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June 14, 2022

NOTICE OF AMENDMENTS TO CODES

AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE, ELECTRICITY RETAILER CODE OF CONDUCT AND RETAIL SETTLEMENT CODE TO FACILITATE CHANGES TO NET METERING

OEB FILE NUMBER: EB-2022-0152

**To: All Licensed Electricity Distributors
All Licensed Electricity Retailers
All Other Interested Parties**

The Ontario Energy Board (OEB) is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (OEB Act) of amendments to the Distribution System Code (DSC), Electricity Retailer Code of Conduct (ERCC), and Retail Settlement Code (RSC) (together, Codes).

The amendments will ensure that the Codes are consistent with, and facilitate the implementation of, legislative changes affecting net metering in Ontario that will come into force on July 1, 2022.

A. Background

On April 27, 2022, the OEB issued a [Notice of a Proposal to Amend a Code](#) (Notice of Proposal) in which it proposed amendments to the Codes. The Notice of Proposal was issued in response to amendments to [O. Reg. 541/05](#) (Net Metering), made under the OEB Act, and [O. Reg. 389/10](#) (General) made under the *Energy Consumer Protection Act, 2010* (ECPA) (respectively, the Net Metering Regulation and the ECPA

Regulation).¹ The Notice of Proposal explained how the amendments to the Net Metering Regulation enable third parties to engage in certain types of net metering arrangements with consumers if they meet the criteria specified in the regulation. The Notice of Proposal further described how the amendments to the ECPA Regulation are intended to protect low-volume consumers who enter into a retail contract, such as a power purchase agreement, with an eligible third party generator from unfair business practices, and to enable those consumers to have information on which to make an informed decision.

The OEB invited comments on the Notice of Proposal from interested parties. The Canadian Renewable Energy Association (CanREA) and the Electricity Distributors Association (EDA) submitted written comments, which are available on the OEB's [Net Metering Consultation](#) webpage. A summary of their comments has been included in the discussion below.

The OEB reviewed and considered the comments received on the Notice of Proposal, which did not include specific changes to the amendments to the Codes, as proposed. The OEB has adopted the amendments as proposed in the Notice of Proposal. A complete text of the amendments is set out in Appendices A, B and C to this Notice.

B. Stakeholder Comments

CanREA advised that it “strongly supports” the amendments to the Codes, describing them as “reasonable and appropriate” for the purpose of facilitating regulatory changes to net metering and retailing that take effect on July 1, 2022.

EDA stated that it reviewed the recent amendments to the Net Metering Regulation and to the ECPA Regulation, and indicated that the amendments to the Codes “will operationalize these amendments to the regulations.” The EDA provided detailed suggestions in respect of a distributor’s need for information, consumer protection and enhanced specificity.

In respect of the implementation of section 6.7.6 to the DSC, which provides that a confirmation given to a distributor (for the purposes of section 7. (1)(f) of the Net Metering Regulation) shall be in such form as may be approved by the OEB, the EDA asked the OEB to consider options whereby the confirmation could be augmented to require third parties to provide prescribed information to the OEB or distributors. The EDA also requested that the OEB respond to a number of questions and concerns related to the potential impact that the changes to the regulations and the Codes might

¹ The Net Metering Regulation is amended by [O. Reg. 386/22 \(Net Metering\) made under the OEB Act](#). The ECPA Regulation is amended by [O. Reg. 387/22 \(General\) made under the ECPA](#).

have on the relationship between a net metered customer and their distributor, as well as the “practical aspects of how the proposed Code amendments will operate.” For example, the EDA proposed that the OEB clarify that the distributor is not “under any circumstance to engage in resolving disputes between a net metered customer and the third party.”

The OEB confirms the amendments to the Codes, as adopted in this Notice, do not alter the customer-distributor relationship, and do not require a distributor to enter into a relationship with any third party with whom their customer has an agreement. Nor do these amendments require the distributor to engage in resolving disputes between the customer and the third party. The OEB expects that the primary business impact to distributors resulting from the amendments to the Net Metering Regulation and the ECPA Regulation will be an increase to the number of customer net metering requests relative to what would have been experienced otherwise.

As stated in the Notice of Proposal, several elements of the OEB’s existing regulatory framework for electricity retailers will be adapted to suit this new retailing activity, including such template documents as the “disclosure statement”, “price comparisons”, “standard contract terms and conditions”, “tip sheet”, and “verification scripts”. Consumers and industry stakeholders should note that, in the very near future, these new documents will be published on the OEB’s website along with other information on net metering relevant to consumers, including those who may be interested in purchasing electricity from an eligible third party generator.

C. Anticipated Costs and Benefits

The OEB believes that the amendments set out in this Notice are necessary to facilitate the implementation of changes made to the Net Metering Regulation and the ECPA Regulation. The OEB believes that any related costs incurred by electricity distributors and retailers will not be material.

D. Coming into Force

The amendments to the Codes, as detailed in Appendices A, B and C, come into force on July 1, 2022. Questions regarding the amendments, or in respect of net metering more generally, can be addressed to [Industry Relations](#). The OEB’s toll-free number is 1-877-632-2727.

DATED at Toronto, June 14, 2022

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

Attachments:

Appendix A - Amendments to the Distribution System Code

Appendix B - Amendments to the Electricity Retailer Code of Conduct

Appendix C - Amendments to the Retailer Settlement Code

Appendix A

To Notice of Amendments Dated June 14, 2022

Amendments to the Distribution System Code

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

1. Section 1.7 of the Distribution System Code is amended by adding the following text at the end of the section:

The amendments to section 6.7.1 and 6.7.6, and the amendments to Appendix E made by the Board on June 14, 2022 come into force on July 1, 2022.

2. The definition of “eligible generator” in section 6.7.1 of the Distribution System Code is amended by striking out the words: “criteria set out in section 7(1) of the Net Metering Regulation” and replacing them with “definition of “eligible customer” or “eligible generator” as set out in section 1 of the Net Metering Regulation”, so the definition reads:

- *“eligible generator” in respect of a distributor means a customer of a distributor that meets the definition of “eligible customer” or “eligible generator” as set out in section 1 of the Net Metering Regulation;*

3. Subsection 6.7.6 of the Distribution System Code is inserted after subsection 6.7.5 as follows:

6.7.6 A confirmation provided to a distributor for the purposes of section 7. (1)(f) of the Net Metering Regulation shall be in such form as may be approved by the Board.

4. The text in section 6.1(i) of the “Form of Connection Agreement for a Small Embedded Generation Facility or a Mid-Sized Embedded Generation Facility” in Appendix E to the Distribution System Code is deleted and replaced with the following text:

all permits, licences and other authorizations necessary to enable the ownership and operation of the Facility have been obtained; and

5. Section 13.3 of the “Form of Connection Agreement for a Small Embedded Generation Facility or a Mid-Sized Embedded Generation Facility” in Appendix E to

the Distribution System Code is amended by deleting the words “owned by the Customer”.

6. Section 14.3 of the “Form of Connection Agreement for a Small Embedded Generation Facility or a Mid-Sized Embedded Generation Facility” in Appendix E to the Distribution System Code is amended by replacing the word “own” with the word “respective”.

Appendix B

To Notice of Amendments Dated June 14, 2022

Amendments to the Electricity Retailer Code of Conduct

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

1. Section 1.2 in Part A of the Electricity Retailer Code of Conduct is amended by adding the following definitions:

“associated agreement” has the meaning given to it in section 2 of the ECPA Regulation;

2. Section 1.10 in Part A of the Electricity Retailer Code of Conduct is amended by adding the following new section 1.10.7:

1.10.7 The amendments to this Code made by the OEB on June 14, 2022 come into force on July 1, 2022.

3. Section 1 in Part B of the Electricity Retailer Code of Conduct is amended by adding the following new section after section 1.2:

1.3 If retailing to a low volume consumer in respect of a retail contract for which there is an associated agreement, the retailer shall also:

(a) accurately and completely describe the proposed transaction in its marketing and promotional materials and shall not include any promise or suggestion of a benefit or financial advantage that is not otherwise included in the contractual terms and conditions of the associated agreement;

(b) in disclosing the estimated annual electricity cost savings to the consumer under the associated agreement, ensure the estimate is:

(i) provided for the length of the associated agreement; and

(ii) clearly identified as an estimate and subject to change; and

(c) not be required to comply with section 3.2 of the Code.

4. Section 5.2 (b) of the Electricity Retailer Code of Conduct is amended by adding the following new item after item (xiii):

(xiii.a) if retailing in respect of a contract for which there is an associated agreement, how net metering works under Ontario Regulation 541/05 (Net Metering), including the disclosure obligations under the ECPA Regulation that pertain to a consumer who enters into a contract for which there is an associated agreement;

5. Section 5.3 (b) of the Electricity Retailer Code of Conduct is amended by adding the following new item after item (ix):

(ix.a) if retailing in respect of a contract for which there is an associated agreement, how net metering works under Ontario Regulation 541/05 (Net Metering), including the disclosure obligations under the ECPA Regulation that pertain to a consumer who enters into a contract for which there is an associated agreement;

6. Section 5.4 (b) of the Electricity Retailer Code of Conduct is amended by adding the following new item after item (xi):

(xi.a) if retailing in respect of a contract for which there is an associated agreement, how net metering works under Ontario Regulation 541/05 (Net Metering), including the disclosure obligations under the ECPA Regulation that pertain to a consumer who enters into a contract for which there is an associated agreement;

Appendix C

To Notice of Amendments Dated June 14, 2022

Amendments to the Retail Settlement Code

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

1. Section 1.4 of the Retail Settlement Code is amended by adding the section number “1.4.1” immediately before the first paragraph, and adding the following text at the end of the section:

1.4.2

Notwithstanding section 1.4.1, nothing in this Code shall be interpreted as imposing any obligation on a distributor to provide billing services in relation to, or otherwise facilitate or support an arrangement, between a consumer and retailer under section 7.1 of Ontario Regulation 541/05 (Net Metering), except as expressly provided for in that Regulation.

2. Section 1.7 of the Retail Settlement Code is amended by adding the following text at the end of the section:

Section 1.4.2 made by the Board on [insert date] comes into force on July 1, 2022.