



March 26, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St., Suite 2700
Toronto, ON, M4P 1E4

Dear Ms. Walli:

**RE: CLD Submission for EB-2009-0077
Revised Proposed Amendments to the Distribution System Code on the
Issue of Rebates**

On March 11, 2010, the Ontario Energy Board (the “Board”) issued a Notice of Proposal to Amend Codes (the “Notice”) inviting comments on the Revised Proposed Amendments to the Distribution System Code. The Notice states that the Board believes “that the Proposed Rebate Amendments will facilitate the achievement of the Government’s policy goals regarding the connection of renewable generation by removing a potential incentive for renewable generators to delay their connections, and by ensuring that subsequent customers contribute their share of the costs of an earlier expansion; and that will also protect the interests of consumers by reducing the potential for ratepayers to fund the connection costs of load customers and non-renewable generators.”

This is the submission of the Coalition of Large Distributors (the “CLD”). The CLD comprises Enersource Hydro Mississauga Inc., Horizon Utilities Corporation, Hydro Ottawa Limited, PowerStream Inc., Toronto Hydro-Electric System Limited, and Veridian Connections Inc. The CLD appreciates this opportunity to provide input into this important step in furthering the goals of the *Green Energy and Green Economy Act, 2009* (the “GEA”).

The CLD understands the intention of the amendments and submits the following comments:

1. On the Calculation of Rebates

The proposed amendments are not simple and therefore risk being implemented inconsistently or erroneously by parties concerned. The amendments involve different calculations of rebates depending on scenarios that are affected by several factors and combinations thereof. These factors include:

- The type of unforecasted customer (renewable generator, load or non-renewable generator) (3.2.27B and D).
- Whether or not a capital contribution was related to an initial expansion that was in a Board-approved distribution system plan filed with the Board (section 3.2.27F (a)).

- Whether or not the unforecasted customer benefited from an earlier expansion made on or after October 21, 2009 to connect another renewable energy generation facility (3.2.27B and D).
- Whether or not the cost of the earlier expansion exceeded the initial renewable generator's renewable energy expansion cost cap (3.2.27B).
- Whether or not the amount of the rebate exceeds the unforecasted renewable generator's renewable energy expansion cost cap (3.2.27B).
- Whether or not the amount of the rebate payable to an initial renewable generator exceeds the amount paid by the initial renewable generator as a capital contribution towards the cost of the earlier expansion (3.2.27F).
- Whether or not an earlier expansion was made to connect more than one renewable energy generation facility (section 3.2.27F(c)).

It is important that the proposed amendments are interpreted and operationalized consistently by parties concerned. The CLD proposes that to ensure this, the proposed amendments include examples of calculations of rebates under different scenarios and, for each calculation, specify the parties who are to be compensated or charged; and also illustrate LDC accounting entries to record the entitlement to receive and obligation to pay such rebates.

The CLD is particularly concerned that following the proposed amendments literally could lead to unintended results. In reviewing the amendments, the CLD considered a few examples to see the results. These are summarized below.

Example 1

Gen 1 initial renewable generator	1MW
Cost of the expansion	\$500k
Expansion cost cap	1MW x \$90k = \$90k
Contribution paid by initial generator	\$500k - \$90k = \$410k
Gen 2 Unforecasted renewable generator	0.5MW
Expansion cost cap	0.5MW x \$90k = \$45k
Contribution if both generators together (\$243k to Gen 1 and \$122k to Gen 2)	\$500k - \$90k - \$45k = \$365k
Rebate to Gen 1	\$410k - \$243 = \$167k
Expansion cost cap Gen 2	\$45k - \$167k = - \$122k

The rebate exceeds the expansion cost cap for Gen 2, therefore per Section 3.2.27B(c), Gen 2 pays "that difference". There could be different interpretations of what is meant by "that difference." The CLD believes that what is intended is that Gen 2 pay \$122k, the amount that it would have paid had the earlier expansion been undertaken for both Gen 1 and Gen 2 together. On this basis, Gen 2 would contribute \$122k to the rebate to Gen 1 and the distributor would pay the difference of \$45k. This is not clear from the amendments.

Example 2

Gen 1 initial renewable generator	1MW
Cost of the expansion	\$500k
Expansion cost cap	1MW x \$90k = \$90k
Contribution paid by initial generator	\$500k - \$90k = \$410k
Gen 2 Unforecasted renewable generator	5MW
Expansion cost cap	5MW x \$90k = \$450k
Contribution if both generators together	\$500k - \$90k - \$450k = - \$40

Since the total expansion cost cap exceeds the costs, neither Gen 1 nor Gen 2 would have made a contribution.

Rebate to Gen 1	\$410k - \$0 = \$410k
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Expansion cost cap Gen 2	\$450k - \$410k = \$40k
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Since \$410k > \$40k, Gen 2 pays \$40k and the distributor pays \$370k.

This appears to be an unintended consequence of following the amendments literally. The CLD believes that what was intended was that the distributor pay \$410k and Gen 2 would make no contribution, the same amount that it would have paid had the earlier expansion been undertaken by Gen 1 and Gen 2 together.

Based on these examples, the CLD recommends that the amendments be simplified for greater clarity. In particular, rather than reducing the expansion cost cap for the unforecasted renewable generator, amendments could simply state that the unforecasted renewable generator will pay the same amount that would have been required if it had been part of the earlier expansion.

Possible wording could be as follows:

Section 3.2 of the Distribution System Code is amended by adding the following immediately after section 3.2.27A:

3.2.27B Notwithstanding section 3.2.27, when an unforecasted customer that is a renewable energy generation facility to which section 3.2.5A or 3.2.5B applies (the "unforecasted renewable generator") benefits from an earlier expansion made on or after October 21, 2009 to connect another renewable energy generation facility to which section 3.2.5A or 3.2.5B applies (the "initial renewable generator"), the initial renewable generator shall be entitled to a rebate if the cost of the earlier expansion exceeded the initial renewable generator's renewable energy expansion cost cap. In such a case, the following rules shall apply:

- (a) *the distributor shall pay to the initial renewable generator a rebate in an amount determined in accordance with section 3.2.27C;*

- (b) *the distributor shall collect from the unforecasted renewable generator an amount determined in accordance with section 3.2.27D*

For greater certainty, no rebate shall be payable to an initial renewable generator towards the cost of an earlier expansion if the cost of the earlier expansion did not exceed the initial renewable generator's energy expansion cost cap.

3.2.27C For the purposes of section 3.2.27B, the amount of the rebate payable by the distributor to the initial renewable generator shall be the difference between the amount paid by the initial renewable generator towards the cost of the earlier expansion and the amount that would have been paid by the initial renewable generator towards that cost, determined in accordance with the rules set out in sections 3.2.5B and 3.2.5C, had the earlier expansion been undertaken for both the initial renewable generator and the unforecasted renewable generator.

3.2.27D For the purposes of section 3.2.27B, the amount to be collected from an unforecasted renewable generator shall be the amount that would have been paid by the unforecasted renewable generator towards that cost, determined in accordance with the rules set out in sections 3.2.5B and 3.2.5C, had the earlier expansion been undertaken for both the initial renewable generator and the unforecasted renewable generator.

The remaining sections would then be renumbered accordingly. The CLD suggests that this approach would provide greater clarity.

2. On the Possibility of a Distributor Receiving Compensation Twice for the Same Cost

The Notice acknowledges there is potential for a distributor to be compensated twice for the same cost and that the Board expects to address this issue as part of its consultation on Rate Protection and the Determination of Direct Benefits under Ontario Regulation 330/09 (EB-2009-0349).

This is an important issue and therefore the CLD is concerned about finalizing these amendments to the DSC with respect to rebates in advance of resolving this issue in the EB-2009-0349 proceeding,

Please contact the undersigned if you have any further questions on this submission.

Yours truly,

(Original signed on behalf of the CLD)

Gia M. DeJulio
Director, Regulatory Affairs
Enersource Hydro Mississauga Inc.

Gia M. DeJulio
Enersource Hydro Mississauga Inc.
(905) 283-4098
gdejulio@enersource.com

Lynne Anderson
Hydro Ottawa
(613) 738-5499 X527
lynneanderson@hydroottawa.com

Colin McLorg
Toronto Hydro-Electric System Limited
(416) 542-2513
regulatoryaffairs@torontohydro.com

Indy J. Butany-DeSouza
Horizon Utilities Corporation
(905) 317-4765
Indy.Butany@horizonutilities.com

Christine Dade
PowerStream Inc.
(905) 532- 4650
christine.dade@powerstream.ca

George Armstrong
Veridian Connections Inc.
(905) 427-9870 x2202
garmstrong@veridian.on.ca