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September 8, 2020

NOTICE OF AMENDMENTS TO THE STANDARD SUPPLY SERVICE CODE

OEB FILE NO.: EB-2020-0152

**To: All Licensed Electricity Distributors
All Licensed Electricity Retailers
All Licensed Unit Sub-Meter Providers
Independent Electricity System Operator
All Participants in Consultation Process EB-2020-0152
All Other Interested Parties**

The Ontario Energy Board (OEB) is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (OEB Act) of the adoption of final amendments to the Standard Supply Service Code (SSSC). These amendments, which will come into force on October 13, 2020, will enable electricity consumers on the Regulated Price Plan (RPP) to opt out of time-of-use (TOU) prices and to elect instead to be charged on the basis of tiered pricing.

A. Background

On June 1, 2020, the Government of Ontario announced that it intends to introduce customer choice for RPP consumers who pay TOU prices. This initiative would allow those consumers to opt out of TOU pricing in favour of tiered pricing starting November 1, 2020. The Ministry of Energy, Northern Development and Mines indicated that it was looking to the OEB to develop, in consultation with electricity distributors and other stakeholders as appropriate, the rules to implement that customer choice initiative.

Amendments to O. Reg. 95/05 (Classes of Consumers and Determination of Rates) under the OEB Act that provide for customer choice came into force on August 21, 2020. The amendments require the OEB, as of November 1, 2020, “to require distributors to permit consumers ... that would otherwise be charged time-of-use prices for electricity under section 3.4 of the Standard Supply Service Code to elect instead to be charged tiered prices for electricity under section 3.3 of that Code.” They further specify that the exercise of an election “is subject to any conditions that may be specified by the [OEB].”

On June 3, 2020, the OEB issued a letter initiating a consultation to inform the development of amendments to the SSSC and other regulatory instruments as required in order to ensure the timely, efficient and effective implementation of the new opt-out mechanism. A stakeholder meeting was held on June 9, 2020, with over 100 participants. A 20-member TOU Customer Choice Working Group (Working Group) was then established, comprising distributors, representatives of consumers and other stakeholders. The Working Group met four times in June. In parallel to the stakeholder consultation process, consumers were invited to share their feedback directly through the OEB’s consumer engagement webpage. The OEB also launched an online consumer survey to inform its approach to the design and communication of tools to help consumers make informed decisions about which pricing structure is right for them.

On July 15, 2020, the OEB issued a [Notice of Proposal](#) (July Notice) in which it proposed amendments to the SSSC (July Proposed Amendments) that would establish rules enabling TOU consumers to elect to be billed on tiered prices and to thereafter return to TOU pricing if they wish to do so.

The OEB received 18 written comments on the July Proposed Amendments. On August 13, 2020, a stakeholder meeting was convened specifically to explore certain concerns that had been raised about one aspect of the July Proposed Amendments, namely the requirement for distributors to rely on the Smart Metering Entity (SME) for the provision of billing quantities for residential or general service less than 50 kW RPP consumers that make the switch to tiered pricing.

The OEB issued a [Notice of Revised Proposal on August 25, 2020](#) (August Notice) setting out proposed revisions to the July Proposed Amendments (August Proposed Amendments). Relative to the July Proposed Amendments, the changes and clarifications were:

- Clarification of the proposed requirement for distributors to rely on meter data provided by the SME

- Not proceeding with the proposed requirement to confirm the implementation of a consumer's election to change price structure by way of an on-bill message
- Not proceeding with the proposed requirement for a distributor to ask a consumer switching from a contract with a retailer to standard supply service whether the customer would like to be charged tiered pricing before the switch to standard supply takes effect
- Clarification and elaboration of the proposed rules that would build customer choice into certain account changes, such as the opening of a new account
- Increased flexibility in terms of the communication channel a distributor may use when responding to a consumer's notice of election
- A new proposed rule to ensure that when a non-residential consumer is reclassified into a class that is eligible for the RPP, the consumer has an opportunity to choose between TOU and tiered prices
- Other minor revisions for greater clarity and consistency

In the August Notice, the OEB invited written comment on the proposed revisions, and indicated that, with the exception of the proposed revisions, it intended to adopt the amendments to the SSSC as set out in the July Proposed Amendments.

The August Notice also confirmed that the OEB would allow distributors to track their costs of implementing the customer choice initiative in a deferral account.

The OEB received five written comments on the August Proposed Amendments (all of which are posted on the [webpage for this initiative](#)) – three from distributors, one from an association of distributors, and one from a consumer group.

To address an issue raised in the written comments, the OEB is making one minor change to the August Proposed Amendments as described in section B below.

The OEB has adopted the amendments to the SSSC as set out in the August Proposed Amendments with that minor change. The amendments as adopted are set out in the Appendix to this Notice.

B. Minor Revision to August Proposed Amendments: Landlord Reversions

Two of the distributors that submitted comments on the August Proposed Amendments, as well as the distributor association, expressed concern with how the proposed rules would be applied in the case where a landlord takes over responsibility for the payment of charges after a tenant closes an account, pursuant to a landlord reversion agreement under section 2.8.3A of the Distribution System Code. The August Notice explained that

such “landlord reversions” are treated as a new account and would therefore be subject to the new section 3.5.8 of the SSSC. That provision, as revised in the August Proposed Amendments, would require a distributor, before opening a new account for an RPP consumer with a smart meter, to inform the consumer that they have a choice between TOU and tiered pricing and to provide an opportunity for the consumer to make that choice.

The concern raised in the comments was that, for at least some distributors, the landlord reversion process is automated, and it would be challenging to adapt existing systems to solicit the landlord’s choice of price structure every time a reversion occurs. As one distributor put it, “It seems unnecessarily costly and generally unhelpful for the landlord to need to be prompted to choose a billing option each time one of their many tenants moves out, rather than simply have the utility revert to the landlord’s pre-established preference for all their accounts, particularly when the reversion itself is already processed on such an automated basis.” The same distributor recommended that landlords should be allowed to make a one-time blanket election covering any tenant account that might revert to the landlord, which might be incorporated into the reversion agreement between the landlord and the distributor. This would avoid the need for distributors to reach out to the landlord every time a reversion is triggered. The distributor suggested that the proposed wording of section 3.5.8 would already accommodate this approach, but asked for confirmation from the OEB of that interpretation.

The OEB agrees that it would be more efficient for a landlord to make a blanket election (which could be enshrined in its reversion agreement with the distributor that is contemplated in section 2.8.3A of the Distribution System Code) than to require the distributor to contact the landlord whenever a reversion is triggered. The landlord would still have a choice, but the process for giving effect to that choice would be easier and less costly to administer. That approach is consistent with the OEB’s intent underlying section 3.5.8 as it was drafted in the August Proposed Amendments, and the OEB has refined the wording of that provision for greater certainty.

Therefore, the final amendments to the SSSC adopted by the OEB include the following clarifying revision to section 3.5.8 as it read in the August Proposed Amendments (underlined for ease of identification):

3.5.8 A distributor shall inform a consumer that has an eligible time-of-use meter of the option to be charged either tiered prices under section 3.3 or time-of-use prices under section 3.4 and provide the consumer an opportunity to elect one of those options, before:

(a) opening a new account for an RPP consumer; or

(b) charging prices under section 3.3 or 3.4 to an electing spot consumer that notifies the distributor under section 3.2.6 that the consumer no longer wishes to be charged spot market prices under section 3.2.2.

For greater certainty, where a landlord makes a blanket election in respect of one or more rental properties that are subject to an agreement between the landlord and the distributor under section 2.8.3A of the Distribution System Code, the distributor is not required to notify the landlord of the option to be charged either tiered prices or time-of-use prices or to provide the landlord an opportunity to make an election each time responsibility for paying for continued service to a rental property covered by the blanket election is assumed by the landlord. The distributor shall ensure that the first bill issued to the consumer after the account is opened or the first bill issued to the consumer after the last bill issued to the consumer under spot market prices under section 3.2.2, reflects the price structure chosen by the consumer, or if none is chosen, reflects time-of-use prices. Sections 3.5.2 to 3.5.7 do not apply in respect of an election under this section 3.5.8.

C. Response to Other Stakeholder Comments

Aside from the concerns raised by some stakeholders about landlord reversions, the comments were generally supportive of, or silent on, the revisions to the July Proposed Amendments that were set out in the August Proposed Amendments. One distributor remarked that the revisions “will allow for a much more streamlined and efficient implementation of the TOU opt out initiative.” The OEB notes in particular that none of the comments identified any concerns with the manner in which the August Proposed Amendments clarified the obligation to use consumption data received by the SME, an issue that had been the focus of much stakeholder attention in comments on the July Proposed Amendments.

There were some comments that did not relate specifically to the August Proposed Amendments but that the OEB nevertheless wishes to address.

Implementation Timeline and Consumer Information

The August Notice confirmed that the amendments to the SSSC would come into force on October 13, 2020, as proposed in the July Proposed Amendments. In its comments on the August Proposed Amendments, the distributor association asked for guidance on what distributors should do if they are unable to satisfy the new requirements that will come into force on October 13, 2020.

The OEB acknowledges that implementing the new rules by October 13, 2020 will be a challenge, but reiterates that this timeline is driven by the requirement in O. Reg. 95/05 for customer choice to be in place on November 1, 2020 and the interest in providing

consumers the ability to switch from TOU to tiered pricing as early as their first billing period in November 2020.

The OEB intends to monitor distributor implementation of the new rules, as it has done for other major initiatives. Any distributor that believes that compliance by October 13, 2020 will be impossible is encouraged to contact OEB staff at IndustryRelations@oeb.ca.

The OEB also received feedback from some distributors in response to the August Notice that it will be critical to have materials available to help consumers assess their choice of price structure in advance of October 13, 2020. One distributor asked that any materials prepared by the OEB be available by October 2, 2020. A number of consumers that to date have participated in the OEB's survey on customer choice (referred to above) indicated that they would need to research the issue further before deciding whether to switch from TOU to tiered pricing, reinforcing the importance of these materials and of their availability on a timely basis.

The OEB notes that it has not to date prescribed any content that is mandatory for distributors to adopt, and that the OEB expects distributors to develop materials that they believe will best support and inform their customers. However, as noted in the July Notice, the OEB is currently developing communications materials, including an update to the OEB's online bill calculator, that distributors may use if they wish or that distributors may use to assist them in developing their own materials. The OEB recognizes the importance of having materials in place to support customer choice as soon as possible, and is endeavouring to have its own materials finalized in advance of October 13, 2020. By October 2, 2020, the OEB expects to have created a dedicated customer choice webpage for consumers, including a bill calculator, as well as a template election form that distributors may adapt and use if they wish.

On a related matter, the OEB confirms that, as noted in the July Notice, it intends to make changes to the OEB-approved price comparison templates that retailers are required to provide to low-volume consumers, in order to compare the contract price not only to TOU prices but also to tiered prices. Proposed changes to the price comparison templates will be issued for comment shortly.

Deferral Account

The distributor association asked for details about the deferral account for tracking costs related to the customer choice initiative, including whether balances in the account would attract carrying charges.

As noted in the August Notice, a generic accounting order in respect of this new account is expected to be issued soon.

Consumer Notification (Section 3.5.5)

Section 3.5.5 of the SSSC, as proposed in the July Proposed Amendments, requires distributors to notify a consumer within 10 business days of receiving a valid election notice specifying:

- (a) the calendar date on which the RPP consumer will start to be charged tiered prices, or
- (b) if it is not practicable to specify the calendar date, the notification shall refer to the applicable billing period, in which case the distributor shall also provide or refer the RPP consumer to information that explains how the RPP consumer can ascertain when that billing period will begin.

No revisions to that provision were proposed in the August Proposed Amendments. Nevertheless, in its comments on the August Proposed Amendments, one distributor indicated that it would not be able to specify the calendar date when the change would be implemented under paragraph (a), and provided a sample message it proposes to use in order to comply with paragraph (b).

The OEB does not intend to comment in this Notice on a distributor's specific plans or proposals for complying with section 3.5.5. It is up to each distributor to ensure it develops a notification that meets the requirements set out in section 3.5.5, unless and until the OEB prescribes a form of notification as contemplated in section 3.5.6.

D. Anticipated Costs and Benefits

The OEB acknowledges but disagrees with the assertion by the distributor association that the previous Notices did not satisfy the OEB's obligation under section 70.2 of the OEB Act to provide "a description of the anticipated costs and benefits" of the proposed amendments to the SSSC.

The anticipated costs and benefits were set out in the July Notice and the August Notice. As noted above, recent amendments to O. Reg. 95/05 mandate that distributors offer customer choice for November 1, 2020. As such, the costs and benefits of the customer choice initiative more broadly, and of the November 1, 2020 implementation date more specifically, are outside the scope of this consultation. As explained in the earlier Notices, the OEB has striven through this consultation, including the discussions with the Working Group, to minimize implementation costs for distributors while at the same time ensuring that the election process is clear, easy and speedy for consumers

and that consumers have access to the information they need to choose the price structure that is right for them.

The revisions proposed in the August Proposed Amendments are expected to lower costs and ease implementation for distributors by, for example, eliminating the requirement for an on-bill message confirming a switch in price structure, and by clarifying that distributors may continue to use the TOU “framing structure” in the SME’s Meter Data Management/Repository. The comments from some distributors on the August Proposed Amendments indicate that they welcomed these incremental improvements.

Only one change has been made to the August Proposed Amendments: the clarification, described above, that a landlord may make a one-time blanket election that applies in the case of all landlord reversions. This minor change, which was requested by some distributors, is expected to further ease implementation and lower costs for distributors, while still providing landlords with the ability to choose between price structures.

E. Closing

Cost awards related to this consultation will be addressed by separate correspondence.

If you have any questions regarding this Notice or the final amendments to the SSSC, please contact IndustryRelations@oeb.ca. The OEB’s toll-free number is 1-888-632-6273.

DATED September 8, 2020

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar and Board Secretary

APPENDIX
FINAL AMENDMENTS TO THE STANDARD SUPPLY SERVICE CODE (SSSC)

*(Consolidated Comparison Attached, Showing all of the Amendments Adopted by the
OEB Relative to the Current SSSC)*