



**EB-2012-0343**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B;

**AND IN THE MATTER OF** an application pursuant to section 74 of the *Ontario Energy Board Act, 1998* by Hydro One Networks Inc., for exemptions from section 6.2.6 and section 6.2.7 of the *Distribution System Code* relating to the connection of micro-embedded generation facilities to its distribution system.

**By delegation, before:** Theodore Antonopoulos

## **DECISION AND ORDER NOVEMBER 8, 2012**

### **THE APPLICATION**

On August 3, 2012, Hydro One Networks Inc. (“Hydro One”) applied to the Ontario Energy Board (the “Board”) for an extension to the exemption from the obligations under sections 6.2.6 and 6.2.7 of the *Distribution System Code* (the “DSC”) which the Board granted in its Decision and Order of October 11, 2011 under EB-2011-0118 (the “Original Decision”). The exemption expired on April 11, 2012. The sections of the DSC relate to the timelines required to connect micro-embedded generation facilities to Hydro One’s distribution system.

Hydro One also requested an immediate interim stay from the obligations in sections 6.2.6 and 6.2.7 of the DSC as of the date the application was filed and until the Board renders a final decision on the matter.

Section 6.2.6 requires a distributor to make an offer to connect, or provide reasons for refusing connection of, micro-embedded generation facilities within:

- 15 days if the applicant is located at an existing customer connection; or
- 60 days if the applicant is not located at an existing customer connection.

In either case, the distributor is not permitted to charge for the preparation of the offer to connect and must give the applicant at least 30 days to accept the offer to connect. The distributor is not permitted to revoke the offer to connect until the 30 day period has expired.

Section 6.2.7 requires the distributor to connect the applicant's micro-embedded generation facility to its distribution system within 5 days of an applicant informing the distributor that it has:

- received all necessary approvals;
- provided the distributor with a copy of the authorization to connect from the Electrical Safety Authority;
- entered into a connection agreement; and
- paid the distributor for the connection costs, including costs for any necessary new or modified metering.

In the EB-2011-0118 proceeding, Hydro One proposed that during the course of the exemption it would conform to the standards set out in sections 7.2.1 and 7.2.3 of the DSC. Section 7.2.1 requires that new service connections must be completed within five business days from the day on which all applicable service conditions are satisfied, or at a later date agreed to by the customer and distributor. Section 7.2.3 stipulates that this requirement must be met at least 90% of the time on a yearly basis.

In the current application, Hydro One stated that the timelines and 100% targets in sections 6.2.6 and 6.2.7 of the DSC are not practically achievable.

The Original Decision created three categories of micro-embedded connections in relation to these sections of the DSC:

- Group A: Indirect connections not requiring a site visit;
- Group B: Indirect connections requiring a site visit; and
- Group C: Direct connections

The Original Decision granted Hydro One exemptions from section 6.2.6 and 6.2.7 of the DSC with the following provisions:

- For Group B connections, Hydro One was required to issue an offer to connect or issue reasons for refusal within 30 days, for at least 90% of applications. If a customer requests a delay with respect to 6.2.6, the additional time will be added to the timeline.
- Processing timelines for all projects under 6.2.6 began once Hydro One receives a complete application for micro-embedded generation connections. Hydro One must log the date that each application is received, including incomplete applications, as well as the date when an incomplete application is deemed complete.
- In relation to section 6.2.7 of the DSC for micro-embedded generator applications, Hydro One must comply with the timelines prescribed in sections 7.2.1 and 7.2.3 of the DSC.

In its application, Hydro One stated it requires this extension to deal with an expected large volume of applications resulting from the re-launch of the Ontario Power Authority

(“OPA”)’s microFIT Program and while Hydro One awaits the outcome of the Board’s consultation on micro-embedded generation issues (EB-2012-0246) initiated on May 15, 2012. The requested term of the extension is from April 11, 2012 until a date which is six months after the Board issues a final Notice of Code Amendments or otherwise concludes its consultation on micro-embedded generation issues. The six month period is requested to allow Hydro One time to make any necessary changes to its systems and processes to accommodate the Board’s code amendments in EB-2012-0246.

Hydro One stated that it continues to maintain that the timelines and 100% targets in sections 6.2.6 and 6.2.7 of the DSC are not practically achievable, as even during low-volume periods, compliance is not achieved. Hydro One also stated that its ability to comply with the targets in the DSC are hampered by unpredictable and volatile applications streams given the ongoing development and relative immaturity of the OPA’s programs.

I note that Hydro One has filed compliance reports with the Board covering October 11, 2011, to September 30, 2012. In its application, Hydro One also provided a summary of its compliance status. In support of its application, Hydro One stated that its compliance levels had improved significantly since March 2012. Hydro One indicated the following:

- With respect to processing applications, Hydro One has achieved compliance with the Code in two of the three connection categories (Groups A and C) every month, with only one exception -- for Group C in April 2012.
- With respect to processing applications for Group B, Hydro One has not been able to achieve compliance with the Code requirements but was able to meet or exceed the terms of the original exemptions.
- Hydro One has also been able to meet or exceed the terms of the original exemptions with respect to physical connections.

Hydro One stated that the majority of micro-embedded generation customer complaints have been focused on the inability to connect and not on the processing or connection timelines.

## **THE PROCEEDING**

The full record of the proceeding is available at the Board's offices and on the Board's website. The Board has summarized the record in this proceeding only to the extent necessary to provide context to its findings.

The Board issued a Notice of Application and Hearing for the application on September 14, 2012.

On October 1, 2012 Power Workers' Union ("PWU") responded to the Notice supporting Hydro One's request for an interim stay of the obligations. On October 10, 2012 PWU also filed a submission on the exemption request and submitted that that the Board should grant Hydro One's request for the exemptions for six months after the Board issues Code amendments or otherwise concludes its consultation.

Board staff filed a submission on the application that stated it had no issue with Hydro One's request for exemption. Board staff stated that given that the Board is reviewing micro-embedded generation issues through its consultation, staff was of the view that granting an extension to the exemptions in the DSC until after the close of the Board's consultation is reasonable.

The Canadian Solar Industries Association ("CanSia") stated that the exemption should continue to be conditional upon Hydro One adhering to the monitoring and compliance reporting requirements established by the Board in EB-2011-0118. CanSia submitted that the transparency provided by these reporting requirements is important for ensuring

that Hydro One continues to make efforts to achieve full compliance with the DSC. CanSia was of the view that the exemption should be limited in scope and similar to the exemption granted in the EB-2011-0118 proceeding. CanSia also stated that it was not clear why Hydro One filed its extension request until nearly four months after the exemption expired. CanSia indicated that the timing for the Board's consultation is highly uncertain and that at this time it is uncertain whether the Board's consultation will in fact result in amendments to the DSC. CanSIA submitted that it would not be appropriate to grant Hydro One an extension that continues for such an indefinite period. CanSIA indicated that if the extension is granted it should be until the earlier of the date that is 12 months from the end of the original exemption (i.e. April 11, 2013) or 3 months after the Board issues a final Notice of Code Amendments or otherwise concludes EB-2012-0246.

In its reply submission, Hydro One submitted that it requires a period of six months to complete any system and process changes that may be required depending on the results of the Board's consultation on micro-embedded generation issues. Hydro One stated that changes to complex information technology systems and the associated process changes in the field can take several months to scope, implement, test and approve. Hydro One also indicated that additional time is required for staff training and process refinements to be able to achieve compliance at the end of the extension period. Hydro One reiterated its need for the exemption request for a period of six-months after the Board concludes its consultation on micro-embedded generation issues.

## **FINDINGS**

I approve the establishment of an exemption consistent with the exemption granted in EB-2011-0118. The exemption is approved effective August 3, 2012, the date of the application filing and shall remain in effect until the earlier of 12 months from the application filing date or six months after the Board issues a final Notice of Code

Amendments or otherwise concludes EB-2012-0246. I accept Hydro One's reasons for the new exemption. Hydro One noted that on July 12, 2012 the OPA re-launched the microFIT program and that the OPA would begin releasing approximately 5,000 or more microFIT applications sometime in August 2012. Having reviewed Hydro One's compliance report for the month of September 2012, Hydro One did receive a larger volume of applications in relation to the previous month. I acknowledge Hydro One's unique position in Ontario as the largest distributor in the province and that it is directly affected by the re-launch. I also accept Hydro One's explanation with respect to the initiatives that it must undertake to implement any changes as a result of the Board's consultation. I note that no party challenged Hydro One on this claim. I find the time period of six months not to be unreasonable although I encourage Hydro One to make best efforts to effect any changes as soon as possible following the establishment of any new conditions.

I note that Hydro One stated in the current application that "100% targets [vis a vis the current code conditions] are not practically achievable". However, I also note that the Board in its Original Decision maintained the expectation that Hydro One must eventually come into compliance with the current conditions. The Original Decision established interim conditions as part of the exemption in order to assist Hydro One to come into compliance with the established DSC requirements. Hydro One's latest reporting (for September 2012) shows that Hydro One continues to improve, and while it is in compliance with the interim conditions, it is not yet in compliance with the current DSC conditions. While the initiation of the Board's consultation may have kindled certain expectations, I agree with CanSia that there is no way to know how long the proceeding will take to reach a conclusion and whether the consultation will result in changes to the subject conditions at all. I note that the latest step in the proceeding was the establishment of cost award eligibility on July 17, 2012 and there is no indication at this time as to the next steps or the timing of those steps.

I have established a 12 month limit to this latest exemption as I agree with CanSia that an exemption to six months after the Board's consultation has been concluded is too open ended and would not be consistent with the spirit of the Original Decision which required Hydro One to work towards coming into compliance with the current DSC conditions.

Hydro One shall continue its monthly reporting requirements established in the Original Decision until such time that it can maintain compliance for a period of three straight months with the current provisions of the DSC or any amendments to the DSC as a result of the Board's consultation.

The exemptions granted by the Board in the EB-2011-0118 proceeding expired on April 11, 2012. Ideally, applications for exemptions should be filed by such a date that would allow the Board sufficient time to process the application consistent with its standard timelines in order to issue a decision by the date on which the applicant may be otherwise out of compliance.

I note that given the six month original exemption period and the fact that the compliance plan was not approved by the Board until December 14, 2012, it would not be reasonable to expect that the applicant will have filed an application in time to be processed by the exemption expiration date. However, CanSia noted that it took the applicant four months to file the subject application following the expiration of the original exemption. Hydro One did not respond to this nor did it explain in its application why this was necessary.

In my view, the Board could not retroactively extend the applicant's prior lapsed deadline. Therefore, the commencement of the new exemption will be as of the date of the application filing, that is August 3, 2012.



**IT IS ORDERED THAT:**

1. The Board hereby grants an exemption to Hydro One Networks Inc. from sections 6.2.6 and 6.2.7 of the *Distribution System Code*, ending August 3, 2013 or six months after the conclusion of the Board's consultation EB-2012-0246 whichever is earlier, and as set out in further detail below.
2. Hydro One Networks Inc. is exempt from the timelines set out at section 6.2.6 of the *Distribution System Code* for projects that are an indirect connection requiring a site assessment (Group B). For this type of connection, Hydro One Networks Inc. shall be required to issue an offer to connect or issue reasons for refusal within 30 days, for at least 90% of applications. If a customer requests a delay with respect to 6.2.6, the additional time will be added to the timeline. Hydro One Networks Inc. shall track its compliance with this provision.
3. For all projects other than those specifically enumerated in #2 of this Order, the application of section 6.2.6 of the *Distribution System Code* shall remain unchanged.
4. Processing timelines for all projects under 6.2.6 shall only begin once Hydro One Networks Inc. receives a complete application for micro-embedded generation connections. Hydro One Networks Inc. shall log the date that each application is received, including incomplete applications, as well as the date when an incomplete application is deemed complete.
5. Hydro One Networks Inc. is exempt from the provisions of 6.2.7 of the *Distribution System Code*. For micro-embedded generator applications, Hydro One Networks Inc. shall comply with the provisions of sections 7.2.1 and 7.2.3 of the *Distribution System Code*.

6. Hydro One Networks Inc. shall continue to file monthly compliance reports in the form and manner ordered by the Board in its Order of December 14, 2011 under EB-2011-0118 until such time as Hydro One has met the requirements of sections 6.2.6 and 6.2.7 of the *Distribution System Code*, or any amendments to these sections as a result of the Board's consultation in EB-2012-0246, for three (3) consecutive months.

**DATED** at Toronto, November 8, 2012

**ONTARIO ENERGY BOARD**

*Original Signed By*

Theodore Antonopoulos  
Manager, Electricity Rates