

Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Attn: Ms. C. Long
Registrar and Board Secretary

July 29, 2020

Dear Ms. Long

Re: **EB-2020-0152**

On behalf of the Electricity Distributors Association (EDA) and its members, I would like to thank the Ontario Energy Board (OEB) for preparing the proposed amendments to the Standard Supply Service Code (SSSC) that provide the rules for how Regulated Price Plan (RPP) Time of Use (TOU) customers can elect to switch between RPP price plans. We have been following the development of this policy and participated in the Working Group that OEB staff convened. We note that the amendments proposed by the OEB are intended to align with the recently proposed amendments to O Reg 95/05 in the following respects:

- the form and content of the notice to be provided by the RPP consumer to the distributor;
- the timing for the distributor to give effect to that notice; and
- an RPP consumer's ability to switch back to TOU prices after having elected to be charged tiered prices.

These comments reflect the positions of our Councils, whose membership is composed of representatives from across all levels of our local distribution company (LDC) members. The common themes that our members expressed are:

- there is merit in tasking a central agency to prepare the required information gathering forms and templates for standardized communications with customers and permitting LDCs to either adopt them or use them as guides when preparing their own materials;
- there is a lack of clarity in the rationale for not limiting the number of switches that the customer can request in a 12-month period;
- the consumer benefit of multiple notifications on the status of their election of RPP price plan is unclear;
- continuing to rely on the IESO's SME to provide billing quantities (BQ) will perpetuate today's recovery from customers of the costs incurred by the SME and of the costs incurred by LDCs to operate their Operational Data Stores (ODS) to perform activities that are not substantially different; this double incurrence of costs incurred by two separate entities is economically inefficient;

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Electricity Distributors Association

- the proposed Reporting and Record-Keeping Requirements (RRRs) do not readily benefit the consumer, may not be cost-effective, do not appear to be supported with a clear purpose (e.g. of how the OEB will use the information to be provided), and could result in some LDCs needing to invest in their systems so that they can track data; and
- some LDCs may require additional time to prepare to implement this policy.

These themes and additional comments from our members are discussed in greater detail below.

Our comments would materially benefit from the perspective of information systems experts, and from the information technology contractors and vendors who provide Customer Information Systems (CIS), billing systems, and other services to LDCs. LDC members that have recently consolidated with another LDC may be administratively challenged to alter two or more sets of systems (CIS, billing, customer care) that are running concurrently. For LDCs that are restructuring their back-office systems pursuant to a consolidation, the changes set out in the OEB's July 15 Notice were not considered in their approved business plans. Furthermore, consolidating LDCs typically intend to retire one legacy system and transition to another legacy system; the economic value of transitioning both or all legacy systems for a short period of time (i.e. less than a year) is questionable. We seek guidance on how consolidating LDCs are to comply with the proposed amendments or if they should seek licence amendments that will exempt them or defer compliance.

Detailed Comments

The Election Process

We support the approach that all customer requested changes are to be implemented prospectively and recognize that the proposed Code amendments are, in large part, compatible with LDCs' existing billing timelines. While LDCs were encouraged that the OEB proposes to adopt the industry's comments that were made in the working group, not to require that LDCs process move-in customers on the same timeline as they do existing customers, they seek further clarification on the election administration for these customers, e.g. the OEB's expectations for communication with move-in customers.

As is discussed under "Information for Consumers", LDCs consider it beneficial for the government or a central agency to both prepare the election form that customers are to use and to provide customer-facing materials to reduce customer confusion and to facilitate the customer experience. We propose that the OEB permit LDCs to either adopt these materials or to rely on them when creating the forms and customer communications they intend to use. Having the government manage these functions will allow LDCs to focus on completing preparations (e.g. scoping new processes, adapting existing processes, changing systems) and testing them in advance of the proposed implementation date.

The EDA's other comments on the proposed customer notifications are set out under "Information for Consumers".

Distributors accept that they are to be capable of receiving forms via mail, phone or email and note that both the OEB's Notice and the proposed amendments to the SSSC permit LDCs to make other media available (e.g. fillable pdf forms).

Reporting and Record-Keeping Requirements (RRR)

LDCs seek to learn the benefit to the consumer and to the OEB of each proposed RRR (e.g. the proposed amendments to the SSSC dealing with the frequency of notification to customers, whether the on-bill notice was provided on the second bill issued under the customer's preferred price plan).

While it may appear to be administratively simple to track the number of customers that switched RPP price plans in the quarter, LDCs cannot confidently concur with this statement until they, or their contractor, assess the capacity and flexibility of their systems. We question whether the SME's systems could be adapted to be capable of reporting on this metric.

LDCs have lengthy experience providing recurring on-bill messaging, not in providing customized on-bill messaging once or twice on the bills immediately following a customer elected change. LDCs' bill presentment and print processes will need to be appropriately adapted and these changes may not be administratively simple. For the same reasons, tracking the number of customers who received a specific on-bill message on the first or second bill issued after the RPP price plan was changed may not be straight forward either. Clearly, any changes the OEB requires to on-bill messaging will require time to both design and deploy this functionality and will create additional costs.

The OEB's Notice is silent on its need for the proposed reporting and on whether it is expected to be cost-effective. Prior to the OEB codifying any incremental or revised RRRs, LDCs seek a clear description of why the OEB requires the information and how it will use the data in future periods.

LDCs note that the OEB's record retention period is shorter than its general record-keeping period of 7 years and shorter than that required by other entities, including the OEB's Auditors.

Switching Back to TOU

LDCs offered different perspectives on whether the proposed Code amendments should restrict the number of switches that the customer can elect in a continuous 12-month period. Among the available alternatives are:

- to require that the LDC complete processing an election before a customer is allowed to commence the next election;
- for the SSSC to specify the minimum number of months that are to elapse between elections; and
- to set a maximum number of elections that the LDC must be prepared to process in a consecutive 12-month period.

We wish to point out that each alternative would require that the LDC create processes and policies (e.g. to be able to track waiting periods) and will require time and resources.

Some LDCs were concerned that unrestricted switching risks:

- the additional costs required to render the changes and to comply with communications requirements;
- the additional risk of error; and
- the increased likelihood of customer confusion.

LDCs also noted that limiting consumers to a maximum number of switches in a 12-month period will require that the LDC track the number of switches made by a consumer. Our members do not monitor for this and will need to establish processes and practices to do so. Moreover, the OEB has not compared the economic benefits to the consumer of frequent switching to the incremental costs that will be incurred by the LDC to facilitate frequent switching. We also wish to point out that the OEB's Notice does not provide the cost-benefit analysis that is mandatory under s. 70(2) of the OEB Act. LDCs anticipate that their customers will request this analysis and propose that the OEB make it available at the earliest opportunity.

Independent of these issues there is an open-ended question of the OEB's objective in monitoring direction to 'switchback' and what new RRR will be established in support of this monitoring. As stated elsewhere in these comments, we seek to learn the OEB's intended use of such data (e.g. for decision-making purposes) and of the cost-benefit analysis of the provision of such data.

Information for Consumers

Our members are the face of the industry to consumers and they know the frustration that small businesses, whether independent or franchised, or homeowners with multiple residences in more than one LDC's service territory can experience when trying to complete a form to participate in a universal program where that form is specific to each LDC. On the other hand, while a single universal form is expected to achieve consistency and smooth the customer's experience, it will entail work on the LDC's part to align its internal processes and systems to make appropriate use of the data provided, and ideally to streamline or automate these processes.

For these reasons, we encourage the OEB to take steps immediately to prepare and provide a universal two-part form that would allow for modifications to serve individual LDCs' needs: Part 1 would set out the universal information requirements, and Part 2 would be available to each LDC for its own purposes (e.g. providing process or contact details in a text box). With the time remaining, LDCs greatly benefit from the OEB providing a universal form for LDCs to use.

LDCs reviewed the OEB's proposed customer notifications and note that the customer is to be informed a minimum of two separate times of their election to change RPP price plans:

- First, to confirm that the LDC has received the election form and, if the election can be processed, when the election will take place; and
- Second, to communicate through an on-bill message that the customer is being priced under either the TOU or tiered RPP price plan, per the customer's direction.

Clearly, additional customer communication will be required if the election cannot, for whatever reason, be processed.

It appears that the customer communications were modeled on the requirements applicable when a customer enters into retail supply arrangements. However, electing to change an RPP price plan is substantially different from contracting with a retailer for commodity supply. LDCs anticipate that customers will question the need for, and advisability of, these multiple contacts.

Regardless of the objective to be achieved, LDCs will be challenged to provide the specific date of the billing period that the change will take effect for each customer. Instead, we propose that the OEB permit LDCs to either provide the date that the change will take effect or to indicate that the change will take effect as of the next bill or the immediately following bill. We suggest that the OEB delete the words "If it is not practicable to..." from section 3.5.5(b) of the proposed amendments so that LDCs may reference the applicable billing period of when the election will be applied without restrictions.

LDCs propose that the OEB revise the proposed Code amendments regarding the form of media with which the LDC is to communicate to the customer and make them permissive rather than mandatory. As an alternative, the SSSC could permit the LDC to communicate with the customer using the customer's preferred method (e.g. so that the customer who elects via a telephone call can subsequently receive email correspondence, if that is their preferred form of communication). Currently, the majority of LDCs' systems do not track the form of media that the customer communicates with the LDC. Rendering this provision as permissive does not compromise communication with the consumer, will assist LDCs in achieving the mandatory changes to be able to provide choice effective November 1, and will provide LDCs with increased abilities to control costs.

For LDCs that provide their customer with an online portal, there is an additional question of which medium to use when the LDC communicates to the customer; on-line portals may support one-way communication. As such, while the customer could communicate with the LDC via the portal, e.g. to complete and submit a form, the LDC may not be able to respond via the portal.

As is discussed elsewhere in these comments our members propose that a central agency or government provide the forms and customer-facing materials that LDCs may either adopt or use to guide them when developing their own materials. This common starting point will likely reduce customer confusion and give LDCs an opportunity to simplify the activities they must complete before November 1. LDCs anticipate that most consumers will want to quantify their expected bill amount under the alternative RPP price plans. We encourage the OEB to review the operation and design of its bill calculator to ensure that it is capable of serving customers' needs; for example, our members could collaborate with the OEB to test and verify the operation and performance of those components of the OEB's on-line bill calculator that use values that appear on the OEB authorized Tariff Sheet for Residential and General Service <50 kW customer classes. We believe that one common bill calculator for these customers is more time efficient and cost effective than for each LDC to create its own tools, and the OEB could likely accomplish this minimal revision of its current calculator.

The proposed Code amendments set out that the LDC is to provide notice to the customer of the change in RPP price plan on the first and second bill issued after the customer's election being processed. We suggest that it may be administratively simpler for LDCs to indicate on all bills issued to the consumer which RPP price plan is used. This simplification will ensure that the consumer has access to the information, eliminates the need to amend systems to provide two notices, and eliminates the need to count whether the customer was notified on the first or second bill after the election was processed.

Regardless of the communications to be provided, the proposed Code amendments should be rendered in greater detail and with more specifics. For instance, section 3.5.4(b) should be rendered more precisely to remove any ambiguity as to its applications; specifically, it should clarify whether it applies only when the election is received fewer than 10 business days before the next billing period commences or if it applies in all circumstances when the LDC is unable to comply with section 3.5.4(a). A

more general example concerns clarifying whether the LDC is to issue communications no later than the last day of the prescribed period or if the customer is expected to receive the communications as of the last day of the prescribed period. Clarifying these provisions will assist LDCs in identifying and amending their internal processes and practices appropriately.

Preparation of Billing Quantities by the Smart Metering Entity (SME)

Upon the deployment of smart meters, LDCs installed and commissioned enabling 'back office' systems, including Operational Data Stores (ODS). Their ODS' are capable of rendering billing data that is identical to that provided by the SME, whether it is used to bill according to TOU rates or tiered rates. LDCs seek to understand the appropriateness of sustaining systems that render the same information and that are paid for by the small volume customer.

Should an LDC plan to use billing quantities (BQ) provided by the SME it will need to program additional functionality into its billing systems to accept consumption data of the period in an appropriate format and to compute the consumption by tier. These changes will require time and resources to identify, scope, implement, test, and commission so that the customer has a seamless experience of being billed under either RPP price plan. Furthermore, many General Service customers serve residential loads and that consumption data provided by the SME will need to be further processed by the LDC so that these customers are billed correctly.

The Notice discusses the benefit to the OEB of having a single point of access to the data it requires to set the RPP rates. While we appreciate that the OEB's focus is on the customer, we question the ultimate benefit to the customer of using BQ provided by the SME when billing customers at tiered rates. Such activity is not cost effective as it duplicates information already available through the LDC since it is the LDC that provides data to the SME. Instead, we propose that the OEB permit LDCs the flexibility to render BQ data necessary to bill consumers at tiered RPP rates accurately, at the lowest cost and that appropriately protects the consumers' data. Should the OEB wish to receive this data, it merely needs to contact the LDC since the OEB Act gives the OEB the power to compel the production of data in the form the OEB desires.

Changes to Consumer-Facing Materials for Retailers

The proposed communications with customers may impact current LDC practices regarding communications with retailer supplied consumers as LDCs do not contact customers switching to retail supply in the manner proposed through these amendments. If the OEB intends to align LDCs' communications with retailer supply customers, the LDC will need to review and revise its current practices. We propose that the OEB give further consideration to how the LDC communicates a retailer supplied customer's election to change to the tiered RPP price plan.

November 1, 2020 Effective date

The OEB's Notice pays insufficient attention to the possibility that not all LDCs will be capable of complying with the amended Code effective November 1, 2020. Towards the end of the Notice the OEB states:

Although the OEB has heard from some distributors that meeting the November 1, 2020 deadline will be a challenge, the costs, and benefits of that timing – and of the customer choice initiative more broadly – are outside the scope of this consultation.

While commenting that non-compliance as of November 1 is outside the scope of the consultation, the OEB does not clearly convey the consequences of not being able to comply despite having taken all possible steps and actions to do so.

There are compelling reasons why some LDCs will be unable to act on customers' direction as of November 1, including that the LDC is in the process of changing its CIS or billing system based on a prudent decision made in a prior period (e.g. for a system upgrade, due to a merger of multiple LDCs operating different legacy systems). We note that **in a recent decision, the OEB found that it would not be prudent for an LDC to incur significant costs to customize its existing CIS, which is being replaced.**

In these situations, an alternate date or the consequence of non-compliance with the proposed November 1, 2020 implementation date needs to be provided. The immediately identifiable alternative is for those LDCs that cannot comply as of November 1 to apply for a licence amendment exempting them from complying with the relevant provisions of the amended SSSC so that they can remain in good standing with all the Conditions of their distribution licence.

Another timing issue arises in connection with the IESO's SME's process to amend its provision of BQs and potentially other data to LDCs. To date, the SME has neither communicated its proposed changes nor its project plan. LDCs that prefer to continue to use SME provided data will need to know the proposed changes and then have an appropriate amount of time to identify, scope, implement, test and verify the consequential changes to their systems – in addition to all the customer facing changes, CIS and billing systems changes that changing between RPP price plans entails.

We are concerned with the suggestion that LDCs should be able to accept customer elections in advance of the November 1 'go live' date. Our members consider the risk of consumer confusion and/or frustration to be of significant concern. LDCs will be challenged to design, test, and implement the minimum number of changes to fulfill the mandatory provisions of the proposed Code amendments effective November 1.

Housekeeping Amendments

We do not have any comments on these amendments.

Gap Analysis

Our review of the proposed Code amendments identified the following unaddressed issues:

- the treatment of the costs that will be incurred to make the required system changes, to process applications, to provide customer care; and
- the proposed timelines for revising the LDC's Conditions of Service.

Costs

All LDCs have noted that processing customer elections will require additional resourcing (e.g. staff, process changes, systems changes, customer care, communication and education, fulfillment, exception

processing). As such, we seek clarification of the OEB's approach to adjust rates so that the costs incurred to comply with the eventual Code amendments are recovered. At a minimum, LDCs need to know that they can record the costs incurred in a unique deferral account and that they can have confidence that the prudently incurred costs will be eligible for disposition through rates in a timely manner.

LDCs are concerned that the short timeline to make and test the changes, to prepare the required forms and customer-facing collateral, and, to implement the anticipated November 1 changes to RPP rates will result in unusual and material costs. LDCs seek assurance from the OEB that all costs, including those that are of an unusual nature or level, that were incurred to achieve compliance as of November 1 will be appropriately scrutinized for prudence.

Amending the Conditions of Service

Each LDC is required to make its Conditions of Service available to their customers at all times. Each LDC's Conditions of Service provides an appropriate level of detail and granularity. Customers benefit from an up to date Conditions of Service as it serves in lieu of a contract. The timing of the proposed Code amendments and the implementation of this policy does not align with the Distribution System Code's process for updating the Conditions of Service that requires:

- the LDC give the customers notice through a billing insert or an on-bill message advising them that the LDC proposes to make changes to its Conditions of Service;
- information on how to access information about the proposed changes; and
- a comment process on the proposed changes.

Clearly, a full billing cycle – i.e. one month – is required to communicate and additional time is required to receive, review, and, where appropriate, to act on customers' comments. These comments on the proposed amendments to the SSSC are being provided to the OEB on July 29, some 92 days in advance of the program's commencement, and an unknown number of days in advance of the Code being amended. This timeline and the timeline to amend the Conditions of Service do not align.

Next steps

Our members recognize that time is of the essence to amend business process and practices, and subsequently to translate these changes into programming changes. All members expressed concern that making and testing the required changes is occurring under pandemic conditions when LDCs' workforces are typically working remotely. It is a less than ideal situation. There is a risk that LDCs will be managing these changes concurrent with receiving customers elections, in our view, as of November 1. LDCs propose that the government and its agencies collaborate with distributors on the division of duties so that all LDCs are equally prepared for the November 1 implementation and so that the supporting materials are, from the consumer's perspective, suitable for decision-making purposes, facilitate providing direction and are consistent. If universally applicable forms and communications cannot be provided, then LDCs may wish to vet their forms and communications with the OEB to be assured that they are appropriately prepared to support their customers and that they have appropriately mitigated any risk of non-compliance. We propose that the OEB further revise the proposed amendments as discussed herein, provide a cost-benefit analysis as required under s. 70(2) of the OEB Act, and, per s. 70 of the OEB Act, provide another review process.

Thank you once again for the opportunity to comment on the proposed Code amendments. Please contact Kathi Farmer, the EDA's Senior Regulatory Affairs Advisor kfarmer@eda-on.ca, or at 416.659.1546 if you have any questions or require any clarifications.

Sincerely,

Original Signed by

Ted Wigdor
Vice President, Policy, Government & Corporate Affairs