

**NOTICE OF PROPOSED AMENDMENT TO A RULE (Notice)
THE GAS DISTRIBUTION ACCESS RULE (GDAR)**

Written Comments of the Industrial Gas Users Association (IGUA)

Summary.

1. IGUA supports the Board's proposal to amend GDAR by the addition of a proposed section 2.4 - *Security Deposits*.
2. As stated by the Board in its Notice, a standardized regulatory framework for the collection and administration by Ontario's natural gas distributors of customer security deposits will promote fair, transparent and consistent treatment of energy consumers across the province. The Board's proposal will afford gas consumers with greater predictability and ability to manage their energy costs.
3. IGUA also supports the proposed basic design of this standardized regulatory framework; i) a set of "minimum" requirements; and ii) a requirement for the distributors to publish *Security Deposit Policies* and any changes thereto.
4. The approach of setting minimum requirements (including maximum customer security deposit levels), rather than promulgating a proscriptive set of provisions, allows for consumer protection while affording gas distributors flexibility to develop and apply commercially reasonable and effective customer security policies.
5. The approach of requiring publication of, and adherence to, written *Security Deposit Policies*, rather than requiring Board approval of the policies of individual utilities, similarly supports an appropriate balance between regulatory oversight and commercial efficacy and flexibility, and is a resource efficient regulatory solution.
6. Customer security deposit requirements are material to IGUA's members' businesses. IGUA has thus taken some care to review the Board's proposed customer security deposit rules, and to consider the potential impact of these rules on industrial consumers *vis a vis* the current formal and informal customer security requirements of Ontario's gas distributors.
7. In accord with the permissive, rather than proscriptive, approach proposed, the Notice makes clear that the Board is not proposing that gas distributors be required to collect security deposits, and that flexibility is intended in relation to the calculation of security deposits in the discretion of each gas distributor subject to the maximums to be prescribed. This should mean that IGUA's members who are not currently required to post security will not be required to do so upon promulgation of the rules, unless their financial circumstance changes.

8. As a result of its review and consideration, IGUA has concluded that the Board's proposal:
- (a) Would provide valuable certainty and predictability to industrial gas users.
 - (b) Would strike an appropriate balance between the interests of individual industrial gas customers (who post security) and those of industrial gas customers as a class (who are protected by the security posted).
 - (c) Should not produce significantly more onerous requirements, relative to current practice, for either individual industrial customers or the industrial customer class.

On the strength of these conclusions, IGUA generally supports the Board's proposed rules.

9. The balance of IGUA's comments address a few of the details of the proposed rules. These comments are provided with reference to the topics set out by the Board in the *Summary of Proposed Amendments* section of the Notice;
- (a) Documentation and Communication of Security Deposit Policy.
 - (b) Collection and Payment of Security Deposits.
 - (c) Maximum Amount of Security Deposits.
 - (d) Form of Security Deposits and Interest.
 - (e) Review and Return of Security Deposits.

Documentation and Communication of Security Deposit Policy.

10. Proposed rule 2.4.5 would require a distributor seeking to change its security deposit policy to provide its customers with notice of the proposed change, and to provide a reasonable opportunity for customers to provide written comments thereon. Proposed rule 2.4.6 would require distributors to submit any revised security policy to the Board with a letter identifying changes and summarizing any written comments received from customers regarding the changes.
11. *IGUA suggests that distributors also be required to:*
- (a) *Provide written response to any written comments received from customers on proposed security policy changes.*
 - (b) *Include a summary of any such written responses in the required explanation to the Board of changes and comments received.*

12. These additional requirements would help to ensure that the opportunity to comment on changes is a real one, and that consideration of such comments is carefully undertaken by the distributor. They would also assist the Board in remaining informed of customer and utility considerations and concerns regarding customer security policies. Assuming that the distributor is properly considering any comments received, these additional requirements to articulate and communicate such considerations should not present any significant incremental burden to distributors.

Collection and Payment of Security Deposits.

Payment History

13. The basic model for calculating maximum security deposit requirements recognizes two factors that would indicate reduced bad debt risk for any particular industrial customer account; i) credit rating; and ii) good payment history. The first factor - credit rating - could reduce the security deposit requirement to zero. The second factor - payment history - is designed, in the case of industrial customers, to reduce the security deposit requirement by 50%.
14. In respect of the second factor - payment history - IGUA agrees that the 50% reduction afforded on this basis is appropriate. The partial reduction on account of good payment history represents a reasonable balance between the risk mitigation indicated by historical payment behaviour on the one hand, and residual prospective risk and potential consequent cost to the balance of the industrial customer class on the other. This partial reduction is appropriate given the size of industrial accounts in general, and against the current economic and fiscal backdrop in particular.
15. What is less clear to IGUA is the rationale for a 7 year payment history required to support reduction of industrial customer security requirements, as compared to the 5 year payment history deemed sufficient for lower volume (i.e. "general service") customers. The partial reduction of the security deposit requirement by 50% in the case of industrial customers (pursuant to proposed section 2.4.22) appropriately addresses residual risk. The additional 2 year payment history requirement adds burden to industrial customers relative to other customers, without necessarily enhancing the value of payment history as a predictor of future risk.
16. ***IGUA suggests that the length of good payment history that triggers a reduction in security deposit requirement for industrial customers be changed to 5 years, so that in this respect industrial and general service customers are treated the same.***
17. IGUA also wishes to endorse the characterization of the events that would compromise payment history, as that characterization is framed in proposed section 2.4.9. As reflected in the proposed provisions, it should be insufficiency of funds, rather than simple non-payment, that triggers payment history de-rating. Payments may occasionally be missed as a result of inadvertence, or they may be missed advertently due to an account dispute.

These events would not logically call in to question the ability of the customer to pay, which is the relevant consideration in respect of customer security deposits.

Time to Pay.

18. Proposed section 2.4.16 would allow a customer 4 months to provide a security deposit. Proposed section 2.4.23 would require a customer to provide any additional security required following an annual or customer initiated security review at the same time as the customer's next regular bill becomes due.
19. IGUA is concerned that 4 months may be too long a period for a customer to post security. Such an extended period might unduly expose remaining customers in the class to increased risk.
20. On the other hand, IGUA is concerned that the time between conclusion of a review of a customer account which reveals the need for further security and the customer's next bill due date might be too short. It is conceivable, for example, that a bill is issued, the requirement for additional security communicated, and then a bill due date follows almost immediately.
21. Further, it is not clear what timing would apply to security deposits - new or incremental - required as a result of a gas distributor initiated review that occurs within a year of the previous review by the gas distributor.
22. It may be clearer and easier if the rules had one requirement for time within which to post security - new or increased.
23. ***IGUA suggests a requirement that any new or incremental security required be posted no later than 60 days following notification to the customer of the requirement to post.***

Maximum Amount of Security Deposits.

Security requirement calculation.

24. IGUA supports the customer security calculation formula as set out in proposed section 2.4.11. Using an average monthly consumption based on 12 months of data appropriately protects the interest of individual industrial customers in not being caught by uncharacteristically high consumption, and the interest of the balance of the customer class at not being exposed to undue risk as a result of uncharacteristically low consumption by a high credit risk customer.
25. Proposed section 2.4.11 provides that "*where the distributor does not have systems capable of making [the 12 months average consumption] calculation, the consumer's average monthly consumption shall be based on a reasonable estimate made by the gas distributor*".

26. While this might be argued to be a necessary accommodation in the context of the number and variation in scale and scope of Ontario's electricity distributors, the same is not so in gas.
27. ***IGUA would prefer to see the calculation requirement set out without the built in exemption for lack of systems. Should any one of Ontario's gas distributors require such an exemption, they should bring forward a request for same in the normal course. This would allow the Board, in such instance, to consider conditioning such exemption in a fashion appropriate to bring the applying distributor in to compliance, and within a time frame as may be reasonable in any particular circumstance.***

Reductions based on credit ratings.

28. Proposed section 2.4.13 provides that larger consumers would be entitled to reductions in the otherwise determined security deposit amount by virtue of a strong credit rating (BBB- or above). IGUA endorses both the concept and the proposed credit rating/posting reduction ratios.
29. ***IGUA suggests that, for greater clarity, the heading of the 2nd column of the table of credit rating/posting reduction ratios included in proposed section 2.4.13 be amended by replacing the word "allowable" with the word "required". It is submitted that the word "required" better reflects the compulsory nature of the credit requirement reduction as mandated by the text of the proposed provision.***

Form of Security Deposits and Interest.

30. Proposed section 2.4.17 sets the interest rate payable on customer security deposits at the Bank of Canada Prime Business Rate less 2 percent.
31. As noted in the Notice, customer security deposits are included in utility rate base for the purposes of calculating working capital, and earn a return at the level set by the Board for return on investment.
32. ***The interest rate payable on security deposits should thus, from a ratemaking perspective, be the same as that payable on other sources of funds for utility working capital.***

Review and Return of Security Deposits.

33. Proposed section 2.4.20 limits a consumer's entitlement to request a security deposit review within 12 months of *"the date on which the total amount of the security deposit was paid"*.

34. The intended meaning of this provision is not clear, though IGUA suspects that the intention is to preclude a customer initiated review within 12 months of the date of any adjustment (i.e. deposit or refund) of customer security.
35. *The Board might consider clarifying the wording of this provision.*

Conclusion.

36. IGUA appreciates the opportunity to comment on the Board's proposed gas distribution customer security deposit rules, and hopes that its comments are of some assistance to the Board's deliberations of same.
37. IGUA respectfully requests that it be awarded its costs reasonably incurred in reviewing and considering the proposed rules and providing these comments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED:

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