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January 5, 2023

NOTICE OF PROPOSAL TO AMEND A CODE

**PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE TO
FACILITATE CONNECTION OF DISTRIBUTED ENERGY RESOURCES**

BOARD FILE NO.: EB-2019-0207

**To: All Licensed Electricity Distributors
All Licensed Electricity Generators
All Licensed Electricity Storage Companies
All Participants in Consultation Process EB-2019-0207
All Other Interested Parties**

The Ontario Energy Board (OEB) is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (Act) of proposed amendments to the Distribution System Code (DSC). These proposed amendments are intended to provide further clarity and consistency in the process for connecting a distributed energy resource (DER) to an electricity distributor's system.

A. Background

On August 13, 2019, the OEB issued a letter to initiate a policy consultation to review its requirements regarding the connection of DERs (DER Connections Review). The purpose of the DER Connections Review was to identify any barriers to the connection of DERs and, where appropriate, standardize and improve the connection process.

On November 18, 2019, the OEB issued a letter announcing the formation of the DER Connections Review Working Group (also referred to here as the Working Group), composed of various stakeholders representing generation proponents and developer proponent groups, distributors, a transmitter, the Electrical Safety Authority and the Independent Electricity System Operator (IESO). The Working Group has provided advice to OEB staff on issues and potential solutions that would in turn help the OEB identify improvements to the connection of DERs, including any appropriate revisions to the DSC.

On March 22, 2022, the OEB issued a [Notice of Amendments to a Code to Facilitate](#)

[Connection of Distributed Energy Resources](#). Those amendments, which reduce the overall timeline and provide clarity and consistency in the process for connecting a DER to an electricity distributor's system, came into force on October 1, 2022, and are referred to here as the October 2022 amendments. Recommendations from the Working Group formed the basis for many of the October 2022 amendments.

Since then, the OEB has continued to facilitate the Working Group's discussions. The Working Group has provided further suggestions to OEB staff on improving the DER connection process, including identifying any need to further amend the DSC. Materials related to the Working Group including agendas, presentations and meeting notes are available on the [OEB's website](#).

The Working Group's latest suggestions include eliminating the exemption from a distributor's capacity allocation process for a "capacity allocation exempt small embedded generation facility"; eliminating capacity allocation deposits; and revising the connection deposit refund process and timeline. The OEB again appreciates the efforts of the members of the Working Group and its sub-groups in developing these recommendations.

The OEB has considered the Working Group's latest suggestions. The OEB believes that the proposed amendments set out in this Notice represent appropriate and necessary changes to the DSC, as they are expected to improve the DER connection process.

In proposing these amendments, the OEB is guided by its objectives as set out in section 1 of the Act. In addition to facilitating innovation in the electricity sector, the OEB expects these amendments will provide customers with greater opportunities to take advantage of DERs to manage their energy costs and reliability by streamlining the process for connecting DERs.

B. Proposed Amendments to the DSC

This section provides details on the proposed amendments to the DSC, including the OEB's rationale for the changes. Appendix A to this Notice contains the proposed amendments showing both additions (underlined) and deletions (strikethrough text). Appendix B contains a clean version of the subject portions of the DSC as they would appear if all proposed amendments were adopted.

Eliminate the "Capacity Allocation Exempt Small Embedded Generation Facility" exemption

The DSC defines a "capacity allocation exempt small embedded generation facility" as "an embedded generation facility which is not a micro-embedded generation facility and

which has a name-plate rated capacity of 250 kW or less in the case of a facility connected to a less than 15 kV line and 500 kW or less in the case of a facility connected to a 15 kV or greater line". These facilities are exempt from the capacity allocation process described in section 6.2.4.1 of the DSC. The term "exempt small embedded generation facility" and the corresponding exemption were established by the OEB in 2009.¹ In proposing those amendments, the OEB noted that:

"...to date, generation projects in the range of those proposed to qualify as "exempt small embedded generation facilities" have been few in number and have not been concentrated on any particular distribution facilities. In addition, the Board understands that many (if not most) distribution facilities in the Province currently have sufficient available capacity to accommodate at least some of these projects, even when accounting for capacity associated with projects that are in the queue. Moreover, there is no certainty that all projects that are currently in a queue will necessarily proceed to connection.

The Board recognizes that implementation of the proposed approach may, based on existing conditions, risk displacing a small number of projects that are currently in the queue. The Board also notes that the risk of projects being displaced may be greater in some locations than in others, particularly if and as the number of "exempt small embedded generation facilities" seeking connection increases. To allow for appropriate management of this risk, the Board is also proposing to amend the DSC to require a distributor to notify and seek direction from the Board promptly upon becoming aware that the connection of an "exempt small embedded generation facility" cannot reasonably be managed by the distributor without displacing a project that is in the queue (new section 6.2.8B).²

The OEB is proposing amendments to sections 1.2, 6.2.4.2, 6.2.4.3, 6.2.8A, 6.2.8B and 6.2.12 to eliminate the exemption for capacity allocation exempt small embedded generation facilities. The proposed changes will create a more level playing field between projects and enable distributors to better assess system capacity and technical requirements to facilitate the timely connection of DERs.

The Working Group identified that the number of smaller projects has been increasing as DER adoption becomes more widespread and noted that DER penetration rates are higher than in the past. The Working Group observed that, with increasing DER penetration rates, smaller projects can now push a distribution system's capacity to its limit or trigger material distribution system upgrades. Accordingly, the Working Group

¹ [Notice to Amend a Code - Amendments to the Distribution System Code \(EB-2008-0102\)](#), Process for Connecting Small Generation Facilities. February 12, 2009

² [Notice of Revised Proposal to Amend a Code – Revised Proposed Amendments to the Distribution System Code \(EB-2008-0102\)](#), December 9, 2008, at p.6

suggested that the capacity allocation exempt generation facility category be removed and the associated requirements be revised.

The OEB agrees that the growth in DERs the province is experiencing and the related impact on distribution system capacity does appear to justify the reconsideration of an exemption for some projects, since others may be subject to delays in connection or increased costs because of these smaller projects. The OEB also notes that the capacity allocation process includes a series of steps that allow distributors to process each project based on the current system capacity. If a distributor receives a capacity allocation exempt small generation facility connection request while processing other (non-exempt) projects on the same feeder or station, the distributor will likely need to restart the process for those other non-exempt projects, as previously available capacity will have been lost. Removing the exemption for this category of generation facilities will remove this potential barrier and ensure distributors are better prepared for further DER adoption and the assignment of capacity on a more equitable basis.

Eliminate Capacity Allocation Deposits

The DSC currently requires that “a capacity allocation deposit equal to \$20,000 per MW of capacity of the embedded generation facility must be paid within 60 days of the distributor’s notice as a condition of the applicant maintaining its current capacity allocation”.

The OEB is proposing amendments to sections 6.2.18, 6.2.18A, 6.2.18B, 6.2.18D, 6.2.18H, 6.2.18I and 6.2A.3 of the DSC that would eliminate Capacity Allocation Deposit requirements. These changes are proposed to eliminate a potential obstacle to connecting DERs over 10 kW as a result of customers being required to pay a deposit for the capacity allocation, in addition to other payments made prior to the connection of DERs, such as connection cost deposits and project development costs.

One of the OEB’s original objectives in amending the DSC in 2009 to establish a capacity allocation deposit was “to ensure that generation projects that are not likely to proceed do not impede the allocation of capacity to more viable projects.”³

The Working Group suggested that project development costs serve a similar function to capacity allocation deposits, in that the development costs themselves will help ensure the projects continue to move forward to connection in a timely manner. The Working

³ [Notice of Amendment to a Code](#), Process for Connecting Generation Facilities (EB-2009-0088). September 21, 2009, page 3.

Group also noted that the process of collecting and refunding the capacity allocation deposits creates additional administrative burden for distributors.

The OEB has considered the rationale provided by the Working Group for eliminating the capacity allocation deposit. As noted above, the province is seeing many more DER projects moving forward and therefore the concerns that lead to requiring deposits to ensure projects do not block allocation of capacity to other projects does not appear necessary. The OEB believes that the elimination of these deposits will help remove potential barriers for DER connections by not requiring customers to incur costs related to providing these deposits in addition to the costs of developing the projects themselves. Further, the OEB considers this amendment to align with the Minister's requests of the OEB in his October 21, 2022 Letter of Direction in two ways: it facilitates innovation by removing a cost in the development of DERs; and it will reduce administrative burden for distributors, thereby supporting the OEB's work to reduce red tape.

Section 6.2.18H of the DSC currently requires a distributor to refund to the applicant the amount of any capacity allocation deposit or additional capacity allocation deposit provided by the applicant to the distributor no later than 30 calendar days after the applicant connects to the distributor's distribution system. Because capacity allocation deposits will no longer be required, this section will not be necessary. However, the proposed amendments will require distributors to refund to applicants any existing capacity allocation deposit or additional capacity allocation deposit that they are currently holding no later than the earlier of 30 calendar days after the applicant receives the distributor's permission to operate, or 180 calendar days after the proposed amendments come into force.

Proposals to revise Connection Cost Deposit Refund Process & Timeline

Currently, section 6.2.18F of the DSC provides that "the distributor shall at the time of connection refund to the applicant the amount by which the connection cost deposit exceeded the costs related to connecting the embedded generation facility". The OEB proposes to amend this section to clarify the timing of such refunds, and to enhance information exchanges between a distributor and applicant regarding the completion of a connection to facilitate the timely commencement of operations.

The Working Group noted in relation to section 6.2.18F that, in practice, the timing of actual refunds can vary, and it expressed the view that the requirement may not be practical since a distributor may not know the exact amount of the excess deposit at the time of connection.

The Working Group also suggested that any revision to this requirement should allow distributors the flexibility to permit a DER facility to begin operating even if some of the

work described in the connection scope of work is still outstanding. For example, the Working Group suggested a distributor may permit a generation facility to begin operations even though certain weather-dependent commissioning activities are pending. The Working Group suggested that, to balance distributor and DER customer interests and provide transparency for the applicant on the timing and quantum of the deposit refund where applicable, the DSC be amended to include a more detailed procedure.

The OEB agrees that section 6.2.18F should be revised to provide greater detail in order to increase clarity regarding the refund timeline and process. Providing customers connecting a DER project with greater clarity and certainty as to the amount and timing of a refund should reduce project risks and costs. The OEB believes the proposed amendments will assist in standardizing the connection process for customers, a key objective of the DER Connections Review. The added clarity should also reduce administrative effort for distributors in terms of managing the deposits. To implement this clarity and consistency in approach, the proposed revisions to the timeline and process have the following key components:

- A written notice from a distributor to an applicant to confirm that the applicant's connection is sufficiently complete to commence operations. The notice will include any remaining tasks/activities to be completed.
- A preliminary connection cost report showing the amount of cost incurred on connection related tasks/activities that are complete.
- Prescribed time periods (including allowances where a host distributor is involved) between the above-mentioned communications and the issuance by a distributor of a connection cost refund to an applicant, where applicable.

Housekeeping issues

As part of the March 2022 amendments, the OEB amended the DSC to change references to "Ontario Power Authority" and "OPA" to "Independent Electricity System Operator" and "IESO" to reflect the amalgamation of the IESO and OPA. It has come to the OEB's attention that a number of references to the Ontario Power Authority and OPA remain in the DSC. The OEB intends to change the remaining references in conjunction with the amendments now being proposed.

The proposed amendments to section 6.2 will require certain consequential changes to timelines and process flows included in the Distributed Energy Resources Connection Procedures (DERCP) document. Any necessary changes to the DERCP will be implemented following the adoption of any final amendments to the DSC.

C. Anticipated Costs and Benefits

The OEB expects the costs of implementing these proposed changes to be minimal. The OEB expects that any costs distributors may incur will be significantly exceeded by the benefits that will come from the proposed changes in the DSC. The benefits are explained further below.

Eliminating the exemption for capacity allocation exempt small embedded generation facilities will allow distributors to appropriately assess system capacity and technical requirements and ensure they are better prepared for further DER adoption.

Eliminating the capacity allocation deposit requirement will avoid an additional cost, and potential obstacle, for developers of DERs over 10 kW. Distributors will also be relieved of the administrative burden of managing capacity allocation deposits and refunds.

Clarifying connection cost deposit refund procedures and timelines will provide greater certainty for DER connection applicants in terms of the quantum and timing of reimbursements, and will enhance information exchanges between a distributor and applicant regarding the completion of a connection to facilitate the timely commencement of operations. This greater clarity should also lead to cost savings for distributors as it reduces the administrative burden involved in managing deposits.

D. Coming into Force

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

E. Invitation to Comment

The OEB invites comments from interested stakeholders on the proposed DSC amendments. Anyone interested in providing written comments on the proposed DSC amendments in Appendix A is invited to submit them by **January 26, 2023**. Your written comments must be received by the [Registrar](#) by **4:45 p.m.** on that date.

Instructions for Submitting Comments

Stakeholders are responsible for ensuring that any documents they file with the OEB **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2019-0207** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website.
- Stakeholders are encouraged to use RESS. Those who have not yet [set up an account](#) or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are now filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

This Notice, including the proposed DSC amendments in Appendix A, and all related written comments received by the OEB will be available for public viewing on the OEB's web site at [Distributed Energy Resources \(DER\) Connections Review](#).

F. Cost Awards

Cost awards will be available under section 30 of the Act to those that are eligible to receive them in relation to written comments provided on the proposed DSC amendments in this Notice. Any participant previously found eligible for an award of costs in either EB-2019-0207 (the DER Connections Review) or EB-2021-0117 (Amendments to the DSC to facilitate DER connections) is determined to be eligible for an award of costs in relation to comments on these proposed DSC amendments.

Costs will be recovered from all rate-regulated licensed electricity distributors apportioned based on respective customer numbers.

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

If you have any questions regarding the proposed amendments to the Code described in this Notice, please contact IndustryRelations@oeb.ca. The OEB's toll free number is 1-888-632-6273.

DATED at Toronto, **January 5, 2023**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

Attachments:

Appendix A — Proposed Amendments to the Distribution System Code – Comparison
Version to Current Code

Appendix B — Proposed Amendments to the Distribution System Code – Clean Version

Appendix C — Cost Awards

**Appendix A
to
Notice of Proposed Amendments to the
Distribution System Code**

January 5, 2023

EB-2019-0207

**Proposed Amendments to the Distribution System Code –
Comparison Version to Current Code**

Note: Underlined text indicates proposed additions to the Distribution System Code and strikethrough text indicates proposed deletions from the Distribution System Code. Numbered titles are included for convenience of reference only.

[see separate document attached]

**Appendix B
to
Notice of Proposed Amendments to the
Distribution System Code**

January 5, 2023

EB-2019-0207

Proposed Amendments to the Distribution System Code – Clean Version

Note: The wording in this appendix represents the text of the DSC should all proposed amendments in Appendix A be adopted. Numbered titles are included for convenience of reference only.

[see separate document attached]

Appendix C
to
Notice of Proposed Amendments to the
Distribution System Code

January 5, 2023

EB-2019-0207

Cost Awards

Cost Award Eligibility

The OEB will determine eligibility for cost awards in accordance with its [*Practice Direction on Cost Awards*](#). Any participant in this process intending to request cost awards (and that has not already been determined eligible for cost awards in the OEB's EB-2019-0207 Decisions issued on September 10, 13, or 23, 2019 or on January 13, 2020 or EB-2021-0117 Decision issued on September 3, 2021) must file a written submission with the OEB by **January 13, 2023**, identifying the nature of their interest in this process and the grounds on which they are eligible for cost awards (addressing the OEB's cost eligibility criteria in section 3 of the OEB's *Practice Direction on Cost Awards*). An explanation of any other funding to which the participant 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 OEB 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 cost eligibility requests, those objections must be filed with the OEB by **January 19, 2022**. Any objections will be posted on the OEB website. The OEB will then make a final determination on the cost eligibility of the requesting participants.

Eligible Activities

Cost awards will be available in relation to providing comments on the proposed DSC amendments in Appendix A, to a **maximum of 4 hours**.

Cost Awards

The OEB will apply the principles in section 5 of its *Practice Direction on Cost Awards*, when determining the amount of the cost awards. The maximum hourly rates in the OEB's Cost Awards Tariff will also be applied. The OEB expects that groups

representing the same interests or same type of participant will make every effort to communicate and co-ordinate their participation in this process. 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 OEB will use the process in section 12 of its *Practice Direction on Cost Awards* to implement the payment of the cost awards; i.e., the OEB will act as a clearing house for all cost award payments in this process. For more information on this process, please see the OEB's *Practice Direction on Cost Awards* and the October 27, 2005 letter regarding the rationale for the OEB acting as a clearing house for the cost award payments. These documents can be found on the OEB website at www.oeb.ca on the "Rules, Codes, Procedures & Forms" webpage.