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June 17, 2013

Ontario Energy Board
P.O. Box 2319
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2300 Yonge Street,
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Submission of Northwatch**
**Proposed Amendments to the Transmission System Code and Distribution System Code**
**Board File Number: EB-2011-0043**

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We are counsel to Northwatch in this proceeding. Below is Northwatch's submission in response to the Board's invitation to comment on the Board's proposed amendments to the Transmission System Code ("TSC") and Distribution System Code ("DSC").

## NORTHWATCH'S POSITION ON REGIONAL PLANNING

Northwatch is a strong supporter of regional planning at the highest level, and as such, welcomes this and related initiatives.

Northwatch is a regional coalition of environmental and social justice /social development organizations in northeastern Ontario. It was founded in 1988 to provide a representative regional voice. Northwatch's founding members were local and district-based environmental or social justice organizations who wished to engage – among other things – in planning and policy reviews.

Northwatch focuses on northeastern Ontario, specifically the six federal districts of Nipissing, Timiskaming, Cochrane, Sudbury, Manitoulin and Algoma, though Northwatch works at times with colleagues in northwestern Ontario on select issues, including electricity planning.

Northwatch's core principle is that electricity planning should be done on a regional basis, with regional balance of demand and supply.

Northwatch submits that region-specific load forecasts should be the basis for any provincial planning with region-based forecasts rolled up to provide a provincial forecast.

Similarly, demand-supply planning should be done on a regional basis, with the outcomes rolled up to provide a provincial picture.

Planning for generation and transmission should be done on an integrated regional basis. Regional plans should incorporate, at a minimum, load forecasts, energy efficiency and conservation, demand response, and a regional balance of demand and supply.

Supply options should be selected/approved on the basis of environmental least-impacts and overall sustainability.

Regional planning should not only include the Ontario Power Authority ("OPA"), transmitters, and distributors (as proposed by the Board), but also those other parties affected by, and who can provide valuable input into the development of, regional plans, including residents, Aboriginal groups, and other land users.

Cost considerations should encourage efficiency and demand response to substitute for supply, including transmission and distribution projects, and should encourage integrated planning between transmission and distribution entities to prevent the undertaking of unnecessary projects.

Northwatch submits that the Board's proposed amendments to the TSC and DSC address some of the above, but not all or to the extent necessary. Northwatch submits that the Board's proposed amendments to the TSC and DSC are a good first step towards implementation of regional planning of transmission and distribution projects both in Northeastern Ontario, and elsewhere in the province.

To assist the Board, Northwatch has provided specific comments within the Board's proposed amendments of the TSC and DSC, in Appendix A of this submission. These comments are proposed as a guide for the Board, and are not exhaustive or representative of all of the amendments the Board could make to reflect Northwatch's comments herein.

## REGIONAL PLANNING REQUIRES PUBLIC ENGAGEMENT

Northwatch believes it is important that all utilities in an area share information with each other and that there be a public process to review and vet the information, including not only the utilities and the OPA, but also **consumers, Aboriginal groups, environmental organizations, local governments, and other land users**, with the Board ultimately deciding what to include in rates.

Northwatch also believes that engaging local communities and distribution companies and obtaining information on both municipal and Crown land use planning are of key importance in obtaining good forecasts, and preparing effective regional plans.

Northwatch recommends that the Board include, in its amendments of the TSC and DSC, requirements for public notice and opportunities for meaningful comment and engagement from the affected parties mentioned above, beyond just the OPA and the affected utilities.

Northwatch agrees with the Board's proposal that the incumbent transmitter(s) should be responsible for leading the regional planning exercise. However, the transmitter must effectively engage those other affected parties mentioned above. The Board's proposal that the transmitter simply post the regional plan on its website for utilities in the region to access does not meet the much higher degree of public engagement and transparency necessary to meaningfully engage and obtain input from those interested and/or potentially affected parties mentioned above.

Northwatch proposes that the lead transmitter be required under the TSC to engage, and to delegate and monitor the region's distributors to meaningfully engage, those affected parties mentioned above. This should be achieved through a combination of mailers, open houses, town hall meetings, television and/or radio advertisements, and other traditional forms of notification and public engagement, in addition to posting information on the utilities' websites. Whatever mechanisms are chosen for notice and public engagement, the mechanisms should foster meaningful opportunities to comment, to participate in the planning process and to evaluate the options and alternatives available. Minimum requirements for public notice would include posting on a central internet registry linked from the various utilities' websites.

## INTEGRATED REGIONAL RESOURCE PLAN FOR INCREASED AND DECREASED LOAD

The Board states that the "optimal solution(s) to address regional requirements will not always be limited to transmission and/or distribution infrastructure investments." The Board identifies, as secondary solutions, conservation and demand management ("CDM") and distributed generation options.[1]

Northwatch submits that the Board's approach is focussed too heavily on load *growth* (and corresponding infrastructure investments) when determining how and when regional planning should be carried out, and not focussed enough on load *reduction*. Northwatch submits that measures, such as CDM, which is an invaluable tool for reducing load,

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[1] *Proposed Amendments to the Transmission System Code and the Distribution System Code* dated May 17, 2013 (May 17, 2013 Report) at page 7; *Report of the Board - A Renewed Regulatory Framework for Electricity Distributors: A Performance Based Approach* dated October 18, 2012 (October 18, 2012 Report) at page 39.

should be an integral part of, and forefront in, Ontario's regional planning. Consideration of infrastructure investments should be secondary to CDM, with the goal of balancing regional supply and demand always governing the process.

Accordingly, Northwatch recommends that CDM, and other tools that reduce load that the interested parties involved in regional planning may identify, such as fuel-switching, should be specifically required as part of regional plans under the TSC and DSC.

Northwatch also recommends that the Board provide a mechanism through which integration of the various regions' plans is enabled. At minimum, the Board could ensure that the OPA and each lead transmitter include all regional plans on their websites, and mandate that each lead transmitter review all other regional plans and consider how its regional plan can be improved and integrated with other plans. The regional plans should also be collected and available to the public through a central registry, and public notice of additional plans to the registry should be made.

## COMPONENTS AND TIMING OF NEEDS ASSESSMENT/FORECASTING

Northwatch submits that the needs assessment to be carried out by the lead transmitter must follow a number of criteria, to assist the transmitter to determine if its region(s) requires infrastructure and/or integrated planning, and under which conditions infrastructure and integrated planning are needed. Northwatch submits that the Board should include in the TSC the list of criteria against which the lead transmitter must conduct its needs assessment. These criteria need to be clearly defined and include a decision ladder as to how the needs assessment is to be carried out and when. The needs assessment should not only identify the needs of a region, but also consider and evaluate alternative means of meeting that need, such as renewable energy, fuel switching, and CDM.

Northwatch submits that regional planning needs assessments be developed by transmitters and distributors every three years for an eight year period, not every five years as proposed by the Board, with load forecasts on the same schedule. The forecasts and needs assessments for years 6-8 would be prepared in less detail than the nearer term forecasts and needs assessments. The indicative information for years 6-8 would be expected to be less accurate, but would allow a near term plan to be changed if needed to reduce costs based on expected future growth. Requesting a forecast and needs assessment every five years, as proposed by the Board, for a period of five years also yields the potential for inaccuracy or for the need to build projects unforeseen in the last assessment period very quickly without any regulatory oversight.

A plan must be somewhat fluid and iterative and responsive to changed circumstances. That is one reason why we suggest a needs assessment and forecast every three years. In circumstances involving the North, advancement or postponement of new resource-intensive mines and industrial development or closure of existing facilities will affect transmission and distribution investments in what can be a short amount of time.

## TIMING OF MONITORING AND REPORTING

Northwatch agrees with the Board's proposed mechanism and timing for approval of the investments included in a regional plan, as well as the proposed mechanism and timing for the lead transmitter to monitor the regional plan and report (or, where most investments are in distribution facilities, a distributor may report) the status of the regional plan to the Board.

However, Northwatch submits that the monitoring and reporting requirements, including the Annual Report, should include an explanation of the public engagement activities carried out by the lead transmitter and distributors, and the CDM and other load-reducing activities utilized, for approval by the Board.

## REGIONAL TRANSMISSION AND DISTRIBUTION CONNECTION COSTS

In general, Northwatch supports the least-cost planning of transmission and distribution projects together to meet load and resource growth. This is a good principle. It removes incentives not to co-operate and to undertake sub-optimal projects that may be too expensive or have too great an environmental or land use impact.

Northwatch also strongly supports the general principle that industrial customers should pay for all of their connection costs. Industrial customers should be treated differently than distributors because industrial customers have more control over planning load growth.

In particular, direct industrial loads, particularly resource-oriented loads in the North, such as mines, are more risky than typical distribution loads. The risk arises from two sources. First, mines and resource industries may be unable to bring their own new load into service when planned due to financial and feasibility issues (which could place the transmission or distribution utility at risk of stranded costs if the project fails after electric construction begins). Second, there are uncertainties as to the length of time that the customer's mine or similar facility will operate.

Northwatch generally supports the Board's proposal that the cost responsibility for transmission connection assets lies with the transmission customer (i.e., the beneficiary-pays principle).

Accordingly, Northwatch generally supports (subject to Northwatch's additional requirements further below) the Board's proposed:

- removal of section 6.3.6 of the TSC, given that section 6.3.6, as the Board suggests, "implies that a transmitter is expected to plan investments without the input of transmission customers, including distributors."[2]

- extension of the time that a customer is entitled to a refund where the customer made a capital contribution where that contribution is assigned to another customer, from five years to fifteen years (proposed amended section 6.3.17)

- amendments to various provisions in the TSC to broaden the definition and application of "network facilities" and a "network station".

Northwatch recommends that the Board incorporate the following additional requirements into the TSC and DSC:[3]

1 The Board should specifically amend the TSC and DSC to ensure that distributors are not penalized for connection costs imposed on them by local renewable energy installed under feed-in tariffs, given that interconnection of renewables by distributors has been increasing connection costs in recent years.[4] Northwatch submits that increasing connection costs resulting from renewables on both transmission and distribution systems, not otherwise paid by the generators themselves, should be pooled and paid province-wide (as network assets) rather than being charged to individual distributors. Northwatch submits that this process accounts for the environmental and economic benefits that all Ontarians accrue as a result of renewable energy generation.

2 If a customer (most likely an industrial customer) triggers increased load on the transmission and distribution system, pays for the capital costs to connect that load to the system, but contribution is not transferred to another customer, and the assets become stranded, that customer must pay for all of its connection costs. That customer should not be entitled to a refund. This exception should be explicitly included in the TSC and DSC.

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2 May 17, 2013 Report at page 4; October 18, 2012 Report at page 44.

3 Northwatch has not included items 2, and 3 below in its specific comments in Appendix A to this submission, but asks that the Board consider further amending the TSC and DSC to include items 1, 2, 3, and 4 where the Board deems appropriate.

4 EB 2011-043, Board Staff Discussion Paper: Regulatory Framework for Regional Planning for Electricity Infrastructure (November, 2011), p. 26

3 If a regional project is chosen that imposes extra up-front capital costs on a distributor because of benefits in reducing a transmission company's line losses, the transmission company should compensate the distributor for those costs and collect them in its own rates. This recommendation assures that distributors will not pay extra to reduce line losses that benefit the transmitter rather than the distributor.

4 In an export scenario – if there has not been a balancing of demand and supply at a regional level, and extra local connection costs must be incurred within the region because of the existence of exports, those costs should not be imposed on the distributor or the transmission company's local customers, but should be passed through to the recipients of the power, i.e. the end users. Northwatch submits that this may be achieved through a network charge. This exception is not covered in the Board's proposed definition of "network station" (new section 2.0.45A), and should be.

All of which is respectfully submitted.

Yours truly,

Matt F. Gil

Matt Gardner

cc: client

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**APPENDIX A**

**Proposed Amendments to the Transmission System Code**

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

**I. Regional Planning Process**

1. Section 3 of the Transmission System Code is amended by adding new section 3C as follows:

**3C. Regional Planning**

**3C.1 Definitions and Lead Responsibility Where More than One Transmitter in a Region**

3C.1.1 For the purposes of this section 3C:

"Integrated Regional Resource Plan" means a document prepared by the OPA that identifies the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

"integrated regional resource planning process" means a planning process led by the OPA for the purpose of determining the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

Northwatch comment: The above definitions should expressly include not just "conservation" but "conservation and demand management". The definitions should also include load forecasts, energy efficiency and a regional balance of demand and supply.

"needs assessment" means a process led by a transmitter to determine if a Regional Infrastructure Plan or an Integrated Regional Resource Plan is required or needs to be updated for a region;

"region", in respect of a transmitter, means an area that is within which the transmitter's transmission system is located, in whole or in part, and that has been designated as such by the transmitter, in consultation with the OPA, under section 3C.2.2(a) for regional planning purposes;

"Regional Infrastructure Plan" means a document prepared by the transmitter leading a regional infrastructure planning process that identifies investments in transmission facilities, distribution facilities or both that should be developed and implemented on a coordinated basis to meet the electricity infrastructure needs within a region;

"regional infrastructure planning process" means a planning process led by a transmitter in accordance with this section 3C for the purpose of determining the investments in transmission facilities, distribution facilities or both that should be developed and implemented on a coordinated basis to meet the electricity infrastructure needs within a region; and

Northwatch Comment: "Regional Infrastructure Plan" and "regional infrastructure planning process" should include investments in conservation and demand management and other mechanisms for reducing load in the region, not just investments in transmission facilities and distribution facilities, which include only infrastructure investments for load growth. The definitions should also include load forecasts, energy efficiency and a regional balance of demand and supply.

"regional planning" means a planning process involving licensed transmitter(s), licensed distributor(s), and the OPA for the purpose of determining whether a Regional Infrastructure Plan and/or an Integrated Regional Resource Plan is required for a region and, where required, developing or updating a Regional Infrastructure Plan and/or an Integrated Regional Resource Plan.

Northwatch comment: "regional planning" should include not only the licensed transmitter(s), licensed distributor(s), and the OPA, but also **consumers, Aboriginal groups, environmental organizations, local governments, and other land users**.

3C.1.2 For the purposes of this section 3C, where the transmission system of more than one licensed transmitter is connected to customers in a region, the applicable transmitters shall determine which among them will be responsible for leading the regional infrastructure planning processes for the region at any given time. The applicable transmitters shall make that determination within 30 days of *[insert date of coming into force of the amendments]*, and may agree to change that determination from time to time thereafter. The transmitter that has been so designated at any given time shall be responsible for complying with the obligations set out in this section 3C. The other transmitter(s) shall participate in any regional infrastructure planning process or integrated regional resource planning process for the region as reasonably required by the lead transmitter or the OPA, as applicable, but shall not otherwise be required to comply with the obligations set out in this section 3C.

Northwatch comment: the transmitters in a region may not agree who will take on this role, and/or disputes may arise as a result of the proposed process. Given this, Northwatch recommends that the Board add that where the transmitters do not agree which among them will be the lead transmitter, or a dispute arises as to whether or how to designate a new lead transmitter, the transmitters must participate in alternative dispute resolution (for example, mediation or arbitration). The Board should clearly set out the process for the dispute resolution process and the circumstances under which it maybe invoked.

**3C.2 Obligation to Lead Regional Infrastructure Planning Process**

3C.2.1 A transmitter shall, in consultation with the OPA and with all applicable licensed distributors and licensed transmitters in a region, lead a regional infrastructure planning process for each region and participate in any integrated regional resource planning process for the region.

Northwatch comment: the lead transmitter must consult, not only with the licensed distributor(s) and the OPA, but also with **consumers, Aboriginal groups, environmental organizations, local governments, and other land users**.

3C.2.2 For the purposes of section 3C.2.1, a transmitter shall:

> (a) review the boundaries of the regions, in consultation with the OPA, no less than once every five years to determine whether they need to be modified;
>
> Northwatch comment: this review should take place every three years, along with the needs assessment and forecasting.
>
> (b) from time to time as required, and on a timely basis, request information from all licensed distributors and licensed transmitters in a region and from the OPA that the transmitter considers is reasonably required for the purpose of undertaking a needs assessment in relation to the region;
>
> (c) for each region, conduct a needs assessment at least every five years, and more frequently if required by reason of forecasted load or

demand growth within a distributor's licensed service area, request(s) for connection received by the transmitter or other events that the transmitter believes may trigger the need for investment in transmission facilities, distribution facilities or both in a region. The needs assessment, for a region, shall be completed within 60 days of receipt of the information referred to in section 3C.2.2(b);

Northwatch comment: the needs assessment should take place every three years, along with forecasting, and should begin as soon as the previous needs assessment is completed, and continue over the following three year period. 60 days is not long enough to complete the needs assessment. It should be done on a regular and continuous basis.

(d) within 10 days of completion of a needs assessment for a region, provide a report to the OPA, the IESO, and all licensed distributors and licensed transmitters within the region that reflects the results of the needs assessment, including the identity of the licensed distributors that will and will not need to be involved in further regional planning activities for the region. The lead transmitter shall also post the needs assessment report on its website upon its completion;

(e) where a needs assessment identifies that a Regional Infrastructure Plan may be required (where one is not yet in place) or may need to be updated (where one is already in place) for a region and the OPA confirms that the electricity needs of the region should be met, in whole or in part, by investments in transmission facilities, distribution facilities or both that are developed and implemented on a coordinated basis, complete or update a Regional Infrastructure Plan for the region, within six months of the date of receipt of such confirmation from the OPA, and post the Regional Infrastructure Plan on its website upon its completion;

Northwatch comment: Investments for conservation and demand management and other mechanisms for reducing load in the region should be included. The posting of the Plan should be on the lead transmitter's website, the OPA's website and a central registry accessible to the public. Notice to the public of filing of the plans on the registry should be made by the lead transmitter.

(f) where the OPA determines that an integrated regional resource planning process is required for a region, (i) participate in the integrated regional resource planning process as may be reasonably required by the OPA, and (ii) provide the OPA with such information as the OPA may from time to time reasonably require for the purposes of the integrated regional resource planning process within 30 days of receipt of a request by the OPA for the information;

(g) within 30 days of being requested to do so, provide a letter to a licensed distributor or a licensed transmitter confirming the status of regional planning for a region, including any Regional Infrastructure Plan that is being developed for the region that includes the distributor's licensed service area or within which the transmitter's transmission system is located, suitable for the purpose of supporting an application proposed to be filed with the Board by the distributor or transmitter.

Northwatch comment: The lead transmitter must provide notice to and engage not only the licensed distributor(s) and the OPA, but also **consumers, Aboriginal groups, environmental organizations, local governments, and other land users.** This should be achieved through a combination of mailers, open houses, television and/or radio advertisements, and other traditional forms of notification and public engagement, in addition to posting information on the utilities' websites. Whatever mechanisms are chosen for notice and public engagement, the mechanisms should foster meaningful opportunities to comment, to participate in the planning process and to evaluate the options and alternatives available.

## 3C.3 Monitoring and Reporting

3C.3.1 Subject to section 3C.3.2, a transmitter shall, in consultation with the OPA and with all applicable licensed distributors and licensed transmitters in a region for which a Regional Infrastructure Plan has been completed, undertake a review every 12 months following the completion of the Regional Infrastructure Plan for the purpose of determining:

(a) whether the investments in transmission facilities, distribution facilities or both, as applicable, identified in the Regional Infrastructure Plan are being implemented in accordance with the schedule set out in the Plan; and

(b) whether the Regional Infrastructure Plan needs to be updated in advance of the next scheduled needs assessment for the region.

3C.3.2 For a given region, a transmitter may make arrangements for a licensed distributor in the region to conduct the review referred to in section

<u>3C.3.1(a) rather than conducting the review itself. In such a case, the transmitter shall request a report from the distributor setting out the status of the investments in transmission facilities, distribution facilities or both, as applicable, set out in the Regional Infrastructure Plan at least 60 days in advance of the filing of the annual status report referred to in section 3C.3.3.</u>

<u>3C.3.3 A transmitter shall submit an annual report to the Board, on November 1st of each year, that identifies the status of regional planning for all regions, within its transmission system, and shall post the report on its website.</u>

Northwatch comment: The Annual Report should include an explanation of the public engagement activities carried out by the lead transmitter and distributors, and the CDM and other load-reducing activities utilized, for approval by the Board. The Annual Report should also include information about load forecasts, energy efficiency and the regional balance of demand and supply.

**<u>3C.4 Transition</u>**

<u>3C.4.1 A transmitter shall, within 10 days of *[insert date of coming into force of amendments],* request from each licensed distributor whose distribution system is connected to its transmission system a letter identifying whether the distributor foresees a need for a material investment in transmission infrastructure to support the needs of the distributor's distribution system and of the distribution system of any of that distributor's embedded licensed distributors over the next five years.</u>

Northwatch comment: The distributors, in identifying whether the distributor foresees a need for a material investment should consider and include in their letters not only investment in transmission infrastructure, but conservation and demand management and other mechanisms for load reduction, load forecasts, options for energy efficiency and options for achieving regional balance of demand and supply.

<u>3C.4.2 A transmitter shall, within 90 days of *[insert date of coming into force of amendments],* complete a review of all regions to prioritize them based on the anticipated timing of the need for investment in transmission facilities, distribution facilities or both. Every 12 months following *[insert date of coming into force of amendments],* the transmitter shall review the prioritization of regions and revise it as required to reflect emerging needs in the regions. The transmitter shall maintain a priority list, post it on its website and update it as required to reflect any changes in prioritization.</u>

Northwatch comment: In its review, the transmitter must provide notice to and engage **consumers, Aboriginal groups, environmental organizations, local governments, and other land users about the need for regional planning in the region.** Whatever mechanisms are chosen for notice and public engagement, the mechanisms should foster meaningful opportunities to comment and to participate in the review process.

3C.4.3 A transmitter shall, within 10 days of completing a review referred to in section 3C.4.2:

> (a) notify the licensed distributors and licensed transmitters within a region regarding whether they need to be involved in regional planning for the region; and
> (b) provide a report to the OPA identifying whether regional planning is required for each region and, where it is required, the identity of the licensed distributors and licensed transmitters in the region that need to be involved in regional planning for the region.

3C.4.4 A transmitter shall undertake a needs assessments for each region in accordance with the priority list referred to in section 3C.4.2. Within four years of *[insert date of coming into force of amendments],* the transmitter shall complete a needs assessment for all regions, and complete a Regional Infrastructure Plan for each region where one is required.

**II. Facilitating Regional Planning and Regional Infrastructure Plan Execution**

*1. Otherwise Planned and Refund Issue*

1. Section 3 of the Transmission System Code is amended by adding new section 3B as follows:

**3B. Reliability and Integrity of Transmission System**

3B.1 A transmitter shall, in accordance with the Act, its licence and this Code, maintain the reliability and integrity of its transmission system and reinforce or expand its transmission system as required to meet load growth.

2. Section 6.1.4(i) of the Transmission System Code is amended by deleting the phrase “plans required by section 6.3.6” and replacing it with the phrase “Regional Infrastructure Plan or the Integrated Regional Resource Plan referred to in section 3C, if any”:

6.1.4 A transmitter's connection procedures referred to in section 6.1.3 shall include the following:
…

(i) an obligation on the transmitter to provide a customer with the most recent version of the ~~plans required by section 6.3~~ Regional Infrastructure Plan or the Integrated Regional Resource Plan referred to in section 3C, if any, that covers the applicable portion of the transmitter's transmission system.

3. Section 6.2.3 of the Transmission System Code is amended as follows:

6.2.3 Where an economic evaluation, including an economic evaluation referred to in section 6.2.24, 6.3.9 or 6.3.17A, was conducted by a transmitter for a load customer in relation to a connection facility on the basis of a load forecast, that customer's contracted capacity shall, during the economic evaluation period to which the economic evaluation relates, be equal to the load identified in that load forecast or in any subsequent forecast used for purposes of giving effect to the true-up provisions of section 6.5.

4. The Transmission System Code is amended by deleting sections 6.2.24, 6.2.25 and 6.3.6.

~~6.3.6 A transmitter shall develop and maintain plans to meet load growth and maintain the reliability and integrity of its transmission system. The transmitter shall not require a customer to make a capital contribution for a connection facility that was otherwise planned by the transmitter; except for advancement costs.~~

~~6.2.24 Where a customer has made a capital contribution for the construction of a connection facility other than an enabler facility, and where that capital contribution includes the cost of capacity on the connection facility not needed by the customer, the transmitter shall provide a refund, calculated in accordance with section 6.2.25, to the customer if that capacity is assigned to another load customer within five years of the date on which the connection facility comes into service. Where such a refund is required under section 6.2.25, the transmitter shall require a financial contribution, calculated in accordance with section 6.2.25, from the subsequent customer.~~

~~6.2.25 For purposes of sections 6.2.24 and 6.3.17, the transmitter shall determine the amount of the refund to the initial customer and of the financial contribution from the subsequent customer by calculating…..~~

5. Section 6.3.17 of the Transmission System Code is amended as follows:

6.3.17 Where a customer has made a capital contribution for the construction of a connection facility other than an enabler facility, and where that capital contribution includes the cost of capacity on the connection facility in excess of the customer's needs ~~in order to comply with facilities standards or good utility practice~~, the transmitter shall provide a refund, calculated in accordance with section ~~6.2.25~~6.3.17A, to the customer as follows:

> a) where the customer made the capital contribution before *[insert date of coming into force of amendments]*, the refund shall be provided if that excess capacity is assigned to another customer within five years of the date on which the connection facility comes into service; or
>
> b) where the customer makes the capital contribution on or after *[insert date of coming into force of amendments]*, the refund shall be provided if that excess capacity is assigned to another customer within fifteen years after the date on which the connection facility comes into service.

~~if that available capacity is assigned to another customer within five years of the date on which the connection facility comes into service.~~ Where such a refund is required,~~T~~ the transmitter shall require a financial contribution from the subsequent customer to cover the amount of that refund.

6. The Transmission System Code is amended by adding new section 6.3.17A to replace section 6.2.25 as follows:

6.3.17A~~6.2.25~~ For purposes of sections ~~6.2.24 and~~ 6.3.17, the transmitter shall determine the amount of the refund to the initial customer and of the financial contribution from the subsequent customer by calculating a revised capital contribution amount using the prescribed economic evaluation methodology set out in section 6.5 and the same inputs as used in the original economic evaluation except for load, which will be based on the actual load of the initial customer up to the time of connection of the subsequent customer and a revised load forecast for the remainder of the economic evaluation period. The revised load forecast will include an updated load forecast of the initial customer plus the load forecast of the subsequent customer. The transmitter will then use the methodology set out in sections 6.3.14, 6.3.15 or 6.3.16 to allocate the revised capital contribution amount to the initial and subsequent customers. The refund to the initial customer shall be determined by subtracting the initial customer's allocated share of the revised capital contribution amount from the original capital contribution amount paid by the initial customer.

7. Section 6.7.8 of the Transmission System Code is amended as follows:

6.7.8 Where an economic evaluation, including an economic evaluation referred to in section ~~6.2.24,~~ 6.3.9 or 6.3.17A, was conducted by a transmitter for a load customer in relation to a connection facility on the basis of a load forecast, a transmitter shall not, during the economic evaluation period to which the economic evaluation relates, require bypass compensation from a customer under section 6.7.6 in relation to any load that represents that customer's contracted capacity.

8. Section 6.9.1 of the Transmission System Code is amended as follows:

6.9.1 A transmitter shall maintain complete and accurate records of all economic evaluations required to be carried out under this Code, including the economic evaluations referred to in sections ~~6.2.24~~, 6.3.9 and 6.3.17<u>A</u>. Each record must show the details of the economic evaluation, including the determination of the risk classification and the resulting economic evaluation period, the load forecast, the project capital costs, the ongoing operation and maintenance costs, and the project after tax incremental cost of capital, and must include the justification for all of the study parameters.

*2. The Transmission Asset Definition Issue*

1. Section 2.0.13 of the Transmission System Code is amended as follows:

2.0.13 "connection facilities" means line connection facilities and transformation connection facilities that connect a transmitter's transmission system with the facilities of another person, and includes an enabler facility <u>but excludes any line referred to in section 3.0.14(a) and any station referred to in section 3.0.14(b)</u>;

2. Section 2.0.45 of the Transmission System Code is amended as follows:

2.0.45 "network facilities" means those facilities, other than connection facilities, that form part of a transmission system that are shared by all users, comprised of network stations and the transmission lines connecting them, <u>and has the extended meaning given to it in section 3.0.14;</u>

3. Section 2 of the Transmission System Code is amended by adding new section 2.0.45A as follows:

2.0.45A "network station" means:

(a) any station with one or more of the following:

i. a 500 kV element, including a 500/230 kV or a 500/115 kV autotransformer;
ii. a 230 kV or 115 kV element that switches lines that normally operate in parallel with lines that connect transmission stations containing 500 kV elements;
iii. a 345 kV, 230 kV or 115 kV element that switches a 345 kV, 230 kV or 115 kV line that connects with the transmission system of a neighbouring Ontario transmitter or with a transmission system outside Ontario, including a 345/115 kV autotransformer; or
iv. a 345 kV, 230 kV or 115 kV element that switches a 345 kV, 230 kV or 115 kV line that connects interconnection circuits to any network station referred to in any of (i) to (iii) above;

(b) any station that the Board has determined in a previous Decision and Order of the Board, that is treated as a network facility and has the extended meaning given to it in section 3.0.14;

Northwatch comment: (1) The definition of "network station" should not include, and should specifically exclude, any costs incurred to export power, as these costs should be borne by the end user. Lines that connect with a transmission system outside Ontario for the purpose of exporting power should not be included as "network" assets that would presumably be paid for by either the region's customers or by customers across the province. (2) Network assets, whether included under "network station" or "network facility" should include connection costs for renewable energy generation.

4. Section 3 of the Transmission System Code is amended by adding new sections 3.0.14 and 3.0.15 as follows:

3.0.14 Subject to section 3.0.15:

(a) a "network facility" includes any line that forms part of the physical path between:

i. two network stations; or
ii. a network station and the transmission system of a

neighbouring Ontario transmitter or a transmission system outside Ontario,

such that electricity can be transmitted along the entire path under some operating conditions, which may or may not reflect normal operating conditions; and

Northwatch comment: (1) By definition of "network facility" the mechanism for assignment of costs should not include, and should specifically exclude, any costs incurred to export power being assigned to in-region ratepayers, as these costs should be borne by the end user. Lines that connect with a transmission system outside Ontario for the purpose of exporting power should not be included as "network" assets that would presumably be paid for by either the region's customers or by customers across the province. (2) Network assets, whether included under "network station" or "network facility" should include connection costs for renewable energy generation.

(b) a "network station" includes any station with one or more of the following:

i. an element that is greater than 500 kV;
ii. an autotransformer that steps down voltage from a higher transmission level to a lower transmission level;
iii. a transmission switchyard to which all of the following are connected:

(A) one or more generation facilities with a minimum aggregate installed rated capacity of 250 MW;
(B) one or more load facilities with a minimum aggregate load of 150 MW; and
(C) a minimum of four transmission circuits.

3.0.15 Section 3.0.14 only applies where the line referred to in section 3.0.14(a) or the station referred to in section 3.0.14(b):

(a) commences to be constructed on or after *[insert date of coming into force of amendments]*; or

(b) is being expanded or reinforced on or after *[insert date of coming into force of amendments]* for the purposes of increasing its capacity, regardless of when the network facility or network station was constructed.

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# Proposed Amendments to the Distribution System Code

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

The Distribution System Code is amended by adding new section 8 as follows:

## 8. Regional Planning

### 8.1 Definitions

8.1.1 In this section 8:

**"I**ntegrated Regional Resource Plan" means a document prepared by the OPA that identifies the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

**"**integrated regional resource planning process" means a planning process led by the OPA for the purpose of determining the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

Northwatch comment: The above definitions should expressly include not just "conservation" but "conservation and demand management". The definitions should also include load forecasts, energy efficiency and a regional balance of demand and supply.

**"**needs assessment" means a process led by a transmitter in accordance with section 3C of the Transmission System Code to determine if a Regional Infrastructure Plan or an Integrated Regional Resource Plan is required or needs to be updated for a region;

"region" means an area that has been designated as such by a transmitter, in consultation with the OPA, under section 3C.2.2(a) of the Transmission System Code for regional planning purposes;

"Regional Infrastructure Plan" means a document prepared by the transmitter leading a regional infrastructure planning process that identifies investments in transmission facilities, distribution facilities or both that should be developed and implemented on a coordinated basis to meet the electricity infrastructure needs within a region;

“regional infrastructure planning process” means a planning process led by a transmitter in accordance with section 3C of the Transmission System Code for the purpose of determining the investments in transmission facilities, distribution facilities or both that should be developed and implemented on a coordinated basis to meet the electricity infrastructure needs within a region;

Northwatch Comment: “Regional Infrastructure Plan” and “regional infrastructure planning process” should include investments in conservation and demand management and other mechanisms for reducing load in the region, not just investments in transmission facilities and distribution facilities, which include only infrastructure investments for load growth. The definitions should also include load forecasts, energy efficiency and a regional balance of demand and supply.

“regional planning” means a planning process involving licensed transmitter(s), licensed distributor(s), and the OPA for the purpose of determining whether a Regional Infrastructure Plan and/or an Integrated Regional Resource Plan is required for a region and, where required, developing or updating a Regional Infrastructure Plan and/or an Integrated Regional Resource Plan; and

Northwatch comment: “regional planning” should include not only the licensed transmitter(s), licensed distributor(s), and the OPA, but also **consumers, Aboriginal groups, environmental organizations, local governments, and other land users**.

“transmission-connected distributor” means a distributor whose distribution system is connected to the transmission system of a licensed transmitter.

**8.2 Participation in Regional Planning**

8.2.1 A transmission-connected distributor shall participate in regional planning upon being requested to do so by the transmitter that is leading a regional infrastructure planning process or by the OPA that is leading an integrated regional resource planning process for the region within which the distributor’s licensed service area is located, in whole or in part, and shall do so to such extent and in such manner as may reasonably be required by the transmitter or the OPA.

8.2.2 An embedded distributor shall participate in regional planning upon being requested to do so by its host distributor or by the transmitter that is leading a regional infrastructure planning process or is involved in an integrated regional resource planning process for the region within which the embedded distributor’s licensed service area is located, in whole or in part, and shall do so to such extent and in such manner as may reasonably be required by the host distributor or the transmitter.

Northwatch comment: The distributor's participation may include, if delegated by the lead transmitter, assisting the lead transmitter in, or the distributor itself providing notice to and engaging **consumers, Aboriginal groups, environmental organizations, local governments, and other land users.** This should be achieved through a combination of mailers, open houses, television and/or radio advertisements, and other traditional forms of notification and public engagement, in addition to posting information on the distributors' websites. Whatever mechanisms are chosen for notice and public engagement, the mechanisms should foster meaningful opportunities to comment, to participate in the planning process and to evaluate the options and alternatives available.

## 8.3 Provision of and Requests for Information

8.3.1 A transmission-connected distributor shall provide the transmitter that is leading a regional infrastructure planning process or is involved in an integrated regional resource planning process, for the region within which the distributor's licensed service area is located, in whole or in part, with the following:

(a) such information as the transmitter may from time to time reasonably require to support regional planning, and shall do so within 60 days of the transmitter's request; and
(b) prompt notice of any developments in that part of the region in which its licensed service area is located that may trigger the need for investments in transmission facilities, distribution facilities or both, as applicable, or that may otherwise reasonably be expected to affect the transmitter's conduct of a needs assessment for the region.

Where the distributor is a host distributor, the information provided to the transmitter shall reflect any information provided to it by any of its embedded distributors under section 8.3.3.

8.3.2 A transmission-connected distributor shall provide the OPA with such information as the OPA may from time to time reasonably require, for the purpose of supporting regional planning, and shall do so within 30 days of the OPA's request. Where the distributor is a host distributor, the information provided to the transmitter shall reflect any information provided to it by any of its embedded distributors under section 8.3.3.

8.3.3 An embedded distributor shall provide its host distributor with the following:

(a) such information as may from time to time reasonably be required by the host distributor to support regional planning, and shall do so within 15 days of receipt of the request for information; and

(b) prompt notice of any developments in that part of the region in which its licensed service area is located that may trigger the need for investments in transmission facilities, distribution facilities or both, as applicable, or that may otherwise reasonably be expected to affect a transmitter's conduct of a needs assessment for the region.

8.3.4 Where, for the purpose of supporting an application proposed to be filed with the Board, a distributor requires information related to the status of regional planning for a region, including any Regional Infrastructure Plan that is being developed for the region, the transmission-connected distributor or embedded distributor shall request a letter confirming the status from the transmitter that is leading the regional infrastructure planning process or is involved in an integrated regional resource planning process for the region no less than 60 days before the distributor requires the letter.

8.3.5 Where a needs assessment determines that the participation of a distributor in a regional planning process is not necessary, the transmission-connected distributor or embedded distributor shall request a needs assessment report from the transmitter that is leading the regional planning process confirming its involvement is not required no less than 10 days before the embedded distributor requires the report for the purpose of supporting an application proposed to be filed with the Board.

**8. Monitoring and Reporting**

8.4.1 Where a Regional Infrastructure Plan identifies the need for a distributor to make an investment in its distribution system, the distributor shall, upon request by the applicable licensed transmitter or host distributor or by a distributor referred to in section 8.4.2, provide an update regarding the status of the investment, and shall do so within 30 days of receipt of the request. Where the distributor is a host distributor, the letter shall reflect any investment update(s) provided to it by any of its embedded distributor(s).

8.4.2 Where a distributor has agreed to conduct the review referred to in section 3C.3.1(a) of the Transmission System Code, the distributor shall provide a report to the applicable licensed transmitter setting out the status of the investments set out in the applicable Regional Infrastructure Plan within 60 days of being requested to do so by the transmitter.

Northwatch comment: The distributor's report to the transmitter should include an explanation of the public engagement activities carried out by the distributors in the region (if such engagement was delegated by the transmitter to the distributor) and the CDM and other load-reducing activities utilized by the distributors in the region. The distributor's report should also include information about load forecasts, energy efficiency and the regional balance of demand and supply.

**8. 5 Transition**

8.5.1 A transmission-connected distributor shall, within 45 days of a request by the lead transmitter, provide the transmitter to whose transmission system the distributor's distribution system is connected with a letter identifying whether the distributor foresees a need for a material investment in transmission infrastructure to support the needs of the distributor's distribution system over the next five years. Where the distributor is a host distributor, the letter shall reflect any information provided to it by any of its embedded distributors under section 8.5.2.

8.5.2 An embedded distributor shall, within 15 days of a request from its host distributor, provide its host distributor with a letter identifying whether the embedded distributor foresees a need for a material investment in transmission infrastructure to support the needs of the embedded distributor's distribution system over the next five years.

Northwatch comment: The distributors (host and embedded), in identifying whether the distributor foresees a need for a material investment should consider and include in their letters not only investment in transmission infrastructure, but conservation and demand management and other mechanisms for load reduction, load forecasts, options for energy efficiency and options for achieving regional balance of demand and supply.

**8.6 Continuing Obligations Re Distribution System**

8.6.1 Nothing in this section 8 shall limit any obligation of the distributor to maintain the reliability and integrity of its distribution system or to meet load growth within its licensed service area.