# Low-Income Energy Network

**By Courier, Electronic Mail & RESS**

October 23, 2009

Ms Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St., 27th floor
Toronto, Ontario M4P 1E4

Dear Ms Walli,

Re: **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)**
**Written comments on behalf of LIEN, CELA, TEA, ISAC and ACTO**

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In accordance with the Ontario Energy Board's above-mentioned notice, enclosed are the collective written comments of LIEN, CELA, TEA, ISAC and ACTO with respect to the OEB's Revised Proposal to Amend Codes.

Yours sincerely,
Low-Income Energy Network per:

*Original signed by*

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Enclosure
cc : All registered participants

Please accept these comments filed with respect to the Ontario Energy Board's ("OEB" or "Board") Notice of Revised Proposal to Amend Codes (Board File No. EB-2007-0722, October 1, 2009). These comments are jointly filed on behalf of the following organizations: the Low-Income Energy Network, the Canadian Environmental Law Association, the Toronto Environmental Alliance, the Income Security Advocacy Centre and the Advocacy Centre for Tenants Ontario (collectively referred to as the Joint Low-Income Representatives).

The comments are provided in the following sections:

- Part 1 provides a follow-up discussion of Code Amendments proposed and supported by Joint Low-Income Representatives' previous comments in this Docket but which were not addressed, directly or indirectly, in the Board's October 1, 2009 Revised Proposal;

- Part 2 provides a discussion of Code Amendments included within the Board's October 1, 2009 Revised Proposal.

The comments below are directed to the Distribution System Code unless otherwise specifically noted.

In making the comments set forth below, the Joint Low-Income Representatives acknowledges the Board's assertion that it "has revised the proposed code amendments not to include amendments specifically for low-income electricity customers" based on the request of the Minister of Energy and Infrastructure that the Board "not proceed to implement new support programs for low-income energy consumers in advance of a ministerial direction." (Notice of Revised Proposal to Amend Codes, at page 2). By this reference thereto, Joint Low-Income Representatives incorporate herein as if fully set forth, each of its proposals for low-income consumer protections set forth in its previous comments in this Docket and asserts the need for such amendments. To enter the forthcoming heating season in the absence of such consumer protections will unquestionably impose severe hardship on low-income customers.

## PART 1.

## PREVIOUSLY OFFERED PROPOSED AMENDED SECTIONS

This section of the comments of the Joint Low-Income Representatives reviews proposed Code Amendments offered by the Joint Low-Income Representatives in previous comments to the Board in this Docket. The proposals reviewed below, while previously offered, were not adopted or never addressed by the Board, either positively or negatively, in the Board's October 1, 2009 Order in this docket. Each proposal is re-asserted below, with the rationale for each proposal, as previously presented, adopted by this reference thereto as if fully set forth herein.

In some cases, as noted in the discussion below, while the proposal originally may have been limited to low-income customers, each proposal below is applicable to residential customers generally. As with the previous comments of the Joint Low-Income Representatives, the key aspect of each proposed amendment is the substance of the amendment and not its placement in either the Distribution System Code or the Standard Supply Service Code.

**Section 2.6.3 of the Distribution Code and Section 2.4.12 of the Distribution Code**

The Joint Low-Income Representatives proposed that Section 2.6.3 and Section 2.4.12 of the Distribution Code be amended to ensure that utility action such as calculation of a customer's "average monthly billing amount," calculation of an estimated bill based on the customer's "average monthly load," and similar calculations be based on *normal* weather and prices.

As the Joint Low-Income Representatives noted, a customer's total charges (for either electricity or natural gas) can be subject to substantial volatility. This volatility may be attributable to changes in weather or may be attributable to changes in the price of fuel. The very bill volatility that leads to bill nonpayment can compound a customer's inability to respond to that nonpayment. As the Joint Low-Income Representatives urged: "given that high bills attributable to abnormal weather and/or prices may well have been the cause of the overdue payment with which to begin, the Board should not compound the problem by using that abnormal price/weather as the basis to determine the minimum length of a payment plan." (Comments of Joint Low-Income Representatives, at 25).

The Board rejected the proposal of the Joint Low-Income Representatives to require that payment plans and deposits be not be based on abnormally high bills caused by volatility or prices. The Board asserts that it would be too difficult for utilities to determine if deposits or payment plans were based on atypically high bills.

The Joint Low-Income Representatives ask the Board to reconsider this decision. Any number of mechanisms exist to determine, and to find, that bills upon which payment plans and/or deposits might be based are abnormally high due to atypical prices and/or weather.

In the alternative, in light of the fear of the Board that vendors might find it unduly difficult to determine whether bills are abnormally high due to atypical weather or prices, the Joint Low-Income Representatives request that the Board explicitly allow a residential customer to appeal a utility decision regarding the size of a deposit, length of a payment plan, or other utility decision (see e.g., Section 7.7.5 of the Distribution System Code) on the grounds that the basis for that utility decision is based on an abnormally high bill attributable to atypical weather and/or prices. In this fashion, utility decisions might be subject to review without need for the utility to incur the expense of making the unduly difficult determination of whether prices and/or weather were sufficiently atypical to result in an unreasonable payment plan or deposit.

**Section 2.6.4 of the Distribution System Code.**

The Joint Low-Income Representatives proposed limitations on the inter-relationship between payment plans and utility late charges. While the Joint Low-Income Representatives originally asserted the need to clarify this relationship with respect only to eligible low-income electricity customers, and was willing to accept a limitation of this clarification only to eligible low-income customers, the decision of the Board to delay consideration of any low-income protections makes it necessary to expand the proposed amendment to all residential customers. Accordingly, the Joint Low-Income Representatives urge the Board to adopt the proposed amendment without the proposed limitation to low-income customers:

> A distributor shall not impose any late payment charge or other charges associated with non-payment in respect of any amount that is, at the relevant time, the subject of an arrears payment agreement that is in effect with ~~an eligible low-income~~ a residential electricity customer, except, to the extent that the customer has failed to make a payment in accordance with the terms of the agreement, the distributor may impose such late charge or other charges associated with non-payment on the payment or payments not made if otherwise allowed by these regulations.

(See, Comments of Joint Low-Income Representatives, at 26 – 27). The need for this clarifying regulation is as identified in the Comments of the Joint Low-Income Representatives.

**Section 2.6.5 of the Distribution System Code.**

The Joint Low-Income Representatives proposed limitations on the inter-relationship between late payment charges and estimated meter readings. While the Joint Low-Income Representatives originally asserted the need to clarify this relationship with respect only to eligible low-income electricity customers, and was willing to accept a limitation of this clarification only to eligible low-income customers, the decision of the Board to delay consideration of any low-income protections makes it necessary to expand the proposed amendment to all residential customers. Accordingly, the Joint Low-Income Representatives urge the Board to adopt the proposed amendment without the proposed limitation to low-income customers:

> A distributor shall not impose any late payment or other charges associated with nonpayment, nor issue any shutoff notice or take any action to terminate service for nonpayment, in respect to any bill that is, at the relevant time, based on an estimated meter reading to ~~an eligible low-income~~ a residential electricity customer.

(See, Comments of Joint Low-Income Representatives, at 27). The need for this clarifying regulation is as identified in the Comments of the Joint Low-Income Representatives.

**Section 4.2 of the Distribution System Code**

The Joint Low-Income Representatives re-assert the need to define that the "disconnection" of service, during the period November 1 through the immediately following May 1, includes a service or load limiter or any device the limits or interrupts electric service in any way. The use of service limiters provides no notice period prior to the interruption of service. The use of service limiters (or load limiters) further fails to meet the Board's own stated objective that "distributors should develop disconnection practices and policies in a manner that is designed to maximize the likelihood of payment and therefore *minimize the likelihood of disconnection* in circumstances where payment might reasonably be expected to be made." (Customer Service Report, at 19) (emphasis added).

The Board did not address this proposal. It merits adoption, not only because service limiters are inherently dangerous, but because the regulation advances the Board's own stated objectives.

**Section 4.3.3C of the Distribution System Code.**

The Joint Low-Income Representatives re-assert the need to place mandatory limitations on the disconnection of service during specified times where payment might *not* "reasonably be expected to be made." (Customer Service Report, at 19). The Joint Low-Income Representatives urge that the Board adopt the following regulation:

> A distributor shall not disconnect a customer for nonpayment on a weekend day, a statutory holiday, a Friday, or on any other day on which no distributor staff is available to accept payment or to negotiate an arrears payment arrangement. A distributor shall not disconnect a customer for non-payment after 4:00 on a weekday unless distributor staff is available to accept payment or to negotiate an arrears payment arrangement after that time.

As stated in its previous comments, the Joint Low-Income Representatives urge that having the Board "encourage" distributors to refrain from disconnections when appropriate responses cannot be made provides insufficient customer service protection.

**Section 4.2.2E of the Distribution System Code.**

The Joint Low-Income Representatives re-assert the need to place limitations on the issuance of disconnect notices where the utility has no present intent to actually disconnect service. As the Joint Low-Income Representatives stated, "while the Board's language states that a utility *must* send or deliver a disconnect notice should the utility "intend to disconnect the property or a residential customer," the Board's proposed language does not limit a utility to sending a disconnection notice *only* to those instances where the utility intends to disconnect the service or a residential customer for nonpayment." (Comments of Joint Low-Income Representatives, at 32).

Based on data submitted by Ontario's distribution utilities in Board File EB-2008-0150, October 31, 2008, it is clear that it is common for Ontario utility companies to send out shutoff notices when they have no present intent to terminate service. Either the utility does not have the staff to effectuate a service discontinuance for each customer receiving a notice of discontinuance, or the company finds that it is not cost-effective to discontinue service for customers with arrears that are either less than some internally established "treatment amount" or younger than some internally-prescribed threshold.

The Joint Low-Income Representatives re-assert that aside from the unfair and deceptive nature to consumers of shutoff notices that are issued when no present intent exists to actually disconnect service, the provision of a notice of service discontinuance when there is no present intent to engage in the discontinuance is counterproductive to the entire purpose of a notice.

The Joint Low-Income Representatives urge that a new Section 4.2.2E of the Distribution System Code be adopted as follows:

> A utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited by law. Notice of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures set forth in this chapter, unless the ratepayer remedies the situation which gave rise to the enforcement efforts of the utility. A utility shall not deliver more than two consecutive notices of discontinuance for past due bills without engaging in the collection identified in the notice.

**Section 4.2.7 of the Distribution System Code.**

The Joint Low-Income Representatives proposed language that would limit the termination of service during Ontario's cold weather months. While the Joint Low-Income Representatives originally asserted the need to clarify this relationship with respect only to eligible low-income electricity customers, and was willing to accept a limitation of this clarification only to eligible low-income customers, the decision of the Board to delay consideration of any low-income protections makes it necessary to expand the proposed amendment to all residential customers. Accordingly, the Joint Low-Income Representatives urge the Board to adopt the proposed amendment without the proposed limitation to low-income customers:

> Unless requested by the residential customer, during the period November 1 through the immediately following May 1, no utility shall discontinue or disconnect service to ~~an eligibility low-income~~ a residential customer for nonpayment of the residential customer's utility bill so long as, as of November 1, the residential customer has no past-due charges from the immediately preceding heating season not subject to an arrears payment agreement.

Customers who have the intent to pay, but an inability to do so, whether or not "low-income" (however defined) should not be subject to the winter-time loss of utility service. In the event

that such a customer has a winter-time arrears, but has agreed to repay those arrears through an arrears payment agreement, it would be unreasonable to subject that customer (and his or her family) to a life-threatening loss of utility service during Ontario's winter months.

**Section 2.6.2 of the Distribution System Code.**

The Joint Low-Income Representatives proposed language that would expand the availability of levelized budget billing plans. The Joint Low-Income Representatives re-assert the need for such expansion. As the Joint Low-Income Representatives noted, and as the Board has repeatedly recognized, levelized budget billing offers advantages both to residential customers and to the distribution companies serving those customers. Levelized budget billing is particularly helpful to the working poor. These economically marginal customers may have sufficient funds to pay their utility bills on an "average" basis (or on an annual basis). They do not, however, have the capacity to absorb the spikes in their seasonal bills.

Despite the advantages offered by levelized budget billing, extensive experience shows that residential customers frequently refuse to enter into levelized budget billing plans because they do not want to "lose" their low-cost months during the non-heating season. As the Joint Low-Income Representatives noted in their original comments, the realization that a lower winter bill also means the elimination of the low-cost summer bill frequently creates a barrier to entering into a levelized budget billing plan.

Accordingly, the Joint Low-Income Representatives proposed a winter-only levelized budget billing plan. As the Joint Low-Income Representatives noted: "To allow customers to move some of that time-shifting *forward* rather than having it merely be *backward* would be consistent with the desire to keep bills paid, and the demonstrated inability to make that happen in the high cost winter months. To move some of those January through March dollars forward to the lower cost months immediately preceding winter should help lower arrears without running afoul of the customers' desires to retain their low-cost summer bills."

Accordingly, the Joint Low-Income Representatives urge adoption of a new Section 2.6.2 to the Standard Supply Code reading as follows:

> The equal billing plan shall be available to any residential customer at any time during the year, without regard to the residential customer's length of service with the utility. A utility may also, upon application and approval by the Board, offer a heating season equal billing plan for a period less than a prospective twelve (12) month period upon a showing by the applicant that the plan will allow a residential customer to levelize his or her winter heating bills over a period longer than the heating season but shorter than a full twelve months.

The Joint Low-Income Representatives noted in their comments that "the data clearly shows that many customers in arrears are simply engaging in short-term time-shifting of high winter bills without the structure of a budget-billing plan. "

While the proposed amendment does not make a seasonal budget billing plan mandatory, it does allow for each utility, or other stakeholders, to petition the Board for a company to establish a budget billing option covering fewer than 12 months.

## PART 2.
## PROPOSED AMENDED SECTIONS

This second section of the comments of the Joint Low-Income Representatives reviews proposed Code Amendments set forth in the Board's October 1, 2009 Notice of Revised Proposal to Amend Codes. Specific reference is made to the proposed amended Code Sections that give rise to concern.

**Proposed Amended Section 2.4.20A**

The Board has decided not to proceed with a security deposit waiver for low-income consumers as proposed by the Joint Low-Income Representatives in our previous comments in this Docket. In the absence of this waiver, we recommend that section 2.4.20A be amended to provide all residential customers with the option of paying security deposits in equal instalments of at least 12 months:

> Despite section 2.4.20, a distributor shall permit a residential customer to provide a security deposit in equal installments paid over a period of at least ~~6~~ 12 months, including where a new security deposit is required due to the distributor having applied the existing security deposit against amounts owing under section 2.4.26A.

**Proposed Amended Section 2.6.2 (Standard Supply Service Code).**

The Board rejected the proposal by the Joint Low-Income Representatives to make available an equal monthly payment option to residential customers in arrears. Under the proposed amendment, "a distributor may only refuse to provide an equal monthly payment plan option to a customer that is in arrears on payment to the distributor for electricity charges, as defined in the Distribution System Code, and that has not entered into an arrears payment agreement with the distributor as referred to in the Distribution System Code."

No reason exists for arrears to represent a barrier to entering into an equal monthly payment plan option for residential customers. The *only* circumstance in which a distribution company would place a residential customer on an equal monthly payment plan is if the customer has requested to be placed on such a plan. Rather than denying a customer in arrears the ability to enter into an equal monthly payment plan because that customer "has not entered in an arrears payment agreement with the distributor" as now proposed by the Board, the proposed by the Joint Low-Income Representatives provides a better process. The process, as previously proposed by the Joint Low-Income Representatives, is to deem a request from a residential customer in arrears to be placed on an equal monthly payment plan to be a request for an arrears payment agreement.

As the Joint Low-Income Representatives previously noted, the Section should be amended to provide that:

> a distributor . . . shall treat a request from ~~an eligible low-income~~ a residential customer to be placed on an equal billing option as a request also to be placed on an arrears payment agreement of the minimum term provided in Section 2.6.2 of the Distribution System Code, unless a different term for the arrears payment agreement is subsequently negotiated.

The Joint Low-Income Representatives agree with the Board that the credit history of a customer should not be a barrier to entering into equal billing plans. In addition, however, the Joint Low-Income Representatives urge that the presence of arrears should not be a barrier either. Under the Board's proposed regulations, the presence of arrears is a barrier to equal billing unless a customer enters into an arrears payment agreement. What this regulation institutionalizes, however, is that all the barriers that impede payment agreements also serve as barriers to equal billing plans as well.

The Joint Low-Income Representatives believe that the regulation is somewhat backwards. If a person with arrears requests to enter into equal billing – a request that the Board, itself, acknowledges will benefit both the distributor and the customer, and improve the affordability of bills by smoothing out monthly bills — rather than ***excluding*** the customer failing to have entered into an arrears payment agreement, the distributor should treat the request to be placed on equal billing as an agreement to an arrears payment agreement of the minimum term provided by rule.

The change proposed by the Joint Low-Income Representatives benefits both customers and distributors. Instead of leaving untreated arrears not subject to agreement, this process places arrears on an arrears payment agreement. Instead of continuing to bill these customers, who already have demonstrated a non-payment pattern, in a way that exacerbates nonpayment, the proposed change places these customers on an equal billing plan that smoothes out monthly bills and enhances ability to pay.

**Proposed Amendment Section 2.6.2(C) (Standard Supply Service Code).**

The Joint Low-Income Representatives request clarification of the interrelationship between proposed amended Code Section 2.6.2(c) of the Standard Supply Code and proposed amended Code Section 2.6.2(b) of the Standard Supply Code. Section 2.6.2(c) provides that "the equal payment plan option offered to a residential electricity customer shall provide for the customer to make equalized payments *on a monthly basis* and shall make provision for the customer to select from at least two dates within the month on which the monthly equalized payment is due and the pre-authorized payment is withdrawn from the customer's bank account." (emphasis added).

Section 2.6.2(b), however, provides that "a distributor may require a residential customer on an equal monthly payment plan to agree to pre-authorized automatic monthly payment withdrawals

from the customer's account with a financial institution *if the billing cycle of the distributor is less than monthly*." (emphasis added).

Entering into levelized equal monthly payment plans offers the greatest affordability advantages to customers who have marginal incomes. The benefit of levelized equal monthly payment plans accrues to those customers who may have sufficient funds to pay their bills "on average," but who may have *insufficient* funds to pay the spikes in monthly bills attributable to weather related consumption. These economically marginal customers are customers who are least likely to have bank accounts from which to pre-authorize monthly payments.

While section 2.6.2(b) quite specifically limits the right of a utility to condition an equal monthly payment plan on the customer's consent to have pre-authorized payments withdrawn from the customer's bank account to situations where "the billing cycle of the distributor is less than monthly," Section 2.6.2(c) does not contain that same limitation. Instead, Section 2.6.2(c) provides that the equal payment plan option "*shall* make provision" for the customer to select a date, from at least two options provided by the company, "on which the *monthly* equalized payment is due and the pre-authorized payment is withdrawn."

The Joint Low-Income Representatives object to Section 2.6.2(c) in that this section would make equalized monthly payment plans unavailable to a large segment of customers who most need such plans and could most benefit from them. While it might be understandable that, in those circumstances where customers might make payments more than once a month, a utility should be allowed to issue a monthly bill but nonetheless receive pre-authorized payments for the intra-billing payment requirement, a utility should *not* be allowed to make agreement to pre-authorized payments a pre-condition to entering into a levelized monthly payment plan. Section 2.6.2(c) should be clarified so that it is evident that the right to require pre-authorized payments is limited by Section 2.6.2(b).

**Proposed Amended Section 2.6.5.**

The Joint Low-Income Representatives welcome the Board's efforts to clarify rules for determining the date on which payment of a bill has been received from a customer. Section 2.6.5, however, appears to limit payment options to payment by mail (Section 2.6.5(a)) or payment "at a financial institution or electronically." (Section 2.6.5(b)).

The Board has agreed with the Joint Low-Income Representatives that receipt of a payment is effective on the date that the payment is made, including payments made after 5:00 p.m. (see, proposed Amendment 2.6.8(e)). Section 2.6.5 should acknowledge that, if payments are made other than by mail, at a financial institution, or electronically, the date on which the payment is made is governed by Section 2.6.8(e). Section 2.6.5, in other words, does not exhaust the universe of possible payment options for purposes of "determining the date on which payment of a bill has been received from a customer."

**Proposed Amendment to Section 2.7.1.1.**

The Joint Low-Income Representatives recommend two modifications to the application of customer security deposits against any electricity charges owing at the time a customer enters into an arrears payment agreement.

First, the application of the security deposit against any electricity charges owing at the time of entering into an arrears payment agreement should be at the option of the residential customer. Failing to make this application at the option of the customer could substantially reduce the time available for customers to retire their arrears. Under the Board's proposed regulations, a customer having an arrears where the "total amount of the electricity charges remaining overdue for payment is equal to or exceeds twice the customer's average monthly billing amount" would have a period of *at least* 10 months over which to retire those arrears.

If the utility applies an existing security deposit against those arrears, however, the Board has provided (Section 2.6.26B) that "the distributor may request that the customer repay the amount of the security deposit that was so applied. The distributor shall allow the residential customer to repay the security deposit in accordance with section 2.4.20A." Section 2.4.20A, however, provides that "a distributor shall permit a residential customer to provide a security deposit in equal installments paid over a period of at least 6 months, including where a new security deposit is required due to the distributor having applied the existing deposit against amounts owing under Section 2.4.26A."

Moreover, a utility could not make replenishment of the deposit subject to the terms of the payment agreement. Section 2.7.2(a) and Section 2.7.2(b) limits the payment plans to "the *electricity charges* remaining overdue. . ." (emphasis added). The Board has elsewhere explicitly decided that deposits are not an "electricity charge."

The payment plan option of at least ten months in Section 2.7.1.1, in other words, is in conflict with the deposit payment plan option limited to at least six months. In addition to significantly impeding the affordability of the payment plan (by reducing the payment plan option for the amount of the deposit applied from 10 to 6 months), there will be administrative difficulties, as well, in having the utilities track and bill two separate payment plans (one for the replenishment of the deposit and the other for the payment of arrears); in having the utilities allocate payments between replenishment of the deposit and payment of arrears under the payment agreement; and in determining the "cure" of missed payment (i.e., missed payments on a payment agreement may be "cured" under Section 2.7.4.2 while missed deposit payments have no such cure provisions).

To remedy the problems identified above, the Joint Low-Income Representatives propose that the Board delete its proposed Section 2.7.1.1 and renumber Section 2.7.1.2 accordingly. The Joint Low-Income Representatives then propose a new Section 2.7.1.2 as follows:

> At the request of the customer, a distributor may apply all or part of any security deposit held on account of the customer against the downpayment requirement.

Limiting the use of the deposit in this respect will accomplish several results. It will maintain the deposit as a resource to be used to reduce bad debt should the payment plan not be successfully completed. It will serve as a resource for the customer to make a downpayment should they decide they need to do so. It will minimize the conflict between Section 2.7.2(a) – (b) and Section 2.4.20A (and corresponding Section 2.4.26A) in that replenishment of the deposit over at least six months will be limited to the maximum downpayment amount allowed (15% of the electricity charge arrears accumulated).[1]

As noted above, the Joint Low-Income Representatives have also recommended that Section 2.40.20A be amended to allow the payment of security deposits in instalments of at least 12 months. In addition, we ask the Board to consider providing for residential customers in arrears repayment plans to repay security deposits, which have been applied against arrears, <u>after</u> the plan has been completed. Such a provision would make arrears repayments and security deposit repayments more affordable.

**SUMMARY AND CONCLUSIONS**

The Joint Low-Income Representatives urge that the adoption of low-income protections should be of paramount importance to the Board. One of the key foundations of the Low-Income Energy Assistance Program (LEAP) proposed by the Board earlier this year was the assertion by the Board that the program would be accompanied by modifications to the customer service regulations to improve customer protections for low-income customers. The current regulations have stripped such low-income protections out of the proposed amendments.

Nevertheless, we commend the Board for including an arrears management program in the revised proposed Code amendments, as well as the provision for the suspension of any disconnection action for 21 days when a customer is attempting to arrange assistance for bill payment with a charity, government agency or social service agency.

However, certain essential customer service protections proposed by the Joint Low-Income Representatives in previous comments were not addressed by the Board. While some of those protections were originally written as protections limited to low-income customers, they can (and should) be broadened to include all residential customers as explained above. Each of the Code amendments set forth in Part 1 of these comments should be adopted.

Finally, the Joint Low-Income Representatives have concerns with several of the proposed changes advanced by the Board. Those proposed amended regulations should be modified as described above.

[1] In this respect, the Joint Low-Income Representatives note that Section 2.7.1 does not allow a distributor to ***<u>always</u>*** request a downpayment of 15% of the electricity charge arrears accumulated, but rather only a downpayment of "up to" 15%. The "up to" language would necessarily impose a requirement that a case-by-case determination be made of what downpayment requirement is reasonable.