



January 18, 2019

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St., Suite 2700
Toronto, ON, M4P 1E4

Dear Ms. Walli:

**RE: Review of Customer Service Rules for Utilities
Board File Number EB-2017-0183**

On September 6th, 2018, the Ontario Energy Board (the “Board” or “OEB”) issued its *“Review of Customer Service Rules for Utilities Phase 1”* (the “Report”). The Report invited written comments from interested stakeholders, and encouraged utilities to identify any technical limitations that might affect a utility’s ability to implement the proposals set out in the Report. On October 5th, 2018 the Coalition of Large Distributions (“CLD”)¹ and several other stakeholders filed submissions with the OEB in response to the Report.

On December 18, 2018, the OEB provided notice under sections 70.2 and 45 of the *Ontario Energy Board Act, 1998* (“OEB Act”) of proposed amendments to the Distribution System Code (“DSC”), the Standard Supply Service Code (“SSSC”), Unit Sub-Metering Code (“USMC”) and the Gas Distribution Access Rule (“GDAR”). The amendments were proposed as a result of the OEB’s review of its customer service rules and associated service charges for licensed electricity distributors, rate-regulated natural gas distributors and unit sub-meter providers.

Simultaneously, the OEB initiated a proceeding on its own motion under sections 19(4), 36 and 78 of the OEB Act to implement the OEB’s proposed changes to service charges related to non-payment of accounts by way of a rate order - specifically, to implement the following OEB proposals arising from the OEB’s review of customer service rules and associated service charges: eliminating the Collection of Account Charge and Install/Remove Load Control Device Charge, updating the Late Payment Charge, and renaming OEB-approved charges relating to reconnection of customers who had been disconnected for non-payment.

Through the notice, the OEB invited written comments on both the proposed code amendments and the proposed changes to service charges (collectively, the “Proposed Amendments”).

This is the submission of the CLD in response to the Proposed Amendments. This submission has been filed via the Board’s web portal and two (2) requisite paper copies have been couriered to the Board.

¹ The CLD is comprised of the following electricity Local Distribution Companies: Alectra Utilities Corporation, Hydro Ottawa Limited, Toronto Hydro-Electric System Limited, and Veridian Connections Inc.



General Comments

The CLD appreciates the opportunity to provide comments on the Proposed Amendments. Over the last several years, the CLD has worked with the OEB in developing, implementing, and refining a number of programs and code amendments to assist low income and other residential customers with bill management and payment. These have resulted in an extensive landscape of supports including: rules for disconnection arrears repayment; advanced notification and communication; and direct financial assistance through the Low-Income Energy Assistance Program (“LEAP”) and the Ontario Electricity Support Program (“OESP”).

However, with regard to these Proposed Amendments, the CLD strongly reiterates the concerns it expressed in its October 5th, 2018 submission to the OEB. Of particular concern are those proposals that are related to the elimination of the Collection of Account Charge and the extension of the payment period from 16 to 20 days. The CLD does not believe these to be cost effective and useful for its customers. Further, in the absence of an offsetting variance account, the CLD is concerned that the result is a substantial erosion of OEB-approved revenue requirement. Rates that were previously determined to be just and reasonable can no longer be considered, as such. The impact of these proposed amendments will have significant and material impacts for CLD members’ ability to recover prudently incurred costs, previously approved by the Board.

The Report stated that the objective of the Customer Service Rules review was “to determine whether the Rules continue to serve the needs of customers, while maintaining an appropriate balance between consumer protection and the ongoing operational needs of utilities.” While the Report included perspectives on customers’ preferences, the proposals did not adequately address: the resulting costs these proposals would create (and that will have to be paid by all customers); the operational risks imposed on utilities; or an appropriate time frame for implementation. Specifically, it is not clear to what extent potential additional costs of these proposals were considered; whether customers are willing to pay the incremental costs for these preferences; or whether customers understood the implication of having these costs socialized across all ratepayers.

The CLD remains strongly concerned that many of the Proposed Amendments will shift a cost burden driven by a small subset of customers to all ratepayers at large, and is therefore at odds with generally accepted regulatory principles related to rate making and cost causality. The CLD urges the OEB to consider these tradeoffs when making a final determination with regard to these Proposed Amendments.

In the event that the OEB proceeds with the most recently circulated proposals, the CLD requests that the Board establish a variance account to track the lost revenue and additional costs from these changes. These changes are not being proposed by the OEB for implementation at the time of the utility’s next rebasing. Instead they are being proposed for implementation mid-rate cycle. The resulting impact of the changes demonstrably meets existing materiality thresholds, an OEB-established approach for the establishment of a variance account² and process for lost

² In accordance with the OEB’s: Filing Requirements for Electricity Distribution Rate Applications – Chapter 2 Cost of Service (Section 2.9.4), issued July 12, 2018. The OEB states that:

In the event an applicant seeks an accounting order to establish a new deferral/variance account, the following eligibility criteria must be met:

Causation . . .

Materiality . . .

Prudence . . .



revenue tracking and recovery. Further, establishing a variance account for all utilities is far more effective and efficient than making determinations for a large number of individual applications during the course of discrete rate applications.

Minimum Payment Period

The extended collection timeframe places an unreasonable burden on cash flow.

The CLD believes that existing and proposed provisions, including the new overdue notification requirement along with extensions to disconnection notification timelines, are robust in protecting customers from disconnection and permitting sufficient time to those who may need it to make appropriate payment arrangements. It is important to consider that the proposed provisions could result in a timeframe of up to 90 days between billing and potential disconnection, in addition to the 5 months during which customers are further protected from collection and disconnection activity through the Winter Disconnection Ban.

The CLD remains of the view that an extension from 16 to 20 calendar days, in combination with mailing time and payment receipt computation rules (three days each³), and other proposed changes to the collections timeframe results in an excessively lengthy collections calendar. This ultimately affects cash flow and accounts receivables, and may lead to negative credit quality implications.

More importantly, the prospective increase to working capital of each additional day is substantial and will have a measurable impact on distribution rates borne by all ratepayers. The CLD is concerned that the proposed changes do not consider these consequences, nor do they adequately consider the cost causality principle of economic regulation.

In the Proposed Amendments, the OEB states “While the OEB recognizes that this proposal may affect certain Utilities’ working capital needs, the OEB is not convinced at this time that the impact will be material.” The CLD disagrees. In its October 5th, 2018 submission the CLD estimated the revenue requirement impact that each additional day will have on five different sized distributors, as well as a range for CLD members specifically. In the generic example, a large sample distributor would experience a revenue requirement impact of at least \$450,000 for each additional day the collection schedule was extended. For one CLD member specifically, the impact of shifting from 16 to 20 days would produce a total revenue requirement impact of \$2,500,000. The CLD respectfully but strongly disagrees with the OEB’s statement that this increase in costs can be accommodated by offsetting potential operational efficiencies. The CLD has considered the potential for savings in the areas of bad debt, customer service time, and arrears management in general, but does not expect the Proposed Amendments to result in any financially material reductions.

The CLD observes that, combined with the printing date, the allowance for mailing time (which is often voluntarily extended by utilities to e-billing customers as well), payment receipt computation days (which are similarly often extended regardless of method of payment), in addition to additional grace days, customers are in fact already operating in an environment in which they are afforded 20+ “effective” days for payment before any late payment or other collection-related activities are undertaken, and further protected by other notification requirements subsequent to

³ While the Distribution System Code currently allows for a three day mailing period as referenced in sections 2.6.4 and 2.6.5, the CLD notes that the mail period referenced on p. 24 of the Notice allows for a five day mailing period. It is unclear to the CLD if the Board is aware of this discrepancy or intends to change the mailing period to five days, consistent with the proposed amendments to the Disconnection Notice Period.



facing any potential disconnection. In light of this, as well as other proposed amendments to the disconnection timeframe, and the material additional financial costs that will ultimately be borne by ratepayers at large, the CLD submits that the extension of the payment period element from 16 to 20 days is not reasonable.

Specific Service Charges

The CLD remains concerned that the broad elimination of service charges proposed through these amendments will reduce a natural incentive to timely bill payment, and have a measurable impact on rates by moving a considerable financial cost away from one subset of customers to ratepayers at large, which is contrary to the cost causality principle.

The CLD is particularly concerned with the elimination of the Collection of Account charge. The existence of this charge encourages some customers to contact their distributor to discuss viable payment options prior to subsequent disconnection processes being required. This may prompt customers to enter into eligible low-income programming or Arrears Payment Agreements (“APA”) if applicable. Additionally, as above, the application of this charge helps ensure that costs which are incurred due to a small subset of customers are not subsidized by the remainder of the customer base.

Conditional Request for Variance Account

A Variance Account is required to address the erosion of revenue requirement for the implementation of these changes outside of a rebasing.

The need for these services at issue in this proceeding (and the costs to provide them) will not cease if these amendments are approved, and without a balancing provision to account for this reduction to rates, utilities will be undercompensated for what are reasonably incurred costs. To enact such proposed amendments without a recovery mechanism is not consistent with essential regulatory principles. Moreover, given that utilities, and CLD members specifically, are at varying points in their respective rate cycles, the absence of a recovery mechanism will have a significant business impact.

In the Proposed Amendments, the OEB acknowledged that the elimination of the two charges relating to non-payment of accounts may have an impact on some distributors, but concluded that “given the extent of the impact is not clear at this time, the OEB does not find it prudent to establish deferral/variance accounts for all distributors.” The CLD disagrees with this conclusion. In its October 5th, 2018 submission, the CLD made clear that eliminating these charges, in combination with extending the minimum payment periods, will materially affect its members; the CLD has provided a forecast revenue requirement impact of the proposed amendments of between \$500,000 and \$5,400,000 per distributor.

As a result, the CLD maintains that the OEB should make provision for distributors to either record the forgone revenues in a Deferral/Variance Account or to establish a Rate Rider that recovers an amount of revenue equivalent to that which will not be charged by the removal of the charges. Upon rebasing their costs, distributors can appropriately seek to recover their reasonable costs by building these costs directly into their respective revenue requirements. Rate changes should be coordinated with both the coming into force date(s) and with other anticipated rate changes so that the number of rate changes experienced by the customer can be minimized. In the alternative, the OEB may determine to eliminate these charges upon a distributor’s next rebasing, in order that rates may be set appropriately.



While the Board indicated distributors may apply for deferral account treatment, the CLD respectfully submits that this is a pervasive issue across the province affecting more than half of the distributors in Ontario. Relative to the burden of considering dozens of individual requests, the CLD believes that establishing a deferral/variance account at this time is the most efficient course of action to capture the prospective elimination Collection of Account Charges the lost revenue from other service charge changes and additional working capital due to the payment period extension and any other relevant and prudently incurred costs.

Disconnection for Non-Payment

In the Proposed Amendments, the OEB suggests that “a distributor shall deliver an account overdue notice ... by customer’s preferred method of communication, if known, otherwise by mail”. In the event that the distributor is not aware of the customer’s preferred method, the CLD submits it should left up to the discretion of the distributor as to how the customer is notified of their overdue account.

Some members of the CLD have experienced improved customer response and satisfaction with a phone call rather than direct mail and would prefer that this option continue to be made available to them. This also provides distributors with the ability to communicate important information to their customers in a more timely and cost-effective manner.

Winter Disconnection, Reconnection, and Load Control Devices

The CLD appreciates the OEB’s decision to allow disconnection notices to be sent prior to the end of the disconnection ban period in any given year, such that distributors can begin processing actual disconnections immediately following May 1st. This continues to respect the intent of the disconnection ban in ensuring that no disconnections occur during seasonally adverse periods, while improving utility collections management efficiency.

The CLD requests that the OEB clarify the wording of DSC section 4.8.4 by noting that “any applicable safety requirements and standards” would capture all the legitimate (non-payment) reasons for disconnection outlined in existing DSC section 4.2.6.

Equal Billing Plan

The CLD is supportive of the OEB’s decision to allow adjustments for known or anticipated factors in the calculation a customer’s average monthly billing amount, as contemplated under SSSC section 2.6.2A (b). This ability will result in smaller variances at the time of an annual reconciliation, by allowing the monthly payments to be based on the most accurate information available.

Under SSSC section 2.6.2A (c), the CLD suggests that the term “shall offer” be reworded to read “shall communicate the availability of”, with regard to the requirement to notify customers of the potential of entering into a monthly billing plan. The CLD believes this more accurately reflects the intent of the OEB’s amendments to make customers “aware of the plan” at least twice a year.

Similar to the account overdue notice requirement, in the Proposed Amendments, the OEB suggests that “a distributor shall offer an equal monthly billing plan ... through the customer’s preferred method of communication, if known, or otherwise by mail”. For the same efficiency reasons outlined earlier above, in the event that the distributor is not aware of the customer’s



preferred method, the CLD submits that it should be left up to the discretion of the distributor as to how the availability of an equal billing plan is communicated to the customer.

Consumer Complaint Response Process

Within the proposed amendments, the OEB confirmed that it considered comments received in response to its July 2016 consultation, which proposed codifying new requirements for responding to consumer complaints forwarded to utilities by the OEB. The OEB has proposed to add a new Section 10 of the DSC to reflect the proposed processes that have presently been operationalized on an informal basis.

As noted in its August 19, 2016 submission, the CLD emphasized the important role both the OEB and utilities have towards ensuring that consumer complaints are responded to in an effective and timely manner. The CLD further emphasized the importance of ensuring that customers first approached their utility before engaging in the OEB dispute resolution process and that the consumer dispute resolution process not become vulnerable to misuse. Since those initial comments were filed, the winter disconnection moratorium came into effect which, for some CLD members, resulted in an abnormally high volume of disconnection-related OEB escalations. Despite satisfying the compliance requirements, some CLD members were encouraged by the OEB to take further action to satisfy the customer, when all viable means had been exhausted. The CLD does not believe that is the goal of the consumer dispute resolution process and does not support deviating from applying sound account management practices that serve the interest of all customers.

The OEB's initial recommendations also contemplated changes to the associated business process and tools, including the development of a Handbook and enhancements to the OEB complaint e-portal, in order to further support the efficient and effective processing of consumer complaints.

The CLD identifies that the current proposed changes are focused primarily on the process timelines and communication requirements for utilities. The CLD requests that the OEB clarify if any further enhancements to the Consumer Complaint Response Process are under consideration or review at this time. Similar clarification to OEB timelines and communications should also be confirmed.

Implementation Cost and Timeline

The CLD observes that these Proposed Amendments mark the completion of Phase I of the Customer Service Rules changes; with Phase II to follow later in 2019. Given the imminent and additional potential changes, the CLD recommends that the OEB coordinate the implementation of the changes such that distributors can avoid programming changes in their CIS more than once, since these changes are costly and disruptive.

In its October 5th, 2018 submission the CLD requested that distributors be provided with a minimum of a 9 month implementation period from the date the Board issues the final amendments. However, the Proposed Amendments only provide for up to 6 months for such implementation. The CLD submits that this timeframe will not be sufficient to allow for proper implementation of all these changes into each distributor's billing system. Given that this is a critical issue, the CLD requests that the changes proposed for a 6 month implementation be extended to 9 months. In the absence of a longer implementation timeframe, the CLD expects



many distributors, including some of its own members will need to request exemptions directly and seek a more appropriate implementation timeframe⁴.

Conclusion

The CLD appreciates the opportunity to provide comments on the Proposed Amendments. If you have any questions with respect to any of the above, please contact the undersigned.

Yours truly,

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⁴ The CLD identifies, by way of example, that Alectra Utilities is in the midst of a CIS implementation for its fourth rate zone and an enterprise-wide ERP implementation, both of which are to be completed by the end of Q2 2019. Given that a stabilization period is required following the implementation of these major IT systems, Alectra Utilities is a clear example of a utility that will not be able to implement these changes in the near term, nor over such a short implementation window.