

IN THE MATTER OF the *Ontario Energy Board Act, 1998, S.O. 1998, c.O.15, Sch. B;*

AND IN THE MATTER OF a Notice by the Board of its intention to amend the Gas Distribution Access Rule.

**SUBMISSIONS
OF THE
SCHOOL ENERGY COALITION**

1. On October 8, 2008 the Board published a Notice under section 45 of the Act of its intention to amend the Gas Distribution Access Rule to standardize the rules for customer deposits applicable to the gas distribution companies, largely following the template used for electricity distributors.
2. The Board has invited comments on the proposed amendments. These are the submissions of the School Energy Coalition.
3. We note, as we have in past Board processes, that school boards are intensely interested in the well-being of their students, which means that many utility and Board policies affecting individual consumers are of interest to school boards indirectly. However, as the Board will be obtaining input directly from intervenors representing the interests of individual consumers, including low income consumers, these submissions are restricted to the specific concerns of school boards as customers in their own right.

Context of the Issues

4. In general, the use of customer deposits by gas and electricity distributors is an effective method of minimizing collection costs and bad debt, and therefore benefits all ratepayers. That is especially true when the economy softens, as is currently the case.
5. On the other hand, customer deposits can also, depending on the policies of the utility, constitute a significant source of capital, and therein lies a concern. We saw the problem that can arise in the recent rate case of Horizon Utilities (EB-2007-0673), in which the LDC under current Board policies was allowed to recover \$1.3 million per year from ratepayers as a debt cost on \$24.1 million of customer deposits, while only incurring \$0.4 million of actual interest costs on that portion of their debt.

6. This over-recovery arises because of the deemed capital rules, not the customer deposit rules. Nonetheless, its effect is to create a perverse incentive for distributors to maximize their customer deposits, since the result is indirectly to increase ROE.
7. We are concerned that, as more distributors realize the ROE impact of maximizing customer deposits, some may act opportunistically in the current economic slowdown to improve their returns. To prevent that, we are proposing below some measures that would further limit the ability of distributors to seek customer deposits in circumstances in which they should not be necessary. We believe that the Board, in finalizing these GDAR amendments, should be vigilant in ensuring that customer deposit policies are tightly controlled.

Specific Comments

8. **Section 2.4.1(a) – Definition of “General Service Consumer”.** Where customers, like school boards, have multiple delivery points, gas and electricity distributors sometimes treat each delivery point as a “customer” for administrative purposes. However, when the issue is creditworthiness, as is the case here, the relevant “customer” is the entity, no matter how many delivery points they have. This is of particular relevance to school boards, who typically have 70 to 700 delivery points (schools) with a given gas distributor.
9. We therefore suggest that the Board amend this definition to make clear that the volume limit is tested by reference to all delivery points of the given customer. The effect is to treat school boards (as well as municipalities and other MUSH sector customers) as larger customers rather than smaller customers, which is the appropriate result in this context.
10. **Section 2.4.7 – Allowed Discrimination.** This prohibits discrimination unless the Rule specifically allows it. The wording gives room for interpretation. We believe it would be better if the wording were changed to cross-reference the specific provisions in which discrimination is allowed, so that utilities have clearer guidance.
11. **Section 2.4.9 – Good Payment History.** The exception in the preamble is limited to errors by the distributor. In our view, if any of those events has arisen as a result of a payment dispute that is not frivolous, that should also be an exception.
12. **Sections 2.4.13 – Exempt Customers.** Many school boards might not qualify under these exemptions, even though their credit is in fact undoubted because of their government ownership and guarantee. For example, when school boards borrow on the financial markets, they often borrow in a consortium, to get preferential rates. It is often the borrowing consortium that is rated by the bond rating agencies, not the individual school boards.
13. Given this background, we propose that the list of exempt customers be expanded to include government entities such as schools, municipalities and other levels of government (e.g. provincial and federal government offices and agencies). In our submission, government entities should not be considered a credit risk, and seeking a security deposit from such a customer should simply not be permitted.

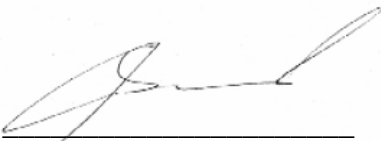
Conclusion

- 14. We appreciate the opportunity to provide input into the Board's proposed rule change, and hope that it has been of assistance to the Board. If the Board determines that any further process is required on this matter, we would be pleased to participate if it would assist the Board.

- 15. The School Energy Coalition requests that the Board order payment of our reasonably incurred costs of participating in this process.

Respectfully submitted on behalf of the School Energy Coalition this 19th day of November, 2008

SHIBLEY RIGHTON LLP

Per: 

Jay Shepherd