Low-Income Energy Network

October 25, 2010

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

Re: Updated proposed low-income and other customer service amendments to the Distribution System Code, the Retail Settlement Code and the Standard Service Supply Code (EB-2007-0722)

Dear Ms. Walli,

Enclosed are LIEN's comments on the proposed low-income and other customer service amendments to the Distribution System Code, the Retail Settlement Code and the Standard Service Supply Code.

Thank you for the opportunity to make this submission to the Board.

Sincerely,

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Coordinator
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EB-2007-0722 – Updated proposed low-income and other customer service amendments to the Distribution System Code, the Retail Settlement Code and the Standard Service Supply Code

Submission of the Low-Income Energy Network on the amendments to the codes

The Low-Income Energy Network (LIEN) represents more than 80 member groups across Ontario. As a network representing the intersection of interests related to low-income consumers and energy and sustainability, LIEN's focus is on reducing the energy bills of all low-income consumers. This helps to ensure that all low-income consumers across Ontario have access to conservation programs, technologies and services as well as conservation education, and realize the environmental, energy and economic benefits associated with the more efficient use of energy. To achieve these objectives, low-income consumers require a comprehensive array of assistance that includes: aggressive conservation and demand management/demand side management (CDM/DSM) defined as providing deep energy savings per low-income consumer and broad consumer participation across the province, consumer protection policies and education, bill assistance, and emergency financial assistance.

In its September 30th Notice of Proposal to Amend Codes the Ontario Energy Board (Board) requested written comments on the proposed amendments to the codes set out in attachments A and B of the Notice. This submission represents LIEN's comments on these amendments.

LIEN would first like to congratulate the Board for proposing these code amendments for low-income consumers. It is evident from these proposed amendments that the Board is conscious of the financial challenges that low-income consumers face. LIEN acknowledges and supports the Board in their approach to providing low-income consumers with the tools they need to better manage their energy costs. LIEN is very optimistic that these amendments will make a significant difference to low-income consumers. LIEN hopes that the Board will propose complementary amendments to the Gas Distribution Access Rule (GDAR) pertaining to customer service rules for gas distributors including those tailored to low-income customers, and LIEN looks forward to the opportunity to comment on these proposed amendments in the near future.

Definition of Eligible Low-Income Electricity Customer

LIEN does not support the definition of low-income electricity customer proposed by the Board (and included in each of the codes). Recent experience by the natural gas utilities in providing low-income DSM and by social service agencies in providing low-income services is that adding an additional 15% to LICO is too restrictive (e.g. does not adequately capture the working poor) and therefore the gas utilities have extended their definition of low-income customers to include customers that are at or below 135% of LICO. LIEN recommends, the definition in all the codes should read as follows:

"eligible low-income customer" means residential electricity customers who have a pre-tax household income at or below the current pre-tax Low Income Cut-Off, according to Statistics Canada, plus at least 15% and up to 35%, as confirmed by a social service agency or government agency accepted by the Board for this purpose.

LIEN agrees that social service agencies and/or government agencies be responsible for verifying low-income eligibility. However, LIEN would like greater clarity from the Board regarding how social service and government agencies will participate in this process (e.g. whether they need to be approved by the Board, retained by a distributor etc.), how this process is related to the provision of the Emergency Financial Assistance program (e.g. only those agencies providing emergency financial assistance assessments can verify low-income eligibility) and how agencies will be compensated financially for the provision of this service.

Compensation for agencies in determining eligibility

Agencies that serve as an intake or lead agency for the Emergency Financial Assistance program will receive 15% compensation on the total funding allotted for their service area. With these proposed code changes agencies may be assessing, identifying and declaring households as low-income on a much more frequent basis and would require appropriate compensation to provide this service for the distributors. Therefore LIEN recommends that, agencies verifying low-income eligibility be appropriately compensated their costs for providing this service.

Correction of billing errors

LIEN supports the Board's amendment of Section 7.7.4 of the Retail Settlement Code (RSC), which allows low-income customers the option to select an under-billing adjustment repayment schedule that works best for them.

Section 7.7.4 of the Retail Settlement Code (RSC)

Where a distributor issues a bill to a customer for an under-billed amount, the distributor shall include an insert advising that, if the customer is an eligible low-income customer, he or she has the option of paying the under-billed amount as follows: i) in accordance with section 7.7.4; or ii) over a period of 10 months where the under-billed amount is less than twice the customer's average monthly billing and over a period of 20 months where the under-billed amount equals or exceeds twice the customer's average monthly billing.

However, LIEN recommends that it should be made explicit in the code that low-income customers should not be charged any late payment charges that accrue on the under-billed amount, as the customer is not responsible for the billing error.

LIEN also recommends that it be made explicit in the DSC whether these repayment plans for under-billing adjustments outlined in the RSC are considered arrears management plans. Section 2.7.4.3 of the DSC states that *"Where an eligible low-income customer defaults on more than two occasions in making a payment in accordance with an arrears payment agreement, or a payment on account of a current electricity charge billing or an under-billing adjustment, the distributor may cancel the arrears payment agreement*". This would suggest that payment of an under-billing adjustment is considered an arrears payment agreement.

This distinction is important as customers can only enter into a limited number of arrears payment agreements and if they do, certain charges are waived e.g. late fees, security deposits etc. for low-income customers. If an under-billing adjustment is not considered an arrears payment agreement, any additional charges related to the under-billed amount should still be waived for low-income customers.

Arrears Payment Agreements

Defaults on arrears payment agreements

LIEN agrees with the Board that allowing for only one default on arrears payment agreement before cancelling the agreement is unduly stringent. LIEN also agrees that for arrears payment agreements of at least 10 months (where the total amount of electricity charges remaining overdue for payment is less than twice the customer's average monthly bill) the minimum of two defaults is appropriate However, LIEN believes that allowing an eligible low-income customer a minimum of two defaults on arrears payment agreements of at least 20 months (where the total amount of electricity charges remaining overdue for payment is more than twice the customer's average monthly bill) [1] does not go far enough to ensure the successful completion of the arrears repayment. Therefore LIEN recommends that eligible low-income customers be allowed a minimum of four defaults before their arrears payment agreement is cancelled for arrears payment agreements of at least 20 months. Twenty months is a long time for a low-income customer who, with small financial resources can be impacted by many factors (e.g. loss of employment, illness), which would impede the customer's ability to adhere stringently to the repayment plan.

Renegotiation of arrears payment agreement

On page 10 of the Board's Notice of Proposal to Amend Codes the Board states that "If a low-income customer can show a significant change in his or her ability to pay (for example, due to a serious medical condition or loss of source of income), the Board encourages distributors to make a good-faith effort to renegotiate any current arrears payment agreement with that customer". It is LIEN's position that

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[1] The duration of the arrears payment agreements for eligible low-income customers are presented in Sections 2.7.2 c) and d) of the DSC

this statement does not go far enough. It should be revised to require distributors to renegotiate arrears payment agreements if the low-income customer can show significant changes in the customer's ability to pay. To address this concern, LIEN recommends that the following statement be included in the DSC (and not just in a Board notice that accompanies the code) as follows:

"If a low-income customer provides verification to a social service agency that the consumer's financial circumstances have changed due to change in income or medical reasons, causing the customer to default on the customer's arrears payment agreement (outside of the maximum number of defaults), distributors will work with the customer to renegotiate the arrears, providing the customer continued opportunity to participate in an arrears payment agreement".

Additional arrears payment agreements options

LIEN strongly supports the provision of arrears payment agreements for low-income and non-low-income customers. However, LIEN recommends that distributors be required to offer all customers at least one other payment option prior to entering into an arrears payment agreement. LIEN recommends that distributors be required to offer all customers a Fast Track Payment Plan. This additional Fast Track Payment Plan would provide customers with a more short-term solution to paying their arrears without having to enter into a more long-term formalized and strict arrears payment agreement.

This Fast Track Payment Plan would be intended for customers that are currently unable to pay their arrears, but have a very clear idea when they might be receiving additional income (e.g. from starting a new job, tax return, inheritance). Having this Fast Track Payment Plan is particularly important given that there are limits on the number of arrears payment agreements that customers (low-income and non-low-income) can enter into. Customers may be hesitant to enter into an agreement as they are worried that they may be in greater need further down the road. They do not want to waste the opportunity of using the arrears payment agreement particularly if they know that they are going to have access to funds to pay the arrears in the short term. When faced with an arrears problem, customers should be offered both of these options (the Fast Track Payment Plan and the arrears payment agreement) by distributors and allowed to choose the option that best meets their needs. If the customer defaults on the Fast Track Payment Plan (for example, if the additional income did not materialize as expected), then the customer should be offered to enter into an arrears payment agreement with the distributor.

Security deposits and arrears payment agreements

LIEN strongly supports the amendment to section 2.4.1.2A of the DSC which requires distributors to waive the security deposit requirement for those that can confirm their low-income eligibility. However, LIEN recommends that a provision be added to the DSC which prevents distributors from reapplying a security deposit for those customers (whether or not they are low-income) that are part of an arrears payment agreement. For example, if a customer is part of an arrears payment agreement and the security deposit amount has been applied to their arrears (as required in Section 2.7.1.1 of the DSC) the utility should not be allowed to seek payment of another security deposit from the customer (even if it is in installments) until after the customer has successfully completed their arrears payment agreement. The application of a security deposit, on top of the regularly billed amounts and arrears payments, would greatly increase the amount that the customer has to pay and would put the customer, whether or not they are low-income, in jeopardy of defaulting on their arrears payment agreement.

Equal billing plan option

LIEN supports the amendments made by the Board to Section 2.6.2 of the Standard Supply Service Code (SSSC) for equal billing plans. However, LIEN notes that there are no specific provisions in Section 2.6.2 to assist eligible low-income customers when there are large amounts owing after annual reconciliation. These funds owning may represent a significant financial burden to the eligible low-income customer and therefore eligible low-income customers should be provided additional time to make these payments than currently allowed under the SSSC. LIEN recommends that to address this oversight the following provisions be added to Section 2.62B of the SSSC as follows:

Where the annual reconciliation demonstrates that funds are owing by an eligible low-income customer in an amount that is less than the customer's average monthly billing amount, the distributor shall roll over the balance due into the next year's equal billing plan and recover the balance over the first 10 months (in the case of bi- monthly equal billing plans) or 11 months (in the case of monthly equal billing plans) of the following year's equal billing plan.

Where the annual reconciliation demonstrates that funds are owing by an eligible low-income customer in an amount that is equal to or exceeds the customer's average monthly billing, the distributer shall roll over the balance due into the next 2 year's equal billing plans and recover the balance over the first 20 months (in the case of bi-monthly equal billing plans) or 22 months (in the case of monthly equal billing plans) of the next 2 year's equal billing plan.

Winter heating season

On page 15 of the Notice of Proposal to Amend Codes the Board indicates that they will not be proposing any additional restrictions on the use of load limiters, or on the execution of disconnections, during the winter heating season. On April 17, 2009 LIEN along with the Canadian Environmental Law Association, the Toronto Environmental Alliance, the Income Security Advocacy Centre and the Advocacy Centre for Tenants Ontario (collectively referred to as the Joint Low-Income Representatives) made a submission to the Board in response to the Notice of Proposal to Amend Codes (EB-2007-0722, March 10, 2009). In this submission LIEN proposed that the DSC be amended to include the following provision:

"Unless requested by the residential customer, during the period November 1st through the immediately following May 1st, no utility shall discontinue or disconnect service to an eligible low-income residential customer for nonpayment of the residential customer's utility bill so long as, as of November 1st, the residential customer has no past due charges from the immediately preceding heating season not subject to an arrears payment agreement."

LIEN still feels that this cold weather shutoff protection is appropriate and recommends that the Board include the above provision in the revised DSC.

Late payment charges

At present some distributors (e.g. Hydro One) allow customers on Ontario Disability Support Program (ODSP) to be considered Late Payment Exempt, which means that the customer no longer has to pay late payment charges. LIEN recommends that all electricity (and gas) distributors be required by the Board to create this Late Payment Exempt designation. LIEN also recommends that this designation be extended beyond just those on ODSP and recommends that it be available to all eligible low-income customers. If the Board is not comfortable extending this provision to all eligible low-income customers then LIEN recommends that this provision should be extended to at least those customers on Ontario Works (OW). Customers on OW have the lowest incomes in the province (lower than those on ODSP) and therefore should receive the same provisions as those on ODSP. Since receipt of OW may only be temporary the distributors should review a customer's exemption on an annual basis to make sure that they are still part of the OW program.