



March 26, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, Suite 2700
2300 Yonge Street
26th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: Revised Proposed Amendments to the Distribution System Code
Submission of AMPCO's Comments
Board File No.: EB-2009-0077**

AMPCO has reviewed the proposed revisions and makes the following comments.

AMPCO does not agree that these revisions are necessary or in the interests of ratepayers. Moreover, AMPCO submits there is an alternate mechanism available that would achieve the same objective of removing a hypothetical incentive, while protecting the interests of consumers.

As stated, the problem these revisions are intended to address is a hypothetical one whereby one or more renewable generators could delay construction in order to achieve a perceived benefit from costs incurred by another generator in the same area.

It is AMPCO's understanding that the Feed-In-Tariff (FIT) program is not an open ended commitment to however much renewable generation is proposed by developers. Rather, it is expected that once sufficient renewable resources have been contracted to meet the needs of customers or can be reliably integrated into Ontario's electricity supply network, the program will be closed or curtailed. Developers that hold back on proposals run the risk that their projects will not receive contracts at a later date, or may receive less advantageous terms.

The FIT program has already anticipated that developers may find reasons to delay projects once contracts have been signed and counter-incentives are in place. Under the FIT contract rules, the period during which the developer may receive the FIT program tariff begins with the agreed upon date for commercial operation. Developers with contracts that delay operation will reduce the period during which they have access to the rates available under the FIT program. Thus, a developer that deliberately delays a project will experience a reduced revenue opportunity as the delay goes on.

In summary, the realities of the FIT marketplace and the counterincentive to delay that is already in the FIT contracts should be sufficient to ensure that the hypothetical situation in question will occur rarely if

Association of Major Power Consumers in Ontario

www.ampco.org

372 Bay Street, Suite 1702
Toronto, Ontario M5H 2W9

P. 416-260-0280
F. 416-260-0442

ever. AMPCO also notes that Board staff anticipates that, as a result of LDCs constructing renewable enabling enhancements, even this hypothetical incentive to delay will diminish over time.

In AMPCO's comments on the original proposed amendments in September 2009, AMPCO noted that the \$90,000/MW expansion cost cap seemed overly generous. This continues to be our conviction and adding the opportunity for a future rebate only increases the subsidy being afforded to renewable generators at the expense of customers. AMPCO submits that any further relief for renewable generators is unnecessary to achieve the government's policy objective and fails to protect the interests of consumers.

To take effect, the proposed revisions will require a significant administrative effort to keep track of all costs incurred by the distributor and developer, manage the payment of capital contributions and undertake the calculation and apportionment of rebates. Matters of asset depreciation also need to be considered if the Board is to develop a truly fair process. There could also be future complications if FIT tariffs decrease in the future, making the prospect of funding a rebate a significant deterrent to a future developer.

If the objective of the Board is to ensure a level playing field among developers, a simpler solution is available as follows:

The "late" developer's portion of the original expansion cost could be assessed pro-rata and be calculated as part of the developer's connection cost. If the net assessed cost was greater than the cap, the developer would make a capital contribution, paid to the Distributor. Any excess over the Distributor's marginal cost of connection would be rebated to the customers of the province. Such a process would be easier to manage, reduce the total cost to customers of the expansion cap and remove any hypothetical incentives for project delays. For the original developer that made an internal business case based on the original cost of connection, nothing would change. Also, the existence of such a process would provide an incentive for developers to work together in order to reduce the net cost of connection each would pay.

In principle, it should be simpler and more effective to provide a positive incentive for parties to work together than to attempt to remove incentives for them to work against each other.

For new load connections and non-renewable generation, the same assessment process would be used, only the capital contribution would be greater since the new customer would be assessed on their portion of the expansion.

In summary, AMPCO believes the proposed revisions are not necessary and would likely cost more to manage than any probable benefit. If the Board remains convinced that the posited hypothetical situation may in fact occur, AMPCO suggests that the proposed alternative approach described above form the basis of a more practical and fair way to address the problem.

Sincerely yours,

ORIGINAL SIGNED

Adam White
President
Association of Major Power Consumers in Ontario