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NOTICE OF AMENDMENTS TO CODES

**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 customer service-related 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 (the "March 2009 Notice"). Final amendments with respect to customer reclassification and management of customer commodity non-payment risk were posted on June 16, 2009. This Notice will set out the final customer service-related code amendments.

The March 2009 Notice had proposed a number of enhanced customer service rules for low-income customers. However, 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 2009 Notice”). As a result of the Minister’s letter, the October 1, 2009 revised amendments included no rules specific to low-income energy consumers but applied the revised proposed rules to all residential customers.

On March 12, 2010, the Board issued a Notice of Further Revised Proposed Code Amendments (“the March 2010 Notice”). The Notice requested that stakeholders focus their comments on the material changes proposed to the October 1, 2009 amendments. The 12 stakeholder submissions received on the March 12th further revised proposed amendments are posted on the Board’s website at www.oeb.gov.on.ca. A summary of stakeholder comments received in respect of those areas where further submissions were sought is included below. This Notice will generally not repeat submissions on issues where no further comments were requested, unless technical questions were raised that warrant clarification. In some areas the submissions have suggested the need for special low-income energy customer rules. These arguments may be examined separately later, as appropriate, once the government’s future policy direction in this area is known.

The *Energy Consumer Protection Act, 2010* received Royal Assent on May 18, 2010, but has yet to be proclaimed into force. Among other things, the legislation confirms the authority of the Board to develop regulatory requirements relating to security deposit obligations and disconnection practices in the electricity sector.

After reviewing the submissions received, the Board has decided to make limited modifications to the proposed amendments set out in the March 2010 Notice.

A complete text of the July 2, 2010 Final Customer Service Amendments to the DSC, the RSC and the SSSC is set out in Attachment A to this Notice. Attachment B sets out, for informational purposes, a comparison of the July 2, 2010 Final Customer Service Code Amendments relative to the March 12, 2010 Proposed Customer Service Code Amendments.

This Notice also includes some supplementary changes needed to the RSC to reflect the adoption of the Harmonized Sales Tax in Ontario on July 1, 2010. Those amendments are set out in Attachment C to this Notice.

II. Customer Service Code Amendments

A. Bill Issuance and Payment

No further comments were sought on the bill issuance and payment rules set out in sections 2.6.1 to 2.6.5, and 2.6.7, of the DSC in the March 2010 Notice. The Board

will adopt these sections as proposed. Revised section 4.2.4 of the DSC in the March 2010 Notice dealt with credit card payment options prior to disconnection and when attending at the customer's premises to disconnect. Further comments were sought on proposed sections 4.2.4(a), 4.2.4(b) and 4.2.4(c). The Board also asked for stakeholder views as to whether distributors should be required to accept debit and cash payments at the time of disconnection and whether accepting the latter would pose any personal security risks to utility field staff.

Section 4.2.4(a) in the March 2010 Notice provided that 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 by credit card issued by a financial institution all amounts that are then overdue. 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 field staff attends the customer's premises to execute the disconnection. It should be noted that several methods of complying with the requirement are incorporated into this section. A utility group submission commented that they had no issue with 4.2.4(a). The Board will adopt section 4.2.4(a) as proposed.

Section 4.2.4 (b) in the March 2010 Notice provided that 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 by credit card issued by a financial institution all amounts that are then overdue. The distributor may, at its discretion, also accept other forms of payment at that time.

A submission from a group of large electricity distributors stated that most of their members currently accept credit card payments at the time their staff attend at the premises to execute the disconnection for non-payment. However, the submission noted that there may be reasons beyond the control of certain distributors that will not allow completion of such transactions in all cases (such as difficulties with wireless technology). They proposed that section 4.2.4(b) be revised to adopt a more flexible requirement that each distributor "make every provision to ensure" credit card payments are accepted at the time of disconnection. However, the Board is aware that many distributors may refer interested customers to third-party service providers operating in Ontario who can arrange for acceptance of credit card payments by electricity customers, including payments over the telephone. Such arrangements can reduce or avoid the need for investment in additional facilities by utilities. The Board will adopt section 4.2.4(b) as proposed.

The March 2010 Notice also invited stakeholder views on a related question, namely the costs and benefits of mandating that the distributor accept debit card payments at the time utility field staff attend to disconnect a residential customer.

Ratepayer groups supported a new rule in this area. One such submission argued that many energy customers, especially those who are low-income, do not have access to credit cards. They viewed it as discriminatory to not require utilities to accept, at the customer's premises, all forms of payment that they accept during normal business hours. The utility submissions generally opposed mandating a new requirement in this area. One utility group explained that they did not favour requiring acceptance of debit cards as a payment option at the customer's premises as there will be a cost for the portable equipment and there may be areas where communication is not available. Also, they believe that in many cases customers who are in arrears will not have the cash available to make a debit card payment in any event. Another utility group submission stated it was not common for customers to request the use of a debit card payment at the customer's premises. If the customer had the funds, he or she would likely have paid before. Therefore, acceptance of debit card payments should be left to the discretion of each utility.

The Board does not believe there is a sufficiently strong practical case for mandating the acceptance of debit card payments at the time of disconnection. Utilities will remain free to accept such payments at their own discretion. Both the disconnection notice and the required telephone call 48 hours prior to disconnection will set out the payment options available at those times. The Board is satisfied that the rules provide ample opportunity for customers to make payment by several means prior to utility staff attending the premises to execute a disconnection or accept payment by credit card.

The March 2010 Notice also invited comments on the merits of requiring utilities to accept cash payments from residential customers seeking to avoid disconnection when utility field staff attend their premises. One utility explained that it did not support being required to accept cash payments at customers' premises as this would pose physical security risks for field staff and risks of theft. As a result, special processes would be needed for field staff to handle cash. Other utilities expressed similar concerns. While one ratepayer group did believe cash should be accepted at the customer's premises, another ratepayer group thought requiring acceptance of cash payments is undesirable as the personal security of utility field staff may be put at risk.

Given the security concerns that exist, the Board will not introduce any new rule mandating utilities to accept cash payments when attending the customer's premises to disconnect a customer for non-payment.

Section 4.2.4(c) provided that where a distributor was unsuccessful in its attempt to contact a residential customer 48 hours before the planned disconnection, 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 a credit card issued by a financial institution. The March 2010 Notice invited comments as to whether the customer contact requirement

proposed in section 4.2.4(c) could impact the personal security of utility field staff and how any safety issues should be addressed.

One utility group submission stated that they normally attempt to contact the customer when attending the premises to effect the disconnection. However, if it is anticipated that their field staff may be put at risk, police are often asked to accompany the utility employee. If the police are not available at the time, the disconnection may be made by field staff without contacting the customer. Other utility submissions cautioned about increased security risks to their field staff. One utility group commented that, if this proposal was implemented, they may have to start sending out two staff to execute disconnections, which will increase costs. They recommended adding a qualification to the new rule allowing due regard to be given to the safety and security of the utility personnel.

The Board wishes to clarify that section 4.2.4(c) is only applied if the distributor decides to send field staff to the customer's premises to execute the disconnection (which it is under no obligation to do so, as it may prefer to disconnect at the transformer or use remote disconnection capabilities if available) and if the distributor was unable to make telephone contact with the customer 48 hours prior to disconnection. Additional wording will be added to the final version of section 4.2.4(c) to state: "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, *and the distributor intends to execute the disconnection by attendance at the customer's premises ...*" (italics added).

Wording changes will be made to two other sections (4.2.2(g) and 4.2.2.4(e)) to more clearly indicate that the distributor has a choice about attending the customer's premises to execute a disconnection for non-payment.

The Board will make a further addition to section 4.2.4(c) to address the potential of security risks in some cases to utility field staff executing disconnections. Where there is a specific security concern, then it is reasonable that utility field staff should be allowed to attend the property to execute the disconnection without having to personally contact the customer. A new qualification will be added to section 4.2.4(c) to allow utilities operating flexibility to safely address such situations: "the distributor shall make reasonable effort to communicate with the customer, *with due regard for the safety and security of the distributor's personnel ...*" (italics added).

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

No further comments were sought on the rules dealing with the allocation of partial payments between electricity and non-electricity charges set out in sections 2.6.6 to 2.6.6.3 of the DSC in the March 2010 Notice. The Board will adopt these sections as proposed.

C. Correction of Billing Errors

No further comments were sought on the various correction of billing error rules set out in sections 7.7.1 to 7.7.11 of the RSC, and the new definition of “customer” added to section 1.2 of the RSC, in the March 2010 Notice. The Board will adopt these sections as proposed.

The Board wishes to clarify, based on current practice, that the new 2-year limitation period commences from the time a billing error is discovered.

When determining a customer’s average monthly billing amount for purposes of the correction of billing error rules, “electricity charges” has the same meaning as set out in DSC section 2.6.6.3 and will apply to residential and non-residential customers, subject to any adjustments necessary to take into account other electricity-related charges billed to non-residential customers. Section 7.7.5 of the RSC will be revised to include this qualification.

D. Equal Payment Plans

No further comments were sought on the various equal monthly payment rules set out in sections 2.6.2 to 2.6.2A of the SSSC in the March 2010 Notice. The Board will adopt these sections as proposed, subject to one minor change. The wording in section 2.6.2(e)(iii) will be modified to require all utilities to periodically review residential customers on equal monthly payment plans and adjust the monthly equalized payment if electricity consumption *or* approved electricity charges have materially changed. The new language will more clearly express the intent of the section that a material change in either one or both of these items (i.e. electricity consumption or charges) can trigger the need to update the monthly payment due.

Proposed section 7.2.5 of the RSC in the October 2009 Notice had 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 (with the same terms as set out in section 2.6.2 of the SSSC). A second part of the proposed rule dealt with the extension of equal payment or equal billing options to non-residential customers enrolled with retailers. In the March 2010 Notice, however, the Board stated that it will remove proposed section 7.2.5 of the RSC from the present package of code amendments to allow further examination of implementation options and costs.

On May 18, 2010, Board staff sent a survey to all licensed electricity distributors and another to all licensed electricity retailers to enquire about their current equal payment/equal billing practices and about any implementation issues in respect of proposed section 7.2.5 of the RSC. The two surveys are posted on the EB-2007-0722 webpage. The Board will review the survey results and decide what steps to take next regarding adoption of new equal payment/billing rules for retailer-enrolled customers.

E. Disconnection for Non-Payment

1. Content and Delivery of Disconnection Notice

Sections 4.2.2(a) to 4.2.2(k) of the DSC in the March 2010 Notice specified the mandatory contents of a disconnection notice to be sent to a residential customer for non-payment. Changes were proposed in some parts of section 4.2.2 and further comments were sought on these.

Section 4.2.2(e) required a disconnection notice to state the forms of payment the customer may use to pay the amounts that are identified as overdue in the disconnection notice prior to the distributor attending the customer's property. Section 4.2.2(f) required a disconnection notice to state that the time period during which any given form of payment listed will be accepted. Section 4.2.2(g) required a disconnection notice to state that, in order to avoid disconnection when the distributor attends the customer's property, a customer will only be able to pay by credit card issued by a financial institution, unless the distributor will accept other forms of payment at that time and these are set out in the disconnection notice.

A ratepayer group submission supported the above revised proposals as providing greater clarity and information to customers. A utility group submission commented that they currently use a generic disconnection notice for all classes of customers and that the rules appear to require a unique notice be created for the residential class. The Board will adopt sections 4.2.2(e), 4.2.2(f) and 4.2.2(g) of the DSC as proposed. Disconnection notices issued to residential customers must conform to the informational requirements in these rules. It is at the discretion of each distributor to decide how best to implement the new requirements.

Section 4.2.2(h) required a disconnection notice to indicate that a disconnection may take place whether or not the customer is at the premises. A utility group submission supported the proposed rule. A ratepayer group submission opposed it. The Board, however, does not believe it would be a reasonable practice to delay disconnection just because a customer is not home. The ratepayer group submission further argued that a disconnection should not proceed unless the utility has confirmed that the customer received the notice of the disconnection action planned. The Board believes that ample customer notification is provided for in the provisions preceding disconnection and that a requirement for additional confirmation of the receipt of such notices would add unnecessary delay and complexity to the disconnection process. The Board will proceed to adopt section 4.2.2(h) as proposed.

No further comments were sought on the remaining parts of section 4.2.2 of the DSC in the March 2010 Notice. They will be adopted by the Board as proposed. However, the Board wishes to clarify a point in response to a stakeholder comment. Under section 4.2.2 of the DSC, a disconnection notice must state that a Vital Services By-Law may exist in the customer's community and that the

customer should contact his or her local municipality for more information. Utilities are expected to separately assess and comply with any applicable further notice requirements under a local Vital Services By-law that may be in place.

A utility submission suggested that the use of remote disconnection be further considered. The Board believes it would be useful for utilities to advise a customer that disconnection may take place without attendance at the customer's premises where the utility wishes to reserve the option of remotely disconnecting for non-payment. An additional subsection (new 4.2.2(i)) to this effect will be adopted in the final section 4.2.2 of the DSC. Certain subsections within 4.2.2 will be renumbered to reflect the addition of this new rule.

Section 4.2.2.1 of the DSC in the March 2010 Notice provided that a distributor sending a customer a disconnection notice shall not include it in the same envelope as a bill or other documentation from the distributor. No further comments were sought and the Board will adopt the section as proposed.

2. Duration of Disconnection Notice and Time Counting

Further comments were sought on revised section 4.2.3(b) of the DSC in the March 2010 Notice. It provided that a minimum of 10 days notice must be provided to both residential and non-residential customers before disconnection may proceed. Ratepayer group submissions supported section 4.2.3(b), which will apply the same rule to all classes of customers. A utility group submission favoured allowing only 7 days notice and suggested that further time may increase bad-debt write offs. The Board believes that a 10-day notice period strikes an appropriate balance between fairness to customers and utility cost concerns and will adopt section 4.2.3(b) as proposed.

Section 4.2.3(a) of the DSC in the March 2010 Notice required a distributor to provide 60 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 premises. One submission was concerned that the reference to a "physician" could be open to interpretation and requested that the new rule specify the required note must come from a licensed medical doctor. The Board notes that pursuant to section 9(1) of the *Medicine Act, 1991*, no person other than a member of the College of Physicians and Surgeons shall use the title "physician". Therefore no change will be made to the wording of section 4.2.3(a) in this regard.

A number of Ontario electricity distributors make a note in their customer service records if it is known that in a customer's premises there resides a person facing a serious medical risk in the event of loss of electricity supply. Building on this practice, the Board believes it is desirable that any person who regularly resides with the customer and who can provide documentation from a physician that he or

she will face the risk of a significant adverse physical health impact in the event electricity is disconnected should receive the benefit of the 60 day disconnection notice period under section 4.2.3(a) of the DSC. The section will be modified to provide this. The intent of adding a requirement that a non-family member regularly resides at the premises is to distinguish such persons from visitors or guests. Distributors can confirm a person's residence for purposes of section 4.2.3(a) by requesting documentation such as a copy of a driver's license or bill issued to the person at the subject address.

Further comments were also sought with respect to a proposed change to section 4.2.2.6 of the DSC in the March 2010 Notice where the Board revised the period within which a residential customer may request a disconnection notice be suspended (for 21 days) from 14 to 10 days to allow third parties to complete reviews of payment assistance requests. Two submissions agreed that a 10-day period was appropriate. Another submission suggested that the overall disconnection process had become too long. The Board notes that the proposed period had been reduced from 14 days to 10 days to help shorten the length of the disconnection process. The Board will adopt section 4.2.2.6 as proposed.

Section 4.2.3.1 of the DSC in the March 2010 Notice set out rules on how to count time where a disconnection notice is sent by mail or delivered in person. No further comments were sought. The Board will adopt the section as proposed.

3. Expiry of Disconnection Notice

No further comments were sought on section 4.2.2.3 of the DSC in the March 2010 Notice which 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. The Board will adopt the amendment as proposed.

Section 4.2.2.7 of the DSC in the March 2010 Notice provided that upon notification by a registered charity, government agency or social service agency that a residential customer is not eligible to receive bill payment assistance, or if another party who was considering providing payment assistance decides not to proceed, the distributor may proceed to disconnect the customer. Comments were sought on a proposed addition to this rule which provided that, after notification that no assistance will be forthcoming from the party consulted, distributors will have up to 11 days further to act on the disconnection notice served.

One submission agreed with the 11-day period proposed above. Another submission argued that this period is too short as the customer may be involved with multiple agencies and referrals. The Board believes that the proposed rule strikes a reasonable balance between limiting the overall duration of the disconnection process and allowing residential customers a longer period of time to seek third-party assistance. Section 4.2.2.7 will therefore be adopted as proposed.

4. Customer Contact and Communication Prior to Disconnection

Section 4.2.2.4 of the DSC in the March 2010 Notice required 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. The information to be conveyed to the customer during that call was expanded from the previous proposal and further comments were sought on proposed sections 4.2.2.4(a) to 4.2.2.4(e).

A utility group submission stated that they currently make reasonable efforts to communicate this information. A ratepayer group submission suggested that the customer should also be advised that the disconnection may take place whether or not the customer is on the premises. The Board agrees that it would be a useful precaution to advise the customer of this. An additional requirement to this effect has been added to the final version of section 4.2.2.4 (in new section 4.2.2.4 (b)) that the Board will adopt. The subsections within 4.2.2.4 will be renumbered accordingly.

A further ratepayer group submission stated they understand that utilities have internal policies setting out the minimum payment required (which may be less than the total outstanding amount), in order to ensure that disconnection does not proceed. It was requested that such information should be included as a requirement in section 4.2.2.4. The Board believes it is more appropriate that the disconnection notice refer to the full amount of payment due, and that it be left to the distributor's discretion to voluntarily accept lesser payment and thereby defer the expense of disconnection.

The Board believes that it would also prove useful for utilities to advise a customer at this point that the disconnection may occur without attendance at the customer's premises, where the execution of the disconnection by the utility may proceed remotely. A new requirement to this effect is included in revised section 4.2.2.4(c).

The Board will adopt proposed section 4.2.2.4 of the DSC, inclusive of the two additions discussed above.

5. Additional Recipients of Disconnection Notice

No further comments were sought on sections 4.2.2.2, 4.2.2.2A, 4.2.2.2B and 4.2.2.5 of the DSC in the March 2010 Notice dealing with additional recipients of disconnection notices. The Board will adopt these sections as proposed.

6. Reconnection

Sections 7.10.1 and 7.10.2 of the DSC in the March 2010 Notice 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 further comments were sought and the Board will adopt these amendments as proposed. Amendments to the Reporting and Record Keeping Requirements to require the reporting of this performance metric will be undertaken in a separate future process.

In response to a retailer submission, the Board wishes to confirm that customers who were enrolled with retailers before they were disconnected for non-payment shall continue to be billed under the terms of the retail contract when service is reconnected.

F. Security Deposits

No further comments were sought on the security deposit amendments set out in sections 2.4.17, 2.4.20A, 2.4.22A, 2.4.23A, 2.4.25A and 2.4.26A of the DSC in the March 2010 Notice. The Board will adopt these sections as proposed, aside from two clarifications to sections 2.4.20A and 2.4.25A.

The current security deposit rule that sets out a 4-month instalment payment period (section 2.4.20 of the DSC) includes a second sentence allowing customers to choose a shorter payment period. The intent of the March 2010 Notice was to allow this flexibility to continue. The Board wishes to document this understanding. A provision will be added to the 6-month instalment payment period rule set out in section 2.4.20A for payment of a security deposit by a residential customer, and the parallel 6-month instalment payment period rule set out in section 2.4.25A for an increase in the security deposit due from a residential customer, to allow such customers the discretion to pay a security deposit (or an increase in a security deposit) over a shorter period of time.

The Board wishes to also clarify how the security deposit payment rules will interact with the arrears management program rules. Section 2.7.1.1 of the DSC directs a distributor to apply any security deposit held towards the amount outstanding before entering into an arrears payment agreement with a residential customer. Under section 2.4.20A of the DSC, the customer will be allowed up to 6 months to repay the deposit in equal instalments. Under the present package of rules, this will be in addition to the payments required under any arrears repayment agreement and the customer's regular ongoing bill payments.

G. Arrears Management Programs

No further comments were sought on the majority of the arrears management program rules for residential customers set out in sections 2.7.1 to 2.7.5 of the DSC in the March 2010 Notice, aside from two areas (sections 2.7.2 and 2.7.5).

Proposed section 2.7.2 had been revised to include the current bill amount in any arrears payment agreement entered into with a residential customer. The March

2010 Notice invited further comments on this. A ratepayer group submission agreed with the proposal. Two utility submissions disagreed with adding the current bill amount, as it was viewed as increasing complexity and bad debt risk. The Board's intent in including the current bill amount in an arrears payment agreement was to assist customers in starting their payments on a consolidated basis that may prove easier. However, upon further reflection the Board believes it would be preferable to allow each customer the choice of whether to include the current bill amount in the arrears payment agreement. Section 2.7.2 will be revised to provide a customer with the option of requesting that the current bill amount be included in the amount subject to the arrears payment agreement. The customer could, as an alternative, pay the current bill amount before entering into an arrears payment agreement for the outstanding balance, if that would prove more convenient. The Board expects utilities to advise a residential customer of his or her options in this area when an arrears payment agreement is being discussed.

A ratepayer submission asked several questions about the appropriate application of late payment charges to arrears payment agreements. The Board believes it is helpful to confirm that no late payment charge should be levied by a utility if the current bill amount is added to an arrears payment agreement and the current payment is not late. But thereafter, under the present rules, the regular late payment charge may be levied on the outstanding balance due during the course of the arrears agreement. Other issues that have been raised related to the fair application of late payment charges can be more fully examined in future consultations on special service charges (which will include an examination of the late-payment charge).

Further comments from stakeholders were also sought on section 2.7.5 of the DSC in the March 2010 Notice. It provided that, if requested, distributors will be required to offer a second arrears payment agreement 2 years after a first such agreement was entered into if the earlier agreement was satisfactorily performed.

A utility group submission favoured using a 4-year period in this rule. Two ratepayer group submissions supported proposed section 2.7.5. One submission also suggested that after completing a first arrears payment agreement, the customer should be notified of when he or she will become eligible for a second arrears payment agreement. A third ratepayer group submission disagreed with the proposed 2-year waiting period. They argued that a 2-year waiting period may increase bad debts by preventing customers who need arrears payment agreements from accessing them.

In the Board's view, extending the waiting period under section 2.7.5 beyond 2 years is not desirable as it may unduly prejudice residential customers in need. However, it is also important to note that the present rules are available to all residential customers. A 2-year waiting period will mitigate the risk that customers with the ability to pay seek to apply for an arrears management program on a frequent basis. The Board will adopt section 2.7.5 as proposed.

H. Management of Customer Accounts

No further comments were sought on the opening of account rules set out in sections 2.8.1 to 2.8.2 of the DSC, the related amendments to the implied contract rule set out in sections 6.1.2.1 and 6.1.2.3 of the DSC, and the rule in section 2.8.3 of the DSC as to who will become the default customer when a tenant departs. The Board will adopt these sections of the March 2010 Notice as proposed (subject to correction of a typographical error in section 2.8.2). The March 2010 Notice also included sections expressly allowing the use of electronic communications for the processing of new customer requests. No further comments were sought on these provisions and sections 2.8.4 and 6.1.2.2 of the DSC will be adopted as proposed.

The March 2010 Notice proposed several new rules regarding the management of customer accounts and further comments on the same were sought. Section 2.8.3A of the DSC made express reference to a distributor entering into an agreement with a landlord whereby the landlord agrees to assume responsibility for continued payment of service to the rental property after closure of a tenant's account. The submissions received supported the proposal. Section 2.8.5A of the DSC grandfathered any binding agreements for service existing as of the effective date of these amendments or any pre-existing agreements between a landlord and a distributor. The submission received supported the proposal. The Board will adopt sections 2.8.3A and 2.8.5A as proposed.

The March 2010 Notice also set out new rules dealing with use of voice recordings in the customer administration process. Such recordings must be retained for a prescribed period of time that varied depending upon the context. Stakeholders supported the flexibility provided to customers and utilities by the acceptance of voice recordings from customers (sections 2.8.4A and 6.1.2.2). Section 2.8.4A required that a telephone request for a new customer account be retained by the distributor for 24 months. One utility group submission stated that a 6-month retention is the current industry practice and that retention of a voice recording for 24 months may require purchase of new equipment. They also suggested that disputes associated with a new account have usually been resolved within 6 months. In the Board's experience some disputes have arisen after more than a year and therefore the 24-month customer telephone call retention period will be retained in section 2.8.4A and the parallel rule in section 6.1.2.2. Utilities have the option of entering into written agreements if they prefer but the Board would expect that such agreement should also be kept for a 24-month period as a precaution.

Section 2.8.4B of the March 2010 Notice allowed distributors to record and rely upon customer service agreement with landlords, provided that the voice recording confirming the agreement is retained by the distributor for the length of the agreement plus an additional 6 months. In response to questions about the rationale for this time period, the Board notes that these agreements will govern what actions utilities and landlords will take as part of an on-going business

relationship and that such agreements could be in place for many years. The retention period set out in section 2.8.4B will be adopted as proposed.

III. Harmonized Sales Tax (“HST”) Amendments

Appendix C of the RSC sets out a standard form of Service Agreement to be used by retailers and distributors. Appendix C of the Service Agreement contains provisions regarding the calculation, collection and remittance of the Goods and Services Tax (“GST”) in relation to amounts charged to customers using any of the following forms of billing: Distributor-Consolidated Billing–Rate Ready, Distributor-Consolidated Billing–Bill Ready, and Retailer Consolidated Billing.

Effective July 1, 2010, the GST has been replaced with the Harmonized Sales Tax for Ontario. The Board is therefore using this opportunity to amend Appendix C to the Service Agreement to replace all references to “GST” with references to “all applicable taxes”, and to make certain other changes of a housekeeping nature (such as updating the reference to the former federal tax collection agency). The amendments have been adopted by the Board and are set out in Appendix C to this Notice.

The replacement of the GST with the HST, and the requirement to charge the HST, arise and apply by operation of law. As such, the Board does not consider that the HST-related amendments described above materially change the RSC. The additional housekeeping revisions to the RSC referred to above are also of a non-material nature.

IV. Anticipated Costs and Benefits

The anticipated costs and benefits of the sections which will not be changed were discussed in earlier notices in this proceeding. The changes that have been made to the proposed customer service amendments set out in the March 2010 Notice are mainly for clarification purposes.

Customers will retain the choice of whether to include the current bill in the amount that is subject to an arrears repayment agreement. Customers with arrears will be better placed to fully understand their situation as they will be provided with advanced notice that utilities may disconnect remotely (as may occur under current practices of some distributors) and that a disconnection may take place whether or not the customer is at the premises at the time of disconnection.

Utilities will be able to continue carefully managing customer disconnections, with the rule confirming that when they decide to send field staff to a customer’s premises to execute a disconnection, due regard may be taken of the safety and security of their employees when deciding whether or not to contact the customer.

The deletion of the reference to GST and its replacement by reference to “all applicable taxes” is required to keep pace with new legislation that replaces the GST with the HST.

V. Coming Into Force

The March 2010 Notice moved the proposed fixed coming into force date to January 1, 2011 to accommodate a further round of notice and comment. Comments were invited from stakeholders as to the revised proposed coming into force period.

Several ratepayer groups supported an extension of the coming into force date to January 1, 2011, given the large number of new customer service rules to be implemented under the package. Another ratepayer group suggested that utilities should be required to submit a list of rules which they say are not feasible to implement before the start of the 2010-2011 winter heating season. They also suggested that the rule granting a 21-day suspension of collection pending review by a third-party for bill payment assistance (proposed section 4.2.2.6 of the DSC) could be implemented sooner since it typically involves a manual intervention.

The submission from a group of medium-sized utilities indicated that an 8 to 12 month implementation period is needed to accommodate the significant modifications required. A submission from a group of large utilities stated that an implementation date of 12 months after the code amendments are finalized will prove most practical. This would better accommodate successful implementation of other significant pending changes (HST, smart meters, time-of-use rates, FIT and micro-FIT, etc.). Another utility group submission indicated that if less than 12 months is allowed for implementation of the new customer service rules, then increased outside help and/or overtime help may prove necessary, which will increase total implementation costs.

Utilities have cautioned throughout this process that an extended implementation period will be necessary given the magnitude of the system changes needed to implement all the new customer service rules. In view of the significant number of amendments in the present package, and the numerous other important regulatory changes to be implemented during the second half of 2010, the Board believes that adopting a phased approach towards implementation of the new customer service rules will have practical advantages.

The Board agrees with the suggestion that the implementation period can reasonably be moved up for some of the new rules. This approach will be adopted in respect of the rules suspending the collection process for 21 days pending review by a third-party for bill payment assistance (including the related rule dealing with how a distributor may proceed if the customer's request for bill payment assistance is turned down) and the arrears management program rules. In these cases, utilities will likely already be dealing with the affected customers on

a one-off basis and implementation should prove simpler. The Board will move the coming into force date for these rules to October 1, 2010 in order to provide residential customers with additional protections at the start of the 2010-2011 winter heating season.

The Board will retain January 1, 2011 as the coming into force date for the new rules regarding bill issuance and payment, disconnection for non-payment and security deposits.

The Board will defer the coming into force date for the new rules setting out the equal monthly payment plan for residential customers on standard service supply to April 1, 2011. This will allow the new payment plans to start during an off-peak period, which is common practice. More time will be also allowed to adopt companion rules extending equal payment/billing options to customers enrolled with retailers. To allow utilities more time to implement the overall package of customer service rules, the Board will set the coming into force date for the new rules dealing with correction of billing errors and the management of customer accounts to April 1, 2011 as well.

In accordance with section 1.7 of the RSC, the amendments relating to the HST come into force on today's date, being the date on which they are published after having been made by the Board.

Any questions relating to this Notice should be directed to John Vrantsidis at 416-440-8122 or by e-mail at john.vrantsidis@oeb.gov.on.ca. Any future questions about the application of these amendments should be directed to Market.Operations@oeb.gov.on.ca.

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

DATED at Toronto, July 2, 2010.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Attachments: Attachment A: July 2, 2010 Final Customer Service
Amendments to the Distribution System Code, the Retail
Settlement Code and the Standard Supply Service Code

Attachment B: Comparison Version of July 2, 2010 Final
Customer Service Code Amendments relative to the March
12, 2010 Proposed Customer Service Code Amendments (for
information purposes only)

Attachment C: Supplementary Amendments to the Retail
Settlement Code to Accommodate the Harmonized Sales Tax

**Attachment A
To
Notice of Amendments to Codes**

July 2, 2010

EB-2007-0722

Customer Service Amendments to the Distribution System Code, the Retail Settlement Code and the Standard Supply Service Code

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

Part I: 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 paragraphs thereafter:

The amendments to sections 2.7.1 to 2.7.5, and 4.2.2.6 and 4.2.2.7, come into force on October 1, 2010.

The amendments to sections 2.4.17, 2.4.20A, 2.4.22A, 2.4.23A, 2.4.25A, 2.4.26A, 2.4.2B, 2.4.10, 2.6.1 to 2.6.7, 4.2.2 to 4.2.4, and 7.10.1 to 7.10.2 come into force on January 1, 2011.

The amendments to sections 2.8.1 to 2.8.3, and 6.1.2, come into force on April 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. A customer may elect to pay the security deposit over a shorter period of time.*
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. A customer may elect to pay the security deposit over a shorter period of time.*
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*

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 if the customer elects to do so, 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 new 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 if 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, where applicable, the disconnection may occur without attendance at the customer's premises;*
- (j) *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;*
- (k) *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*
- (l) *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).*

4.2.2.1A 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.

4.2.2.2A 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 the customer that a disconnection may take place whether or not the customer is at the premises;*
- (c) *where applicable, advise the customer that the disconnection may occur without attendance at the customer's premises;*
- (d) *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;*
- (e) *advise the customer that, if 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;*
- (f) *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*
- (g) *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

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, dependent family member or other person that regularly 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

- (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, and the distributor intends to execute the disconnection by attendance at the customer's premises, the distributor shall make a reasonable attempt to communicate with the customer, with due regard for the safety and security of the distributor's personnel, if the customer 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: 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 amendments to section 7.7 come into force on April 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, subject to any

adjustments necessary to take into account other electricity-related charges billed to non-residential customers.

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: 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 amendments to section 2.6.2 come into force on April 1, 2011.*

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

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 electricity consumption or a customer's electricity charges as defined in section 2.6.2A(b);*
- 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 Amendments to Codes**

July 2, 2010

EB-2007-0722

**Comparison Version of July 2, 2010 Final Customer Service Code
Amendments relative to the March 12, 2010 Proposed Customer Service
Code Amendments (for information purposes only)**

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

Part I: 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: ____.*~~

The amendments to sections 2.7.1 to 2.7.5, and 4.2.2.6 and 4.2.2.7, come into force on October 1, 2010.

The amendments to sections 2.4.17, 2.4.20A, 2.4.22A, 2.4.23A, 2.4.25A, 2.4.26A, 2.4.2B, 2.4.10, 2.6.1 to 2.6.7, 4.2.2 to 4.2.4, and 7.10.1 to 7.10.2 come into force on January 1, 2011.

The amendments to sections 2.8.1 to 2.8.3, and 6.1.2, come into force on April 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. A customer may elect to pay the security deposit over a shorter period of time.*

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. A customer may elect to pay the security deposit over a shorter period of time.*

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 if the customer elects to do so, 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 **new** 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~~ if 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, where applicable, the disconnection may occur without attendance at the customer's premises;
- ~~(j)~~(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)~~(k) 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
- ~~(j)~~(l) 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).

4.2.2.1A 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.

4.2.2.2A 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 the customer that a disconnection may take place whether or not the customer is at the premises;
- (c) where applicable, advise the customer that the disconnection may occur without attendance at the customer's premises;
- (d) 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;
- (e) advise the customer that, ~~when~~ if 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;
- (f) 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
- (g) 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 or other person that regularly ~~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, and the distributor intends to execute the disconnection by attendance at the customer's premises, the distributor shall make a reasonable attempt to communicate with the customer, with due regard for the safety and security of the distributor's personnel, if the customer 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: 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 amendments to section 7.7 comes into force on ~~January~~April 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., subject to any adjustments necessary to take into account other electricity-related charges billed to non-residential customers.

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.

7.7.8A 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.

7.7.9A 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: 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~~s~~ to section 2.6.2 comes~~s~~ into force on ~~January~~ April 1, 2011.*

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

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 consumption or a customer's electricity charges as defined in section 2.6.2A(b);*
- 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 C
To
Notice of Amendments to Codes**

July 2, 2010

EB-2007-0722

**Supplementary Amendments to the
Retail Settlement Code to Accommodate the Harmonized Sales Tax**

That portion of Appendix C (Billing Services) of Appendix C (Service Agreement) of the Retail Settlement Code entitled "GST on amounts charged to consumers:" is amended as shown below:

GST-All applicable taxes on amounts charged to consumers:

Distributor-Consolidated Billing – Rate Ready

The Distributor shall calculate, collect and remit to ~~Canada Customs & Revenue Agency ("CCRA")~~ the applicable taxation authority ~~GST~~ all applicable taxes on both competitive and non-competitive electricity services. The Distributor shall account for ~~the GST~~ all applicable taxes charged on competitive electricity services as ~~the GST~~ they becomes collectible.

Distributor-Consolidated Billing – Bill Ready

In each of the three options set out below, the Distributor shall calculate, collect and remit to ~~CCRA~~ the applicable taxation authority ~~GST~~ all applicable taxes on non-competitive electricity services charged to consumers. ~~GST-Applicable taxes~~ with respect to competitive electricity services charged to consumers shall be addressed in the following manner:

- ☐ The Distributor shall calculate, collect and remit to ~~CCRA~~ the applicable taxation authority ~~GST~~ all applicable taxes on competitive electricity services. The Distributor shall account for ~~GST~~ all applicable taxes charged on competitive electricity services as ~~the GST~~ they becomes collectible.
- ☐ The Retailer shall calculate ~~GST~~ all applicable taxes on competitive electricity services and provide the result to the Distributor as a separate line item or separate line items, as applicable, to accompany the bill ready line item. The Distributor shall collect and remit to ~~CCRA~~ the applicable taxation authority ~~GST~~ all applicable taxes on competitive electricity services. The Distributor shall account for ~~GST~~ all applicable taxes charged on competitive electricity services as ~~GST~~ they becomes collectible.
- ☐ The Retailer shall calculate ~~GST~~ all applicable taxes on competitive electricity services and provide the result to the Distributor as a separate line item or separate line items, as applicable, to accompany the bill ready line item. The Distributor shall collect ~~the GST~~ all applicable taxes on competitive electricity services and forward it them to the Retailer as ~~it is~~ they are collected. The

Retailer shall remit ~~the GST~~ all applicable taxes on competitive electricity services to ~~CCRA~~ the applicable taxation authority on a collectible basis.

(The Distributor must tick one of the above boxes)

Retailer Consolidated Billing

In each of the three options set out below, the Retailer shall calculate, collect and remit to ~~CCRA~~ the applicable taxation authority ~~GST~~ all applicable taxes on competitive electricity services charged to consumers. ~~GST~~ All applicable taxes with respect to non-competitive electricity services charged to consumers shall be addressed in the following manner:

- ☐ The Retailer shall calculate, collect and remit to ~~CCRA~~ the applicable taxation authority ~~GST~~ all applicable taxes on non-competitive electricity services. The Retailer shall account for ~~GST~~ all applicable taxes charged on non-competitive electricity services as ~~the GST~~ they becomes collectible.
- ☐ The Distributor shall calculate ~~GST~~ all applicable taxes on non-competitive electricity services and provide the result to the Retailer as a separate line item or separate line items, as applicable. The Retailer shall collect and remit to ~~CCRA~~ the applicable taxation authority ~~GST~~ all applicable taxes on non-competitive electricity services. The Retailer shall account for ~~GST~~ all applicable taxes charged on non-competitive electricity services as ~~GST~~ they becomes collectible.
- ☐ The Distributor shall calculate ~~GST~~ all applicable taxes on non-competitive electricity services and provide the result to the Retailer as a separate line item or separate line items, as applicable. The Retailer shall collect ~~the GST~~ all applicable taxes on non-competitive electricity services and forward ~~it~~ them to the Distributor as ~~it is~~ they are collected. The Distributor shall remit ~~the GST~~ all applicable taxes on non-competitive electricity services to ~~CCRA~~ the applicable taxation authority on a collectible basis.

(The Distributor must tick one of the above boxes)