



Reciprocal News

Renewable Energy Generation & Potential Liabilities

Under the Ontario Green Energy Act, generation from renewable resources is the way of the future. LDCs may participate in two ways:

1. As a generator, where you can control your exposures, or;
2. Through embedded generation where you may be exposed to risk imposed by others.

LDC Generation

MEARIE is ready to assist you in insuring your generation activities. There are currently 20 generation projects operated by 17 MEARIE Liability Members who are insured through MEARIE's programs. These projects include solar, hydro, landfill gas, wind and district energy. Over the next year, we expect this to increase to 35 generation projects operated by 20 MEARIE Liability Members.

Each type of generation has unique exposures that, with proper pre-planning and engineering, can be either reduced or eliminated. It is important MEARIE be notified of your generation activities to ensure they are "Operations Covered" under your Liability policy. For your physical assets to be covered under your MEARIE Property Program, generation activities must be located at a scheduled location and MEARIE

MEARIE is available to provide non-legal, insurance and risk management-related opinions of contracts.

must be provided with the current replacement values. Make sure all equipment is installed according to code and jurisdictional requirements.

If you are considering renting/leasing roof space to install solar generation, ensure your preparatory work includes engineering studies for roof loading, wind shear and lift and an investigation for any pre-existing structural



damage. Have the lease/rental agreement reviewed by your legal counsel related to indemnification, hold harmless and insurance requirement clauses. Indemnification clauses form a contract, express or implied, to repay the damaged party in the event of a loss. Neither party then gains nor loses. Hold harmless clauses form a contract or agreement in which one party assumes legal responsibility for the acts of another. There is potential through these clauses to be assuming other parties' risk exposures or assuming responsibility for the negligent acts of others. MEARIE is available to provide non-legal, insurance and risk management opinions related to these sections of contracts.

Embedded Generation

Regardless of whether it is a FIT or microFIT installation being connected to your distribution system, there is the potential for damage to your system. Your system may be exposed to risks over which you have no control and good risk mitigation practices should be followed:

- Ensure any equipment being connected to your system meets the minimum code requirements and has been properly approved before connection takes place
- Review contracts for hold harmless and indemnity clauses



- Request certificates of insurance listing your LDC as an Additional Insured with adequate limits of liability

microFIT generation

The connection agreement is prescribed by the OEB and includes mandated indemnification clauses. The OEB does not allow the LDC to request a certificate of insurance from the generator listing you as an Additional Insured. The indemnification clause requires you and the generator to indemnify and save each other harmless from all damages and/or adverse effects resulting from either party's negligence or willful misconduct in the connection and operation of the generation facility of the distribution system. This means that if the generator damages or causes a loss to your equipment or system, you have no recourse against them and you may have to pay for repairs or loss. Despite the perspective of the OEB on this matter, from a risk management standpoint it is MEARIE's opinion you should still request a certificate of insurance listing your LDC as an Additional Insured on the generator's policy. Why should you be assuming the negligence of the generator?

FIT Generation

Every connection agreement contract should incorporate insurance provisions of the generator that include but are not limited to the following;

- All-risk property insurance covering not less than the full replacement value of the equipment
- B&M or equipment breakdown insurance
- Liability insurance
- Environmental impairment insurance
- Property policies should include a waiver of subrogation in your favour
- Liability policies should include you as an Additional Insured



- You should be requesting a certificate of Insurance listing your LDC as an Additional Insured (solely as it relates to the generation facilities being connected to your distribution system)

MEARIE recommends you review every Green Energy Act generation initiative contract carefully with legal counsel, understand what you are contracting for and do not assume the liability of others. To discuss your MEARIE insurance coverage or if you would like to discuss risk mitigation practices for generation, contracts, indemnification or hold harmless agreements, please contact Gary Durie, Manager, Risk Management & Underwriting Services.

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