October 23, 2009

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

Dear Ms. Walli:

**RE**: **Revised Proposed Amendments to the Distribution System Code, the Retail Settlement Code and the Standard Supply Service Code**
**Board File No.: EB-2007-0722**

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Please find attached the submission of the Coalition of Large Distributors (the "CLD"), listed below, with respect to the above-captioned proceeding.

If you have any questions, please contact the writer at 905-283-4098.

Yours truly,

*(Original signed on behalf of the CLD by)*

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Attach.


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**Coalition of Large Distributors**
**October 23, 2009**

**Comments on the Ontario Energy Board Revised Proposed Amendments to the Distribution System Code, the Retail Settlement Code and the Standard Supply Service Code, Board File No. EB-2007-0722**

This is the submission of the Coalition of Large Distributors (the "CLD"), commenting on the October 1, 2009 Ontario Energy Board (the "OEB" or the "Board") Notice of Revised Proposal to Amend Codes (the "October 1 Notice"). The CLD consists of Enersource Hydro Mississauga Inc., Horizon Utilities Corporation, Hydro Ottawa Limited, PowerStream Inc., Toronto Hydro-Electric System Limited, and Veridian Connections Inc.

The CLD submission is organized in the following manner:

1. Introduction
2. Timing of Implementation
3. Costs versus Benefits
4. Detailed Comments on Proposed Amendments to the Codes
5. Recommendations and Conclusions

## 1. Introduction

The CLD is pleased that the OEB has provided interested parties another opportunity to comment on proposed amendments to the Distribution System Code (the "DSC"), the Retail Settlement Code (the "RSC") and the Standard Supply Service Code (the "SSSC") (together, "the Codes") before the Board finalizes and implements changes to these Codes for the purpose of addressing the issues of customer service.

The CLD understands that governmental advice has resulted in changed circumstances from the originally proposed amendments to the Codes, as provided for in the Board's earlier process which commenced with a notice from the Board dated March 10, 2009 (the "March Code Amendments").

While we recognize the Board's changed environment, the CLD is not convinced that the revised proposed amendments to the Codes in the October 1 Notice (the "October Code Amendments") reflect an improvement from the March Code Amendments or adequately weighs the significant change in scope created by the change in application from only low-income customers to now all residential customers.

In the October 1 Notice, the Board acknowledged concerns with the definition of "eligible low-income electricity customer". However, by now removing that definition and

proposing to apply the amendments to the Codes to all residential customers, the CLD submits that the Board has proposed additional significant administrative burdens and business impacts on distributors.

Compared to what was proposed in the March Code Amendments, the CLD has even greater concerns with practical implementation, especially with respect to the timing and costs of some of the October Code Amendments. For example, where manual systems could have been used by many LDCs to administer the March Code Amendments, as they pertained to only a small number of low-income customers, the October Code Amendments apply to all customers, and the resulting customer volumes cannot be accommodated manually. To enable the latest proposed amendments, distributors will have to make significant changes and investments to their customer information systems ("CIS") and processes, and implement in an extremely short timeframe.

The intention of this submission is to focus on the general impracticality of some of the revised proposed amendments, to point out fundamental issues and impacts of concern, and to offer alternative measures for consideration.

## 2. Timing of Implementation

The requirement on electricity distributors to implement the October Code Amendments effective January 1, 2010 is significant and demanding. While certain October Code Amendments would not be effective until July 1, 2010, these represent only a relatively small number of the total changes. The CLD submits that its members would be strained to even meet the 2010 mid-year deadline for implementing many of the October Code Amendments, as most distributors must receive final notice of amendments before they will commence implementation of any changes.

The work required to implement the October Code Amendments will be severely impacted by work already underway to advance the implementation of Time-Of-Use rates required by the Minister of Energy and Infrastructure. Information obtained from CIS vendors suggests that they would not be able to provide new system changes in time for January 1, 2010 implementation, and likely not in time for July 1, 2010 implementation either.

For emphasis, the CLD reiterates: the proposed changes to the Codes are considerable, and would demand a wide scope of system and business process changes. The CIS requirements, including accounting, billing and collection alone, would be expensive and would require significant time for program development, testing and implementation. In addition, other concurrent initiatives, such as the advancement of Time-of-Use billing and other Green Energy Act initiatives (i.e., FIT and microFIT) have consumed much of the needed internal and external resources. All of these factors make a January 1, 2010 implementation date extremely challenging if not impossible.

Therefore, the CLD strongly recommends that any final amendments to the Codes reflecting these customer service issues be implemented at a late 2010 or early 2011 target date.

### 3. Costs versus Benefits

While the CLD has not conducted detailed cost analyses, rough estimates suggest that the cost to the industry in CIS changes needed to implement the October Code Amendments would likely be much higher than the LEAP donation amount, (i.e., 0.12% of a distributor's Board-approved distribution revenue requirement) as proposed in the Board's March 10 Notice. If a program like LEAP were instituted in Ontario, whereby every distributor were required to provide funding to a socially-administered program directed at low-income customers, most of the amendments to the Codes would be avoided. For example, the complicated processes and changes to the distributors' CIS to track, bill, recover, extend, accommodate late payments, provide arrears payment plans, apply late payment charges, cash flow delays, etc. would be practically unnecessary.

Furthermore, the proposed Code changes imply that distributors do not currently offer customer payment and other related accommodations to assist consumers in maintaining their electrical service, which is not the case for most distributors, if not all. Distributors do accommodate, both formally and informally, the needs of their genuinely financially troubled customers. For example, most distributors do not seek collections of this class of customers until approximately $400 or four months' charges are in arrears.

The industry needs to fully understand not only the CIS change-related costs but also the administration costs of these amendments. Distributors will need to hire additional staff to manage the new processes including Account Management (written contracts); Arrears Management Program; Tracking of Security Deposits, follow ups, notices of disconnection, etc. Further, there will be costs for significant manual tracking for arrears management. The CIS changes and increased labour would amount to a significant cost to all ratepayers in order to address the payment needs of a small population of the customers.

The CLD requests clarification on how these costs will be recovered if not in rate applications, and anticipates that distributors will be seeking either specific or generic deferral accounts to track costs directly associated with these proposed amendments to the Codes.

It should also be restated that there are some customers who would take advantage of the generous customer service treatment available with the October Code Amendments, to avoid taking responsibility for their electricity charges, leaving the distributor incapable of addressing these situations effectively, compromising legitimate low-income and other bona fide customer service needs. This is an example of a new business risk that distributors have not forecasted.

Frankly, it is unclear to the CLD what the final end-state will be with the October Code Amendments. Clarity on the objectives of these amendments would help distributors identify what customer service practices actually need to be modified or added, in the most cost-effective manner.

Providing consumers with additional time to carry and assume debt seems counter-productive to the objective of presenting consumers with more frequent billing and

payment options, in order to keep payments in line with electrical usage, thus avoiding overwhelming balances for those who may be already financially stressed.

Generally, electricity distributors are relatively generous with their payment arrangements and customer service practices. For that reason, the CLD submits that the Board should consider an incremental approach in amending the Codes with respect to payment arrangements, possibly by setting some minimum standards subject to a distributor's assessment of risk.

## 4. Detailed Comments on Proposed Amendments to the Codes

The Board has set out significant proposals to the Codes which are intended to address billing and bill payment, disconnection, security deposits, arrears management, and other issues. The CLD addresses each of these as follows.

### Computation of Time

The Board has clarified the intent in proposed section 2.5.8(d) of the DSC (to be renumbered as section 2.6.8(d)) with respect to timing of payment, and that if a customer pays at 7:00 pm, for example, he or she gets credit for the payment on that day. However, the option to set the payment time is not available to distributors, neither from a banking institution nor from a distributor's own payment drop box. It would not be possible for a distributor to make such a determination of the time of payment.

### Emergency Credit Card Payments

The CLD is concerned with the Board's statement that no new service charge for acceptance of emergency credit card payments from residential customers will be approved at this time. The requirement to be able to provide this service will come at a cost, both in terms of financial institution charges, as well as the costs of utility resources (purchase and maintenance of payment equipment, personnel time). There should be some mechanism for distributors to recover these costs.

### Correction of billing errors

<u>Over billing</u>

Section 7.7.1 of the RSC should be amended to change the word "discovery" to "determination". The use of the word "determination" is more appropriate as it connotes the use of analysis and confirmation of results, which should be undertaken before being required to contact the customer to confirm the over-billing error.

Additionally, with respect to RSC section 7.1.1, issuing a cheque to a customer within eleven days in the event of an over-billing will be difficult for some distributors. The default option should be to provide a credit to the account unless a cheque is requested by the customer. Where a cheque is requested, the time limit should be comparable to existing utility Terms of Payment which is typically 30 days.

Under-billing

Section 7.7.7 of the RSC (to be renumbered as section 7.7.6) states that the distributor may require payment of the full under-billed amount by means of a corresponding charge on the next regularly scheduled bill issued to the customer or retailer. Due to the fact that this section refers to a situation in which the customer or the retailer was responsible for the error, the CLD submits that the distributor should be allowed to issue an immediate bill and not be required to wait until the regular billing schedule to issue the bill for recovery of the under-billed amount.

**Equal Payment Plans**

The CLD would like to clarify the Board's proposed amendment to section 2.6.2(b) of the SSSC. We believe that the Board's intention was to refer to a billing cycle of the distributor that was less **frequent** than monthly. Thus, the CLD suggests the following for section 2.6.2(b) of the SSSC:

> (b) 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 frequent than monthly;

With respect to SSSC sections 2.6.2 (e) (v) – (vii), the CLD submits that being required to send a credit cheque is more costly compared to the automatic process of crediting the amount to the customer's account or to the customer's bank account. For years, distributors have been simply rolling forward any credit or debit to their customers' accounts, and we have received relatively few complaints. The process works well as, generally, the credits offset the debits such that the distributor is unharmed, and the customers benefit from the automatic rolled-forward recovery of their credit or debit balance.

With respect to section 7.2.3 of the RSC, the CLD understands that the OEB wants distributors to offer equal payment plans to residential customers of retailers. However, that process requires distributors to estimate those bills. This exercise is much more difficult than that conducted for non-retailer customers, as it requires price guessing in addition to volume estimation by the distributor. The probability of accuracy is very low, and will very likely result in significant and more frequent adjustments. This could become a cash flow management issue, as distributors would likely only be willing to remit to the retailers the equal payment plan amounts received from their customers, even though those amounts may be significantly different from actual consumption and retailer pricing. Further, such variances could undermine the objective of payment smoothing for the consumer. As an alternative, perhaps retailers could calculate and monitor the monthly billing amount that is to be charged to their customers via the IBR (Invoice Bill Ready).

**Disconnection for non-payment**

The CLD continues to have some concerns with the proposed changes to the disconnection process.

Timing and Duration of Disconnection Notice

Section 4.2.2.6 contains a typographical error. The word “in” following the phrase “14 days from the date on which the disconnection notice” should be replaced with the word “is”.

The CLD seeks clarification on the relationship between DSC sections 4.2.2.3 and 4.2.2.7. This is in regards to the eleven-day expiry for the disconnection notice, and whether the eleven-day period must be reinstated after denial by a social service agency or the third party. This confusion could be eliminated by simply the deletion of section 4.2.2.7.

The CLD wishes to confirm that third party assistance must be confirmed or denied within the timelines set out in DSC Section 4.2.3, after which, disconnection action may proceed within eleven calendar days without further notice. This provides the residential consumer with a minimum of fourteen calendar days to seek and confirm third party assistance.

Meeting the proposed standards and timelines related to disconnection practices could be aided by remote disconnection technology; however, such functionality was not provided for in the Ministry’s minimum functionality standards for AMI systems. To retroactively upgrade recently deployed smart meters would be costly and time-consuming. As a default, more costs may be incurred as distributors may find the need to add staff resources to meet these administrative requirements.

**Security Deposits**

The CLD reiterates its belief that allowing the security deposit to be credited against current arrears defeats one of the purposes of the deposit, which is to secure the customer’s final bill, and leaves distributors with significantly higher risk of bad debt from these customers, with bad debt having to be borne by the remaining rate payers. This proposed change in the security deposit policy might result in a broader change in general customer behaviour, and further exacerbates the risks of bad debt. It also translates into a short term liquidity issue for distributors.

Weighing the costs of a) the discussion with the customer; b) any follow-up, including the possible warning of disconnection in order to ensure the payment of a deposit amount; and c) the processing of six payments over six months, makes it almost not worthwhile to take residential deposits unless a customer has previously defaulted on a payment. The provision compels the distributor to save the administrative costs of a), b) and c) and to take on the risk of residential customer default. The cost/benefit of residential deposit assessments will be difficult to justify.
The changes required to a distributor’s CIS to enable an automated process to apply security deposits against arrears will be costly and may also not be cost effective. Until

such a time as changes to the CIS are complete, the process will have to be done in a time-consuming manual manner.

**Arrears Management Programs**

The original intent of Arrears Management in the March Code Amendments was structured for and geared towards aiding the relatively small number of low-income customers only. However, in the October Code Amendments, Arrears Management has now been extended to all customers. The implementation of Arrears Management for all customers is unnecessary, and will be costly, as some customers will have no disincentive in allowing their accounts to fall into arrears. Distributors will see an increase in Day Sales Outstanding, and see a decrease in cash flow.

DSC section 2.6.4 in the October Code Amendments identifies different deemed issued dates for bills issued by mail, email and internet. The CLD points out that having different deemed issue dates and deemed receipt of payment dates on bills results in additional complexity and costs to customer service processes and CIS modifications. In order to minimize the complexity certain distributors might simply assume an added three days' grace period for all payments in order to accommodate the longest payment period of bills paid by mail. This additional grace period will negatively affect distributors' cash flow.

DSC section 2.7.1.2 permits the distributor to require a customer to pay a down payment of up to 15% of the electricity charge arrears accumulated. The CLD submits that 15% is insufficient and suggests that the customer pay at least 50% of the bill as the down payment. In addition, a time period of two and four months, respectively, in place of the Board's proposed five and ten months, respectively, should be required for a customer to pay the remaining arrears, as distributors serving areas with a high proportion of seasonal customers (e.g., university towns) will be hard hit by allowing up to ten months for repayment.

The CLD requests confirmation from the Board that under an arrears management program, a customer is still responsible for paying their regular bill, in addition to the outstanding arrears.

DSC section 2.7.4 of the proposed amendments state "Where a customer defaults on **more than one occasion** in making a payment in accordance with an arrears payment agreement...", This means that a customer must default on an arrears payment at least twice before the distributor may commence the disconnection process. The CLD suggests DSC section 2.7.4 state "Where a customer defaults in making a payment in accordance with an arrears payment agreement...".

With respect to section 2.7.4.1 of the DSC, the CLD requests that the distributor not be responsible for notifying the third party of the cancellation of the arrears management program due to default on one or more arrears payments. The customer should be responsible for this.

**Management of Customer Accounts**

Opening and Closing of Accounts

In reference to DSC section 2.8.2, distributors have created solutions that are very effective within their local service territories. As an example, housing developers work with distributors by providing information to set up new home owner customer accounts. The distributor sets up the accounts and then starts billing the new home owner on the closing date (as communicated by the developer). However, if written notification were to be required (or confirmation from the owner when a third party sets up the account), distributors will no longer find it worthwhile to offer this service convenience to new customers. This would result in a reduction in the level of service currently provided to new customers.

As an example of increased resource requirements, specific to the issue of opening and closing of accounts, one of the CLD members receives approximately 4000 builder notifications for homes and 3000 notifications for condominiums each year. The distributor estimates that it will have to add at least two FTEs just to handle the written contracts, and that number will increase if distributors must accept third party notifications, send notification to these new customers, and track the process.

In reference to DSC section 2.8.3 (i.e., requests to close accounts of tenants) the proposed amendments will result in either increased operational costs, or higher lost revenue, for distributors. Distributors will either have the choice of implementing costly and time consuming disconnections and reconnections each time a tenant moves out / moves in, or the distributor and its ratepayers will be subjected to increased risk for lost revenue for electricity consumed until the distributor has obtained agreement in writing for the new account. The CLD respectfully suggests that charges for service provided to a rental unit or residential property after the closure of an account should properly be the responsibility of the landlord, as they determine if and when a new tenant will move in. Distributors should not be encumbered by the poor or indifferent business practices of such landlords.

The CLD submits that the requirements of DSC section 6.1.2 would constitute a significant administrative burden and requires the distributor to wait until receiving such advice in writing. If the advice is not received then the distributor cannot bill, and, in turn, if the distributor does not bill and receive payment, then it must disconnect. That also raises the issue of the costs of disconnection/reconnection and who is to pay. It would be onerous to put those additional costs on the new customer but the alternative to recover those costs from all other ratepayers is also unfair.

The CLD suggests that it be permitted to use voice recordings in many of these situations, if they can alleviate some of this burden.

Section 6.1.2.3 of the DSC contains a typographical error. The word “it” preceding the phrase “not intended to void or cancel any binding agreements” should be replaced with the word “is”.

## 8. Summary and Recommendations

In summary of the comments and recommendations provided above, the CLD would like to reemphasize the major issues of timing of implementation, the costs of CIS changes, capacity and the cost of internal and external resources, customer communications and financial risk/rate impact (due to cash flow and non-payment of account).

For these reasons, and for the other reasons stated throughout this submission, the CLD recommends the establishment of an OEB Working Group, in order for the industry to understand the complicated issues captured in the October 1 Notice, and in order to reach industry consensus on final amendments to the Codes. The CLD submits that further stakeholder discussions on the significant code changes, is required prior to issuing the revised amendments.

The CLD looks forward to working with OEB Staff to the mutual benefit of all stakeholders.

All of which is respectfully submitted, this 23rd day of October, 2009.