

December 16, 2021

Mr. Sam Colalillo
Director, Renewables Integration and Distributed Energy Resources Branch
Ministry of Energy
77 Grenville St. 5th Floor
Toronto, ON M7A 2C1

Dear Mr. Colalillo,

Re: ERO-019-4554, Supporting Residential Roof-Top Solar and other renewable resources by clarifying eligibility of third-party leasing and financing net metering arrangements - Coalition of Large Distributors (“CLD”) Written Comments

The CLD consists of Alectra Utilities Corporation, Elexicon Energy Inc., Hydro One Networks Inc., Hydro Ottawa Limited, and Toronto Hydro-Electric System Limited. Together, the CLD’s members represent more than 3.6 million, or approximately 70% of electricity consumers located across the province. CLD members are on the forefront of the energy transformation in Ontario and are actively working with customers to enable distributed energy resources (“DER”) while managing the impacts on local grids. The vast majority of DERs currently connected in Ontario are connected to the grids of CLD members.

On November 1st, the Ministry of Energy (“MOE” or “the Ministry”) proposed amendments to O. Reg. 541/05 (Net Metering) made under the *Ontario Energy Board Act, 1998*, that would provide greater clarity on eligibility for a customer who is leasing or financing electricity generation equipment used for net metering. In this proposal, the Ministry has indicated changes will help service providers and customers in Ontario better understand the types of third-party net metering arrangements they could enter into.

The CLD is pleased to offer comments on this proposal, and is generally supportive of measures that clarify net metering arrangements for customers, electricity distributors, and service providers alike. In this submission, the CLD offers its feedback on several

areas of the proposed amendments to O. Reg. 541/05. The points below represent a summary of CLD's recommendations:

- The CLD recommends that amendments should remain consistent with the OEB staff's interpretation bulletin issued on October 25, 2021.
- The CLD strongly encourages the Ministry to allow for the opportunity to comment on draft regulatory language that would allow for more detailed comment on potential implementation considerations.
- The CLD notes that the Ontario Energy Board ("OEB") in coordination with the Independent Electricity System Operator ("IESO") are developing innovative models of compensating DERs based on the value of the attributes they provide to various parts of the electricity system. The CLD believes that Ontario's net metering framework should work in unison with those initiatives to ensure net metering does not work at cross purposes with the outcomes of those processes.

Proposed Amendments to O. Reg. 541/05

On October 25, 2021, the OEB released a bulletin outlining the OEB staff's view on the eligibility for net metering where the distribution customer operates but does not own the renewable energy generation facility. The bulletin outlined an "eligible generator" as "a person who owns or operates a generation facility", and that in the case where the ownership and operation of a generation facility rests with different persons, within the meaning of the Regulation, an "eligible generator" is a person who operates an eligible generation facility but does not own it. The bulletin stipulates "the type or agreement entered into between the distribution customer/operator and the third-party owner may vary", however it is the OEB staff's view that the distribution customer/operator would have the responsibility for "making and adhering to the net metering agreement with the

distributor” and that “a net metering agreement is between a distributor and a distribution customer”.¹

Provided that the intent of the Ministry’s proposed amendment is to clarify and reaffirm O. Reg. 541/05 with the OEB staff’s interpretation of an “eligible generator” pursuant with the bulletin issued on October 25, 2021, the CLD confirms what the Ministry has proposed is appropriate. However, the CLD submits any regulation changes that would diverge from the OEB staff’s interpretation that the distribution customer is the counterparty to the distributor in the net metering agreement would have significant administrative and business operational impacts on electricity distributors. Under this circumstance, the CLD encourages the Ministry to consult with local distribution companies (“LDCs”) further.

As relayed to the Ministry by individual CLD members in 2017 when the Ministry was considering broadening the scope of Ontario’s net metering program to include third-party ownership and operation of renewable energy systems, such a model could have significant impact on how electricity distributors interact with their customers. Any amendments to O. Reg. 541/05 that would alter a net metering agreement between a distributor and a distribution customer via a third-party would require policy, regulatory, structural and contractual amendments. The following lists some of the issues that may arise:

1. **Consumer protection:** MOE would need to assess the need for a licensing framework, codes of conduct and other mechanisms akin to those used for either retailing or unit sub metering.
2. **LDC cost recovery:** there would need to be clear and efficient recovery mechanisms for prudently incurred costs borne by LDCs to expand the net

¹ Ontario Energy Board Bulletin on Net-Metering, dated October 25, 2021, available at: <https://www.oeb.ca/sites/default/files/Bulletin-Net-Metering-Generator-Operator-20211025.pdf>

metering program and to implement amendments to the net metering regulation, as necessary.

3. **Minimize cross-subsidization:** measures would need to be explored to minimize cross-subsidization between net metered and non-net metered customers through appropriate mechanisms.
4. **Policy congruence:** MOE would need to ensure ongoing policy alignment with other related policy initiatives related to DERs currently underway, including the Ontario Energy Board’s Framework for Energy Innovation (“FEI”) proceeding (EB-2021-0118) and the IESO’s Enabling Resources Program and related initiatives.
5. **Safety and reliability:** MOE would need to ensure third-party arrangements would not put at risk system reliability or the safety of the public, customers or utility employees.
6. **Clearly defined relationships:** the relationships between LDCs and third-party owners, if any, would need to be clearly defined either through contract or code of conduct.

The CLD provides these examples to convey the range of complex issues that electricity distributors will need to be consulted on if the existing net metering agreements between an LDC and a distribution customer via a third-party is altered.

Opportunity to Comment on Draft Regulatory Language

To this effect, while the posting contains plain language descriptions of the proposed changes, it does not include draft regulatory language for the proposed amendments. The absence of draft regulatory language and the details it provides makes it difficult for CLD members to provide more substantive comments on regulatory proposals, especially

when dealing with a matter as technical and complex as net metering configurations and contractual provisions.

The CLD strongly recommends the MOE provide stakeholders an opportunity to comment on the draft regulatory amendments if it deviates beyond the OEB staff bulletin's interpretation before the Ministry incorporates them as final regulations. This would allow participants to assess the proposed changes in detail and ensure critical implementation considerations are not overlooked.

Net Metering as a means for DER Compensation

As expressed above, CLD members support measures that will make net metering arrangements under the current framework clearer and more efficient for customers, electricity distributors, and service providers alike.

The CLD further recommends that the Ministry consider how the net metering frameworks, including these amendments, interact with the initiatives underway at the OEB and the IESO pertaining to developing innovative models of compensating and integrating DERs based on the value of the attributes they provide to various parts of the electricity system. This will allow the Ministry to balance greater customer choice with enabling DERs to benefit the electricity system and ratepayers.

Net metering has proven to be an effective mechanism to allow for the orderly transition away from fixed prices contracts of the previous policy framework. Nevertheless, the CLD has observed that net metering is being rolled back and replaced in jurisdictions, including New York State, that are pursuing more innovative frameworks for remunerating DERs, and that the transition away from net metering represents a barrier to be overcome in pursuit of that innovation.

Ontario's net metering framework compensates electricity generated by resources located "behind-the-meter" that do not have a fixed contract through an IESO program,

such as FIT or microFIT. Net metering customers receive bill credits for the power injected into the grid, which is generally compensated at the commodity rate that prevails on a customer's bill. For residential and small business net metering customers, the commodity rate is Tiered prices, or potentially Time of Use prices, as set under the Regulated Pricing Plan ("RPP"). RPP rates are set by the OEB to recover both the wholesale costs of electricity and the Global Adjustment ("GA"). With GA costs being largely fixed, this under recovery of GA from net metered customers may overcompensate the value the generation is contributing to the grid. Furthermore, because net-metered generation is compensated at prevailing commodity rates which are set provincially, there is no price signal that would reward the generation to be located in constrained areas where the attributes of DERs could be more.

The CLD encourages the Ministry to consider the aforementioned to inform any future changes to Ontario's net metering framework and would be pleased to collaborate with the Ministry in that regard.

Conclusion

The CLD appreciates being provided the opportunity to share its feedback on the Ministry of Energy's proposed updates to Ontario's net metering regulation and looks forward to future opportunities for further engagement.

If you have any questions regarding our comments, please contact the undersigned.

Sincerely,



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