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**BY EMAIL**

December 15, 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: Toronto Hydro-Electric System Limited  
Application for Licence Amendment – Temporary Exemption from Certain  
Sections of the Distribution System Code and the Retail Settlement Code  
Board File Number EB-2011-0269**

Please find attached Board staff's submission in the above referenced proceeding.  
Please forward the attached to Toronto Hydro-Electric System Limited

Yours truly,

*Original signed by*

Gona Jaff  
Project Advisor, Applications and Regulatory Audit

Attachment



# **ONTARIO ENERGY BOARD**

## **STAFF SUBMISSION**

**Toronto Hydro-Electric System Limited**

**Licence Amendment Application**

**EB-2011-0269**

**December 15, 2011**

## INTRODUCTION

Toronto Hydro-Electric System Limited ("THESL") filed an application with the Ontario Energy Board on July 18, 2011 and a subsequent amendment to the application by letter to the Board dated September 30, 2011. In its application, THESL sought a temporary exemption from sections 2.4.26A, 2.6.5, 4.2.2.4 and 7.10.2 of the Distribution System Code ("DSC") and section 7.7.1 of the Retail Settlement Code ("RSC") until December 17, 2012, the date that THESL expects its new customer information system ("CIS") will be fully operational.

On November 4, 2011, the Board issued a Notice of Application and Hearing (the "Notice") in which it made provision for interrogatories ("IRs") and submissions from interested parties on THESL's application.

Board staff filed IRs on November 23, 2011 and THESL responded to those IRs on December 5, 2011.

On December 14, 2011, THESL filed a letter with the Board in which it added that "THESL wishes to clarify for the record that the temporary exemption sought in its July Letter was meant to cover both the interim period prior to the Board's Decision in this matter (July 6, 2011 to the date of the Decision) and the post-Decision period until compliance is achieved".

Board staff is filing this submission pursuant to the Notice.

## THE APPLICATION

THESL requested an exemption until December 17, 2012 from the following sections of the DSC<sup>1</sup>:

- |         |   |
|---------|---|
| 2.4.26A | A distributor shall not issue a disconnection notice to a residential customer for non-payment unless the distributor has first applied any security deposit held on account for the customer against any amounts owing at that time and the security deposit was insufficient to cover the total amount owing. |
| 2.6.5   | A distributor shall apply the following rules for purposes of determining the date on which payment of a bill has been received from a customer:  |

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<sup>1</sup> THESL withdrew its request for an exemption from section 7.10.2 of the DSC and therefore it is not included in this section.

- (a) if paid by mail, three days prior to the date on which the distributor receives the payment;
- (b) if paid at a financial institution or electronically, on the date on which the payment is acknowledged or recorded by the customer's financial institution; or
- (c) if paid by credit card issued by a financial institution, on the date and at the time that the charge is accepted by the financial institution.

4.2.2.4 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. At that time, the distributor shall:

- (a) advise the customer of the scheduled date for disconnection;
- (b) advise the customer that a disconnection may take place whether or not the customer is at the premises;
- (c) where applicable, advise the customer that the disconnection may occur without attendance at the customer's premises;
- (d) advise that the customer has the option to pay amounts owing by credit card issued by a financial institution, in addition to other forms of payment that the distributor will accept at that time and which can be verified within the time period remaining before disconnection; and advise during what hours such payments may be made;
- (e) advise the customer that, if the distributor attends at the customer's property to execute the disconnection, the 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;
- (f) advise the customer that a Board-prescribed standard arrears management program and equal monthly payment plan option may be available to all residential customers; the distributor must be prepared to enter into an arrears payment agreement at that time if the customer is eligible under section 2.7;
- (f1) advise that the following additional assistance may be available to an eligible low-income customer, along with contact information for the distributor where the customer can obtain further information about the additional assistance:
  - i) a Board-prescribed arrears management program, and other expanded customer service provisions, specifically for eligible low-income customers; and

- ii) a Board-approved Emergency Financial Assistance program administered through a Social Service Agency or Government Agency; and
- (g) advise the customer of any additional option(s) that the distributor, in its discretion, wishes to offer to the customer to avoid disconnection.

THESL also requested an exemption until December 17, 2012 from the following section of the RSC:

7.7.1 Where a distributor has over billed a customer or retailer by an amount that is equal or exceeds the customer's or retailer's average monthly billing amount, determined in accordance with section 7.7.5, the distributor shall, within 10 days of determination of the error, notify the customer or retailer of the over billing and advise that the customer or retailer may elect to have the full amount credited to their account or repaid in full by cheque, within 11 days of requesting payment by cheque. Where the customer or retailer has not requested payment by cheque within 10 days of notification of the error by the distributor, the distributor may credit the full amount to the account.

In its application, THESL indicated that because of the size of its customer base, it must automate all customer transactions and interactions through its CIS, including those transactions required by the subject sections of the DSC and RSC (the "Relevant Sections"). THESL is currently in the process of implementing a new CIS which, once fully operational by December 17, 2012, will be fully compliant with the Relevant Sections. In the interim, THESL indicated that it will make best efforts to comply with the Relevant Sections through manual workarounds.

## **STAFF SUBMISSION**

Board staff submits that THESL's circumstances warrant a temporary exemption from the Relevant Sections. Board staff agrees with THESL that given the size of its customer base, customer transactions and interactions need to be automated. In Board staff's view, the evidence demonstrates that THESL has taken reasonable steps to automate the transactions required by the Relevant Sections to achieve full compliance.

THESL's responses to Board staff IRs set out the manual process currently followed by THESL to ensure compliance with the Relevant Sections along with the compliance level achieved to date. The table below shows THESL's compliance level with the Relevant Sections.

Relevant Sections	Level of Compliance
Section 2.4.26A of the DSC	100%
Section 2.6.5 of the DSC	53%; estimated 80% by December 31, 2011
Section 4.2.2.4 of the DSC	100%
Section 7.7.1 of the RSC	90%

Board staff submits that the evidence demonstrates that THESL has been making best effort to comply with the Relevant Sections and a reasonable level of compliance has been achieved through utilizing a manual process. THESL's responses to Board staff IRs also show that THESL will deal with errors and/or customers issues arising from non-compliance with the Relevant Sections appropriately. Board staff therefore submits that based on the evidence, granting the relief sought by THESL will not result in irreversible harm to customers.

Finally, Board staff wishes to make the following clarifications:

1. In response to Board staff IR No. 6.1, THESL withdrew its request for a temporary exemption from section 7.10.2 of the DSC. Therefore, that request is no longer before the Board.
2. With respect to section 7.7.1 of the RSC, THESL requests an exemption *only* from the 10-day timeline to notify retailers and customers whose accounts meet the criteria established in section 7.7.1 of the billing error.
3. A request for an interim exemption from the Relevant Sections was not included in THESL's July 18, 2011 application or its letter of September 30, 2011.

All of which is respectfully submitted.