



**RENEWABLE DISTRIBUTED GENERATION
INTEGRATION PROGRAM FUND**

VIRTUAL NET METERING CALL FOR APPLICATIONS

GUIDELINES

MAY 4TH 2018

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SECTION 1 – INTRODUCTION

1.1 Independent Electricity System Operator

The Independent Electricity System Operator (the “**IESO**”) works at the heart of Ontario’s power system – ensuring there is enough power to meet the province’s electricity needs in real time while also planning and securing energy for the future. It does this by balancing the supply of and demand for electricity in Ontario through the electricity markets, planning for the province’s medium- and long-term energy needs and securing clean sources of supply to meet those needs. The IESO is also responsible for fostering the development of a conservation culture in the province.

The IESO is governed by an independent board of directors whose chair and directors are appointed by the Government of Ontario. Its fees and license to operate are set by the OEB and it operates independently of all other participants in the electricity market.

1.2 RDGI Objective

The IESO’s implementation plan, *Putting Ontario’s Long-Term Energy Plan Into Action*, in response to the 2017 Long-Term Energy Plan, set out as an objective for the IESO to develop a program to support a select number of innovative renewable distributed generation demonstration projects in order to gain direct experience with integration of distributed energy resources, refine methodologies for assessing value streams, and to inform the evolution of grid systems, processes, and practices.

In its implementation plan, the IESO has committed to seeking renewable distributed generation projects, strategically located and paired with other distributed energy resources and smart-grid technologies, that demonstrate opportunities to enhance integration into electricity system operations, planning, markets, and regulations. The IESO is targeting a total commitment of up to \$45 million to be invested in electricity supply, capacity, or storage related to renewable distributed generation demonstration projects over a period of approximately three years.

1.3 Virtual Net Metering

This call for Applications (“**VNM Call for Applications**”) is in furtherance of the IESO’s first investigation topic, Virtual Net Metering. In a “**Virtual Net Metering**” arrangement, load customers are billed on a net-metered basis for eligible electricity generated from a facility that is not necessarily connected directly to the load customer (*i.e.*, it is not necessarily located behind the load customer’s meter). Credits accrued from electricity supplied by the generation facility are applied to associated load customer accounts to reduce their electricity bills.

Ontario Regulation 541/05: *Net Metering*, made under the *Ontario Energy Board Act, 1998* (the “**Net Metering Regulation**”), was amended on April 20, 2018 (with the amendments coming into force on October 1, 2018) to enable virtual net metering demonstration projects. To be eligible under the Net Metering Regulation, a virtual net metering demonstration project must, among other things, relate to one or more renewable energy generation facilities, be connected directly or indirectly to a distribution system, be selected by the IESO as a demonstration project, and have entered into an agreement with the IESO with respect to the project. In addition, the participating generator must not be in default under such agreement with the IESO.

1.4 VNM Call for Applications

The VNM Call for Applications is an IESO initiative designed to select virtual net metering demonstration projects for the purposes of s. 10(b) of the Net Metering Regulation. In conducting the

VNM Call for Applications, the IESO is seeking several learning outcomes, including as relates to different VNM business model configurations, commercial arrangements among project parties, changes to LDC billing systems to enable VNM settlement, and VNM cost and value, including local system benefits and cost transfers among VNM participants and non-participants.

As part of the IESO's renewable distributed generation program, the IESO is issuing this VNM Call for Applications with up to \$10 million of funding available to support Eligible Project Capital Costs incurred in connection with the development of VNM Projects that are not recoverable from future revenue streams for such VNM Projects, and Eligible LDC Costs incurred by the applicable LDC(s) in modifying their billing systems to accommodate the settlement of participating VNM Projects in their service territory(ies). Funding is limited to 10 VNM Projects or approximately 10,000 kW of VNM Projects, whichever is reached first.

VNM Projects may apply for support (the "**Total Application Amount**") in an amount of up to 50% of Estimated Net Eligible Project Capital Costs plus 100% of Estimated Eligible LDC Costs, with the balance of the VNM Project costs and expenses anticipated to be funded by revenues earned from supplied electricity. The Total Application Amount is limited to \$2,000 per kW of Nameplate Capacity of the VNM Project. Successful Applicants will be offered a Contribution Agreement. This document provides the guidelines for Applications to the VNM Call for Applications ("**VNM Application Guidelines**").

1.5 Defined Terms

Capitalized terms used in the VNM Application Guidelines have the respective meanings ascribed to them in Appendix A.

SECTION 2 – OVERVIEW OF THE CONTRIBUTION AGREEMENT

2.1 General

- (a) The Contribution Agreement is a two-party agreement between the IESO and the Recipient. It requires VNM Projects to achieve Commercial Operation by no later than 18 months after its execution, subject to limited force majeure relief. For VNM Projects achieving Commercial Operation more than 18 months but less than 24 months after the execution of the Contribution Agreement, the Generator Funding Amount will be reduced by 25%, as liquidated damages. For VNM Projects that have not achieved Commercial Operation within 24 months after the execution of the Contribution Agreement, the Recipient will be in default under the Contribution Agreement and will not be entitled to receive any Generator Funding Amount.
- (b) The "**Study Period**" under the Contribution Agreement shall run from Commercial Operation until December 31, 2022.
- (c) This Section 2 provides an overview of certain aspects of the Contribution Agreement and is for descriptive purposes only. For greater certainty, to the extent that there is any inconsistency between Section 2 and the Contribution Agreement, the Contribution Agreement shall prevail.

2.2 Eligible Costs – Recipient

- (a) Under the Contribution Agreement, the following categories of capital costs, reasonably incurred in connection with the development of a VNM Project on or

after the Guidelines Posting Date and prior to Commercial Operation, are eligible for reimbursement (the “**Eligible Project Capital Costs**”):

- (i) VNM Project development and engineering costs,
- (ii) connection assessments and permitting costs,
- (iii) equipment costs,
- (iv) construction costs,
- (v) testing and commissioning costs,
- (vi) connection costs, and
- (vii) interest during construction at a rate not to exceed ●% per annum,

excluding any Ineligible Project Costs.

- (b) Subject to the terms of the Contribution Agreement, Recipients are entitled to receive the Application Funding Percentage multiplied by the Net Eligible Project Capital Costs, provided that such amount shall not exceed the Application Funding Percentage multiplied by the Estimated Net Eligible Project Capital Costs, where “**Net Eligible Project Capital Costs**” means the actual Eligible Project Capital Costs less the amount of any Public Funding received or committed in respect of the VNM Project.

2.3 **Eligible Costs – LDC**

- (a) Under the Contribution Agreement, the eligible LDC costs (“**Eligible LDC Costs**”) are those costs reasonably incurred by any Host LDC for the applicable VNM Project on or after the Guidelines Posting Date and prior to Commercial Operation of the first VNM Project in such LDC’s service territory, in making appropriate and incremental modifications to its billing systems to accommodate the settlement of participating VNM Projects in its service territory, excluding any Ineligible LDC Costs. If more than one Application is successful in a Host LDC’s service territory, the IESO reserves the right apportion Eligible LDC Costs of each such Application between the VNM Projects to avoid any duplicative recovery by the applicable Host LDC.
- (b) Subject to the terms of the Contribution Agreement, the Host LDCs in respect of a VNM Project are entitled to receive the actual Eligible LDC Costs for such VNM Project, provided that such amount shall not exceed the Estimated Eligible LDC Costs.

2.4 **Funding and Reporting – Recipient**

- (a) Recipients will be required to provide the following reports to the IESO:
 - (i) prior to Commercial Operation, quarterly progress reports on the VNM Project describing the progress towards achieving Commercial Operation;

- (ii) following Commercial Operation, a comprehensive report (the “**Recipient COD Report**”) on the development of the VNM Project, power purchase agreements, Virtual Net Metering agreements with the Host LDCs, and other commercial arrangements with load customers and the Host LDCs;
- (iii) following the end of the Study Period, a comprehensive report (the “**Recipient Final Report**”) covering the entirety of the Study Period, on the operation of the VNM Project, power purchase agreements, Virtual Net Metering agreements with the Host LDCs, and other commercial arrangements with load customers and the Host LDCs; and
- (iv) one additional comprehensive report during the Study Period providing commercial and operational information with respect to a period of time during the Study Period to be specified by the IESO, with the option for the IESO to require a second such report during the Study Period.

All reports will be required to address the subjects and be in the formats specified by the IESO.

- (b) In addition to the reporting requirements, Recipients will be required to make their key personnel and customers available for meetings and interviews with the IESO and its representatives and to make presentations to the IESO and its representatives during and immediately following the Study Period, regarding the contents of the reports and other matters relevant to the development and operation of Virtual Net Metering.
- (c) Once the VNM Project has achieved Commercial Operation and the IESO has accepted the Recipient COD Report, then so long as the Contribution Agreement is in good standing, IESO will pay the Recipient the Generator Funding Amount less the Generator Holdback. Following the end of the Study Period and the Recipient fulfilling all its obligations under the Contribution Agreement, including the completion of the Recipient Final Report, then so long as the Contribution Agreement is in good standing, the IESO will pay the Recipient the Generator Holdback. If the Recipient fails to fulfill any of its obligations under the Contribution Agreement by the outside date specified in the Contribution Agreement, the Generator Holdback will not be paid.

2.5 Funding and Reporting – LDC

- (a) In order for the Host LDCs to receive payment from the IESO on account of the Eligible LDC Costs, the Lead LDC will be required to provide the following reports directly to the IESO:
 - (i) prior to Commercial Operation, quarterly progress reports from itself and any other Host LDCs on the modifications to their billings systems to accommodate the VNM Project and a description of how billing and settlement will be conducted;
 - (ii) following Commercial Operation, a comprehensive report with contributions from each Host LDC and overall analysis by the Lead LDC, on the modifications to each Host LDCs’ billings systems to accommodate the VNM Project, a description of how billing and settlement will be

conducted, local electricity system benefits and cost transfers, and any applicable commercial arrangements in respect of the VNM Project;

- (iii) following the end of the Study Period, a comprehensive report with contributions from each Host LDC and overall analysis by the Lead LDC, on the settlement of the VNM Project including how billing and settlement are being conducted, an update on local electricity system benefits and cost transfers, and any applicable commercial arrangements in respect of the VNM Project; and
- (iv) one additional comprehensive report during the Study Period on the settlement of the VNM Project, an update on local electricity system benefits and cost transfers, and any applicable commercial arrangements in respect of the VNM Project, all with respect to a period of time during the Study Period to be specified by the IESO, with the option for the IESO to request a second such report during the Study Period.

All reports will be required to address the subjects and be in the formats specified by the IESO.

- (b) In addition to the reporting requirements, in order to receive payment by the IESO on account of the Eligible LDC Costs, the Lead LDC will be required to make its and any other Host LDCs' key personnel available for meetings and interviews with the IESO and its representatives during and immediately following the Study Period to discuss the contents of the reports and other matters relevant to the development and settlement of Virtual Net Metering.
- (c) Following the Lead LDC providing the IESO with the reporting required by Sections 2.5(a)(i) and 2.5(a)(ii), and each Host LDC performing the first settlement of the applicable VNM Project after it has attained Commercial Operation, the IESO will pay directly to the Lead LDC, the LDC Funding Amount less the LDC Holdback. If for reasons outside any Host LDC's control the VNM Project does not achieve Commercial Operation, such amount as well as the LDC Holdback shall still be payable provided that the Lead LDC demonstrates to the IESO's satisfaction that the Host LDCs would have been capable of settling the VNM Project, had the VNM Project achieved Commercial Operation. Following the end of the Study Period and provided that the Lead LDC has provided all required reports and attended and caused any other Host LDCs to attend all the required meetings and interviews, the IESO will pay the LDC Holdback directly to the Lead LDC. If the Lead LDC fails to provide all required reports and attend and cause all other Host LDCs to attend all required meetings and interviews by the outside date specified in the Contribution Agreement, the LDC Holdback will not be paid.

2.6 Miscellaneous

- (a) A failure by the Recipient to fulfill its obligations under the Contribution Agreement will not prevent payment of Eligible LDC Costs to the Lead LDC. The Lead LDC shall be responsible for disbursing any funds received from the IESO under the Contribution Agreement among the Host LDCs.
- (b) The Contribution Agreement will describe the project selected by the IESO for purposes of Section 10(b) of the Net Metering Regulation, and will include a

requirement that the Host LDC(s) perform settlement in respect of such VNM Project as described in the Contribution Agreement.

- (c) The Contribution Agreement contains customary audit rights for the IESO to verify any information provided by the Recipient or any Host LDC.
- (d) The Contribution Agreement includes restrictions on assignment and change of control, as well as a restriction on new Economic Participants to prevent any violation of the limitations set out in Sections 4.2(b) and 4.2(c).
- (e) Any failure by the Recipient to fulfill its obligations under the Contribution Agreement could result in the Recipient being in default of the Contribution Agreement, violating the eligibility requirement set forth in Section 10(c) of the Net Metering Regulation.

SECTION 3 – APPLICATION REQUIREMENTS

3.1 Eligibility Requirements

- (a) In order for a VNM Project to be eligible for a Contribution Agreement, the following requirements must be satisfied:
 - (i) the VNM Project must be capable of qualifying as a virtual net metering demonstration project as set out in s. 10 of the Net Metering Regulation, including by being in respect of one or more renewable energy generation facilities owned or operated by the Applicant that are connected directly or indirectly to a distribution system;
 - (ii) each Host LDC must be willing to host the applicable elements of the VNM Project and perform settlement for the VNM Project to the extent required;
 - (iii) the VNM Project must be capable of achieving Commercial Operation by no later than 18 months after execution of a Contribution Agreement;
 - (iv) the VNM Project must have an Aggregate Nameplate Capacity that is at least 200 kW and no more than 2,000 kW; and
 - (v) the generation facility that is the subject of the Contribution Agreement must not be the subject of any other contract with the IESO or an LDC (other than contracts required to implement the VNM Project), without the IESO's prior written consent. Applicants seeking such consent under this Section 3.1(a)(v) must make their request to the IESO in writing by no later than 60 days prior to the end of the Submission Window.
- (b) An Applicant may be an LDC, an LDC Affiliate, or any other Person.
- (c) Applicants are not permitted to apply for any Connection Impact Assessments in respect of the VNM Project prior to entering into a Contribution Agreement, unless the application for such Connection Impact Assessment was submitted and paid for prior to May 4, 2018.
- (d) For greater certainty, a VNM Project does not need to be in respect of new generation facilities to be eligible; however, as set out in Section 2.2(a), Eligible

Projects Capital Costs only includes costs incurred on or after the Guidelines Posting Date.

3.2 Application Package

- (a) Each Application must be completed in the Prescribed Form (the “**Application Form**”) and be accompanied by a confirmation in the Prescribed Form by each Host LDC of its willingness to host and perform settlement of the VNM Project (the “**LDC Confirmation**”).
- (b) The Application Form will require the following information to be provided in the format specified by the IESO:
 - (i) a general description of the VNM Project, including the proposed generation facility(ies), their location and property type (*e.g.* residential, commercial, industrial), distribution system feeder and TS designation(s), and a single line diagram for each proposed generating facility showing the location of all required meters;
 - (ii) the identify of the Host LDC(s), and, if applicable, the Lead LDC;
 - (iii) the Estimated Net Eligible Project Capital Costs, the Estimated Eligible LDC Costs, the estimated Public Funding for the VNM Project, and the percentage of the Net Eligible Project Capital Costs for which the Applicant is seeking a contribution from the IESO, not to exceed 50% (the “**Application Funding Percentage**”)
 - (iv) the Total Application Amount and the allocation of the Total Application Amount as between Eligible Project Capital Costs and Eligible LDC Costs;
 - (v) a detailed description of the Applicant’s relevant experience;
 - (vi) a detailed description of the Applicant’s financial capacity to develop the VNM Project;
 - (vii) a detailed business plan for the VNM Project, including a discounted cash flow model for the VNM Project, an accounting of all funding sources and revenue sources, cost estimates, VNM Project risk identification and risk management approach;
 - (viii) either a load customer acquisition plan (which shall identify, among other things, the anticipated location of load customers) along with evidence of retailing experience or confirmation in the Prescribed Form by proposed load customer(s) of their participation in the VNM Project, or a combination of the two;
 - (ix) a detailed description of the existing status of the VNM Project (with reference to permitting, connection status, and maturity of marketing), the proposed Commercial Operation date, and the Applicant’s proposed approach to achieving Commercial Operation by such date;
 - (x) if the VNM Project fulfills a local need identified in either an “Integrated Regional Resource Plan” prepared by the IESO or a “Distribution System

Plan” prepared by a Host LDC and filed with the OEB, a description of (A) the local need with specific reference to the applicable plan identifying the need, (B) how the VNM Project fulfills the identified need, and (C) the methodology that will be used at the reporting stage to evaluate the VNM Project’s effectiveness in fulfilling the identified need;

- (xi) a description of the proposed terms of the Virtual Net Metering agreement between the Host LDC(s), the Applicant, and the load customer(s), as contemplated by Section 11 of the Net Metering Regulation;
 - (xii) a description of the proposed terms of any power purchase agreement between the Applicant and any load customers;
 - (xiii) a detailed description of each Host LDC’s planned processes and systems for modifying its billing systems to accommodate the settlement of participating VNM Projects; and
 - (xiv) a list of all Persons having Control or a direct or indirect economic interest of more than 5% in the Applicant (an “**Economic Participant**”) and an organization chart showing the relationship of all Economic Participants to the Applicant.
- (c) Applications will only be accepted by the IESO commencing when reception opens at the IESO on ● until 4:00:00 p.m. local time (based on the clock designated by the IESO) on ● (the “**Submission Window**”). Applications submitted outside the Submission Window will not be reviewed. Applications are to be submitted to the IESO at 120 Adelaide Street West, Suite 1600, Toronto ON, M5H 1T1, Attention: VNM Call for Applications. Applications must be delivered in a sealed envelope containing one hard copy of all Application materials and a USB key with all Application materials in searchable PDF or such other format as may be prescribed by the IESO. In the event of any discrepancy between the hard copy and the electronic copy of the Application, the hard copy shall prevail. Application materials will not be returned to Applicants.

3.3 Responsibility for VNM Project Viability

- (a) Notwithstanding anything contained in the VNM Application Guidelines or in the Contribution Agreement, Applicants are solely responsible for ensuring the technical, regulatory and financial viability of their VNM Projects, and the IESO shall have no responsibility whatsoever to independently assess the viability of any Application or VNM Project nor any liability whatsoever in the event that a VNM Project turns out not to be viable in any respect. For greater certainty, Applicants are solely responsible for satisfying the requirements in the Contribution Agreement and for any financial consequences they may incur resulting from a failure to meet such requirements, however caused.
- (b) Applicants are solely responsible for all assessments and arrangements necessary to connect the VNM Project, and any review, approval or offer of a Contribution Agreement does not provide any assurance that a VNM Project is capable of being connected to the distribution system. Applicants are solely responsible for meeting all applicable regulatory requirements, including any licensing requirements applicable to the sale of electricity.

- (c) Applicants are encouraged to seek their own independent legal, technical and other professional advice, as needed, prior to submitting an Application.

SECTION 4 – APPLICATION REVIEW

4.1 Review of Requirements

- (a) After the close of the Submission Window, each Application will be reviewed in detail by the IESO to confirm that the overall Application is complete and that all constituent elements of such Application confirm that the VNM Project satisfies all the eligibility requirements set out in Section 3.1 and the Application requirements set out in Section 3.2.
- (b) The IESO reserves the right in its discretion, but is not obligated, to request clarification, additional information, documentation, and statements in relation to any Application at any time. Any such requested clarification, additional information, documentation, or statements must be submitted by the Applicant to the IESO by e-mail within five Business Days of the date of such request, or by such other means and within such other time frame as may be requested by the IESO, failing which the Application may be rejected as being incomplete.
- (c) The IESO reserves the right to reject any incomplete Application, any Application that does not satisfy all the requirements set out in Section 3.1 and Section 3.2 or any Application in respect of which the included information is not satisfactory to the IESO in any respect. Where an Application has been rejected, the IESO shall notify the Applicant and give reasons for rejecting the Application. A decision by the IESO to reject an Application shall be final and binding and not subject to appeal.
- (d) Once the IESO has confirmed to its satisfaction that an Application meets the requirements set out in Section 3.1 and Section 3.2, the Application will be subject to a preliminary review to determine if the connection of the Application to the applicable Host LDC(s)'s distribution system(s) could interfere with the connection of any other planned or committed generation facilities. If no such interference is anticipated, then the Application shall be submitted to the process set out in Section 4.2.

4.2 VNM Project Evaluation

- (a) Each Application will be evaluated based on four main criteria: maturity, cost, fulfillment of an identified local need, and diversity relative to other VNM Projects.
 - (i) Maturity will be evaluated considering the Applicant's experience, the credibility and viability of the Applicant's business plan, and the maturity of the VNM Project, all as set out in the Application.
 - (ii) Cost will be evaluated considering both the Total Application Amount and the Total Application Amount divided by the VNM Project's Aggregate Nameplate Capacity.
 - (iii) Whether a VNM Project fulfills an identified local need will be evaluated based on whether the VNM Project is anticipated to address a local electrical system need identified in either an "Integrated Regional Resource

Plan” prepared by the IESO or a “Distribution System Plan” prepared by a Host LDC and filed with the OEB; and

- (iv) Diversity relative to other VNM Projects will be evaluated based on five dimensions of diversity:
 - (A) the business model configuration, meaning whether (A) the VNM Project is a self-supply arrangement where the load customer and the owner or operator of the generation facility are the same Person or Affiliates that are not co-located, (B) the VNM Project has one generation facility in a Virtual Net Metering arrangement with one (or a few) load customers, (C) the VNM Project has one generation facility in a Virtual Net Metering arrangement with many load customers, (D) the VNM Project has multiple generation facilities, and (E) the VNM Project has a single Host LDC or multiple Host LDCs;
 - (B) the type of generation facility, such as rooftop solar, ground mount solar, or wind, and whether energy storage is included as part of the generation facility;
 - (C) the range of Aggregate Nameplate Capacity, being 200-499 kW, 500-999 kW, or 1,000-2,000 kW;
 - (D) the type of load customers for the VNM Project, such as institutional loads, commercial loads, or loads on the “Regulated Price Plan”; and
 - (E) whether the VNM Project’s Lead LDC and Host LDCs are different from the Lead LDC and Host LDCs for other VNM Projects.
- (b) No Person is permitted to be an Economic Participant in respect of more than two Applications that will be awarded Contribution Agreements.
- (c) No more than three Applications where LDCs or LDC Affiliates are Economic Participants will be awarded Contribution Agreements, of which no more than two Applications from LDCs will be awarded Contribution Agreements.
- (d) Once the review of requirements for all Applications has been completed pursuant to Section 4.1, the VNM Projects have been evaluated as set out in Section 4.2(a), and the restrictions set out in Sections 4.2(b) and 4.2(c) have been applied, Applications will again be subject to a further connection review to assess possible interference with the connection of any other planned or committed generation facilities. The IESO will offer Contribution Agreements to those VNM Projects with the best evaluations where no connection interference is anticipated, as determined by the IESO, until either all available funding has been allocated, 10 VNM Projects have been awarded Contribution Agreements, or approximately 10,000 kW of Aggregate Nameplate Capacity of VNM Projects have been allocated Contribution Agreements, whichever comes first. Applicants offered a Contribution Agreement will have 20 Business Days to execute and return the Contribution Agreement to the IESO.

- (e) If the IESO does not receive the executed Contribution Agreement from the Applicant within 20 Business Days from the date of the offer, the Application shall be deemed to have been withdrawn, the offer of a Contribution Agreement shall be revoked, and the IESO may but shall not be required to make an alternative offer to another Applicant.

SECTION 5 – ADDITIONAL RULES

5.1 Confidentiality

- (a) All information provided by or obtained from the IESO in any form in connection with the VNM Application Guidelines or the VNM Call for Applications, either before or after the execution of a Contribution Agreement, that is not otherwise publicly available is the sole property of the IESO and must be treated as confidential, and
 - (i) is not to be used for any purpose other than submitting an Application to the VNM Call for Applications and the development of the VNM Project by the Recipient and applicable LDCs;
 - (ii) must not be disclosed without the prior written authorization of the IESO, other than to the Applicant's or Recipient's partners, advisors, applicable LDCs, the OEB, contractors, lenders and prospective lenders, provided the disclosing party obtains similar confidentiality commitments from such third parties; and
 - (iii) shall be returned by the Applicant, Recipient or third party (as applicable) to the IESO immediately upon request of the IESO.
- (b) Information provided by an Applicant or a Recipient is subject to, and may be released in accordance with, the provisions of the FIPPA. Notwithstanding any confidentiality statement provided by the Applicant or Recipient, the IESO may be required to disclose information which is provided to the IESO by or on behalf of an Applicant or Recipient and is otherwise not protected from disclosure through an exemption in FIPPA or any other applicable legislation, regulation or policy. Applicants should not assume that such an exemption is available.
- (c) Information provided by or on behalf of an Applicant or a Recipient in relation to a VNM Project, including VNM Project type and name, Nameplate Capacity, Aggregate Nameplate Capacity, Host LDCs, Lead LDC, and Applicant or Recipient name, may be disclosed by the IESO on the Website or otherwise, and such disclosure may be made on an individual basis, or aggregated with information provided by other Applicants or Recipient.
- (d) Applicants are advised that their Applications may be disclosed on a confidential basis to the IESO's counsel, consultants, the IESO's process monitor or fairness advisor, LDCs, the Government of Ontario, and other advisors retained for the purpose of administration of the VNM Application Guidelines and studying and reporting on Virtual Net Metering.
- (e) If an Applicant violates any provision of this Section 5.1, the IESO shall be entitled to reject the Application.

5.2 Assignment, Change of Control and Economic Participants

- (a) An Applicant shall not assign its Application to another Person other than an Affiliate, except with the prior written consent of the IESO.
- (b) An Applicant shall not permit or allow a change of Control of such Applicant, except with the prior written consent of the IESO.
- (c) An Applicant shall not permit or allow any new Economic Participants in such Applicant, except with the prior written consent of the IESO.
- (d) If an Applicant violates any provision of this Section 5.2, the IESO shall be entitled to reject the Application.

5.3 General

- (a) Except as expressly provided for in any Contribution Agreement executed by the IESO and a Recipient, each Applicant shall be solely responsible for its own costs and expenses relating to the preparation and submission of its Application and the development of the VNM Project, and each Host LDC shall be solely responsible for its own costs and expenses related to modifying its billing systems and otherwise facilitating Virtual Net Metering, whether or not an Application is rejected or the VNM Call for Applications is suspended, cancelled, revoked, or revised. Under no circumstances whatsoever shall the IESO be liable to any Applicant, any Recipient, any LDC or any load customer for any indirect, punitive or consequential damages associated with the Applicant's participation in the VNM Call for Applications.
- (b) Except as expressly provided for in any Contribution Agreement executed by the IESO and a Recipient, the IESO shall not be liable to pay any Applicant's or LDC's costs or expenses under any circumstances. In particular, the IESO will not reimburse the Applicant or any LDC in any manner whatsoever in the event of rejection of any or all Applications or in the event of the cancellation or suspension of the VNM Call for Applications at any time. By submitting an Application, the Applicant irrevocably and unconditionally waives any claims against the IESO relating to the Applicant's costs and expenses including, without limitation, costs in relation to satisfying the VNM Project eligibility criteria described in Section 3.1 and the Application eligibility criteria described in Section 3.2.
- (c) Notwithstanding anything contained in the VNM Application Guidelines, the IESO reserves the right in its discretion, to reject any Application in whole or part for any reason whether the Application is completed properly and whether it contains all necessary information, including in circumstances where the IESO has determined based on its previous experience with the Applicant or its Affiliates that there is a low likelihood of the VNM Project being successful.
- (d) The IESO may verify with any Applicant or with any third party any information set out in an Application.
- (e) Notwithstanding anything contained in the VNM Application Guidelines, the IESO reserves the right to cancel all or any part of the VNM Call for Applications at any time and for any reason or to suspend the VNM Call for Applications in whole or in part for any reason for such period of time as the IESO shall determine in its

discretion, in each case without any obligation or any reimbursement to the Applicants.

- (f) The IESO may at any time make changes to the VNM Call for Applications, the VNM Application Guidelines (including the evaluation criteria, any time requirements and any procedural steps) or the form of Contribution Agreement (including substantial changes or a suspension or termination of the VNM Call for Applications), without any liability whatsoever to Applicants or prospective Applicants. Any supplemental information regarding the VNM Call for Applications or the VNM Application Guidelines provided by the IESO, regardless of the format, including in any webinar, question and answer document, or other document or information session, is for informational purposes only and shall not form part of the VNM Application Guidelines unless it has been expressly referenced in this document as forming part of the VNM Application Guidelines.
- (g) The IESO reserves the right to waive any informality or irregularity at its discretion or to otherwise exercise administrative discretion with respect to an Application or an Applicant's compliance with the VNM Application Guidelines.

5.4 **Reserved Rights**

- (a) The rights reserved to the IESO in the VNM Application Guidelines are in addition to any other express rights or any other rights which may be implied in the circumstances, and the IESO shall not be liable for any expenses, costs, losses or any direct or indirect damages incurred or suffered by any Applicant or any third party resulting from the IESO exercising any of its express or implied rights under the VNM Application Guidelines or in connection with the VNM Call for Applications.
- (b) By submitting an Application, the Applicant authorizes the collection by the IESO of the information set out in the Application and otherwise collected in accordance with the terms hereof, and the use of such information for the purposes set out in or incidental to the VNM Call for Applications and the Contribution Agreement, and for the purpose of offering, managing and directing the VNM Call for Applications generally.

5.5 **Interpretation**

- (a) **Consent.** Whenever a provision requires an approval or consent and the approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.
- (b) **Discretion.** Where the IESO may take an action or make a determination under the VNM Application Guidelines, the decision to take such action or make such determination shall be at the IESO's sole and absolute discretion.
- (c) **Governing Law.** The VNM Application Guidelines are made under and shall be governed by and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.
- (d) **Headings.** Headings of Sections are inserted for convenience of reference only and do not affect the construction or interpretation of the VNM Application Guidelines.

References to “Section” means Sections of the VNM Application Guidelines, unless otherwise specified.

- (e) **No Strict Construction.** Despite the fact that the VNM Application Guidelines were drafted by the IESO’s legal and other professional advisors, Applicants submitting Applications acknowledge and agree that any doubt or ambiguity in the meaning, application or enforceability of any term or provision in the VNM Application Guidelines shall not be construed against the IESO in favour of the Applicant when interpreting such term or provision, by virtue of such fact.
- (f) **Number and Gender.** Unless the context otherwise requires, words importing the singular include the plural and *vice versa* and words importing gender include all genders.
- (g) **Severability.** If any provision of the VNM Application Guidelines or its application to any party or circumstance is restricted, prohibited or unenforceable, the provision shall be ineffective only to the extent of the restriction, prohibition or unenforceability without invalidating the remaining provisions of the VNM Application Guidelines and without affecting its application to the other party or circumstances.
- (h) **Statutory References.** A reference to a statute includes all regulations and rules made pursuant to the statute and, unless otherwise specified, the provisions of any statute, regulation or rule which amends, supplements or supersedes any such statute, regulation or rule.
- (i) **Time Periods.** Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

APPENDIX A – DEFINITIONS

The following terms shall have the meaning stated below when used in the VNM Application Guidelines:

1. “**Affiliate**” means any Person that: (i) Controls a party; (ii) is Controlled by a party; or (iii) is Controlled by the same Person that Controls a party.
2. “**Aggregate Nameplate Capacity**” means, in respect of a VNM Project, the sum of the Nameplate Capacities of all generation facilities comprising the VNM Project.
3. “**Applicant**” means a Person submitting an Application.
4. “**Application Form**” has the meaning given to it in Section 3.2(a).
5. “**Application Funding Percentage**” has the meaning given to it in Section 3.2(b)(iii).
6. “**Application**” means an application submitted to the IESO pursuant to these VNM Application Guidelines.
7. “**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which Canadian chartered banks are closed for business in Toronto, Ontario
8. “**Commercial Operation**” means once the IESO has confirmed by written notice that all the requirements to achieve “Commercial Operation” as set out in the Contribution Agreement have been satisfied.
9. “**Connection Impact Assessment**” means an assessment conducted by an LDC to determine the impact on a distribution system of connecting a generation facility to such LDC’s distribution system.
10. “**Control**” means, with respect to any Person at any time (i) holding, whether directly or indirectly, as owner or other beneficiary, other than solely as the beneficiary of an unrealized security interest, securities or ownership interests of that Person carrying votes or ownership interests sufficient to elect or appoint fifty percent (50%) or more of the individuals who are responsible for the supervision or management of that Person, or (ii) the exercise of *de facto* control of that Person, whether direct or indirect and whether through the ownership of securities or ownership interests, by contract or trust or otherwise.
11. “**Economic Participant**” has the meaning given to it in Section 3.2(b)(xiv).
12. “**Eligible LDC Costs**” has the meaning given to it in Section 2.3(b).
13. “**Eligible Project Capital Costs**” has the meaning given to it in Section 2.2(a).
14. “**Estimated Eligible LDC Costs**” means an Applicant’s estimate of the Eligible LDC Costs, as set out in its Application.
15. “**Estimated Net Eligible Project Capital Costs**” means an Applicant’s estimate of its Net Eligible Project Capital Costs, as set out in its Application.
16. “**FIPPA**” means the *Freedom of Information and Protection of Privacy Act* (Ontario), as amended from time to time.

17. “**Contribution Agreement**” means the agreement entered into by the IESO with successful Applicants, pursuant to these VNM Application Guidelines.
18. “**Generator Funding Amount**” means the total amount of funding to be provided to a Recipient in respect of Eligible Project Capital Costs in accordance with the terms of the Contribution Agreement.
19. “**Generator Holdback**” means the greater of 10% of the Generator Funding Amount and \$50,000, subject to a maximum amount of the Generator Funding Amount.
20. “**Governmental Authority**” means any federal, provincial, or municipal government, parliament or legislature, or any regulatory authority, agency, tribunal, commission, board or department of any such government, parliament or legislature, or any court or other law, regulation or rule-making entity, having jurisdiction in the relevant circumstances, including the IESO, the OEB, and any Person acting under the authority of any Governmental Authority.
21. “**Guidelines Posting Date**” means ●. *[Note: Bullet to be filled in with the date that the final VNM Application Guidelines are posted to the Website.]*
22. “**Host LDC**” means, in respect of a VNM Project, an LDC whose service territory contains a generation facility or a load customer included in such VNM Project.
23. “**IESO**” has the meaning set forth in Section 1.1.
24. “**including**” means “including, without limitation”.
25. “**Ineligible LDC Costs**” means costs incurred by an LDC (i) to the extent they would have been incurred by the LDC to modify its billing systems to accommodate settlement of a generator on a merchant basis that is substantially the same as a generator proposed in a VNM Project in such LDC’s service territory, and (ii) for the ongoing operation and maintenance of the LDC’s billing systems used to accommodate the settlement of VNM Projects. *[Note: This definition remains subject to further development.]*
26. “**Ineligible Project Costs**” means research and development costs, operating costs, and maintenance costs. *[Note: This definition remains subject to further development.]*
27. “**LDC Affiliate**” means an Affiliate of an LDC.
28. “**LDC Confirmation**” has the meaning given to it in Section 3.2(a).
29. “**LDC Funding Amount**” means the total amount of funding to be provided to the applicable LDC in respect of Eligible LDC Costs in accordance with the terms of the Contribution Agreement.
30. “**LDC Holdback**” means the greater of 10% of the LDC Funding Amount and \$25,000 subject to a maximum amount of the LDC Funding Amount.
31. “**Lead LDC**” means, for a VNM Project with one Host LDC, the Host LDC, and for a VNM Project with more than one Host LDC, the LDC designated as such in the Application.
32. “**Local Distribution Company**” or “**LDC**” means a Person licensed by the OEB as a “Distributor”.

33. “**Nameplate Capacity**” means the rated, continuous load-carrying capability net of parasitic or station service loads, expressed in kW (AC) of a generator to generate and deliver electricity at a given time.
34. “**Net Eligible Project Capital Costs**” has the meaning given to it in Section 2.2(b).
35. “**Net Metering Regulation**” has the meaning given to it in Section 1.3.
36. “**OEB**” means the Ontario Energy Board or its successor.
37. “**Person**” means a natural person, firm, trust, partnership, limited partnership, company or corporation (with or without share capital), joint venture, sole proprietorship, Governmental Authority or other entity of any kind.
38. “**Prescribed Form**” means, in relation to a form, the latest version of the corresponding form appearing on the Website, as may be amended or replaced by the IESO from time to time and without notice to the Applicant or Recipient.
39. “**Public Funding**” means any source of funds or other subsidies for the VNM Project in respect of Eligible Project Capital Costs, where the funds or subsidy is being provided directly or indirectly from a Governmental Authority, but excluding any funds received from the Applicant itself where the Applicant is a Governmental Authority.
40. “**Recipient**” means the counterparty to a Contribution Agreement with the IESO.
41. “**Recipient COD Report**” has the meaning given to it in Section 2.4(a)(ii).
42. “**Recipient Final Report**” has the meaning given to it in Section 2.4(a)(iii).
43. “**Study Period**” has the meaning given to it in Section 2.1(b).
44. “**Submission Window**” has the meaning set forth in Section 3.2(c).
45. “**Total Application Amount**” has the meaning given to it in Section 1.4.
46. “**Virtual Net Metering**” has the meaning given to it in Section 1.3.
47. “**VNM Application Guidelines**” has the meaning given to it in Section 1.4.
48. “**VNM Call for Applications**” has the meaning given to it in Section 1.3
49. “**VNM Project**” means a Virtual Net Metering demonstration project described in an Application.
50. “**Website**” means the IESO’s VNM Call for Applications website at “<http://www.ieso.ca/>,” or such other website as the IESO shall designate from time to time.