

**Ontario Energy Board Act, 1998**  
**Loi de 1998 sur la Commission de l'énergie de l'Ontario**

**ONTARIO REGULATION 330/09**  
**COST RECOVERY RE SECTION 79.1 OF THE ACT**

**Consolidation Period:** From September 9, 2009 to the e-Laws currency date.

No amendments.

*This Regulation is made in English only.*

**Definitions and interpretation**

1. (1) In this Regulation,

“consumer” has the same meaning as in the *Electricity Act, 1998*;

“embedded distributor” means a licensed distributor who is not a market participant and to whom a host distributor distributes electricity;

“embedded generator” means a generator who is not a market participant and whose generation facility is connected to a distribution system of a licensed distributor, but does not include a generator who consumes more electricity than it generates;

“host distributor” means a licensed distributor who is a market participant and who distributes electricity to another licensed distributor who is not a market participant;

“licensed distributor” means a distributor who is licensed under Part V of the Act;

“qualified distributor” means a distributor serving consumers or classes of consumers that are being provided rate protection pursuant to subsection 79.1 (1) of the Act in accordance with this Regulation;

“rate protection” means rate protection under section 79.1 of the Act. O. Reg. 330/09, s. 1 (1).

(2) The prescribed criterion for falling within the definition of an “eligible investment” under subsection 79.1 (5) of the Act is that the costs associated with the investment are determined to be the responsibility of the distributor in accordance with the Board’s Distribution System Code. O. Reg. 330/09, s. 1 (2).

(3) The prescribed criterion for falling within the definition of a “qualifying generation facility” under subsection 79.1 (5) of the Act is that the generation facility satisfies the criteria necessary to be a renewable energy generation facility under the *Electricity Act, 1998*. O. Reg. 330/09, s. 1 (3).

**Consumers eligible for rate protection**

2. Consumers or classes of consumers are prescribed consumers or classes of consumers for the purposes of subsection 79.1 (4) of the Act if they are served by a licensed distributor that has incurred costs to make an eligible investment that has been approved by an order of the Board. O. Reg. 330/09, s. 2.

**Calculation of rate protection**

3. (1) The Board shall calculate the annual amount of rate protection to be provided to prescribed consumers or classes of consumers using the following formula:

$$A = B - C$$

where,

A is the amount of rate protection to be provided to prescribed consumers or classes of consumers in a distributor’s service area,

B is the costs associated with the eligible investment described in subsection 1 (2), and

C is the amount that the Board determines to represent the direct benefits that accrue to prescribed consumers or classes of consumers as a result of all or part of the eligible investment made or planned to be made by the distributor.

O. Reg. 330/09, s. 3 (1).

(2) The Board shall calculate a monthly amount of compensation, referred to as the distributor's monthly compensation amount, to which each qualifying distributor is entitled, which amount shall be based on the amount calculated under subsection (1). O. Reg. 330/09, s. 3 (2).

(3) Where the Board provides rate protection for a qualified distributor's prescribed consumers or classes of consumers, the Board shall, as often as is necessary and no less frequently than annually, calculate an aggregate monthly compensation amount by aggregating the amounts calculated under subsection (2) for each qualified distributor for each month for which collection is required. O. Reg. 330/09, s. 3 (3).

(4) The Board shall, as often as is necessary and no less frequently than annually, calculate the monthly amount to be collected by the IESO under subsection 4 (2), such that the total amount that is to be collected is equal to the total amount of rate protection that is to be provided. O. Reg. 330/09, s. 3 (4).

(5) The Board shall, as often as is necessary and no less frequently than annually, calculate the amount of the charge to be collected by each distributor under subsection 4 (3) for each kilowatt hour of electricity that is distributed to a consumer or embedded distributor, such that the total forecasted amount that is to be collected is equal to the total amount of rate protection that is to be provided. O. Reg. 330/09, s. 3 (5).

(6) In any year, if the amounts collected by distributors in accordance with subsection (5) are greater or less than the amounts calculated under subsection (3), the excess or shortfall shall be considered by the Board in calculating the amount of the charge that is to be collected by distributors under subsection (5) for the following year. O. Reg. 330/09, s. 3 (6).

(7) Qualified distributors and persons to whom this Regulation applies shall provide the information relating to this Regulation that the Board requires, in a form and within the time specified by the Board. O. Reg. 330/09, s. 3 (7).

#### **IESO calculation of proportional share**

4. (1) On a monthly basis, the IESO shall collect from market participants the amount calculated by the Board under subsection 3 (4) based on each kilowatt-hour of electricity that is withdrawn from the IESO-controlled grid, as determined in accordance with the Market Rules, where the electricity is for the use of consumers within Ontario. O. Reg. 330/09, s. 4 (1).

(2) For the purposes of subsection (1), the IESO shall proportionately charge market participants based on the total of the net volume of electricity withdrawn by the market participants from the IESO-controlled grid during the month and, if the market participant is a licensed distributor, the sum of,

- (a) the total volume of electricity supplied by embedded generators during the month to the market participant, adjusted for losses as required by the Retail Settlement Code; and
- (b) the total volume of electricity supplied by embedded generators during the month to all embedded distributors for whom the market participant is the host distributor, adjusted for losses as required by the Retail Settlement Code. O. Reg. 330/09, s. 4 (2).

(3) On a monthly basis, each distributor shall collect from each consumer in its service area and from each embedded distributor to which it distributes electricity an amount proportionate to the volume of electricity distributed to the consumer or to the embedded distributor, including the total volume of electricity supplied by embedded generators to embedded distributors in the host distributor's service areas in the manner described in clause (2) (b). O. Reg. 330/09, s. 4 (3).

(4) A distributor who bills a consumer from whom the distributor must collect an amount in accordance with subsection (3) shall aggregate the amount that the consumer is required to contribute to the compensation required under subsection 79.1 (2) of the Act and this Regulation with the amount otherwise payable by the consumer in respect of the wholesale market service rate described in the Electricity Distribution Rate Handbook issued by the Board, as it read on May 11, 2005. O. Reg. 330/09, s. 4 (4).

#### **IESO, monthly payments**

5. (1) The IESO shall make a monthly payment to each qualified distributor that is equal to the monthly compensation amount determined by the Board under subsection 3 (2), including any payments for an embedded distributor to which the distributor delivers electricity. O. Reg. 330/09, s. 5 (1).

(2) On a monthly basis, a host distributor shall, for each embedded distributor to which the host distributor distributes electricity, adjust the accounts between the host distributor and the embedded distributor by crediting the amount calculated by the Board under subsection 3 (2) to the embedded distributor. O. Reg. 330/09, s. 5 (2).

(3) Payments required by this Regulation between licensed distributors and the IESO may be made, at the option of the IESO, by way of set off in the accounts maintained by the IESO. O. Reg. 330/09, s. 5 (3).

(4) Payments required by this Regulation between an embedded distributor and its host distributor may be made, at the option of the host distributor, by way of set off in the accounts maintained by the host distributor. O. Reg. 330/09, s. 5 (4).

#### **IESO to provide certain information**

6. (1) For the purpose of calculating the amounts referred to in subsection 3 (5), at least 60 days before the end of each calendar year the IESO shall submit to the Board,

- (a) a forecast of the number of net kilowatt hours of electricity that are expected to be withdrawn from the IESO-controlled grid, as determined in accordance with the market rules, for use by consumers within Ontario during the IESO's next fiscal year;
- (b) a forecast of the total volume of electricity that is expected to be supplied to distributors and embedded distributors by embedded generators;
- (c) documentation supporting the forecasts referred to in clauses (a) and (b);
- (d) a calculation of the total amount of excess or shortfall held in variance accounts maintained by distributors resulting from the difference between the amounts charged to distributors by the IESO and the amounts collected from consumers by distributors;
- (e) documentation supporting the calculation referred to in clause (d); and
- (f) such other information as the Board may require for the purposes of this Regulation, in the form specified by the Board and before the expiry of the period specified by the Board. O. Reg. 330/09, s. 6 (1).

(2) The forecast referred to in clause (1) (a) shall be derived from information submitted to the Board by the IESO pursuant to section 19 of the *Electricity Act, 1998* in respect of the IESO's next fiscal year. O. Reg. 330/09, s. 6 (2).

(3) At the end of each calendar year, the IESO shall submit to the Board the figures for the total amount of the monthly compensation that was paid out to each qualified distributor for each month of the year. O. Reg. 330/09, s. 6 (3).

(4) Each distributor who is a market participant shall give the IESO such information as the IESO may require from the distributor for the purposes of this Regulation and shall do so in the form specified by the IESO before the expiry of the period specified by the IESO. O. Reg. 330/09, s. 6 (4).

(5) Each embedded distributor shall give its host distributor such information as the IESO may require from the host distributor for the purposes of this Regulation and shall do so in a form specified by the host distributor before the expiry of the period specified by the host distributor. O. Reg. 330/09, s. 6 (5).

#### **Reliance on information**

7. (1) For the purposes of this Regulation, the IESO shall rely on the information provided to it by each distributor who is a market participant. O. Reg. 330/09, s. 7 (1).

(2) For the purposes of this Regulation, host distributors shall rely on the information provided to them by their embedded distributors. O. Reg. 330/09, s. 7 (2).

8. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 330/09, s. 8.

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