connections at the transmission level. Many of the generation facilities that are anticipated to come into service in the coming years are for generation facilities using renewable sources, many of which would operate intermittently and at a relatively low capacity factor and some of which are expected to be located relatively distant from existing transmission infrastructure. It was also noted that the question of cost responsibility for generation connections has arisen in the context of the OPA’s IPSP, and in particular in relation to so-called “enabler” transmission lines.¹

Over 50 participants registered to take part in the TCCRR consultation. A stakeholder meeting was held on February 14, 2008 at which Board staff and participants made presentations.

On July 8, 2008, a Board staff Discussion Paper entitled “Generation Connections: Transmission Connection Cost Responsibility Review” (the “Discussion Paper”) was released for comment. While the TCCRR consultation covers both generation and load connections, the Discussion Paper focused only on generation connections, noting that the concerns raised in relation to the two types of connections are different and are therefore better addressed separately. The Board’s July 8, 2008 letter accompanying the Discussion Paper confirmed that a discussion paper pertaining to load connections would be issued separately.

The Board received written comments on the Discussion Paper from a variety of stakeholders, including electricity transmitters, electricity distributors, generators, ratepayers, aboriginal groups, the OPA and the Independent Electricity System Operator (the “IESO”). The Discussion Paper and the written comments received on it are available from the Board’s website at www.oeb.gov.on.ca on the “Transmission Connection Cost Responsibility Review” webpage on the “OEB Key Initiatives” portion of the “Industry Relations” section of the website.

¹ The IPSP describes “enabler” lines as dedicated radial transmission lines designed to connect clusters of renewable generation facilities. The IPSP was filed with the Board on August 29, 2007 and is currently before the Board in proceeding EB-2007-0707. Hearings were recently adjourned pending the filing of a revised IPSP in accordance with the 2008 IPSP Directive.

D. The Discussion Paper

The Discussion Paper noted that while the TCCR consultation could potentially be broad in scope, it would be appropriate to focus attention on issues associated with “enabler” facilities. The Discussion Paper concluded that re-examination and modification of the Board’s connection cost responsibility policies appears to be warranted only in relation to the connection of clusters of renewable resources that are (a) identified in an approved IPSP and (b) expected to be exploited by multiple proponents.² This was reflected in the working definitions of the terms “enabler facility” and “renewable resource cluster” set out in the Discussion Paper.

The Discussion Paper contained a review, prepared by Board staff’s consultant Power Advisory LLC, of developments regarding the connection of renewable generation clusters in other jurisdictions; identified four options for consideration in terms of the treatment of enabler facilities in Ontario; evaluated each of the options in terms of the extent to which they promote economic efficiency, regulatory predictability and administrative efficiency; and described implementation issues and processes associated with each of the options.

The options identified in the Discussion Paper can be summarized as follows:

- i. The status quo, as currently reflected in the Code. Generators would remain responsible for building and paying for their own connection facilities, including enabler facilities (which the Discussion Paper noted would appear to fit the Code definition of a “connection facility”).
- ii. The “pooling” option. Under this option, enabler facilities would be developed, built, operated and owned by a licensed transmitter, and all costs associated with the enabler facilities would be included in the transmitter’s rate base and be recovered from transmission ratepayers. Generators would pay for their individual connections to an enabler facility.
- iii. The “hybrid” option. Under this option, enabler facilities would be developed, built, operated and owned by a licensed transmitter. The costs associated with the enabler facilities would be pooled temporarily. Each generator would make a pro-rata capital contribution towards the cost of an enabler facility as and when it became ready to connect, calculated as a share of the cost of the enabler facility equal to a generator’s capacity (defined as the generator’s nameplate capacity) as a share of the capacity of the enabler facility. Outstanding costs for any “unsubscribed” portions of an enabler facility would be included in the transmitter’s rate base and be recovered from transmission ratepayers.

² Ten such renewable resource clusters are identified in the IPSP. For three of these, the IPSP also describes the associated enabler lines.

- iv. The “shared” option. Under this option, enabler facilities would be developed, built, operated and owned by a licensed transmitter. However, unlike the “hybrid” option, generators that initially connect to the enabler facility would pay capital contributions representing the full cost of the enabler facility. Additional generators that subsequently connect to the enabler facility would also make a capital contribution, which would then be paid as a refund to the generators that connected earlier.

E. The Coordination Problem

The Discussion Paper points out that coordination among proponents within a renewable resource cluster will be difficult to achieve if left to the proponents themselves. To paraphrase and extend the Discussion Paper analysis: coordinated action would be required in advance of having secured the necessary agreements with the OPA for supply of the commodity if the transmission facilities are to be developed and built on a timely basis. This is because the lead times for transmission design, development, and construction are considerably longer than they are for generation investments. Multiple proponents who are otherwise unrelated would have to jointly carry out these activities as well as pursue all of the required regulatory approvals well in advance of having secured OPA supply contracts. This would present significant commercial uncertainties for the proponents as any of them that failed to gain an OPA supply contract would find their past investments in transmission development stranded.

On the other hand, if proponents obtained supply contracts before commencing transmission development, they would face significant transmission cost risk as their output price would be determined long before their transmission costs are known. While this risk might be mitigated by means of the OPA building greater flexibility into its supply contracts (for example by having a variable transmission cost component), the Board does not believe that this solution would be optimal as it would result in the transfer (and perhaps magnification) of the risk to the electricity customer.

All of the four options analyzed in the Discussion Paper provide an answer to this coordination problem. In the case of the status quo, the answer is implicit and depends on the operation of market forces to eliminate or limit the likelihood of there being multiple proponents in the first instance. The remaining options contemplate an explicit change in policy in order to resolve the problem.

II. Review of the Four Options

This section provides the Board’s views on the advantages and disadvantages of each of the options set out in the Discussion Paper. In considering the relative merits of the different options, the Board has been assisted by the Discussion Paper and by the comments made by stakeholders which are referred to at greater length in section III below.

A. The Status Quo Option

The Discussion Paper noted that the status quo option would bring about a strong market force acting to consolidate the ownership of generation resources within a cluster, as this would maximize the potential value of the cluster. As a result, coordination problems would be mitigated (if left with a small number of proponents) or eliminated (if left with only one proponent). When this market force operates successfully, the status quo would lead to efficient connections as the single (or small number of) proponent(s) would size the enabler facility taking the full potential of the resource into account. On that basis, the status quo would rank highly in terms of economic efficiency.

While the Board agrees that the status quo would, more often than under the other options, result in one or a small number of generation proponents who are taking account of the full scope of the resource, the Board notes that this depends on the strength of the ownership consolidation market force. It is not, in the Board's view, possible to predict how effective such a market force might be. In situations where consolidation does not occur, the coordination problem will remain and present a significant obstacle to the development and construction of enabler facilities. The Board also notes the Discussion Paper's comments about the potential for a consolidated proponent to exploit market power in connections by under-sizing the facility, and agrees that the exercise of such market power could lead to inefficient connections.

The Board agrees with the comments made in the Discussion Paper to the effect that the status quo would provide for the fewest number of regulatory proceedings and determinations of any of the options considered. Thus, it ranks highest in terms of regulatory predictability and administrative efficiency.

B. The Pooling Option

The pooling option, by designating a transmitter to take lead responsibility for the development and construction of an enabler facility, solves the coordination problems in a cluster with many proponents. By creating a rate-based asset for the transmitter, the Board believes that the pooling option also provides strong incentives for transmitters to actively respond to the opportunities to develop enabler facilities.

The Board notes that the pooling option will tend to reverse the ownership consolidation effects identified as an aspect of the status quo, as any renewable resource area represented by only one consolidated proponent might see an advantage in dis-integrating into multiple proponents in order to benefit from the pooled cost of connection. It is important to note, however, that this effect will only operate in the case where an area that otherwise could be recognized as a renewable resource cluster is represented by only one proponent.

The pooling option can also create an uneven "playing field" as between single

proponents and clusters represented by more than one proponent, and risks introducing inefficiency in the choice of which clusters to develop. Proponents in the latter clusters would not pay any transmission connection costs and would submit their bids into the OPA's procurement processes accordingly. Single proponents would have to cover their expected transmission connection costs in their OPA procurements bids and thus could appear uneconomic by comparison, even if the multiple proponent clusters have no inherent cost advantage.

Finally, and as the Discussion Paper points out, the pooling option will involve a greater number of regulatory proceedings and determinations than would be the case under the status quo. These additional regulatory steps are the transmitter designation process, the more involved leave-to-construct review (since costs are borne by ratepayers rather than generators), and the rates proceeding where transmitter cost recovery is determined.

C. The Hybrid Option

Like the pooling option, the hybrid option solves the coordination problem by designating a transmitter to take lead responsibility for the development and construction of enabler facilities.

The fact that some portion of an enabler facility's costs may remain in a transmitter's rate base for a significant period of time (if the facility is not fully subscribed over a short period of time) would leave transmitters with some (albeit less than in the pooling option) incentive to pursue enabler projects.

In contrast to the pooling option, the hybrid option maintains a level playing field for all generators. All generators, whether single or multiple proponents within a cluster, would be required to pay their share of the costs of connection, although single proponents would still be required to take lead responsibility for the transmission connection.

With respect to ownership consolidation incentives, the Discussion Paper points out that if the starting point is a single proponent there is little or no incentive under the hybrid option to deconsolidate into multiple proponents as doing so will not fundamentally change cost responsibility for an enabler facility. If the starting point is multiple proponents, there may be some incentives under the hybrid option to consolidate into a fewer number if this will achieve economies in access to capital for raising capital generally. The Board views this to be an advantage of the hybrid option.

A disadvantage of the hybrid option is that it requires an even greater number of regulatory steps than does the pooling option because it is necessary under the hybrid option to determine what each proponent's capital contribution will be. However, the Board believes that this disadvantage may be more apparent than real once a suitable methodology for determining capital contributions is embedded in the Code. Thus, the potential reduction in regulatory predictability and administrative efficiency that might

otherwise result from this extra regulatory step can be mitigated.

D. The Shared Option

As with the pooling and hybrid options, the shared option solves the coordination problem by assigning lead responsibility for the development and construction of enabler facilities to transmitters.

Under the shared option, however, transmitters would not have the rate-base incentive to actively pursue enabler facility development opportunities that they would under the pooling and (to a lesser extent) hybrid options.

The Board also notes that the shared option presents complexities that do not arise under any of the other options. Specifically, under the shared option, the first generator(s) ready to connect to an enabler facility is(are) expected to pay its full cost. Each later arriving generator would be expected to make a capital contribution for its pro-rata share of (depreciated) enabler costs and the earlier connecting generator(s) would be entitled to a refund accordingly. Because generators currently price their bids into the OPA's procurement processes taking transmission costs into account, the receipt of a capital contribution refund by the earlier connecting generator(s) could create a windfall. Recovering this windfall may require a renegotiation of the earlier connecting generator's contract, an exercise that could be complex and might have to be repeated with every new generation arrival.

III. The Board's Proposed Approach

A. Is the Status Quo the Optimal Option?

Based on comments received during the TCCRR consultation, including the written comments on the Discussion Paper, it would not appear that the Board's existing connection cost responsibility policies generally present an obstacle to the connection of generation facilities to transmission infrastructure. As noted in the Discussion Paper, significant generator connection activity has occurred under the existing policy framework, including the connection of renewable generation facilities.

Moreover, existing connections policies have been successful at connecting renewable generation even when located some distance from the grid. However, these cases have involved single proponent projects located in areas less remote than those proposed in the IPSP, and where the distance from the grid is less than in the IPSP-identified clusters.

The need for a coordinating mechanism is, in the Board's view, the principal issue to be resolved in order to better ensure the timely and efficient realization of the government's policy goals relating to the connection of renewable resources, as expressed in the Supply Mix Directive and the 2008 IPSP Directive. While the Board accepts that ownership consolidation forces can exist under the status quo such that coordination

issues are mitigated or eliminated, such market forces cannot in the Board's view be relied upon alone to ensure efficient outcomes.

The Board is therefore of the view that modifications to its policies are warranted in order to better suit the context of enabler facilities that are needed to connect clusters of renewable generation resources that are expected to be owned or controlled by multiple proponents. The Board is also of the view that existing cost responsibility policies remain appropriate where single proponents (whether of one generation facility or of several that are intended to connect to the same transmission connection facility) are involved and where coordination issues therefore do not arise.

B. Solving Coordination Problems

Experience in other jurisdictions has demonstrated that resolution of the challenges that arise in relation to the connection of renewable generation clusters is not simply a matter of determining who pays. It is also, and perhaps more importantly, a question of process and of an appropriate allocation of roles and responsibilities amongst industry and agency players.

In Ontario's case, the Board is of the view that transmitters must play a leading role in the design, development, and construction of enabler facilities for the connection of renewable resource clusters involving multiple proponents. This will ensure that a party with a high degree of expertise will take lead responsibility for the supply of enabler facilities.

C. Where Should Cost Responsibility Lie?

While the Board believes that transmitters should have lead responsibility for enabler facilities, it does not necessarily follow that transmission ratepayers should ultimately bear cost responsibility for these facilities.

The costs of transmission connection will vary across clusters, and making efficient choices over which clusters to develop first requires factoring in these costs. Under current OPA procurement practices this would be accomplished by their inclusion in the bids submitted by generation proponents. If these costs are pooled it is not clear how transmission costs will be adequately accounted for.

As a related point, the pooling of enabler facility costs for multiple proponent clusters would, as noted earlier, create a non-level playing field between these clusters and single proponent opportunities. This, and the point discussed immediately above, means that the pooling option could result in a failure to achieve economic efficiency in the development of renewable resource clusters.

Certain stakeholders commented that treating enabler facilities as network assets would promote integrated planning and more readily accommodate future load and generation connections than would be the case if the enabler facility were to be constructed to suit

the needs of committed generators. The Board recognizes that integrated planning benefits could, at least in theory, flow from the pooling option, although integrated planning opportunities would appear to be limited in the case of renewable generation clusters and associated enabler facilities located in remote areas. The Board is not, in any event, persuaded that the same benefits could not, if available, be achieved under either the hybrid or shared options. Those options, like the pooling option, contemplate that the transmission facilities will be owned and operated by the transmitter. The Board does not believe that it is necessary for the cost of the facilities to be permanently pooled and included in rate base in order for available integrated planning benefits to be achieved.

Another stakeholder commented that the pooling option is the one that would most likely result in a lower total cost of transmission because, among other things, a transmitter's regulated rate of return and cost of capital tend to be lower than a generator's rate of return or cost of capital. According to this stakeholder, the pooling option also carries transparency benefits through the Board's role in relation to rate regulation.

While the Board acknowledges that the apparent cost of a transmission facility might be lower if financed based on a transmitter's regulated rate of return and cost of capital, the Board notes that if the cost of an enabler facility is pooled and paid for by transmission ratepayers through rates rather than being the responsibility of the generator, there is a transfer of project risk from the generator to the ratepayer and transmitter. This risk transfer is not limited to project cost risk; it also includes operating risk and whether the proposed enabler facility will be used and useful. It is this transfer of risk that gives rise to the transmitter's apparent cost advantage.

By making generators responsible for their share of the connection costs, each of the hybrid and shared options maintain a more level playing field for all generators, regardless of size or of whether they are or are not part of a renewable resource cluster. They also allow for a more transparent comparison of the costs of all renewable resources, whether or not part of a cluster, in the OPA's contracting process.

The Board acknowledges the comments of stakeholders regarding the incentives for transmitters that arise from gaining a rate-based asset under the pooling option, and of the weaker incentives under the other options that lead to little or no additional rate base for transmitters. The Board agrees that the incentives may be strongest under the pooling option, but notes that the hybrid option does allow the costs to be included in rate base temporarily, and the un-depreciated capacity associated with any unsubscribed portion of the facility may remain in rate base indefinitely. The hybrid option therefore allows potentially significant additions to rate base while maintaining, in a proportionate sense, full generator cost responsibility. In addition, the process of designating a transmitter to develop an enabler facility can substitute for the more robust incentives that full rate basing might otherwise provide.

The Board therefore believes that maintaining generator cost responsibility is appropriate for all generation connections, including enabler facilities associated with

renewable resource clusters. Each of the hybrid and shared options retain generator cost responsibility.

D. Sharing vs. Hybrid

While the Board sees merit in each of these two options, the Board is concerned that the shared option carries with it incremental administrative complexity and uncertainty relative to the hybrid option.

Specifically, and as noted above, under the shared option potentially complex provisions would be required to determine the amount of the refund to be paid to generators that connected early as and when subsequent generators seek to connect to the enabler facility. The complexity is due in part to the fact that the earlier generators would have been compensated for their respective shares of the total connection costs through their OPA contracts. A number of implementation questions would arise. For example, would there be successive rounds of adjustments affecting all then-connected generators each time a new generator seeks to connect? Or would only the initial generators be affected by successive rounds of new connections? The former may give rise to complex settlement issues and increase the likelihood of disputes, and the latter may raise concerns over fairness.

The Board acknowledges that the shared option is administratively simpler than the hybrid option in one respect, which is that a rates proceeding may not be required under the shared option. However, the Board does not believe that this advantage outweighs the disadvantages of the complexities noted above. The Board notes that, as between the hybrid and shared options, the former was the subject of greater stakeholder support than was the latter. The Board also notes that the hybrid option provides greater certainty with respect to the recovery of development costs in the event that an enabler facility project is abandoned. This is because under the hybrid option these costs are at least initially recovered from transmission ratepayers. In the shared option there is provision only for recovery from generators.

The Board therefore believes that the hybrid option holds the greatest promise in terms of economic efficiency, regulatory predictability and administrative efficiency, and is accordingly the preferred approach. It is important to note that the hybrid option functions exactly as does the pooling option up until the point at which generators are ready to connect. At this point the generator cost responsibility provisions become operative. The similarity of the two options up to this point underscores the lead role that transmitters play in the hybrid option despite its provisions for generator cost responsibility.

E. Extending Hybrid Option Outside the IPSP

Inherent in all of the options identified in the Discussion Paper, other than the status quo, was that they should apply only to enabler facilities that are identified as such in an approved IPSP.

A number of stakeholders commented that implementation of the options should not be limited to enabler facilities that are part of an approved IPSP. In some cases, the comments reflected the view that the Board's approach should accommodate enabler facilities that are identified in the three-year period between IPSPs. In others, it reflected the view that the IPSP describes possible projects at a high strategic planning level, but is not a prescriptive document designed to specifically identify which projects should go forward.

The IPSP is a centralized resource planning tool intended to assist in the achievement by the government of its goals relating to the adequacy and reliability of electricity supply, including supply from renewable energy sources (*Electricity Act, 1998*, section 25.30). The OPA has been directed to create an IPSP that, among other things, meets the goals set out in the Supply Mix Directive and the 2008 IPSP Directive relating to renewable energy and associated transmission facilities. The Board therefore believes that the IPSP must, once approved, be central to the identification of renewable resource clusters and therefore of the associated enabler facilities.

However, the Board also believes that there is merit in making provision for the development of enabler facilities to proceed prior to the approval of the first IPSP. The Board believes that such a provision is prudent given that a Board decision on the IPSP is now not expected for some time.

The Board recognizes that the government may, in the interim period, elect to direct the OPA to move forward with additional procurements aimed at securing renewable generation resources from particular renewable resources clusters. The Board is therefore proposing to extend the application of the hybrid option to enabler facilities that are associated with renewable resource clusters procured by the OPA pursuant to a direction issued to it by the Minister under section 25.32 of the *Electricity Act, 1998*. The hybrid option would apply in such cases provided that the Board determines, on the advice of the OPA, that a transmission solution (i.e., a connection facility) is required for purposes of connecting the generation facilities in the cluster. This determination could be made as part of the transmitter designation process described below. The Board believes that the OPA's advice and involvement at this stage is desirable, given the OPA's responsibilities in relation to integrated system planning.

IV. Implementation

As indicated in the Discussion Paper, implementation of the hybrid option will involve a number of steps or processes.

The first implementation process is to amend the Code such that it can accommodate the hybrid option for enabler facilities associated with renewable resource clusters. Beyond that, at least three other implementation steps or processes will be required: (i) a process for designating a transmitter to develop and construct an enabler facility; (ii) a leave to construct process in relation to the enabler facility; and (iii) a rates process to

deal with the costs of the enabler facility, whether temporarily or more permanently (for any unsubscribed portion of the enabler facility or in the event that the project is abandoned).

The transmitter designation process associated with the hybrid option would be a new element in the Board's regulatory framework and warrants additional explanatory comment. The process would initially involve a hearing to amend the licence of each currently-licensed transmitter to require the transmitter to implement, as and in the manner directed by the Board, transmission requirements that are either identified in an approved IPSP or associated with a direction given by the Minister to the OPA under section 25.32 of the *Electricity Act, 1998*. Section 70(2) of the Act contains an illustrative list of licence conditions that may be imposed by the Board. Included in that list are conditions relating to the expansion or reinforcement of transmission systems "in accordance with the market rules and in such manner as the IESO or the Board may direct" (section 70(2)(j)) and to "implementation of transmission requirements identified" in an approved IPSP (section 70(2)(l)). The Board recognizes that section 70(2) of the Act does not expressly make reference to a condition relating to the implementation of transmission requirements associated with a direction given by the Minister to the OPA under section 25.32 of the *Electricity Act, 1998*. However, the Board is of the view that such a condition clearly falls within the ambit of its broad licensing powers as set out in section 70(1) of the Act.

Under the new condition of licence the Board would subsequently, for each enabler facility, conduct a proceeding to designate a transmitter as the entity that will develop (and ultimately construct) the enabler facility and to direct the designated transmitter to take the necessary steps to do so. The proceeding could be initiated on application by a licensed transmitter or on the Board's own motion, and would provide a forum in which alternative or competing proposals from third parties having an interest in developing and constructing the enabler facility could be considered.

On a different issue, licensed transmitters are required by the Code to develop connection procedures and submit them to the Board for approval. The connection procedures must be consistent with the Code, and may be amended by the Board on its own motion or on application. The Board has already approved the connection procedures of two licensed transmitters and currently has a proceeding under way in which it is considering the connection procedures of two others. Upon completion of the notice and comment process associated with the proposed amendments to the Code that are the subject of this Notice, the Board will consider the implications for then-approved connection procedures and will advise interested parties accordingly.

V. Proposed Amendments to the Code

The Board is proposing amendments to the Code to implement the hybrid option described above and delineate the new cost responsibility rules proposed to be applicable for enabler facilities. A summary of the proposed amendments to the Code is set out below. The text of the proposed amendments is set out in Attachment A to

this Notice. For convenience, Attachment B contains a comparison version of sections of the Code that are the subject of the proposed amendments.

Implementation of the hybrid option requires three categories of amendments to the Code; namely, amendments that define an enabler facility; amendments that contemplate that a transmitter may be required to construct enabler facilities; and amendments that establish cost responsibility for enabler facilities.

A. Definitions

The Board is proposing to amend section 2 of the Code to include a new definition of “enabler facility” (section 2.0.28A) and an associated new definition of “renewable resource cluster” (section 2.0.57A). These proposed definitions are, with two exceptions, largely the same as the definitions proposed in the Discussion Paper.

The first exception is that, for the reasons noted in section III.E above, the Board is extending the concept of an enabler facility beyond facilities identified as such in the IPSP to also cover transmission facilities that the Board determines are required to connect renewable resource clusters that the OPA has been directed by the Minister of Energy and Infrastructure to procure.

The second exception is that enabler facilities are proposed to be defined as including both line connection facilities and transformation connection facilities. The Board believes that this will provide greater flexibility in the design of enabler facilities. In some cases, a shorter connecting line combined with transformation to allow connection to higher voltage transmission could be a better option than a longer line connecting to lower voltage transmission.

The Board is also proposing to amend the definition of “connection facility” (section 2.0.13) to clarify that an enabler facility is a connection facility, and not a network facility.

B. Contemplating Transmitter Construction of Enabler Facilities

As currently drafted, the Code contemplates that new connection facilities required to connect generation facilities will be provided by the generator customer. The Board is therefore proposing to amend the Code to also contemplate that enabler facilities will be provided by transmitters. Thus, the Board is proposing to amend sections 6.3.3 (allocation of responsibility for constructing connection facilities required by generators), 6.3.4 (capital contributions for connection facilities required by generators), 6.3.8 (capital contributions for connection facilities required by generators), 6.3.9 (capacity added at the time of construction to accommodate future connections) and 6.3.10 (security deposits) to expand their scope to include enabler facilities constructed by a transmitter. The Board is also proposing to clarify that the provisions of the Code regarding refunds of capital contributions triggered by future connections (section 6.2.24) and refunds of capital contributions triggered by the need to comply with

facilities standards or good utility practice at the time of construction (section 6.3.17) do not apply to enabler facilities.

C. Cost Responsibility

The Board is proposing to amend the Code to specify that each generator whose generation facility forms part of a renewable resource cluster associated with an enabler facility must pay its pro-rata share of the cost of the enabler facility (section 6.3.14A). The share is to be determined on the basis of the nameplate capacity of the generation facility as a percentage of the total capacity of the enabler line required to meet the needs of the renewable resource cluster.

The Board is also proposing to amend the Code to clarify that generator cost responsibility for an enabler facility is determined based on the fully allocated cost of the minimum design required to meet the capacity requirements of the associated renewable resource cluster (section 6.5.1A).

The Board recognizes the possibility that, when construction of an enabler facility is contemplated, a generator customer that is not part of the associated resource cluster may wish to have its capacity requirements included as part of the initial design of the enabler facility. The Board is proposing to amend the Code to clarify that such additional generator customer must bear its share of the cost of the enabler facility (section 6.3.8A).

VI. Anticipated Costs and Benefits

The Board believes that the proposed amendments to the Code will facilitate the timely and economically efficient connection of renewable resource clusters through the coordinated development and construction of enabler facilities by licensed transmitters. As such, the proposed amendments to the Code will facilitate implementation of the government's policy with respect to the development and connection of renewable resources and the achievement of the renewable energy targets that derive from that policy. At the same time, by maintaining generator responsibility for the cost of enabler facilities, the hybrid option that the Board is proposing to adopt will minimize the risk to ratepayers.

The Board expects that implementation of the proposed amendments will result in transmitters incurring development costs, capital investment costs and regulatory costs that they would not otherwise incur. However, those costs are expected to be largely recoverable over time from generators that connect to the enabler facility. The Board's regulatory processes, and notably the leave to construct and rate processes, are also expected to minimize the likelihood of ratepayers ultimately being at risk for the costs of the enabler facility.

VII. Coming Into Force

The Board is proposing that the proposed amendments come into force on the date on which they are published on the Board's website after having been made by the Board. This is reflected in the proposed amendment to section 13 of the Code.

VIII. Cost Awards

Cost awards will be available under section 30 of the Act to eligible persons in relation to the provision of comments on the proposed amendments to the Code set out in Attachment A, **to a maximum of 20 hours**. Costs awarded will be recovered from all licensed electricity transmitters, based on their respective transmission revenues.

Attachment C contains important information regarding cost awards for this notice and comment process, including in relation to eligibility requests and objections. In order to facilitate a timely decision on cost eligibility, the deadlines for filing cost eligibility requests and objections will be strictly enforced.

In its July 29, 2008 Decision on Cost Eligibility, the Board determined that a number of interested parties were eligible for costs in relation to the consultation on the Discussion Paper. **Those same interested parties will be considered eligible for costs in relation to this notice and comment process, and need not submit a further request for cost eligibility.**

IX. Invitation to Comment

All interested parties are invited to make written submissions on the Board's proposed amendments to the Code set out in Attachment A by **December 1, 2008**.

Three (3) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto, Ontario
M4P 1E4

The Board requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at www.errr.oeb.gov.on.ca. A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at www.oeb.gov.on.ca, and fill out a user ID password request. Additionally, interested

parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled “RESS Document Preparation – A Quick Guide” also found on the “e-filing services” webpage. If the Board’s web portal is not available, electronic copies of filings may be filed by e-mail at boardsec@oeb.gov.on.ca.

Those that do not have internet access should provide a CD or diskette containing their filing in PDF format.

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2008-0003** and include your name, address, telephone number and, where available, your e-mail address and fax number.

This Notice, including the attached proposed amendments to the Code, and all written submissions received by the Board in response to this Notice, will be available for public viewing on the Board’s web site 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 David Brown at 416-440-8123. The Board’s toll free number is 1-888-632-6273.

DATED at Toronto, October 29, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Attachments: Attachment A: Proposed Amendments to the Transmission System Code
 Attachment B: Comparison Version of Proposed Amendments to the Transmission System Code (for information purposes only)
 Attachment C: Cost Awards

Attachment A

Proposed Amendments to the Transmission System Code

Note: The text of the proposed amendments is set out in italics below, for ease of identification only.

1. Section 2.0.13 of the Transmission System Code is amended by adding the following to the end of that section immediately before the semi-colon:

, and includes an enabler facility

2. Section 2 of the Transmission System Code is amended by adding the following immediately after section 2.0.28:

2.0.28A *“enabler facility” means a line connection facility or a transformation connection facility to which two or more generation facilities that are included in a renewable resource cluster are connected or intend to connect to convey energy into a transmitter’s transmission system, where either (a) the connection facility is identified as an “enabler facility” and the associated renewable resource cluster is identified as such in an integrated power system plan that has been approved under Part II.2 of the Electricity Act; or (b) the associated renewable resource cluster is the subject of a direction issued by the Minister to the Ontario Power Authority under section 25.32 of the Electricity Act on or after [•] [insert date of coming into force of this amendment] and the Board, on the advice of the Ontario Power Authority, has determined that a connection facility is required.*

3. Section 2 of the Transmission System Code is amended by adding the following immediately after section 2.0.57:

2.0.57A *“renewable resource cluster” means a defined geographic area identified as such in an integrated power system plan approved under Part II.2 of the Electricity Act or in a direction issued by the Minister to the Ontario Power Authority under section 25.32 of the Electricity Act where resources suitable for renewable generation are present and where the renewable generation facilities are not, or are not expected to be, owned or controlled by the same person;*

4. Section 6.2.24 of the Transmission System Code is amended by adding the following immediately after the phrase “for the construction of a connection facility,” in the first sentence:

other than an enabler facility,

5. Section 6.3.3 of the Transmission System Code is amended by deleting the phrase “a generator customer’s needs,” in the first sentence and replacing it with the following:

the needs of one or more generation customers or is required to construct an enabler facility,

6. Section 6.3.4 of the Transmission System Code is deleted and replaced with the following:

Where a transmitter has to modify a transmitter-owned connection facility to meet the needs of one or more generator customers or is required to construct an enabler facility, the transmitter shall require each applicable generator customer to make a capital contribution to cover the cost of the modified connection facility or of the enabler facility, calculated in accordance with the economic evaluation methodology set out in section 6.5.

7. Section 6.3.8 of the Transmission System Code is deleted and replaced with the following:

A transmitter shall not require a customer to make a capital contribution for capacity added by the transmitter to a transmitter-owned connection facility in anticipation of future load growth not attributable to that customer or in anticipation of the future capacity requirements of other generator customers. For this purpose, where the transmitter-owned connection facility is an enabler facility, the capacity requirements of the associated renewable generation facilities in the associated renewable resource cluster at the time of construction shall not be considered as future capacity requirements.

8. Section 6.3 of the Transmission System Code is amended by adding the following immediately after section 6.3.8:

6.3.8A *Where a transmitter constructs an enabler facility, the transmitter shall not require a customer whose generation facility is part of the associated renewable resource cluster to make a capital contribution for capacity added by the transmitter to the enabler facility at the time of construction in response to a request for capacity by a customer whose facilities are not part of the associated renewable resource cluster. In such a case, the transmitter shall attribute to the additional customer the cost associated with the incremental capacity added to the enabler facility in accordance with section 6.3.9, net of the cost attributable to customers whose generation facilities are part of the associated renewable resource cluster.*

9. Section 6.3.9 of the Transmission System Code is amended by deleting the words “as described in section 6.3.14, 6.3.15 or 6.3.16” at the end of the second sentence and replacing it with the following:

as described in section 6.3.14, 6.3.14A, 6.3.15 or 6.3.16

10. Section 6.3.10 of the Transmission System Code is amended as follows:

- (i) by adding the following immediately after the phrase “as a result of a connection application from a customer,” in the first sentence:

or where the transmitter is required to construct an enabler facility,

- (ii) by adding the following immediately after the first sentence:

Where the connection facility is an enabler facility, the amount of the security deposit payable by a generator customer whose generation facility is part of the associated renewable resource cluster shall be determined taking into account the capacity requirements of the generation facility as a percentage of the total capacity of the enabler facility that is required to meet the needs of the associated renewable resource cluster.

11. Section 6.3 of the Transmission System Code is amended by adding the following immediately after section 6.3.14:

6.3.14A *Where a transmitter is required to construct an enabler facility, the transmitter shall attribute the cost of construction of the enabler facility to generator customers whose generation facilities are from time to time sited in the associated renewable resource cluster in proportion to the nameplate capacity of their respective generation facilities at the time of connection expressed as a percentage of the total capacity of the enabler facility that is required to meet the capacity requirements of the associated renewable resource cluster. For this purpose, the total capacity of the enabler facility shall be determined on the basis of its capacity at the time at which the enabler facility comes into service.*

12. Section 6.3.17 of the Transmission System Code is amended by adding the following immediately after the phrase “for the construction of a connection facility,” in the first sentence:

other than an enabler facility,

13. Section 6.5 of the Transmission System Code is amended by adding the following immediately after section 6.5.1:

6.5.1A *Where a transmitter constructs an enabler facility, the transmitter shall require the generator customers whose generation facilities are part of the associated renewable resource cluster to pay, in the aggregate, the fully allocated cost of the minimum design required to meet the needs of the renewable resource cluster. The transmitter shall include the capital cost of equipment installed on transmitter-owned connection facilities by the transmitter for monitoring the performance of the generation facilities and for verification testing of fault protection equipment associated with the generation facilities. If any generator customer elects to have verification testing costs included in the economic evaluation rather than paying such costs on an “as incurred” basis over time, the transmitter shall also include the present value of the estimated cost of doing periodic verification testing of its monitoring and testing equipment and, if necessary, of similar equipment owned by the generator customer. The transmitter shall include the present value of the operation and maintenance costs associated with an enabler facility.*

14. Section 13 of the Transmission System Code is amended by adding the following immediately after section 13.0.1:

13.0.2 *Except where expressly provided otherwise, any amendments to this Code shall come into force on the date on which the Board publishes the amendments by placing them on the Board’s website after they have been made by the Board.*

Attachment B

Comparison Version of Proposed Amendments to the Transmission System (for information purposes only)

2. DEFINITIONS

(...)

2.0.13 “connection facilities” means line connection facilities and transformation connection facilities that connect a transmitter’s transmission system with the facilities of another person, and includes an enabler facility;

(...)

2.0.28A “enabler facility” means a line connection facility or a transformation connection facility to which two or more generation facilities that are included in a renewable resource cluster are connected or intend to connect to convey energy into a transmitter’s transmission system, where either (a) the connection facility is identified as an “enabler facility” and the associated renewable resource cluster is identified as such in an integrated power system plan that has been approved under Part II.2 of the Electricity Act; or (b) the associated renewable resource cluster is the subject of a direction issued by the Minister to the Ontario Power Authority under section 25.32 of the Electricity Act on or after [•] [insert date of coming into force of this amendment] and the Board, on the advice of the Ontario Power Authority, has determined that a connection facility is required.

(...)

2.0.57A “renewable resource cluster” means a defined geographic area identified as such in an integrated power system plan approved under Part II.2 of the Electricity Act or in a direction issued by the Minister to the Ontario Power Authority under section 25.32 of the Electricity Act where resources suitable for renewable generation

are present and where the renewable generation facilities are not, or are not expected to be, owned or controlled by the same person;

(...)

6.2 AVAILABLE CAPACITY

(...)

6.2.24 Where a customer has made a capital contribution for the construction of a connection facility other than an enabler facility, and where that capital contribution includes the cost of capacity on the connection facility not needed by the customer, the transmitter shall provide a refund, calculated in accordance with section 6.2.25, to the customer if that capacity is assigned to another load customer within five years of the date on which the connection facility comes into service. Where such a refund is required under section 6.2.25, the transmitter shall require a financial contribution, calculated in accordance with section 6.2.25, from the subsequent customer.

(...)

6.3 Cost Responsibility for New and Modified Connections

6.3.1 Where a load customer elects to be served by transmitter-owned connection facilities, a transmitter shall require a capital contribution from the load customer to cover the cost of a connection facility required to meet the load customer's needs. A capital contribution may only be required to the extent that the cost of the connection facility is not recoverable in connection rate revenues. To that end, the transmitter shall include in the economic evaluation the relevant annual connection rate revenues over the applicable economic evaluation period that are derived from that part of the customer's new load that exceeds the total normal supply capacity of any connection facility already serving the customer and that will be served by the new connection facility. The transmitter shall calculate any capital contribution to be made by the load customer using the economic evaluation methodology set out in section 6.5.

6.3.2 Where a transmitter has to modify a transmitter-owned connection facility

to meet a load customer's needs, the transmitter shall require the load customer to make a capital contribution to cover the cost of the modification. A capital contribution may only be required to the extent that the cost of the modification to the connection facility is not recoverable in connection rate revenues. To that end, the transmitter shall include in the economic evaluation the relevant annual connection rate revenues over the applicable economic evaluation period that are derived from that part of the customer's new load that exceeds the total normal supply capacity of any connection facility already serving the customer and that will be served by the modified connection facility. The transmitter shall calculate any capital contribution to be made by the load customer using the economic evaluation methodology set out in section 6.5.

6.3.3 Except where a transmitter has to modify a transmitter-owned connection facility to meet ~~a generator customer's needs~~ the needs of one or more generation customers or is required to construct an enabler facility, the transmitter shall require a generator customer to provide its own dedicated connection facilities and any equipment for monitoring and testing that is required by the transmitter to be installed on the customer side of the connection with the transmitter's transmission system.

6.3.4 ~~Where a transmitter has to modify a transmitter-owned connection facility to meet a generator customer's needs, the transmitter shall require the generator customer to make a capital contribution to cover the cost of the modification, calculated in accordance with the economic evaluation methodology set out in section 6.5.~~ Where a transmitter has to modify a transmitter-owned connection facility to meet the needs of one or more generator customers or is required to construct an enabler facility, the transmitter shall require each applicable generator customer to make a capital contribution to cover the cost of the modified connection facility or of the enabler facility, calculated in accordance with the economic evaluation methodology set out in section 6.5.

6.3.5 A transmitter shall not require any customer to make a capital contribution for the construction of or modifications to the transmitter's network facilities that may be required to accommodate a new or modified connection. If exceptional circumstances exist so as to reasonably require a customer to make a capital contribution for network construction or

modifications, the transmitter or any other interested person may apply to the Board for direction. A transmitter:

- (a) shall notify the customer as soon as possible of the transmitter's intention to apply to the Board for direction under this section 6.3.5; and
- (b) shall not, without the prior written consent of the customer, refuse to commence or diligently pursue construction of or modifications to its network facilities pending direction from the Board under this section 6.3.5 provided that the customer has provided a security deposit to the transmitter in accordance with section 6.3.10. Where the customer requests that the transmitter not commence with construction pending direction from the Board, the transmitter shall promptly return to the customer any outstanding security deposit related to the construction.

6.3.6 A transmitter shall develop and maintain plans to meet load growth and maintain the reliability and integrity of its transmission system. The transmitter shall not require a customer to make a capital contribution for a connection facility that was otherwise planned by the transmitter, except for advancement costs.

6.3.7 A transmitter shall provide connection facilities that have a capacity sufficient to meet the needs of the applicable customer, subject to facilities standards and good utility practice.

6.3.8 ~~A transmitter shall not require a customer to make a capital contribution for capacity added to a connection facility in anticipation of future load growth not attributable to that customer.~~ A transmitter shall not require a customer to make a capital contribution for capacity added by the transmitter to a transmitter-owned connection facility in anticipation of future load growth not attributable to that customer or in anticipation of the future capacity requirements of other generator customers. For this purpose, where the transmitter-owned connection facility is an enabler facility, the capacity requirements of the associated renewable generation facilities in the associated renewable resource cluster at the time of construction shall not be considered as future capacity requirements.

6.3.8A Where a transmitter constructs an enabler facility, the transmitter shall not require a customer whose generation facility is part of the associated renewable resource cluster to make a capital contribution for capacity added by the transmitter to the enabler facility at the time of construction in response to a request for capacity by a customer whose facilities are not part of the associated renewable resource cluster. In such a case, the transmitter shall attribute to the additional customer the cost associated with the incremental capacity added to the enabler facility in accordance with section 6.3.9, net of the cost attributable to customers whose generation facilities are part of the associated renewable resource cluster.

6.3.9 Where a transmitter is, at the time at which it is constructing a connection facility for a customer, aware of another future customer that will need capacity within five years of the construction of the connection facility, the transmitter shall add that capacity to the connection facility at the time of construction, provided that it obtains a security deposit in a form referred to in section 6.3.11 from that future customer to cover the cost of that additional capacity. The amount of the capital contribution to be obtained from the current customer and the amount or value of the security deposit to be collected from the future customer shall be determined using the economic evaluation methodology set out in section 6.5, the load forecasts of both customers and the methodology for attributing that capital contribution as described in section 6.3.14, 6.3.14A, 6.3.15 or 6.3.16. At the time of connection of the future customer's facilities, the transmitter shall where required redo the original economic evaluation using the same inputs except for any revised load forecast provided by the

future customer. This will determine the amount of capital contribution to be collected from the future customer. Where the security deposit is in the form of cash, the transmitter shall return the security deposit to the future customer at the time of connection of its facilities to the connection facility, together with interest at the rate referred to in section 6.3.11, less the amount of the future customer's capital contribution. Where the security deposit is in a form other than cash, the transmitter shall return the security deposit to the future customer upon receipt of the customer's capital contribution.

6.3.10 Where a transmitter needs to construct new or modified network or connection facilities as a result of a connection application from a customer [or where the transmitter is required to construct an enabler facility](#), the transmitter may require a reasonable security deposit in a form referred to in section 6.3.11 from the customer, taking into account the size of the new load or generator output, as the case may be. [Where the connection facility is an enabler facility, the amount of the security deposit payable by a generator customer whose generation facility is part of the associated renewable resource cluster shall be determined taking into account the capacity requirements of the generation facility as a percentage of the total capacity of the enabler facility that is required to meet the needs of the associated renewable resource cluster.](#) Where the security deposit is in the form of cash, the transmitter shall return the security deposit to the customer, together with interest at the rate referred to in section 6.3.11, less the amount of any capital contribution owed by the customer, once the customer's facilities are connected to the transmitter's transmission facilities. Where the security deposit is in a form other than cash, the transmitter shall return the security deposit to the customer once the customer's facilities are connected to the transmitter's transmission facilities and any capital contribution has been paid.

6.3.11 A transmitter shall establish a security deposit procedure in its connection procedures referred to in section 6.1.4. The security deposit procedure shall include the following:

- (a) provisions that allow a customer to provide the security deposit in the form of cash, letter of credit or surety bond, as

may be selected by the customer, or such other form as the customer and the transmitter may agree;

- (b) provisions stipulating that any interest to be paid by the transmitter upon returning a security deposit that is in the form of cash shall be paid at the following rates:
 - i. for the period between the date on which the security deposit was provided by the customer and the date on which the security deposit is required to be returned by the transmitter, at the average over the period of the prime lending rate set by the Bank of Canada less two percent; and
 - ii. for the period after the date on which the security deposit is required to be returned by the transmitter, at the prime lending rate set by the Bank of Canada plus two percent; and
- (c) a description of the circumstances under which the transmitter may keep all or part of a security deposit. A transmitter shall be entitled to keep all or a part of a security deposit that has been given in relation to the construction or modification of connection or network facilities where the customer subsequently fails to connect its facilities to the transmitter's new or modified facilities. A transmitter shall not otherwise retain a security deposit given in relation to the construction or modification of network facilities unless the Board has first determined under section 6.3.5 that exceptional circumstances exist so as to reasonably require the customer to make a capital contribution for the construction or modification of network facilities.

6.3.12 For a single generator customer, a transmitter shall attribute to that generator customer the cost of any required modification to a transmitter-owned connection facility required to serve the rated peak output of the generation facilities.

6.3.13 For a single load customer, a transmitter shall attribute to that load customer the cost of any new transmitter-owned connection facility or any modification to such connection facility required to serve that part of the customer's new load that exceeds the total normal supply capacity of any connection facility already serving that customer, as reasonably projected by the load forecast provided by the load customer or by such modified load forecast as may be agreed by the load customer and the transmitter.

6.3.14 Where more than one generator customer triggers the need for a modification to a transmitter-owned connection facility, a transmitter shall attribute the cost of the modification to those generator customers:

- (a) in accordance with such methodology as may be agreed between the transmitter and all such generator customers; or
- (b) failing such agreement, in proportion to the rated peak output of their respective generation facilities and, in the case of line connection facilities, taking into account the relative length of line used by each generator customer.

6.3.14A Where a transmitter is required to construct an enabler facility, the transmitter shall attribute the cost of construction of the enabler facility to generator customers whose generation facilities are from time to time sited in the associated renewable resource cluster in proportion to the nameplate capacity of their respective generation facilities at the time of connection expressed as a percentage of the total capacity of the enabler facility that is required to meet the capacity requirements of the associated renewable resource cluster. For this purpose, the total capacity of the enabler facility shall be determined on the basis of its capacity at the time at which the enabler facility comes into service.

6.3.15 Where more than one load customer triggers the need for a new or modified transmitter-owned connection facility, a transmitter shall attribute the cost to those load customers:

- (a) in accordance with such methodology as may be agreed between the transmitter and all such load customers; or

- (b) failing such agreement, in proportion to their respective noncoincident incremental peak load requirements, as reasonably projected by the load forecasts provided by each such load customer or by such modified load forecast as may be agreed by such load customer and the transmitter and, in the case of line connection facilities, taking into account the relative length of line used by each load customer.

6.3.16 For a new or modified transmitter-owned connection facility that will serve a mix of load customers and generator customers, a transmitter shall attribute the cost of the new connection facility or modification to the customers that cause the net incremental coincident peak flow on the connection facility that triggered the need for the new or modified connection facility. If and to the extent that the net incremental coincident peak flow is triggered by one or more load customers, the transmitter shall attribute the cost to each of those triggering load customers in the manner set out in section 6.3.15. If and to the extent that the net incremental coincident peak flow was triggered by one or more generator customers, the transmitter shall attribute the cost to each of those triggering generator customers in the manner set out in section 6.3.14.

6.3.17 Where a customer has made a capital contribution for the construction of a connection facility other than an enabler facility, and where that capital contribution includes the cost of capacity on the connection facility in excess of the customer's needs in order to comply with facilities standards or good utility practice, the transmitter shall provide a refund, calculated in accordance with section 6.2.25, to the customer if that available capacity is assigned to another customer within five years of the date on which the connection facility comes into service. The transmitter shall require a financial contribution from the subsequent customer to cover the amount of that refund.

6.5 Economic Evaluation of New and Modified Connections

Generator customers

6.5.1 Where a transmitter modifies a transmitter-owned connection facility to

meet the needs of a generator customer, the transmitter shall require the generator customer to pay the fully allocated cost of the minimum design required to meet the customer's needs. The transmitter shall include the capital cost of equipment installed on transmitter-owned connection facilities by the transmitter for monitoring the performance of the generation facility and for verification testing of fault protection equipment associated with the generation facility. If the generator customer elects to have verification testing costs included in the economic evaluation rather than paying such costs on an "as incurred" basis over time, the transmitter shall also include the present value of the estimated cost of doing periodic verification testing of its monitoring and testing equipment and, if necessary, of similar equipment owned by the generator customer. The transmitter shall not include costs associated with incremental operation and maintenance.

6.5.1A Where a transmitter constructs an enabler facility, the transmitter shall require the generator customers whose generation facilities are part of the associated renewable resource cluster to pay, in the aggregate, the fully allocated cost of the minimum design required to meet the needs of the renewable resource cluster. The transmitter shall include the capital cost of equipment installed on transmitter-owned connection facilities by the transmitter for monitoring the performance of the generation facilities and for verification testing of fault protection equipment associated with the generation facilities. If any generator customer elects to have verification testing costs included in the economic evaluation rather than paying such costs on an "as incurred" basis over time, the transmitter shall also include the present value of the estimated cost of doing periodic verification testing of its monitoring and testing equipment and, if necessary, of similar equipment owned by the generator customer. The transmitter shall include the present value of the operation and maintenance costs associated with an enabler facility.

Load customers

(...)

13. COMING INTO FORCE

13.0.1 This Code shall be in effect as of the date on which it is published in the *Ontario Gazette*, and as of that date replaces the Transmission System Code issued by the Board on July 14, 2000.

13.0.2 Except where expressly provided otherwise, any amendments to this Code shall come into force on the date on which the Board publishes the amendments by placing them on the Board's website after they have been made by the Board.

Attachment C

Cost Awards

Cost Award Eligibility

The Board will determine eligibility for costs in accordance with its *Practice Direction on Cost Awards*. Any person intending to request an award of costs must file with the Board a written submission to that effect by **November 7, 2008**, identifying the nature of the person's interest in this process and the grounds on which the person believes that it is eligible for an award of costs (addressing the Board's cost eligibility criteria as set out in section 3 of the Board's *Practice Direction on Cost Awards*). An explanation of any other funding to which the person has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known. All requests for cost eligibility will be posted on the Board's website.

Licensed electricity transmitters will be provided with an opportunity to object to any of the requests for cost award eligibility. If an electricity transmitter has any objections to any of the requests for cost eligibility, such objections must be filed with the Board by **November 14, 2008**. Any objections will be posted on the Board's website. The Board will then make a final determination on the cost eligibility of the requesting parties.

Eligible Activities

Cost awards will be available in relation to the provision of comments on the proposed amendments to the Code set out in Attachment A, to a maximum of **20** hours.

Cost Awards

When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied. The Board expects that groups representing the same interests or class of persons will make every effort to communicate and co-ordinate their participation in this process. Interested parties are reminded that cost awards are made available on a per eligible participant basis, regardless of the number of professional advisors that an eligible participant may wish to retain.

The Board will use the process set out in section 12 of its *Practice Direction on Cost Awards* to implement the payment of the cost awards. Therefore, the Board will act as a clearing house for all payments of cost awards in this process. For more information on this process, please see the Board's *Practice Direction on Cost Awards* and the October 27, 2005 letter regarding the rationale for the Board acting as a clearing house for the cost award payments. These documents can be found on the Board's website at www.oeb.gov.on.ca on the "Rules, Guidelines and Forms" webpage.