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DECISION ON COST ELIGIBILITY

EB-2021-0117

Proposed Amendments to the Distribution System Code

**By Delegation Before: Brian Hewson
Vice President, Consumer Protection & Industry Policy**

September 3, 2021

On August 5, 2021, the Ontario Energy Board (OEB) issued a notice ([Notice](#)) under section 70.2 of the *Ontario Energy Board Act, 1998* (Act) of proposed amendments to the Distribution System Code (DSC). These proposed amendments are intended to reduce the overall timeline and provide clarity and consistency in the process for connecting a distributed energy resource (DER) to an electricity distributor's system, and they followed a policy consultation (EB-2019-0207) that involved the review of the OEB's requirements regarding the connection of DERs. The Notice indicated that cost awards would be available under section 30 of the Act, in accordance with the OEB's Practice Direction on Cost Awards (Practice Direction) and that they would be recovered from all rate-regulated licensed electricity distributors apportioned based on respective customer numbers. The Notice provided for any participant in the process intending to request a cost award (and that had not already been determined eligible for cost awards in the OEB's EB-2019-0207 Decisions issued on September 10, 13, or 23, 2019 or on January 13, 2020 (Eligibility Decisions¹)) to apply for cost eligibility, and for objections from electricity distributors.

Two stakeholders applied for cost eligibility following the Notice – Anwaatin Inc. (Anwaatin) and the Distributed Resource Coalition (DRC). No objections were received.

Anwaatin

The OEB has determined that Anwaatin meets the criteria set out in the Practice Direction and is therefore eligible for a cost award in this proceeding.

DRC

For the reasons that follow, OEB has determined that DRC is not eligible for a cost award in this proceeding.

DRC describes itself as follows in its [August 16, 2021 request](#) for cost eligibility:

DRC is a group of electricity customers and consumers that consists of end-use residential customers, non-profit organizations, and owners' associations that are directly affected by and interested in (i) optimizing existing energy assets, (ii) efficiently facilitating the integration of existing and innovative distributed energy resources (**DERs**), including electric vehicles (**EVs**), to achieve customer and grid solutions, and (iii) providing input on direct customer needs and local distribution company opportunities relating to DERs, EVs, and energy storage. DRC hopes to further these interests for the benefit

¹ The Eligibility Decisions are available on the OEB website at [Distributed Energy Resources \(DER\) Connections Review](#)

of each and all of end-use customers, DER providers, and the regulatory regime. DRC was among the first intervenor groups before the Board that advocated for the integration of DERs into energy systems when cost efficient. [DRC's emphasis]

DRC states that the proposed amendments to the DSC may affect the ability of energy customers represented by DRC to connect and use DERs and may therefore impact consumers (including end-use DER customers) and providers of DERs in relation to services that are regulated by the OEB.

DRC asserts that it is eligible for costs in accordance with two subsections of the Practice Direction: first, in accordance with section 3.03(a), on the basis that it is a party that primarily represents the direct interests of consumers (including end-use DER customers) and providers of DERs in relation to services that are regulated by the OEB; and second, in accordance with s.3.03(b) as DRC represents organizations that have a policy interest in facilitating innovation in the electricity sector, which is a component of the OEB's mandate and relevant to the proceeding.

DRC sought cost eligibility in EB-2019-0207 which, as discussed in the Notice, provided the basis for the proposed amendments to the DSC. In that case, DRC identified certain of its members (specifically, the "Electric Vehicle Society", representing over 1,000 end-use, largely residential, individual electricity customers who own electric vehicles; and "Plug'n Drive", an organization that provides information on electric vehicles and electric mobility issues). DRC did not identify any of its members in its current request.

In its September 10, 2020 [Decision on Cost Eligibility](#) in EB-2019-0207, the OEB denied DRC's request, on the following grounds:

DRC's request for cost eligibility is denied as it does not meet the eligibility criteria when considering the scope of the DER Connections Review policy consultation. The electric vehicle is clearly a new technology that has many potential impacts on distribution systems, however the DER Connections Review is focused on connection of storage and generation to distribution systems in terms of connection process and technical standards; in that respect electric vehicles are not unique and the approach to connection is not different than connection of load facilities. In the OEB's view, this is not a situation where DRC "primarily represents an interest or policy perspective relevant" to the consultation, within the meaning of section 3.03 of the Practice Direction. The burden is on the applicant for costs to establish eligibility and on the basis of the materials filed the OEB is not satisfied that the burden has been met."

DRC begins its current request by referring to itself as “a group of electricity customers and consumers that consists of end-use residential customers, non-profit organizations, and owners' associations”, but later (in discussing eligibility under section 3.03(a) of the Practice Direction) refers to itself as “a party that primarily represents the direct interests of consumers (including end-use DER customers) and providers of DERs in relation to services that are regulated by the Board.” DRC’s failure to provide any details regarding its membership, and its lack of clarity and consistency in the broad descriptions it does provide, make it difficult for the OEB to determine whom this group represents. Because it appears, based on DRC’s submission, that it is representing the commercial interests of DER providers, the OEB is denying DRC’s claim to cost eligibility under section 3.03(a) of the Practice Direction.

DRC’s second basis for requesting eligibility for costs is section 3.03(b) of the Practice Direction, as it claims to represent organizations with a policy interest relevant to the issues being addressed in the proposed DSC amendments. While the OEB is not bound by its determination in EB-2019-0207, the Notice and proposed DSC amendments are implementing the results of the consultation in respect of which DRC was not eligible for costs under section 3.03(b). DRC’s request in the current proceeding provides no additional information beyond what was provided in the prior proceeding that would suggest that DRC would have a unique perspective on the connection of storage and generation to distribution systems, and that it should recover costs in this proceeding where it was not eligible for costs in the underlying consultation. The OEB is therefore not satisfied that DRC “primarily represents an interest or policy perspective relevant to the Board’s mandate and to the proceeding for which cost award eligibility is sought”, as set out in section 3.03(b) of the Practice Direction.

Cost Eligibility for Parties Determined Eligible for Costs in EB-2019-0207

The OEB did not require those parties already determined eligible for costs in EB-2019-0207 to submit a new request for cost eligibility, as those parties remain eligible for cost awards in the current proceeding. Those parties are:

- Association of Major Power Consumers in Ontario (AMPCO)
- Building Owners and Managers Association (BOMA)
- Canadian Manufacturers & Exporters (CME)
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Environmental Defence (ED)
- London Property Management Association (LPMA)
- Ontario Chamber of Commerce (OCC)
- Pollution Probe
- School Energy Coalition (SEC)

Participants with similar viewpoints are requested to coordinate their activities in order to reduce costs. This effort will be taken into account during the decision on awards of costs.

The OEB reminds participants that cost awards will be available in relation to providing comments on the proposed DSC amendments up to a maximum of 10 hours. This cost eligibility decision applies to all eligible activities in this process.

DATED at Toronto September 3, 2021.

ONTARIO ENERGY BOARD

Original Signed By

Brian Hewson
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