

**Ontario Energy
Board**
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY EMAIL

October 18, 2011

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

Dear Ms. Walli:

**Re: Application by EnWin Utilities Ltd. for a Temporary Exemption from
Sections 2.6.6 to 2.6.6.3 of the Distribution System Code
Board File Number EB-2011-0291**

Please find attached Board staff's submission in the above referenced proceeding.
Please forward the attached to EnWin Utilities Ltd.

Yours truly,

Original signed by

Gona Jaff
Project Advisor, Applications and Regulatory Audit

Attachment



ONTARIO ENERGY BOARD

STAFF SUBMISSION

Application by EnWin Utilities Ltd.

EB-2011-0291

October 18, 2011

INTRODUCTION

On August 8, 2011, EnWin Utilities Ltd. ("EnWin") filed an application with the Ontario Energy Board (the "Board") seeking a temporary exemption from sections 2.6.6 to 2.6.6.3 of the Distribution System Code (the "DSC") until January 1, 2013.

On September 29, 2011, the Board issued a Revised Notice of Application and Hearing (the "Notice") in which it invited submissions from interested parties on EnWin's application.

Board staff is filing its submission pursuant to the Notice.

THE APPLICATION

In its application, EnWin requested an exemption until January 31, 2013 from the following sections of the DSC which came into effect on July 2, 2010:

- 2.6.6 Where a bill issued to a residential customer includes charges for goods or services other than electricity charges, a distributor shall allocate any payment made by the customer first to the electricity charges and then, if funds are remaining, to the charges for other goods or services.
- 2.6.6.1 Section 2.6.6 does not apply to existing joint billing agreements until the renewal date of such agreements or 2 years, whichever comes earlier, and thereafter the provisions of section 2.6.6 will be deemed applicable.
- 2.6.6.2A Where payment on account of a bill referred to in section 2.6.6 or 2.6.6.1 is sufficient to cover electricity charges, security deposits and billing adjustments, the distributor shall not impose late payment charges, issue a disconnection notice or disconnect electricity supply.
- 2.6.6.2B Subject to section 2.6.6.1, where payment on account of a bill referred to in section 2.6.6 or 2.6.6.1 is not sufficient to cover electricity charges, security deposits and billing adjustments, the distributor shall allocate the payments in the following order: electricity charges as defined in section 2.6.6.3, payments towards an arrears payment agreement, outstanding security deposit, underbilling adjustments and non-electricity charges.
- 2.6.6.3 For the purposes of this section, "electricity charges" are:
 - (a) charges that appear under the sub-headings "Electricity", "Delivery", "Regulatory Charges" and "Debt Retirement Charge" as described in Ontario Regulation 275/04 (*Information on Invoices to Low-volume Consumers of Electricity*) made under the Act, and all applicable taxes on those charges;

- (b) where applicable, charges prescribed by regulations under section 25.33 of the *Electricity Act* and all applicable taxes on those charges; and
- (c) Board-approved specific service charges, including late payment charges, and such other charges and applicable taxes associated with the consumption of electricity as may be required by law to be included on the bill issued to the customer or as may be designated by the Board for the purposes of this section, but not including security deposits or amounts owed by a customer pursuant to an arrears payment agreement or a billing adjustment.

EnWin is the billing contractor for the Windsor Utilities Commission in respect of water and waste water services billing. Accordingly, EnWin customers receive a bill from Enwin that includes charges relating to both Enwin's electricity services and the Windsor Utilities Commission's water and waste water services. This arrangement is documented in a "Managed Services Agreement" between the two utilities, which took effect on January 1, 2007 and which automatically renews annually¹ (the "Agreement"). EnWin performs its billing function through a customer information system ("CIS"). The CIS allocates a customer's payments among the utility services based on a pre-determined ratio with no special priority given to electricity services².

EnWin states that in order to meet the subject provisions of the DSC, EnWin needs to conduct a comprehensive CIS review, reprogramming and reconfiguration (the "DSC-related CIS changes"). EnWin further states that it is in the process of replacing its current CIS and expects the replacement CIS to be operational by June 2012 and stabilized by the 3rd quarter of 2012. In EnWin's submission, incorporating the DSC-related CIS changes as part of the CIS replacement project would be more cost effective than making a series of incremental revisions to the current CIS. Specifically, EnWin submits that it will incur costs to enable its replacement CIS to prioritize partial payments regardless of any investments in the existing CIS. EnWin also submits that incorporating the DSC-related CIS changes as part of the CIS replacement project would reduce the risk of non-compliance with other regulatory requirements that are managed through EnWin's CIS.

STAFF SUBMISSION

Board staff submits that EnWin's circumstances warrant a temporary exemption from the subject provisions of the DSC. Board staff believes that EnWin's application demonstrates that making the DSC-related CIS changes as part of its CIS replacement project could save

¹ Application by EnWin Utilities Ltd. for a temporary exemption from sections 2.6.6 to 2.6.6.3 of the Distribution System Code ("Application"), page 2.

² Application, page 2

costs as EnWin will not incur costs in changing its current CIS which is scheduled to be replaced in the near future.

Board staff further submits, however, that in the event the Board grants the exemption sought by EnWin, such exemption should not be construed as an authorization to disconnect customers' electricity supply for non-payment of overdue amounts relating to services other than electricity services. Specifically, Board staff submits that disconnection of electricity supply must still comply with section 31. (1) of the *Electricity Act, 1998* which provides that "[a] distributor may shut off the distribution of electricity to a property if any amount payable by a person for the **distribution or retail of electricity** to the property pursuant to section 29 is overdue" [emphasis added]. Hence, Board staff submits that during the term of the Agreement and, if granted, the exemption, EnWin would be able to continue its current allocation practice in relation to the payment of bills it has issued. However, EnWin can only properly disconnect a customer's electricity supply for non-payment of electricity services-related amounts. Put another way, the amount required to be included by EnWin in a notice of electricity supply disconnection to a customer (in accordance with section 4.2.2(c) of the DSC), and for which payment may be made to avoid disconnection, must represent the overdue amount relating to electricity services only and must not include amounts owing for water or waste water services.

In summary, Board staff:

- does not oppose the temporary exemption sought by EnWin;
- submits that regardless of the billing mechanism and payment allocation used by EnWin, customers' electricity supply should not be disconnected for non-payment of amounts relating to services other than electricity; and
- submits that the amount to be included in a disconnection notice of electricity supply to a customer must represent the overdue amount relating to electricity services only.

All of which is respectfully submitted.