



***PUBLIC INTEREST ADVOCACY CENTRE
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March 1, 2011

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
REVISED 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 Revised Updated Proposed Code Amendments.

Scope of Code Amendments

The Board's NOAC indicates

This Notice sets out certain proposed changes to the package of low-income customer service code amendments that were issued for comment on September 30, 2010 (the "September Proposed Amendments"). In addition, this Notice proposes for further comment a few changes to the July 2, 2010 customer service rules applicable to all residential customers.

VECC notes that several of its key comments and suggested revisions to the September Proposed Amendments have not been incorporated into the current changes. It still commends those comments/changes to the Board, however in making its current comments, VECC has assumed that its comments on the September Proposed Amendments cannot be revisited and as stated in the NOAC “the Board is seeking comment only on the areas highlighted in bold in the following three redline Attachments to this Notice”

Costs

VECC requests payment of its legitimately incurred costs in the review of, and comment on the Revised Updated Proposed Code Amendments

Yours truly,

Original signed

Michael Buonaguro
Counsel for VECC

Notice of Revised Proposal to Amend Codes
February 8, 2011
EB-2007-0722

**Revised Updated Proposed Low-Income Customer Service Amendments to
the Distribution System Code, the Retail Settlement Code and the Standard
Service Supply Code**

Notice of Amendments to Codes And Attachment A

Part I: Revised Proposed Amendments to the Distribution System Code

***Part 1a)..... as qualified by a social service
agency or government agency that partners with a given
distributor to assess Emergency Financial Assistance eligibility;***

The Board further notes that while a separate pool of funds exists under the LEAP Emergency Financial Assistance program and up to 15% of the distributor's annual LEAP amount may be used for administration of the Emergency Financial Assistance program, there is no pool of funds or mechanism readily available to cover the social service agency costs for undertaking eligibility assessments for purposes of the Codes' low-income customer service provisions.

Comment

VECC disagrees and continues to support the concept of fee for service payments to social agencies to qualify low income customers.

***Part 1c) A residential electricity customer who has been qualified as an
eligible low-income customer under subsections a) to c) shall
remain an eligible low-income customer for code purposes for a period of 2 years
from the date on which he or she was so qualified.***

Comment

VECC disagrees with this requirement as worded.

VECC prefers that there is no specified term. If necessary, in order to prevent customers becoming ineligible (which can still happen during the two year term) there should be a general provision regarding notice by the customer of a material change in circumstances.

However, if the Board feels that a term is necessary then:

***First the term should be specified as: a period of two years, renewable subject to the
following procedure:***

- Provision of 3 months notice to the customer and designated social service agency by the distributor
- Provision of proof of continued eligibility by the customer or social service agency in accordance parts 1 a),b) and c) of the Code

Second- the distributor shall not withdraw eligibility, pending reasonable efforts to contact the customer and or social agency and shall provide a final notice regarding loss of low income eligibility.

VECC is also concerned about Section 2.6.2 of the Standard Supply Service Code and provision to allow cancellation of the Equal Billing plan after two years:

(f) where 2 or more years have passed since a residential customer was qualified as an eligible low-income customer and the distributor wishes to cancel a lowincome customer equal billing plan provided to the customer, then the distributor shall notify the customer at least one billing cycle before any such cancellation occurs.

Again the Term for status as a Low Income customer should be either unspecified or clearly set out as 2 years renewable.

Cancellation of the Equal Billing Plan should require 3 months notice and the distributor shall not withdraw eligibility, pending reasonable efforts to contact the customer and or social agency and shall provide a final notice regarding loss of low income eligibility prior to cancelling the plan.

B. Deferred Payment Date Option

The NOAC Notes at page 6 that:

The distributor submissions did not support mandating a deferred payment date rule. A submission noted that customers who qualify as low income will have other options to help defer payment dates, such as a choice of two billing dates within a month under the equal bill payment plan.

Section 2.6.2 of the Standard Supply Service Code is amended to add the following sections after section 2.6.2A:

(c) despite any other code issued by the Board, the equal billing plan option offered to an eligible low-income customer shall provide for the customer to make equalized bill payments on a monthly or bi-monthly basis, as the case may be under section 2.6.2B(a), and shall make provision for the customer to select from at least two dates within the applicable month on which the equalized bill payment is due;

Comment

There are two concerns with elimination of a customer- specified date.

First, a Low Income customer may not be on an equal billing option for one of several reasons.

Second it is not clear that a customer on an EBP will choose a date that best coincides with the deposit of Social Assistance cheques since only two options are provided --the Distributors monthly or bimonthly EBP withdrawal dates (noted change regarding no requirement for automatic Withdrawals).

For both reasons, VECC submits that Low Income customers should be given the choice of payment date as proposed in the prior Draft amendments.

C. Correction of Billing Errors

Comment

VECC has no comments on the alternative Notice options.

D. Equal Billing/Payment Plan Options

The NOAC states:

Where the customer is qualified as low-income under the code and the distributor bills on a bi-monthly basis, distributors must offer either i) an equal bi-monthly billing plan for such customers (as in the September 30th proposals), or ii) an equal monthly billing plan for such customers (as per revised proposed section 2.6.2B(a) of the SSSC in Attachment A).

Automatic withdrawals will not be required under either of these arrangements. Distributors may choose the option that is most cost effective to implement and administer.

Comment

VECC agrees with this provision.

E. Disconnection for Non-Payment Notice

To better reflect the planned implementation of the low-income customer service rules, **the Board proposes to change section 4.2.2 (k1)ii) of the DSC to now read as follows: “a Board-approved emergency financial assistance program administered through a social service agency or government agency that partners with the distributor to assess program eligibility”.**

Comment

VECC continues to advocate that Winter disconnections for non-payment should be avoided and all other possible measures such as arrears management and load limiters should be utilized to avoid this.

F. Security Deposits

The Board proposes in a revision to proposed section 2.4.23B of the DSC to require that where there are arrears on the account, the security deposit should be applied first towards the arrears (before the remainder is returned to the customer in the manner to be specified under the revised proposal below).

The Board therefore proposes to add a threshold test, in revised proposed section 2.4.23C of the DSC, before requiring a distributor to issue a cheque to a customer (similar to the test used elsewhere in the customer service rules): **Where the amount of the security deposit paid to the distributor by the customer remaining after application towards any outstanding arrears is less than one month's average billing for the customer (as defined in the DSC), the return of the deposit – where requested - shall proceed by way of a credit to the customer's account. If the remaining amount is equal to or greater than the monthly average billing, it shall be paid by cheque to the customer within 11 days of requesting payment by cheque.**

The Board proposes a new rule, in proposed section 2.4.23D of the DSC, to confirm that where the security deposit was originally paid to the distributor by a social service or government agency or another third party on behalf of an eligible low-income customer, and the customer, agency or third party requests a refund of the security deposit, the distributor shall pay the balance remaining, after application to any outstanding arrears, to the agency or third party, unless the distributor is instructed otherwise by the payor of the deposit.

Comment

VECC agrees generally with these changes, but disagrees that the security deposit should be used to offset prior late payment charges (see below).

G. Low-Income Arrears Payment Agreements

The Board therefore will revise proposed section 2.7.1.3 of the DSC to allow a distributor, at its discretion, to request a down payment of up to 10% (of the electricity charge arrears accumulated, inclusive of any applicable late payment charges but excluding other service charges). This down payment will apply in cases where a low-income customer is entering into an arrears payment agreement for the first time or entering into another low-income arrears

agreement subsequent to having successfully completed a previous such arrears payment agreement.

If a low-income customer has failed to complete an earlier arrears agreement, the standard 15% down payment may be requested by the distributor.

Comment

VECC disagrees.

First, if a customer is entering an arrears plan for the first time or having successfully completed a plan in the past, then the arrears payment plan should be just that -- arrears payments over the plan term not 90% of the arrears plus a down payment. The down payment should be waived under these conditions.

Second, the requirement for a 10% down payment is counter to the reduced term(s) of the payment plans proposed in Sections 2.7.2 c), d) and e).

VECC suggests that either the down payment be waived for first time enrollments or the term of the plan(s) be reinstated to 8, 20 and 24 months.

The Board therefore proposes to change the minimum time-periods in section 2.7.2 (c) to (e) of the DSC for arrears agreements with low-income customers to the following:

- (c) at least 8 months, where the amount is less than or equal to twice the customer's average monthly billing amount;**
- (d) at least 12 months, where the amount due is greater than 2 months' average billing and up to 4 months' average billing; or**
- (e) at least 16 months, where the amount due is greater than 4 months' average billing.**

The Board will retain the proposed waiver of the outstanding service charges mentioned. But to provide greater incentive for customer compliance with arrears payment agreements, **the proposed service charges waiver in section 2.7.6A of the DSC will be revised to apply in the same circumstances as the reduced down-payment rule, namely it will be available to a low-income customer who is entering into a low-income arrears payment agreement for the first time or subsequent to having successfully completed a previous arrears agreement as an eligible low-income customer.**

Comment

VECC disagrees. Late payment charges should be waived when a low income customer is accepted into an arrears management program. This is a strong incentive to enroll.

Notice of Amendments to Codes And Attachment B

III. Amendments to July 2, 2010 Customer Service Rules Applicable To All Residential Customers

A. Use of Load Control Devices

The Board proposes to add the new definitions to the revised DSC proposals in Attachment B to explain that:

- A “load limiter” is a device that allows a customer to run a small number of electrical items in his or her premises at any given time (such as a furnace and a stove), and if the customer exceeds the limits of the load limiter, then the device will interrupt the power until it is reset.
- A “timed load interrupter” is a device that completely interrupts the customer’s electricity intermittently for periods of time and allows full load capacity outside of the time periods that the electricity is interrupted.
- A “load control device” is a generic term that includes load limiters, timed load interrupters and similar devices.

As a result, the Board proposes that the information mandated to be included in a disconnection for non-payment notice is expanded **to refer to the possibility of the installation of a load control device. This is set out in proposed new DSC section 4.2.2 (k2)** (found in Attachment C).

Subsections i), ii) and iii) of proposed new DSC section 2.9.1 will accordingly be withdrawn. Proposed section 2.9.1 of the DSC will remain as an enabling rule, confirming (but not requiring) that a load control device may be installed provided the new code rules to be prescribed are followed.

If any Ontario distributor installs this technology, the Board proposes in section 2.9.3B of the DSC to require that the distributor must also provide a 24-hour telephone number the customer can call to have a load limiter device remotely reset and electricity service restored after the maximum load capacity of the device is triggered.

Proposed new section 2.9.5B of the DSC will allow a customer to voluntarily request that a load limiter device be installed, or remain installed, during the course of an arrears payment agreement.

Comments

VECC agrees with load limiters as an alternative to disconnection for non-payment either with or without the customer entering an arrears payment plan. However there are three residual concerns.

First customers should in no circumstances be cut off in Winter.

Second, all distributors may not have the option of installing Load limiters, and therefore some may resort to proceed to disconnection for non- payment. There should be a consistent level playing field across the province rather than cut-offs being predicated on the ability of the distributor to install Load Limiters.

Lastly VECC is concerned that, although the proposed new section 2.9.5B stipulates that customers may voluntarily request that a Load Limiter device be installed, distributors may make acquiescence to a Load Limiter installation a precondition in circumstances where the company may exercise discretion in entering into an arrears payment plan. In VECC's view a refusal to install a Load Limiter should not be a reason to deny a customer an arrears payment plan, and the DSC should reflect that.

B. Arrears Payment Agreements

The Board will revise the language in proposed section 2.7.4.4 of the DSC to require that the defaults must occur “over a period of at least 2 months”, rather than over 2 billing periods, before a distributor can cancel an arrears payment agreement. The proposed rule will be satisfied if, for example, the first default occurs in the middle of September and the second occurs in October or November of the same year.

V. Coming Into Force

The Board therefore proposes to provide a 180 day implementation period for the low-income customer service DSC, RSC and SSSC amendments related to the new security deposit rules, under- billing adjustment rules and new equal billing rules set out in Attachment A. The Board does not wish to extend this implementation period beyond 6 months as low-income customers in need are awaiting the additional customer service rules to become available.

The Board proposes a 90 day coming into force period for the enhanced arrears agreements to be made available under DSC section 2.7 to low-income customers and to the revised eligible low-income customer definition in DSC section 1.2.

Distributors are already dealing with arrears agreements on a one-off basis and therefore these rules can reasonably be brought into force somewhat earlier to assist eligible customers. **The Board also proposes that the 90-day coming into force period apply to the new low-income customer rules in sections 4.4.2 and 4.2.2.4 of the DSC** regarding the contents of a disconnection notices and the contents of the final telephone call to the customer 48-hours before disconnection.

The Board proposes to provide a 90-day implementation period for all the proposed new load control device usage rules and notice provisions set out in Attachment B, and for the rule dealing with load control devices set out in section 2.9.2 of the DSC in attachment A.

The amendment to section 2.7.4.4 of the DSC dealing with treatment of defaults under arrears payment agreements set out in Attachment B is proposed to come into effect as soon as issued by the Board.

Comments

VECC has no disagreement with the implementation schedule and agrees that time is of the essence since the winter of 2010-2011 will be over before the Rules are issued. VECC also notes, as stated in its previous comments, that a comprehensive consumer (and social agency) communications campaign should be mounted by distributors using Board -sanctioned messages and materials.

Notice of Amendments to Codes And Attachment C

II. Additional Amendments to the Standard Supply Service Code provisions that come into force on April 1, 2011

Sections 2.6.2 (a) to (d) of the Standard Supply Service Code are deleted and replaced with the following sections:

2.6.2 *Where the billing cycle of the distributor is monthly, a distributor shall offer to all residential customers receiving standard supply either an equal monthly payment plan option, or an equal monthly billing plan option in accordance with section 2.6.2B. Where the billing cycle of the distributor is less frequently than monthly, a distributor shall offer an equal monthly payment plan option to all residential customers receiving standard supply service.*

Comments

VECC assumes that this refers to the standard arrears payment plan not the low income customer arrears plans.

As noted earlier three issues should be addressed for the latter:

- customer specified payment (withdrawal) date
- security deposit of 10% (waive)
- automatic withdrawal not required to enroll

Section 2.7 of the Distribution System Code is amended by adding the following new sections:

2.7.1B *If a distributor enters into discussions with a residential or low-income customer and offers an arrears agreement but the customer declines to enter into an arrears agreement, the distributor may proceed with disconnection and is not required to offer an arrears agreement to such a customer after disconnection.*

2.7.8 *In the event a residential electricity customer failed to perform his or her obligations under a previous arrears payment agreement and the distributor terminated the agreement pursuant to section 2.7.4, the distributor may require that the customer wait 1 year after termination of the previous agreement before entering into another arrears payment agreement with the distributor.*

Comment

VECC assumes this applies to the standard arrears management plans.

For low income customers the provisions for avoiding disconnection are specified under the corresponding low income provisions.