



**FINANCIAL SERVICES DEPARTMENT
KITCHENER UTILITIES**

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BY E-MAIL & COURIER

November 19, 2008

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

Dear Ms. Walli:

Re: EB-2008-0313 – Proposed Amendment to the Gas Distribution Access Rule (“GDAR”) – Letter of Comment by the City of Kitchener (“Kitchener”)

Pursuant to the Ontario Energy Board’s (“Board’s”) Notice of Proposed Amendment to the GDAR dated October 8, 2008, Kitchener respectfully provides the following written comments for consideration with our appreciation for the Board’s invitation to do so.

Kitchener is a municipal corporation and owns and operates an integrated natural gas and water distribution utility within its franchise area. As a gas distributor in the Province of Ontario, Kitchener is impacted by the Proposed Amendment to the GDAR. For reasons more fully set out below, Kitchener is of the view that it should be exempted from the Proposed Amendment to GDAR; subject to an undertaking by Kitchener to amend its existing written policy with respect to security deposits to better conform to applicable components of the Proposed Amendment.

To begin, Kitchener is mindful of the drivers to the Proposed Amendment to GDAR as stated in the Background to the Notice, i.e. the lack of consistency in terms of security deposits as between gas distributors, and the inconsistent application of those policies. Kitchener also notes the Board’s desire to standardize security deposit requirements among gas distributors to ensure fair treatment and to harmonize them with those in place for electricity distributors. This would clearly appear to be in the public interest and Kitchener is generally supportive of the Board’s desire in this regard.

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However, Kitchener believes and respectfully submits that there may indeed be compelling reasons to support the continuation of individualized security deposit policies among gas distributors for which the Board may be currently unaware. Kitchener is also mindful that the Board is not proposing that gas distributors be required to collect security deposits unnecessarily. In this connection, the Board may not be aware that the Kitchener gas utility, as a municipally owned entity, has the added security to ultimately recover utility service related arrears under the municipal property tax collection and recourse mechanisms administered by the City. This added security is not available to non-municipally owned distributors. Kitchener submits that this added security for its municipally owned gas distributor warrants an exemption from the Proposed Amendment to GDAR.

The added security provided by Kitchener's property taxing power is not applicable to customers of the utility that are tenants. For these customers, Kitchener has a written policy in place, approved by Council Policy Resolution dated September 24, 2004, which provides minimum standards for the credit and collection practices of the City of Kitchener, Revenue Division on behalf of Kitchener Utilities. The utility is granted authority to establish credit and collection policies through the guidelines established by the Municipal Act. A copy of Kitchener's Council Policy Resolution is attached.

It will be seen that the above policy, applicable only to tenants, is, in many respects, similar to the Proposed Amendment. It should be added that tenants represent less than 10% of Kitchener's overall utility customer base and only roughly half of these are required to provide security deposits.

As Kitchener can manage its utility accounts collection exposure through the municipal property tax mechanism and effectively waive security deposits for the vast majority of its utility customers, Kitchener respectfully submits that requiring it to fully comply with and implement the Proposed Amendment to GDAR as drafted would not yield a benefit commensurate with the cost. Simply put, it would lead to Kitchener building a system to manage security deposits that wouldn't apply to 90% of its utility customers. Respectfully, striking an appropriate balance between costs and benefits has been of constant interest to the Board, for example, with respect to the gas distributors providing bill ready functionality to gas vendors.

For the above reasons, Kitchener respectfully submits that it should be exempted from the Proposed Amendment to the GDAR, subject to an undertaking by Kitchener to amend its existing written Council Policy Resolution with respect to security deposits to better conform with those components of the Proposed Amendment that are applicable to the tenant consumers from whom Kitchener may seek security. This would achieve the standardization desired by the Board in an efficient and cost effective manner; appropriate for the municipal structural circumstances of Kitchener's integrated gas and water utility. Kitchener would be pleased to work cooperatively with the Board and Staff to the extent necessary in a timely fashion to achieve these outcomes.

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Thank you for the opportunity to submit these written comments and we look forward to your response at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Gruenbauer". The signature is stylized and written in a cursive-like font.

James A. Gruenbauer, CMA
Manager, Regulatory Affairs and Supply

Cc: W. Malcolm (Kitchener)
L. Baillargeon (Kitchener)
J. Alick Ryder, Q.C. (RWBH)

Attachment: Kitchener's Council Policy Resolution # 1-517 dated September 20, 2004