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BY EMAIL AND WEB POSTING

NOTICE OF AMENDMENT TO A CODE

AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE

BOARD FILE NO.: EB-2009-0095

**To: All Licensed Electricity Distributors
All Participants in Consultation Process EB-2007-0005
All Participants in Consultation Process EB-2009-0095
All Other Interested Parties**

Re: Timing for Elimination of Load Transfers

The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* of amendments to the Distribution System Code (the "DSC").

I. Background

On March 27, 2009, the Board issued a Notice of Proposal to Amend the Distribution System Code (the "March Notice"). The proposed amendments accompanying the March Notice (the "Proposed Amendments") included changes to sections 6.5.3, 6.5.4, and 6.5.4.1 of the DSC and the addition of a new section, section 6.5.4.2.

The Proposed Amendments deferred the date by which geographic distributors must eliminate load transfer arrangements. The Proposed Amendments also included a requirement that geographic distributors file information regarding the status of their plans for eliminating their load transfer arrangements in an annual report.

The Board received 4 written submissions in response to the Proposed Amendments. The submissions were generally supportive of the Proposed Amendments. The Board

has considered the submissions received and has determined that no material changes need to be made to the Proposed Amendments. However, in light of the comments received, the Board has made minor revisions to the Proposed Amendments. The text of the amendments to the DSC as adopted by the Board is set out in Attachment A to this Notice.

II. Comments on and Minor Revisions to the Proposed Amendments

One stakeholder suggested that distributors that currently have applications before the Board in relation to the elimination of load transfer arrangements should be allowed to withdraw their applications if changing or delaying the application would benefit their consumers. The Board confirms that distributors that currently have applications before the Board to eliminate load transfer arrangements may withdraw, or request to withdraw, their applications in accordance with the Board's Rules of Practice and Procedure.

Several stakeholders suggested that the requirement in section 6.5.4.2 to file a separate letter with the Board for each long term load transfer arrangement that has been eliminated, along with the method of elimination and the date it was eliminated, would be administratively burdensome and would not create any additional benefit. The stakeholders suggested that the geographic distributor should include a summary confirming all of the load transfer arrangements that were eliminated within the year, including the method and date of the elimination of the load transfer, as part of its annual status report. The Board finds the suggestion reasonable and has revised section 6.5.4.2 accordingly. Section 6.5.4.2 will now require distributors to include the details relating to the elimination of load transfer arrangements within the year in the annual status report.

The same stakeholders commented that they understood that the amendments do not change a distributor's requirement to file a service area amendment application with the Board where the method of elimination requires a transfer of customers between distributors. The Board confirms that this understanding is correct—service area amendment applications must be filed with the Board where the load transfer arrangement is proposed to be eliminated by transferring customer(s) from the geographic distributor to the physical distributor.

One stakeholder commented that the amendments do not address the issue of large bill impacts on customers that are transferred to a distributor whose rates are significantly higher than the previous distributor. The stakeholder submitted that this issue is significant and should be addressed before requiring the elimination of any existing load transfer arrangements. The stakeholder stated that it would withdraw its applications currently before the Board (subject to agreement from its joint applicants) and would not file any new applications to eliminate load transfer arrangements until the issue of large bill impacts was resolved. The stakeholder also informed the Board that in its view, existing load transfer arrangements should be grandfathered (i.e., allowed to continue) instead of eliminated.

As stated above, distributors may withdraw their applications in accordance with the Board's Rules of Practice and Procedure. The Board also notes that the *Green Energy and Green Economy Act, 2009* has now received Royal Assent, and although not yet proclaimed into force will on proclamation make amendments to a number of statutes including the *Ontario Energy Board Act, 1998*. As indicated in the March Notice, those amendments include obligations on distributors with respect to planning for smart grid development or for accommodating renewable energy projects. A distributor's approach to its load transfer arrangements may evolve over time as the distributor engages in that planning. The Board expects that as these plans materialize a number of long term load transfer arrangements may be eliminated because the geographic distributor will be able to physically serve its customers directly. This will reduce the number of customers that may ultimately be transferred to distributors with higher rates. The Board believes that these amendments will provide a suitable timeframe in which some load transfers may be eliminated as a concomitant consequence of system expansions for future uses of the distribution system.

If a distributor wishes to file new service area amendment applications to eliminate load transfer arrangements, the Board will proceed with those applications and any issues that arise within those applications.

III. Anticipated Costs and Benefits

The Board reiterates its views set out in the March Notice. Specifically, the Board anticipates that all interested parties will benefit from the amendments, which will help avoid the potential inefficient use of distributor, ratepayer and Board resources pending

anticipated future developments in the legal and regulatory requirements applicable to distributors.

The inclusion of the summary of the elimination of load transfer arrangements in the annual report will be more efficient and cost effective for distributors than the original Proposed Amendment.

The Board is of the view that the anticipated benefits of the amendments will outweigh the costs of the amendments.

IV. Coming Into Force

As indicated in the March Notice, the amendments to the DSC set out in Attachment A to this Notice will come into force on the date that they are published on the Board's website after having been made by the Board.

This Notice, the March Notice, and the comments received from interested parties will be available for public viewing on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

If you have any questions regarding this Notice or the amendments set out in Attachment A, please contact Dawn Hayle at 416-440-7721. The Board's toll free number is 1-888-632-6273.

E-mail inquiries should be directed to Dawn.Hayle@oeb.gov.on.ca

DATED at Toronto, June 10, 2009.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Attachments: Attachment A: Amendments to the Distribution System Code

Attachment A**Amendments to the Distribution System Code**

1. Section 6.5.3 of the Distribution System Code is amended by deleting the reference to “January 31, 2009” and replacing it with a reference to “June 30, 2014”.
2. Section 6.5.4 of the Distribution System Code is amended by deleting the reference to “January 31, 2009” and replacing it with a reference to “June 30, 2014”.
3. Section 6.5.4.1 of the Distribution System Code is amended as follows:
 - i. by deleting the reference to “December 31, 2007” and replacing it with a reference to “November 30, 2010”; and
 - ii. by adding the word “updated” immediately before the word “implementation” in each of the first and second sentences.
4. The Distribution System Code is amended by adding the following immediately after section 6.5.4.1:

6.5.4.2 A geographic distributor shall file an annual status report with the Board by November 30 of each year, starting in 2011 and ending in 2013, that summarizes the geographic distributor’s progress in relation to its updated implementation plan. The annual status report shall also include a summary of the geographic distributor’s load transfer arrangements that have been eliminated within the year, the method of elimination, and the date they were eliminated.