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October 25, 2010

VIA E-MAIL

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

Dear Ms. Walli

Re: BOARD FILE NO: EB-2007-0722
NOTICE OF PROPOSAL TO AMEND CODES
UPDATED PROPOSED LOW-INCOME AND OTHER CUSTOMER SERVICE AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE, THE RETAIL SETTLEMENT CODE AND THE STANDARD SERVICE SUPPLY CODE
Comments of Vulnerable Energy Consumers Coalition (VECC)

As Counsel to the Vulnerable Energy Consumer's Coalition (VECC), I hereby provide comments on behalf of my clients on the Updated Proposed Revised Code Amendments

Scope of Code Amendments

The Board's NOAC indicates:

The proposed amendments include additional customer service rules tailored to the special needs of low-income residential electricity customers. These rules supplement the "baseline" customer service rules adopted by the Board on July 2, 2010 for all residential customers. In addition, this Notice proposes for comment on limited changes to the July 2, 2010 rules to address certain implementation questions that have arisen.

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

As part of the work for this Notice, the Board has reviewed the comments on low-income customer service rules received from stakeholders during the course of the earlier phases of the EB-2007-0722 and EB-2008-0150 consultations. This

Notice presents an updated package of proposed low-income electricity customer service rules. Proposed customer service rules for customers of natural gas distributors and electricity unit sub-meter providers, including associated low-income customer rules, will be issued for comment by the Board in the near future.

Relationship to LEAP Emergency Financial Assistance(EFA)

As a matter of general concern there needs to be consistency with, but distinction between the Customer Service Rules and LEAP Emergency Financial Assistance. There are several areas where the requirements may be seen to relate to EFA. However it is our understanding that although the same customers and in some cases the same social agencies may be involved these Customer Service requirements are distinct from LEAP financial assistance with the linkage being the requirements to notify customers of the availability of LEAP EFA.

Costs

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

Yours truly,

Original signed

Michael Buonaguro
Counsel for VECC

UPDATED PROPOSED LOW-INCOME AND OTHER CUSTOMER SERVICE AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE, THE RETAIL SETTLEMENT CODE AND THE STANDARD SERVICE SUPPLY CODE
Comments on behalf of the Vulnerable Energy Consumers Coalition (VECC)

<u>Summary of Proposed Updated Revised Code Amendments and VECC's Comments</u>

A. Definition of Eligible Low-Income Electricity Customer
Based on advice from the reconstituted Financial Assistance Working Group, the Board proposes the following definition of eligible low-income electricity customer ("low-income customer") for purposes of the updated low-income customer service rules: Residential customers who have a pre-tax household income at or below the current pre-tax Low Income Cut-Off ("LICO"), according to Statistics Canada, plus 15%, as confirmed by a social service agency or government agency accepted by the Board for this purpose.
When the test is applied, the Board expects that the most up-to-date Pre-Tax (gross) LICO table issued by Statistics Canada will be used. The dollar amounts set out in such tables vary according to the size of the family of the customer and where the customer resides (rural area versus small, medium or large urban area).The LICO plus 15% test is consistent with the corresponding test in the Winter Warmth program.

VECC Comment
The above definition will apply for purposes of the proposed low-income customer service amendments to the DSC, RSC and SSSC.

VECC notes that the proposed eligibility criteria are consistent with the LEAP FAG recommendation. Regarding Emergency Financial Assistance. We note that LEAP EFA is a distinct program under which there may be potential for over subscription and exhaustion of available funds.

However, we note that for participation in Low Income Conservation and Demand Management (CDM) programs the proposed criterion is 135% of LICO. There could be confusion among low income customers due to the different criteria in the Customer Service Rules.

VECC questions what harm will result if the criteria for eligibility for other types of assistance e.g. arrears management ,waiver of fees etc should not be in line with the eligibility for Low income Conservation and Demand Management Programs at 135% of LICO. We note also that LICO is a moving target and there may be lags in updating the tables.

VECC notes that the present package of amendments will not require distributors to verify low-income eligibility. The Board's proposals instead anticipate that social service agencies or government agencies will undertake the actual evaluation and confirmation of low income eligibility requests submitted by interested electricity customers.

VECC is concerned with the additional barriers posed by the customer being referred to social service agencies, especially if these are not local and are not adequately trained and funded to undertake the verification of eligibility.(the latter issue should be addressed by a standard fee for the service)
There are two options other than utility verification:

a) self verification-provision of proof to the utility by customer: and
b) third party (e.g. social agency) verification, during which period the customer is considered eligible and enrolled in the programs, pending verification by the social service agency.

These could work in tandem that is the customer is considered eligible pending verification by a designated social agency.

VECC notes that LEAP EFA program may also set up arrangements with social agencies, but VECC assumes that the eligibility criteria and qualification procedure for the DSC and RSC should be stand alone, even if the same agency is designated by the utility.

B. Deferred Payment Date Option

Section 2.6.3 of the DSC now provides a minimum bill payment period of 16 days for all residential customers. Some utilities voluntarily extend the due date for fixed-income customers who receive monthly government income support payments. Several ratepayer groups have requested that such a practice be mandated. Residential customers who join a monthly equal payment plan (or the new monthly/bi-monthly equal billing plan proposed below) will have the choice of several payment dates within a month and thus can pick a payment date that best matches their incoming cash flow.

The Board will therefore propose, in new section 2.6.3.1 of the DSC, another flexible payment option targeting eligible low-income customers who do not join or belong to an equal monthly payment plan (or the proposed equal billing plan). Such customers wil have the right to request that their regular bill payment date be deferred to the 5th business day of the following month. Late payment charges may not be levied so long as the customer pays on or before that date. This new option is intended to assist low income customers who prefer unequalized bills and who must otherwise pay their accounts in the beginning or middle of a month, but receive their government income support payments at the end of that month.

VECC Comments

VECC views the proposed the flexible payment addition to be a step in the right direction. However we are concerned with the practical implementation of this option, especially as related to low income families and also senior citizens whether low income or not, who are dependent on pension cheques. Will the utilities offer this to all eligible customers as a matter of course or require the customer to choose and in doing so self identify as eligible. VECC suggests this former is preferable but will have a higher up front administrative cost to identify eligible customers.

C. Correction of Billing Errors

The Board believes that under Section 7.7 of the RSC an extended repayment period is important for low-income customers who have been under-billed, as they may face multiple payment obligations: their regular bill payments, the under-billing adjustment payments and possibly from time-to-time arrears agreement payments.

A new rule will therefore be proposed in section 7.7.4.1 of the RSC. Where a distributor issues a bill to a customer for an under-billed amount, the distributor must include an insert advising that, if the customer is an eligible low-income customer, the customer will have the option of paying the under-billed amount as follows:

- *in accordance with regular under-billing repayment time period set out in the RSC(under section 7.7.4); or*
- *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.*

VECC Comment

VECC does not understand why the payment periods 10 months and 20 months should be shorter than Section 7.7.4 of the RSC currently provides. Under the general rule a customer who has been under-billed may pay the under-billed amount in equal installments over a period at least equal to the duration of the billing error, up to a maximum of 2 years.
VECC suggests that the periods be adjusted to be 12 months and 24 months respectively

D. Equal Billing Plan Option

The Board is proposing a new billing option:
Under proposed new section 2.6.2B of the SSSC, an eligible low-income customer who currently receives a bill monthly or bi-monthly may request equalized monthly or bimonthly billing. Under this plan, customers will not be

required to have an account with a financial institution and agree to an automatic payment withdrawal.

The Board further proposes that the customer must be offered a choice of at least two payment dates within the month, the requirement for a mid-year review of the balance, and the requirement that any large year-end true-up be rolled into the following year's plan) shall generally apply to the new monthly or bi-monthly equal billing plan option.

The equal payment plan approved in section 2.6.2 of the SSSC in the July 2, 2010 amendments is monthly.

VECC Comments

VECC supports providing this option to eligible low income customers (subject to comments about qualification of such customers).

However VECC believes the option should also be made available to Senior-led households that self identify.

E. Disconnection for Non-Payment Notice

Section 4.2.2 of the DSC specifies the standard contents of a disconnection notice issued to a residential customer. The Board proposes that current DSC section 4.2.2.2 be expanded to alert customers of the existence of the additional programs available to eligible low-income customers and that low-income assistance may be available from the distributor and other organizations. The proposed wording in revised section 4.2.2
(k) and new section 4.2.2(k1) will require that a disconnection notice include statements that

- *a Board-prescribed standard arrears management program and monthly payment plan option may be available to all residential customers, along with contact information for the distributor where the customer can obtain further information*
- *for an eligible low-income customer the following additional assistance may be available, along with contact information for the distributor where the customer can obtain further information about the additional assistance:*

VECC Comments

The intended operation of the proposed rules is that all residential customers willbecome aware of the additional programs and assistance that are available for eligible low-income customers. Once again VECC's main concern is about the several steps that a potentially eligible low income customer must go through while under threat of immediate disconnection:

- contact the distributor's customer service staff; who will
- refer the customer to a social service agency or government agency for the actual assessment of low-income eligibility;
- when the customer is so qualified, he or she will return to the utility;
- Be advised whether LEAP Emergency Assistance could be available (if qualified by the social agency); then
- the utility will then provide details of access to the additional customer service provisions and assistance proposed in this Notice.
-

In order to protect against the real possibility that this process will fail, VECC suggests that there should be further provisions:

a) If known the designated local social service agency should be sent a copy of the Notice.
b) Ability for customer to self identify (the utility may also have recent records such as arrears management agreements, verifying eligibility) subject to any further verification that may be required by the distributors customer service staff;
c) Funding via a standard distributors service fee, to the social service agencies (unless government agencies) to provide the verification information in a timely fashion
d) Suspension of the disconnection for a period of 21 days (30 days in winter) to allow the verification process to complete.

VECC notes that LEAP EFA program may set up arrangements with social agencies, but VECC assumes that the eligibility criteria and qualification procedure for the DSC and RSC should be stand alone, even if the same agency is designated by the utility.

F. Security Deposits

Section 2.4.20A of the DSC allows residential customers to pay a required security deposit, or deposit increase, in equal installments over 6 months. An obligation to pay any amount towards a deposit, while maintaining current bill payments and possibly arrears agreement payments, may prove an undue burden for many low income customers.

The Board proposes a number of amendments in this area:

- *When issuing a bill for a security deposit the distributor must also include a bill insert advising a residential customer that the security deposit requirement will be waived for an eligible low-income customer, provided that such a customer contacts the distributor and thereafter confirms his or her low income eligibility.*

- *A residential customer that qualifies as an eligible low-income customer may request and receive a refund of a security deposit previously paid to* *the distributor. Under proposed section 2.4.23B, eligible low-income customers will be given the option of contacting the distributor to request an earlier refund if interested.*

- *Under new proposed section 2.4.12B of the DSC, notification to the distributor from a social services agency or government agency that is undertaking a low income eligibility assessment of the customer will extend the due date for paying the security deposit by at least 21 days.*

VECC comments

VECC has similar comments to previous sections about verification of eligibility for waiver of security deposits and other provisions in this Section via self identification or third party verification.

With regard to the extension of the due date while third party verification is in process VECC supports this provision and notes that similar extension periods should be required under the disconnection provisions.

G. Arrears Payment Agreements

Section 2.7.1.2 of the DSC allows a distributor to require that a residential customer make a down payment before entering into an arrears payment agreement ("arrears agreement").

The Board proposes the following new rule in section 2.7.1.3 of the DSC: The first time an eligible low-income customer enters into an arrears agreement, no down payment will be required. If the customer fulfills that arrears agreement, then he or she will be entitled to enter into a subsequent arrears agreement (if required) also without the requirement of a down payment. If a low-income customer fails to successfully complete an agreement, then the standard 15% down payment rule in DSC section 2.7.1.2 will apply for purposes of the next arrears agreement.

The Board also proposes that the 5 month minimum repayment period under section 2.7.2(a) is extended to 10 months for eligible low-income customers under new section 2.7.2(c) of the DSC, and that the 10 month minimum repayment period under 2.7.2(b) is extended to 20 months for eligible low-income customers under new section 2.7.2(d) of the DSC.

A new section 2.7.6A of the DSC proposes that any outstanding service charges specifically related to the collection, disconnection, non-payment or load control must be waived and such charges shall not be included in the amount subject to the arrears repayment agreement.

Proposed section 2.7.4.3 of the DSC provides that an eligible low-income customer must be allowed a minimum of two defaults of an arrears payment due *under the agreement, a current electricity charge billing and/or an under-billing adjustment, before the distributor may cancel the arrears payment agreement.*

New section 2.7.5.1 of the DSC proposes to allow low-income customers to request a further arrears agreement anytime following the successful completion of a prior arrears agreement. However, in cases where the request occurs within 12 months from the conclusion of the last arrears agreement, new section 2.7.5.1i) of the DSC proposes that distributors need only offer to the low-income customer an arrears agreement on the standard terms offered to other residential customers under section 2.7 of the DSC.

VECC Comments

VECC supports the majority of these provisions.

However with respect to the new section 2.7.5.1i) VECC disagrees that the standard arrears management agreement be offered. The reason for the special arrears management program is that it provides incentives to make payments due to waiver of service charges and other financially onerous provisions. Better to not offer a new arrears management agreement until 12 months have elapsed than have the customer enter the standard agreement. The exception to this should be when a social service agency is acting for the customer under this circumstance the special arrears management agreement should be offered.

III. Amendments to July 2, 2010 Customer Service Rules
A. Proposed Implementation Amendments

Disconnection while under Arrears Management Agreement

The Board proposes to add a new rule in section 2.7.7 of the DSC, to be applicable to the arrears agreements offered to all residential customers. Under this new proposed provision, a distributor shall not disconnect the property of a residential customer, including an eligible low-income customer, for failing to make a payment subject to an arrears agreement, unless the customer is in default under the DSC rules (in revised section 2.7.4 or new section 2.7.4.3, and new section 2.7.7.7) which permit a distributor to cancel an arrears payment agreement. Where the arrears agreement comes to a premature end under the Board's rules (which allow for certain number of missed payments), then the distributor may proceed to exercise all of its options, including disconnection of service.

VECC Comment

VECC agrees with this clarification. However as noted earlier there should be provision and time for the customer to seek financial assistance to get back onto the arrears management plan.

Load limiters and Seasonal Disconnection

Under proposed new DSC section 2.9.1-2.9.6 set out, rules regarding installation of load limiter devices instead of disconnecting supply to a residential customer for non-payment, provided that among other provisions the distributor notifies the customer that billing and payment options are available to all residential customers and that special programs and financial assistance may be available for eligible low income customers, along with a distributor contact where customers may obtain further information.

VECC Comments

VECC is not advocating prohibiting the installation of load limiters, or the disconnection of residential customers, during the winter heating season, but still believes that the other options (such as LEAP Emergency Assistance) must be pursued and allowances made for the fact that social service agencies are overloaded and under more pressure during the winter.

VECC would like to see an extension of the general grace period provision for holding off disconnection for 21 days so social services agencies can qualify customers and the utility can connect them with financial assistance.
VECC suggests the period be extended to 30 days during the winter heating season.

A. Bill Issuance and Payment

1. <u>Payment Period</u>

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

VECC Comments

VECC agrees with a general 16 day rule and clarifications resulting from the time counting rules for <u>average</u> customers with the exception below:

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

> "(only) A few Ontario utilities offer an extended utility bill payment date to fixed-income customers who receive government income-support payments. Interested utilities remain free to continue with or to adopt this practice."

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

E. Disconnection and Notice Period

Proposed sections 4.2.3(b) and (c) of the DSC will be changed to provide for 10 days as the new disconnection notice period rule for all classes of customers.

The period within which a residential customer may request that a disconnection notice be suspended (for 21 days) as the customer seeks bill payment assistance will be changed to 10 days in proposed section 4.2.2.6 of the DSC.

Proposed section 4.2.2.7 of the DSC will be changed to provide that after notification that no assistance will be forthcoming from a third party, distributors will have up to 11 days further to act on the previous disconnection notice served on the residential customer.

Proposed new section 4.2.2(e) of the DSC will require a disconnection notice issued to a residential customer to state the forms of payment that the customer may use to pay the amounts that are identified as overdue in the disconnection notice, which must at least include payment by credit card issued by a financial institution as described under proposed new section 4.2.4 and any other method of payment that the distributor ordinarily accepts and which can be verified within the time period remaining before disconnection.

Proposed new section 4.2.2(f) of the DSC will require a disconnection notice issued to a residential customer to also state the time period during which any given form of payment listed under proposed 4.2.2(e) will be accepted by the distributor.

Proposed new section 4.2.2(g) of the DSC will require a disconnection notice issued to a residential customer to state that, in order to avoid disconnection when the distributor attends at the customer's property to execute the disconnection, a customer will only be able to pay by credit card issued by a financial institution, unless the distributor, in its discretion, will accept other forms of payment at that time and the distributor should so advise the customer in the disconnection notice.

Proposed new section 4.2.2(h) of the DSC will require a disconnection notice issued to a residential customer to inform the customer that a disconnection may take place whether or not the customer is at the premises.

Proposed section 4.2.2.4 of the DSC will be revised to require that a distributor shall make reasonable efforts to contact, in person or by telephone, a residential *customer to whom the distributor has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection. The information to be provided to the customer at that time will be expanded to include information about the scheduled date for disconnection, payment options before and at the time of disconnection, and about the existence of an arrears management program.*

Payments to avoid disconnection

Proposed new section 4.2.4(a) of the DSC will require a distributor to ensure that facilities or staff is available to accept payment by credit card of the amount outstanding must be accepted from a residential customer, during the regular business hours of the utility, from the period the disconnection notice is issued until the time distributor staff attends at the customer's premises to execute the disconnection.

Proposed new section 4.2.4(b) of the DSC will require a distributor to ensure that facilities or staff is available to accept a credit card payment of the amount outstanding any time the distributor attends at a residential customer's premises to execute a disconnection, whether during or after regular utility operating hours.

Proposed new section 4.2.4(c) of the DSC will require that, where a customer was not successfully contacted 48 hours before the scheduled date of disconnection as required to be attempted under proposed revised section 4.2.2.4, a distributor must make a reasonable attempt to speak to the customer to advise him or her that the disconnection will be executed and that payment by credit card can be accepted.

VECC Comments

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

Respect of Vital Services By-Laws

The NOAC notes
"One utility reported that it serves 300 communities and that it would be unduly burdened to cross-reference the required information with the address of each of their residential customers. The Board agrees that it may prove unduly difficult for some distributors to comply with this proposed section. Even within a single municipality, the local government has the option of designating only certain buildings (e.g. those with a minimum number of rental units) to be subject to its Vital Services By-law"

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

Winter Disconnection

THE NOAC notes:

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

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

Acceptance of Credit Card or Cash payments to avoid disconnection

VECC Comments

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

F. Security Deposits

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

VECC Comments

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

G. Arrears Management Programs

Arrears Payment Plans

Under proposed new section 2.7.5 of the DSC, a residential customer will have the right to enter into a second arrears (management) plan 2 years or more after a first agreement was reached, provided the earlier plan was satisfactorily performed.

Proposed section 2.7.2 of the DSC will be changed to add the current bill amount to the total amount owing under an arrears payment agreement.

VECC Comment

VECC agrees with these proposed revised changes.

H. Management of Customer Accounts

Utility-Landlord Service Agreements

Proposed new separate section 2.8.3A of the DSC will state that a distributor and landlord may enter into an agreement whereby the landlord assumes responsibility for paying for continued service to a rental property after closure of a tenant's account.

Under proposed new section 2.8.4A and proposed revised section 6.1.2.2 of the DSC, a distributor will have the option of accepting requests for service provided over the telephone for the purposes of complying with proposed sections 2.8.1, 2.8.2, 2.8.3 and 6.1.2.1 of the DSC, provided the voice recording is retained for at least 24 months after the new account is established.

Under proposed new section 2.8.4B of the DSC, a distributor will have the option of entering into an agreement over the telephone with a landlord that agrees to assume responsibility for paying for continued service when a tenant departs a rented premise, provided the voice recording is retained for the length of the agreement plus 6 months further.

Proposed new section 2.8.5 of the DSC will grandfather pre-existing binding service agreements between utilities and landlords dealing with their respective responsibilities when a residential tenant departs.

VECC Comment

No Comment

IV. <u>Coming Into Force</u>

The NOAC indicates

"Given the total number of system changes required to implement the package of customer service amendments, the Board agrees that a reasonable implementation period is important. ***The Board therefore proposes January 1, 2011 as the new coming into force date for all the proposed amendments set out in this Notice."***

VECC Comment

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