



April 1, 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 2010-0038
Proposed Amendments to the Distribution System Code**

On March 10, 2010, the Ontario Energy Board (the “Board”) issued a Notice of Proposal to Amend Codes (the “Notice”) inviting comments on the Proposed Amendments to the Distribution System Code (the “Code”). The purpose of the amendments is to provide greater clarity regarding the application of the alternative bid provisions in relation to the work that is identified as uncontestable under section 3.2.15 of the Code.

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 the opportunity to comment on the proposed amendments.

The CLD is generally supportive of the amendments proposed by the Board. The proposed amendments are an improvement to the pertinent Code provisions because these:

- improve the clarity of the pertinent terms;
- affirm the need for a distributor to reserve the right to approve all expansion work that is eligible for the alternative bid option given its responsibility to ensure that it is able to rationally plan the expansion of and other changes in its distribution system and that its system provides high quality, safe and reliable service at a reasonable price; and
- simplify the determination of a customer’s eligibility for the alternative bid option.

However, the CLD submits that further clarity is needed in the following areas:

1. Nomenclature

For the reasons stated in its March 10, 2010 letter (p. 2, no. 1) the Board is proposing to eliminate the terms “contestable” and “uncontestable” from the Code and instead use the phrase “subject to alternative bid” or language of similar effect as the context may require.

The CLD submits that while the Board’s proposal is an improvement over the existing language in the Code, the phrase “subject to alternative bid” does not adequately communicate its intent which is to say that certain work (to which the phrase applies) is eligible for the alternative bid option. The CLD submits that

greater clarity can be achieved by replacing the phrase “subject to alternative bid” with “eligible for the alternative bid option”, or language of similar effect as the context may require. The sections of the Code affected by this proposal are: 3.2.2; 3.2.9(d); 3.2.10(b); 3.2.14; 3.2.15; 3.2.16 and 3.2.18.

2. Added clarity on the criteria for work that is eligible for the alternative bid option

The CLD supports the distributor having authority to determine whether work is subject to alternative bid, or not, for “work requiring physical contact with the distributor’s existing distribution system”. The CLD submits that for added clarity and to reflect the intent of the proposed amendments, the Code should include language for a situation where a distribution system will be technically modified absent actual physical contact with a distributor’s existing asset. The CLD therefore proposes to add such language to the Board-proposed amendments in Section 3.2.15. The new provision will become Section 3.2.15B. The provisions added to Section 3.2.15A are in recognition of the reality that distributors may have joint-use support structure agreements with third parties, such as telephone companies, municipalities, and others, for which contractual obligations exist. Further, various public road authorities have had concerns about developers digging up large stretches of public road allowances under the alternative bid option. Since it is the road authority, such as a municipality, that establishes policies on whether a third party is permitted to work in public rights-of-way, the CLD recommends that public rights-of-way be excluded from the alternative bid option.

Added clarity is likewise achieved with the addition of specific activities such as the connection and installation of assets and the establishment of detailed expansion design and criteria, and various planning activities.

Based on the proposals described above, the CLD proposes that Section 3.2.15 of the Code be amended as follows:

3.2.15 **The planning and the development of specifications for the design, engineering and layout of an expansion, including those for the connection and installation of assets and the establishment of detailed expansion design and criteria, verification, inspection, and energization from the distributor’s system** are not eligible for the alternative bid option ~~subject to alternative bid~~. **Consistent with this provision, the following activities are not eligible for the alternative bid option:**

- **System planning: includes planning for capacity, reliability, future expansions, provincial electrical requirements, general routing;**
- **Standards planning: includes the development of material specifications, design standards (tensions, sags, amperage etc.), design guidelines;**

- **Expansion design planning: includes detailed engineering design for the expansion;**
- **Connection design planning: includes detailed engineering design for the connection of the expansion to the existing distribution system;**
- **System operations planning: includes construction timing with respect to outages and connections;**
- **Final connection planning: includes Connection of the expansion to the existing distribution system; and**
- **Planning involving rights-of way: includes dealing with road authorities, work within existing public rights-of-way, coordination with other utilities.**

3.2.15A Work that requires physical contact with the distributor's existing distribution system, **third party support structures, or within existing public rights-of-way** is not eligible for the alternative bid option ~~subject to alternative bid~~ unless the distributor decides in any given case to allow such work to be eligible for the alternative bid option ~~subject to alternative bid~~.

3.2.15B Work that involves the replacement or modification of an existing asset, a component of an existing asset or a part thereof that can be functional only if added or attached to an existing asset is not eligible for the alternative bid option unless the distributor decides in any given case to allow such work to be subject to alternative bid.

3.2.15C Despite any other provision of this Code, decisions related to the temporary de-energization of any portion of the distributor's existing distribution system are the sole responsibility of the distributor. Where the temporary de-energization is required in relation to work that is being done under alternative bid, the distributor shall apply the same protocols and procedures to the de-energization as it would if the customer had not selected the alternative bid option.

3. **Consistency in the wording on the requirement to conform with the distributor's technical standards**

The CLD agrees with the Board's proposed changes for Section 3.2.16 but suggests that paragraph (d.1) that will follow paragraph (d), and to which it refers in its wording, be made consistent with paragraph (d). Thus, the CLD proposes that Section 3.2.16 of the Code be amended as follows:

- i. by deleting the phrase "the contestable work" in the opening paragraph, in paragraph (a), in item (ii) of paragraph (b) and in paragraph (d), and replacing it in each case with the phrase "*eligible for the alternative bid option*";

- ii. by deleting the phrase "design and technical standards and specifications" in paragraph (d) and replacing it with the phrase "*planning and the development of specifications for the design, engineering and layout of the expansion*";
- iii. by deleting the word "and" at the end of paragraph (d); and
- iv. by adding the following immediately after paragraph (d):

*(d.1) require the customer to obtain the distributor's review and approval of the plans and specifications for the work that is eligible for the alternative bid option ~~subject to alternative bid~~ to ensure conformance with the ~~planning~~ **distributor's design and technical standards** and specifications referred to in paragraph (d) prior to commencing that work; and*

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

Yours truly,

(Original signed on behalf of the CLD)

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