



October 25, 2010

BY RESS AND BY COURIER

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

Dear Ms. Walli:

RE: CLD Written Comments in Response to the Notice of Proposal to Amend Codes and the Updated Proposed Low-Income and Other Customer Service Amendments to the Distribution System Code, the Retail Settlement Code, and the Standard Supply Service Code

Board File Number: EB-2007-0722

This submission is filed on behalf of the Coalition of Large Distributors (“CLD”) in respect of the above-captioned matter.

The CLD is comprised of Enersource Hydro Mississauga Inc., Horizon Utilities Corporation, Hydro Ottawa Limited, PowerStream Inc., Toronto Hydro-Electric System Limited, and Veridian Connections Inc. The CLD appreciates the opportunity to provide written comments on this important issue which impacts many of our core customer service procedures.

On September 30th, 2010, the Ontario Energy Board (the “Board”) issued the Notice of Proposal (the “Notice”) and the Updated Proposed Low-Income and Other Customer Service Amendments to the Distribution System Code (“DSC”), the Retail Settlement Code (“RSC”) and the Standard Supply Service Code (“SSSC”) (collectively the “Codes”). In such Notice, the Board invited stakeholder comments on a number of issues. These issues will be addressed in the order in which they appeared in the Notice.

General Comments

As noted by the CLD in response to the Board's previous Amendments to the Codes dated April 12, 2010, the CLD members wish to reiterate the fact that distributors have always strived to accommodate customers who are in financial difficulty. Distributors employ professional and well trained collection and customer service staff to address a variety of customer service issues and adapt to their customers and business needs very effectively. The addition of prescribed rules and regulations for eligible low income consumers will restrict distributors' ability to provide manageable solutions for customers at large due to the disproportionate amount of effort and risk the low income consumer provisions will entail. The CLD is concerned that some of the proposed collection practices and timelines may have the unintended effect of increasing incidents of large overdue balances. Specifically, overburdened consumers who do not have sufficient funds to meet their basic monthly needs would not be better off if they are allowed to defer their payments over extended periods of time. Large overdue balances are more difficult for customers on a fixed or low income to manage and will invariably involve increased contact with collection departments and escalate costs for all customers. Such burdens are not in the interest of rate payers, overall. Further, these provisions carry the risk that non-qualifying residential consumers may face additional financial hardship, if fewer external resources are available to assist them, when in need.

There are various factors that can lead to bill payment defaults. While the proposed provisions seek to avoid or eliminate certain additional costs for low income consumers, the costs that relate to such services are still incurred and must be recovered. As noted further herein, the CLD remains concerned that customers within the same residential class are not being treated in a like manner, which is contrary to existing rate making principles. Further, any services provided to customers must be cost efficient and prudently incurred. Again, the CLD is concerned that the proposed provisions do not reflect this principle.

The conditions created by both the current and recently implemented amendments to the DSC, the RSC and the SSSC allow a customer to receive electricity from a distributor for a period of up to 221 days, without payment, before disconnection can occur. Under this scenario, upon entering into arrears, a customer would receive a disconnection notice (10 days), make use of the allotted time to negotiate with a third party (21 days), enter into an arrears payment agreement and default on three separate payments over the next three separate billing periods (180 days), and only then receive a subsequent disconnection notice (10 days) before eventually being disconnected. If the time of the original arrears is factored in, the customer could potentially accumulate nearly 300 days of arrears before disconnection. The CLD submits that such a

scenario highlights the concerns with the amendments as currently proposed. If approved, such amendments will severely restrict the ability of a utility to manage customer debt in a reasonable and efficient manner.

Only a very small percentage, typically less than 10% of residential customers, experience difficulty keeping their bills current. It has been estimated, that in some case, in excess of 20% of residential customers may meet the definition of an eligible low-income electricity customer as defined in the proposed amendments for certain CLD member utilities. This highlights the potential inequity of the situation whereby a substantial portion of a distributor's residential customers would be treated in one manner and the remaining majority (oftentimes just beyond the eligibility criteria) would be treated in a different manner or would be subject to different rules. Having two residential sub-classes is also inefficient from a customer service point of view. Many CLD members have been in the process of implementing a process similar in concept to a 'one call' resolution in an attempt to minimize customer call backs and improve efficiencies. The myriad of different rules and regulations that a residential customer may or may not be subject to makes such efficiencies unlikely. The number and type of contacts that a customer and the utility collection department may receive include: the initial customer call to make payment arrangements, the customer call to the social service or government agency to initiate confirmation of eligibility status, the agency call to the utility to confirm eligibility, and perhaps to the customer to confirm status, and numerous calls to and from the customer/agency/collection departments as payment terms are established and monitored. Complex and extensive bill payment standards for this identified group of residential customers create an additional financial burden for all customers. Further costs will be incurred due to changes in customer information system programming, administrative procedures, and accounts receivable timelines. As compared to existing distributor processes for managing customer payment issues, the incremental benefits of many of these provisions are not apparent.

Some CLD members have a very transient population, a large student population, and many residential customers that are challenged to meet their existing financial obligations. Extended payment arrangements for transient or temporary consumers substantially increase the risk of outstanding final bills. Also, under the current proposed amendments, students will qualify as low-income consumers, which could further increase the estimated percentage of eligible low-income customers. For most distributors, bad debt expenses and related collection costs have increased over the years. As stated earlier, there is a concern that eligible consumers will be subsidized by other rate payers, including residential customers who may be just beyond the eligibility threshold to qualify as low income. While acknowledging that low income customers may require additional assistance in paying their utility bills, it is the CLD's position that

extensive variations in rules within the residential class create unjustifiable inequities between rate payers and are contrary to the principle that all consumers within a class be treated equally.

The Notice states that account collection costs and bad debt expenses may be reduced as a result of the implementation of the proposed amendments (Notice, page 16): ‘Distributors may have to devote greater staff resources to negotiating arrears agreements, but this could be in part offset by utility staff spending less time on collections and disconnections’. There is no evidence to support such assertion and, in fact, the CLD expects such costs and efforts to increase. As rules are becoming more complex to administer and to explain to customers, collection contact with customers will increase necessitating increases in staff levels. Similarly, allowing eligible low-income customers more time to pay their bills will negatively impact cash flows. Further, the proposal that collection related service charges be waived under certain conditions would deprive distributors of cost recovery for these services. The potential risks of the proposed changes are potentially material to distributors, should payment defaults and bad debt expenses increase. The CLD submits that if the proposed amendments are approved, a deferral account would be required in which to accumulate specific incremental costs and any foregone service charges, to be disposed of at the appropriate time.

The Notice also states that the implementation of all of the proposed amendments must be completed by January 1, 2011. This will be problematic for most distributors given that: i) changes cannot be implemented until the proposed code changes are finalized; ii) there is a short time period remaining in advance of the January 1, 2011 deadline; and, iii) distributor resources are absorbed implementing other changes including Customer Service Standardization changes from the Final Amendments to the Codes dated July 2, 2010; smart meter installations, TOU rates and FIT and micro-FIT programs. The CLD suggests that any approved amendments be implemented 6 months from the date the codes are finalized and posted on the Board’s website.

Attachment A Part 1: Amendments to the DSC

- 1) *Amendment to Section 1.2 to add the definition of an eligible low-income customer.* The CLD seeks the Board’s guidance as to the length of the term for eligibility once a customer has been identified as an eligible low-income customer. Distributors currently meet with various agencies who may be involved with the confirmation of such eligibility status. Concerns have arisen related to the administrative burden placed on the various agencies to complete this additional work. In instances where customers are supported by more than one social service agency or government agency, additional complexities

may arise. For practical purposes, the CLD submits that customers who are qualified as low income customers automatically lose this designation with the distributor after a period of 2 years, from the time they were first qualified. This provides a reasonable balance between not having to be re-qualified by a social service agency too frequently, while giving the utility some comfort in knowing that the constantly changing status of customers undergoes a regular review. In proposing this eligibility window, the CLD assumes that reliable and timely status changes will be received from the designated social service agency.

- 2) *Section 1.7 is amended by adding a coming into force paragraph.* The CLD has no comments on this amendment as it is primarily administrative in nature. The CLD's comments related to the timing of implementation of the proposed amendments are included in the general comments above.

The amendments to section 2.4.12 add sections advising a residential customer that the security deposit requirement will be waived for an eligible low-income customer under certain conditions. If the security deposit requirement is waived for an eligible low-income customer, but, is not waived for a customer that is not low-income eligible, the CLD believes that a significant and visible inequity will have been created that will be very difficult to defend. The result is effectively two classes of customers who must be treated differently. The CLD has consistently advised that the use of deposits as an offset for active account arrears significantly erodes the ability of distributors to manage the risk of final bill arrears. Eliminating this requirement for low income residential customers leaves distributors with effectively no risk management options by which to avoid unpaid final bills. Experience indicates that there is a higher incidence of unpaid final bills for properties that change occupants frequently. These recent proposed amendments leave distributors contemplating the elimination of residential deposits altogether, as the associated costs and complexities relative to the benefits may no longer be justified.

Some CLD members have extensive and successful experience with the use of third party deposits (i.e. with deposits being provided by a social services agency on behalf of the customer). As an example, Ontario Works often pays a deposit on behalf of their customers. This deposit is later refunded to the customer (with the approval of the agency) once payment requirements are successfully met. The CLD asks that the Board consider the use of third party deposits in determining a deposit policy for low income

customers. In many cases, this has proven to be a practical and viable alternative for both the utility, and for the customer.

- 3) *Amendment to section 2.4.12 to add sections that extend the due date for payment of the security deposit pending the eligibility decision by the social service or governmental agency.* Extending the due date for payment of the security deposit for at least 21 days is not burdensome for most utilities because the current practice is to work closely with the customer and social service agencies in exactly this manner.
- 4) *Section 2.4.23 is amended to provide notice to eligible low-income customers that they may request and receive a refund of any security deposit previously paid to the distributor.* The CLD requests clarification of this proposed amendment, as there is a major concern if an eligible low-income customer is permitted to receive a refund of their security deposit in any circumstances where that customer owes an outstanding balance on their account. The CLD assumes that this amendment does not negate section 2.4.26, and that the utility can apply the deposit to any outstanding arrears (as per 2.4.26) before granting a refund.

Section 2.4.23 is amended to provide notice to eligible low-income customers that they may request and receive a refund of any security deposit previously paid to the distributor by way of a cheque if so requested. The administrative task of issuing a cheque in such situations is burdensome for all distributors. The costs of issuing a cheque range can from \$15 to \$25 per cheque and such costs must be absorbed by all customer classes. The CLD proposes that all refunds of the deposit be done by way of a credit to the customer's account.

- 5) *Section 2.6.3 is amended to allow an eligible low-income customer not on an equal monthly payment plan or equal billing plan to request that the payment due date be deferred to the 5th day of the following month and the distributor shall not impose any late payment or other charges upon receipt of such payment.* The CLD requests clarity as to whether having the payment date moved to the 5th day of the following month is intended as a permanent change to the customer's due date, or a one-time change. The proposed change, as currently stated, is unclear. Allowing an eligible low-income customer's one-time due date to move to the 5th day of the following month is in itself not difficult to implement since distributors work with customers and make informal payment arrangements as a matter of course currently. A concern arises, however, if this proposed amendment is permanent, as the programming complexities of changing a

billing due date are considerable. In the event that it is a one-time change (i.e. not a change to the regular billing date), the CLD seeks clarification as to how often a customer can request such a change. Furthermore, the CLD seeks clarification as to whether the proposed amendment allows for the payment due date to be deferred to the 5th (calendar) day of the following month (as is written in the proposed code) or the 5th business day of the following month (as noted in the comments accompanying the proposed code amendments). There is also a significant concern with the structure of the current amendment as written, as theoretically a customer whose bill falls on the 6th of the month could delay their bill payment due date a total of 30 days, to the 5th of the following month. The CLD submits that this was clearly not the desired intention. As noted earlier, most utilities already voluntarily engage with their customers on matters of payment, and are more than willing to reasonably delay collections procedures by short amounts of time to accommodate their customers' needs, without a coded requirement to do so.

- 6) *Section 2.7 is amended by adding sections that indicate conditions when an eligible low-income customer can have their down payment requirement waived when entering into an arrears payment agreement for the first time, rules as to the time period over which a low-income customer can spread the payment terms depending on the amount of the arrears, conditions under which the distributor may cancel the arrears payment agreement, and conditions under which service charges to low-income customers shall be waived.* The CLD has significant concerns with many provisions in this section. All distributors currently work closely with their customers and make suitable payment arrangements that are acceptable to both parties. Each distributor's collection staff are well trained to deal with payment arrangements and with customers who find themselves in difficult financial situations.

As mentioned earlier in this submission, waiving any service charge related to collection, disconnection, non-payment, or load control for eligible low-income customers is not fair to other customers. The impact of this proposal would create a multitude of rules that apply to a different sub-class of residential customers that would be impossible to defend and justify. Late payment charges and similar charges that relate to collection activities form a portion of a distributor's "other revenue" which reduces that distributor's overall distribution revenue requirement. These services are specific to those customers requiring them. If revenue from late payment charges and similar collection related charges are eliminated for low-income consumers who may require those services, distribution revenue collected from all customer classes must increase. This approach is

inconsistent with the cost causality principles designed to avoid cross-subsidization by customers that do not contribute to such costs. Further, if distributors are not paid for their collection activities through OEB approved rates, many of the tools of risk mitigation and bad debt reduction are lost to the utility and it makes management of the collection accounts much more challenging and costly. More costs mean increased rates for all customers. The CLD requests that the charges and rules currently in effect remain in place and apply to all customers equally.

On the issue of waiving the 15% down payment requirement in order for eligible low-income consumers to enter into an arrears management program, the CLD feels that the existing rule for all residential customers is reasonable and a positive indicator of a customer's good faith intention and ability to pay their outstanding arrears. As an alternative, the CLD suggests that a reduced down payment of 10% for eligible low income customers (from the current 15% applying to all other customers) would be appropriate.

The CLD has a similar concern with extending the repayment periods of arrears for eligible low income customers and submits that 10 and 20 months are excessive and may be counterproductive. The CLD supports maintaining the timeline rules that are in place for all residential customers. As an alternative, a period of 6 and 12 months would be a reasonable means of providing some additional relief.

Proposed Section 2.7.4.3 would permit eligible low income customers to default on a minimum of two occasions, occurring over separate billing periods, before the distributor could cancel the arrears payment agreement. The CLD strongly opposes this amendment due to potentially negative business and consumer impacts. A "minimum of two occasions" would mean that a customer must default on at least three occasions – which is in itself considerable. More significantly, however, the condition that the defaults occur over separate billing periods could mean that a customer could potentially not pay three bi-monthly bills and three arrears payments, before the distributor could cancel the payment plan and proceed with a disconnection. With such extensive timelines, the ability of a low-income consumer to avoid or recover from disconnection action is very low, which is contrary to the objectives of these provisions. As noted in the general comments, this amendment alone could add over 180 days of ongoing current charges to any outstanding arrears, significantly affecting a distributor's and consumers' ability to manage the associated debt. The associated amendment that applies to non-low income customers is equally problematic, and could add up to 120 days of ongoing current

charges. The CLD respectfully submits that such a drastic delay will seriously affect its debt management and costs, and requests that the current rule, permitting utilities to proceed with the disconnection procedure after a second missed payment, regardless of when it occurs, remain in place.

- 7) *Section 2 is amended to allow a 21 day grace period of the installation of a load limiter device, while the social service of government agency is assessing the customer for bill payment assistance.* All CLD members work closely with customers when and if it is necessary to install a load limiter device. Such a device is not installed until necessary or required. Extending the time period in which the device is installed causes no additional hardship or costs to distributors. Prudent use of load limiter devices can have customer benefits, such as assisting customers in load control. The proposed amendment should be modified to allow distributors to have the option of allowing customers to request the installation or continued use of a load limiter device. In order to satisfy the customer advisory requirements, the Disconnection Notice could be expanded to include the possibility that “service may be partially or fully disconnected.” This will also ensure equal treatment for those consumers scheduled for full disconnection.
- 8) *Section 4.2.2 is amended such that the disconnection notice shall inform all customers of existing arrears management programs and emergency financial and other assistance programs.* CLD members and their collection staff work closely with their customers and make every effort to educate the affected customers of all the options at their disposal. The CLD has no concerns with this amendment.
- 9) *Section 4.2.2.4 is amended such that when making contact with the eligible low-income customer, the utility shall inform the customer of existing arrears management programs and emergency financial and other assistance programs.* All CLD members would be agreeable to ensure that all customers, particularly those eligible low-income customers, have all of the information available to assist them in their payment arrangements.

Attachment A Part II: Amendments to the RSC

- 1) *Section 1.2 is amended to add the definition of an eligible low-income customer.* The CLD has no further comments in this regard. Comments were provided as part of the response to Part I Question 1.

- 2) *Section 1.7 is amended to add a coming into force section.* The CLD has no comments on this amendment as it is primarily administrative in nature. The CLD's comments related to the timing of the implementation of the proposed amendments are included in the General Comments above.
- 3) *Section 7.7 is amended to indicate that when a distributor issues a bill for an under-billed amount, the distributor shall inform the eligible low-income customer of their payment options.* The CLD does not believe that recovery of under billed amounts is a significant concern to warrant creating a separate rule for low income customers. Allowing an option of two different payment mechanisms adds further complexity to the process, whereby the utility would need to confirm with the customer before acting upon one of the billing mechanisms. Under existing rules, under-billed amounts can only be recovered over a period at least equal to the duration of the billing error, and this has proven to be a sufficiently flexible mechanism.

Attachment A Part III: Amendments to the SSSC

- 1) *Section 1.2 is amended to add the definition of an eligible low-income customer.* The CLD has no further comments in this regard as comments were provided as part of the answer to Part I Question 1.
- 2) *Section 1.6 is amended to add a coming into force section.* The CLD has no comments on this amendment as it is primarily administrative in nature. The CLD's comments related to the timing of the implementation of the proposed amendments are included as part of the General Comments, above.
- 3) *Section 2.6.2 is amended to include where a distributor currently bills on a monthly or bi-monthly basis, it must offer an eligible low-income customer receiving standard supply service the option of entering into an equalized billing plan. The equal billing option offered shall meet several minimum requirements.* Currently all CLD members offer residential customers an equalized payment plan, provided customers allow automatic withdrawals from their bank account. An equalized monthly payment plan is a convenience for customers and allows them to manage their budgets each month. As referred to in the Notice, low-income consumers may have difficulty complying with

the requirement to have an account with a financial institution. Rather than establish another billing/payment plan option, the CLD proposes that modifications to the existing Equalized Monthly Payment Plan be made, to enable all residential customers the option of initiating payment through any one of the existing payment options. This option would address the main concern of the amendment by allowing low income customers to access equal billing options without the requirement for automated bank withdrawals, and further enable them to more closely match their monthly income with their monthly costs. This alternative solution would avoid the potential confusion of having two very similar plans and would allow distributors to extend the same terms to both low income and non-low income customers. This solution will involve programming and account follow-up management costs, but not to the extent that a new billing/payment plan would entail.

Other Proposed Amendments to the July 2, 2010 Customer Service Rules

Attachment B Part I: Amendments to the DSC

1. *Section 1.7 is amended by adding a coming into force paragraph.* The CLD has no comments on this amendment as it is primarily administrative in nature. The CLD's comments related to the timing of the implementation of the proposed amendments are included as part of the General Comments.
2. *Section 2.6.6 is amended to indicate that distributors cannot impose late payment charges under certain conditions and payments received must be applied in a prescribed manner.* The CLD has no further comments on this amendment.
3. *Section 2.7.4 is deleted and replaced with a new section that allows the distributor to cancel the arrears payment agreement in certain circumstances.* The CLD has no further comments on this amendment.
4. *Section 2.7 is amended by adding sections that provide more details regarding the administration of the arrears payment agreement.* As noted earlier, the CLD has significant concerns with the proposal to allow a customer to default twice over two separate billing periods before the arrears payment agreement is cancelled and disconnection procedures can occur. This rule could potentially allow for up to an additional 120 days of arrears before a distributor will be allowed to proceed with

disconnection, and poses a significant risk to a distributor's ability to manage its customer debt.

5. *Section 2.9 Use of Load Limiter Devices is amended with conditions as to when a load limiter device can be installed, or removed, and with the appropriate notice provided to the customer.* The CLD has no further comments on this amendment.
6. *Section 4.2.2 is amended with a new section that details when the arrears management program and equal monthly payment plan option may be available.* The CLD has no further comments on this amendment.
7. *Section 4.2.2.4 is amended with a new section that requires the distributor to advise customers of certain arrears management and equal monthly payment plan options.* The CLD has no further comments on this amendment.

Summary

The CLD has strong concerns about the direction in which some of these proposed amendments are leading, both in terms of business and customer impacts. Most notably, the proposed rules for managing an arrears payment agreement, which allow for multiple waived charges including late payment charges, no deposit requirement, and permit the agreement to be broken three times over three separate billing periods seriously affects a distributor's ability to manage risk related to its customer receivables. The proposals materially increase risk of non-collection.

Within the proposed code changes many rules appear to be counterproductive. For example, changes have been introduced to provide low-income customers with more frequent and timely payment options in order to smooth and maintain their payment obligations, in relation to their monthly income payments. Yet, at the same time, these same customers will be permitted to prolong their payment obligations and potentially accumulate large unpaid balances while continuing to consume power. For customers who are not planning to remain customers during a repayment period, the risk of final bill arrears increases significantly. For customers who remain customers and have a limited or fixed income, the potential challenges of managing concurrent payment obligations may become financially challenging and potentially confusing. Such outcomes could potentially be more overwhelming to both the consumer and the social service agencies trying to assist. Finally, if implemented as proposed, many of the code amendments would have material financial impacts on distributors in the form of increased costs and foregone cost recovery related to waived service charges. Distributors already have many practices in

place to assist customers in financial difficulty, and it is in the interest of all ratepayers that any standardized programs and policies that are put in place be effective, cost efficient, reasonable, and fair. The CLD's comments and recommendations in this submission reflect this position.

The CLD appreciates the opportunity to comment on the proposed code amendments. If there are any questions regarding these comments, please do not hesitate to contact the undersigned.

Yours truly,

Original signed by

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