

KINGSTON COMMUNITY LEGAL CLINIC

345 Bagot Street
Kingston, ON K7K 6T8

Tel: 613-541-0777
Fax: 613-547-4978

www.kclc.ca

October 31, 2008

BY EMAIL to boardsec@oeb.gov.on.ca

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

Dear Ms. Walli

Re: EB-2008-0150 – Consultation on Energy Issues Related to Low Income Customers
Written Submissions on behalf of Kingston Community Legal Clinic

I am writing on behalf of the staff at the Kingston Community Legal Clinic and the many low-income clients we serve to encourage the Ontario Energy Board (OEB) to implement policies, programs or other measures to improve the provision of services for low-income energy consumers.

The Kingston Community Legal Clinic is a general service poverty law clinic. We are an independent, non-profit organization providing free legal services for people living on a low-income. We assist our clients mainly with landlord and tenant disputes, social assistance and disability pensions. Our involvement with utility disputes is peripheral to the work that we do to prevent homelessness. We are not experts on energy issues; however, we feel it is important to provide feedback on how these issues affect low-income consumers at a local level.

We receive referrals for problems with utility service generally when all other resources are exhausted. The clients we serve cannot receive help from emergency assistance programs such as the Community Start-Up and Maintenance Benefits (CSUMB) from Ontario Works or the Ontario Disability Support Program (ODSP), the Utility Bank and other charitable sources. In the past year, we have seen a massive surge in the need for our services. More and more people are not able to maintain connectivity through emergency assistance programs.

Topic #1: Should the Board implement policies, programs or other measures designed to assist low-income energy consumers?

In our opinion, it is essential that the OEB implement measures to assist low-income consumers.

I meet regularly with local advocates and social services workers to discuss utilities issues for low-income consumers. The working group includes organizations who administer the local Utility Bank and other emergency assistance programs, as well as eviction prevention workers. These advocates agree that problems with utility service providers are an emerging issue in need of intervention.

John R. Done, M.P.A., LL.B., LL.M.
Barrister and Solicitor
Executive Director

 funded by:
LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO

Cindy Cameron B.A., LL.B.
Barrister and Solicitor

A theme that consistently surfaces during our discussions is the overwhelming sense of powerlessness that clients, and their advocates, suffer when trying to resolve connectivity problems. The lack of oversight on disconnections and arrears repayment arrangements, in particular, breeds injustice. All of the members of this working group feel that service providers, at times, fail to negotiate fairly or effectively with customers on limited, fixed incomes. Service providers demand outrageous payments, despite having proof that the client has no capacity to meet the demand, or refuse to allow extensions on disconnection deadlines which would eliminate the need to access public or charitable funds.

Another concern we have is the lack of consistency across jurisdictions in services and programs available to assist low-income consumers. Our main utility service provider, Utilities Kingston, has no policies, programs or measures designed to assist low-income consumers, unlike some of the service providers in other jurisdictions. Regulation and enforcement of certain standards by the OEB is essential to ensure that low-income consumers in all jurisdictions are treated equally.

As part of these consultations, the OEB heard that disconnection of utility services increases homelessness and creates a financial burden on both the taxpayers and the utility service provider. The report by Concentric Energy Advisers clearly outlines that there are negative cost consequences for service providers associated with disconnections.

I think it is important to note that the adverse consequences caused by disconnection of utility service can be far more serious. Two problems that we encounter frequently at the local level include:

- fragmentation of families; and
- destabilization of pre-existing health conditions caused by stress.

The first question I ask when I meet a client facing disconnection is whether there are any children in the home. The Children's Aid Society will apprehend children who are living in homes without electricity, heat and/or water. **Parents are losing their children for no other reason but that they are poor.** I have also served two clients who had to be hospitalized in psychiatric facilities as a result of stress associated with the disconnection of utility service. In both cases, the service provider was advised about a pre-existing, serious mental illness, which was controlled by medication under normal circumstances. **In both cases, the risk of hospitalization in a psychiatric facility did not deter the service provider from making unreasonable demands for repayment of arrears, and causing my clients undue stress.**

It is imperative that the OEB act on this issue.

Topic #2: Are there programs in place now, including emergency assistance programs, to assist low-income energy consumers and if so, are there agencies and organizations which currently work with utilities to co-ordinate to administer these programs. What more, if anything, should be done?

The assistance that is offered in our jurisdiction to low-income consumers is mainly in the area of emergency assistance to prevent disconnection. There are many limits on accessing such programs. For instance, the Utility Bank in Kingston is only available once in an applicant's lifetime. If a low-income consumer accesses the Utility Bank, he or she will never be able to use that resource again. Other programs providing smaller amounts of money are accessible only once per season. The CSUMB from Ontario Works and ODSP can only be accessed once every two years.

Some of the emergency assistance programs run out of money during key periods. The Utility Bank, for instance, often runs out of funding just before the end of the heating season. Many low-income consumers manage to make it through the majority of winter without receiving a disconnect notice for arrears. By the time they receive the disconnect notice and try to make appointments with service providers for emergency funds, the funds have been depleted. Other programs, such as the Winter Warmth program, are routinely under-utilized because funds are available only to customers of certain service providers who rarely operate in our jurisdiction.

Because of the rising cost of energy service, more and more low-income consumers have accessed available emergency funds in the past, and are no longer eligible for assistance. Emergency assistance programs alone are no longer enough to keep low-income consumers connected.

Topic #3: What is the experience with low-income energy assistance programs in other jurisdictions?

We are unable to offer any feedback on this subject.

Topic #4: Rate-related measures and issues associated with the implementation of rate-related measures to assist low-income energy consumers

We are unable to offer any feedback on this subject.

Topic #5: Customer Service Issues (Payment Period, Disconnection Rules, Security Deposits and Specific Service Charges) and Arrears Management Programs

We recommend the following measures, which are based mainly on the presentation from the Low- Income Energy Network:

1. All distributors should offer equal billing plans to low-income consumers. In addition, equal billing should be available to low-income consumers who have enrolled with an electricity retailer. Our clients sometimes default on their electricity bills when they have switched to a retailer because their equal billing option disappears. Often, neither the utility service provider nor ODSP notify the consumer about discontinuation of the equal billing plan, even when the consumer is illiterate or otherwise impaired in his or her ability to process information. Credit history also should not be a barrier to enrolment in an equal billing plan for low-income consumers since such plans will assist in reducing payment defaults.
2. There should be a mandatory exemption or waiver of late payment charges for low-income consumers.
3. It is crucial that disconnection policies and procedures maximize the opportunities for low-income consumers to access emergency energy funds that they may be eligible to receive to prevent disconnection and/or restore service.
4. The OEB should consider barring service termination for low-income households in the heating and cooling seasons in order to protect against weather-induced death and illness. However, we are mindful that a blanket moratorium on disconnection may not be an effective means of managing payment problems.
5. At the very least, the OEB should implement binding rules or guidelines forcing utility service providers to consider the ages and medical conditions of all household members before executing a disconnection. Seniors, infants, and persons with serious illnesses who could be particularly vulnerable must be protected, and must not endure disconnections that could exacerbate disabilities or create unnecessary health risks.
6. While the over-riding policy is to prevent the disconnection of service, the “threat” of disconnection can be as harmful as actual disconnection. Consumer protections are needed with respect to the use of disconnect notices. In particular, notices must allow customers to understand the steps in the disconnection process. At present, some disconnect notices state that services will be terminated anytime after a particular date. Customers have no way of knowing whether they have 1 day or 1 month to access funds to prevent disconnection. The OEB should also prevent “over-notice” of potential disconnections, as over-noticing leads to customers ignoring “legitimate” notices.
7. There should be a mandatory exemption for low-income households from security deposit requirements which

can adversely impact, or even exclude, these households from accessing energy.

8. The OEB must implement a mandatory arrears management program for low-income consumers comprised of the following components:
- Arrears are to be retired over a two-year period, or set at an affordable percentage of income (1% per year); and
 - The initial down payment required for reconnection cannot exceed the consumer's available means.

Topic #6: Conservation Demand Management and Demand-Side Management Programs for Low-income Consumers


We are unable to offer any feedback on this subject.

Conclusion


Thank you for allowing Kingston Community Legal Clinic to participate in the consultation process. We sincerely hope that the OEB will ensure that the needs of low-income energy consumers are protected.

Sincerely,

KINGSTON COMMUNITY LEGAL CLINIC



Cindy Cameron
Barrister and Solicitor
Acting Director of Legal Services



Kimberly Lonsdale
Community Legal Worker