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NOTICE OF REVISED PROPOSAL TO AMEND CODES

**REVISED PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE,
THE RETAIL SETTLEMENT CODE AND THE STANDARD SUPPLY SERVICE CODE**

BOARD FILE NO: EB-2007-0722

**To: All Licensed Electricity Distributors
All Participants in Consultation Processes EB-2007-0722, EB-2007-0635
and EB-2008-0150
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 revised proposed amendments to the Distribution System Code (the "DSC"), the Retail Settlement Code (the "RSC") and the Standard Supply Service Code (the "SSSC") (collectively, the "Codes").

I. Background

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

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

Final amendments to the DSC with respect to Customer Reclassification and Management of Customer Commodity Non-Payment Risk were posted in a separate

Notice of Amendment to a Code on June 16, 2009. This Notice sets out revised proposed amendments with respect to Customer Service.

The Board received and reviewed 17 written comments on the March 10th 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. A summary of some of the stakeholder comments received in relation to the various issues addressed in this Notice has been included in the discussion below and for further detail please refer to the submissions themselves.

By letter dated September 8, 2009, the Minister of Energy and Infrastructure advised the Board of the government's plan to develop a province-wide integrated program for low-income energy consumers. In light of these plans, the Minister requested that the Board not proceed to implement new support programs for low-income energy consumers in advance of a ministerial direction.

Based on the Minister's request, the Board has revised the proposed code amendments not to include amendments specifically for low-income electricity customers. The revised proposed code amendments take into account the stakeholder comments on the March 10th Notice and endeavour to address the needs of low-income electricity consumers through proposed code amendments applicable to all residential customers. Although there are no rules specific to low-income customers, the Board believes that the package of revised proposed code amendments will benefit all customers, including low-income residential electricity customers.

The full text of the revised proposed amendments to the Codes is set out in Attachment A to this Notice. Attachment B sets out, for informational purposes, a comparison of the revised proposed customer service amendments to the originally proposed amendments. In the discussion below, "proposed amendment" will refer to an amendment set out in the March 10th Notice, and "revised proposed amendment" will refer to an amendment in this Notice that changes or adds to the original proposed amendments.

II. Revised Proposed Amendments to the Codes for Customer Service

A. Definition of Eligible Low-Income Electricity Customer

The proposed definition of “eligible low-income electricity customer” in section 1.2 of the DSC attracted stakeholder requests for further clarification of various implementation details, including who may be responsible for identifying eligible low-income customers and who may be responsible for continued verification of their low-income status.

Several submissions proposed changes to the definition, including the following:

- it should be sufficient merely to be eligible for low-income assistance and confirmation by a social service agency should not be required as such agencies may be busy or unavailable at the relevant times;
- means-tested income support recipients should be automatically approved as eligible low-income electricity customers for code purposes to make the process more efficient;
- “social service agency” and “energy bill payment assistance” should be defined; and
- private non-profit agencies should qualify, in addition to government agencies, to undertake intake reviews for eligible low-income customers.

As indicated in the Minister’s letter, the government plans to implement a province-wide integrated program for low-income energy consumers. As a result, the Board does not consider it appropriate to proceed with development of a definition of who qualifies as an eligible low-income electricity customer, before the government policy in this area is known. The revised proposed amendments no longer contain any special rules for low-income customers and therefore there is no practical need to continue with a definition of an eligible low-income electricity customer. The proposed definition and use of this term is dropped throughout the proposed revised code amendments.

B. Bill Issuance and Payment

1. Payment Period

Proposed section 2.5.3 of the DSC set out 21 days for an eligible low-income electricity customer, and 16 days for all other customers, as the minimum time period within which to pay a bill without the application of a late payment charge.

One ratepayer group agreed with the proposed amendment, while another favoured moving to 21 days for all customers. The majority of comments from distributors concerned the billing system costs of adopting two different payment periods, which they argued would require creation of a new “subclass” in utility Customer Information Systems (“CISs”). A number of parties cautioned about the need for increased working capital if all customers were moved to 21 days, although others questioned whether one could reliably accept such a conclusion in the absence of updated working capital (“lead lag”) studies. One distributor argued that 16 days would prove sufficient for this rule, given that the proposed time counting rules will effectively provide more time to customers to pay their bills.

The Board will revise proposed section 2.5.3 of the DSC (to be renumbered as section 2.6.3) to provide for a common minimum bill payment period for all customers. The Board believes 16 days would be appropriate for all customers under revised proposed section 2.6.3 of the DSC, as the related time counting rule proposed in (renumbered) section 2.6.4 (a) of the DSC and the revised rule in (renumbered) section 2.6.5 (a) of the DSC will both provide more overall time for customers to pay their bills.

The 16 day-rule is a minimum which distributors remain free to extend. Some utilities voluntarily extend the due date for customers who receive fixed monthly government payments. Several submissions requested such a practice be mandated. The Board does not see the need to add a further rule, as any residential customer who enrolls in an equal payment plan, as described in Part II.E of this Notice, will be given the option of at least two automatic payment withdrawal dates within a month under the proposed code amendment in section 2.6.2(b) of the SSSC.

2. Determining When Bills Are Issued and Payment is Received

Proposed section 2.5.4 of the DSC set out the various dates on which a bill is deemed to have been issued by a distributor.

A number of distributors advised that they sort bills by postal code before delivery to the local post office. They were concerned that the suggested three (calendar) day period under proposed section 2.5.4(a) of the DSC may tend to increase their cash flow needs because the delivery of pre-sorted mail may occur in less than three days. The Board prefers to be cautious about making any firm assumption to this effect. A variety of factors along the delivery chain may impact how long it actually takes for a bill to reach

a given customer. Moreover, this provision is intended to address specific customer complaints about the practice by some distributors of printing and dating utility bills on a Saturday but mailing them on the following Monday. The Board believes three calendar days to be a reasonable time period applicable to the wide variety of circumstances that may arise in practice and will maintain the substance of section 2.5.4(a) of the DSC (to be renumbered section 2.6.4(a)) as proposed.

Proposed section 2.5.4(a) of the DSC should be considered together with proposed section 2.5.1 of the DSC which required a distributor to include on each bill issued the date on which it was printed. The latter proposed amendment was generally accepted, although one submission suggested specifying on the bill how the due date is to be calculated. The Board is concerned that this information will be too complicated to place on a bill and as a result will not revise the substance of proposed section 2.5.1 of the DSC. It will be renumbered as section 2.6.1 of the DSC.

One submission favoured changing the deemed bill issue date set out in proposed section 2.5.4(d) of the DSC to the following: the earliest of mail, internet or e-mail communication, where a distributor uses multiple modes of communication. The Board will not adopt the suggestion as it is concerned some customers may reasonably expect that the last bill they receive will be the one they have to respond to. The fact that distributors can issue bills electronically may still benefit the distributor in that some customers could respond sooner.

The amendment will be renumbered as section 2.6.4(d) of the DSC.

Proposed section 2.5.5 of the DSC deemed bills to be paid by a customer as follows: (a) if paid by mail, on the date that the envelope is post marked unless the cheque is post dated for a later date; and (b) if paid at a financial institution or electronically, on the date payment is acknowledged or recorded by the customer's financial institution. Utilities raised concerns about proposed section 2.5.5(a) of the DSC, explaining that it is not practicable to track post marks and that utilities did not wish to retain the large volume of envelopes. A number of submissions suggested adding three days of grace for everyone in lieu of checking the post marked date. The Board agrees with the suggestion and will revise proposed section 2.5.5(a) of the DSC (to be renumbered as section 2.6.5(a)) to provide that where payment is sent by mail, payment is deemed to be received three (calendar) days prior to receipt by the distributor.

3. Computation of Time

In response to a distributor's question about how to apply proposed section 2.5.8(a) of the DSC (to be renumbered as section 2.6.8(a)), which deals with counting the number of days between two events, the Board confirms that unless a proposed amendment specifies business days for counting time, calendar days is to be applied.

Proposed section 2.5.8(d) of the DSC (to be renumbered as section 2.6.8(d)) stated that where an act (other than payment by a customer) occurs after 5:00 p.m., it shall be deemed to have occurred on the next business day. The Board wishes to clarify that the intent is that if a customer pays at 7:00 p.m., for example, he or she gets credit for the payment on that day. The Board agrees with a stakeholder's observation that this will assist, among others, working parents who may not be free to make payments during regular business hours. Given the clarification requested, the Board will add a new proposed section 2.6.8(e) of the DSC to make the intent more explicit.

4. Emergency Credit Card Payments

Stakeholders agreed with the underlying merits of proposed section 2.5.6 of the DSC (to be renumbered as section 2.6.6), which provided that a residential customer should have the option of using a credit card to make a payment where a disconnection notice has been issued for non-payment.

A utility commented that the crews it sends out after hours do not have the capacity to accept credit card payments. The Board expects all distributors to develop means of accepting emergency credit card payments during and after regular business hours. Utilities may wish to offer the service via telephone or through the staff attending at the disconnection trip. Acceptance of credit card payments through the internet should not be the sole payment method offered by distributors.

Utilities qualified their support for the proposed amendment by requesting that they should not have to absorb any increase in costs to implement the mandatory credit card payment option. One utility submission specifically requested that a standard specific service charge should be approved at the same time as the proposed amendment. A ratepayer group, however, questioned the case for a new service charge. The Board plans to examine specific service charges in the future and believes it is best to deal with the costing of the various service charges in an integrated manner. As a result, no

new service charge for acceptance of emergency credit card payments from residential customers will be approved at this time.

Some distributors currently accept credit card payment for regular bill payments. Proposed section 2.5.6 of the DSC (to be numbered as section 2.6.6) is not intended to interfere with this practice.

C. Allocation of Payments between Electricity and Non-electricity Charges

Proposed section 2.5.7 of the DSC required electricity distributors who collect for multiple services, such as electricity and water or sewage, to allocate any partial payment by a residential customer to “electricity charges” (a defined term) first. The proposed rule is intended to provide increased protection to electricity customers. A submission asked for clarification on how to apply the rule if the shortfall continues for a second payment period. The Board expects that distributors will continue to apply any monies received to the electricity portion of the bill first. If a shortfall results in money owing to the distributor, then the distributor may commence the usual collection actions.

Utility submissions tended to express concern about the adverse effect proposed section 2.5.7 of the DSC (to be renumbered as section 2.6.7) might have on agreements for joint billing of electricity with water or sewage. The Board proposes the addition of new section 2.6.7.1 of the DSC to grandfather existing joint billing agreements for the lesser of two years or the term of the agreement without a further renewal. The two-year maximum time limit is added in case the original contract is for an extended term.

A new proposed section 2.6.7.2 of the DSC will be added that precludes distributors from imposing late payment charges, or issuing a disconnection notice or proceeding to disconnect, when there are sufficient funds paid by the customer to cover the electricity costs.

A stakeholder suggested that the definition of “electricity charges” in proposed section 2.5.7 of the DSC be expanded to include late payment fees, specific service charges and security deposits. The Board agrees that adding Board-approved late payment fees and specific service charges to the proposed definition of “electricity charges” is appropriate. The revised proposed definition of “electricity charges” is set out in

renumbered section 2.6.7.3 of the DSC. The Board has, however, excluded security deposits from the revised “electricity charges” definition due to the implications for equal monthly payment arrangements. The inclusion of security deposits in equal monthly payment arrangements would allow for payment over 12 months, which is inconsistent with a current rule in the DSC which provides that customers may pay a security deposit in equal instalments over four months (proposed to be increased to six months for residential customers, as set out in Part II.G of this Notice).

D. Correction of Billing Errors

The Board will make several changes to the proposed amendments to lessen the cost and burden of administration to distributors, while still taking into consideration the needs of residential customers.

A definition of “customer” will be added to section 1.2 of the RSC, similar to that set out in the DSC, in order to clarify that the billing adjustment rules are directed to the actual account holder. In addition, the introduction to section 7.7 of the RSC will be simplified for ease of understanding. Reference to retailers, which are also found in the current rules in this area, will be added in the revised proposed RSC amendments where appropriate. The underlying intent is that the same billing adjustment rules would apply when the consumer is on standard supply and when the consumer is enrolled with a retailer.

1. Over billing

Proposed section 7.7.1 of the RSC required that where the over billing amount is equal to or exceeds a customer’s average monthly billing amount, a refund cheque must be issued within 21 days of discovery of the error. Several utility submissions argued that mandating the issuance of a cheque may increase costs as some utility customers might have preferred a credit to their account. The Board believes it will prove simpler if proposed section 7.7.1 of the RSC is revised as follows: Where a distributor is to make such an over-billing adjustment, the distributor must contact the customer or retailer within 10 days of the discovery of the error to advise of the option to receive payment by cheque or to receive a credit to the account. If the former is preferred, the payment must be made within 11 days of the customer or retailer requesting payment by cheque. Where the customer or retailer has not requested payment by cheque within 10 days

following notification of the error by the distributor, the distributor may credit the amount due to the account.

Proposed section 7.7.2 of the RSC required that where the over-billed amount is less than the customer's average monthly billing amount, a refund cheque must be issued within 21 days of discovery of the error for eligible low-income electricity customers and for other customers the distributor may elect to issue a cheque or credit the account. While a ratepayer group supported the proposal, a utility submission requested that one rule be used for all customers. Another submission stated that the industry practice is to issue a cheque only upon the request of a customer.

The Board revisited the issue and in revised and renumbered proposed section 7.7.2 of the RSC provides: Where a distributor has over-billed a customer or retailer by an amount that is less than the consumer's or retailer's average monthly billing amount, the distributor shall credit the account in the next regularly scheduled bill issued to the customer or retailer. The Board believes that it will prove easier to apply a single rule for all groups of customers, while still ensuring that customers receive their adjustments within a prescribed period.

A distributor commented that utilities sometimes discover a billing error quickly and prefer to issue a new bill. The Board proposes a new amendment (in proposed section 7.7.11 of the RSC) providing that the over-billing rules in section 7.7 of the RSC will not apply where the distributor has over billed a customer or retailer but issues a corrected bill prior to the due date of the original erroneous bill. This qualification will apply only to those instances where there was one billing error, not multiple billing errors over many months or years.

A stakeholder proposed that where arrears exist, the refund should first go to paying arrears, with any remaining balance then to be returned to the customer. The Board accepts the suggestion and has added a new proposed amendment (to be numbered as new section 7.7.3 of the RSC) which provides that an over-billing refund may first be applied by the distributor to any outstanding arrears of the customer's or retailer's account. If there is any money left over after paying arrears, the funds should be refunded as per the normal rules applicable in proposed sections 7.7.1 and 7.7.2 of the RSC.

2. Under billing

Proposed section 7.7.3 of the RSC required that where a distributor has under-billed a customer for an error that is equal to or exceeds the consumer's average monthly billing amount, the customer must be allowed to pay the amount in equal instalments over a period equal to the duration of the error. Several submissions supported this proposal. One ratepayer submission argued that for eligible low-income customers, under-billed amounts should be rolled into an arrears repayment plan. Some utilities may have voluntarily followed such a practice in the past. Given that proposed section 7.7.3 of the RSC may result in payment by instalments, the Board does not see a practical need to revise the substance of the proposed amendment in this regard, but will clarify that it applies in respect to the over billing of both customers and retailers. The proposed amendment will be renumbered as section 7.7.4 of the RSC.

Proposed sections 7.7.4(a) and 7.7.4(b) of the RSC set out the means by which a customer should pay an under-billing adjustment that was less than one month's average billing amount. Eligible low-income electricity customers were to be allowed to repay the amount in equal instalments over the same period of time as the duration of the error. In all other cases, the distributor could require payment of the full under-billed amount by means of a charge on the next bill. Utilities tended to oppose the proposed amendments. One explained it would lead to manual customer account supervision and thus increase costs.

To render the rules easier to apply while still protecting all residential customers, the Board will revise the proposed amendments in sections 7.7.4(a) and 7.7.4(b) of the RSC to provide a single rule applicable to all customers: Where a customer is not responsible for the error, the customers must be allowed to pay an under-billing adjustment in equal instalments over a period at least equal to the duration of the billing error. Revised and renumbered proposed section 7.7.4 of the RSC will thus apply the same rule to under-billing adjustments regardless of the dollar amounts involved.

Proposed new section 7.7.11 of the RSC provides that the under-billing rules in proposed section 7.7 of the RSC will not apply where the distributor has under billed a customer or retailer but issues a corrected bill prior to the due date of the original erroneous bill. This qualification will apply only to those instances where there was one billing error, not multiple billing errors over many months or years.

The revised proposed amendments will also correct an error in proposed section 7.7.5 of the RSC (the definition of the customer's or retailer's average monthly billing amount) where "consumer" was used instead of the intended term "distributor". The proposed inclusion of the definition of an "eligible low-income electricity customer" for RSC purposes, which was set out in proposed section 7.7.6 of the RSC, will not proceed as it is no longer required.

Stakeholders generally supported proposed section 7.7.7 of the RSC (to be renumbered as section 7.7.6), which allowed distributors to request payment in full in the next regular schedule bill where the customer is responsible for the under-billing error. One ratepayer submission suggested utilities should be required to prove the fault to a full legal standard. The Board believes that it would prove too cumbersome to administer such a rule in day-to-day practice. To promote clarity, the Board proposes to replace the word "otherwise" in revised proposed section 7.7.6 of the RSC with "other unlawful actions by the consumer" and to clarify that the rule will apply when either a customer or retailer is responsible for the error.

3. Duration of Under or Over billing Subject to Recovery or Refund

A proposed amendment to current section 7.7 of the RSC required that where a distributor makes an under-billing error and the customer is not responsible, the distributor may go back one year for a billing adjustment in relation to a residential customer and six years in relation to all other customers. Comments from both utilities and ratepayer groups opposed having two different time periods. Several submissions favoured a common two-year time period. The *Limitations Act, 2002* now provides a basic two-year limitation period for all actions in debt (an under-billed consumption adjustment would be considered a "debt" if a utility had to litigate to recover the under-billed amount), subject to considerations of "discoverability".

The use of a six year rule originated in earlier industry guidelines and reflected the maximum limitation period then authorized under the limitations legislation. That period has been changed, supporting an updating of the Board's code.

The Board acknowledges the widespread stakeholder agreement that a single time period applicable to all classes of customers is more appropriate. As a result, a common two-year time period is set out as the governing rule in proposed new and renumbered section 7.7.7 of the RSC.

Section 7.7 of the RSC presently provides that in cases of over billing, the adjustment period is six years for all customers regardless of rate classification. To harmonize with the changes proposed above, the Board will adjust the period for over-billing adjustments to two years in proposed new section 7.7.7 of the RSC.

The two-year time limit in new proposed section 7.7.7 of the RSC will also be made applicable to cases where a distributor has under billed or over billed a retailer.

4. Interest Rate Applicable on Under Billing Amounts

Under current section 7.7 of the RSC, a distributor must pay interest on over-billed amounts at a rate equal to the prime rate charged by the distributor's bank.

An amendment to this section proposed in the March 10th Notice provided that customers should pay interest at a similar rate on under-billed amounts, when the under billing resulted from tampering, willful damage or unauthorized energy use by a customer. One submission suggested that the proposed interest rate be set at the actual interest rate charged by a utility's bank or at the Board-authorized security deposit interest rate of prime less 2%. No reasons were provided as to why the rate of interest approved for use in over-billing adjustments would not also be appropriate in instances of under billing. The Board will not make any change to the proposal, which is now set out in proposed section 7.7.9 of the RSC.

Several utilities requested that lack of access to the meter be added to the list of circumstances under which a distributor may charge interest under the amendments proposed to section 7.7 of the RSC. The Board does not believe it is fair that customers should be charged interest on an under-billed amount where a lack of access to the meter occurred since this could happen under a variety of circumstances which are not always under the control of the customer. Therefore no change has been made to the substance of the March 10th proposed amendment in this regard, but it will set out in new section 7.7.8 of the RSC.

E. Equal Payment Plans

The Board will propose several changes to the proposed amendments in this area to bring greater consistency to industry practice, and to fine tune the balance between cost-effective implementation of the new rules and the flexibility required to benefit all residential customers. The name of the revised rules in this area (see proposed revised

section 2.6.2 of the SSSC) will be changed from “equal billing plans” to “equal monthly payment plans” to more accurately reflect their actual operation. In the discussion below, the latter term will be used unless the context specifically requires otherwise.

Proposed section 2.6.2(a) of the SSSC required that an equal billing option (i.e. monthly, bi-monthly or quarterly equal billing, depending on the distributor’s billing cycle) be made available to any residential customer who is not in arrears or, if in arrears, has entered into an arrears payment agreement with the distributor. A utility submission agreed with the proposed amendment, while a ratepayer submission argued it would create an undue barrier to require low-income electricity customers with arrears to enter into a repayment agreement prior to joining an equal billing plan. The Board does not agree with the thrust of the latter assessment in light of the beneficial impact upon residential customers of the amendment. In particular, proposed section 2.6.2(a) of the SSSC will have the effect of precluding the practice of some distributors of requiring a customer to have a six or 12 month history with the distributor before moving to an equal payment plan or the practice of requiring a zero balance before a customer may join an equal monthly payment plan.

Proposed section 2.6.2(b) of the SSSC required distributors to issue monthly bills to all eligible low-income electricity customers who participate in the proposed equal billing plans. Submissions from ratepayers agreed with the proposed amendment. A number of distributors indicated that they currently bill less frequently than monthly and would be adversely impacted by a mandatory rule. Others noted that some utility billing software systems are set up at present to offer equal payment billing only to customers who also enrol in automatic payment withdrawal arrangements. Some utilities suggested that the Board’s rules should move to an equal monthly payment plan where the physical bills could continue to be issued bi-monthly or quarterly, with equalized monthly payments withdrawn under an automatic payment arrangement. For those customers on fixed incomes who do not have bank accounts, a utility submission suggested that the monthly payments be withdrawn from a social service agency.

The Board will revise the proposed amendments to section 2.6.2 of the SSSC to allow increased customer choice and to lower administration costs. Under revised proposed section 2.6.2 of the SSSC, the distributor will be required to allow all residential customers the option of joining an equal monthly payment plan. In proposed new section 2.6.2(b) of the SSSC, distributors may require that such customers also agree to an automatic monthly payment withdrawal arrangement if the billing cycle of the

distributor is less than monthly. Under the revised proposed amendments, section 2.6.2(d) of the SSSC will confirm that distributors may continue to issue a physical bill on a monthly, bi-monthly or quarterly basis as per their current regular billing practice.

Distributors are encouraged to voluntarily explore special arrangements (such as manually issuing a monthly bill) with residential customers who request to be on a equal monthly payment plan but lack suitable accounts with a financial institution, and hence cannot take advantage of an automatic monthly payment option, but who would be assisted in meeting their payments if they were allowed to pay on an equalized monthly basis.

The March 10th Notice indicated that eligible low-income electricity customers who elect equalized billing should be given the choice of at least two different payment dates within a month. The Board believes it will be helpful if such an option is offered to all residential customers and has added a reference to “at least” in revised proposed section 2.6.2(c) of the SSSC. The overall effect will be that all residential customers who elect to join an equal monthly payment plan must be given the choice of at least two automatic payment withdrawal dates within a month. This will make uniform a helpful practice that some Ontario distributors already follow. Another submission argued that the Board should mandate the 20th of each month as one of the allowed payment dates to match receipt of child tax credits. The Board declines to do so as various government benefits may have differing payment dates that change from time to time.

Section 2.6.2(c) of the SSSC set out mandatory rules on how to conduct the annual reconciliation of an equal billing plan. The proposed amendment mandated that the reconciliation must always occur in the 12th month of the plan. The Board believes implementation will prove more practicable if annual reconciliation becomes the general rule but with certain qualifications, which have been included in proposed new equal monthly payment plan rules in new sections 2.6.2 (e)i) and 2.6.2(e)ii) of the SSSC.

A utility submission requested that distributors be allowed to undertake true-ups once each year in the same billing cycle for all of their customers. The Board will revise the amendments to achieve this effect in new proposed section 2.6.2(e)i) of the SSSC. This will apply to newly-enrolled equal monthly payment plan customers as well. It would not be cost effective to retain a separate true-up 12 months after each customer joins an equal monthly payment plan.

A ratepayer submission requested that customers be allowed to join an equalized billing arrangement at any time of the year. The Board believes that such an approach will help eliminate a barrier to access. New proposed section 2.6.2 (e)i) of the SSSC will codify such a right for all residential customers under the equal payment plan rules. In such a case, the first true-up may occur prior to the 12-month anniversary of the customer joining the equal monthly payment plan. Some utilities currently require or recommend that customers join an equal payment plan at certain times of the year. If joining the new equal monthly payment plan late in a 12-month period could lead to undesirable results at the time of true-up, the distributor may wish to caution the customer beforehand but may not refuse to accept the request. To allow effective implementation of the new approach, proposed new section 2.6.2 (e)ii) of the SSSC will provide that the true-up for customers in the first year of an equal monthly payment plan may occur at less than 12 months.

A proposed new rule in section 2.6.2(e)iii) of the SSSC will require that all distributors must review the balance in each residential customer's equal monthly payment account on either a semi-annual or quarterly basis. If there is a large unexpected variation, for example due to a change in consumption patterns, the distributor must adjust the monthly equalized amount collected accordingly. This new proposed amendment builds on common industry practice. For example, a number of Ontario utilities review their equal payment plan accounts each spring and fall in order to minimize the risk of large year-end variances. The new proposed amendment will not require or allow full true-ups of equal payment plans at the quarterly or semi-annual review, as this may provide insufficient opportunity for some residential customers to shift their peak consumption to lower usage periods. Mid-year adjustments to the equal monthly payment amount to reflect any change in approved rates is normal industry practice and the Board confirms it may continue.

To avoid adding undue complexity, the Board will not adopt the suggestion for mandatory weather normalization of the equalization calculation or the suggestion for a three-month rolling average equal monthly payment plan.

Proposed sections 2.6.2(c)i) and 2.6.2(c)ii) of the SSSC set out how to proceed if the annual equal payment reconciliation indicates monies are owing to a residential customer. The details of the proposed rules differed depending on the amount of refund in question and whether the person was an eligible low-income electricity customer. As part of the revised proposed amendments, the Board proposes changes to make the

rules easier to implement while still providing reasonable protection to all residential customers. The revised proposed amendment (to be renumbered as section 2.6.2(e)iv) of the SSSC) provides the following: All residential customers shall receive a credit to their account where the amount owing to them is less than the customer's average monthly bill payment. This provides a simple approach suitable for the modest amounts involved.

A companion revised proposed amendment (to be renumbered as section 2.6.2 (e)v) of the SSSC) states: Where the amount owing by a distributor following the annual reconciliation equals or exceeds the customer's average monthly billing amount, the distributor shall issue a bill that treats the amount as a credit, but must also include a statement that a residential customer may contact the utility within 10 days of the date of the bill to request payment by cheque. If the customer prefers the latter, the payment by cheque must be made within 11 days following the customer's request. The objective is to allow customers to receive payment by cheque where the amount due to them is relatively large, while also keeping the overall process reasonably simple to administer for utilities. With the proposed new mandatory quarterly or mid-year account review for material changes (proposed new section 2.6.2(e)iii) of the SSSC), large reconciliation variances should be minimized at time of the annual reconciliation.

Proposed sections 2.6.2(c)iii) and 2.6.2(c)iv) of the SSSC set out how to proceed if the annual reconciliation indicates monies are to be paid by a residential customer. The details of the proposed payment mechanism differed based on whether or not the person is an eligible low-income electricity customer. A utility submission stated it will require significant billing system costs to implement such special rules and concluded the proposed amendments were unattractive on cost versus benefit grounds. The Board proposes a new approach that will render administration easier for distributors while still protecting any residential electricity customer from the risk of a large single true-up payment.

The revised proposed amendments (to be renumbered sections 2.6.2(e)vi) and 2.6.2(e)vii) of the SSSC) for residential customers who must pay an amount at the time of the annual reconciliation of their equal monthly payment plans are as follows: If the amount due after the reconciliation is less than the customer's average monthly billing amount, then the full amount shall be collected by means of a corresponding charge on the bill issued for the twelfth month of the plan. If the amount due equals or exceeds the one month average billing amount for the customer, then the distributor must roll over

the balance due to next year's equal payment plan and recover it through equal instalments over the first 11 months of the following year's plan. Several large utilities already roll over the 12th month reconciliation amount to the next year's equal payment plan. The revised proposed amendment will make this the common practice but only when the amount due is significant. This approach will also lead to a reduction in requests for extended payment terms that now may occur when a low-income electricity customer is faced with a large reconciliation payment.

Proposed section 2.6.2A(a) of the SSSC, which defined eligible low-income electricity customer for purposes of the SSSC, is no longer needed and will not proceed.

Proposed section 2.6.2A(b) of the SSSC (to be renumbered as section 2.6.2A(a)) sets out how to calculate a customer's average annual monthly billing amount for purposes of the proposed equal monthly payment plan rules. A utility suggested that the equal billing calculation should include the total amounts due, including charges for other services such as water and sewage, to avoid the expense of issuing separate bills. The Board proposes to add a rule in new proposed renumbered section 2.6.2A(b) of the SSSC that where a customer requests an equal monthly payment plan, the equalized payment amount should include all "electricity charges" (as defined in revised proposed section 2.6.7.3 of the DSC). The proposed amendments will not seek to regulate equal payment or billing procedures for non-electricity charges such as water or sewage charges.

Proposed section 7.2.3 of the RSC required that the equal billing option must also be made available to residential customers of retailers where distributor-consolidated billing takes place. A ratepayer submission agreed with the proposal. Utility submissions opposed it. They argued that the proposed amendments will lead to adverse impacts on the non-payment risk utilities carry. Utilities also argued that it will prove costly for them to track the various special pricing arrangements offered by retailers.

The Board will not change the substance of the proposed amendment under the revised equal monthly payment plan rules, but will renumber it as section 7.2.5 of the RSC and add references to equal monthly payment plans to clarify its operation under the revised proposed amendments. In order for markets to operate most effectively, regulated utilities should not be in a position to discriminate against customers who choose to exercise their right to purchase supply from another source. By restricting customers on retail contracts from the ability to pay through an equal monthly payment plan, these

customers are effectively left at a disadvantage. The Board does not believe the argument that rate-regulated distributors may have to carry larger equal payment plan balances is adequate justification to deny all customers the right to enjoy the same level of service. Also, there is no evidence presented to confirm that distributors will be exposed to any greater risk of non-payment by allowing customers with retail contracts to participate in equal monthly payment plans.

F. Disconnection for Non-Payment

1. Form and Content of Disconnection Notice

Proposed sections 4.2.2(a) to 4.2.2(j) of the DSC specified the common contents of a disconnection notice. While some stakeholders found the proposals acceptable, several others were concerned that the list of mandatory items was too long.

The Board continues to believe that the content of a disconnection notice should be standardized. However the Board will make changes to some of the clauses in proposed section 4.2.2 of the DSC that have raised specific concerns. To promote clarity, the Board will add to proposed section 4.2.2 of the DSC that the disconnection notices in question are those sent or delivered pursuant to section 31 of the *Electricity Act, 1998*. Utilities will remain free to issue additional prior “warning notices”.

Proposed section 4.2.2(e) of the DSC required a disconnection notice to state that an arrears management program may be available to the customer and to provide a description of the arrears management programs offered by the distributor. Proposed section 4.2.2(f) of the DSC required a disconnection notice to provide telephone numbers, addresses and other available contact information for all local social service agencies and energy assistance charities. Proposed section 4.2.2(g) of the DSC required the disconnection notice to include a description of the process for qualifying for assistance that may be available to low-income electricity customers. Proposed section 4.2.2(i) of the DSC required the disconnection notice to include information on how to contact the distributor about its bill payment, disconnection and arrears management programs.

As the low-income customer financial assistance framework contemplated when the March 10th Notice was issued will not proceed, the Board has reviewed the above and now proposes to consolidate proposed sections 4.2.2(e), 4.2.2(f), 4.2.2(g) and 4.2.2(i) of

the DSC into a single requirement in revised section 4.2.2 (f) of the DSC that the disconnection notice include a statement that a Board- prescribed arrears management program is available to all residential customers, and that other voluntary bill payment, disconnection and financial assistance may be available, and include contact information for the distributor where the customer can obtain further information about available financial assistance. Customers will thus become informed about the mandatory residential class arrears management program proposed as part of the Board's revised amendments (described in Part II.H of this Notice), as well as any other bill assistance programs that may be available in the distributor's service area.

Proposed section 4.2.2(h) of the DSC will be renumbered as section 4.2.2 (e) and will be revised to provide that a disconnection notice must indicate if (not whether) a local Vital Services By-law is in effect that applies to the customer's property and, where applicable, whether the distributor has provided the required notification about the disconnection notice to the municipality. If there are several municipalities involved, the Board will consider it satisfactory for the disconnection notice to provide a telephone contact number for utility staff who can provide full details. This could be supplemented by providing the information on the utility's web page. All distributors are expected to develop sufficient knowledge and expertise regarding the municipal Vital Services By-law(s) enacted in their licensed service area.

Proposed section 4.2.2A of the DSC provided that where a distributor sends or delivers a disconnection notice to a customer for non-payment, it shall not include that notice in the same envelope as any other document from the distributor. Stakeholders generally agreed with the proposed amendment. The Board does not see a need to regulate the types of envelopes used, as suggested by one stakeholder. For sake of clarity, the Board proposes to revise the proposed amendment to add that the disconnection notices in question are sent or delivered pursuant to section 31(2) of the *Electricity Act, 1998*. The provision will be renumbered as proposed section 4.2.2.1 of the DSC.

2. Timing and Duration of Disconnection Notice

Proposed sections 4.2.3A(b) and 4.2.3A(c) of the DSC required that 21 calendar days of notice must be provided prior to disconnecting an eligible low-income electricity customer or a residential customer who had requested that a copy of the disconnection notice be provided to a third party, while 10 days of notice must be provided for most other customers. Several submissions expressed concern over the proposed differing

time periods for various residential customers. One utility explained that its CIS will accept only one disconnection period per class of customers. To simplify the revised proposed code amendments while still rendering their effect fair to residential customers in a variety of financial circumstances, the Board will revise the amendments to propose 14 days as the minimum rule for all residential customers (revised proposed section 4.2.3(b) of the DSC) and 10 days notice for other classes of customers (renumbered proposed section 4.2.3(c) of the DSC). The Board understands that approximately 14 days' notice is currently provided for residential class customers in a number of other North American jurisdictions.

Proposed section 4.2.3A(a) of the DSC required a distributor to provide 60 calendar days' notice prior to disconnecting a residential customer who has provided documentation from a physician confirming that the disconnection poses a risk of significant adverse impact on the physical health of the customer or of the customer's spouse or dependent family member residing at the same premise. One submission commented that the additional time is especially important for customers who are seniors. Another submission argued that a new rule is not necessary as utilities already exercise restraint when a customer has a health condition. The Board believes that codification will add useful certainty and consistency in this area. The proposed amendment will be maintained but it will be renumbered as section 4.2.3(a) of the DSC.

Various organizations and agencies that provide bill assistance to vulnerable electricity customers have indicated they need adequate time to assess whether a customer is eligible for their assistance programs. Additional time may also prove helpful where a customer has requested that a third party, such as a family member, also receive notice of a disconnection, so that, for example, the family member might assist with investigating payment assistance options. The Board proposes to add requirements in new proposed section 4.2.2.6 of the DSC that upon notification (within the 14-day disconnection notice period noted above) by a registered charity, government agency or social service agency that the party is assessing a residential customer for the purposes of determining whether he or she may receive bill payment assistance, or where a residential customer had requested prior to the issuance of the notice that the distributor provide a copy of any disconnection notice to another third party and the third party (within the 14-day disconnection notice period noted above) notifies the distributor that it is attempting to arrange assistance with bill payment, the distributor must suspend any disconnection action for a period of 21 days. As set out in new proposed section 4.2.2.7 of the DSC, if the registered charity, government agency or social service agency

notifies the distributor that the customer in question is not eligible to receive from it assistance in paying his or her utility bill, or if another third party who was considering the provision of bill assistance decides not to proceed, the distributor may proceed to disconnect the customer in accordance with the timelines set out elsewhere in the amendments (renumbered proposed sections 4.2.2.3 and 4.2.3 of the DSC). If no reply is provided within 21 days, the distributor may also proceed to effect disconnection.

Proposed section 4.2.3B(a) of the DSC provided that where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the customer on the third (calendar) day after the date on which the notice was printed. Several submissions suggested that three calendar days would prove too short in some areas, for example with customers who must pick up their mail. To help ensure that the new rule works fairly for customers across the province, the Board proposes to increase the minimum time to three business days. The section will be renumbered as section 4.2.3.1(a) of the DSC.

Stakeholders agreed with the proposed 11 day effective period for a disconnection notice set out in proposed section 4.2.2C of the DSC. No substantive change will be made to this section, but it will be renumbered as proposed section 4.2.2.3 of the DSC. In response to an interpretation question, the Board reiterates that the effect of this proposed section is that the 11 day period does not start counting until after the requisite notice period has passed (i.e. until after the 10,14 or 60 day period, as applicable).

3. Customer Contact Prior to Disconnection

Proposed section 4.2.2D of the DSC required a distributor to make a reasonable effort to contact the customer one last time before effecting a disconnection. Many distributors confirmed they are doing so already. One ratepayer group suggested changing the rule to require that a customer be contacted at least three days before the disconnection proceeds, for the benefit of rural customers in particular. The proposed amendment refers to “reasonable effort”. The Board does not believe it necessary to mandate a more prescriptive rule. The proposed section will be renumbered as section 4.2.2.4 of the DSC.

4. Additional Recipients of Disconnection Notice

Proposed section 4.2.2B of the DSC required distributors to provide a copy of the disconnection notice to any third party designated by the customer. A number of parties agreed with the proposal, while others raised implementation concerns. One submission suggested adding at the “written” request of a residential customer. To better document the process, the Board agrees with the suggestion and has made appropriate revisions to this provision, which has been renumbered as proposed section 4.2.2.2 of the DSC. Another submission argued that to minimize potential privacy concerns, the customer should forward the notice to the designated third party. The Board believes that since the customer is the one who requested the notice be provided to a third party, no problem exists with the arrangements proposed. Some utilities cautioned that the proposed code amendments will require them to reprogram their CIS systems to add new names. The Board considers this effort to be worthwhile as it is important that the designated third party become aware of the pending disconnection.

Proposed section 4.2.2 E of the DSC required that a copy of a disconnection notice issued in respect of a multi-unit, master-metered building be posted in a conspicuous public place on or in the building. A ratepayer group suggested that distributors be required to give such notice to each tenant in a building. The Board believes it will not prove cost effective to mandate this. Several utilities questioned if publicly posting the disconnection notice may violate a landlord’s privacy rights. Section 31(2) of the *Electricity Act, 1998* expressly states, however, that a distributor may provide notice “by posting the notice on the property in a conspicuous place”. The Board notes that the notice requirement under this section (which will be renumbered as proposed section 4.2.2.5 of the DSC) will be separate from any other notice requirements imposed upon utilities under applicable municipal Vital Services By-laws.

5. Reconnection

Proposed sections 7.10.1 and 7.10.2 of the DSC required a distributor to reconnect a property that had been disconnected for non-payment within two business days, at least 85% of the time, after payment in full of the amount overdue or the entering into of an arrears payment agreement. Several stakeholders accepted the requirement as reasonable. Another advised that some utilities have a safety practice of waiting until someone is present at the property if service has been disconnected for more than one day. Given the widespread acceptance of the proposed amendment, which is consistent

with the corresponding natural gas distribution sector standards, the Board does not consider it necessary to make any changes.

G. Security Deposits

The Board believes that security deposit rules should take into account the impact that paying a deposit may have on the ability of all residential electricity customers to access continued electricity service. In designing the revised security deposit amendments, the Board believes due consideration should also be given to other objectives such as impacts upon all classes of customers and the overall consistency of the security deposit rules.

Proposed section 2.4.17 of the DSC proposed to exempt eligible low-income electricity customers from the use of their highest monthly consumption when calculating the amount of the security deposit due under current section 2.4.12 of the DSC. The Board, however, prefers to develop one set of security deposit rules for the residential class. In the revised proposed amendments this exemption is expanded to encompass all residential class electricity customers. The ultimate effect will be to always apply the average monthly load when calculating the security deposit due from residential customers. The Board believes that this will produce a fair outcome and still provide reasonable security to distributors.

A submission raised other issues regarding the calculation of the amount of a security deposit. It recommended that the billing cycle factor for equal-payment customers be lowered to 1 in current section 2.4.16 of the DSC on the grounds such customers present a less-risky payment profile. The effect would be to reduce the amount of security deposit calculated as due under the formula set out in current section 2.4.12 of the DSC. Current section 2.4.15 of the DSC allows a distributor to consider reducing the amount of the deposit requested where a customer makes pre-authorized payments. The Board does not see a sufficient case to change the rules in this area. The submission also suggested use of weather normalized data in the formula set out in section 2.4.12 of the DSC. The Board will not mandate use of weather normalization as it may prove too complicated a task for some utilities. Customer understanding may also suffer.

Proposed section 2.4.11 of the DSC waived the requirement for a security deposit for eligible low-income electricity customers receiving assistance from an energy bill

payment assistance program. One submission argued that the proposed test is unworkable since such customers will not continue to receive one-time payments. Another submission argued the waiver should be expanded to include all customers eligible for bill payment assistance. Several utilities disagreed with the proposed amendment arguing that a security deposit waiver will increase payment risk to utilities and will impose greater bad debt costs on other customers; they also expressed concern that a security deposit waiver could increase the risk of “customer flight”.

The Board acknowledges the potential that waiving security deposits for certain customers may exacerbate the bad debt risk faced by utilities. Fairness to other customers is also a relevant consideration. The Board will not proceed with a security deposit waiver as part of the revised proposed security deposit amendments.

The Board notes that several parts of the package of security deposit amendments will provide significant assistance to all residential customers. Currently, section 2.4.20 of the DSC allows customers to pay a required security deposit in equal instalments over four months. Proposed section 2.4.20A of the DSC required distributors to permit eligible low-income electricity customers to pay a security deposit in equal instalments over a period of at least 12 months, including where it is an increase to an existing deposit (proposed section 2.4.25A of the DSC) and where it is a repayment of a security deposit applied against arrears (proposed section 2.4.26B of the DSC). The Board will revise the proposed amendments in sections 2.4.20A, 2.4.25A and 2.4.26B to provide a single time period in this area applicable to all residential customers. The Board considers an increase from four months to six months in the minimum time period available to all residential customers who elect to pay their security deposits in equal monthly instalments to be a reasonable new common rule for the entire class. The proposed right of residential customers to pay in equal instalments over six months shall also apply to any required increase in a security deposit and to the repayment of a deposit applied against arrears.

The period within which non-residential customers may pay their initial security deposits will remain at four months under current section 2.4.20 of the DSC.

Proposed section 2.4.26A of the DSC required that a distributor not issue a disconnection notice to a residential customer unless the distributor has first applied any available security deposit against the amounts owing at that time and the deposit proved insufficient to cover the total amount owing. The utility submissions argued against the proposed amendment. Some of the arguments were the same as those

raised against a security deposit waiver, namely that the bad debt risk to distributors would increase and other customers would have to pay more towards bad debts. The Board believes that an appropriate balance between competing policy considerations is found in the proposed amendment to section 2.4.26A of the DSC. This proposed amendment, which will also address long-standing complaints from customers about the reluctance of utilities to apply security deposits against outstanding arrears, will not be changed. Where a distributor applies all or part of a security deposit to offset amounts owing by a residential customer under proposed section 2.4.26A of the DSC, proposed section 2.4.26B of the DSC provided the distributor with the right to request the customer repay the amount of the security deposit that was so applied. The Board proposes to broaden revised proposed section 2.4.26B of the DSC so that it will now allow all residential customers to repay the amount of the deposit so applied in instalments.

The Board believes it will prove useful to clarify the relationship between proposed section 2.4.26A of the DSC and the current good payment history rules. The Board proposes to add a new rule that where a security deposit is applied pursuant to proposed section 2.4.26A of the DSC, this will constitute another example of how the customer will not have a good payment history under current section 2.4.10 of the DSC. Where the security deposit is applied towards arrears, this provides confirmation that the customer lacks a good payment history.

Proposed section 2.4.23A of the DSC required that where a residential customer has paid a security deposit in instalments, the customer shall not be entitled to request a review of the deposit until one calendar year has elapsed from the date of payment of the final instalment. A ratepayer submission requested an exemption for low-income electricity customers. The Board believes that all residential customers who pay their deposit by instalments should be entitled to a timely review. Revised proposed section 2.4.23A of the DSC will provide that any residential customer may request a deposit review 12 months after the first instalment has been paid. No change has been made to the proposed section 2.4.22A of the DSC which requires the distributor to review the customer's security deposit in the calendar year in which the anniversary of the first instalment occurs.

Proposed section 2.4.25A(a) of the DSC provided that where a residential customer has paid a security deposit and is entitled to the return of all or part of it, a distributor shall return the amount in equal instalments over the same number of months as the security

deposit was paid by the customer. The utility submissions did not support the proposal. One cautioned they would need programming changes to track payment history. Another commented that it prefers its present practice, where the deposits are returned in full when due. The Board will not proceed with the proposed amendment as it will require distributors to review the affected customers' deposits every month. The Board believes it is preferable for residential customers who paid their security deposit by instalments to have their security deposits reviewed 12 months from their first payment and to be refunded the whole amount of their security deposit when required.

Proposed section 2.4.18(c) of the DSC allowed a residential customer to provide security in the form of a guarantee from a third party that is acceptable to the distributor based on a reasonable assessment of the third-party's ability to make the payment. A submission expressed concern that utilities may be forced to undertake expensive litigation to later collect under the guarantee. Utilities may also feel the need to incur the expense of a credit check before accepting the proposed guarantor. While large users may post an acceptable third-party guarantee under current section 2.4.19 of the DSC, there appears to be less practical benefit in extending the same option to residential customers who generally post lower deposits. The Board will not proceed with the proposed amendment to section 2.4.18 of the DSC. The current rules in section 2.4.18 of the DSC, which allow residential customers to pay a deposit by cash, cheque or other means acceptable to the distributor, will be retained.

H. Arrears Management Programs

Proposed sections 2.6.1 to 2.6.4 of the DSC proposed a common arrears management program for eligible low-income electricity customers. A utility submission requested that guidance alone be issued on this topic. The Board proposes to codify a standard minimum arrears management program that must be made available to all residential customers across the province. The proposed amendments will be renumbered as section 2.7 of the DSC. Proposed revised and renumbered section 2.7.1 of the DSC clarifies that this mandatory arrears management program applies only in respect of electricity-related charges (as to be defined in renumbered section 2.6.7.3 of the DSC).

Under revised and renumbered proposed section 2.7.1.2 of the DSC, before entering into an arrears management agreement, residential customers will be required to make a minimum "good faith" payment of up to 15% of the sum of electricity charges due and accumulated late payment charges on the same, at the time of entering into the

agreement. Other service charges, such as reconnection charges or non-electricity charges, are to be excluded from the calculation of the minimum down payment.

Proposed section 2.6.2 of the DSC set out minimum lengths of time (150 or 300 days) for arrears payment agreements involving eligible low-income electricity customers. Several parties requested greater guidance as to when such plans should be offered for longer than the minimum-specified period. The Board believes that a simple rule will provide satisfactory general direction. However, the Board will revise the proposed amendment to apply to all residential customers. To simplify the counting of time under the revised amendments, the proposed minimum repayment periods, under revised and renumbered proposed section 2.7.2 of the DSC, will be set at five months if the total amount of the electricity charges remaining due after application of the down payment (of up to 15%) is less than twice the customer's average monthly billing amount; and ten months where the amount due exceeds that threshold. One stakeholder suggested that repayment agreements should also cover any delinquency in making security deposits. The Board does not believe it is necessary to adopt this suggestion and notes that one of the revised proposed amendments will allow residential customers to pay security deposits in equal instalments over a six month period.

The Board wishes to address how the obligation to offer an arrears management program relates to the new security deposit rules. New proposed section 2.7.1.1 of the DSC clarifies that before entering into an arrears agreement under section 2.7 of the DSC, the distributor shall first apply any security deposit held on account of the customer against any electricity charges owing at the time.

Proposed section 2.6.4 of the DSC required that late payment charges, or other charges related to non-payment, must be waived in respect of any amount that becomes the subject of an arrears payment agreement. One submission disagreed with extent of the proposal, while another suggested it did not go far enough. As the revised arrears management program will be available to all residential customers, the Board believes it is preferable not to mandate any waiver of late payment or other non-payment service charges. Thus the standard program to be offered will essentially become an extension and collection of the arrears due over a longer period of time. The Board wishes to confirm that Ontario distributors may voluntarily follow the practice elsewhere of offering arrears programs that include additional measures (such as a waiver or reduction of late payment charges, reconnection charges, etc.) to residential customers facing severe inability to pay.

Several utilities asked for clarification of the consequences when a customer has not met the obligations under an arrears payment agreement. The Board proposes to add a rule in new proposed section 2.7.4 of the DSC that an arrears management agreement may be terminated and payment requested in full (and the distributor proceed to disconnect, if necessary, in accordance with proposed section 4.2.2 of the DSC) if a customer misses more than one agreed-upon arrears payment or misses more than one current electricity charge billing during the course of the agreement. Allowing some modest degree of payment flexibility is a useful standard feature of comprehensive arrears management programs. The Board expects the new proposed amendment to benefit customers and utilities by making arrears repayment schedules more workable and successful. A further proposed amendment to the DSC, in new section 2.7.4.1, requires that written notice of cancellation must be provided to the customer and any third party previously designated by the customer at least 10 days before the effective date of the cancellation.

Where a customer defaults on a deferred payment agreement but has not yet had service discontinued by the utility, U.S. experience cited by a stakeholder will allow the arrears agreement to be reinstated if the customer pays in full the amount that should have been paid up to that date. The Board proposes to codify such a practice in new proposed section 2.7.4.2 of the DSC.

To avoid undue complexity, the Board does not agree with the suggestion to mandate weather normalization of the data to be used in the calculation of a customer's average monthly billing amount under proposed section 2.6.3 of the DSC (to be renumbered as section 2.7.3).

I. Management of Customer Accounts

1. Treatment of Third Party Requests To Open New Account

Proposed section 2.7.1 of the DSC required that when an account is opened at the request of a third party, a confirmation letter must be sent to the actual customer within 15 days. Proposed section 2.7.2 of the DSC precluded a distributor from recovering charges in respect of an account opened at the request of a third party unless the actual recipient of the service agrees in writing to becoming the distributor's customer. Utilities were concerned that the proposed amendments would lead to increased disconnects

and greater administration costs and requested that written notifications from lawyers, developers and established landlords be excluded from the scope of the new rules to reduce compliance costs. One submission explained that utilities currently send a confirming letter only where confusion exists.

To make the opening of account rules more consistent, the Board will add to proposed section 2.7.1 of the DSC (which will be renumbered as section 2.8.1) a new additional requirement that if distributor does not receive confirmation from the intended customer within 15 days of the date of the letter, the distributor shall advise the third party that the account will not be set up as requested.

The operation of revised proposed section 2.8.1 of the DSC will be made more flexible by adding new proposed section 2.8.1.1 of the DSC which provides that a confirmation letter to the customer will not be mandatory where a written request was forwarded through the party's lawyer or person in possession of a valid Power of Attorney for the person. Furthermore the Board confirms that renumbered and revised proposed sections 2.8.1 and 2.8.2 of the DSC will apply on a prospective basis. These measures will help mitigate transition costs.

Some utilities commented they are accepting new customers over the internet. The Board believes it is important to recognize modern communication methods. New proposed section 2.8.4 of the DSC provides that the various requirements in proposed renumbered section 2.8 of the DSC for communications in writing may be satisfied through suitable electronic communications in accordance with the *Electronic Commerce Act, 2000*.

Another proposed amendment substantially narrowed the practical benefit to utilities of the current implied contract rule (set out in section 6.1.2 of the DSC) by no longer allowing the section 6.1.2 implied contract rule to apply when charging a party. One utility commented that several thousand of its customers per year were provided services first, followed by the new accounts being formally opened (e.g. new home move ins). However, the Board has received complaints from customers who are charged for electricity usage that they are not responsible for. The Board continues to believe a change should be made to current practice and will proceed with the modification to the operation of section 6.1.2 of the DSC. The proposed amendment will be renumbered as proposed section 6.1.2.1 of the DSC and is intended to promote utilities entering into written agreements with future customers. This narrowing of the

current section 6.1.2 of the DSC implied contract rule applies for regulatory purposes and is not intended to interfere with any independent legal rights utilities may have under common law, equity or contract in any civil action for unpaid charges.

A utility requested that present arrangements for account responsibility based on verbal agreements be grandfathered. Many customers have been accepting service under the scope of the implied contract rule in section 6.1.2 of the DSC. The proposed management of customer account rules are not intended to force distributors to obtain written agreements with all their existing customers. A new rule (in new proposed section 6.1.2.3 of the DSC) confirms that the amendment in section 6.1.2.1 of the DSC narrowing the current implied contract rule will only apply to agreements entered into after the effective date of these amendments. The revised proposed amendments will not void any valid service agreements, whether or not documented in writing, with current utility customers.

To allow reasonable flexibility in the application of the written customer service agreement requirement introduced in proposed section 6.1.2.1 of the DSC, new proposed section 6.1.2.2 of the DSC clarifies that the written communications requirement may be satisfied through suitable electronic communications with customers in accordance with the *Electronic Commerce Act, 2000*.

2. Default Account Holder When Current Customer Departs

Proposed section 2.7.3 of the DSC dealt with who will become the new account holder when a tenant that was the customer departs. The effect of the proposed amendment is that a landlord will no longer become the new customer by default upon the departure of a tenant account holder. In the future, the landlord will have to explicitly consent to becoming the customer in such cases.

Some utilities suggested that proposed section 2.7.3 of the DSC will lead to more service disconnections following departures of incumbent tenants. If utilities develop new standard procedures, the Board believes that the compliance costs should not prove onerous. One utility commented that it plans to enter into agreements with local landlords. Proposed section 2.7.3 of the DSC accepts and facilitates distributors entering into such agreements with landlords to deal with their respective responsibilities and rights upon vacancy of a rental unit by a tenant.

The Board will revise proposed section 2.7.3 of the DSC dealing with when a distributor may or may not recover charges for services following a change in a tenant. It will now be applicable both where a distributor receives a request to close an account and a request to transfer an account. This will avoid any confusion arising in rental situations if the account is not closed but rather another person becomes responsible for it. The amendment will be renumbered as proposed section 2.8.3 of the DSC.

As with proposed (renumbered) sections 2.8.1 and 2.8.2 of the DSC, revised proposed section 2.8.3 of the DSC will apply on a prospective basis.

III. Anticipated Costs and Benefits of Revised Proposed Amendments

Utilities generally questioned the costs versus the benefits of the March 10th proposed amendments. They argued that the cumulative cost of the billing system changes and the extra manual work required to implement the special rules proposed for eligible low-income electricity customers would exceed the benefits.

Based on the utility and other stakeholder comments and the Minister's request as discussed in Part I above, the Board has revised the proposed code amendments to eliminate all special rules for low-income electricity customers.

The revised proposed code amendments however, include a number of rules applicable to all residential customers that have been revised to benefit low-income electricity customers. In addition, the revised proposed amendments are expected to decrease the implementation costs by eliminating the creation of two different sets of customer service rules for one class of customers.

Where a revised or new proposed rule has been extended to apply to all residential customers, the Board has specifically reviewed its terms to ensure a fair balance has been struck between assistance to customers and the imposition of additional costs on other customers. Changes have been made to the revised amendments where considered appropriate, such as, for example, elimination of a right to request a monthly bill under the equal payment plan option to be offered to all residential customers.

The revised disconnection notice rules will allow utilities greater flexibility in the presentation of the prescribed information while still providing residential customers in arrears with relevant and helpful information. The revised rule for determining when a

payment made by mail is received will be easier to implement for utilities and will provide customers with greater protection.

Moving to a common two-year time period for under billing and over billing corrections will promote consistency and simplicity. The proposed new rule dealing with the broken arrears agreements will provide utilities and customers with greater clarity on this issue and assist customers through increased repayment flexibility. The proposed limited grandfathering of existing joint billing arrangements will ease the impact upon utilities of the new bill payment allocation rule while ensuring electricity customers receive the protections of the provision within a reasonable period. The administration costs of the management of customer account rules will be lowered by allowing a customer's lawyer or another person with power of attorney to open a new account, by allowing several acceptable methods of communication and by confirming current verbal agreements will be grandfathered, while the remaining rules in this area will provide useful protection against a person being improperly charged for electricity usage.

There were some changes requested to lower compliance costs that the Board did not accept in order to protect and promote other regulatory objectives. Extending the equal payment option to customers of retailers may impose additional business risks or costs upon distributors who undertake consolidated billing, but the Board believes that creating a level playing field in retail energy markets should be given priority.

Administration costs will be lowered and customer choice promoted by the revised proposed amendment to allow all residential electricity customers the option of requesting equalized monthly automatic payments (with physical bills to be issued less frequently if that is the utility's current practice). Extending the practice of offering multiple automatic payment dates within a month will assist residential customers to pay their bills at a date that best matches receipt of any government or other payments. Allowing residential customers to join an equal payment plan any time of the year will further enhance customer choice. The proposed amendment to require all distributors to undertake mid-year reviews for material unexpected variances and make adjustments will bring consistency to utility practice and protect customers and utilities against the risk of large year-end variances.

Residential customers will receive increased protection through the proposed new rules that average monthly load must always be used when calculating the amount of the security deposit due, and that distributors must apply the security deposit against

arrears before entering into an arrears payment agreement. The consistency and simplicity of the security deposit rules will be maintained by deleting the proposed amendment that deposits be paid back to residential customers in instalments (they will instead continue to be paid back all at once when due). All residential customers who pay their security deposits (or increases in deposits) by instalments will benefit from the new rules that allow them to pay their instalments over six months, and to request a review 12 months after the first instalment was paid. The cost impact of the revised deposit rules upon other customers will be contained by eliminating the proposed waiver of a security deposit requirement for some residential customers.

Overall, the Board believes the revised package of proposed amendments will provide material customer service benefits to customers, including low-income residential electricity customers, while imposing lower administration costs on utilities and ultimately ratepayers.

IV. Coming Into Force

The March 10th Notice proposed that the DSC, RSC and SSSC code amendments come into force on the date that is six months after they are made and published on the Board's web site. The distributor submissions argued that the proposed time frame was too short considering the significant CIS system changes needed to implement the proposed amendments. It was also mentioned that time is needed to undertake changes to utility systems relating to the *Green Energy Act*.

A number of distributors commented that they would have needed an extended period of time to implement the original proposed amendments. In revising the target implementation date, the Board has taken into account that the implementation of the revised proposed amendments has been significantly simplified by the elimination of any special rules for low-income customers. The Board proposes to change the general coming into force date for the revised proposed amendments to January 1, 2010. The coming into force date for the revised equal monthly payment amendments will be set at July 1, 2010, to allow more time for any billing system changes that some distributors may have to make. If distributors believe they require more time to implement other new rules, their comments should identify the section(s) in question.

V. Cost Awards

Cost awards will be available under section 30 of the *Ontario Energy Board Act, 1998* to eligible persons in relation to the provision of comments on the proposed amendments set out in Attachment A, to a maximum of 15 hours. Costs awarded will be recovered from all licensed electricity distributors based on their respective distribution revenues.

VI. Invitation to Comment

All interested parties are invited to comment on the proposed amendments to the Codes set out in Attachment A by October 23, 2009.

Three (3) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto Ontario M4P 1E4

The Board requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at www.errr.oeb.gov.on.ca. A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at www.oeb.gov.on.ca, and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at boardsec@oeb.gov.on.ca.

Those that do not have internet access should provide a CD or diskette containing their filing in PDF format.

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2007-0722** and include your name, address, telephone number and, where available, your e-mail address and fax number.

This Notice, the proposed amendments to the Codes set out in Attachment A and all written comments received by the Board will be available for public inspection at the office of the Board during normal business hours and on the Board's website at www.oeb.gov.on.ca.

Any questions relating to this Notice and the proposed amendments to the Codes should be directed to John Vrantsidis at 416-440-8122 or by e-mail at john.vrantsidis@oeb.gov.on.ca

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

DATED at Toronto, October 1, 2009.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Attachments: **Attachment A:** Revised Proposed Amendments to the Distribution System Code, the Retail Settlement Code and the Standard Supply Service Code: Customer Service (*Available as a separate document*).

Attachment B: Comparison Version of Revised Proposed Code Amendments regarding Customer Service relative to the Code Amendments proposed on March 10, 2009 (for information purposes only) (*Available as a separate document*).