

1. General and Administrative Provisions

1.2 Definitions

The EDA suggests that the OEB:

- define “advancement costs”, “beneficiary”, “benefit” and “facility”;
- refine its definition of “embedded distributor” or refine its rules that apply to embedded distributors to ensure consistency;
- amend the definition of “distributor-owned asset” to reflect that some distribution customers own transformation infrastructure.

The EDA notes that OEB definitions assist in achieving consistency among all LDCs and help to educate customers and temper their expectations.

3. Connections and Expansions

3.1 Connections

3.1.5

LDCs assume that basic connection infrastructure is to be dedicated to serving a single customer, either because it can be demonstrated (e.g., by inspection) as being dedicated to serving the customer, as is the case with a service line, or because a portion of it can be allocated to serve a specific customer, as is the case with the last stage of transformation.

There are two immediate issues arising from the implementation of this proposed amendment:

- distribution rates will need to be adjusted; and
- each LDC’s Conditions of Service will need to be revised.

Our members observe that the Coming Into Force of this provision should be co-ordinated with these associated regulatory activities. LDCs acknowledge that they will need to engage with their customers, for example to educate on whether they have new responsibilities, to educate on the associated changes to rates, by providing written notice of the proposed changes to their respective Conditions of Service as is required under section 2.4.8 of the DSC. The timing of the changes to distribution rates should be co-ordinated with other planned rate changes, such as updates to Regulated Price Plan levels or to distribution rates through the IRM or other rate setting mechanisms.

Each LDC will be a party to the regulatory process that will adjust distribution rates. Our members seek clarity as to the regulatory accounting of the costs incurred to participate in and of the rate making treatment of the costs recorded.

3.1.17

Our LDC members understand the appropriateness of directly recovering the costs attributable to a specific, identifiable customer from that customer in order to avoid undue cross subsidization. They also anticipate that the affected customer will need to understand the appropriateness of recovering these costs from them. The EDA's proposal that the OEB define "beneficiary" will assist in achieving this understanding and will benefit customers who are engaged through the application of deeming rules.

LDCs note that because their systems are dynamic, over time there is a strong likelihood that the replacement infrastructure funded by contributed capital could become common use infrastructure such that the costs would be eligible for recovery through OEB approved distribution rates.

The EDA is encouraged that the OEB's recent proposed Code amendments align with distributors rate structure and rely on a 5MW threshold. We inspected the OEB's 3 most recently issue Statistical Yearbooks and observe that LDCs infrequently attach customers >5MW. While the consultation is not expected to be problematic LDCs are unclear as to how the OEB expects the LDC to use the results of the consultation. Our members wonder whether it is advisable to consult with large user and other affected customers in those situations where the infrastructure that is at end-of-life is not to be replaced on a like-for-like basis; they note that it may be more beneficial to those customers to be educated on the merits, drivers and other issues of investing in alternative infrastructure.

3.1.17A

The EDA acknowledges that this provision provides a level of financial protection (e.g., from the consequences of capital investment decisions that prove to have a shorter economic life than technical life). We also observe that the effect of this provision could result in two similar customers having to pay different amounts to the LDC in order to be served through appropriately sized and appropriately configured infrastructure only because of where they locate in the service area (e.g., a newly developing part of the system versus a recently constructed portion of the system). This outcome differs from the OEB's express objective of achieving similar outcomes for similar customers; please see the EDA's Covering Letter for its comments on this objective. Should the proposed amendment be made, LDCs will be expected

to explain to customers that as a result of the customer's choice of location they become financially responsible for decisions made in a prior period.

3.1.18

According to our previous comments, (EB-2016-0003, EDA Comments, Attachment B, page 3 of 10, November 2017) the EDA believes that the connection configuration outlined in Section 3.1.18 is relatively uncommon. Since the Board intends to adjudicate these situations, the EDA suggests that the proposed Code amendment may be better suited for inclusion in the Board's Minimum Filing Requirements. Alternatively, the Board could adjudicate them individually and thereby gain insight into the embedded LDCs specific interests and consequential impacts. OEB adjudication is expected to benefit embedded LDCs by providing clarity on how to facilitate customer connection and how to responsibly allocate costs. In general, OEB adjudication can inform parties of the appropriate balancing of the interests (for example, when quantifying excess transmission capacity at a point in time, to clarify whether it is reserved or guaranteed or not).

This configuration of infrastructure raises a related rate making issue: should the facilitating LDC's costs be recovered through a wheeling rate? And if a wheeling rate is to be charged: should it be set at a level that recovers the costs of providing the infrastructure over its planned life and thereby overcome the need for an upfront financial contribution? LDCs acknowledge that a new connection of this nature will require a new Settlement Point, either Wholesale or Retail, that will need to be settled using Board authorized distribution rates so that the facilitating LDC is kept financially whole. Distribution rates recover the ongoing costs incurred to provide service to a load customer; they are not clearly suitable for a connecting LDC (e.g., whereas a load customer presents a non-payment risk, a connecting LDC presents virtually none).

To be clear, our members assume that these rules are not to be applied when the LDC connects one of its customers. However, if this is the OEB's intention then LDCs seek clarity as to the application of this proposed Code amendment (e.g., with respect to the Coming into Force provisions).

3.1.19

Applying the Board's proposed definition of "distributor owned asset" (i.e., not the basic connection infrastructure) and recognizing that under this scenario many users will be served, implies that the costs incurred are ongoing costs of providing service to many customers. Put differently, it implies that these costs will be eligible for recovery through rates.

Assuming that this section is to be applied as written there is a risk that different customers will pay different amounts depending on the extent of the physical infrastructure that they require for service. While apportioning cost responsibility based on non-coincident peak aligns with the basis on which rates are set, apportioning costs based on distance does not. Consider the case of two customers, who will be referred to as A and B. In this example, customer A connects first and requires a lengthy connection; customer A remits the required Contribution computed using the Discounted Cash Flow (DCF) methodology. Customer B connects in a later period and requires a physically shorter connection than did A. What is the fair way to compute Customer B's level of cost responsibility - by using distance and peak load, or, by using peak load as the proposed amendment appears to suggest?

Whether a generator's peak output should be used raises a much larger policy issue.

3.1.20

No comments

3.1.21

This provision introduces another situation where two similar customers can incur different costs to connect to an LDC's distribution system depending on the configuration of distribution assets.

Our members observe that if the LDC decides to relocate infrastructure then the LDC is eligible to include these costs in rate base and to recover the associated revenue requirement through OEB approved rates.

3.2 Expansions

3.2.4 and 3.2.4A

Please see the comments provided at "Definitions" and at 3.1.18.

3.2.4A

The EDA considers our members as front line industry representatives, as they have an enduring relationship with the customer and that they have earned the customer's trust. LDCs neither concede nor concur that their responsibility to the customer should be transferred to another party.

Should the Board, nonetheless, make this Code amendment LDCs will expect that the transmitter will be fully engaged and be explicitly required to provide customer care and to communicate with the customer in an appropriate manner – in conjunction and co-ordination with the LDC.

The OEB should consider how LDC specific data required to fully quantify the customer's responsibility will need to be shared, and, that LDCs will benefit from insight into the transmitter's data and DCF methodology so that all calculations are appropriate. The LDC should expect that its Contribution to the transmitter will be known as it is determined based on the required infrastructure and the Board authorized Uniform transmission Rates.

All parties to the decision will benefit from a transition period or a deferred Coming Into Force date that will allow for the development of appropriate business and communications processes, and, for all parties to gain fluency with analytical tools, such as the DCF.

To be well prepared to respond to customers' potential inquiries LDCs will need to have ready access to and be supported by the transmitter responsible for running the DCF analysis.

3.2.5

LDCs note that since generators are deemed to have no load that, in the extreme situation of a single generator, the upshot of this provision is that the generator will be 100% responsible for the costs. LDCs also note that connecting entities may be indirectly incented to reveal their 'worst' case need for incremental capacity and disincented from revealing internal decisions or plans that may dampen or defer utilizing incremental capacity (e.g., if the connecting entity deploys behind-the-meter generation or storage).

The EDA suggests that this provision be carefully stakeholdered with the generator community for appropriateness and for whether a transition or phase in is considered appropriate.

3.2.20

Expansion deposits ensure that "growth pays for growth" and are a vital forecasting risk mitigation tool for LDCs that also guards against the potential for cross subsidization.

An unaddressed question is whether a municipality can finance a contribution or provide an expansion deposit. A municipality might be motivated to take such action in order to mitigate or avoid the negative economic development impact of the new contribution requirements on its community. If a municipality either finances a contribution or provides an expansion deposit it would not increase its equity position in the LDC and it would have access to a financial tool to support attracting employers to the municipality, and to create economic growth.

3.2.21

Please see the comments provided under 3.2.20.

3.2.23

No comments

3.2.24

Please see the comments made in connection with section 3.2.21.

3.2.27

No comments.

3.5 Bypass Compensation

3.5.1

The EDA observes that mandatory bypass compensation of stranded transmission assets protects the LDC from undesirable financial consequences, will make clear the customer's responsibility and will achieve consistency across all LDCs. The EDA refers to its November 2017 comments, specifically those that scope the potentially transient nature of by-passed infrastructure (EB-2016-0003, EDA Comments, Attachment A, page 2).

The EDA proposes that the OEB co-ordinate this provision with its Commercial and Industrial rate design initiative for common in scope issues such as bypass compensation.

Our members seek regulatory accounting guidance on the appropriate treatment of bypass compensation. For example, should it be held in a deferral account for a period of time until it is certain that the assets have been permanently bypassed? Should the pool of assets be adjusted when removing the bypassed infrastructure? Will the OEB use a sub-account of 1995? How will the Board set rates if the bypass compensation remitted is so material as to put the LDC off side of the Board's hypothetical capital structure?

LDCs are the face of the industry to the end user. Our members note that there is a possibility that both a financial Contribution and bypass compensation may be sought from the same customer. They also note that the Board's proposed amendments risk incompatible outcomes to otherwise similar customers depending on the configuration and vintage of distribution or transmission infrastructure. Consider the scenario where a customer can be served by either Transmission Station A which has unutilized capacity or Transmission Station B which lacks capacity to serve. In the latter case the customer may be charged bypass in a future period while in the former case the customer can expect to be asked to render a Contribution and still risks being charged bypass compensation in a future period.

LDCs look to the Board for insight into the fairness of asking a customer to be financially responsible for decisions they did not make and were not engaged in and, in many cases, were unaware of.

3.5.2

The proposed amendments risk treating similar entities in differing ways and LDCs anticipate struggling to make these distinctions compelling to the customers who are not engaged by them.

The rules on overloaded infrastructure may relieve a customer from bypass compensation – for reasons that the customer does not control, is not accountable for and has not authority over. While this is a benefit to the customer it doesn't address the LDCs need for protection against the associated stranded debt. LDCs anticipate that customers will believe they are being dealt with unfairly when the decision making factors are the state of the infrastructure and its utilization – both of which are beyond the control of the customer who will be required to remit bypass compensation.

Should the OEB make this proposed amendment, LDCs suggest that a transition period be provided so that customers can be appropriately educated. Customer education will benefit from the preparation of customer oriented materials, including worked examples that objectively conveys the impact to all affected stakeholders. The EDA suggests that transition periods be coordinated with the Coming Into Force proposals so that all customers are provided with consistent and comparable protections.

LDCs also note that it is not the customer's responsibility to find new loads, under any circumstances.

3.5.3

The EDA seeks accounting guidance and information on rate making considerations from the Board, e.g., how to calculate the NBV of pooled bypassed distributor-owned assets, whether LDC owned assets or other assets are affected, how the difference between bypass compensation and the NBV of Transmission assets is to be recovered over time, how to recover stranded costs and stranded debt resulting from customer islanding, the treatment of stranded costs and stranded debt when a customer transitions from being distribution connected to being transmission connected, of the application of bypass compensation to common use pooled assets.

9.7 Reporting Requirements for Embedded Distributors

9.7.1

The EDA suggests the entity responsible for fulfilling the obligation or expectation should also be the reporting entity; alternatively, the reported information should be provided to the regulator and to the entity being reported on.