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BY EMAIL AND WEB POSTING

February 20, 2015

NOTICE OF PROPOSAL TO AMEND A CODE

PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE

BOARD FILE NO.: EB-2015-0006

**To: All Licensed Electricity Distributors
All Participants in Consultation Process EB-2009-0095
All Other Interested Parties**

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

A. Background

The purpose of the proposed revisions to the DSC is to establish criteria to facilitate the elimination of the remaining load transfer arrangements between electricity distributors.

A load transfer arrangement involves two distributors. One is referred to as the geographic distributor and the other is referred to as the physical distributor. While the customer ("load transfer customer") is located in the licensed service area of the geographic distributor, the load transfer customer is physically connected to the physical distributor's distribution system because the geographic distributor does not have existing assets in close proximity to serve the load transfer customer. It is therefore the physical distributor that provides the delivery of electricity to the load transfer customer. However, the customer is billed by the geographic distributor (i.e., pays geographic distributor's

distribution rates which may be higher or lower than physical distributor's rates).

There are a number of undesirable outcomes associated with load transfer arrangements that the Board has previously identified (e.g., cross-subsidization). As such, the Board has sought to eliminate load transfer arrangements since the DSC was first issued. However, circumstances have resulted in the extension of the date for their elimination including the following:

- Government initiatives were introduced that were aimed at facilitating the voluntary consolidation of the electricity distribution sector (i.e., transfer tax exemption). Requiring distributors to continue with their plans to eliminate load transfers at that time had the potential to result in the inefficient use of both distributor and Board resources;
- The introduction of the *Green Energy Act, 2009* as a distributor's approach to its load transfer arrangements had the potential to evolve over time when the distributor engaged in accommodating renewable energy projects. For example, doing so may have required the geographic distributor to expand its system to an area where the load transfer customers reside; and
- To accommodate a policy review of service area amendments and load transfer arrangements that may have impacted the provisions of the DSC in relation to load transfers arrangements.

The approach taken by the Board to date to eliminate load transfer arrangements has relied on negotiations between the geographic distributor and the physical distributor, with annual status reports submitted to the Board. There has been progress over the years under that approach. However, that progress has fallen short of the Board's expectations as those annual status reports indicate that approximately 3,500 customers continue to be served under a load transfer arrangement. Given all the extensions discussed above, the Board's expectation was that they would all now be eliminated.

B. Proposed Amendments to the DSC

Attachment A to this Notice contains the proposed amendments to the DSC. The following is a summary of the proposed amendments.

As noted above, the Board is proposing to amend the DSC to set out the criteria under which all load transfer arrangements would be eliminated. The principles underlying those

criteria are minimizing rate impacts for the load transfer customers and avoiding unnecessary costs being imposed on consumers due to an uneconomic distribution system expansion by a geographic distributor for the sole purpose of connecting load transfer customers.

The Board is proposing to delete sections 6.5.3, 6.5.4, 6.5.4.1, 6.5.4.2, and 6.5.5 from the DSC and replace them with new sections 6.5.3, 6.5.4, 6.5.5, and 6.5.6.

Where the elimination of a load transfer arrangement would result in the load transfer customer receiving a *reduction* in distribution charges by transferring the load transfer customer to the physical distributor, the load transfer customer (i.e., the property associated with the load transfer customer) would need to be transferred to the existing physical distributor within six months of these amendments coming into force through a service area amendment licence application (proposed new section 6.5.3).

Where the transfer of a load transfer customer to the physical distributor would result in an *increase* in distribution charges, the load transfer customer would remain a customer of the geographic distributor until there is a change in ownership of the account (e.g., the current customer closes the account and a new customer opens a new account). Upon such a change in account, the property associated with the account would need to be transferred to the physical distributor; i.e., there would need to be a service area amendment to transfer the property and the new customer to the physical distributor (proposed new section 6.5.4).

As a consequence, under both scenarios discussed above, load transfer customers would become customers of the existing physical distributor since it is the most economic efficient approach to serve such electricity consumers. If it was not, there would be no reason for the load transfer arrangement to continue to exist.

In order to make the process as efficient as possible, the Board believes one distributor should be accountable for submitting the service area amendment licence application in relation to both of the proposed new sections discussed above. The Board is proposing that obligation be placed on the geographic distributor since it would have all the necessary information; particularly when there is a change in ownership of the account in relation to proposed new section 6.5.4. However, placing that obligation on the geographic distributor would not preclude a physical distributor from submitting an application if it wishes to expedite the elimination of the load transfer arrangement.

Physical distributors would be required to provide service to existing load transfer customers, under the load transfer arrangement, until such time as the load transfer customer is transferred to the physical distributor's service area (proposed new section 6.5.5).

Distributors would not be permitted to enter into any new load transfer arrangement (proposed new section 6.5.6).

Once the proposed DSC amendments are finalized, streamlined filing guidelines will be issued separately for service area amendment applications involving the elimination of load transfer arrangements.

C. Anticipated Costs and Benefits

The Board believes the proposed code amendments set out in this Notice will result in benefits that exceed any additional costs.

Under this proposed approach, load transfer customers will either pay lower distribution charges or the same distribution charges. In other words, load transfer customers will not experience an increase in their electricity bills due to the elimination of a load transfer arrangement. Based on information in the most recent annual status reports that were submitted to the Board, the outcome for the majority of load transfer customers would be a reduction in their electricity bill.

The proposed amendments will also eliminate the cross-subsidization that currently occurs due to load transfer arrangements and it will eliminate many load transfer arrangements that distributors have been unable to eliminate over the past 15 years.

In addition, less distributor and Board resources will be required for the following reasons: (1) there will no longer be a need for the geographic and physical distributors to negotiate an agreement; and (2) geographic distributors will no longer be required to prepare implementation plans and annual status reports related to the elimination of load transfers, and the Board will no longer need to review such documents.

The Board expects that these proposed DSC amendments will not result in any material increase in costs for distributors as there has been no change in policy intent – the elimination of load transfer arrangements.

D. Coming into Force

The Board proposes that the proposed DSC amendments, as set out in Attachment A, come into force on the date that the final DSC amendments are published on the Board's website after having been made by the Board.

E. 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 DSC amendments set out in this Notice. Cost awards will be available to a **maximum of 8 hours** per eligible participant, and will be recovered from all rate-regulated licensed electricity distributors.

Attachment B 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.

F. Invitation to Comment

All interested parties are invited to submit written comments on the proposed DSC amendments, as set out in Attachment A, by **March 6, 2015**.

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 <https://www.pes.ontarioenergyboard.ca/eservice/>. 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.ontarioenergyboard.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@ontarioenergyboard.ca.

Those that do not have internet access should provide a CD 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-2015-0006** and include your name, address, telephone number and, where available, your e-mail address and fax number.

If the written comment is from a private citizen (i.e., not a lawyer representing a client, not a consultant representing a client or organization, not an individual in an organization that represents the interests of consumers or other groups, and not an individual from a regulated entity), before making the written comment available for viewing at the Board's offices or placing the written comment on the Board's website, the Board will remove any personal (i.e., not business) contact information from the written comment (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the written comment will be available for viewing at the Board's offices and will be placed on the Board's website.

This Notice, including the proposed amendments to the DSC set out in Attachment A, and all written comments received by the Board in response to this Notice will be available for public viewing on the Board's web site at www.ontarioenergyboard.ca and at the office of the Board during normal business hours.

If you have any questions regarding the proposed DSC amendments described in this Notice, please contact Chris Cincar at Chris.Cincar@OntarioEnergyBoard.ca or at 416-440-7696. The Board's toll free number is 1-888-632-6273.

DATED at Toronto, February 20, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Attachments:

Attachment A — Proposed Amendments to the Distribution System Code
Attachment B — Cost Awards

Attachment A
to
Notice of Proposed Amendments to the
Distribution System Code

February 20, 2015

EB-2015-0006

Proposed Amendments to the Distribution System Code

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

1. Sections 6.5.3, 6.5.4, 6.5.4.1, 6.5.4.2, and 6.5.5 of the DSC are revoked and replaced with the following:

*6.5.3 Where the elimination of the load transfer arrangement, by transferring the load transfer customer(s) to the physical distributor, will result in the load transfer customer(s) paying lower distribution charges the load transfer customer(s) shall be transferred to the physical distributor by **[insert date of six months after coming into force of amendments]**. The geographic distributor shall apply to the Board for a service area amendment to the necessary licence(s) to effect the transfer.*

6.5.4 Where the elimination of the load transfer arrangement will result in the load transfer customer(s) paying higher distribution charges if the load transfer customer(s) are transferred from the geographic distributor to the physical distributor, the load transfer customer(s) shall remain a customer of the geographic distributor until such time as the customer account changes. Once a new customer account is opened, the load transfer arrangement must be eliminated by transferring the new customer to the physical distributor. The geographic distributor shall apply to the Board for a service area amendment to the necessary licence(s) to effect the transfer.

6.5.5 Until such time as the load transfer arrangement is eliminated under section 6.5.3 or 6.5.4, the physical distributor shall be obligated to continue to

service an existing load transfer customer.

6.5.6 A distributor shall not enter into any new load transfer arrangements.

Attachment B
to
Notice of Proposed Amendments to the
Distribution System Code

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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 **February 27, 2015**, 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 distributors will be provided with an opportunity to object to any of the requests for cost award eligibility. If an electricity distributor has any objections to any of the requests for cost eligibility, such objections must be filed with the Board by **March 6, 2015**. 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 participants.

Eligible Activities

Cost awards will be available in relation to the provision of comments on the proposed amendments to the DSC set out in Attachment A, to a **maximum of 8 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.ontarioenergyboard.ca on the "Rules, Codes, Guidelines & Forms" webpage.