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April 12, 2010

VIA E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor; 2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli

**Re: BOARD FILE NO: EB-2007-0722
NOTICE OF FURTHER REVISED PROPOSED AMENDMENTS TO THE
DISTRIBUTION SYSTEM CODE, THE RETAIL SETTLEMENT CODE AND THE
STANDARD SUPPLY SERVICE CODE**

Comments of the Vulnerable Energy Consumers Coalition (VECC)

As Counsel to VECC I am pleased to provide comments on behalf of my clients on the Proposed Revised Code amendments.

Scope of Code Amendments

The Board's NOAC indicates:

"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."

VECC assumes that although the NOAC includes changes to the RSC and SSC, the Board is not proposing any further significant changes and these codes, apart from minor clarifying wording changes, are considered final.

Applicability of DSC Customer Service Amendments to Low income/Vulnerable Consumers

As the Board's NOAC Notes:

"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."

Comments on Revised DSC Amendments

The comments that follow are provided with the caveat that the amendments are not specifically designed to address the special needs of low income/vulnerable energy consumers, but rather are intended to apply generally and accordingly will constitute a new baseline for future consideration of the needs of low income/vulnerable energy consumers.

Costs

VECC requests payment of its legitimately incurred costs in the review and provisions of comments of these Proposed Revised Code Amendments.

Yours truly,

Original signed

Michael Buonaguro
Counsel for VECC

FURTHER REVISED PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE.

Comments on behalf of the Vulnerable Energy Consumers Coalition (VECC)

Summary of Proposed Revised Amendments to DSC and VECC's Comments

A. Bill Issuance and Payment

1. Payment Period

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.

VECC Comments

VECC agrees with a general 16 day rule and clarifications resulting from the time counting rules for average customers with the exception below.

The new provisions recognize the need for grace periods for customers on fixed incomes, should the monthly pension or social assistance check be delayed.

However as the NOAC notes:

“(only) 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.”

VECC believes this does not go far enough and the Board should reconsider adopting this approach as the norm with the proviso that it may provide relief if a utility is unable to offer this option.

E. Disconnection and Notice Period

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.

Payments to avoid disconnection

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.

VECC Comments

While several of the new provisions regarding Notice and requirements to contact the customer directly are helpful, VECC has concerns/comments in several areas.

Respect of Vital Services By-Laws

The NOAC notes:

“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.”

VECC submits that the obligation of the distributor to contact the municipality under the provisions of a Vital Services By-law, where this exists, should not be removed. Distributors often hold municipal franchises and therefore should comply with all applicable bylaws.

Winter Disconnection

THE NOAC notes:

“The Board is aware that a more limited(ing) (sic) 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.”

VECC does not agree with winter disconnection, regardless of the availability of arrears payment plans. If measures, such as reference to third parties for payment, fail, then service should be continued until a solution that protects the health and safety of the customer can be implemented.

Acceptance of Credit Card or Cash payments to avoid disconnection

VECC Comments

Cash should be accepted at the customer premises (receipt provided) and disconnection delayed. Credit card payments are now to be accepted at the offices of the utility and if customer contacts the utility to make such payment, the disconnection should be delayed for a period to allow the payment to be processed.

F. Security Deposits

The Board will make no changes to the proposed 6-month security deposit installment 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 installment period strikes an appropriate balance between facilitating affordable installment payments by customers and protecting utilities from an undue increase in bad debt risks. The case for a longer installment period for certain customers could be re-examined after the Ministry releases any low-income energy consumer policy in the future.

VECC Comments

As noted in our October 2009 Comments, even for average customers and particularly for Senior Citizens on fixed incomes, this proposal still does not address the issue of ability to pay and for some residential customers a longer period of up to 12 months would be appropriate especially if the requirement for a security deposit occurs in the winter period.

G. Arrears Management Programs

Arrears Payment Plans

Under proposed new section 2.7.5 of the DSC, a residential customer will have the right to enter into a second arrears (management) 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.

VECC Comment

VECC agrees with these proposed revised changes

H. Management of Customer Accounts

Utility-Landlord Service Agreements

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.

VECC Comment

No comment.

IV. Coming Into Force

The NOAC indicates:

“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.**”

VECC Comment

As noted in our October 2009 Comments it is important that Utilities provide a Board approved customer information bulletin as a bill stuffer for a period of up to three billing cycles and provide a call in number and Website URL for More information.