

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*, 1998,
S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance against Toronto Hydro-Electric System
Limited.

BRIEF OF STATUTORY AND REGULATORY PROVISIONS

January 5, 2010

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Ontario Energy Board Act, 1998

S.O. 1998, CHAPTER 15 SCHEDULE B

Purposes

1. The purposes of this Act are,
 - (a) to ensure the adequacy, safety, sustainability and reliability of electricity supply in Ontario through responsible planning and management of electricity resources, supply and demand;
 - (b) to encourage electricity conservation and the efficient use of electricity in a manner consistent with the policies of the Government of Ontario;
 - (c) to facilitate load management in a manner consistent with the policies of the Government of Ontario;
 - (d) to promote the use of cleaner energy sources and technologies, including alternative energy sources and renewable energy sources, in a manner consistent with the policies of the Government of Ontario;
 - (e) to provide generators, retailers and consumers with non-discriminatory access to transmission and distribution systems in Ontario;
 - (f) to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service;
 - (g) to promote economic efficiency and sustainability in the generation, transmission, distribution and sale of electricity;
 - (h) to ensure that Ontario Hydro's debt is repaid in a prudent manner and that the burden of debt repayment is fairly distributed;
 - (i) to facilitate the maintenance of a financially viable electricity industry; and

(j) to protect corridor land so that it remains available for uses that benefit the public, while recognizing the primacy of transmission uses. 2004, c. 23, Sched. A, s. 1.

Requirement to hold licence

57. Neither the OPA nor the Smart Metering Entity shall exercise their powers or perform their duties under the *Electricity Act, 1998* unless licensed to do so under this Part and no other person shall, unless licensed to do so under this Part,

- (a) own or operate a distribution system;
- (b) own or operate a transmission system;
- (c) generate electricity or provide ancillary services for sale through the IESO-administered markets or directly to another person;
- (d) retail electricity;
- (e) purchase electricity or ancillary services in the IESO-administered markets or directly from a generator;
- (f) sell electricity or ancillary services through the IESO-administered markets or directly to another person, other than a consumer;
- (g) direct the operation of transmission systems in Ontario;
- (h) operate the market established by the market rules; or
- (i) engage in an activity prescribed by the regulations that relates to electricity. 1998, c. 15, Sched. B, s. 57; 2002, c. 1, Sched. B, s. 6; 2004, c. 23, Sched. B, s. 10; 2006, c. 3, Sched. C, s. 4.

Definition: “enforceable provision”

112.1 In this Part,

“enforceable provision” means,

- (a) a provision of this Act or the regulations,
- (b) section 25.33, 25.34, 26, 27, 28, 29, 31, 53.11, 53.13, 53.15, 53.16, 53.17 or 53.18 of the *Electricity Act, 1998*, or any other provision of that Act that is prescribed by the regulations,
- (b.1) regulations made under clause 114 (1.3) (f) or (h) of the *Electricity Act, 1998*,
- (c) a condition of a licence issued under Part IV or V,
- (d) a provision of the rules made by the Board under section 44,
- (e) a provision of an order of the Board, or
- (f) a provision of an assurance of voluntary compliance that is given to the Board under section 112.7 or that was entered into under section 88.8 before that section was repealed. 2003, c. 3, s. 76; 2004, c. 23, Sched. B, s. 33; 2006, c. 3, Sched. C, s. 7.

Procedure for orders under ss. 112.3 to 112.5

112.2 (1) An order under section 112.3, 112.4 or 112.5 may only be made on the Board’s own motion. 2003, c. 3, s. 76.

Notice

(2) The Board shall give written notice to a person that it intends to make an order under section 112.3, 112.4 or 112.5. 2003, c. 3, s. 76.

Contents of notice

(3) Notice under subsection (2) shall set out the reasons for the proposed order and shall advise the person that, within 15 days after receiving the notice, the person may give notice requiring the Board to hold a hearing. 2003, c. 3, s. 76.

Hearing

(4) A person to whom notice is given under subsection (2) may, within 15 days after receiving the notice, give notice to the Board requiring the Board to hold a hearing. 2003, c. 3, s. 76.

If hearing not required

(5) If no notice requiring a hearing is given within the time permitted by subsection (4), the Board may make an order. 2003, c. 3, s. 76.

Interim orders under s. 112.3

(6) An interim order of the Board may be made under section 112.3, with or without a hearing, and may take effect before the time for giving notice under subsection (4) has expired. 2003, c. 3, s. 76.

Action required to comply, etc.

112.3 (1) If the Board is satisfied that a person has contravened or is likely to contravene an enforceable provision, the Board may make an order requiring the person to comply with the enforceable provision and to take such action as the Board may specify to,

- (a) remedy a contravention that has occurred; or
- (b) prevent a contravention or further contravention of the enforceable provision. 2003, c. 3, s. 76.

Application

(2) This section applies to contraventions that occur before or after this section comes into force. 2003, c. 3, s. 76.

Suspension or revocation of licences

112.4 (1) If the Board is satisfied that a person who holds a licence under Part IV or V has contravened an enforceable provision, the Board may make an order suspending or revoking the licence. 2003, c. 3, s. 76.

Application

(2) This section applies to contraventions that occur before or after this section comes into force. 2003, c. 3, s. 76.

Administrative penalties

112.5 (1) If the Board is satisfied that a person has contravened an enforceable provision, the Board may, subject to the regulations under subsection (5), make an order requiring a person to pay an administrative penalty in the amount set out in the order for each day or part of a day on which the contravention occurred or continues. 2003, c. 3, s. 76.

Limitation

(2) The Board shall not make an order under subsection (1) in respect of a contravention later than two years after the later of,

(a) the day the contravention occurred; and

(b) the day on which the evidence of the contravention first came to the attention of the Board. 2003, c. 3, s. 76.

Amount of penalty, limited

(3) An administrative penalty in respect of a contravention shall not exceed \$20,000 for each day or part of a day on which the contravention occurs or continues. 2003, c. 3, s. 76.

No offence to be charged if penalty is paid

(4) If a person who is required by an order under subsection (1) to pay an administrative penalty in respect of a contravention pays the amount of the penalty in accordance with the order, the person shall not be charged with an offence in respect of the contravention. 2003, c. 3, s. 76.

Regulations

(5) The Lieutenant Governor in Council may make regulations,

(a) specifying types of contraventions in respect of which an order may not be made under this section and circumstances when the Board shall not make an order under this section;

(b) governing the determination of the amounts of administrative penalties, including the criteria to be considered and including providing for different amounts depending on when an administrative penalty is paid;

(c) respecting any other matter necessary for the administration of the system of administrative penalties provided for by this section. 2003, c. 3, s. 76.

General or particular

(6) A regulation under subsection (5) may be general or particular in its application. 2003, c. 3, s. 76.

Application

(7) Subject to subsection (8), this section applies to contraventions that occur before or after this section comes into force. 2003, c. 3, s. 76.

Same

(8) This section does not apply to a contravention that occurred before this section came into force unless, at the time it occurred, section 125.2 was in force and a notice could have been issued in respect of the contravention under that section. 2003, c. 3, s. 76.

Electricity Act, 1998

S.O. 1998, CHAPTER 15 SCHEDULE A

Distributor's obligation to connect

- 28.** A distributor shall connect a building to its distribution system if,
- (a) the building lies along any of the lines of the distributor's distribution system; and
 - (b) the owner, occupant or other person in charge of the building requests the connection in writing. 1998, c. 15, Sched. A, s. 28.

Sub-metering: condominiums

53.17 (1) Despite the *Condominium Act, 1998* and any other Act, a distributor and any other person licensed by the Board to do so shall, in the circumstances prescribed by regulation, install a smart meter, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies of a type prescribed by regulation, in a property or class of properties prescribed by regulation at a location prescribed by regulation and for consumers or classes of consumers prescribed by regulation at or within the time prescribed by regulation. 2006, c. 3, Sched. B, s. 2.

Non-application of registered declaration

(2) If a smart meter or smart sub-metering system is installed in accordance with subsection (1) in respect of a unit of a condominium, the distributor, retailer or any other person licensed to conduct activities referred to in subsection (1) shall bill the consumer based on the consumption or use of electricity by the consumer in respect of the unit despite a registered declaration made in accordance with the *Condominium Act, 1998*. 2006, c. 3, Sched. B, s. 2.

Priority over registered declaration

(3) Subsection (2) applies in priority to any registered declaration made in accordance with the *Condominium Act, 1998* or any by-law made by a condominium corporation registered in accordance with that Act and shall take priority to the declaration or by-law to the extent of any conflict or inconsistency. 2006, c. 3, Sched. B, s. 2.

Exclusive authority of Board

(4) A regulation referred to in subsection (1) may provide the Board with exclusive authority to approve or authorize, after a prescribed date,

(a) the smart meter, metering equipment, systems and technology and any associated equipment, systems and technologies; and

(b) the smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies. 2006, c. 3, Sched. B, s. 2.

Condominium Act, 1998

S.O. 1998, CHAPTER 19

1. (1) In this Act,

“building” means a building included in a property;

“corporation” means a corporation created or continued under this Act;

Registration

2. (1) Subject to the regulations made under this Act and subsection (2), a declaration and description may be registered by or on behalf of the person who owns the freehold or leasehold estate in the land described in the description. 1998, c. 19, s. 2 (1).

Restriction

(2) A declaration and description for a freehold condominium corporation shall not be registered by or on behalf of a person who does not own the freehold estate in the land described in the description. 1998, c. 19, s. 2 (2).

Effect of registration

(3) Upon registration of a declaration and description,

(a) this Act governs the land and the interests appurtenant to the land, as the land and the interests are described in the description;

(b) the land described in the description is divided into units and common elements in accordance with the description; and

(c) a condominium corporation is created. 1998, c. 19, s. 2 (3).

Other agreements

112. (1) Subject to subsection (4), a corporation may, by resolution of the board within 12 months following the election of a new board at a meeting held in accordance with subsection 43 (1), terminate an agreement mentioned in subsection

(2) that the corporation has entered into with a person other than another corporation before the election of the new board. 1998, c. 19, s. 112 (1).

Application

(2) Subsection (1) applies to the following agreements:

1. An agreement for the provision of goods or services on a continuing basis.
2. An agreement for the provision of facilities to the corporation on other than a non-profit basis.
3. A lease of all or part of the common elements for business purposes. 1998, c. 19, s. 112 (2).

Non-application

(3) Subsection (1) does not apply to a telecommunications agreement within the meaning of section 22. 1998, c. 19, s. 112 (3).

Notice

(4) To terminate an agreement, the board shall give at least 60 days notice in writing of the date of termination to the person with whom the corporation entered into the agreement. 1998, c. 19, s. 112 (4).

Exception, easements

(5) Nothing in this section permits the termination of an easement created by an instrument in writing except in accordance with the instrument. 1998, c. 19, s. 112 (5).

Ontario Energy Board Act, 1998
Loi de 1998 sur la Commission de l'énergie de l'Ontario

ONTARIO REGULATION 161/99

DEFINITIONS AND EXEMPTIONS

4.0.1 (1) Clause 57 (a) and sections 71, 72, 78, 80 and 86 of the Act do not apply to a distributor who distributes electricity for a price no greater than that required to recover all reasonable costs,

(a) with respect to a distribution system owned or operated by the distributor that is entirely located on land on which one or more of the following types of building or facilities is also located:

1. A building that forms part of a property as defined in the *Condominium Act, 1998*.
2. A residential complex as defined in the *Tenant Protection Act, 1997*.
3. An industrial, commercial or office building.
4. A university, a college of applied arts and technology established under the *Ministry of Training, Colleges and Universities Act* or another post-secondary institution.
5. A school or private school as defined in the *Education Act*.
6. A hospital as defined in the *Public Hospitals Act*, a private hospital as defined in the *Private Hospitals Act* or an institution as defined in the *Mental Hospitals Act*.
7. A shopping mall.
8. An airport.
9. A marina.
10. A mine as defined in the *Mining Act*;

Electricity Act, 1998
Loi de 1998 sur l'électricité

ONTARIO REGULATION 425/06

**CRITERIA AND REQUIREMENTS FOR METERS AND METERING
EQUIPMENT, SYSTEMS AND TECHNOLOGY**

Definition

1. In this Regulation,

“Functional Specifications” means the document entitled “Functional Specification for Advanced Metering Infrastructure – Version 2” dated July 5, 2007 and available at the Ministry of Energy, 4th Floor, Hearst Block, 900 Bay Street, Toronto, Ontario or on the Internet through the website of the Ministry. O. Reg. 440/07, s. 1.

Adoption of criteria and requirements

2. For residential and small general service consumers, the prescribed criteria and requirements for meters, metering equipment, systems and technology and any associated equipment, systems and technologies are the criteria and requirements specified in the Functional Specifications. O. Reg. 440/07, s. 1.

Electricity Act, 1998
Loi de 1998 sur l'électricité

ONTARIO REGULATION 442/07

**INSTALLATION OF SMART METERS AND SMART SUB-METERING
SYSTEMS IN CONDOMINIUMS**

Definitions

1. In this Regulation,

“board of directors” means the board of directors of a condominium corporation;

“condominium corporation” means a corporation created or continued under the *Condominium Act, 1998*;

“smart meters” includes smart meters, metering equipment, systems and technology and associated equipment, systems and technologies;

“smart sub-metering systems” includes smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies.
O. Reg. 442/07, s. 1.

Prescribed class of property

2. For the purposes of subsection 53.17 (1) of the Act, the following are prescribed classes of property:

1. A building on land for which a declaration and description have been registered pursuant to section 2 of the *Condominium Act, 1998*.
2. A building on land for which a declaration and description have been registered creating a condominium corporation that was continued pursuant to section 178 of the *Condominium Act, 1998*.
3. A building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the *Condominium Act, 1998*. O. Reg. 442/07, s. 2.

Prescribed circumstances

3. For the purposes of subsection 53.17 (1) of the Act, the following are prescribed circumstances:

1. The approval by the board of directors to install smart meters or smart sub-metering systems, in the case of a building that falls into a prescribed class of property described in paragraph 1 or 2 of section 2.
2. The installation of smart meters or smart sub-metering systems, in the case of a building that falls into a prescribed class of property described in paragraph 3 of section 2. O. Reg. 442/07, s. 3.

Installation of authorized metering technology

4. (1) For a class of property prescribed under section 2 and in the circumstances prescribed under section 3, a licensed distributor, or any other person licensed by the Board to do so, shall install smart meters or smart sub-metering systems of a type, class or kind,

- (a) that are authorized by an order of the Board or by a code issued by the Board; or
- (b) that meet any criteria or requirements that may be set by an order of the Board or by a code issued by the Board. O. Reg. 442/07, s. 4 (1).

(2) For licensed distributors installing smart meters in a class of property prescribed under section 2,

- (a) unless otherwise required by the Board, the distributor is not required to comply with the requirements set out in Ontario Regulation 425/06 (Criteria and Requirements for Meters and Metering Equipment, Systems and Technology) made under the Act; and
- (b) the distributor shall comply with the procurement requirements set out section 2 of Ontario Regulation 427/06 (Smart Meters: Discretionary Metering Activity and Procurement Principles) made under the Act. O. Reg. 442/07, s. 4 (2).

(3) For a person, other than a licensed distributor, who is licensed by the Board to engage in the activity prescribed by subsection 1 (2) of Ontario Regulation 443/07 (Licensing Sub-Metering Activities), made under the *Ontario Energy Board Act, 1998*, unless otherwise required by the Board, the person is not required to comply with the requirements set out in Ontario Regulation 425/06 made under the Act. O. Reg. 442/07, s. 4 (3).

(4) In this section,

“licensed distributor” means a distributor licensed by the Board under clause 57 (a) of the *Ontario Energy Board Act*, 1998. O. Reg. 442/07, s. 4 (4).

Exclusive authority of the Board

5. (1) Pursuant to subsection 53.17 (4) of the Act, the Board has the exclusive authority, on and after August 1, 2007, to approve or authorize the type, class or kind or to approve or authorize the criteria or requirements applicable to smart meters and smart sub-metering systems when installed in a class of property prescribed under section 2. O. Reg. 442/07, s. 5 (1).

(2) In carrying out its functions under subsection (1), the Board shall ensure that smart meters and smart sub-metering systems are capable of measuring electricity consumption or use in accordance with electricity rates that are based on the time of day when electricity is consumed or used and, at a minimum, are capable of measuring electricity consumption or use in hourly intervals. O. Reg. 442/07, s. 5 (2).

6. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 442/07, s. 6.

Ontario Energy Board Act, 1998
Loi de 1998 sur la commission de l'énergie de l'ontario

ONTARIO REGULATION 443/07

LICENSING SUB-METERING ACTIVITIES

Prescribed activities

1. (1) In relation to the classes of property prescribed by section 2 of Ontario Regulation 442/07 (Installation of Smart Meters and Smart Sub-Metering Systems in Condominiums) made under the *Electricity Act, 1998*, no person shall engage in an activity that is a prescribed activity under subsection (2) unless the person is licensed to do so under section 57 of the Act. O. Reg. 443/07, s. 1 (1).

(2) For the purposes of clause 57 (i) of the Act, the commercial offering or the commercial provision of smart meters, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies and any associated services is a prescribed activity. O. Reg. 443/07, s. 1 (2).



**NOTICE OF PROPOSAL TO AMEND A CODE AND
NOTICE OF PROPOSAL TO ISSUE A NEW CODE**

**PROPOSED AMENDMENT TO THE DISTRIBUTION SYSTEM CODE
AND CREATION OF THE SMART SUB-METERING CODE**

BOARD FILE NO.: EB-2007-0772

**To: All Licensed Electricity Distributors
All Licensed Electricity Retailers
All Participants in Proceeding RP-2005-0352
All Other Interested Parties**

Re: Code Amendments and Code Creation for the Licensing of Smart Sub-Metering Providers

The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (the "Act") of a proposed amendment to the Distribution System Code (the "DSC") and is giving notice under section 70.1 of the Act of the creation of a proposed Smart Sub-Metering Code (the "SSM Code") (altogether, the Notice").

The Board will not be granting cost awards in this matter.

I. Background

A. Regulations Regarding Smart Sub-Metering in Condominiums

Ontario Regulation 443/07—*Licensing Sub-Metering Activities* (made under the *Ontario Energy Board Act, 1998*) ("Regulation 443") came into force on December 31, 2007. Regulation 443 states that in relation to the classes of property prescribed by section 2 of Ontario Regulation 442/07, no person shall engage in the commercial offering or the commercial provision of smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies and any associated services unless licensed to do so by the Board.

The classes of property prescribed by section 2 of Ontario Regulation 442/07—*Installation of Smart Meters and Smart Sub-Metering Systems in Condominiums* (made under the *Electricity Act, 1998*) ("Regulation 442") are:

- (a) a building on land for which a declaration and description have been registered pursuant to section 2 of the *Condominium Act, 1998*;
- (b) a building on land for which a declaration and description have been registered creating a condominium corporation that was continued pursuant to section 178 of the *Condominium Act, 1998*; and
- (c) a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the *Condominium Act, 1998*.

For the purposes of this Notice, the three classes of property described above will be referred to as condominiums.

Therefore, any person wishing to engage in smart sub-metering services in condominiums will need to be licensed by the Board to provide those services.

B. Smart Metering Versus Smart Sub-Metering

The Board uses the term “smart metering” to describe the situation in which a licensed distributor individually meters every condominium unit (and the condominium's common areas) with a smart meter. In this scenario, each unit will become a residential customer of the licensed distributor and each unit and the common areas must have a separate account with the licensed distributor.

The Board uses the term “smart sub-metering” to describe the situation in which a licensed distributor provides service to the condominium's bulk (master) meter and then a separate person (the smart sub-meter provider on behalf of the condominium corporation) allocates that bill to the individual units and the common areas through the smart sub-metering system. In this scenario, the condominium continues to be the customer of the licensed distributor and will receive a single bill based on the measurement of the bulk (master) meter. The condominium corporation, which is responsible for the distribution of electricity on the consumer side of the bulk (master) meter, is an exempt distributor under section 4.0.1 of Ontario Regulation 161/99—*Definitions and Exemptions* (made under the Act). The smart sub-metering provider, which is acting on behalf of the exempt distributor, would then issue a bill to each unit and the common areas based on the consumption of the unit or common area.

C. Smart Metering

The Board has previously determined in rates proceedings related to smart metering activities of certain distributors that smart metering is a part of the distribution activity that is already covered by distributors' distribution licences. As there is no distinction between smart metering condominiums and other residences, the Board has determined that only licensed distributors can smart meter condominiums. In the Board's view, this is in keeping with the current regulatory framework in the electricity sector.

The Board is also of the view that Regulation 442 allows all licensed distributors to smart meter in condominiums. Even though only thirteen distributors were allowed to conduct discretionary metering activities for smart meters under Ontario Regulation 427/06—*Smart Meters: Discretionary Metering Activity and Procurement Principles* (made under the *Electricity Act, 1998*) ("Regulation 427"), Regulation 442 states that a licensed distributor shall install smart meters of a type, class or kind, for a certain type of property (i.e., condominiums) and in certain circumstances. Section 53.18 of the *Electricity Act, 1998* states that a distributor can conduct discretionary metering activities if the activity is authorized by the *Electricity Act, 1998* or regulation. Since section 53.17 of the *Electricity Act, 1998* authorizes distributors to install smart meters in condominiums and since Regulation 442 states that a licensed distributor shall install smart meters and neither of those instruments limits the number of distributors, all licensed distributors can install smart meters in condominiums.

Regulation 442 also states that licensed distributors who are installing smart meters in condominiums need to comply with the procurement requirements set out in section 2 of Regulation 427.

D. Smart Sub-Metering Providers

Smart sub-metering is not a distribution activity; therefore, anyone who wants to be a smart sub-metering provider needs to be licensed by the Board to do so under a Smart Sub-Metering Licence.

Since the provision of smart sub-metering services is a competitive activity, the Board intends to provide the minimum of oversight that is consistent with the protection of the interests of consumers with respect to the adequacy, reliability and quality of electricity service as they pertain to the licensed activities of the smart sub-metering provider.

Some aspects of a smart sub-metering provider's services are covered by other regulatory bodies. For example, the accuracy of the metering device is under the jurisdiction of Measurement Canada and the Electricity Safety Authority has jurisdiction over the standards for the installation of electrical equipment and the licensing system for electrical contractors, master electricians and electricians engaged to carry out the electrical work.

It should be noted that the Board has no rate-making authority over smart sub-metering providers. The condominium corporation maintains its status as an exempt distributor by recovering no more than its reasonable cost.

Section 71(1) of the Act states that distributors cannot carry on any business activity other than the distributing of electricity except through an affiliate. However, section 71(2) of the Act provides an exception from the general rule. Section 71(2) states that a distributor may provide services in accordance with section 29.1 of the *Electricity Act, 1998* that would assist the government of Ontario in meeting its objectives in relation to

electricity conservation. The enumerated services included in electricity conservation are services related to: the promotion of electricity conservation and the efficient use of electricity; electricity load management; and the promotion of cleaner energy sources, including alternative energy sources and renewable energy sources.

The Board is of the opinion that smart sub-metering of condominiums is intended to help the government achieve its conservation objectives through individual accountability for energy use and, eventually, load-shifting due to time-dependent pricing. The Board believes that smart sub-metering is covered by section 71(2) of the Act. Therefore, licensed distributors will be allowed to offer smart sub-metering services. A licensed distributor interested in providing smart sub-metering services would have to apply for a smart sub-metering licence distinct from its distribution licence. Licensed distributors who are also licensed as smart sub-metering providers would have to comply with all of the requirements of the smart sub-metering licence, including the SSM Code, as any other licensed smart sub-metering provider would.

II. Summary of the Proposed Amendments

The regulations provide the Board with certain powers in relation to technical requirements for smart meters and smart sub-meters that can be achieved by setting out the technical requirements in a code. The purpose of the amendments to the DSC is to encapsulate the technical requirements that a distributor must meet when smart metering condominiums.

The purpose of the proposed SSM Code is to set up a regulatory framework to support the smart sub-metering regulations. Furthermore, in order to ensure the adequacy, reliability and quality of electricity service to consumers they pertain to the licensed activities of the smart sub-metering provider, the Board needs to ensure that licensed smart sub-metering providers have appropriate rules in place for them to follow. The SSM Code will set out the minimum conditions and standards that a licensed smart sub-metering provider must meet when providing smart sub-metering services on behalf of exempt distributors.

A. The DSC

Regulation 442 states that licensed distributors shall install smart meters of a type authorized by an order or code issued by the Board or that meet the criteria or requirements that may be set by an order or code issued by the Board. Regulation 442 states that licensed distributors who are installing smart meters in condominiums do not need to comply with Ontario Regulation 425/06—*Criteria and Requirements for Meters and Metering Equipment, Systems and Technology* (made under the *Electricity Act*, 1998) ("Regulation 425") unless required to do so by the Board.

The Board has determined that licensed distributors installing smart meters in condominiums must comply with the requirements set out in Regulation 425. A section

will be added to the DSC to make that requirement mandatory for all licensed distributors.

Again, as stated above, Regulation 442 states that licensed distributors who are installing smart meters in condominiums need to comply with the procurement requirements set out in section 2 of Regulation 427. Since this is already a legal requirement imposed on licensed distributors by regulation, it will not be added into the DSC; however, the Board is taking this opportunity to remind all licensed distributors of that requirement.

The text of the proposed amendment to the DSC is set out in Attachment A to this Notice.

B. The SSM Code

A summary of the more significant proposed terms of the SSM Code are set out below. The text of the proposed SSM Code is set out in Attachment B to this Notice.

1. General Provisions

These sections will include the purpose of the SSM Code, the definitions to be used in the SSM Code, an interpretation clause, and a clause that allows the Board to make determinations under the SSM Code with or without a hearing.

This part of the SSM Code will also include the coming into force section (i.e., when it is published on the Board's website after being made by the Board) and the section setting out to whom the SSM Code applies (i.e., all persons licensed as smart sub-metering providers under section 57(i) of the Act).

Lastly, this part of the SSM Code will include the requirement that smart sub-metering providers can only carry out smart sub-metering activities in prescribed condominiums if the smart sub-metering provider has a contract with the specific condominium to do so.

2. Metering

Regulation 442 states that licensed distributors or any other person licensed by the Board to do so shall install smart sub-metering systems of a type authorized by an order or code issued by the Board or that meet the criteria or requirements that may set by an order or code issued by the Board. This part of the SSM Code sets out the technical requirements that smart sub-metering providers must meet. The technical requirements are the same as those set out in Regulation 425 except for the requirement to transmit information to the Smart Metering Entity's (the "SME") meter data management and meter data repository (the "MDM/R"). The Board believes that smart sub-metering providers' smart sub-metering systems should be able to do everything required by Regulation 425, including being capable of transmitting to the SME's MDM/R, but they are not required to transmit to the SME's MDM/R.

This part of the SSM Code also requires smart sub-metering providers to ensure that the bulk (master) meter for the condominium is an interval meter.

The SSM Code will also require smart sub-metering providers to implement and follow a validating, estimating and editing ("VEE") process. The VEE process must validate the data in a similar method to that used by the SME for data in the MDM/R.

This part of the SSM Code also includes provisions regarding the competency of persons involved in the metering services, standards for metering services, and resolution of metering disputes.

3. *Standards of Business Practice and Conduct*

The SSM Code will require smart sub-metering providers to disclose to the condominium corporation and consumers any agreement between itself or its affiliate and the condominium corporation or the developer.

The SSM Code will also require smart sub-metering providers to include certain information in all of their contracts with consumers, exempt distributors, and developers. The information includes but is not limited to: the disclosure of the smart sub-metering provider's capital investment and the types of costs included in the capital investment; the depreciation method used to depreciate the capital investment if the smart sub-metering provider is going to include that as part of a termination fee; and a description of, and whenever possible, the actual amount for, all termination fees and charges.

All smart sub-metering providers must have conditions of service. The conditions of service must be written and be made available to the public. A smart sub-metering provider must send a copy of its conditions of service to all of its consumers. If a smart sub-metering provider is going to amend its conditions of service, it must provide notice of the change to its consumers and a process by which the consumers can comment on the change. Smart sub-metering providers must provide a copy of the amended conditions of service to all of its consumers.

The conditions of service must include, among other things: its dispute resolution procedure; its security deposit procedure; and its disconnection/reconnection policy.

The SSM Code also includes a number of provisions relating to information that the smart sub-metering provider must provide to its consumers as well as the requirement that all smart sub-metering providers have a local telephone number for its consumers or one that is capable of being reached without charge to the consumer. There are also provisions that relate to the resolution of consumer complaints.

Lastly, this part of the SSM Code includes provisions relating to the transfer and assignment of contracts (i.e., can only be transferred or assigned to another licensed

smart sub-metering provider and notification of the transfer or assignment must be given to the Board and all of the smart sub-metering provider's consumers).

4. *Billing and Collection*

The SSM Code includes provisions relating to the collection and return of security deposits, including the requirement to have a security deposit policy as part of the smart sub-metering providers' conditions of service. The SSM Code sets out the restrictions on when a smart sub-metering provider can ask for a security deposit, what constitutes good payment history, and the maximum amount of a security deposit that the smart sub-metering provider can obtain. The security deposit provisions also set out what amount of interest is associated with the security deposit and rules relating to when the security deposit needs to be returned to the consumer.

If the contract between the condominium corporation or the developer allows the smart sub-metering provider to disconnect consumers, the SSM Code sets out rules for the smart sub-metering provider to follow. Smart sub-metering providers will need to have a process for disconnection and reconnection that specifies the notification requirements and the timing requirements for disconnection and reconnection as part of their conditions of service. The SSM Code also sets out certain reasons that smart sub-metering providers may consider when disconnecting a consumer.

Smart sub-metering providers must follow Ontario Regulation 275/04—*Information on Invoices to Low-Volume Consumers of Electricity* (made under the Act).

If a smart sub-metering provider assumes the payment of the bulk (master) invoice for the exempt distributor, then the amount to be collected from consumers shall not include any penalties assessed by the licensed distributor on the master bill.

III. Anticipated Costs and Benefits of the Proposed Amendments and the Proposed Code

As previously stated, the Board is of the opinion that smart sub-metering of condominiums is intended to help the government achieve its conservation objectives through individual accountability for energy use and, eventually, load-shifting due to time-dependent pricing. To that end, the government has issued Regulation 442 and Regulation 443 to ensure that licensed providers install smart meters or smart sub-metering systems in prescribed locations. The Board is proposing a Smart Sub-Metering Code in order to support the regulations and impose appropriate standards on the activities of the smart sub-metering providers.

The proposed change to the DSC will ensure that all distributors are following the same rules when smart metering, whether they are smart metering houses, condominiums, or small businesses.

The SSM Code will protect the interests of consumers with respect to the adequacy, reliability and quality of electricity service as they pertain to the licensed activities of the smart sub-metering provider by setting out the minimum standards and conditions with which a smart sub-metering provider must comply. The SSM Code provides for standards in the type of metering equipment to be used by smart sub-metering providers as well as billing and collection practices that smart sub-metering providers must follow. The SSM Code also includes provisions regarding the disclosure of information to consumers of smart sub-metering providers. These provisions will ensure that consumers within condominiums receive adequate information to make informed decisions about their consumption of electricity and are treated in a similar manner to those consumers served by a licensed distributor.

Smart sub-metering providers will incur costs to comply with the SSM Code. For example, smart sub-metering providers will face costs in having to provide a copy of all agreements entered into by it or an affiliate with the developer or an affiliate of the developer to all of its consumers. Likewise, smart sub-metering providers will incur costs in having to create conditions of service and send them to all of their consumers (as well as sending out any amended conditions of service to all of their consumers). Also, if a smart sub-metering provider does not have a local telephone number, it will need to have one that is capable of being reached without charge to the consumer and there may be a cost associated with that (i.e., a cost associated with obtaining and maintaining a toll free line or accepting collect calls etc.).

Overall, the Board anticipates that the benefits of the proposed DSC amendment and the proposed SSM Code will outweigh the costs of the proposed DSC amendment and the proposed SSM Code.

IV. Coming into Force

The Board proposes that the proposed amendment to the DSC and the new SSM Code, described above and set out more fully in Attachments A and B to this Notice, come into force on the date on which they are published on the Board's website after having been made by the Board.

V. Invitation to Comment

All interested parties are invited to make written submissions on the Board's proposed amendment to the DSC and the proposed new SSM Code set out in Attachments A and B to this Notice by **4:30 p.m. on January 31, 2008**. Your submission must quote file number **EB-2007-0772** and include your name, address, e-mail address, telephone number, and fax number.

Three (3) paper copies and one electronic copy of the written submissions must be provided.

Paper copies should be sent to:

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

The Board requests that interested parties make every effort to provide electronic copies of their submissions in searchable/unrestricted Adobe Acrobat (PDF) format, and to file their submissions 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 RESS e-Filing Guides also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of submissions 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 submissions in PDF format.

This Notice, including the attached proposed amendment to the DSC and the new SSM Code, and all written submissions received by the Board in response to this Notice, will be available for public viewing on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

If you have any questions regarding the proposed amendments described in this Notice, please contact Laurie Reid at 416-440-7623. The Board's toll free number is 1-888-632-6273.

DATED at Toronto, January 08, 2008.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Attachment A: Proposed Amendment to the Distribution System Code
Attachment B: Proposed Smart Sub-Metering Code

Attachment 'A'

Proposed Amendment to the Distribution System Code

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

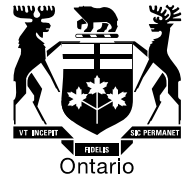
1. Section 5 of the Distribution Settlement Code is amended by adding the following new section 5.1.9 immediately after section 5.1.8:

5.1.9 Smart Meters in Condominiums

When requested by the board of directors of a condominium corporation or the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the Condominium Act, 1998, a distributor shall install metering that meets the functional specification of Ontario Regulation 425/06—Criteria and Requirements for Meters and Metering Equipment, Systems and Technology (made under the Electricity Act).

Attachment 'B'

Proposed Smart Sub-Metering Code



**NOTICE OF REVISED PROPOSAL TO AMEND A CODE AND
NOTICE OF REVISED PROPOSAL TO ISSUE A NEW CODE**

**REVISED PROPOSED AMENDMENT TO THE DISTRIBUTION SYSTEM CODE
AND CREATION OF THE REVISED SMART SUB-METERING CODE**

BOARD FILE NO.: EB-2007-0772

**To: All Licensed Electricity Distributors
All Licensed Electricity Retailers
All Participants in Proceeding RP-2005-0352
All Participants in EB-2007-0772
All Other Interested Parties**

**Re: Revised Code Amendment and Revised Code Creation for the Licensing of
Smart Sub-Metering Providers**

The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (the "Act") of a revised proposed amendment to the Distribution System Code (the "DSC") and is giving notice under section 70.1 of the Act of the creation of a revised proposed Smart Sub-Metering Code (the "SSM Code") (altogether, the "Notice").

The Board will not be granting cost awards in this matter.

I. Background and Summary of Comments

On January 7, 2008, the Board released a Notice of Proposal in which it proposed to amend the DSC and proposed the creation of a new SSM Code (the "January Notice"). The Board received 10 written submissions regarding the January Notice from a variety of stakeholders including distributors, an electricity retailer, a condominium corporation, and groups representing smart sub-metering providers, building owners, and consumers. The submissions are available for viewing on the Board's website at www.oeb.gov.on.ca.

The Board has considered all of the comments received and has determined that minor clarifying changes should be made in relation to some of the amendments proposed in the January Notice.

Further details regarding the comments received and the Board's responses are set out in sections A through D below. A summary of revised proposed amendments is set out in Part II.

Ontario Regulation 443/07-*Licensing Sub-Metering Activities* (made under the Act) requires the Board to licence persons engaged in the commercial offering or the commercial provision of smart sub-metering systems to the class of properties prescribed by Ontario Regulation 442/07-*Installation of Smart Meters and Smart Sub-Metering Systems in Condominiums* (made under the *Electricity Act, 1998* (the "Electricity Act")) (altogether, "Regulation 442").

The classes of property prescribed by Regulation 442 are:

- (a) a building on land for which a declaration and description have been registered pursuant to section 2 of the *Condominium Act, 1998*;
- (b) a building on land for which a declaration and description have been registered creating a condominium corporation that was continued pursuant to section 178 of the *Condominium Act, 1998*; and
- (c) a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the *Condominium Act, 1998*.

For the purposes of this Notice, the three classes of property described above will be referred to as condominiums.

The Board explained the distinction between smart metering and smart sub-metering in the January Notice. Smart metering describes the situation in which a licensed distributor individually meters every condominium unit (and the condominium's common areas) with a smart meter. Smart sub-metering describes the situation in which a licensed distributor provides service to the condominium's master (bulk) meter and then a separate person (the smart sub-meter provider on behalf of the condominium corporation) allocates that bill to the individual units and the common areas through the smart sub-metering system.

A. Condominiums as Exempt Distributors

Two stakeholders submitted that a condominium is not a distributor, and therefore cannot be an exempt distributor. The Board does not agree with this submission.

Under the Act, a distributor is a person who owns or operates a system for conveying electricity at voltages of 50 kilovolts or less.

Electricity distributors have a number of obligations under the Act as well as the Electricity Act. Unless exempted by regulation, these obligations include, but are not limited to:

- (a) having a Board-issued licence;
- (b) having a Board-approved rate order for distribution rates;
- (c) selling electricity to anyone connected to their system; and
- (d) providing access to their system for retailers to sell electricity.

The licences of electricity distributors require the distributors to comply with codes issued by the Board including the Distribution System Code, the Retail Settlement Code, the Affiliate Relationships Code, and the Standard Supply Service Code.

Section 4.0.1 of Ontario Regulation 161/99—*Definitions and Exemptions* (made under the Act) ("Regulation 161") provides an exemption from certain requirements of the Act, including the requirement to hold a licence and be rate-regulated, for a distributor who distributes electricity for a price no greater than that required to recover all reasonable costs and who owns or operates a distribution system that is entirely located on land on which a condominium (or other specified types of buildings or facilities) is located.

The Board refers to distributors who are unlicensed as a result of Regulation 161 as exempt distributors.

It is the Board's view that condominiums are included in the definition of distributor under the Act. If they were not included in the definition of distributors under the Act, there would have been no need to specifically exempt them under Regulation 161. The condominiums are therefore the exempt distributors.

An electricity retailer and a distributor both proposed that smart sub-metered consumers be allowed to exercise retail choice. However, the Board notes that section 2.2.1 of Ontario Regulation 160/99—*Definitions and Exemptions* (made under the Electricity Act) provides an exemption from section 26 of the Electricity Act (the obligation to provide non-discriminatory access) if the distributor is exempt from holding a licence under Regulation 161.

The group representing smart sub-metering providers asserted that the smart sub-metering provider is required to comply with the billing and collection services in section 4 of the proposed SSM Code on its own behalf rather than on behalf of the exempt distributor. The Board does not agree with this assertion. The Board is of the view that a smart sub-metering provider cannot undertake any prescribed activity, including associated services such as billing and collection activities, unless it has a contract with the condominium corporation or developer to do so.

B. Distributors, Smart Metering, and Smart Sub-Metering

Distributors, an electricity retailer and a group representing building owners all posed questions with regard to a licensed distributor's ability to both smart meter and smart sub-meter.

As set out in the January Notice, the Board remains of the view that smart metering is a distribution activity, and that the Electricity Act and Regulation 442 taken together allow all licensed distributors to undertake smart metering in condominiums. The distributor would do so as a distribution activity within its licensed service area.

One distributor has asserted that the potential additional costs of installing smart meters in condominiums must be funded by the condominium. The Board notes that section 3 of the DSC requires the distributor to set the basic connection under its Conditions of Service and allows the distributor to recover costs above and beyond the basic connection through a connection charge or equivalent payment. The basic connection should be equivalent in cost to any other residential connection.

As also set out in the January Notice, the Board remains of the view that smart sub-metering is intended to help the government achieve its conservation objectives, and therefore the Board believes that section 71(2) of the Act permits licensed distributors to smart sub-meter. To do so, a licensed distributor would have to apply for a smart sub-metering licence distinct from its distribution licence. If a licensed distributor chooses to obtain a smart sub-metering licence and provide smart sub-metering services, the Board's policies relating to conservation and demand management ("CDM") activities will apply. The Affiliate Relationships Code would only apply if the smart sub-metering provider was an affiliate of the licensed distributor rather than the licensed distributor itself.

One distributor sought assurance that it is not required to act as a default provider of smart sub-metering services. The Board confirms that if a condominium is smart sub-metered and the smart sub-metering provider ceases operations or ceases to honour its contract, the licensed distributor is not required to step in and provide smart sub-metering services to the condominium.

C. Smart Sub-Metering Providers and Smart Sub-Metering

Distributors, a condominium corporation, and a group representing consumers submitted that the Board should set rates for the smart sub-metering providers. As stated in the January Notice, the Board remains of the view that it has no rate-making authority over smart sub-metering providers.

Smart sub-metering providers offer their products and services in a competitive market. There are multiple service offerings from multiple providers from which developers and boards of directors of condominiums can compare and choose. The prices charged are therefore determined by the market forces of competitive supply and demand and are, presumably, reasonable. The developer or board of directors of a condominium are able to freely choose the product and services which meet their needs and then enter into a contract with the smart sub-metering provider for the requested product and/or services. Developers and boards of directors of condominiums can avail themselves of a number of resources to assist them before entering into a contract, including lawyers and building or condominium associations. It should be noted that smart sub-metering

is not a new activity—developers and boards of directors of condominiums have been entering into contracts with smart sub-metering providers for a number of years. The fact that smart sub-metering providers are now required to hold a licence should not alter or remove the obligations of parties to exercise the necessary care and diligence expected of parties before entering into a contract.

The Board will set out rules to protect the interests of consumers that are within its jurisdiction. In the proposed SSM Code, the Board has included customer protection measures similar to those provided to customers of licensed distributors regarding disconnection, security deposits, and the consumer complaint process. Otherwise, the Board has applied requirements similar to the other area of competition in the electricity sector—the retailing of the commodity.

The group representing smart sub-metering providers submitted that a smart sub-metering provider is, in its own right, a customer of the licensed distributor. The Board does not agree. In the DSC, "customer" means a person that has contracted for or intends to contract for connection of a building, and includes developers of residential or commercial sub-divisions. This definition flows from section 28 of the Electricity Act which obligates a distributor to connect a building if the building lies along any of the lines of the distributor's distribution system and "the owner, occupant or other person in charge of the building requests the connection in writing." The smart sub-metering provider is not the owner, occupant or person in charge of the building, and therefore can only request a connection if it has been authorized by one of these persons to do so.

Groups representing smart sub-metering providers and building owners submitted that the smart sub-metering provider is unable to ensure the master meter is an interval meter. The group representing the building owners further suggested that licensed distributors must be obligated to provide the interval meter in a timely and reasonable manner. Distributors stated that it is the licensed distributor that installs the master meter. One distributor submitted that the smart sub-metering provider must work with the licensed distributor to make the necessary arrangements and reimburse the licensed distributor's costs.

The Board agrees with the parties that it is the licensed distributor who is responsible for installing the master (bulk) meter. Furthermore, the Board notes it is the customer that must submit a written request to the licensed distributor if an interval meter is required. If the smart sub-metering provider submits this request, it is only able to do so if authorized by the customer. However, in order to provide reconciliation to the master bill, the smart sub-metering provider must ensure that an interval meter is provided. Since distributors are already required under section 5.1.5 of the DSC to "provide an interval meter within a reasonable period of time" at the customer's cost when requested by the customer or an authorized party, the smart sub-metering provider can ensure that the master meter is an interval meter (not necessarily a smart meter) capable of providing hourly data for reconciliation with the smart sub-metering data.

The smart sub-metering group also submitted that there were requirements in the SSM Code regarding the provision of information to customers that were more onerous than the requirements set out in the DSC for licensed distributors (i.e., providing Conditions of Service to all customers automatically). The Board agrees that the requirement in the SSM Code should mirror the requirement in the DSC and will therefore change that section of the SSM Code.

D. Other Issues Raised in the Submissions

A distributor and a group representing consumers provided comments on the need to protect confidential consumer information. The Board considers the issue of the protection of confidential consumer information to be adequately addressed in the smart sub-metering provider's licence. A sample of the smart sub-metering licence has been available on the Board's website since January 9, 2008.

Distributors have suggested that smart sub-metering providers be required to transmit meter data to the meter data management and meter data repository (the "MDM/R") managed by the Smart Metering Entity (the "SME"). The proposed SSM Code has specified that smart sub-metering systems must be capable of providing data to the SME but that they are not currently required to actually transmit the data. The Board remains of the view that this proposed provision is appropriate. The Board notes that one of the purposes of the SME is to avoid duplication of data management capability for smart metering in all licensed distributors but that smart sub-metering providers already have that capability as part of their service offerings. Also, the SME is currently in the initial phases of registering licensed distributors into its MDM/R. It is premature to require smart sub-metering providers to transmit data at this time. However, the Board considers it advisable to ensure that the smart sub-metering systems are capable of transmitting the data in the event the Board may determine such transmission is required.

Lastly, several stakeholders expressed concerns with the required form of the invoice for smart sub-metering providers and the type and transparency of the charges that appear on the invoice.

The Board notes that Ontario Regulation 275/04-*Information on Invoices to Low-Volume Consumers of Electricity* (made under the Act) applies to all invoices to low-volume consumers and specifies the information that must appear on invoices to low-volume consumers of electricity. This regulation applies whether the distributor is a licensed distributor or an exempt distributor and it would apply to a smart sub-metering provider issuing bills on behalf of an exempt distributor.

II. Summary of the Proposed Amendments

The January Notice summarized the general intent and purpose of the proposed amendments and discussed the specifics of the amendments to the DSC and the new

SSM Code. This notice discusses only the revisions being proposed to those original amendments.

A. The DSC

The Board has revised the formatting of the proposed section 5.1.9 of the DSC to clarify that it applies to existing condominiums as well as ones under development. The Board also added the word "smart" into the amendment to clarify that distributors are only required to smart meter under the DSC, not smart sub-meter.

The complete text of the proposed amendment to the DSC is set out in Attachment B to this Notice.

B. The SSM Code

The Board has revised section 2.2.1 of the SSM Code to clarify that it is the developer or the board of directors of the condominium corporation who is the customer of a licensed distributor and that it is the customer who requests an interval meter as the master meter. The revision to section 2.2.1 of the SSM Code also confirms that it is the licensed distributor that installs the master meter. The section still requires a smart sub-metering provider to ensure that the master meter is an interval meter before beginning to provide smart sub-metering services.

The Board has revised section 3.1.2 of the SSM Code to require the smart sub-metering provider to provide copies of the agreements in 3.1.1 of the SSM Code only when requested as opposed to providing the agreements to each consumer automatically.

The Board has revised section 3.2.2 of the SSM Code to require the smart sub-metering provider to make a copy of its Conditions of Service available on its website. The Board has deleted section 3.2.3 of the SSM Code which required the smart sub-metering provider to provide a copy of its Conditions of Service to each of its consumers. The Board agrees with the submissions of the parties that stated that the DSC only required a distributor's Conditions of Service be provided upon request. The requirements set out in section 3.2.2 of the SSM Code are more in keeping with the provision of the DSC. Smart sub-metering providers will now only have to provide a copy of Conditions of Service to a person upon request as opposed to providing the Conditions of Service to each consumer automatically.

Because of the deletion of section 3.2.3 of the SSM Code, the other remaining subsections of section 3.2 were renumbered.

Lastly, the Board has revised section 4.1.14 of the SSM Code to put the onus on the smart sub-metering provider to respond to a request from a consumer to review the consumer's security deposit.

The complete text of the SSM Code is set out in Attachment D to this Notice.

III. Anticipated Costs and Benefits of the Proposed Amendments and the Proposed Code

As stated in the January Notice, the Board is of the opinion that smart sub-metering of condominiums is intended to help the government achieve its conservation objectives through individual accountability for energy use and, eventually, load-shifting due to time-dependent pricing. To that end, the government has issued Regulation 442 and Regulation 443 to ensure that licensed providers install smart meters or smart sub-metering systems in prescribed locations. The amendment to the DSC and the issuance of the SSM Code are in support of the regulations.

The proposed change to the DSC will help to clarify who can ask for the installation of smart meters and that distributors are only required to provide smart meters to the prescribed locations. This additional clarity will benefit the industry by ensuring that all parties understand their roles in the smart metering framework.

The SSM Code will protect the interests of consumers with respect to the adequacy, reliability and quality of electricity service as they pertain to the licensed activities of the smart sub-metering provider by setting out the minimum standards and conditions with which a smart sub-metering provider must comply.

Smart sub-metering providers will incur costs to comply with the SSM Code. However, in response to comments from stakeholders, the Board has revised the SSM Code to try to limit the costs by only requiring disclosure of certain documents when they are requested by a consumer.

Overall, the Board anticipates that the benefits of the proposed DSC amendment and the proposed SSM Code will outweigh the costs of the proposed DSC amendment and the proposed SSM Code.

IV. Coming into Force

The Board proposes that the proposed amendment to the DSC and the new SSM Code, described above and set out more fully in Attachments B and D to this Notice, come into force on the date on which they are published on the Board's website after having been made by the Board.

V. Invitation to Comment

All interested parties are invited to make written submissions on the Board's revised proposed amendment to the DSC and the revised proposed SSM Code set out in Attachments A and B to this Notice by **4:30 p.m. on June 24, 2008**. The Board asks that interested parties confine their comments to the revisions to the proposed amendments as shown in the comparison version of the proposed amendments set out

in Attachments B and D. Your submission must quote file number **EB-2007-0772** and include your name, address, e-mail address, telephone number, and fax number.

The Board requests that interested parties make every effort to provide electronic copies of their submissions in searchable/unrestricted Adobe Acrobat (PDF) format, and to file their submissions through the Board's web portal at www.err.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 RESS e-Filing Guides also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of submissions may be filed by e-mail at boardsec@oeb.gov.on.ca.

Those that do not have internet access must provide three (3) paper copies and one electronic copy of the written submissions. The electronic copy should be a CD or diskette containing their submissions in PDF format.

Paper copies should be sent to:

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

This Notice, including the attached revised proposed amendment to the DSC and the revised SSM Code, and all written submissions received by the Board in response to this Notice, will be available for public viewing on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

If you have any questions regarding the proposed amendments described in this Notice, please contact Laurie Reid at 416-440-7623. The Board's toll free number is 1-888-632-6273.

DATED at Toronto, June 10, 2008.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Attachments:

- Attachment A: Revised Proposed Amendment to the Distribution System Code (Comparison Version)
- Attachment B: Revised Proposed Amendment to the Distribution System Code (Clean Version)
- Attachment C: Revised Proposed Smart Sub-Metering Code (Comparison Version)
- Attachment D: Revised Proposed Smart Sub-Metering Code (Clean Version)

Attachment A**Revised Proposed Amendment to the Distribution System Code (Comparison Version)**

1. Section 5 of the Distribution Settlement Code is amended by adding the following new section 5.1.9 immediately after section 5.1.8:

5.1.9 Smart Meters in Condominiums

When requested by [either:](#)

- [\(a\)](#) the board of directors of a condominium corporation; or
- [\(b\)](#) the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the Condominium Act, 1998,

a distributor shall install [smart](#) metering that meets the functional specification of Ontario Regulation 425/06—Criteria and Requirements for Meters and Metering Equipment, Systems and Technology (made under the Electricity Act).

Attachment B**Revised Proposed Amendment to the Distribution System Code (Clean Version)**

1. Section 5 of the Distribution Settlement Code is amended by adding the following new section 5.1.9 immediately after section 5.1.8:

5.1.9 Smart Meters in Condominiums

When requested by either:

- (a) the board of directors of a condominium corporation; or
- (b) the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the Condominium Act, 1998,

a distributor shall install smart metering that meets the functional specification of Ontario Regulation 425/06—Criteria and Requirements for Meters and Metering Equipment, Systems and Technology (made under the Electricity Act).

Attachment C

Revised Proposed Smart Sub-Metering Code (Comparison Version)

(see attached document)

Attachment D

Revised Proposed Smart Sub-Metering Code (Clean Version)

(see attached document)

ONTARIO ENERGY BOARD

Distribution System Code

1.2 Definitions

In this Code:

“Conditions of Service” means the document developed by a distributor in accordance with subsection 2.3 of this Code that describes the operating practices and connection rules for the distributor;

2.4.6 A distributor’s Conditions of Service shall include, at a minimum, a description of the following:

- The types of connection service performed by the distributor for each customer class, and the conditions under which these connections will be performed (connection policy).
- The distributor’s basic connection service that is recovered through its revenue requirements and does not require a variable connection charge.
- The distributor’s capital contribution policy by customer class for an offer to connect, including procedures for collection of capital contributions.
- The demarcation point at which the distributor’s operational responsibilities for distribution equipment end at the customer.
- The demarcation point at which the distributor’s ownership of distribution equipment ends at the customer.
- The billing cycle period and payment requirements by customer class.
- Design requirements for connection to the distribution system.
- Voltages at which the distributor provides electricity and corresponding load thresholds.
- Type of meters provided by the distributor.
- Meters required by customer class.

- Quality of Service standards to which the distribution system is designed and operated.
- Conditions under which supply may be unreliable or intermittent.
- Conditions under which service may be interrupted.
- Conditions under which the distributor may disconnect a consumer.
- Policies for planned interruptions.
- The business process the distributor uses to disconnect and reconnect consumers, including means of notification and timing.
- The distributor's rights and obligations with respect to a customer.
- Rights and obligations a consumer or embedded generator has with respect to the distributor.
- The distributor's liability limitations in accordance with this Code.
- The distributor's dispute resolution procedure.
- Terms and conditions under which the distributor provides other services in its capacity as a distributor.

The conditions of service must be consistent with the provisions of this Code and all other applicable codes and legislation including the Rate Handbook.

2.4.20 A distributor shall permit the customer to provide a security deposit in equal installments paid over at least four months. A customer may, in its discretion, choose to pay the security deposit over a shorter time period.

3.1.1 In establishing its connection policy as specified in its Conditions of Service, and determining how to comply with its obligations under section 28 of the *Electricity Act*, a distributor may consider the following reasons to refuse to connect, or continue to connect, a customer:

- (a) contravention of the laws of Canada or the Province of Ontario including the Ontario Electrical Safety Code;
- (b) violation of conditions in a distributor's licence;

(c) materially adverse effect on the reliability or safety of the distribution system;

(d) imposition of an unsafe worker situation beyond normal risks inherent in the operation of the distribution system;

(e) a material decrease in the efficiency of the distributor's distribution system;

(f) a materially adverse effect on the quality of distribution services received by an existing connection; and

(g) if the person requesting the connection owes the distributor money for distribution services, or for non-payment of a security deposit. The distributor shall give the person a reasonable opportunity to provide the security deposit consistent with section 2.4.20.

3.1.3 If a distributor refuses to connect a customer, the distributor shall inform the person requesting the connection of the reason(s) for not connecting and, where the distributor is able to provide a remedy, make an offer to connect. If the distributor is unable to provide a remedy to resolve the issue, it is the responsibility of the customer to do so before a connection may be made.

5.1.9 When requested by either:

(a) the board of directors of a condominium corporation; or

(b) the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the *Condominium Act, 1998*,

a distributor shall install smart metering that meets the functional specification of Ontario Regulation 425/06–*Criteria and Requirements for Meters and Metering Equipment, Systems and Technology* (made under the Electricity Act).



ONTARIO ENERGY BOARD

Smart Sub-Metering Code

July 24, 2008

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Smart Sub-Metering Code

1 GENERAL PROVISIONS

1.1 The Purpose of this Code

1.1.1 The purpose of this Smart Sub-Metering Code (the "Code") is to set out the minimum conditions and standards that a licensed smart sub-metering provider must meet when providing smart sub-metering services on behalf of exempt distributors.

1.2 Definitions

1.2.1 In this Code:

"Act" means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

"affiliate" has the same meaning as in the *Business Corporations Act* (Ontario);

"Board" means the Ontario Energy Board;

"business day" means any day that is not a Saturday, a Sunday, or a legal holiday in the Province of Ontario;

"Conditions of Services" means the document developed by smart sub-metering providers in accordance with section 3.2.1 of this Code that describes the operating practices and connection rules for the smart sub-metering provider;

"condominium corporation or developer" means the person authorized to contract for smart sub-metering services on behalf of a prescribed location;

"consumer" means either the condominium corporation or the person who requires an account with the smart sub-metering provider in order to receive metering and billing services;

"Electricity Act" means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

"exempt distributor" means a distributor as defined under section 56 of the Act who is exempted from various requirements in the Act by Ontario Regulation 161/99—*Definitions and Exemptions* (made under the Act);

"IESO" means the Independent Electricity System Operator continued under the Electricity Act;

Smart Sub-Metering Code

“interval meter” means a meter that measures and records electricity use on an hourly or sub-hourly basis;

“licensed distributor” means the distributor in whose licensed service area the prescribed location is located;

“master bill” means the bill issued by the licensed distributor to the master consumer;

“master consumer” means the condominium corporation or the developer for the prescribed location being served by the licensed distributor;

“master meter” means the meter controlled by the licensed distributor and used for settlement of the master bill with the master consumer;

"metering services" means installation, testing, reading, and maintenance of meters;

“prescribed activity” means one of the activities prescribed by Ontario Regulation 443/07;

“prescribed location” means one of the classes of property prescribed by Ontario Regulation 442/07;

“regulation” means a regulation made under the Act or the Electricity Act;

"Smart Metering Entity" means the smart metering entity established under Part IV.2 of the Electricity Act, or more specifically, the IESO as prescribed by Ontario Regulation 393/07;

“smart sub-metering provider” means a person licensed by the Board to provide a prescribed activity in a prescribed location;

“smart sub-metering system” means a system, equipment and technology and any associated equipment, systems and technologies used to smart sub-meter a prescribed location;

“third party” with respect to a smart sub-metering provider, means any person other than the smart sub-metering provider;

“validating, estimating and editing” (“VEE”) means the process used to validate, estimate and edit raw metering data to produce final metering data or to replicate metering data for settlement purposes.

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1.3 Interpretations

- 1.3.1 Unless otherwise defined in this Code, words and phrases shall have the meanings ascribed to them in the Act or the Electricity Act, as the case may be. Where a word or phrase is defined in this Code, the Act or the Electricity Act, other parts of speech and grammatical forms of the word or phrase have a corresponding meaning. Headings are for convenience only and shall not affect the interpretation of this Code. Words importing the singular include the plural and vice versa. Words importing a gender include any gender. Words importing a person include: (i) an individual; (ii) a company, sole proprietorship, partnership, trust, joint venture, association, corporation or other private or public body corporate; and (iii) any government, government agency or body, regulatory agency or body or other body politic or collegiate. A reference to a person includes that person's successors and permitted assigns. A reference to a body, whether statutory or not, that ceases to exist or whose functions are transferred to another body is a reference to the body that replaces it or that substantially succeeds to its powers or functions. A reference to a document (including a statutory instrument) or a provision of a document includes any amendment or supplement to, or any replacement of, that document or that provision. The expression "including" means including without limitation.

1.4 To Whom this Code Applies

- 1.4.1 This Code applies to all persons licensed as smart sub-metering providers under section 57(i) of the Act to provide prescribed activities.

1.5 Coming into Force

- 1.5.1 This Code shall come into force on the date that the Board publishes the Code by placing it on the Board's website after it has been made by the Board.

1.6 Requirements for Board Approvals

- 1.6.1 Any matter under this Code requiring a determination of the Board may be determined by the Board without a hearing or through an oral, written or electronic hearing, at the Board's discretion.

1.7 Contract with a Prescribed Location

- 1.7.1 A smart sub-metering provider shall not undertake any prescribed activity in a prescribed location unless the smart sub-metering provider has a contract with the condominium corporation or developer to do so.

Smart Sub-Metering Code

2 METERING

2.1 Technical Requirements for a Smart Sub-Metering System

2.1.1 A licensed smart sub-metering provider shall comply with the requirements set out in the Functional Specification document referred to in Ontario Regulation 425/06 (Criteria and Requirements for Meters and Metering Equipment, Systems and Technology) made under the Electricity Act with the following modifications:

- (a) for the purposes of this Code, the definitions of "distributor" and "MDM/R" will be deemed to be as follows:
 - (i) "distributor" has the meaning provided in the Act or means a person licensed under subsection 57(i) of the Act for the purpose of engaging in a prescribed activity under section 1(2) of Ontario Regulation 443/07 (Licensing Sub-Metering Activities) made under the Act; and
 - (ii) "MDM/R" means the meter data management and meter data repository functions, within which Meter Reads are processed to produce rate-ready data and are stored for future use, as selected by the person licensed under subsection 57(i) of the Act. There is no requirement for the metering and billing system of a person licensed under subsection 57(i) to interface and/or integrate with the Smart Metering Entity's system; nor is there a requirement for meter data functions to be performed by the Smart Metering Entity, unless the person licensed under subsection 57(i) chooses to interface and integrate its metering and billing system with the Smart Metering Entity's system. If the person licensed under subsection 57(i) does not choose to interface and integrate its metering and billing system with the Smart Metering Entity's system, the person shall perform meter data functions. Meter data functions include the verification, validation and editing of meter data, the processing of meter data into data that is ready for billing purposes, the aggregation of meter data into rate periods and the storing and managing of meter data; and
- (b) for the purposes of this Code, the following definition of "Smart Metering Entity" will be deemed to be added as follows:
 - (i) "Smart Metering Entity" means the smart metering entity established under Part IV.2 of the Electricity Act.

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2.2 Technical Requirements for the Master Meter

2.2.1 A smart sub-metering provider shall ensure that either:

- (a) the board of directors of a condominium corporation; or
- (b) the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the *Condominium Act, 1998*,

has requested, and a distributor has installed, a master meter that is an interval meter before beginning to provide smart sub-metering services.

2.3 Validating, Estimating and Editing Process

2.3.1 Metering data collected by a smart sub-metering provider shall be subjected to a validating, estimating and editing (“VEE”) process if it is to be used for billing purposes.

2.3.2 A smart sub-metering provider shall establish a VEE process that is fair and reasonable and provides assurance that correct data is submitted for the billing process. The VEE process shall do the following:

- (a) convert raw metering data into validated, corrected or estimated “bill-ready” metering data suitable for use in determining billing amounts;
- (b) detect errors in metering data introduced as a result of improper operational conditions and/or hardware/software malfunctions, including failures of or errors in metering or communication hardware, and metering data exceeding pre-defined variances or tolerances; and
- (c) use operational system data, including historical load patterns and data collected by the smart sub-metering provider, as appropriate, for validating raw metering data, and for editing, estimating and correcting metering data found to be erroneous or missing.

2.3.3 A smart sub-metering provider’s VEE process for data from the smart sub-metering system shall consider industry standards specified by the SME in its VEE process for smart meters.

2.3.4 A smart sub-metering provider shall document and make available its VEE process and criteria, and allow scrutiny of its process by consumers, retailers, the Board and Measurement Canada.

2.4 Metering Services

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- 2.4.1 A smart sub-metering provider shall comply with Measurement Canada standards as a minimum metering installation and measurement standard, and may apply any other practices that exceed those standards.
- 2.4.2 A smart sub-metering provider shall ensure that persons involved in metering services have competency in performing these services. Competency may be based on recognized qualification requirements that include a training course that meets the requirements of the tasks to be performed. Metering services provided by a person that does not have the recognized qualification requirements shall be reviewed, affirmed and documented by a person with exhibited competency.
- 2.4.3 A smart sub-metering provider shall exercise appropriate diligence in detecting and acting upon instances of tampering with metering equipment. Upon identification of possible meter tampering, the smart sub-metering provider should notify, as appropriate, Measurement Canada, police officials, the Electrical Safety Authority, or other entities.
- 2.4.4 Nothing in this Code shall affect the obligation of a smart sub-metering provider to comply with all Measurement Canada requirements provided that, where this Code or other conditions of licence prescribe a higher standard than that prescribed in those requirements, the smart sub-metering provider shall comply with the higher standard.
- 2.4.5 A smart sub-metering provider shall respond to consumer metering disputes, and shall establish a fair and reasonable charge for costs associated with resolution of these disputes. If the complaint is substantiated, the charge shall not be applied. In resolving the dispute, a smart sub-metering provider may use a qualified, independent organization at anytime during the dispute resolution process.

3 STANDARDS OF BUSINESS PRACTICE AND CONDUCT

3.1 Disclosure of Agreements and Disclosure in Agreements

- 3.1.1 Upon creation of a condominium corporation for a prescribed location, the smart sub-metering provider shall disclose to the condominium corporation all agreements between itself or its affiliate and the developer of the condominium or an affiliate of the developer.
- 3.1.2 A smart sub-metering provider shall provide a copy of the agreements referred to in section 3.1.1 to each consumer upon request.
- 3.1.3 Every contract a smart sub-metering provider has with a consumer, exempt distributor, or developer, shall include the following information:

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- (a) the smart sub-metering provider's capital investment and a description of all types of costs that can be included in the capital investment;
- (b) the depreciation method used to depreciate the capital investment if there are to be undepreciated capital costs recovered upon termination of the contract;
- (c) a description of, and whenever possible, the actual amount for, all fees and charges related to the provision of the smart sub-metering service; and
- (d) a description of, and whenever possible, the actual amount for, all fees and charges related to the termination of the contract including:
 - (i) any fees or charges for the disconnection and removal of the installed smart sub-metering systems;
 - (ii) any fees and charges related to the repayment of the undepreciated capital cost of the smart sub-metering provider's capital investment; and
 - (iii) the length of time allowed to repay the amount in section (ii) above.

3.2 Conditions of Service

- 3.2.1 A smart sub-metering provider shall document its operating practices and connection policies in a document to be entitled Conditions of Service. Subject to this Code and other applicable laws, a smart sub-metering provider shall comply with its Conditions of Service but may waive a provision of its Conditions of Service in favour of a consumer or potential consumer.
- 3.2.2 A smart sub-metering provider shall make its Conditions of Service publicly available, post it on its web-site, and provide a copy to any person requesting it.
- 3.2.3 A smart sub-metering provider shall provide advance notice to its consumers of any changes to its Conditions of Service. Notice shall be, at a minimum, provided to each consumer by means of a note on, or included with, the consumer's bill. The notice shall include a proposed timeline for implementation of the new Conditions of Service and a means by which consumers' comments may be provided.
- 3.2.4 If a smart sub-metering provider amends its Conditions of Service, it shall provide one copy of the amended Conditions of Service for each of its consumers. The copy of the amended document shall include a cover letter that outlines the changes from the prior document, as well as a summary of any consumer comments on the changes.
- 3.2.5 A smart sub-metering provider's Conditions of Service shall include, at a minimum, a description of the following:
 - (a) its billing cycle period and payment requirements;

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- (b) its security deposit procedure;
- (c) its dispute resolution procedure;
- (d) its business process for disconnecting and reconnecting consumers, including means of notification and timing;
- (e) conditions under which it may disconnect a consumer; and
- (f) the smart sub-metering provider's rights and obligations with respect to a consumer.

3.2.6 The Conditions of Service must be consistent with the provisions of this Code and all other applicable legislation and regulatory requirements.

3.3 Provision of Information to Consumers and Consumer Complaints

- 3.3.1 A smart sub-metering provider shall communicate general market and educational information to consumers to whom it provides a bill as required by the Board.
- 3.3.2 A smart sub-metering provider shall provide its address and telephone number to its consumers in all written communications between the smart sub-metering provider and the consumer. The smart sub-metering provider's telephone number must be a local number or one that is capable of being reached without charge to the consumer.
- 3.3.3 If any consumer makes a complaint to a smart sub-metering provider regarding its services, the smart sub-metering provider shall expeditiously investigate the complaint and take all appropriate and necessary steps to resolve the complaint. If the complaint is not resolved to the satisfaction of the consumer, the smart sub-metering provider shall provide to the consumer the telephone number of the Board's Consumer Relations Centre.
- 3.3.4 In cases where a consumer complaint has been referred to the smart sub-metering provider from the Board and resolution of the complaint is reached, the smart sub-metering provider shall implement the resolution immediately and shall confirm this, in writing, to the Board.

3.4 Transfer and Assignment of Contracts

- 3.4.1 A smart sub-metering provider shall not sell, transfer, or assign a contract with a consumer to another person who is not a licensed smart sub-metering provider.
- 3.4.2 Prior to the sale, transfer, or assignment of a contract, the smart sub-metering provider shall ensure that all relevant consumer information including, but not limited to, information regarding security deposits and consumption, is properly transferred to the new smart sub-metering provider to allow for the continuous billing of consumers.

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- 3.4.3 Prior to the termination of a contract, the smart sub-metering provider shall ensure that all relevant consumer information including, but not limited to, information regarding security deposits and consumption, is properly transferred to the exempt distributor to allow for the continuous billing of consumers.
- 3.4.4 A smart sub-metering provider must notify the Board of any sale, transfer, or assignment of contracts within 10 days of the sale, transfer, or assignment.
- 3.4.5 Within 60 days of any sale, transfer, or assignment of a contract to another smart sub-metering provider, the new smart sub-metering provider must notify the affected consumers of the new smart sub-metering provider's address and telephone number.

4 BILLING AND COLLECTION

4.1 Security Deposits

- 4.1.1 A smart sub-metering provider who is contracted to collect security deposits on behalf of the condominium corporation or developer shall ensure that its Conditions of Service include the smart sub-metering provider's security deposit policy which shall be consistent with the provisions of this Code. A smart sub-metering provider's security deposit policy shall include at a minimum the following:
 - (a) a list of all potential types/forms of security accepted;
 - (b) a detailed description of how the amount of security is calculated;
 - (c) limits on the amount of security required;
 - (d) the planned frequency, process and timing for updating security deposits;
 - (e) criteria consumers must meet to have security deposit waived and/or returned; and
 - (f) methods of enforcement where a security deposit is not paid.
- 4.1.2 In managing consumers' non-payment risk, a smart sub-metering provider shall not discriminate among consumers with similar risk profiles or risk related factors except where expressly permitted under this Code.
- 4.1.3 A smart sub-metering provider may require a security deposit from a consumer unless the consumer has a good payment history of 1 year. The time period that makes up the good payment history must be the most recent period of time and some of the time period must have occurred in the previous 24 months. A smart sub-metering provider shall provide a consumer with the specific reasons for requiring a security deposit from the consumer.

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- 4.1.4 For the purposes of section 4.1.3, a consumer is deemed to have a good payment history unless, during the relevant time period set out in section 4.1.3, the consumer has received more than one disconnection notice from the smart sub-metering provider, more than one cheque given to the smart sub-metering provider by the consumer has been returned for insufficient funds, more than one pre-authorized payment to the smart sub-metering provider has been returned for insufficient funds or a disconnect / collect trip has occurred. If any of the preceding events occur due to an error by the smart sub-metering provider, the consumer's good payment history shall not be affected.
- 4.1.5 For the purposes of section 4.1.3, a smart sub-metering provider shall deem a consumer to have a good payment history if the consumer provides a letter from a licensed electricity distributor or gas distributor in Canada confirming a good payment history with that distributor for the most recent relevant time period set out in section 4.1.3 where some of the time period which makes up the good payment history has occurred in the previous 24 months.
- 4.1.6 The maximum amount of a security deposit which a smart sub-metering provider may require a consumer to pay shall be calculated by multiplying the smart sub-metering provider's billing cycle factor and the consumer's estimated bill (which shall be based on the consumer's average monthly load with the smart sub-metering provider during the most recent 12 consecutive months within the past two years). Where relevant usage information is not available for the consumer for 12 consecutive months within the past two years or where the smart sub-metering provider does not have systems capable of making the above calculation, the consumer's average monthly load shall be based on a reasonable estimate made by the smart sub-metering provider.
- 4.1.7 For the purposes of sections 4.1.6, the billing cycle factor is 2.5 if the consumer is billed monthly, 1.75 if the consumer is billed bi-monthly and 1.5 if the consumer is billed quarterly.
- 4.1.8 Where a consumer has a payment history which discloses more than one disconnection notice in a relevant 12 month period, the smart sub-metering provider may use that consumer's highest actual or estimated monthly load for the most recent 12 consecutive months within the past two years for the purposes of making the calculation of the maximum amount of security deposit under section 4.1.6.
- 4.1.9 Subject to section 4.1.2, a smart sub-metering provider may at its discretion reduce the amount of a security deposit which it requires a consumer to pay for any reason including where the consumer pays under an interim payment arrangement and where the consumer makes pre-authorized payments.

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- 4.1.10 The form of payment of a security deposit for a consumer shall be cash or cheque at the discretion of the consumer or such other form as is acceptable to the smart sub-metering provider.
- 4.1.11 A smart sub-metering provider shall permit the consumer to provide a security deposit in equal installments paid over at least four months. A consumer may, in its discretion, choose to pay the security deposit over a shorter time period.
- 4.1.12 Interest shall accrue monthly on security deposits made by way of cash or cheque commencing on receipt of the total deposit required by the smart sub-metering provider. The interest rate shall be at the average over the period of the prime lending rate set by the Bank of Canada less 2 percent. The interest accrued shall be paid out at least once every 12 months or on return of the security deposit or upon the application of the security deposit to the consumer's account or upon the closure of the consumer's account, whichever comes first, and may be paid by crediting the account of the consumer or otherwise.
- 4.1.13 A smart sub-metering provider shall review every consumer's security deposit at least once in a calendar year to determine whether the entire amount of the security deposit is to be returned to the consumer as the consumer is now in a position that it would be exempt from paying a security deposit under section 4.1.3 had it not already paid a security deposit or whether the amount of the security deposit is to be adjusted based on a re-calculation of the maximum amount of the security deposit under section 4.1.6.
- 4.1.14 A smart sub-metering provider must respond promptly to a consumer who, no earlier than 12 months after the payment of a security deposit or the making of a prior demand for a review, demands in writing that a smart sub-metering provider undertake a review to determine whether the entire amount of the security deposit is to be returned to the consumer as the consumer is now in a position that it would be exempt from paying a security deposit under section 4.1.3 had it not already paid a security deposit or whether the amount of the security deposit is to be adjusted based on a re-calculation of the maximum amount of the security deposit under section 4.1.6.
- 4.1.15 Where the smart sub-metering provider determines in conducting a review under section 4.1.13 or 4.1.14 that some or all of the security deposit is to be returned to the consumer, the smart sub-metering provider shall promptly return this amount to the consumer by crediting the consumer's account or otherwise.
- 4.1.16 A smart sub-metering provider shall promptly return any security deposit received from the consumer upon closure of the consumer's account, subject to the smart sub-metering provider's right to use the security deposit to set off other amounts owing by the consumer to the smart sub-metering provider. The security deposit shall be returned within six weeks of the closure of an account.

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4.1.17 Where all or part of a security deposit has been paid by a third party on behalf of a consumer, the smart sub-metering provider shall return the amount of the security deposit paid by the third party, including interest, where applicable, to the third party. This obligation shall apply where and to the extent that:

- (a) the third party paid all or part (as applicable) of the security deposit directly to the smart sub-metering provider;
- (b) the third party has requested, at the time the security deposit was paid or within a reasonable time thereafter, that the smart sub-metering provider return all or part (as applicable) of the security deposit to it rather than to the consumer; and
- (c) there is not then any amount overdue for payment by the consumer that the smart sub-metering provider is permitted by this Code to off set using the security deposit.

4.2 Disconnection and Reconnection

4.2.1 A smart sub-metering provider shall not disconnect consumers for non-payment of bills unless the condominium corporation or developer has contracted the smart sub-metering provider to do so on its behalf.

4.2.2 A smart sub-metering provider shall establish a process for disconnection and reconnection that specifies the notification policies for disconnection and reconnection as well as the timing of disconnections and reconnections. In developing physical and business processes for reconnection, a smart sub-metering provider shall consider safety and reliability as a primary requirement. A smart sub-metering provider shall document its business process for disconnection and reconnection in its Conditions of Service.

4.2.3 Without limiting the generality of the foregoing, prior to disconnecting a consumer for non-payment, a smart sub-metering provider shall provide to the consumer, and any person that is to receive notice of the disconnection:

- (a) the Fire Safety Notice of the Office of the Fire Marshal; and
- (b) any other public safety notices or information bulletins issued by public safety authorities and provided to the smart sub-metering provider, which provide information to consumers respecting dangers associated with the disconnection of electricity service.

4.2.4 A smart sub-metering provider shall include a copy of the notices or bulletins referred to in section 4.2.3 with any notice of disconnection that is left at the consumer's property at the time of actual disconnection for non-payment.

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- 4.2.5 A smart sub-metering provider shall inform a consumer responsible for an overdue amount that it may be disconnected in accordance with section 31(2) of the Electricity Act.
- 4.2.6 It is recommended that, whenever possible, smart sub-metering providers give no less than seven (7) calendar days notice before disconnecting a consumer for non-payment.
- 4.2.7 A smart sub-metering provider may disconnect a consumer without notice in accordance with a court order or for emergency, safety or system reliability reasons.
- 4.2.8 A smart sub-metering provider may recover from consumer who is disconnected the reasonable costs associated with the disconnection, including overdue amounts payable by the consumer. A smart sub-metering provider may recover from the disconnected consumer the reasonable costs for repairs of the smart sub-metering provider's physical assets in reconnecting the consumer.
- 4.2.9 In establishing its disconnection policy, which will be set out in its Conditions of Service, a smart sub-metering provider may consider the following reasons for disconnection:
- (a) adverse effect on the reliability and safety of the smart sub-metering system or the exempt distributor's distribution system;
 - (b) imposition of an unsafe worker situation beyond normal risks inherent in the operation of the smart sub-metering system or the exempt distributor's distribution system;
 - (c) a material decrease in the efficiency of the smart sub-metering system or the exempt distributor's distribution system;
 - (d) a materially adverse effect on the quality of distribution services received by an existing connection;
 - (e) inability of the smart sub-metering provider to perform planned inspections and maintenance;
 - (f) failure of the consumer to comply with a directive of a smart sub-metering provider that the smart sub-metering provider makes for purposes of meeting its licence obligations; and
 - (g) the consumer owes the exempt distributor money for smart sub-metering services or for a security deposit. The smart sub-metering provider shall give the consumer a reasonable opportunity to provide the security deposit consistent with section 4.1.11.

4.3 Form of the Invoice

Smart Sub-Metering Code

- 4.3.1 A smart sub-metering provider who is contracted to bill low-volume consumers on behalf of the condominium corporation or developer shall comply with all applicable regulations regarding information on invoices to low-volume consumers of electricity.

4.4 Payment of the Master Bill

- 4.4.1 If the smart sub-metering provider has assumed responsibility for payment for the master bill, then the amount to be collected from consumers shall not include any penalties assessed by the licensed distributor on the master bill. Penalties include, but are not limited to, late payment charges and disconnect or reconnect charges.