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March 12, 2010

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

BOARD FILE NO: EB-2007-0722

**To: All Licensed Electricity Distributors
All Participants in EB-2007-0722 and EB-2008-0150
All Other Interested Parties**

The Ontario Energy Board (the "Board") is giving notice today under section 70.2 of the *Ontario Energy Board Act, 1998* (the "OEB Act") of further revised proposed amendments to the Distribution System Code (the "DSC"), the Retail Settlement Code (the "RSC"), and the Standard Supply Service Code (the "SSSC") (collectively, the "Codes").

I. Background

On March 10, 2009, the Board issued a Notice of proposed code amendments in the areas of customer service, customer reclassification and management of customer commodity non-payment risk. Final amendments to the DSC with respect to customer reclassification and management of customer commodity non-payment risk were approved by the Board and posted on June 16, 2009. This Notice will address the proposed customer service code amendments.

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

On October 1, 2009, the Board issued a Notice of revised proposed code amendments (the "October Proposed Amendments"). The October 2009 Notice took into account the written comments submitted by stakeholders in response to the March 2009 Notice from 17 stakeholders. The key stakeholder comments on the code amendments as originally proposed in March 2009 were summarized in the October Notice and will not be repeated in this Notice. As a result of the Minister's letter, the October Proposed Amendments included no rules specific to low-income consumers but applied the revised proposed rules to all residential customers.

The Board received and reviewed written comments on the October 2009 Notice from 14 stakeholders. The October 2009 Notice requested that stakeholders focus their comments on the changes proposed to the March Proposed Amendments. The full submissions are available on the Board's web site at www.oeb.gov.on.ca. A summary of the major stakeholder comments received in respect of the October Proposed Amendments is included below. Some of the ratepayer submissions qualified their support for the October Proposed Amendments by arguing there may be a need for special low-income customer rules in the future. For full details, please refer to the submissions themselves.

On December 9, 2009, the Government of Ontario introduced Bill 235, the *Energy Consumer Protection Act, 2009* ("ECPA"). If adopted, the new legislation will, among other things, allow the Government to issue regulations governing electricity disconnections and security deposit obligations.

The Board believes it will prove helpful to proceed with the review, approval and implementation of new customer service rules applicable to all residential customers. These will establish a baseline from which to assess the need for, and merits of, future additional rules for low-income electricity consumers once the government's policy in this area is known. The proposed customer service rules on disconnections and security deposits could also establish a baseline from which the government could assess the need for issuing additional regulations in these areas.

After reviewing the submissions received, the Board has decided there is no need to make substantive changes to the majority of the code amendments proposed in the October 2009 Notice. The Board will make a number of minor modifications to the October Proposed Amendments in this Notice, such as clarifying the language of certain sections or correcting typographical errors. The Board is not seeking further comment on these revisions.

In certain areas the Board is proposing more significant changes to the DSC amendments in the package of October Proposed Amendments. These areas are highlighted in bold in the discussion in this Notice and in March Proposed Amendments set out in Attachment A. Stakeholder comments are invited in these areas, which are also listed below:

- Proposed sections 4.2.3(b) and (c) of the DSC will be changed to provide for 10 days as the new disconnection notice period rule for all classes of customers.
- The period within which a residential customer may request that a disconnection notice be suspended (for 21 days) as the customer seeks bill payment assistance will be changed to 10 days in proposed section 4.2.2.6 of the DSC.
- Proposed section 4.2.2.7 of the DSC will be changed to provide that after notification that no assistance will be forthcoming from a third party, distributors will have up to 11 days further to act on the previous disconnection notice served on the residential customer.
- Proposed new section 4.2.2(e) of the DSC will require a disconnection notice issued to a residential customer to state the forms of payment that the customer may use to pay the amounts that are identified as overdue in the disconnection notice, which must at least include payment by credit card issued by a financial institution as described under proposed new section 4.2.4 and any other method of payment that the distributor ordinarily accepts and which can be verified within the time period remaining before disconnection.
- Proposed new section 4.2.2(f) of the DSC will require a disconnection notice issued to a residential customer to also state the time period during which any given form of payment listed under proposed 4.2.2(e) will be accepted by the distributor.
- Proposed new section 4.2.2(g) of the DSC will require a disconnection notice issued to a residential customer to state that, in order to avoid disconnection when the distributor attends at the customer's property to execute the disconnection, a customer will only be able to pay by credit card issued by a

financial institution, unless the distributor, in its discretion, will accept other forms of payment at that time and the distributor should so advise the customer in the disconnection notice.

- Proposed new section 4.2.2(h) of the DSC will require a disconnection notice issued to a residential customer to inform the customer that a disconnection may take place whether or not the customer is at the premises.
- Proposed section 4.2.2.4 of the DSC will be revised to require that a distributor shall make reasonable efforts to contact, in person or by telephone, a residential customer to whom the distributor has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection. The information to be provided to the customer at that time will be expanded to include information about the scheduled date for disconnection, payment options before and at the time of disconnection, and about the existence of an arrears management program.
- Proposed new section 4.2.4(a) of the DSC will require a distributor to ensure that facilities or staff is available to accept payment by credit card of the amount outstanding must be accepted from a residential customer, during the regular business hours of the utility, from the period the disconnection notice is issued until the time distributor staff attends at the customer's premises to execute the disconnection.
- Proposed new section 4.2.4(b) of the DSC will require a distributor to ensure that facilities or staff is available to accept a credit card payment of the amount outstanding any time the distributor attends at a residential customer's premises to execute a disconnection, whether during or after regular utility operating hours.
- Proposed new section 4.2.4(c) of the DSC will require that, where a customer was not successfully contacted 48 hours before the scheduled date of disconnection as required to be attempted under proposed revised section 4.2.2.4, a distributor must make a reasonable attempt to speak to the customer to advise him or her that the disconnection will be executed and that payment by credit card can be accepted.
- Under proposed new section 2.7.5 of the DSC, a residential customer will have the right to enter into a second arrears plan 2 years or more after a first agreement was reached, provided the earlier plan was satisfactorily performed.
- Proposed section 2.7.2 of the DSC will be changed to add the current bill amount to the total amount owing under an arrears payment agreement.
- Proposed new separate section 2.8.3A of the DSC will state that a distributor and landlord may enter into an agreement whereby the landlord assumes

responsibility for paying for continued service to a rental property after closure of a tenant's account.

- Under proposed new section 2.8.4A and proposed revised section 6.1.2.2 of the DSC, a distributor will have the option of accepting requests for service provided over the telephone for the purposes of complying with proposed sections 2.8.1, 2.8.2, 2.8.3 and 6.1.2.1 of the DSC, provided the voice recording is retained for at least 24 months after the new account is established.
- Under proposed new section 2.8.4B of the DSC, a distributor will have the option of entering into an agreement over the telephone with a landlord that agrees to assume responsibility for paying for continued service when a tenant departs a rented premise, provided the voice recording is retained for the length of the agreement plus 6 months further.
- Proposed new section 2.8.5 of the DSC will grandfather pre-existing binding service agreements between utilities and landlords dealing with their respective responsibilities when a residential tenant departs.

The proposed amendment requiring distributors to offer an equal monthly payment option to residential customers of retailers has been withdrawn to allow the Board to obtain further input from utilities and retailers.

A complete text of the March 12, 2010 further revised proposed customer service amendments to the DSC, the RSC and the SSSC (collectively to be called the "March Proposed Amendments") is set out in Attachment A to this Notice. Attachment B sets out, for informational purposes, a comparison of the March 2010 Proposed Customer Service Code Amendments relative to the October 2009 Proposed Customer Service Code Amendments.

II. Customer Service Code Amendments

A. Bill Issuance and Payment

1. Payment Period

Section 2.6.3 of the DSC in the October Proposed Amendments set out 16 days as the minimum time period within which all customers must pay their bills without the application of a late payment charge. A ratepayer group submission supported the proposed 16 day rule for all customers. Another submission from a ratepayer group

suggested that the proposed 16 day period is below general industry norms and requested that a 30 day period be used.

The Board will make no change to the 16 day rule in proposed section 2.6.3. The Board considers the rule to be fair to customers and utilities and also notes that the proposed time counting rules (for example, sections 2.6.4(a) and 2.6.5(a) of the DSC in the October Proposed Amendments) could effectively add a few more days.

Another ratepayer group asked the Board to take into account that some residential customers are unable to pay their utility bills on a timely basis due to when their government income-support payments are received. The Board believes that this concern can be partially addressed under the proposed equal payment plan rules. In particular, section 2.6.2(c) of the SSSC in the October Proposed Amendments will allow a customer to choose which of two automatic payment withdrawal dates within a month is most convenient. A few Ontario utilities offer an extended utility bill payment date to fixed-income customers who receive government income-support payments. Interested utilities remain free to continue with or to adopt this practice.

2. Determining when Bills are Issued and Payment is Received

Section 2.6.4 of the DSC in the October Proposed Amendments set out the various dates on which a bill is deemed to have been issued by a distributor. Proposed section 2.6.4(b) attracted concern in a utility submission. The section provided that where a bill is made available over the internet, it shall be deemed to have been issued to the customer on the date on which an e-mail is sent that the bill is available for viewing over the internet. A submission suggested the rule be changed to the date the bill is available on line. The Board considers it more appropriate to use the date the customer is notified by the utility. No change will be made to proposed section 2.6.4.

Section 2.6.5 of the DSC in the October Proposed Amendments set out proposed rules to establish when a bill is deemed to have been paid by a customer. Where the customer pays the account by mail, proposed section 2.6.5(a) deemed the payment to have been received three days prior to date of which the distributor receives payment. Where the customer pays the account at a financial institution or electronically, proposed section 2.6.5(b) deemed the payment to have been made on the date on which payment is acknowledged or recorded by the customer's financial institution. One ratepayer group submission agreed with both proposed rules, while another expressed

concern that proposed section 2.6.5 did not address all payment options. A utility group submission recommended eliminating the mandatory 3-day grace period incorporated in section 2.6.5(a) and leaving it to a utility's discretion, as they said is presently the case. They also suggested section 2.6.5(a) is unfair since the 3 day grace period does not apply to payment at a financial institution.

The Board will make no change to current proposed sections 2.6.5(a) and 2.6.5(b) of the DSC. A new proposed section 2.6.5(c) will be added stating that if the customer pays by credit card issued by a financial institution, the bill payment will be deemed to be received on the date and at the time that the charge is accepted by the financial institution.

3. Computation of Time

Section 2.6.8 of the DSC in the October Proposed Amendments (to be renumbered section 2.6.7 in the March Proposed Amendments) sets out rules as to how distributors shall calculate time for purposes of section 2.6 of the DSC. Proposed section 2.6.8(e) of the October Proposed Amendments (renumbered as section 2.6.7(e) of the DSC in the March Proposed Amendments) provided that receipt of a payment by a customer is effective on the date the payment is made, including payments made after 5:00 p.m. A ratepayer group submission supported this proposed amendment. A utility group submission stated that it is not always possible for distributors to assess the time of payment, whether made at their own payment box or when paid through a financial institution.

The rule proposed in renumbered section 2.6.7(e) of the DSC in the March Proposed Amendments can be readily applied when the time of payment can be ascertained. The Board expects distributors to assess when time of payment can be tracked under the payment technology(ies) each distributor currently employs. The intent is that in such cases, a customer will have the entire evening of the given day (i.e. anytime after 5:00 p.m. and until 11:59 p.m.) to make the bill payment and still have it treated as received that day. No change will be made to this proposed amendment.

Where the utility cannot determine the precise time of payment receipt (e.g. an after-hours payment at a drop box that is not opened until the next morning), the intent of section 2.6.7(e) of the March Proposed Amendments is best met by treating a payment made during the course of the evening, as well as early in the next morning before the

start of the regular business day, as received on the prior day. To illustrate, a payment to a drop box should be treated as received Thursday, if the customer drops off the payment anytime Thursday evening or early Friday morning before the start of business.

4. Credit Card Payments

Section 2.6.6 of the DSC in the October Proposed Amendments provided that a residential customer must have the option of using a credit card issued by a financial institution to make the payment due when a disconnection notice has been issued for non-payment. An increasing number of Ontario utilities follow this approach in their day-to-day collection practices.

One utility submission opposed a mandatory new rule as it does not accept credit card payments at present and suggested it would incur substantial costs to offer this service. Another submission commented that utilities will incur costs, including charges from financial institutions, and these should be recovered somehow. Ratepayer submissions agreed with the suggestion in the October 2009 Notice that no new charge should be approved at this time. It was noted that there may be some offsetting cost savings that should be considered.

The Board believes it is feasible to extend to all Ontario residential customers the current practice of some distributors of accepting a credit card payment to avoid disconnection. The costs to acquire the required technology (e.g. remote payment devices to be carried by utility field staff) appear manageable. Many Ontario utilities have chosen to use third-party service providers to provide the needed interface with the credit card companies. Alternatively, the customer could call the distributor's office and make payment by credit card over the telephone if the disconnection is to be executed during the distributor's regular business hours and the distributor has staff available to process the payment.

The credit card payment rule set out in proposed section 2.6.6 of the DSC in the October Proposed Amendments will be renumbered as proposed new section 4.2.4(a) of the DSC in the March Proposed Amendments. This proposed section will provide that a residential customer shall have the option of paying the amounts indicated as overdue in the disconnection notice by means of a credit card issued by a financial institution.

The proposed wording of new section 4.2.4(a) of the March Proposed

Amendments states that this payment option must be offered, at a minimum during the regular business hours of the distributor, from the time the disconnection notice is delivered to a residential customer until the time distributor staff attends at the customer's premises to execute the disconnection.

In the planned service charges review later this year, the Board will consider whether a standard service charge should be approved for accepting such emergency credit card payments from residential customers. Distributors are not obligated to accept credit card payments for regular bill payments under proposed section 4.2.4, although they may continue to do so at their discretion. To provide operating flexibility, **new proposed section 4.2.4(a) of the DSC will expressly allow utilities to offer this credit card payment service through their own staff or through other facilities such as a third-party service provider.**

Proposed new section 4.2.4(b) of the DSC in the March Proposed Amendments will address the situation at the time of disconnection. If the distributor attends at the customer's property to execute the disconnection, whether during the distributor's regular business hours or after, payment by credit card issued by a financial institution of the amount overdue must be accepted in lieu of disconnection. The distributor, in its discretion, may also accept other forms of payment at that time. The result will be that a distributor must ensure facilities or staff is available to accept a credit card payment for the amount overdue at any time of day that the distributor attends at the premises of a residential customer to execute the disconnection.

The Board considered whether distributors should be required to accept cash payments when the distributor attends at the customer's property to execute a disconnection. The Board is not inclined to mandate that this form of payment must be accepted due to potential security concerns distributors may have about field staff transporting cash in their vehicles that could then provide targets for robberies etc. Moreover, there is no code requirement that cash must be amongst the forms of payment acceptable to pay a regular utility bill. The Board invites comments on the merits of requiring utilities to accept cash payments from residential customers seeking to avoid disconnection when utility field staff attends at their premises.

The Board also considered mandating that debit card payments be accepted at the time field staff attends a residential customer's premises to execute a disconnection for non-payment. The Board requests stakeholder input as to what is involved in accepting debit

card payments (for example, will all utility staff executing residential customer disconnections need to start carrying hand held debit card payment devices or are there other alternatives). Comments are welcome on the costs and benefits of mandating the offering of a debit card payment option at the time utility staff attend to disconnect a residential customer.

To make the credit card payment option more effective in practice, **proposed new section 4.2.4(c) of the DSC in the March Proposed Amendments will also require that, where a customer was not successfully contacted 48 hours before the scheduled date of disconnection as required to be attempted under proposed revised section 4.2.2.4 of the DSC (discussed below), a distributor must make a reasonable attempt to speak to the customer to advise him or her that the disconnection will be executed and that payment by credit card can be accepted.** This additional effort will help avoid situations where the customer may be at the property and prepared to pay the overdue amount by credit card but is not aware that disconnection is imminent or proceeding. When interpreting and applying proposed section 4.2.4(c), it should be noted that proposed new section 4.2.2(h) of the DSC (see below) will require a disconnection notice issued to a residential customer to inform the customer that a disconnection may take place whether or not the customer is at the premises. The Board invites stakeholder comments as to whether the customer contact requirement proposed in new section 4.2.4(c) could impact the personal security of utility field staff and how any potential safety issues should be addressed.

The combined effect of proposed sections 4.2.2(a) and 4.2.2(b) in the March Proposed Amendments will be that if a distributor wishes to schedule disconnections of residential customers for non-payment after its regular business hours, then credit card payment facilities must be offered by utility staff, or a third-party service provider, during such times. If a distributor does not plan to disconnect residential customers after its regular business hours, it must still have credit card payment facilities (again through its own staff or a third-party service provider) available during its regular business hours to accept payment of the amount outstanding by that means from a residential customer to whom a disconnection notice has been issued.

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

Section 2.6.7 of the DSC in the October Proposed Amendments required electricity distributors who collect for multiple services, such as electricity and water or sewage, to

allocate any partial payment by a residential customer to electricity charges first. Section 2.6.7.1 of the DSC in the October Proposed Amendments grandfathered existing joint-billing agreements for the lesser of 2 years or the term of the agreement without a further renewal. There were no comments on these sections and no changes will be made (aside from renumbering them as proposed sections 2.6.6 and 2.6.6.1 respectively of the March Proposed Amendments).

Section 2.6.7.2 of the DSC in the October Proposed Amendments precluded distributors from imposing late payment charges, issuing a disconnection notice or proceeding to disconnect, when the customer has paid sufficient funds to cover the electricity charges. One submission was received and it supported the amendment. No change will be made to proposed section, aside from renumbering it as section 2.6.6.2 of the March Proposed Amendments.

A multi-part definition of “electricity charges” was proposed in section 2.6.7.3 of the DSC in the October Proposed Amendments. One submission specifically supported it. Upon further consideration, the Board prefers somewhat broader language in proposed section 2.6.7.3(b) of the October Proposed Amendments to replace the current reference to the specific regulation setting out the Provincial Benefit. The Board will modify that section to read “where applicable, charges prescribed by regulations under section 25.33 of the *Electricity Act, 1998* and all applicable taxes on those charges”. The Board will proceed with the proposed section as modified, and it will be renumbered as section 2.6.6.3 of the March Proposed Amendments.

C. Correction of Billing Errors

1. Definition of Customer

A definition of “customer” was proposed to be added to the RSC under an amendment to RSC section 1.2 in the October Proposed Amendments. No concerns were expressed in the comments. No change will be made to the proposed definition.

2. Over Billing

Section 7.7.1 of the RSC in the October Proposed Amendments provided that where a distributor has over billed a customer or retailer by an amount that is equal or exceeds the applicable average monthly billing, the distributor shall, within 10 days of discovering

the error, notify the customer or retailer of the over billing and advise that the customer may elect to have the amount credited to their account or repaid by cheque, within 11 days of requesting payment by cheque. Where the party has not requested payment by cheque within 10 days of notification of the error, the distributor may credit the account.

A ratepayer group submission supported the proposed over-billing adjustment rules as fair and cost effective. A utility group submission stated that it often takes some time to confirm an error exists. Another utility group submission recommended replacing “discovery” with “determination”, as the latter more accurately suggests the analysis and confirmation needed of the apparent error. The submission also stated that issuing cheques within 11 days of a request will be difficult for some distributors and suggested using 30 days.

The Board will replace “discovery” with “determination”. However, the Board believes that 11 days generally provides a reasonable period within which to issue a cheque, as a distributor will already be aware of the potential problem when it undertakes the analysis to confirm that the over billing occurred. The Board will proceed with proposed section 7.7.1 of the RSC, inclusive of the minor modification discussed.

Section 7.7.2 of the RSC in the October Proposed Amendments set out how to undertake an over-billing correction where the amount involved is less than the customer’s or retailer’s average monthly billing. No comments were received. No change will be made to the proposed section.

Section 7.7.3 of the RSC in the October Proposed Amendments provided that a refund for over billing may be applied by a distributor first to any arrears outstanding on the customer’s or retailer’s account. No comments were received. No change will be made to the proposed section.

Section 7.7.5 of the RSC in the October Proposed Amendments set out the definition of the customer’s or retailer’s average monthly billing amount for purposes of RSC sections 7.7.1 and 7.7.2. No comments were received. No change will be made to proposed section 7.7.5.

3. Under Billing

Section 7.7.4 of the RSC in the October Proposed Amendments provided that where a distributor has under billed a customer who is not responsible for the error, the distributor shall allow the customer to pay the under-billed amount in equal instalments over a period at least equal to the duration of the billing error. It should be noted that the right to pay under-billed amounts over a period of time applies only to a customer and not a retailer since the latter should have the means to pay the under-billed amount in full.

A submission suggested adding a reference “up to a maximum of 2 years” in the rule, since that is the length of the applicable limitation period under new section 7.7.7 of the RSC. The Board agrees with the suggestion and will proceed with proposed section 7.7.4, subject to adding a reference to a maximum of 2 years.

Section 7.7.6 of the RSC in the October Proposed Amendments allowed distributors to request payment in full in the next regular scheduled bill where the customer or retailer is responsible or at fault for the under-billing error. A utility group submission explained that when tampering has occurred, utilities often disconnect, repair the tampering and reconnect only after payment of the outstanding amount. Another utility submission argued that in situations where the customer or retailer is at fault, utilities should have a right to immediately issue the billing adjustment.

In cases of customer misconduct, the Board believes it is reasonable to allow the distributor to request immediate payment. The Board will modify proposed section 7.7.6 so that the distributor has the option of making the adjustment on the next regular bill issued to the customer or retailer responsible for the error, on a separate bill to be issued after the occurrence to the customer or retailer responsible for the error. If disconnection has occurred, the distributor may require payment before reconnection of the customer responsible for the misconduct. This new language will clarify the intended operation of proposed section 7.7.6 of the RSC.

The Board wishes to clarify, consistent with its current policy, that the customer who will be billed under proposed section 7.7.6 of the RSC must be the customer responsible for the account and for the billing error, whether by tampering, willful damage, unauthorized energy use or other unlawful actions. A utility cannot refuse reconnection to a new customer because a former customer was responsible for the billing error.

4. Duration of Under or Over Billing Subject to Recovery or Refund

Section 7.7.7 of the RSC in the October Proposed Amendments provided that where the distributor has under billed a customer or retailer, the maximum period of under billing for which the distributor is entitled to be paid is 2 years. Where the distributor has over billed, the maximum period of over billing for which the customer or retailer is entitled to be repaid is 2 years.

A submission supported proposed section 7.7.7 as it provides non-discriminatory treatment. Another submission viewed a 2-year period as reasonable given current customer mobility. One submission did not support symmetric treatment of under- and over-billing errors and argued that as utilities manage the billing process, a longer time limit is fairer for over-billed amounts. The Board notes that the *Limitations Act, 2002* provides a standard 2-year limitation period for all actions in debt (subject to any considerations of discoverability). No change will be made to proposed section 7.7.7 of the RSC.

Section 7.7.11 of the RSC in the October Proposed Amendments provided that the over-billing and under-billing rules in the RSC will not apply where the distributor has over billed or under billed a customer or retailer but issues a corrected bill within 16 days of the issue date of the original erroneous bill. No change will be made to the substance of the proposed section. A clarification will be made to the wording.

5. Interest Rate Applicable on Under Billing and Over Billing Adjustments

Section 7.7.8 of the RSC in the October Proposed Amendments provided that a distributor may charge interest on under-billed amounts where the customer or retailer was responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or other unlawful actions and that such interest shall be equal to the prime rate charged by the distributor's bank. A ratepayer submission suggested that a distributor bear the onus of proof when applying this section. The Board expects that distributors will have reasonable evidence of customer misconduct before levying the interest to be allowed under section 7.7.8. No change will be made to the proposed section.

Section 7.7.9 of the RSC in the October Proposed Amendments provided that where a distributor has over billed and the error is not the result of a distributor's standard

documented billing practices, interest shall be paid on the adjustment amount at the prime rate charged by the distributor's bank. No comments were received. No change will be made to the proposed section.

6. Meter Accuracy Testing

Section 7.7.10 of the RSC in the October Proposed Amendments stated that the entity billing a customer, whether it is a distributor or retailer, is responsible for advising the customer of a meter error and of its rights under the federal *Electricity and Gas Inspection Act*. The billing party is also responsible for subsequently settling the payment difference with the customer. No comments were received. No change will be made to proposed section 7.7.10.

D. Equal Payment Plans

Section 2.6.2 of the SSSC in the October Proposed Amendments set out an equal monthly payment plan option that distributors must offer to all interested residential customers on standard supply. The rules in section 2.6.2 of the SSSC specify the minimum conditions to be met. The October Proposed Amendments effectively lowered implementation costs by requiring that the plan take the form of an equal payment arrangement rather than an equal billing arrangement. A ratepayer group submission supported this approach and also noted there would be positive effects on utility cash flow that should be taken into account. One utility requested that the mandatory plan be extended to fixed-income customers only, otherwise it may not have the resources available to handle the peaks required. The Board prefers to proceed with an equal payment plan that must be offered to all interested residential customers receiving standard supply service. A revised coming into force date of January 1, 2011 is proposed below, which will provide distributors with significant time to update their internal payment processing systems.

Section 2.6.2(a) of the SSSC in the October Proposed Amendments provided that a distributor may only refuse to provide an equal payment plan option to a residential customer where the person is in arrears on payments for electricity charges and has not entered into an arrears payment agreement. A ratepayer group argued it would create an undue barrier to require low-income customers in arrears to enter into a repayment agreement as a pre-condition to joining an equal payment plan. They recommended deeming a request to join an equal payment plan by a customer in arrears to be a

request to also join an arrears management plan. The Board notes that the proposed amendments will provide ample opportunity for residential customers in arrears to first enter into an arrears payment agreement and to then enter into an equal payment plan if the customer so desires. No change will be made to proposed section 2.6.2(a).

Section 2.6.2(b) of the SSSC in the October Proposed Amendments provided that a distributor may require a residential customer on an equal monthly payment plan to agree to pre-authorized automatic monthly payment withdrawals from the customer's account at a financial institution if the billing cycle of the distributor is less than monthly. Two submissions requested a wording change to use the phrase "less frequently than monthly". The Board agrees such revised language will assist in understanding the operation of the section. Proposed section 2.6.2(b) will proceed with this modest modification.

A ratepayer group submission recommended that distributors should routinely advise interested customers they will be choosing a plan that may involve monthly equal payment withdrawals even when they do not receive a monthly bill. The Board expects that where a distributor will issue a bill less frequently than monthly, it will make clear to the customer that a payment will be required each month under the equal payment plan.

One ratepayer group submission did not support proposed section 2.6.2(b) of the SSSC as they believe it will preclude some customers who need it the most from taking advantage of an equal payment option. The Board is aware that the proposed standard equal payment plan will not be practically available to a customer who does not have an account with a financial institution. The Board encourages utilities to voluntarily offer more flexible arrangements (for example, manually issuing a monthly bill) to residential customers who have informed the utility that they do not have an account with a financial institution but whose payment patterns would benefit from an equalized payment arrangement.

Section 2.6.2(c) of the SSSC in the October Proposed Amendments required that residential customers who elect to join an equal monthly payment plan must be given the choice of at least two automatic payment withdrawal dates within a month. In response to a stakeholder question, the Board has reviewed the joint operation of proposed sections 2.6.2(b) and 2.6.2(c) of the SSSC and does find a need to change either one.

Section 2.6.2 (d) of the SSSC in the October Proposed Amendments stated that a distributor may issue its bill to a residential customer enrolled in an equal payment plan on a monthly, bi-monthly or quarterly basis. This is consistent with the adoption of an equal payment plan. No additional comments were provided and no change will be made to this proposed section.

Sections 2.6.2 (e)i) through (e)vii) of the SSSC in the October Proposed Amendments set out a standard procedure for the annual reconciliation of the payment plan. Several submissions recommended that distributors be allowed to offer alternative payment plans with different features, such as a rolling average design or an equal payment plan applicable for the winter months only. The Board notes that the proposed code amendments will not preclude distributors from offering other equal payment/billing plans with different features, but any supplemental option must be at the customer's choice and must be offered in addition to the equal payment plan with the features to be specified in the SSSC.

Section 2.6.2 (e)i) of the SSSC in the October Proposed Amendments provided that while a customer may join an equal payment plan at any time, the distributor is required to reconcile all of its equal monthly payment plans only once during a calendar year. A submission commented that this could result in some undesirable large year-end adjustments. For example, if a customer joins the plan with only 8 months left, it was recommended that the average monthly payment in the first year be adjusted to recognize that the total amount billed will be collected over 8 months and not the usual 12 months. The Board considers the proposed rule in section 2.6.2(e)i) to be simpler and less costly to administer, and therefore no change will be made to it. If a customer wishes to join an equal payment plan late in a 12 month cycle, the distributor should advise the customer of the possible impact of this decision upon the amount that may be owing following the first year reconciliation. The customer can then decide whether to proceed to join the plan at that time or defer to the start of the next 12 month cycle.

Section 2.6.2 (e)ii) of the SSSC in the October Proposed Amendments provided that in the first year of joining an equal payment plan, the reconciliation may occur at less than 12 months. No comments were received. No change will be made to this proposed section.

Section 2.6.2 (e)iii) of the SSSC in the October Proposed Amendments provided that a distributor shall review its equal payment plans quarterly or semi-annually and adjust

the equalized monthly payment amounts in the event of a material change in a customer's consumption. A submission noted that material changes may occur in the amount billed with no change in consumption, such as where regulated charges are adjusted or a retailer adjusts its charges. The Board will make a minor change to this proposed section and replace "consumption" with "total electricity charges" to clarify the rule's intended operation.

Section 2.6.2 (e)iv) of the SSSC in the October Proposed Amendments set out the mechanism for the reconciliation payment where the funds owed to the customer are equal to less than 1 month of the customer's average monthly billing. No comments were received. No change will be made to this proposed section.

Section 2.6.2 (e)v) of the SSSC in the October Proposed Amendments provided that where the reconciliation concludes funds are owing to the customer equal to or in excess of the customer's average monthly billing, the distributor shall credit the amount to the account and also advise the customer that he or she may contact the distributor within 10 days to request refund of the overpayment by cheque. The distributor must issue the cheque within 11 days of the customer's request for a refund. A utility submission argued that issuing a refund cheque is costly and that the current system of crediting the account has not generated significant complaints. The Board included the repayment by cheque option in the proposed rule to ensure that, where the funds due to a residential customer are substantial, they can be promptly repaid if so desired by the customer. No change will be made to the substance of the proposed section. Clarification will be made to the language used.

Section 2.6.2 (e)vi) of the SSSC in the October Proposed SSSC Amendments set out the mechanism for the reconciliation payment where the funds owed by the customer are less than 1 month of the customer's average monthly billing. No comments were received. No change will be made to the substance of the proposed section. A clarification will be made to the language used.

Section 2.6.2 (e)vii) of the SSSC in the October Proposed Amendments set out the mechanism for the reconciliation payment where the funds owed by the customer are equal to or greater than the customer's average monthly billing. A submission did not agree with the proposal to carry over the amount due to the next year's plan, to be recovered through 11 equal monthly payments in the following year. It was argued that it is better to have a clear separation between the years. The Board prefers the current

approach in the proposed rule as it ensures residential customers, including those with low incomes, will not have to make a large single bill payment at the annual reconciliation. No change will be made to this proposed section.

Section 2.6.2(f) of the SSSC in the October Proposed Amendments required that a reconciliation be undertaken when a customer leaves the plan. No comments were received. No change will be made to this proposed section.

Section 2.6.2A(a) of the SSSC in the October Proposed Amendments defined a customer's average monthly billing amount. Proposed section 2.6.2A(b) of the SSSC in the October Proposed Amendments defined electricity charges, by cross-references to the new DSC definition. Both terms are used in the equal payment plan rules. No comments were received and no change will be made to these proposed SSSC sections. There will be a minor change in a cross-reference (i.e. to the definition of electricity charges in proposed renumbered section 2.6.6.3 of the DSC, as discussed above).

Section 7.2.5 of the RSC in the October Proposed Amendments required that where a residential customer is enrolled with a retailer and distributor-consolidated billing is occurring, the customer must be provided the option of joining an equal monthly payment plan.

A ratepayer group submission argued against allowing customers of retailers to access the equal payment plans of distributors, unless distributors are indemnified for costs and the impact on bad debt is examined. The proposed rule was generally opposed in the utility submissions. One utility stated that it would be difficult for distributors to estimate monthly bills, as this requires price and volume estimation. Another explained that distributors cannot reliably estimate a monthly bill because the bill amount submitted by retailers can vary from month-to-month and include other charges. A further utility submission noted that retail customers are subject to the global adjustment credits or debts, which vary and cannot be estimated with certainty.

The utility submissions on the October Notice did provide their views as to the appropriate division of responsibilities. Utilities requested retailers participate in extending the equal payment option to their own customers. It was suggested that retailers should provide bill-ready equal payment plan inputs and other basic information required to ensure that review and annual adjustments are reasonable and justified. No

submissions were received from electricity retailers on proposed section 7.2.5 of the RSC in October Notice.

The Board notes the strong utility opposition to implementing proposed section 7.2.5 of the RSC. The Board continues to believe there is merit in extending an equal payment plan option to all residential customers, including those enrolled with retailers but billed by distributors. The Board agrees that the process governing utility-retailer data exchange in such cases must be clear and technically feasible and that the additional costs to be incurred in offering the service should be considered. One submission recommended that the Board study implementation further. The Board agrees with this suggestion. The Board will remove proposed section 7.2.5 of the RSC from the package of code amendments at this time. Board staff plans to discuss implementation options and costs with distributors and retailers. One utility advised that it offers an equal payment plan for its customers who are retailer-enrolled and such practical experience may prove helpful in developing common code rules. The Board expects to later consider issuing an updated proposed code amendment in this area.

E. Disconnection for Non-Payment

1. Content and Delivery of Disconnection Notice

Section 4.2.2 of the DSC in the October Proposed Amendments specified the contents of a disconnection notice. Certain changes will be proposed by the Board and some of the sections will be renumbered.

Minor wording changes will be made to proposed sections 4.2.2(b), 4.2.2(c), 4.2.2(d) and 4.2.2(f) of the October Proposed Amendments to clarify their intended operation. Revised proposed section 4.2.2(d) will require distributors to list all approved service charges that may apply in the event disconnection proceeds, such as any approved regular hours or after regular hours reconnection charges or any collection of account charge, and the circumstances in which each of these charges is payable. The various paragraphs of proposed section 4.2.2 of the DSC will be renumbered (for example, section 4.2.2(f) of the October Proposed Amendments will be renumbered as section 4.2.2(j) of the March Proposed Amendments).

Proposed section 4.2.2(e) of the DSC of the October Proposed Amendments provided that if a local Vital Services By-law is in effect that applies to the customer's property,

then the disconnection notice must state whether the distributor has provided the required notification to the municipality. One utility reported that it serves 300 communities and that it would be unduly burdened to cross-reference the required information with the address of each of their residential customers. The Board agrees that it may prove unduly difficult for some distributors to comply with this proposed section. Even within a single municipality, the local government has the option of designating only certain buildings (e.g. those with a minimum number of rental units) to be subject to its Vital Services By-law. The Board will modify proposed amendment to provide that a disconnection notice must advise residential customers that a Vital Services By-Law may exist in their community and that they should contact their local municipality for more information. The proposed section will be renumbered as 4.2.2(i) of the March Proposed Amendments.

The Board proposes to add **new section 4.2.2(e) of the DSC in the March Proposed Amendments** which will require that a disconnection notice issued to a residential customer state the forms of payment that the customer may use to pay the amounts that are identified as overdue in the disconnection notice. This must at least include payment by credit card issued by a financial institution as described under proposed new section 4.2.4 of the DSC **and any other method of payment that the distributor ordinarily accepts and which can be verified within the time period remaining before disconnection.** The Board has decided not to mandate the forms of payment the distributor must accept, other than by credit card for amounts outstanding, but each distributor should determine which forms of payment it can verify at any given point from the time the disconnection notice is issued until the disconnection is executed. The distributor is expected to at least give clear notice to the customer what forms of payment will be accepted.

Proposed new section 4.2.2(f) of the DSC in the March Proposed Amendments will require a disconnection notice issued to a residential customer to state the time period during which any given form of payment listed under proposed 4.2.2(e) of the DSC will be accepted by the distributor. This information will help customers better understand their bill payment options as the disconnection process proceeds. New sections 4.2.2 (e) and (f) of the March Proposed Amendments recognize that the accepted forms of payment and time required to verify such payments vary from one distributor to another. For example, some distributors may be willing to accept an uncertified personal cheque during the early part of the notice period between after issuing a disconnection notice to a residential customer, while some distributors may

not be willing to assume the risk of insufficient funds if an uncertified personal cheque is offered immediately before the scheduled disconnection date. Most distributors should be able to verify payments by cash, certified cheque or bank transfer in the total 21 day period provided under revised proposed sections 4.2.3(b) and 4.2.2.3 of the DSC. Credit card payments under new sections 4.2.4(a) and 4.2.4(b) of the DSC must be accepted because payment by this means can be verified instantaneously.

Proposed new section 4.2.2(g) of the DSC in the March Proposed Amendments will require a disconnection notice issued to a residential customer to state that, in order to avoid disconnection when the distributor attends at the customer's property to execute the disconnection, a customer will only be able to pay by credit card issued by a financial institution, unless the distributor, in its discretion, will accept other forms of payment at that time and the distributor sets out the other forms of payment in the disconnection notice. This will ensure residential customers receive advance notice of the important option of using a credit card from a financial institution to pay the amount overdue and avoid disconnection at the time the distributor attends at the customer's premises (as set out in section 2.6.6 of the October Proposed Amendments, which will be renumbered as section 4.2.4 of the March Proposed Amendments). **Proposed new section 4.2.2(h) of the DSC in the March Proposed Amendments will require a disconnection notice issued to a residential customer to inform the customer that a disconnection may take place whether or not the customer is at the premises.** This will help customers understand the disconnection process and the importance of timely payment of the amount overdue.

Proposed section 4.2.2(d) in the October Proposed Amendments will be revised to better state its underlying intent and it will also be renumbered as 4.2.2(j) in the March Proposed Amendments. The revised proposed section will require that a disconnection notice specify any additional options that the distributor chooses, in its discretion, to offer to the customer to avoid disconnection and the deadline for the customer to avail himself or herself of such options.

Section 4.2.2.1 of the DSC in the October Proposed Amendments stated that a distributor that sends or delivers to a customer a disconnection notice for non-payment shall not include that notice in the same envelope as a bill or any other documentation emanating from the distributor. One comment was received, which agreed with the amendment on the understanding that utilities remain free to use a special envelope for

a disconnection notice if preferred. The Board will make no change to proposed section 4.2.2.1. Utilities will have the discretion to follow the option mentioned in the submission.

2. Timing of Disconnection Notice

A ratepayer group suggested adding a rule to prohibit winter disconnects, or imposition of load limiters, for residential customers, provided the customer has no past due charges from last year's winter that are not subject to an arrears agreement. In Ontario, a temporary moratorium on disconnecting residential customers during the 2002-2003 winter heating season was legislated by the government but not repeated. The Board is mindful about the increased risk of free riders under a broad disconnection prohibition. Moreover, customers may face increased arrears at the end of the winter heating season if no payments are made for several months. To minimize this risk, some U.S. states have required that some level of payment, reflecting customer ability to pay, be made while a disconnection suspension is in effect. In Ontario, residential customers will be gaining the opportunity to avoid disconnection by entering into an arrears payment agreement (discussed below). The Board could further evaluate the merits of a rule regarding load limiter installation during the winter months if concerns arise in the future.

The Board is aware that a more limited prohibition against disconnecting residential customers during extreme cold weather (as may be defined) is in effect in some jurisdictions, for example in Alberta. If the *ECPA* is adopted and any related regulations issued, the Board may examine whether an additional rule is appropriate to give residential customers protection against service disconnections during extreme winter weather.

3. Duration of Disconnection Notice and Time Counting

Section 4.2.3(a) of the DSC in the October Proposed Amendments required a distributor to provide 60 calendar days' notice prior to disconnecting a residential customer who has provided documentation from a physician confirming that the disconnection poses a risk of significant adverse impact on the physical health of the customer or of the customer's spouse or dependent family member residing at the same premise. No comments were received on this section. No change will be made to proposed section 4.2.3(a) of the DSC.

Sections 4.2.3(b) and (c) of the DSC in the October Proposed Amendments required that 14 days notice must be provided prior to disconnecting a residential customer and 10 days notice must be provided for other classes of customers, respectively. A submission disagreed with the proposed longer period for residential customers, suggesting that it is discriminatory and that no strong rationale existed. Another submission recommended that the overall disconnection period be shortened, so that customers can receive an arrears notice for the current period before any new monthly bill is issued.

Utilities have expressed widespread concerns about the increased bad debt risk that may result from the October Proposed Amendments. The Board notes that a disconnection period of 10 days for all customers is still within the range of current North American regulatory practice and that it would be more generous than past Ontario practice. **The Board proposes modifying the October Proposed Amendments to provide 10 days as a new single Ontario rule for all classes of customers.** This rule is set out in revised proposed section 4.2.3(b) of the DSC. The Board believes that a 10-day minimum period will prove reasonable in the Ontario context, especially when considered along with the 21 day disconnection suspension rule in proposed section 4.2.2.6 of the DSC.

Section 4.2.2.6 of the DSC in the October Proposed Amendments required a distributor to suspend any disconnection action for a period of 21 days from the date of notification by a registered charity, government agency or social service agency that it is assessing a residential customer for bill payment assistance, provided such notification is made within 14 days from the date on which the disconnection notice is received by the customer. A ratepayer group submission supported the requirement. A utility group submission agreed with the underlying concept, but believed the proposed 21 day period is too long and suggested changing it to 14 days. Another utility submission argued that the proposed amendment will extend the time for those customers who have no intention of paying and thus increase bad debts.

The Board considers 21 days to be a reasonable amount of time to provide third parties to complete reviews of payment assistance requests and this part of the rule will not be changed. To be consistent with the change proposed above to sections 4.2.3(b) and (c) of the DSC in the October Proposed Amendments, **the Board proposes to change the period set out in proposed section 4.2.2.6 within which a residential customer**

may request a disconnection notice be suspended (for 21 days) from 14 to 10 days. A typographical error will also be corrected in revised section 4.2.2.6 of the DSC.

In response to a stakeholder request for clarification, the Board advises that the minimum notice period in proposed section 4.2.3 of the DSC i (to be 10 days in most cases in the March Proposed Amendments) and the special 21 day rule in section 4.2.2.6 are to be applied in an additive manner. This will ensure that affected residential customers receive the full intended benefits.

Section 4.2.3.1 of the DSC in the October Proposed Amendments set out rules on how to count time where a disconnection notice is sent by mail or delivered in person, etc. No comments were received. No change will be made to the proposed section.

4. Expiry of Disconnection Notice

Section 4.2.2.3 of the DSC in the October Proposed Amendments provided that a disconnection notice shall remain in effect for a period of 11 days from the last day of the applicable minimum notice period. No comments were received. No change will be made to the proposed section.

A ratepayer submission cited Ontario data suggesting that more disconnection notices are being issued than the number proceeding to disconnection. But there may be a variety of factors underlying the data, such as utilities voluntarily issuing an initial notice and then the final notice. The Board sees no need to further regulate practices in this area, aside from the rule in proposed section 4.2.2.3 of the DSC specifying when a disconnection notice expires if not executed.

Section 4.2.2.7 of the DSC in the October Proposed Amendments provided that upon notification by a registered charity, government agency or social service agency that a customer is not eligible to receive bill payment assistance, or if another third party who was considering providing bill assistance decides not to proceed, the distributor may proceed to disconnect the customer. A submission requested clarification on the interaction of this rule with the proposed rule in section 4.2.2.3 of the DSC. It recommended distributors should always have 11 days to act on the previous disconnection notice following the decision of the third party. Another submission expressed concern that proposed section 4.2.2.7 could have the effect of requiring a second notice be issued if the third party denies the assistance request.

The Board believes a modification to the October Proposed DSC Amendments in this area is desirable to ensure that the disconnection process does not become overly lengthy. **The Board proposes to change proposed section 4.2.2.7 of the DSC by providing that, after notification that no assistance will be forthcoming from a party consulted under proposed section 4.2.2.6 of the DSC, distributors will have up to 11 days further to act on the previous disconnection notice served on the customer.** Distributors will still be required to make a final effort to contact the customer prior to disconnecting, as required under proposed section 4.2.2.4, prior to executing disconnection.

5. Customer Contact and Communication Prior to Disconnection

Section 4.2.2.4 of the DSC in the October Proposed Amendments required a distributor to make a reasonable effort to contact the customer one last time before effecting a disconnection. The Board proposes expanding this rule so that customers will receive full details of their payment options available prior to disconnection by no later than 48 hours before the scheduled date of disconnection.

A ratepayer group suggested mandating that utilities cannot disconnect on Fridays, weekends and statutory holidays, or during weekdays after 4:00 p.m. unless utility staff are available to accept payment or to negotiate an arrears agreement. The Board is concerned it will prove costly to mandate that utility customer service staff must work after regular business hours to respond to a customer that is facing disconnection but wishes to discuss an arrears agreement at that late date. It is generally desirable that residential customers eligible to request an arrears agreement under proposed section 2.7 of the DSC (or other voluntary utility-offered arrears repayment arrangements) commence such discussions prior to utility staff appearing at their premises to execute the disconnection. Revised proposed section 4.2.2.4 will include information to encourage this.

Proposed section 4.2.2.4 of the DSC in the October Proposed Amendments will therefore be revised and significantly expanded to require that **a distributor shall make reasonable efforts to contact, in person or by telephone, a residential customer to whom the distributor has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection. At that time, the distributor must advise the customer**

- **of the scheduled date for disconnection**

- of the option to pay amounts owing by credit card issued by a financial institution, in addition to other forms of payment that the distributor will accept at that time and which can be verified within the time period remaining before disconnection; and advise during what hours such payments may be made
- that, when the distributor attends at the customer's property to execute the disconnection, the customer will only be able to pay by credit card issued by a financial institution, unless the distributor, in its discretion, will accept other forms of payment at that time
- that a Board-prescribed arrears management program may be available to the customer; the distributor must be prepared to enter into an arrears payment agreement at that time if the customer is eligible
- of any additional option(s) that the distributor, in its discretion, wishes to offer to the customer to avoid disconnection and the deadline to avail of those option(s).

The intent behind revised proposed section 4.2.2.4 of the DSC is that, at some point after the disconnection notice is issued, the distributor must fix a date for disconnection and must make a final attempt to contact the customer at least 48 hours before the scheduled disconnection date. At that late stage, the distributor may not be able to accept all forms of payment that it would ordinarily accept, for example personal cheques or bank transfers in the case of some distributors. The distributor must advise the customer of the specific forms of payment, in addition to credit card payment, that it is able to accept in the last 48 hours before disconnection is executed. As a convenience for customers, the 48 hour contact should also advise customers during what hours such payments may be made. Under the March Proposed Amendments there will be no obligation to accept payments outside of regular utility business hours at this stage, although utilities may do so at their discretion.

6. Additional Recipients of Disconnection Notice

Section 4.2.2.2 of the DSC in the October Proposed Amendments required distributors, upon the written request of a residential customer, to send a copy of a disconnection for non-payment notice to any third party designated by the customer.

A submission suggested that the rule also apply where the customer provides a third-party contact prior to any disconnection notice being issued. The submission further

requested confirmation that an e-mail request is satisfactory for the purpose of this rule. The Board agrees with both suggestions as they will further clarify the intent of the overall section. Proposed new sections 4.2.2.2A and 4.2.2.2B of the DSC will be added to this effect in the March Proposed Amendments. Proposed new section 4.2.2.2B also provides that a distributor shall accept telephone communications from a customer. The Board will proceed with proposed section 4.2.2.2, subject to a minor modification in wording.

A utility submission requested guidance as to the evidence required from customers to confirm that a third party consents to adding its name to the utility's mailing list. The Board notes that a third party is not liable for the account, unless otherwise agreed upon with the distributor under proposed section 4.2.2.2(a) of the DSC. Thus, in cases where the third party is simply to be notified, distributors can accept information from the customer as to whom the distributor should notify of an impending disconnection. If the third party wishes to become responsible for the account, the Board expects that some documentation will be retained (letter, e-mail or voice recording) by the distributor from the third party, and that the identity of the third party will be confirmed based on general business practices.

Section 4.2.2.5 of the DSC in the October Proposed Amendments required that a copy of any disconnection notice issued in respect of a multi-unit, master-metered building be posted in a conspicuous public place on or in the building. No comments were received. No change will be made to the proposed section.

7. Reconnection

Sections 7.10.1 and 7.10.2 of the DSC in the October Proposed Amendments required a distributor to reconnect a property that had been disconnected for non-payment within two business days, at least 85% of the time, after payment in full of the amount overdue or the entering into of an arrears payment agreement. No comments were received. No change will be made to the proposed sections.

F. Security Deposits

A proposed amendment to section 2.4.17 of the DSC in the October Proposed Amendments exempted residential electricity customers from the use of their highest monthly consumption when calculating the amounts of their security deposits due under

the formula set out in section 2.4.12 of the DSC. The ultimate effect will be to apply the average monthly load when calculating the security deposit due from all residential customers. One submission suggested use of weather normalized data in the section 2.4.12 formula to ensure that abnormal weather does not lead to any unusual results and explained that a number of normalization mechanisms exist. The Board believes that given the complexity likely required to develop reliable weather normalized data, such an adjustment is not warranted under the codes. No change will be made to the proposed amendment to section 2.4.17 of the DSC, or to current section 2.4.12 of the DSC.

Currently, section 2.4.20 of the DSC allows customers to pay a required security deposit in equal instalments over 4 months. Proposed section 2.4.20A of the DSC in the October Proposed Amendments required distributors to permit residential customers to pay a security deposit in equal instalments over a period of at least 6 months, including any increase to an existing deposit (as proposed in section 2.4.25A of the DSC) and repayment of a security deposit applied against arrears (as allowed under proposed section 2.4.26B of the DSC). A utility group submission stated that increasing the instalment payment period from 4 to 6 months may increase the bad debt risk. Two ratepayer group submissions preferred a 12-month period for residential customers, some of whom may have limited ability to pay. This was said to be especially important if the request for the deposit occurs during the winter months. It was also argued that a 12-month repayment period is valuable since the revised proposed code amendments contain no waiver of a security deposit for low-income consumers.

The Board will make no changes to the proposed 6-month security deposit instalment payment period available to all residential customers under proposed sections 2.4.20A, 2.4.25A and 2.4.26B of the DSC. The Board believes that the proposed 6-month instalment period strikes an appropriate balance between facilitating affordable instalment payments by customers and protecting utilities from an undue increase in bad debt risks. The case for a longer instalment period for certain customers could be re-examined after the Ministry releases any low-income energy consumer policy in the future.

Section 2.4.22A of the DSC in the October Proposed Amendments required distributors to review the customer's security deposit in the calendar year in which the anniversary of the first instalment occurs and thereafter as required by the code. A submission asked for clarification that a review of the deposit can also be made at the next

scheduled review. The Board will change the ending of proposed section 2.4.22A to provide greater clarity. It will be revised to state “and thereafter at the next review as required by this Code”.

Section 2.4.23A of the DSC in the October Proposed Amendments provided that where a residential customer has paid a security deposit in instalments, the customer shall not be entitled to request a review of the deposit until 12 months after the first instalment has been paid. No comments were received. No change will be made to the proposed section.

Section 2.4.26A of the DSC in the October Proposed Amendments required that a distributor not issue a disconnection notice to a residential customer unless the distributor has first applied any available security deposit against the amounts owing at that time and the deposit proved insufficient to cover the total amount owing. The utility submissions generally opposed the proposed amendment because the full deposit may not be available at the time of final billing and thus bad debts may increase. Furthermore, it was suggested that utilities will require higher cost manual processes to implement the proposed rule. The expected costs of administering the proposed new deposit rules were viewed by some utilities as reducing their incentive to request a security deposit from many residential customers, which in turn may increase bad debt risk. Also, using deposits to pay arrears may delay certain customers in seeking available help from social service agencies.

The Board believes that proposed section 2.4.26A of the DSC appropriately balances the needs of customers and utilities. The proposed amendment will respond to customer complaints about the reluctance of utilities to apply security deposits against outstanding arrears. After a good payment history for the first year, the customer would receive the security deposit back and there would be no deposit left to apply to the final bill in any event. If the customer does not maintain a good payment history during the first year, the utility will not need to return the deposit at the annual review. No change will be made to the proposed section 2.4.26A.

Where a distributor applies a security deposit to offset amounts owing by a residential customer under section 2.4.26A, proposed section 2.4.26B of the DSC provided the distributor with the right to request that the customer repay the amount of the security deposit that was so applied. Residential customers will be allowed to repay this amount

in instalments over 6 months. No comments were received and no change will be made to the proposed section.

An amendment to section 2.4.10 of the DSC in the October Proposed Amendments provided that where a security deposit is applied pursuant to proposed section 2.4.26A, this will constitute an example of how the customer will not have a good payment history under section 2.4.10 of the DSC. No comments were received. No change will be made to the proposed amendment.

G. Arrears Management Programs

Section 2.7.1 of the DSC in the October Proposed Amendments required distributors to make available to any residential customer who is unable to pay his or her outstanding electricity charges the opportunity to enter into an arrears payment agreement with the distributor. Proposed sections 2.7.1.1 to 2.7.4.2 in the October Notice set out the minimum terms and conditions for such agreements.

One ratepayer group supported the introduction of a standard arrears management program. Another ratepayer group recommended a more generous program which would mandate that utilities could not levy late payment charges, or other service charges (account collection charge, disconnection and reconnection charge, etc.), on the amount subject to the repayment agreement. A utility submission argued that offering the program to all residential customers is unnecessary and that it will adversely impact utility cash flow. The Board will proceed with proposed section 2.7.1, subject to a modest change in wording to clarify its intended operation.

The March 2009 Notice had proposed an arrears management program for low-income customers; however, in the October 2009 Notice, the Board decided there would be benefit in proceeding with an arrears management program available to all residential customers. The costs were carefully considered. The October Proposed Amendments were revised to provide a deferral (i.e. arrears and outstanding service charges are to be paid over an extended period) rather than a waiver (i.e. late payment charges, reconnection charges or the principal amount of the arrears are not required to be written-off). The Board continues to believe this approach is appropriate for the arrears management plan that the proposed rules will require be made available to all residential customers. The Board also believes that an additional rule is warranted:

Under proposed new section 2.7.5 of the DSC in the March Proposed

Amendments, distributors will only be required to offer a second arrears plan 2 years or more after a first agreement was reached, provided the earlier plan was satisfactorily performed. A few Ontario utilities currently apply a 1-year time qualification in this area and they may waive the proposed new 2-year rule if so desired.

Under the program to be available to all residential customers, utilities will retain the right i) to levy a late payment charge on the bill payments outstanding and include it in the amount that is subject to the arrears payment agreement; and ii) to charge interest during the course of an arrears payment agreement. The Board wishes to confirm that the proposed code rules will not preclude continued utility discretion to offer specific arrears payment agreements that are more manageable for residential customers on an as-needed basis by, for example, voluntarily waiving late payment and reconnection charges.

As discussed above, revised proposed section 4.2.2.4 of the DSC in the March Proposed Amendments will require a distributor to make reasonable efforts to contact a residential customer to whom the distributor has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection. Under proposed new section 4.2.2.4(d) of the DSC, the distributor shall advise the residential customer that a Board-prescribed arrears management program may be available and the distributor must be prepared to enter into an arrears payment agreement at that time if the residential customer is eligible for the same under proposed section 2.7 of the DSC. The intent is to provide the customer and the utility with one last opportunity to enter into an arrears payment agreement and avoid the pending disconnection.

Section 2.7.1.1 of the DSC in the October Proposed Amendments provided that before entering into an arrears payment agreement, the distributor shall first apply any security deposit held on account of the customer against any electricity charges owing at the time. A utility submission opposed the rule because a full security deposit may then not be available at the time of final billing. A ratepayer group submission requested that a customer should have the discretion as to how much of the available deposit is applied against the arrears due. The Board believes the approach proposed in section 2.7.1.1 will prove fairer and easier to administer. Section 2.7.1.1 will proceed as proposed, subject to the correction of a typographical error.

Section 2.7.1.2 of the DSC in the October Proposed Amendments provided that before entering into an arrears payment agreement, residential customers could be required to

make a minimum down payment of up to 15% of the sum of electricity charges due and accumulated late payment charges on the same. Other service charges, such as reconnection charges or non-electricity charges, are to be excluded from the calculation of the minimum down payment. A utility group submission recommended moving to a 50% down payment requirement. The Board believes that requiring a 50% down payment would seriously reduce the intended benefits to residential customers of the new arrears management plan rules. No change will be made to proposed section 2.7.1.2.

Section 2.7.2 of the DSC in the October Proposed Amendments provided that the arrears payment agreement would apply to all remaining electricity charges that are due for repayment, after applying the down payment allowed. A submission suggested adding the current bill amount to the total amount that is the subject of the arrears payment agreement. The Board believes that such an addition will help make the agreements more effective in practice. **The Board proposes to change proposed section 2.7.2 of the DSC to add the current bill amount to the total amount owing under an arrears payment agreement.**

Proposed sections 2.7.2(a) and 2.7.2(b) of the DSC set out minimum repayment periods for arrears payment agreements. The proposed time period is 5 months where the electricity charges remaining due after application of the down payment and security deposit (as to be provided under the proposed new rules) is less than twice the customer's average monthly billing amount. The proposed time period is 10 months where the amount due exceeds that threshold. A submission suggested moving to 2 and 4 months, instead of 5 and 10 months, respectively, as currently proposed. It was said distributors who serve a high proportion of seasonal customers will be disadvantaged by allowing such customers up to 10 months to repay the accumulated arrears. The Board believes that, with the proposed addition of a once every 2-years eligibility requirement, the proposed arrears management plan rules offer a reasonable balance between scope of coverage and cost containment. No change will be made to the time periods set out in proposed sections 2.7.2(a) and 2.7.2(b) of the DSC. A cross-reference to proposed section 2.7.1.1 will be added. A typographical error in proposed section 2.7.2 will also be corrected.

Section 2.7.3 of DSC in the October Proposed Amendments defined average monthly billing for purposes of the section 2.7.2 time period tests. To avoid undue complexity, the Board does not agree with the suggestion to mandate weather normalization of the

data to be used in the calculation of a customer's average monthly billing amount. The Board will proceed with section 2.7.3 as proposed.

Section 2.7.4 of the DSC in the October Proposed Amendments provided that an arrears payment agreement may be terminated if a customer misses more than one scheduled arrears payment or more than one current electricity charge billing during the course of the agreement. Two utility group submissions preferred that arrears agreements become terminated upon a single default. The proposed approach is more flexible while still recognizing the underlying obligation to make regular payments to keep an agreement in force. The Board believes that this approach will prove of greater benefit to all parties over the long run. No change will be made to proposed section 2.7.4.

Section 2.7.4.1 of the DSC in the October Proposed Amendments required that a written notice of cancellation must be provided by the distributor to the customer and to any third party previously designated by the customer at least 10 days before the date of the cancellation. Two utility submissions requested that the customer be responsible for forwarding the cancellation notice to the third party. The Board believes that it will prove helpful to allow the customer to request that a third party automatically be provided a copy of any cancellation notice. This process will be detailed in proposed new section 2.7.4.1A of the DSC in the March Proposed Amendments. It will provide that the distributor must, provided a request was received from the residential customer at the time the arrears payment agreement was entered into, provide a copy of any future arrears agreement cancellation notice to the third party designated by the customer. New section 2.7.4.1A will thus help clarify the operation of proposed section 2.7.4.1.

Proposed new section 2.7.4.1B of the DSC in the March Proposed Amendments clarifies that an email or telephone request from the customer is acceptable for the purposes of section 2.7.4.1A.

Section 2.7.4.2 of the DSC in the October Proposed Amendments required that where a customer defaults on an arrears payment agreement but has not yet had service discontinued by the utility, the agreement must be reinstated if the customer pays in full the amount that should have been paid up to that date. No comments were made and no change will be made to proposed section 2.7.4.2.

H. Management of Customer Accounts

1. Treatment of Third Party Requests To Open New Account

Section 2.8.1 of the DSC in the October Proposed Amendments provided that where a distributor opens an account in the name of a person at the request of a third party, the distributor shall within 15 days send a letter to the person advising of the new account and requesting confirmation that the person agrees to be the named customer. If the distributor does not receive confirmation from the intended customer within 15 days, the distributor shall advise the third party that the account will not be set up as requested.

A utility group submission argued that distributors have developed effective arrangements with housing builders to set up new accounts and that the proposed rule would lead to a lower level of service to customers and to increased compliance costs. Another utility submission suggested that the proposed rule will be an inconvenience to customers. The Board wishes to point out the flexibility inherent in proposed section 2.8.1 of the DSC. A home builder may obtain the required written consent from the new customer at a convenient time in its closing process and then forward the document to the utility at a later date. No change will be made to the substance of proposed section 2.8.1. A minor modification will be made to the wording used.

Section 2.8.1.1 of the DSC in the October Proposed Amendments added flexibility to the process by providing that a distributor is not required to send a letter advising of the opening of the account where the request is received in writing from the new customer's solicitor or other person in possession of a valid Power of Attorney for the customer. The in writing requirement for all the new DSC section 2.8 rules may be satisfied by electronic communications in accordance with the *Electronic Commerce Act, 2000*, such as an e-mail. No comments were received on proposed section 2.8.1.1. No change will be made to the proposed section.

Section 2.8.2 of the DSC in the October Proposed Amendments provided that, with the exception of the parties mentioned in section 2.8.1.1 of the DSC, where a distributor has opened an account for a property in the name of a person at the request of a third party, the distributor shall not seek to recover from that person any charges for service provided to the property unless the person has agreed in writing (including electronic equivalents) to becoming the customer of the distributor in relation to the property. No comments were received on proposed section 2.8.2. No substantive change will be

made to the proposed section. The in writing reference will be removed from this and the following opening and closing of account sections in the March Proposed Amendments, as proposed section 2.8.1 will not require written consent and proposed new section 2.8.4A confirms agreements may be made verbally over the telephone (subject to certain conditions).

Current section 6.1.2 of the DSC provides that a distributor has an implied contract with any customer that is connected to its distribution system and receives distribution services from the distributor. Proposed section 6.1.2.1 of the DSC in the October Proposed Amendments added that nothing in DSC section 6.1.2 shall be construed as permitting a distributor to recover or to seek to recover charges for a service provided to a property from any person other than a person that has agreed in writing to being the customer of the distributor in relation to the property or that has agreed in writing to assume responsibility for those charges.

A utility submission suggested that the effect of proposed section 6.1.2.1 of the DSC will be to increase timelines and customer administration costs. It suggested allowing a grace period of one week, after an account is closed, for the new customer to set up the account in writing. Another utility submission commented that the proposed section will change the current practice of treating a paid invoice as consent for electricity service. The Board would note that the underlying principle in the new rules is to require actual customer consent, which should help reduce subsequent disputes with persons who say they did not agree to become customers of the distributor. The reference to in writing will be eliminated from proposed section 6.1.2.1 of the DSC, as with the other opening and closing of account sections in the October Proposed Amendments.

Flexibility in day-to-day operations is provided by proposed section 6.1.2.2 of the DSC in the October Proposed Amendments. It stated that for the purposes of section 6.1.2.1, the requirement for agreement in writing includes agreements in electronic form in accordance with the *Electronic Commerce Act, 2000*. A utility group submission requested that use of voice recordings also be allowed, to further ease compliance. The Board agrees that the acceptance of voice mail recordings may lead to cost savings but is concerned about the potential for disputes arising from inadequate confirmation of the caller's identity. **The Board proposes to expand proposed section 6.1.2.2 of the DSC to also allow a distributor the option, for the purposes of revised proposed section 6.1.2.1, of accepting requests for service provided over the telephone, on**

the condition that the voice recording is retained for at least 24 months after the new account is set up.

A grandfathering provision was contained in proposed section 6.1.2.3 of the DSC in the October Proposed Amendments, which provided that proposed section 6.1.2.1 of the DSC applies to all agreements entered into after the effective date of the amendments and is not intended to cancel any binding agreements for service existing as of that date. No policy comments were received on the proposed section. The Board will proceed with proposed section 6.1.2.3, subject to the correction of a typographical error noted. The scope of proposed section 6.1.2.3 of the DSC will not cover any agreement between a utility and a landlord that purports to make the tenant the customer where the consent of the tenant was not also obtained.

2. Default Account Holder when Current Tenant Customer Departs

Section 2.8.3 of the DSC in the October Proposed Amendments dealt with who will become the new account holder when a tenant that was the customer departs. The effect of the proposed amendment is that a landlord will no longer become the new customer by default upon the departure of a tenant account holder. In the future, a landlord will have to consent in writing to becoming the customer in such cases before it becomes responsible for the charges. The submissions received were all from utilities and they consistently argued against the adoption of proposed section 2.8.3. Utilities explained that current practice is to assume that landlords want continued service for empty units to ensure pipes do not freeze and to better show the premises to prospective new tenants. A utility explained that forcing it to disconnect and reconnect for short periods of time will increase customer administration costs. Another utility submission suggested the proposal will lead to increased operational costs or higher lost revenues. It recommended that landlords should be responsible for any charges for service provided after the tenant closes the account.

The Board wishes to reiterate, as set out in the October 2009 Notice, that utilities may enter into agreements with landlords dealing with their respective responsibilities and rights upon vacancy of a rental unit by a tenant. To make it clear that this option will be available to utilities, **the October Proposed Amendments will be modified so that an express reference to possible use of such agreements is separately set out in new section 2.8.3A of the DSC in the March Proposed Amendments.** If such agreements provide that the landlord is to remain the customer when a tenant enters or

departs, additional costs such as reconnection charges and the potential for damage to the rental units due to a lack of electricity service would be eliminated. Similar agreements are already in use amongst utilities and landlords elsewhere in Canada. The Board will proceed with proposed section 2.8.3 of the DSC, subject to adding a cross-reference to proposed new section 2.8.3A and to eliminating the reference to an in writing requirement. It should be noted that under the proposed new rules, a current or future agreement between a utility and a landlord could not lead to a tenant becoming the customer, as actual consent from the tenant will be required.

Further operating flexibility in the utility-landlord context is provided by section 2.8.4 of the DSC in the October Proposed Amendments, which confirmed that an agreement in writing under all the proposed section 2.8 rules of the DSC (including section 2.8.3) includes agreements in electronic form in accordance with the *Electronic Commerce Act, 2000*. The Board will proceed with proposed section 2.8.4, subject to the correction of a typographical error.

The Board proposes to add new section 2.8.4A of the DSC in the March Proposed Amendments to allow use of voice recordings for the purposes of complying with the rules in proposed sections 2.8.1, 2.8.2 and 2.8.3 of the DSC. Section 2.8.1.1 will not be added to this list because persons purporting to act as a legal agent (solicitor or Power of Attorney) for a customer will be required to provide a solicitor's letter or other documentation indicating that the person is authorized to act as the customer's legal agent. In all other cases captured by new proposed section 2.8.4A, the Board believes it is important that distributors retain a record of a telephone conversation for a reasonable period of time to avoid future disputes. Proposed new section 2.8.4A of the DSC will therefore require that a distributor that chooses to accept a telephone communication from a residential customer, in lieu of written documentation, for agreements falling under sections 2.8.1, 2.8.2 and 2.8.3 of the DSC must retain a recording of the conversation for at least 24 months after a new account is set up.

The Board further proposes to add new section 2.8.4B of the DSC in the March Proposed Amendments to allow distributors to accept a telephone communication from a landlord advising that the landlord will assume responsibility for the account, when the current tenant closes its account, provided that the distributor retains the recording for a period equal to the length of time the agreement remains in effect plus 6 months further. The additional 6 month period is added in case there is any dispute with the landlord over the last bill.

A submission requested that existing utility arrangements with landlords be grandfathered (similar to proposed section 6.1.2.3 of the DSC). **The Board proposes to add new section 2.8.5 of the DSC in the March Proposed Amendments to grandfather any existing binding agreements for service or existing written agreements between utilities and landlords dealing with the rights and obligations between themselves when a tenant customer departs.** This will confirm the intended operation of the rule in section 2.8.3 of the DSC as proposed in the October 2009 Notice. Note that any past agreement which purports to bind the tenant without that person's consent will not be recognized.

III. Anticipated Costs and Benefits of the Further Revised Proposed Amendments

There were a number of concerns expressed by utilities about the overall costs versus the benefits of the October Proposed Amendments, including the risk of adverse impact upon utility working capital needs. In most cases the Board prefers to retain the October Proposed Amendments to ensure customers receive the intended benefits. The Board has proposed further revised amendments in specific areas of the March Proposed Amendments to address implementation concerns including:

- reducing the proposed disconnection notice period (and period within which to request third-party payment assistance) for residential customers from 14 to 10 days, which will decrease the overall length of the billing and collection process and reduce bad debt exposure while still offering customers a longer notice period than current utility practice
- increasing the period a disconnection notice remains effective after a third party declines to provide assistance to a residential customer, which will reduce the total time of the disconnection process and the costs of issuing another notice
- requiring more information be set out in disconnection notices regarding payment options and alternatives, which will alert residential customers as to what payment means will be acceptable at various times and also as to the availability of an arrears management program
- requiring a distributor to make reasonable efforts to contact, in person or by telephone, a residential customer to whom the distributor has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection to provide the customer with details about the scheduled

date for disconnection, payment options before and at the time of disconnection, and about the existence of an arrears management program

- requiring, where the attempt to contact the customer 48 hours before the disconnection is unsuccessful, that the distributor make a final reasonable attempt to communicate with the customer when it attends the property to execute disconnection and to ensure that facilities or staff are available to accept payment by credit card of the amount outstanding at any time of day a distributor attends at the premises of a residential customer to effect disconnection
- allowing the use of e-mail or telephone communications for various disconnection, account set up and account utility-landlord rules, which will provide lower-cost compliance options
- grandfathering pre-existing binding service agreements between utilities and landlords dealing with their respective responsibilities, which will ease transition to the new customer service rules
- adding the current bill amount to the sum subject to the arrears agreement, which is expected to make such agreements more helpful
- requiring a residential customer to wait for a period of 2 years until it can request another arrears repayment agreement, which will reduce the risk of free riders and lower the costs associated with repeated negotiation of such agreements.

The Board has made a number of other minor wording changes to the October Proposed Amendments, which will benefit all parties when applying the new customer service rules by making their intent clearer. Utilities will be given more billing options (an immediate payment request, etc.) when a customer has engaged in improper tampering or other unlawful actions. Compliance with the standard disconnection notice will be made less onerous for utilities serving multiple municipalities.

The proposed amendment requiring distributors to offer an equal monthly payment plan option to residential customers of retailers, which attracted utility and ratepayer concern about feasibility and cross-subsidies, is being withdrawn to allow the Board to obtain further input about implementation from distributors and retailers. This is expected to benefit the ultimate resolution of the issue.

IV. Coming Into Force

Distributors agreed that the 3 month coming into force period proposed in the October 2009 Notice was not feasible given the significant computer and operating system

changes needed to implement the proposed customer service amendments. One submission reported the vendors of Customer Information Systems indicated that they will not be able to provide new systems for early or mid-2010 due to concurrent initiatives, such as Time of Use ("TOU") billing. Another utility advised it will be implementing a new technology freeze for a large part of 2010 while it rolls out government-directed TOU rates.

The submission from one group of distributors estimated the time needed to fully implement the new rules would run from 8 to 12 months following finalization of the amendments. This time would allow for reprogramming, staff training and new utility customer service policies. Two other utility submissions recommended a January 1, 2011 implementation date to allow all utilities to make the needed "end-to-end" changes to a variety of customer service functions. Given the total number of system changes required to implement the package of customer service amendments, the Board agrees that a reasonable implementation period is important. **The Board therefore proposes January 1, 2011 as the new coming into force date for all the proposed amendments set out in this Notice.**

V. Cost Awards

Cost awards will be available under section 30 of the *Ontario Energy Board Act, 1998* to eligible persons in relation only to the provision of comments on the proposed further revised amendments highlighted in bold in this Notice and in Attachment A, to a maximum of 8 hours per each eligible person or party. Costs awarded will be recovered from all licensed electricity distributors based on their respective distribution revenues.

VI. Invitation to Comment

All interested parties are invited to provide comments on the significant further revised proposed amendments to the Codes, which are all highlighted in bold in Attachment A, by April 5, 2010.

Two (2) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board

P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto, Ontario
M4P 1E4

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

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

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

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

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

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

DATED at Toronto, March 12, 2010.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Attachments: Attachment A: March 12, 2010 Further Revised Proposed Amendments to the Distribution System Code, the Retail Settlement Code and the Standard Supply Service Code: Customer Service (proposed amendments subject to further comment are in bold)

Attachment B: Comparison Version of March 12, 2010 Proposed Customer Service Code Amendments relative to the October 1, 2009 Proposed Customer Service Code Amendments (for information purposes only)

**Attachment A
To
Notice of Further Revised Proposal to Amend Codes**

March 12, 2010

EB-2007-0722

**Further Revised Proposed Amendments
to the Distribution System Code, the Retail Settlement Code and the
Standard Supply Service Code: Customer Service**

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

The proposed amendments in bold italics are subject to further notice and comment.

Part I: Revised Proposed Amendments to the Distribution System Code

1. Section 1.7 of the Distribution System Code is amended by adding to the end of the paragraph "All of section 7, Service Quality Requirements, comes into force on January 1, 2009" the following "*with the exception of section 7.10*", and by adding the following paragraph thereafter:

The following sections come into force on January 1, 2011: ____.

2. Section 2.4.10 of the Distribution System Code is amended by adding immediately after the words "a disconnect / collect trip has occurred" the phrase "*or the distributor had to apply a security deposit in accordance with section 2.4.26A and required the customer to repay the security deposit in accordance with section 2.4.26B*".
3. Section 2.4.17 of the Distribution System Code is amended by adding the phrase "*, other than a residential electricity customer,*" immediately after the phrase "Where a customer".
4. Section 2.4.20 of the Distribution System Code is amended by replacing "installments" with "instalments" in the first sentence and by adding the following new paragraph:

- 2.4.20A *Despite section 2.4.20, a distributor shall permit a residential customer to provide a security deposit in equal instalments paid over a period of at least 6 months, including where a new security deposit is required due to the distributor having applied the existing security deposit against amounts owing under section 2.4.26A.*
5. Section 2.4.22 of the Distribution System Code is amended by adding the following new paragraph:
- 2.4.22A *For the purposes of section 2.4.22, where a residential customer has paid a security deposit in instalments, a distributor shall conduct a review of the customer's security deposit in the calendar year in which the anniversary of the first instalment occurs and thereafter at the next review as required by this Code.*
6. Section 2.4.23 of the Distribution System Code is amended by adding the following new paragraph:
- 2.4.23A *For the purposes of section 2.4.23, where a residential customer has paid a security deposit in instalments, the customer shall not be entitled to request a review of the security deposit until 12 months after the first instalment was paid.*
7. Section 2.4.25 of the Distribution System Code is amended by adding the following new paragraph:
- 2.4.25A *Despite section 2.4.25, where a residential electricity customer is required to adjust the security deposit upwards, a distributor shall permit the customer to pay the adjustment amount in equal instalments paid over a period of at least 6 months.*
8. Section 2.4.26 of the Distribution System Code is amended by adding the following new paragraphs:
- 2.4.26A *A distributor shall not issue a disconnection notice to a residential customer for non-payment unless the distributor has first applied any security deposit held on account for the customer against any amounts owing at that time and the security deposit was insufficient to cover the total amount owing.*

2.4.26B *Where a distributor applies all or part of a security deposit to offset amounts owing by a residential customer under section 2.4.26A, the distributor may request that the customer repay the amount of the security deposit that was so applied. The distributor shall allow the residential customer to repay the security deposit in instalments in accordance with section 2.4.20A.*

9. Section 2 of the Distribution System Code is amended by adding the following new heading and paragraphs:

2.6 Bill Issuance and Payment

2.6.1 *A distributor shall include on each bill issued to a customer the date on which the bill is printed.*

2.6.2 *Except as otherwise permitted by this Code, a distributor shall not treat a bill issued to a customer as unpaid, and shall not impose any late payment or other charges associated with non-payment, until the applicable minimum payment period set out in section 2.6.3 has elapsed.*

2.6.3 *For the purposes of section 2.6.2, the minimum payment period shall be 16 days from the date on which the bill was issued to the customer.*

A distributor may provide for longer minimum payment periods, provided that any such longer minimum payment periods are documented in the distributor's Conditions of Service.

2.6.4 *For the purposes of section 2.6.3, a bill will be deemed to have been issued to a customer:*

- (a) if sent by mail, on the third day after the date on which the bill was printed by the distributor;*
- (b) if made available over the internet, on the date on which an e-mail is sent to the customer notifying the customer that the bill is available for viewing over the internet;*
- (c) if sent by e-mail, on the date on which the e-mail is sent; or*
- (d) if sent by more than one of the methods listed in paragraphs (a) to (c), on whichever date of deemed issuance occurs last.*

2.6.5 *A distributor shall apply the following rules for purposes of determining the date on which payment of a bill has been received from a customer:*

- (a) *if paid by mail, three days prior to the date on which the distributor receives the payment;*
- (b) *if paid at a financial institution or electronically, on the date on which the payment is acknowledged or recorded by the customer's financial institution; or*
- (c) *if paid by credit card issued by a financial institution, on the date and at the time that the charge is accepted by the financial institution.*

2.6.6 *Where a bill issued to a residential customer includes charges for goods or services other than electricity charges, a distributor shall allocate any payment made by the customer first to the electricity charges and then, if funds are remaining, to the charges for other goods or services.*

2.6.6.1 *Section 2.6.6 does not apply to existing joint billing agreements until the renewal date of such agreements or 2 years, whichever comes earlier, and thereafter the provisions of section 2.6.6 will be deemed applicable.*

2.6.6.2 *Where payment on account of a bill referred to in section 2.6.6 or 2.6.6.1 is sufficient to cover electricity charges, the distributor shall not impose late payment charges, issue a disconnection notice or disconnect electricity supply.*

2.6.6.3 *For the purposes of this section, "electricity charges" are:*

- (a) *charges that appear under the sub-headings "Electricity", "Delivery", "Regulatory Charges" and "Debt Retirement Charge" as described in Ontario Regulation 275/04 (Information on Invoices to Low-volume Consumers of Electricity) made under the Act, and all applicable taxes on those charges;*
- (b) *where applicable, charges prescribed by regulations under section 25.33 of the Electricity Act, 1998 and all applicable taxes on those charges; and*
- (c) *Board-approved late payment fees, specific service charges and such other charges and applicable taxes associated with the consumption of electricity as may be required by law to be included on the bill issued to the customer or as may be designated by the Board for the purposes of this section but not including security deposits.*

2.6.7 *For the purposes of section 2.6, a distributor shall apply the following rules relating to the computation of time:*

- (a) *where there is reference to a number of days between two events, the days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;*
- (b) *where the time for doing an act expires on a day that is not a business day, the act may be done on the next day that is a business day;*
- (c) *where an act, other than payment by a customer, occurs on a day that is not a business day, it shall be deemed to have occurred on the next business day;*
- (d) *where an act, other than payment by a customer, occurs after 5:00 p.m., it shall be deemed to have occurred on the next business day; and*
- (e) *receipt of a payment by a customer is effective on the date that the payment is made, including payments made after 5:00 p.m.*

For the purposes of this section, a “business day” is any day other than a Saturday or a holiday as defined in section 88 of the Legislation Act, 2006.

- 10. Section 2 of the Distribution System Code is amended by adding the following new heading and paragraphs:

2.7 Arrears Management Programs

- 2.7.1 *A distributor shall make available to any residential electricity customer who is unable to pay his or her outstanding electricity charges, as defined in section 2.6.6.3, the opportunity to enter into an arrears payment agreement with the distributor. The arrears payment agreement shall include, at a minimum, the terms and conditions specified in sections 2.7.1.1 – 2.7.5 inclusive.*
- 2.7.1.1 *Before entering into an arrears payment agreement under section 2.7, a distributor shall apply any security deposit held on account of the customer against any electricity charges owing at the time.*
- 2.7.1.2 *As part of the arrears payment agreement, a distributor may require that the customer pay a down payment of up to 15% of the electricity charge arrears accumulated, inclusive of any applicable late payment charges but excluding other service charges, when entering into the arrears management program.*
- 2.7.2 *The arrears payment agreement referred to in section 2.7.1 shall allow the residential electricity customer to pay all remaining electricity charges that are then overdue for payment **as well as***

the current bill amount, after applying a security deposit under section 2.7.1.1, and the down payment referred to in section 2.7.1.2, including all electricity-related service charges that have accrued to the date of the agreement, over the following periods:

- (a) a period of at least 5 months, where the total amount of the electricity charges remaining overdue for payment is less than twice the customer's average monthly billing amount; or
- (b) a period of at least 10 months, where the total amount of the electricity charges remaining overdue for payment is equal to or exceeds twice the customer's average monthly billing amount.

2.7.3 For the purposes of section 2.7.2, the customer's average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the customer in the preceding 12 months and dividing that value by 12. If the customer has been a customer of the distributor for less than 12 months, the customer's average monthly billing amount shall be based on a reasonable estimate made by the distributor. For the purposes of this section, "electricity charges" has the same meaning as in section 2.6.6.3.

2.7.4 Where a customer defaults on more than one occasion in making a payment in accordance with an arrears payment agreement or on account of a current electricity charge billing, the distributor may cancel the arrears payment agreement.

2.7.4.1 If the distributor cancels an arrears payment agreement pursuant to section 2.7.4, the distributor will give written notice of cancellation to the customer and to any third party designated by the customer under section 2.7.4.1A at least 10 days before the effective date of the cancellation.

2.7.4.1A Where, at the time of entering into an arrears payment agreement a customer has designated a third party to receive notice of cancellation of the arrears payment agreement, the distributor shall provide notice of cancellation to such third party.

2.7.4.1B A distributor shall accept electronic mail (e-mail) or telephone communications from the customer for purposes of section 2.7.4.1A.

2.7.4.2 If the customer makes payment of all amounts due pursuant to the arrears payment agreement as of the cancellation date referred to in section 2.7.4.1 and makes such payment on or before the

cancellation date, the distributor shall reinstate the arrears payment agreement.

- 2.7.5** ***A distributor shall make available to a residential electricity customer a second arrears payment agreement if the customer so requests, provided that 2 years or more has passed since a first arrears payment agreement was entered into and provided that the customer performed his or her obligations under the first arrears payment agreement.***

11. Section 2 of the Distribution System Code is amended by adding the following heading and paragraphs:

2.8 Opening and Closing of Accounts

- 2.8.1** *Where a distributor opens an account for a property in the name of a person at the request of a third party, the distributor shall within 15 days of the opening of the account send a letter to the person advising of the opening of the account and requesting that the person confirm that he or she agrees to be the named customer. If the distributor does not receive confirmation from the intended customer, within 15 days of the date of the letter, the distributor shall advise the third party that the account will not be set up as requested.*
- 2.8.1.1** *The distributor is not required to send a letter advising of the opening of the account where the request to open the account is made in writing by the person's solicitor or person in possession of a valid Power of Attorney for the person.*
- 2.8.2** *Despite any other provision of this Code, with the exception of the parties mentioned in section 2.8.1.1, where a distributor has opened an account for a property in the name of a person at the request of a third party, the distributor shall not seek to recover from that person any charges for service provided to the property unless the person has agreed to be the customer of the distributor in relation to the property.*
- 2.8.3** *Despite any other provision of this Code, with the exception of the parties mentioned in section 2.8.1.1 or an agreement under section 2.8.3A, where a distributor receives a request to close or transfer an account in relation to a rental unit in a residential complex as defined in the Residential Tenancies Act, 2006 or another residential property, the distributor shall not seek to recover any charges for service provided to that rental unit or residential property after closure of the account from any person, including the*

landlord for the residential complex or a new owner of the residential property, unless the person has agreed to assume responsibility for those charges.

- 2.8.3A** ***A distributor may enter into an agreement with a landlord whereby the landlord agrees to assume responsibility for paying for continued service to the rental property after closure of a tenant's account.***
- 2.8.4** *For the purposes of section 2.8, the requirement for an agreement in writing includes agreements in electronic form in accordance with the Electronic Commerce Act, 2000.*
- 2.8.4A** ***For the purposes of sections 2.8.1, 2.8.2 and 2.8.3, the agreement may be established by verbal request over the telephone provided that a recording of the verbal request is retained by the distributor for 24 months thereafter.***
- 2.8.4B** ***For the purposes of section 2.8.3A, the agreement may be established by verbal request over the telephone provided that a recording of the verbal request is retained by the distributor for the length of the agreement, plus an additional 6 months.***
- 2.8.5** ***Nothing in sections 2.8.1 – 2.8.4B inclusive is intended to void or cancel any binding agreements for service existing as of the effective date of these amendments or any pre-existing agreements between landlords and distributors.***

[Note: For ease of identification, section 4.2 of the Distribution System Code pertains to "Disconnection and Reconnection"]

12. Sections 4.2.2 and 4.2.3 of the Distribution System Code are deleted and replaced with the following paragraphs:

- 4.2.2** *A distributor that intends to disconnect, pursuant to section 31 of the Electricity Act, 1998, the property of a residential customer for non-payment shall send or deliver a disconnection notice to the customer that contains, at a minimum, the following information:*
- (a) *the date on which the disconnection notice was printed by the distributor;*
 - (b) *the earliest and latest dates on which disconnection may occur, in accordance with sections 4.2.3 and 4.2.2.3;*
 - (c) *the amount that is then overdue for payment, including all applicable late payment and other charges associated with non-payment to that date;*

- (d) *the amount of any approved service charge(s) that may apply if disconnection occurs, and the circumstances in which each of these charges is payable;*
- (e) *the forms of payment that the customer may use to pay all amounts that are identified as overdue in the disconnection notice, which must at least include payment by credit card issued by a financial institution as described in section 4.2.4 and any other method of payment that the distributor ordinarily accepts and which can be verified within the time period remaining before disconnection;*
- (f) *the time period during which any given form of payment listed under paragraph (e) will be accepted by the distributor;*
- (g) *that, in order to avoid disconnection when the distributor attends at the customer's property to execute the disconnection, a customer will only be able to pay by credit card issued by a financial institution, unless the distributor, in its discretion, will accept other forms of payment at that time and sets out the other forms of payment in the disconnection notice;*
- (h) *that a disconnection may take place whether or not the customer is at the premises;*
- (i) *that a Vital Services By-Law may exist in the customer's community and that the customer should contact their local municipality for more information;*
- (j) *that a Board- prescribed arrears management program may be available to all residential customers, and that other voluntary bill payment and financial assistance may be available, and contact information for the distributor where the customer can obtain further information about available assistance; and*
- (k) *any additional option(s) that the distributor chooses, in its discretion, to offer to the customer to avoid disconnection and the deadline for the customer to avail himself or herself of such option(s).*

4.2.2.1 *A distributor that sends or delivers to a customer a disconnection notice, pursuant to section 31(2) of the Electricity Act, 1998, for non-payment shall not include that notice in the same envelope as a bill or any other documentation emanating from the distributor.*

4.2.2.2 *A distributor shall, at the request of a residential customer, send a copy of any disconnection notice issued to the customer for non-payment to a third party designated by the customer for that purpose provided that the request is made no later than the last day*

of the applicable minimum notice period set out in section 4.2.3. In such a case:

- (a) the distributor shall notify the third party that the third party is not, unless otherwise agreed with the distributor, responsible for the payment of any charges for the provision of electricity service in relation to the customer's property; and*
- (b) the rules set out in sections 2.6.4 and 2.6.7 shall apply, with such modifications as the context may require, for the purposes of determining the date of receipt of the disconnection notice by the third party.*

4.2.2.2A *A customer may, at any time prior to disconnection, designate a third party to also receive any future notice of disconnection and the distributor shall send notice of disconnection to such third party.*

4.2.2.2B *A distributor shall accept electronic mail (e-mail) or telephone communications from the customer for purposes of section 4.2.2.2A.*

4.2.2.3 *A disconnection notice issued for non-payment shall expire on the date that is 11 days from the last day of the applicable minimum notice period referred to in section 4.2.3, determined in accordance with the rules set out in section 2.6.7. A distributor may not thereafter disconnect the property of the customer for non-payment unless the distributor issues a new disconnection notice in accordance with section 4.2.2.*

4.2.2.4 ***A distributor shall make reasonable efforts to contact, in person or by telephone, a residential customer to whom the distributor has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection. At that time, the distributor shall:***

- (a) advise the customer of the scheduled date for disconnection;***
- (b) advise that the customer has the option to pay amounts owing by credit card issued by a financial institution, in addition to other forms of payment that the distributor will accept at that time and which can be verified within the time period remaining before disconnection; and advise during what hours such payments may be made;***
- (c) advise the customer that, when the distributor attends at the customer's property to execute the disconnection, the customer will only be able to pay by credit card issued by a financial institution, unless the distributor, in its discretion, will accept other forms of payment at that time;***

- (d) **advise the customer that a Board-prescribed arrears management program may be available to the customer; the distributor must be prepared to enter into an arrears payment agreement at that time if the customer is eligible under section 2.7; and**
- (e) **advise the customer of any additional option(s) that the distributor, in its discretion, wishes to offer to the customer to avoid disconnection.**

- 4.2.2.5 Where a distributor issues a disconnection notice for non-payment in respect of the disconnection of a multi-unit, master-metered building, the distributor shall post a copy of the disconnection notice in a conspicuous place on or in the building promptly after issuance of the notice.
- 4.2.2.6 A distributor shall suspend any disconnection action for a period of 21 days from the date of notification by a registered charity, government agency or social service agency that it is assessing a residential customer for the purposes of determining whether the customer is eligible to receive bill payment assistance, provided such notification is made **within 10 days** from the date on which the disconnection notice is received by the customer. Where a residential customer had requested prior to the issuance of the disconnection notice that the distributor also provide a copy of any disconnection notice to a third party, the distributor shall suspend any disconnection action for a period of 21 days from the date of notification by the third party that he, she or it is attempting to arrange assistance with the bill payment, provided such notification is made **within 10 days** from the date on which the disconnection notice is received by the customer.
- 4.2.2.7 Despite section 4.2.2.6, upon notification by a registered charity, government agency or social service agency that a customer is not eligible to receive bill payment assistance, or if another third party who was considering the provision of bill assistance decides not to proceed, the distributor may continue its disconnection process. **Distributors will have up to 11 days to act on the previous disconnection notice and must make a further reasonable effort to contact the customer in accordance with section 4.2.2.4 prior to executing disconnection.**
- 4.2.3 A distributor shall not disconnect a customer for non-payment until the following minimum notice periods have elapsed.
- (a) 60 days from the date on which the disconnection notice is received by the customer, in the case of a residential customer that has provided the distributor with documentation from a physician

confirming that disconnection poses a risk of significant adverse effects on the physical health of the customer or on the physical health of the customer's spouse or dependent family member who resides with the customer; or

(b) 10 days from the date on which the disconnection notice is received, in all other cases.

4.2.3.1 For the purposes of section 4.2.3:

- (a) where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the customer on the third business day after the date on which the notice was printed by the distributor;*
- (b) where a disconnection notice is delivered by personal service, the disconnection notice shall be deemed to have been received by the customer on the date of delivery;*
- (c) where a disconnection notice is delivered by being posted on the customer's property, the disconnection notice shall be deemed to have been received by the customer on the date of such posting;*
- (d) "spouse" has the meaning given to it in section 29 of the Family Law Act;*
- (e) "dependent family member" means a "dependent" as defined in section 29 of the Family Law Act and also includes a grandparent who, based on need, is financially dependent on the customer; and*
- (f) the distributor shall apply the rules relating to the computation of time set out in section 2.6.7.*

4.2.4

- (a) Where a distributor has issued a disconnection notice to a residential customer for non-payment, the distributor shall ensure **it has the facilities or staff available** to permit the customer to pay all amounts that are then overdue for payment by credit card issued by a financial institution. **Subject to paragraph (b), this payment option must be offered during the regular business hours of the distributor, from the time the disconnection notice is delivered to a residential customer until the time the distributor's staff attends at the customer's premises to execute the disconnection.***
- (b) Where a distributor attends at a customer's property to execute a disconnection, whether during or after the distributor's regular business hours, the distributor shall ensure **it has the facilities or staff available at that time to permit the customer to pay all amounts that are then overdue for payment by credit card issued by a financial institution.***

The distributor may, in its discretion, also accept other forms of payment at the time of disconnection.

- (c) Where a distributor was unsuccessful in its attempt to contact a residential customer 48 hours before the planned disconnection as required under section 4.2.2.4, the distributor shall make a reasonable attempt to communicate with the customer, if he or she is at the property, to advise that disconnection will be executed and that payment may be made by credit card issued by a financial institution.***

[Note: For ease of identification, section 6.1 of the Distribution System Code pertains to “Responsibilities to Load Customers”]

13. Section 6.1.2 of the Distribution System Code is amended by adding the following new paragraphs:

- 6.1.2.1 *Nothing in section 6.1.2 shall be construed as permitting a distributor to recover or to seek to recover charges for a service provided to a property from any person other than a person that has agreed to be the customer of the distributor in relation to the property or that has agreed to assume responsibility for those charges.*
- 6.1.2.2 ***For the purposes of section 6.1.2.1, the agreement may be in electronic form pursuant to the Electronic Commerce Act, 2000, and includes telephone communications provided that a recording of the telephone communication is retained by the distributor for 24 months thereafter***
- 6.1.2.3 *Section 6.1.2.1 applies to all agreements entered into after the effective date of these amendments and is not intended to void or cancel any binding agreements for service existing as of the effective date of these amendments.*

14. Section 7 of the Distribution System Code is amended by adding the following heading and paragraphs:

7.10 Reconnection Standards

- 7.10.1 *Where a distributor has disconnected the property of a customer for non-payment, the distributor shall reconnect the property within 2 business days, as defined in section 2.6.7, of the date on which the customer:*
- (a) makes payment in full of the amount overdue for payment as specified in the disconnection notice; or*

(b) enters into an arrears payment agreement with the distributor referred to in section 2.7.

- 7.10.2 *This service quality requirement must be met at least 85 percent of the time on a yearly basis.*

Part II: Revised Proposed Amendments to the Retail Settlement Code

1. Section 1.2 of the Retail Settlement Code is amended to add the following definition:

“customer” means a person that has contracted for or intends to contract for connection of a building or an embedded generation facility. This includes developers of residential or commercial subdivisions.

2. Section 1.7 of the Retail Settlement Code is amended by adding the following sentence at the end of the section:

The amendment to section 7.7 comes into force on January 1, 2011.

3. Section 7.7 of the Retail Settlement Code is deleted and replaced with the following new sections:

The following rules apply to billing errors in respect of which Measurement Canada has not become involved in the dispute:

- 7.7.1 *Where a distributor has over billed a customer or retailer by an amount that is equal or exceeds the customer’s or retailer’s average monthly billing amount, determined in accordance with section 7.7.5, the distributor shall, within 10 days of determination of the error, notify the customer or retailer of the over billing and advise that the customer or retailer may elect to have the full amount credited to their account or repaid in full by cheque, within 11 days of requesting payment by cheque. Where the customer or retailer has not requested payment by cheque within 10 days of notification of the error by the distributor, the distributor may credit the full amount to the account.*
- 7.7.2 *Where a distributor has over billed a customer or retailer by an amount that is less than the customer’s or retailer’s average monthly billing amount, determined in accordance with section 7.7.5, the distributor shall credit the account in the next regularly scheduled bill issued to the customer or retailer.*
- 7.7.3 *If there are outstanding arrears on the customer’s or retailer’s account, the distributor is not required to repay the over-billed amount but may apply it*

to the arrears on the customer's or retailer's account and credit or repay to the customer or retailer the remaining balance.

- 7.7.4 Where a distributor has under billed a customer who is not responsible for the error, the distributor shall allow the customer to pay the under-billed amount in equal instalments over a period at least equal to the duration of the billing error, up to a maximum of 2 years.*
- 7.7.5 For the purposes of sections 7.7.1 and 7.7.2, the customer's or retailer's average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the customer or retailer in the preceding 12 months and dividing that value by 12. If the customer has been receiving service from a distributor for less than 12 months, the customer's average monthly billing amount shall be based on a reasonable estimate made by the distributor. For the purposes of this section, "electricity charges" has the same meaning as in section 2.6.6.3 of the Distribution System Code.*
- 7.7.6 Where a distributor has under billed a customer or retailer who is responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or other unlawful actions, the distributor may require payment of the full under-billed amount by means of a corresponding charge on the next regularly scheduled bill issued to the customer or retailer or on a separate bill to be issued to the customer or retailer responsible for the error. Where disconnection has occurred, the distributor may require payment of such bill prior to the reconnection of service upon request by the customer responsible for the tampering, willful damage, unauthorized energy use or other unlawful actions that caused the under billing.*
- 7.7.7 Where the distributor has under billed a customer or retailer, the maximum period of under billing for which the distributor is entitled to be paid is 2 years. Where the distributor has over billed a customer or retailer, the maximum period of over billing for which the customer or retailer is entitled to be repaid is 2 years.*
- 7.7.8 A distributor may charge interest on under-billed amounts only where the customer or retailer was responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or other unlawful actions. Such interest shall be equal to the prime rate charged by the distributor's bank.*
- 7.7.9 A distributor that has over billed a customer or retailer and the billing error is not the result of a distributor's standard documented billing practices, shall pay interest on the amount credited or repaid to the customer or retailer equal to the prime rate charged by the distributor's bank.*

7.7.10 The entity billing a customer, whether it is a distributor or retailer, is responsible for advising the customer of any meter error and of his, her or its rights and obligations under the Electricity and Gas Inspection Act (Canada). The billing party is also responsible for subsequently settling actual payment differences with the customer as described above.

7.7.11 The provisions of section 7.7 do not apply where the distributor has over billed or under billed a customer or retailer but issues a corrected bill within 16 days of the issue date of the original erroneous bill.

Part III: Revised Proposed Amendments to the Standard Supply Service Code

1. Section 1.6 of the Standard Supply Service Code is amended by adding the following section:

1.6.4 *The amendment to section 2.6.2 comes into force on January 1, 2011.*

2. Section 2.6.2 of the Standard Supply Service Code is deleted and replaced with the following:

2.6.2 A distributor shall offer an equal monthly payment plan option to all residential customers receiving standard supply service. The equal monthly payment plan option shall meet the following minimum requirements:

- (a) a distributor may only refuse to provide an equal monthly payment plan option to a customer that is in arrears on payment to the distributor for electricity charges, as defined in the Distribution System Code, and that has not entered into an arrears payment agreement with the distributor as referred to in the Distribution System Code;*
- (b) a distributor may require a residential customer on an equal monthly payment plan to agree to pre-authorized automatic monthly payment withdrawals from the customer's account with a financial institution if the billing cycle of the distributor is less frequently than monthly;*
- (c) despite any other code issued by the Board, the equal payment plan option offered to a residential electricity customer shall provide for the customer to make equalized payments on a monthly basis and shall make provision for the customer to select from at least two dates within the month on which the*

monthly equalized payment is due and the pre-authorized payment is withdrawn from the customer's bank account;

(d) a distributor may issue its bill to a residential customer on a monthly equal payment plan on a monthly, bi-monthly or quarterly basis;

(e) subject to paragraph (f), the equal monthly payment plan shall provide for annual reconciliation of the plan as follows:

- i) while a customer may join an equal monthly payment plan at any time during the calendar year, the distributor is only required to reconcile all of its equal monthly payment plans once during the calendar year and not on the 12th month anniversary since each individual customer joined the plan;*
- ii) in the first year of an equal monthly payment plan and where the customer has been on the plan for less than 12 months, the customer may receive a reconciliation earlier than the 12th month anniversary, as a result of subsection i);*
- iii) while a distributor is only required to reconcile equal monthly payment plans on an annual basis, a distributor shall review its equal monthly payment plans quarterly or semi-annually and adjust the equal monthly payment amounts in the event of material changes in a customer's total electricity charges;*
- iv) where the annual reconciliation demonstrates that funds are owing to the customer in an amount that is less than the customer's average monthly billing amount, the distributor shall credit the amount to the customer's account;*
- v) where the annual reconciliation demonstrates that funds are owing to the customer in an amount that is equal to or exceeds the customer's average monthly billing amount, the distributor shall credit the amount to the customer's account and advise the customer that the customer may contact the distributor within 10 days of the date of the bill to request refund of the overpayment by cheque instead and the distributor shall make payment within 11 days of the customer's request;*

- vi) *where the annual reconciliation demonstrates that funds are owing by the customer in an amount that is less than the customer's average monthly billing amount, the distributor may collect the full amount owed by a corresponding charge on the bill issued to the customer in the 12th month of the equal monthly payment plan; and*
- vii) *where the annual reconciliation demonstrates that funds are owing by the customer in an amount that is equal to or exceeds the customer's average monthly billing, the distributor shall roll over the balance due to the following year's equal monthly payment plan and recover the balance over the first 11 months of the following year's equal monthly payment plan; and*
- (f) *where a customer leaves the equal monthly payment plan for any reason, the distributor shall conduct a reconciliation and shall include any funds owing by or to the customer as a charge or credit on the next regularly scheduled bill issued to the customer.*

2.6.2A For the purposes of section 2.6.2:

- (a) *a customer's average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the customer in the preceding 12 months and dividing that value by 12. If the customer has been receiving service from a distributor for less than 12 months, the customer's average monthly billing amount shall be based on a reasonable estimate made by the distributor. For the purposes of this section, "electricity charges" has the same meaning as in section 2.6.6.3 of the Distribution System Code; and*
- (b) *where a residential customer requests equal payment, the equalized monthly payment amount shall include all "electricity charges" as defined in section 2.6.6.3 of the Distribution System Code.*

**Attachment B
To
Notice of Further Revised Proposal to Amend Codes**

March 12, 2010

EB-2007-0722

**Comparison Version of March 12, 2010 Further Proposed Customer Service
Code Amendments relative to the October 1, 2009 Proposed Customer
Service Code Amendments**

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

The proposed amendments in bold italics are subject to further notice and comment.

Part I: Revised Proposed Amendments to the Distribution System Code

1. Section 1.7 of the Distribution System Code is amended by adding to the end of the paragraph "All of section 7, Service Quality Requirements, comes into force on January 1, 2009" the following "*with the exception of section 7.10*", and by adding the following paragraph thereafter:

The following sections come into force on January 1, ~~2010~~: _____. 2011: _____.

2. Section 2.4.10 of the Distribution System Code is amended by adding immediately after the words "a disconnect / collect trip has occurred" the phrase "*or the distributor had to apply a security deposit in accordance with section 2.4.26A and required the customer to repay the security deposit in accordance with section 2.4.26B*".
3. Section 2.4.17 of the Distribution System Code is amended by adding the phrase "*, other than a residential electricity customer,*" immediately after the phrase "Where a customer".
4. Section 2.4.20 of the Distribution System Code is amended by replacing "installments" with "instalments" in the first sentence and by adding the following new paragraph:

- 2.4.20A *Despite section 2.4.20, a distributor shall permit a residential customer to provide a security deposit in equal instalments paid over a period of at least 6 months, including where a new security deposit is required due to the distributor having applied the existing security deposit against amounts owing under section 2.4.26A.*
5. Section 2.4.22 of the Distribution System Code is amended by adding the following new paragraph:
- 2.4.22A *For the purposes of section 2.4.22, where a residential customer has paid a security deposit in instalments, a distributor shall conduct a review of the customer's security deposit in the calendar year in which the anniversary of the first instalment occurs and thereafter at the next review as ~~otherwise~~ required by this Code.*
6. Section 2.4.23 of the Distribution System Code is amended by adding the following new paragraph:
- 2.4.23A *For the purposes of section 2.4.23, where a residential customer has paid a security deposit in instalments, the customer shall not be entitled to request a review of the security deposit until 12 months after the first instalment was paid.*
7. Section 2.4.25 of the Distribution System Code is amended by adding the following new paragraph:
- 2.4.25A *Despite section 2.4.25, where a residential electricity customer is required to adjust the security deposit upwards, a distributor shall permit the customer to pay the adjustment amount in equal instalments paid over a period of at least 6 months.*
8. Section 2.4.26 of the Distribution System Code is amended by adding the following new paragraphs:

2.4.26A *A distributor shall not issue a disconnection notice to a residential customer for non-payment unless the distributor has first applied any security deposit held on account for the customer against any amounts owing at that time and the security deposit was insufficient to cover the total amount owing.*

2.4.26B *Where a distributor applies all or part of a security deposit to offset amounts owing by a residential customer under section 2.4.26A, the distributor may request that the customer repay the amount of the security deposit that was so applied. -The distributor shall allow the residential customer to repay the security deposit in instalments in accordance with section 2.4.20A.*

9. Section 2 of the Distribution System Code is amended by adding the following new heading and paragraphs:

2.6 Bill Issuance and Payment

2.6.1 *A distributor shall include on each bill issued to a customer the date on which the bill is printed.*

2.6.2 *Except as otherwise permitted by this Code, a distributor shall not treat a bill issued to a customer as unpaid, and shall not impose any late payment or other charges associated with non-payment, until the applicable minimum payment period set out in section 2.6.3 has elapsed.*

2.6.3 *For the purposes of section 2.6.2, the minimum payment period shall be 16 days from the date on which the bill was issued to the customer.*

A distributor may provide for longer minimum payment periods, provided that any such longer minimum payment periods are documented in the distributor's Conditions of Service.

2.6.4 *For the purposes of section 2.6.3, a bill will be deemed to have been issued to a customer:*

- (a) *if sent by mail, on the third day after the date on which the bill was printed by the distributor;*

- (b) *if made available over the internet, on the date on which an e-mail is sent to the customer notifying the customer that the bill is available for viewing over the internet;*
- (c) *if sent by e-mail, on the date on which the e-mail is sent; or*
- (d) *if sent by more than one of the methods listed in paragraphs (a) to (c), on whichever date of deemed issuance occurs last.*

2.6.5 *A distributor shall apply the following rules for purposes of determining the date on which payment of a bill has been received from a customer:*

- (a) *if paid by mail, three days prior to the date on which the distributor receives the payment; ~~or~~*
- (b) *if paid at a financial institution or electronically, on the date on which the payment is acknowledged or recorded by the customer's financial institution; or*

~~2.6.6 Where a distributor has issued a disconnection notice to a residential customer for non-payment, the distributor shall permit the customer to pay all amounts that are then overdue for payment by credit card issued by a financial institution.~~

~~2.6.7~~ Where a (c) if paid by credit card issued by a financial institution, on the date and at the time that the charge is accepted by the financial institution.

2.6.6 *Where a bill issued to a residential customer includes charges for goods or services other than electricity charges, a distributor shall allocate any payment made by the customer first to the electricity charges and then, if funds are remaining, to the charges for other goods or services.*

~~2.6.6.7.1~~ *Section 2.6.76 does not apply to existing joint billing agreements until the renewal date of such agreements or 2 years, whichever comes earlier, and thereafter the provisions of section 2.6.76 will be deemed applicable.*

~~2.6.76.2~~ *Where payment on account of a bill referred to in section 2.6.76 or 2.6.76.1 is sufficient to cover electricity charges, the distributor shall not impose late payment charges, issue a disconnection notice or disconnect electricity supply.*

~~2.6.76.3~~ *For the purposes of this section, "electricity charges" are:*

- (a) *charges that appear under the sub-headings "Electricity", "Delivery", "Regulatory Charges" and "Debt Retirement"*

Charge” as described in Ontario Regulation 275/04 (Information on Invoices to Low-volume Consumers of Electricity) made under the Act, and all applicable taxes on those charges;

- (b) *where applicable, charges ~~labeled “Provincial Benefit” as described in Ontario Regulation 429/04 (Adjustments Under Section prescribed by regulations under section 25.33 of the Act) made under the~~ Electricity Act, 1998 and all applicable taxes on those charges; and*
- (c) *Board-approved late payment fees, specific service charges and such other charges and applicable taxes associated with the consumption of electricity as may be required by law to be included on the bill issued to the customer or as may be designated by the Board for the purposes of this section but not including security deposits.*

2.6.87 *For the purposes of section 2.6, a distributor shall apply the following rules relating to the computation of time:*

- (a) *where there is reference to a number of days between two events, the days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;*
- (b) *where the time for doing an act expires on a day that is not a business day, the act may be done on the next day that is a business day;*
- (c) *where an act, other than payment by a customer, occurs on a day that is not a business day, it shall be deemed to have occurred on the next business day;*
- (d) *where an act, other than payment by a customer, occurs after 5:00 p.m., it shall be deemed to have occurred on the next business day; and*
- (e) *receipt of a payment by a customer is effective on the date that the payment is made, including payments made after 5:00 p.m.*

For the purposes of this section, a “business day” is any day other than a Saturday or a holiday as defined in section 88 of the Legislation Act, 2006.

10. Section 2 of the Distribution System Code is amended by adding the following new heading and paragraphs:

2.7 Arrears Management Programs

2.7.1 A distributor shall make available to any residential electricity customer who is unable to pay his or her outstanding electricity charges, as defined in section 2.6.76.3, the opportunity to enter into an arrears payment agreement with the distributor. The arrears payment agreement shall include, at a minimum, the terms and conditions specified ~~below~~ in sections 2.7.1.1 – 2.7.5 inclusive.

2.7.1.1 Before entering into an arrears payment agreement under section 2.7, a distributor shall apply any security deposit held on account of the customer against any electricity charges ~~-owing at the time.~~

2.7.1.2- As part of the arrears payment agreement, a distributor may require that the customer pay a down payment of up to 15% of the electricity charge arrears accumulated, inclusive of ~~-any applicable late payment charges~~ but excluding other service charges, when entering into the arrears management program.

2.7.2 The arrears payment agreement referred to in section 2.7.1 shall allow the residential electricity customer to pay all remaining electricity charges that are then overdue for payment as well as the current bill amount, after applying a security deposit under section 2.7.1.1, and the down payment referred to in section 2.7.1.42, including all electricity-related service charges ~~-that have accrued to the date of the agreement, over the following periods:~~

- (a) a period of at least 5 months, where the total amount of the electricity charges remaining overdue for payment is less than twice the customer's average monthly billing amount; or
- (b) a period of at least 10 months, where the total amount of the electricity charges remaining overdue for payment is equal to or exceeds twice the customer's average monthly billing amount.

2.7.3 For the purposes of section 2.7.2, the customer's average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the customer in the preceding 12 months and dividing that value by 12. ~~-If the customer has been a customer of the distributor for less than 12 months, the customer's average monthly billing amount shall be based on a reasonable estimate made by the distributor. -For the purposes of this section, "electricity charges" has the same meaning as in section 2.6.76.3.~~

2.7.4 *Where a customer defaults on more than one occasion in making a payment in accordance with an arrears payment agreement or on account of a current electricity charge billing, the distributor may cancel the arrears payment agreement.*

2.7.4.1 *If the distributor cancels an arrears payment agreement pursuant to section 2.7.4, the distributor will give written notice of cancellation to the customer and to any third party designated by the customer under section [2.7.4.2-2.21A](#) at least 10 days before the effective date of the cancellation.*

[2.7.4.1A](#) *Where, at the time of entering into an arrears payment agreement a customer has designated a third party to receive notice of cancellation of the arrears payment agreement, the distributor shall provide notice of cancellation to such third party.*

[2.7.4.1B](#) *A distributor shall accept electronic mail (e-mail) or telephone communications from the customer for purposes of section [2.7.4.1A](#).*

2.7.4.2 *If the customer makes payment of all amounts due pursuant to the arrears payment agreement as of the cancellation date referred to in section 2.7.4.1 and makes such payment on or before the cancellation date, the distributor shall reinstate the arrears payment agreement.*

[2.7.5](#) *A distributor shall make available to a residential electricity customer a second arrears payment agreement if the customer so requests, provided that 2 years or more has passed since a first arrears payment agreement was entered into and provided that the customer performed his or her obligations under the first arrears payment agreement.*

11. Section 2 of the Distribution System Code is amended by adding the following heading and paragraphs:

2.8 Opening and Closing of Accounts

2.8.1 *Where a distributor opens an account for a property in the name of a person at the request of a third party, the distributor shall within 15 days of the opening of the account send a letter to the person advising of the opening of the account and requesting that the person [confirm that he or she](#) agrees to be the named customer. If the distributor does not receive confirmation from the intended*

customer, within 15 days of the date of the letter, the distributor shall advise the third party that the account will not be set up as requested.

- 2.8.1.1 The distributor is not required to send a letter advising of the opening of the account where the request to open the account is made in writing by the person's solicitor or person in possession of a valid Power of Attorney for the person.
- 2.8.2 Despite any other provision of this Code, with the exception of the parties mentioned in section 2.8.1.1, where a distributor has opened an account for a property in the name of a person at the request of a third party, the distributor shall not seek to recover from that person any charges for service provided to the property unless the person has agreed ~~in writing~~ to ~~being~~ the customer of the distributor in relation to the property.
- 2.8.3 Despite any other provision of this Code, with the exception of the parties mentioned in section 2.8.1.1 or an agreement under section 2.8.3A, where a distributor receives a request to close or transfer an account in relation to a rental unit in a residential complex as defined in the Residential Tenancies Act, 2006 or another residential property, the distributor shall not seek to recover any charges for service provided to that rental unit or residential property after closure of the account from any person, including the landlord for the residential complex or a new owner of the residential property, unless the person has ~~agreed in writing~~ to assume responsibility for those charges.
- 2.8.3A A distributor may enter into an agreement with a landlord whereby the landlord agrees to assume responsibility for paying for continued service to the rental property after closure of a tenant's account.
- 2.8.4 For the purposes of section 2.8, the requirement for an agreement in writing includes agreements in electronic form in accordance with the Electronic Commerce Act, 2000.
- 2.8.4A For the purposes of sections 2.8.1, 2.8.2 and 2.8.3, the agreement may be established by verbal request over the telephone provided that a recording of the verbal request is retained by the distributor for 24 months thereafter.
- 2.8.4B For the purposes of section 2.8.3A, the agreement may be established by verbal request over the telephone provided that

a recording of the verbal request is retained by the distributor for the length of the agreement, plus an additional 6 months.

- 2.8.5** *Nothing in sections 2.8.1 – 2.8.4B inclusive is intended to void or cancel any binding agreements for service existing as of the effective date of these amendments or any pre-existing agreements between landlords and distributors.*

[Note: For ease of identification, section 4.2 of the Distribution System Code pertains to “Disconnection and Reconnection”]

12. Sections 4.2.2 and 4.2.3 of the Distribution System Code are deleted and replaced with the following paragraphs:

4.2.2 *A distributor that intends to disconnect, pursuant to section 31 of the Electricity Act, 1998, the property of a residential customer for non-payment shall send or deliver a disconnection notice to the customer that contains, at a minimum, the following information:*

- (a) *the date on which the disconnection notice was printed by the distributor;*
- (b) *the earliest and latest dates on which disconnection may occur, in accordance with sections 4.2.3 and 4.2.2.3;*
- (c) *the amount that is then overdue for payment, including all applicable late payment and other charges associated with non-payment; to that date;*
- ~~(b)~~ *the earliest and latest dates on which disconnection may occur;*
- (d) *the amount of any ~~reconnection~~approved service charge(s) that may apply if disconnection occurs ~~including, where more than one reconnection charge has been approved by the Board,~~ and the circumstances in which each ~~charge of~~ these charges is payable;*
- ~~(d)~~ *any action the forms of payment that the customer may take to avoid disconnection and the deadline for taking such action;*
- (e) *if a local Vital Services By-law is in effect use to pay all amounts that applies to the customer's property, whether are identified as overdue in the disconnection notice, which must at least include payment by credit card issued by a financial institution as described in section 4.2.4 and any other method of payment that the distributor has provided ordinarily accepts and which can be verified within the required notification to the municipality; time period remaining before disconnection;*

- (f) the time period during which any given form of payment listed under paragraph (e) will be accepted by the distributor;
- (g) that, in order to avoid disconnection when the distributor attends at the customer's property to execute the disconnection, a customer will only be able to pay by credit card issued by a financial institution, unless the distributor, in its discretion, will accept other forms of payment at that time and sets out the other forms of payment in the disconnection notice;
- (h) that a disconnection may take place whether or not the customer is at the premises;
- (i) that a Vital Services By-Law may exist in the customer's community and that the customer should contact their local municipality for more information;
- (j) that a Board- prescribed arrears management program ~~is~~may be available to all residential customers, and that other voluntary bill payment, ~~disconnection~~ and financial assistance may be available, and contact information for the distributor where the customer can obtain further information about available ~~financial~~ assistance; and
- ~~(g)~~ the date on which the disconnection notice was printed by the distributor.
- (k) any additional option(s) that the distributor chooses, in its discretion, to offer to the customer to avoid disconnection and the deadline for the customer to avail himself or herself of such option(s).

4.2.2.1 A distributor that sends or delivers to a customer a disconnection notice, pursuant to section 31(2) of the Electricity Act, 1998, for non-payment shall not include that notice in the same envelope as a bill or any other documentation emanating from the distributor.

4.2.2.2 A distributor shall, at the ~~written~~ request of a residential customer, send a copy of any disconnection notice issued to the customer for non-payment to a third party designated by the customer for that purpose provided that the request is made no later than the last day of the applicable minimum notice period set out in section 4.2.3. In such a case:

- (a) the distributor shall notify the third party that the third party is not, unless otherwise agreed with the distributor, responsible for the payment of any charges for the provision of electricity service in relation to the customer's property; and
- (b) the rules set out in sections 2.6.4 and 2.6.87 shall apply, with such modifications as the context may require, for the

purposes of determining the date of receipt of the disconnection notice by the third party.

4.2.2.2A A customer may, at any time prior to disconnection, designate a third party to also receive any future notice of disconnection and the distributor shall send notice of disconnection to such third party.

4.2.2.2B A distributor shall accept electronic mail (e-mail) or telephone communications from the customer for purposes of section 4.2.2.2A.

4.2.2.3 A disconnection notice issued for non-payment shall expire on the date that is 11 days from the last day of the applicable minimum notice period referred to in section 4.2.3, determined in accordance with the rules set out in section 2.6.8-7. A distributor may not thereafter disconnect the property of the customer for non-payment unless the distributor issues a new disconnection notice in accordance with section 4.2.2.

4.2.2.4 **A distributor shall make reasonable efforts to contact, in person or by telephone, a residential customer to whom the distributor has issued a disconnection notice for non-payment at least 48 hours prior to the earliest scheduled date on which of disconnection for non-payment may occur as set out in the disconnection notice. At that time, the distributor shall:**

- (a) advise the customer of the scheduled date for disconnection;**
- (b) advise that the customer has the option to pay amounts owing by credit card issued by a financial institution, in addition to other forms of payment that the distributor will accept at that time and which can be verified within the time period remaining before disconnection; and advise during what hours such payments may be made;**
- (c) advise the customer that, when the distributor attends at the customer's property to execute the disconnection, the customer will only be able to pay by credit card issued by a financial institution, unless the distributor, in its discretion, will accept other forms of payment at that time;**
- (d) advise the customer that a Board-prescribed arrears management program may be available to the customer; the distributor must be prepared to enter into an arrears payment agreement at that time if the customer is eligible under section 2.7; and**

(e) advise the customer of any additional option(s) that the distributor, in its discretion, wishes to offer to the customer to avoid disconnection.

4.2.2.5 —Where a distributor issues a disconnection notice for non-payment in respect of the disconnection of a multi-unit, master-metered building, the distributor shall post a copy of the disconnection notice in a conspicuous place on or in the building promptly after issuance of the notice.

4.2.2.6 A distributor shall suspend any disconnection action for a period of 21 days from the date of notification by a registered charity, government agency or social service agency that it is assessing a residential customer for the purposes of determining whether the customer is eligible to receive bill payment assistance, provided such notification is made **within 1410 days** from the date on which the disconnection notice ~~is~~ received by the customer. Where a residential customer had requested prior to the issuance of the disconnection notice that the distributor also provide a copy of any disconnection notice to a third party, the distributor shall suspend any disconnection action for a period of 21 days from the date of notification by the third party that he, she or it is attempting to arrange assistance with the bill payment, provided such notification is made **within 1410 days** from the date on which the disconnection notice is received by the customer.

4.2.2.7 Despite section 4.2.2.6, upon notification by a registered charity, government agency or social service agency that a customer is not eligible to receive bill payment assistance, or if another third party who was considering the provision of bill assistance decides not to proceed, the distributor may ~~disconnect~~continue its disconnection process. Distributors will have up to 11 days to act on the previous disconnection notice and must make a further reasonable effort to contact the customer in accordance with sections 4.2.2.3 and 4.2.3. prior to executing disconnection.

4.2.3 A distributor shall not disconnect a customer for non-payment until the following minimum notice periods have elapsed.

~~(a)~~ 60 days from the date on which the disconnection notice is received by the customer, in the case of a residential customer that has provided the distributor with documentation from a physician confirming that disconnection poses a risk of significant adverse effects on the physical health of the customer or on the physical health of the customer's spouse or dependent family member who resides with the customer;

- (a) ~~14 days from the date on which the disconnection notice is received by a residential customer;~~ or
- (b) **10 days from the date on which the disconnection notice is received ~~by the customer,~~ in all other cases.**

4.2.3.1 — For the purposes of section 4.2.3:

- (a) where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the customer on the third business day after the date on which the notice was printed by the distributor;
- (b) where a disconnection notice is delivered by personal service, the disconnection notice shall be deemed to have been received by the customer on the date of delivery;
- (c) where a disconnection notice is delivered by being posted on the customer's property, the disconnection notice shall be deemed to have been received by the customer on the date of such posting;
- (d) "spouse" has the meaning given to it in section 29 of the Family Law Act;
- (e) "dependent family member" means a "dependent" as defined in section 29 of the Family Law Act and also includes a -grandparent who, based on need, is financially dependent on the customer; and
- (f) the distributor shall apply the rules relating to the computation of time set out in section 2.6.~~87~~.

4.2.4

- (a) Where a distributor has issued a disconnection notice to a residential customer for non-payment, the distributor shall ensure it has the facilities or staff available to permit the customer to pay all amounts that are then overdue for payment by credit card issued by a financial institution. Subject to paragraph (b), this payment option must be offered during the regular business hours of the distributor, from the time the disconnection notice is delivered to a residential customer until the time the distributor's staff attends at the customer's premises to execute the disconnection.
- (b) Where a distributor attends at a customer's property to execute a disconnection, whether during or after the distributor's regular business hours, the distributor shall ensure it has the facilities or staff available at that time to permit the customer to pay all amounts that are then overdue for payment by credit card issued by a financial institution.

The distributor may, in its discretion, also accept other forms of payment at the time of disconnection.

(c) Where a distributor was unsuccessful in its attempt to contact a residential customer 48 hours before the planned disconnection as required under section 4.2.2.4, the distributor shall make a reasonable attempt to communicate with the customer, if he or she is at the property, to advise that disconnection will be executed and that payment may be made by credit card issued by a financial institution.

[Note: For ease of identification, section 6.1 of the Distribution System Code pertains to "Responsibilities to Load Customers"]

13. Section 6.1.2 of the Distribution System Code is amended by adding the following new paragraphs:

6.1.2.1 *Nothing in section 6.1.2 shall be construed as permitting a distributor to recover or to seek to recover charges for a service provided to a property from any person other than a person that has agreed ~~in writing~~ to being the customer of the distributor in relation to the property or that has agreed ~~in writing~~ to assume responsibility for those charges.*

6.1.2.2 ***For the purposes of section 6.1.2.1, the ~~requirement for agreement in writing includes agreements~~ may be in electronic form ~~in accordance with~~ pursuant to the Electronic Commerce Act, 2000-, and includes telephone communications provided that a recording of the telephone communication is retained by the distributor for 24 months thereafter***

6.1.2.3 *Section 6.1.2.1 applies to all agreements entered into after the effective date of these amendments and ~~it is~~ not intended to void or cancel any binding agreements for service existing as of the effective date of these amendments.*

14. Section 7 of the Distribution System Code is amended by adding the following heading and paragraphs:

7.10 Reconnection Standards

7.10.1 *Where a distributor has disconnected the property of a customer for non-payment, the distributor shall reconnect the property within*

2 business days, as defined in section 2.6.87, of the date on which the customer:

- (a) makes payment in full of the amount overdue for payment as specified in the disconnection notice; or
- (b) enters into an arrears payment agreement with the distributor referred to in section 2.7.

7.10.2 This service quality requirement must be met at least 85 percent of the time on a yearly basis.

Part II: Revised Proposed Amendments to the Retail Settlement Code

1. Section 1.2 of the Retail Settlement Code is amended to add the following definition:

“customer” means a person that has contracted for or intends to contract for connection of a building or an embedded generation facility. This includes developers of residential or commercial subdivisions.

2. Section 1.7 of the Retail Settlement Code is amended by adding the following sentence at the end of the section:

The amendment to section 7.7 comes into force on January 1, 2010.
~~*Section 7.2.5 comes into force on July 1, 2010.*~~ ***2011.***

3. ~~Section 7.2 of the Retail Settlement Code is amended by adding the following new heading and section 7.2.5:~~

~~**7.2.5 Equal Payment Plans**~~

~~*A distributor that provides distributor-consolidated billing for a residential customer shall bill the customer on the basis of an equal monthly payment plan if so requested by the customer or the retailer. The equal monthly payment plan shall comply with the requirements set out in the Standard Supply Service Code.*~~

~~*If a distributor offers an equal payment or billing plan to a class of non-residential customers the distributor shall, when providing distributor-consolidated billing for a non-residential customer within that class, bill the non-residential customer on the basis of that equal payment or billing plan if so requested by the customer or retailer.*~~

4. Section 7.7 of the Retail Settlement Code is deleted and replaced with the following new sections:

The following rules apply to billing errors in respect of which Measurement Canada has not become involved in the dispute:

- 7.7.1 *Where a distributor has over billed a customer or retailer by an amount that is equal or exceeds the customer's or retailer's average monthly billing amount, determined in accordance with section 7.7.5, -the distributor shall, within 10 days of discoverydetermination of the error, notify the customer or retailer of the over billing and advise that the customer or retailer may elect to have the full amount credited to their account or repaid in full by cheque, within 11 days of requesting payment by cheque. Where the customer or retailer has not requested payment by cheque within 10 days of notification of the error by the distributor, the distributor may credit the full amount to the account.*
- 7.7.2 *Where a distributor has over billed a customer or retailer by an amount that is less than the customer's or retailer's average monthly billing amount, determined in accordance with section 7.7.5, the distributor shall credit the account in the next regularly scheduled bill issued to the customer or retailer.*
- 7.7.3 *If there are outstanding arrears on the customer's or retailer's account, the distributor is not required to repay the over-billed amount but may apply it to the arrears on the customer's or retailer's account and credit or repay to the customer or retailer the remaining balance.*
- 7.7.4 *Where a distributor has under billed a customer who is not responsible for the error, the distributor shall allow the customer to pay the under-billed amount in equal instalments over a period at least equal to the duration of the billing error, up to a maximum of 2 years.*
- 7.7.5 *For the purposes of sections 7.7.1 and 7.7.2, the customer's or retailer's average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the customer or retailer in the preceding 12 months and dividing that value by 12. If the customer has been receiving service from a distributor for less than 12 months, the customer's average monthly billing amount shall be based on a reasonable estimate made by the distributor. -For the purposes of this section, "electricity charges" has the same meaning as in section 2.6.~~76~~.3 of the Distribution System Code.*
- 7.7.6 *Where a distributor has under billed a customer or retailer who is responsible for the error, whether by way of tampering, willful damage,*

unauthorized energy use or other unlawful actions, the distributor may require payment of the full under-billed amount by means of a corresponding charge on the next regularly scheduled bill issued to the customer or retailer or on a separate bill to be issued to the customer or retailer responsible for the error. Where disconnection has occurred, the distributor may require payment of such bill prior to the reconnection of service upon request by the customer responsible for the tampering, willful damage, unauthorized energy use or other unlawful actions that caused the under billing.

7.7.7 Where the distributor has under billed a customer or retailer, the maximum period of under billing for which the distributor is entitled to be paid is 2 years. Where the distributor has over billed a customer or retailer, the maximum period of over billing for which the customer or retailer is entitled to be repaid is 2 years.

7.7.8 A distributor may charge interest on under-billed amounts only where the customer or retailer was responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or other unlawful actions. Such interest shall be equal to the prime rate charged by the distributor's bank.

7.7.9 A distributor that has over billed a customer or retailer and the billing error is not the result of a distributor's standard documented billing practices, shall pay interest on the amount credited or repaid to the customer or retailer equal to the prime rate charged by the distributor's bank.

7.7.10 The entity billing a customer, whether it is a distributor or retailer, is responsible for advising the customer of any meter error and of his, her or its rights and obligations under the Electricity and Gas Inspection Act (Canada). The billing party is also responsible for subsequently settling actual payment differences with the customer as described above.

7.7.11 The provisions of section 7.7 do not apply where the distributor has over billed or under billed a customer or retailer but issues a corrected bill ~~prior to the due~~ within 16 days of the issue date of the original erroneous bill.

Part III: Revised Proposed Amendments to the Standard Supply Service Code

1. Section 1.6 of the Standard Supply Service Code is amended by adding the following section:

1.6.4 *The amendment to section 2.6.2 comes into force on*
July January 1, 2010-2011.

2. Section 2.6.2 of the Standard Supply Service Code is deleted and replaced with the following:

2.6.2 A distributor shall offer an equal monthly payment plan option to all residential customers receiving standard supply service. The equal monthly payment plan option shall meet the following minimum requirements:

(a) a distributor may only refuse to provide an equal monthly payment plan option to a customer that is in arrears on payment to the distributor for electricity charges, as defined in the Distribution System Code, and that has not entered into an arrears payment agreement with the distributor as referred to in the Distribution System Code;

(b) a distributor may require a residential customer on an equal monthly payment plan to agree to pre-authorized automatic monthly payment withdrawals from the customer's account with a financial institution if the billing cycle of the distributor is less frequently than monthly;

(c) ~~despite any other provision of this Code or of any other~~ code issued by the Board, the equal payment plan option offered to a residential electricity customer shall provide for the customer to make equalized payments on a monthly basis and shall make provision for the customer to select from at least two dates within the month on which the monthly equalized payment is due and the pre-authorized payment is withdrawn from the customer's bank account;

(d) a distributor may issue its bill to a residential customer on a monthly equal payment plan on a ~~-monthly~~, bi-monthly or quarterly basis;

(e) subject to paragraph (f), the equal monthly payment plan shall provide for annual reconciliation of the plan as follows:

i) while a customer may join an equal monthly payment plan at any time during the calendar year, the distributor is only required to reconcile all of its equal monthly payment plans once during the calendar year

and not on the 12th month anniversary since each individual customer joined the plan;

- ii) in the first year of an equal monthly payment plan and where the customer has been on the plan for less than 12 months, the customer may receive a reconciliation earlier than the 12th month anniversary, as a result of subsection i);*
- iii) while a distributor is only required to reconcile equal monthly payment plans on an annual basis, a distributor shall review its equal monthly payment plans quarterly or semi-annually and adjust the equal monthly payment amounts in the event of material changes in a customer's ~~consumption~~total electricity charges;*
- iv) where the annual reconciliation demonstrates that funds are owing to the customer in an amount that is less than the customer's average monthly billing amount, the distributor shall credit the amount to the customer's account;*
- v) where the annual reconciliation demonstrates that funds are owing to the customer in an amount that is equal to or exceeds the customer's average monthly billing amount, the distributor shall credit the amount to the customer's account and advise the customer that the customer may contact the distributor within 10 days of the date of the bill to ~~the~~ request refund of the overpayment by cheque instead and ~~that~~ the distributor shall make payment within 11 days of the customer's request;*
- vi) where the annual reconciliation demonstrates that funds are owing by the customer in an amount that is less than the customer's average monthly billing amount, the distributor may collect the full amount owed by a corresponding charge on the bill issued to the customer in the 12th month of the equal monthly payment ~~plan~~; and*

- vii) *where the annual reconciliation demonstrates that funds are owing by the customer in an amount that is equal to or exceeds the customer's average monthly billing, the distributor shall roll over the balance due to the following year's equal monthly payment plan and recover the balance over the first 11 months of the following year's equal monthly payment -plan; and*
- (f) *where a customer leaves the equal monthly payment -plan for any reason, the distributor shall conduct a reconciliation and shall include any funds owing by or to the customer as a charge or credit on the next regularly scheduled bill issued to the customer.*

2.6.2A For the purposes of section 2.6.2:

- (a) *a customer's average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the customer in the preceding 12 months and dividing that value by 12. If the customer has been receiving service from a distributor for less than 12 months, the customer's average monthly billing amount shall be based on a reasonable estimate made by the distributor. For the purposes of this section, "electricity charges" has the same meaning as in section 2.6.~~7.6~~6.3 of the Distribution System Code; and*
- (b) *where a residential customer requests equal payment, the equalized monthly payment amount shall include all "electricity charges" as defined in section 2.6.~~7.6~~6.3 of the Distribution System Code.*