Ontario Energy Board | **Commission de l'énergie de l'Ontario**

Ontario

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NOTICE OF AMENDMENT TO A CODE

AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE

BOARD FILE NO: EB-2007-0722

To: All Licensed Electricity Distributors
All Participants in Consultation Processes EB-2007-0722 and EB-2007-0635
All Other Interested Parties

The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* of amendments to the Distribution System Code (the "DSC").

I. Background

On March 10, 2009 the Board released a Notice of Proposal to Amend Codes (the "March 10 Notice") in which it proposed to amend Codes (the "Proposed Amendments") in the following areas:

1. Customer Service;
2. Customer Reclassification; and
3. Management of Customer Commodity Non-Payment Risk

This Notice addresses the Proposed Amendments to the DSC from the March 10 Notice with respect to Customer Reclassification and Management of Customer Commodity Non-Payment Risk. With respect to the Proposed Amendments relating to Customer Service issues, stakeholder comments in this area indicate that further review by the Board is required. As such, the Customer Service issues will be addressed separately and the Board will issue further direction in the near future.

The Board received 17 written comments in response to the March 10 Notice from a variety of stakeholders, including distributors and ratepayer groups. Those comments are available on the Board's web site at www.oeb.gov.on.ca on the "Electricity

Distributors: Customer Service, Rate Classification and Non-Payment Risk" web page on the "OEB Key Initiatives" portion of the "Industry Relations" section of the web site. A summary of some of the stakeholder comments received in relation to various issues addressed in this Notice has been included in the discussion below, and reference should be had to the comments themselves for further detail.

The Board has considered all of the comments received and has determined that no material changes need to be made to the Proposed Amendments on customer reclassification or management of customer commodity non-payment risk. However, in light of the comments received, the Board has decided to make minor revisions to the Proposed Amendments which are described below. The text of the amendments to the DSC as adopted by the Board are set out in Attachments A and B to this Notice.

II. <u>Customer Reclassification</u>

A. Billing Demand based on kVA

Distributors and consumer groups generally supported having the distributors advise customers that there may be a problem with their power factor when they have been billed according to 90% of kVA, instead of maximum kW demand. One consumer group proposed that distributors should be required to provide more information regarding power factor on the bill. However, the Board considers the amendment an appropriate step to educating larger consumers regarding how their power factor affects their bills.

One group of distributors advised that this would require a change in the Customer Information System (the "CIS") for some distributors so the Board considers it advisable to allow 6 months for distributors to undertake any programming changes to come into compliance. As such, the coming-into-force date will be January 1, 2010.

B. Process for and Frequency of Reclassification

The proposed amendments concerned the process for and the frequency of customer reclassifications in order to:

1. Require that rate classification be based on the average of the monthly billing demand for a 5-month period;
2. The 5 months are to consist of the month in the previous rate year with the highest billing demand and the two months before and after;
3. Require distributors to evaluate customers annually and allow customers one interim request for re-evaluation;
4. Allow an exception to the rule above for both the distributor and the customer for "persistent, on-going change" as defined by having any 5 consecutive months over or under the threshold; and
5. Require distributors to issue a notice of any rate re-classification by at least one billing cycle before it takes effect.

Distributors and consumer groups were generally supportive of the amendments. One consumer group suggested that the DSC be prescriptive as to the content of the notice. Once again, the Board considers the amendment as an appropriate step in terms of distributor communication to customers but the Board declines to direct the specific terms of the communication without an indication that it is necessary. Another consumer group pointed out that the amendment does not resolve other issues involving initial classification, cost allocation and class boundaries. The Board reiterates that definitions of classes for initial classification belong in each distributor's tariff sheet and as such will be addressed through rate hearings. Class boundaries and the consequent cost allocation studies are subjects for the Board's rate design policy process. One group of distributors recommended that a customer's monthly billing demand be averaged over 12 months in order to avoid classifying a seasonal customer according to the higher usage in a shorter time period. The Board chose the 5 month period as a significant, sustained period during which a customer's usage would reflect the assets needed to meet its requirements. To do otherwise would result in other customers subsidizing seasonal customers. One distributor requested clarification that the annual review is of a non-residential customer's demand rather than energy use. Since the relevant class boundaries are defined in terms of demand, the review is only in regard to demand. The DSC already has provisions allowing a distributor to install a demand meter at the premises of an energy-billed consumer in order to monitor the demand use in relation to classification.

C. Anticipated Costs and Benefits

The amendment regarding notification of billing based on 90% of KVA will provide customers with a poor power factor with an opportunity to rectify the matter and therefore reduce their electricity costs. One group of distributors indicated that changes to the CIS of distributors may be necessary. However, another distributor noted that distributor bills already contain pre-programmed space for customer messages.

The amendments regarding the process for and frequency of customer reclassification will provide greater clarity and certainty for distributors and customers alike. They will also help to ensure that customers are reclassified fairly and only when justified based on usage. Many distributors already conduct annual rate classification reviews and provide notice of reclassification. Distributors that do not will incur some costs to bring their practices into line with the new requirements. Again, however, the Board expects that such costs will be modest. The Board also anticipates that some of these costs may be offset by a decrease in costs associated with dealing with customer calls and complaints regarding reclassification.

III. <u>Management of Customer Commodity Non-Payment Risk</u>

A. Minor Revisions to the Proposed Amendments

Both distributor and ratepayer representatives expressed support of the codification of accelerated billing and allowing customers and distributors to negotiate alternative payment arrangements in lieu of accelerated billing.

A ratepayer representative recommended that the term "customer's purchase of electricity" used in the Proposed Amendments should be defined more clearly. The Board agrees with this recommendation and has made changes to the amendments. The Board decided that the term “customer’s electricity bill” is more appropriate. The Board recognizes that “electricity bill”, referring to all electricity charges (i.e., commodity, regulatory, distribution, transmission, and debt retirement charges) charged to a customer, is broader than “purchase of electricity”, which was used in the Proposed Amendments, and intended to refer to a customer’s electricity commodity charges. However, the Board believes that using a customer’s total electricity charges as the basis for permitting more frequent billing better protects a distributor and its remaining customers from the payment default of a large customer. The Board is of the view that this change will not have a material impact on the application of unilateral increases in billing frequency by distributors because of the thresholds set in the amendments.

Some distributor representatives argued that the criteria in the Proposed Amendments for accelerated billing in the March 10 Notice were too strict. For example, one distributor representative stated that distributors should be able to bill any Large User class customer on a weekly or bi-weekly basis based on an unsatisfactory credit report or in lieu of a security deposit and that distributors should be able to bill General Service >50 kW customers on a weekly or bi-weekly basis when the customer has received a disconnection notice or has had a reduction in their credit rating. Another distributor representative suggested that distributors be allowed to impose accelerated billing on an industrial customer with a monthly bill that is 0.5% or greater of a distributor’s distribution revenue.

The Board remains of the view that the thresholds set in the Amendments to sections 2.4.32 to 2.4.35 of the DSC are at appropriate levels and that the amendment clarifies situations in which a distributor may, without offending section 2.4.6.2 of the DSC, unilaterally increase the frequency of billing for a large customer whose annual electricity charges exceed a certain percentage of the distributor’s revenue from the provision of distribution services. The Board also notes that a distributor can increase the frequency of billing beyond what is normally the case based on the distributor’s normal billing cycle if the distributor obtains the consent of the customer or prior Board approval.

A ratepayer representative did not support the Proposed Amendments allowing distributors to unilaterally impose a higher billing frequency on a customer. The stakeholder also stated that Board should not constrain billing frequency formulaically based on the customer's bill as a portion of the distributor's revenue requirements.

The Board remains of the view that the Amendments appropriately limit the ability of distributors to unilaterally impose higher billing frequency to a limited set of circumstances. Further, the Amendments do not formulaically constrain the ability of distributors to impose higher billing frequency. The Amendments limit and clarify situations in which a distributor may, without offending section 2.4.6.2 of the DSC, unilaterally increase the frequency of billing without the consent of the customer. Distributors can still negotiate, at their discretion, alternative arrangements with customers (including seasonal customers and customers with electricity bills below the thresholds set in the amendments). If alternative arrangements are not agreed to, distributors can still apply to the Board for exemptions from the Code.

The same stakeholder commented further that the amendments should be clarified to apply to distribution customers that are not wholesale market participants. The Board does not consider such a distinction necessary as such distinctions are not made elsewhere in the DSC in reference to distribution customers. For example, the current section 2.4.6.2, which states "In managing customer non-payment risk, a distributor shall not discriminate among customers with similar risk profiles or risk related factors except where expressly permitted under this Code."

B. Anticipated Costs and Benefits

As stated in the March 10 Notice, the Board anticipates that the amendments to the DSC described above will more clearly and better enable distributors to manage large customer payment default risk, particularly where the distributor has a narrow customer base. The amendments also reduce the financial and service-related consequences of a payment default by a large customer, and therefore serve to better protect the interests of the distributor's remaining ratepayers.

It is not anticipated that electricity distributors will incur substantial costs as a result of the amendments. The Board acknowledges that customers placed on accelerated billing may need to adjust how they manage their cash flow on a going forward basis. Where this is a significant issue, the customer can avail itself of the opportunity to negotiate alternative arrangements with the distributor.

IV. Coming Into Force

The amendments relating to customer reclassification set out in Attachment A will come into force on January 1, 2010.

The amendments relating to customer non-payment risk set out in Attachment B will come into force on the date they are published on the Board's website.

Any questions relating to this Notice and the amendments to the Code should be directed as follows:

- in relation to the amendments regarding Customer Reclassification, to Laurie Reid at 416-440-7623 or by e-mail at laurie.reid@oeb.gov.on.ca

- in relation to the amendments regarding Management of Customer Commodity Non-Payment Risk, to Roy Hrab at 426-440-7745 or by e-mail at roy.hrab@oeb.gov.on.ca

The Board's toll free number is 1-888-632-6273.

DATED at Toronto, June 16, 2009.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Attachments:

Attachment A: Amendments to the Distribution System Code: Customer Reclassification

Attachment B: Amendments to the Distribution System Code: Management of Customer Non-Payment Risk

Attachment C: Comparison Version of Amendments to the Distribution System Code on Customer Reclassification Relative to the Proposed Amendments Issued in the March Notice (for informational purposes only)

Attachment D: Comparison Version of Amendments to the Distribution System Code on Management of Customer Non-Payment Risk Relative to the Proposed Amendments Issued in the March Notice (for informational purposes only)

Attachment A
to
Notice of Amendments to a Code

June 16, 2009
EB-2007-0722

Amendments to the Distribution System Code:
Customer Reclassification

Note: The text of the proposed amendments is set out in italics below, for ease of identification only.

1. Section 1.7 of the Distribution System Code is amended by adding the following immediately after the last paragraph of that section:

   Section 2.5.6 comes into force on January 1, 2010.

2. Section 2 of the Distribution System Code is amended by adding the following immediately after section 2.4.36:

   2.5 Frequency and Notice of Customer Reclassification and Notice of kVA Billing

   2.5.1 A distributor shall, at least once in each calendar year, review each non-residential customer's rate classification to determine whether, based on the rate classification requirements set out in the distributor's rate order, the customer should be assigned to a different rate class. Subject to section 2.8.3, other than at the request of the non-residential customer a distributor may not change a non-residential customer's rate classification more than once in any calendar year.

   2.5.2 A distributor shall review a non-residential customer's rate classification upon being requested to do so by the customer to determine whether, based on the rate classification requirements set out in the distributor's rate order, the customer should be assigned to a different rate class. Subject to section 2.8.4, a distributor is not required to respond to more than one such customer request in any calendar year.

   2.5.3 A distributor may review a non-residential customer's rate classification at any time if the customer's demand falls outside the upper or lower limits applicable to the customer's current rate classification for a period of five consecutive months.

2.5.4 A distributor shall review a non-residential customer's rate classification upon being requested to do so by the customer at any time if the customer's demand falls outside the upper or lower limits applicable to the customer's current rate classification for a period of five consecutive months.

2.5.5 Where a distributor assigns a non-residential customer to a different rate class as a result of a review initiated by the distributor, the distributor shall give the customer written notice of the reclassification no less than one billing cycle before the reclassification takes effect for billing purposes.

2.5.6 A distributor that charges a non-residential customer on the basis of 90% of the kVA reading of the customer's meter rather than on the basis of the kW reading of the customer's reading shall include on all bills issued to that customer a message to the effect that billing is based on 90% of the kVA reading.

Attachment B
to
Notice of Amendments to a Code

June 16, 2009
EB-2007-0722

Amendments to the Distribution System Code: Management of Customer Non-payment Risk

Note: The text of the proposed amendments is set out in italics below, for ease of identification only.

Section 2.4 of the Distribution System Code is amended by adding the following immediately after section 2.4.31:

2.4.32 *Despite any other provision of this Code and despite the billing cycle that would otherwise be applicable based on the distributor's normal practice as documented in its Conditions of Service, in managing customer non-payment risk a distributor may:*

(a) *bill a customer on a bi-weekly basis, if the value of that customer's electricity bill over 12 consecutive months falls between 51% and 100% of the distributor's approved distribution revenue requirement over that 12-month period; or*

(b) *bill a customer on a weekly basis, if the value of that customer's electricity bill over 12 consecutive months exceeds 100% of the distributor's approved distribution revenue requirement over that 12-month period.*

For the purposes of determining whether this section applies in relation to a customer, a distributor may consider the value of the customer's electricity bill in the 12-month period preceding the coming into force of this section.

2.4.33 *A distributor shall not bill a customer in accordance with section 2.4.32 unless the distributor has given the customer at least 42 days notice before issuance of the first bi-weekly or weekly bill, as the case may be.*

2.4.34 *Where a distributor is billing a customer in accordance with section 2.4.32 or section 2.4.36, the distributor shall resume billing the customer in accordance with the billing cycle that would otherwise be applicable based on the distributor's normal practice as documented in its Conditions of Service if the value of that customer's annual electricity bill over 12 consecutive months falls below 51% of the distributor's distribution revenue over that 12-month period.*

2.4.35 *Where a distributor is billing a customer in accordance with section 2.4.32(b), the distributor shall bill the customer as follows if the value of that customer's annual electricity bill over 12 consecutive months falls between 51% and 100% of the distributor's distribution revenue over that 12-month period:*

(a) in accordance with the billing cycle that would otherwise be applicable based on the distributor's normal practice as documented in its Conditions of Service; or

(b) in accordance with section 2.4.32(a) or section 2.4.36.

2.4.36 *Despite any other provision of this Code, a distributor that intends to bill or is billing a customer in accordance with section 2.4.32 may, in lieu of such billing, negotiate alternative arrangements with the customer, including in relation to a lesser frequency of billing or in relation to the giving or retention of security deposits.*

Attachment C

Comparison Version of Amendments to the Distribution System Code on Customer Reclassification Relative to the Proposed Amendments Issued in the March Notice (for informational purposes only)

1. Section 1.7 of the Distribution System Code is amended by adding the following immediately after the last paragraph of that section:

   Section 2.5.6 comes into force on January 1, 2010.

   Deleted: *, made by the Board on [insert date], comes into force on the day that is 180 days after the date on which that section is published on the Board's website after having been made by the Board*

2. Section 2 of the Distribution System Code is amended by adding the following immediately after section 2.4.36:

2.5 Frequency and Notice of Customer Reclassification and Notice of kVA Billing

2.5.1 A distributor shall, at least once in each calendar year, review each non-residential customer's rate classification to determine whether, based on the rate classification requirements set out in the distributor's rate order, the customer should be assigned to a different rate class. Subject to section 2.8.3, other than at the request of the non-residential customer a distributor may not change a non-residential customer's rate classification more than once in any calendar year.

2.5.2 A distributor shall review a non-residential customer's rate classification upon being requested to do so by the customer to determine whether, based on the rate classification requirements set out in the distributor's rate order, the customer should be assigned to a different rate class. Subject to section 2.8.4, a distributor is not required to respond to more than one such customer request in any calendar year.

2.5.3 A distributor may review a non-residential customer's rate classification at any time if the customer's demand falls outside the upper or lower limits applicable to the customer's current rate classification for a period of five consecutive months.

2.5.4 A distributor shall review a non-residential customer's rate classification upon being requested to do so by the customer at any time if the customer's demand falls outside the upper or lower limits applicable to the customer's current rate classification for a period of five consecutive months.

2.5.5 Where a distributor assigns a non-residential customer to a different rate class as a result of a review initiated by the distributor, the distributor shall *give the customer written notice of the reclassification no less than one billing cycle before the reclassification takes effect for billing purposes.*

2.5.6 A distributor that charges a non-residential customer on the basis of 90% of the kVA reading of the customer's meter rather than on the basis of the kW reading of the customer's reading shall include on all bills issued to that customer a message to the effect that billing is based on 90% of the kVA reading.

Attachment D

Comparison Version of Amendments to the Distribution System Code on Management of Customer Non-Payment Risk Relative to the Proposed Amendments Issued in the March Notice (for informational purposes only)

Section 2.4 of the Distribution System Code is amended by adding the following immediately after section 2.4.31:

2.4.32 *Despite any other provision of this Code and despite the billing cycle that would otherwise be applicable based on the distributor's normal practice as documented in its Conditions of Service, in managing customer non-payment risk a distributor may:*

(a) *bill a customer on a bi-weekly basis, if the value of that customer's electricity bill over 12 consecutive months falls between 51% and 100% of the distributor's approved distribution revenue requirement over that 12-month period; or*

Deleted: *purchases of electricity*

(b) *bill a customer on a weekly basis, if the value of that customer's electricity bill over 12 consecutive months exceeds 100% of the distributor's approved distribution revenue requirement over that 12-month period.*

Deleted: *purchases of electricity*

For the purposes of determining whether this section applies in relation to a customer, a distributor may consider the value of the customer's electricity bill in the 12-month period preceding the coming into force of this section.

Deleted: *purchases of electricity*

2.4.33 *A distributor shall not bill a customer in accordance with section 2.4.32 unless the distributor has given the customer at least 42 days notice before issuance of the first bi-weekly or weekly bill, as the case may be.*

2.4.34 *Where a distributor is billing a customer in accordance with section 2.4.32 or section 2.4.36, the distributor shall resume billing the customer in accordance with the billing cycle that would otherwise be applicable based on the distributor's normal practice as documented in its Conditions of Service if the value of that customer's annual electricity bill over 12 consecutive months falls below 51% of the distributor's distribution revenue over that 12-month period.*

Deleted: *purchases of electricity*

2.4.35 *Where a distributor is billing a customer in accordance with section 2.4.32(b), the distributor shall bill the customer as follows if the value of that customer's annual electricity bill over 12 consecutive months falls between 51% and 100% of the distributor's distribution revenue over that 12-month period:*

Deleted: *purchases of electricity*

(a) *in accordance with the billing cycle that would otherwise be applicable based on the distributor's normal practice as documented in its Conditions of Service; or*

(b) *in accordance with section 2.4.32(a) or section 2.4.36.*

2.4.36 *Despite any other provision of this Code, a distributor that intends to bill or is billing a customer in accordance with section 2.4.32 may, in lieu of such billing, negotiate alternative arrangements with the customer, including in relation to a lesser frequency of billing or in relation to the giving or retention of security deposits.*