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NOTICE OF PROPOSAL TO ISSUE A CODE AND TO AMEND A CODE

PROPOSED NEW STANDARD SUPPLY SERVICE CODE

AND

PROPOSED AMENDMENTS TO THE RETAIL SETTLEMENT CODE

BOARD FILE NO.: RP-2004-0205

TO: All Participants in Proceeding RP-2004-0205
All Licensed Distributors and all Licensed Retailers
All Other Interested Parties

Background

Under amendments to the *Ontario Energy Board Act, 1998* contained in the *Electricity Restructuring Act, 2004*, the Ontario Energy Board (the "Board") has been mandated to develop an annual regulated price plan (the "RPP"). The RPP is intended to replace the current electricity commodity pricing regime that came into effect on April 1, 2004, and is expected to take effect on April 1, 2005 for all eligible consumers.

On December 7, 2004, the Board issued for public comment the *Board Proposal: Regulated Price Plan for Electricity Consumers* (the "Board Proposal"). The Board Proposal contained an overview of the principles that underlie the RPP, the objectives of the RPP and the key proposed elements of the RPP. The Board Proposal was informed by the deliberations and recommendations of a multi-stakeholder Working Group that was established to assist Board staff in the development of the RPP.

The Board received several written submissions from interested parties on the Board Proposal. In addition, comments and requests for clarification were provided during the one-day public RPP workshop conducted by the Board on December 14, 2004. These submissions, comments and requests for clarification have assisted the Board in refining and, in some cases, modifying the elements of the RPP relative to those set out in the Board Proposal.

Implementation of RPP

The Board is now issuing a proposed ***new Standard Supply Service Code*** (the “New SSS Code”) (to replace the existing one) and to amend the ***Retail Settlement Code*** (the “RSC Amendments”), as described below. The Board’s proposed New SSS Code and the proposed RSC Amendments are attached to this notice and are also available on the Board’s website. The principal purpose of these documents is to codify the rules by which licensed electricity distributors and licensed electricity retailers will implement the RPP. The New SSS Code also reflects certain updating and improvements relative to the current version of the same code.

The categories of consumers that will be eligible for the RPP will be prescribed by Government regulation.

Evolution to New Standard Supply Service Code

On December 8, 1999, the Board issued the Standard Supply Service Code (the “1999 SSS Code”). The 1999 SSS Code sets out the manner in which licensed electricity distributors fulfill their obligation to sell electricity under section 29 of the *Electricity Act, 1998*. The 1999 SSS Code contemplates that electricity distributors would fulfill that obligation (directly or indirectly through a third party) in relation to most small and residential consumers using a fixed reference price or, with the approval of the Board, using a spot price pass-through mechanism. Larger consumers would be charged for electricity using the spot price pass-through mechanism. When the Government fixed electricity commodity prices in late 2002 under Bill 210, the 1999 SSS Code ceased to have effect for consumers eligible to receive the fixed price.

Some of the provisions of the 1999 SSS Code will have no continued relevance once the RPP comes into effect, although some provisions will continue to apply to the sub-set of consumers that are not eligible for the RPP or that are eligible for the RPP but elect spot market pricing. In addition, the electricity commodity price payable by consumers that are eligible for the RPP must be integrated into the Board’s regulatory instruments. The Board has determined that the most expedient means of addressing these issues is to develop a new code to replace the 1999 SSS Code.

Summary of New Standard Supply Service Code Provisions

New definition of “standard supply service”

The New SSS Code redefines “standard supply service” (“SSS”) as comprising three pricing mechanisms. The applicable pricing mechanism will depend on the attributes of the SSS consumer.

- *Spot Market Price (New SSS Code, section 3.2)*

The first pricing mechanism is the spot price pass-through. As noted above, this pricing mechanism already exists in the 1999 SSS Code and is being retained for consumers that are not eligible for the RPP. This pricing mechanism will also be available to consumers with interval meters, or with smart meters that can provide data on an hourly basis, and that are eligible for RPP pricing but that elect to purchase electricity on the basis of the spot market price. This is an element that was not altogether clear in the Board Proposal, and is being proposed to provide consumers with interval meters, or with smart meters that can provide data on an hourly basis, the same flexibility in terms of access to spot market pricing that they have today. Consumers that are eligible for the RPP but that wish to take the spot market price will generally be required to formally elect that option, since the RPP is the default (in other words, RPP consumers that make no election will be charged RPP prices). An exception is made for consumers that are currently eligible for the two-tiered price and that have already elected to be charged the spot market price. These consumers will continue to take the spot market price until they give notice that they no longer wish to do so.

The spot price pass-through provisions of the New SSS Code are an updated version of the existing provisions of the 1999 SSS Code. Specifically, since the manner in which the commodity price is determined for spot price pass-through customers is set out in detail in the RSC, these provisions simply refer to the RSC.

Under the 1999 SSS Code, a distributor could fulfill its standard supply service obligation by outsourcing it to a third party. The Board is not proposing to retain this third party outsourcing option in the New SSS Code as it does not appear to be of continuing relevance in the context of the new electricity marketplace. As and when alternative supply structures, such as the introduction of load serving entities or “LSEs”, evolve in Ontario, the concept of outsourcing can be tailored to those new structures and integrated into the New SSS Code.

- *Conventional Meter RPP (New SSS Code, section 3.3)*

The second pricing mechanism is the price plan for RPP consumers with conventional meters. As indicated in the Board Proposal, this pricing mechanism will retain a two-tiered pricing structure for this category of RPP consumers. The electricity commodity price for consumption above the tier threshold will never be lower than the electricity commodity price for consumption below the tier threshold.

The Board Proposal contemplated two possible options for this pricing mechanism. Option 1 was the *status quo* (with the tier threshold remaining constant throughout the year) and Option 2 was the introduction of seasonal tier changes for residential consumers. The New SSS Code adopts Option 2. This means that the tier threshold for residential consumers may vary by season, with the threshold being higher in the winter (allowing for additional use at the lower price) and lower in the summer. However, in order to reduce the need for immediate distributor system changes, it is proposed that the existing tier threshold be retained for all consumers until the commencement of the winter season in the fall of 2005. For non-residential consumers, the tier threshold will remain constant throughout the year.

- *Smart Meter RPP (New SSS Code, sections 3.4, 3.5 and 3.6)*

The third pricing mechanism is the price plan for RPP consumers with smart meters (referred to as “eligible time-of-use meters” in the New SSS Code). As indicated in the Board Proposal, this pricing mechanism will be based on time of consumption. The electricity commodity price for consumption during the daily “on-peak” period will not be lower than the electricity commodity price for consumption during the daily “mid-peak” period. The electricity commodity price for “mid-peak” consumption will in turn not be lower than the electricity commodity price for consumption during the daily “off-peak” period. As also indicated in the Board Proposal, the New SSS Code contemplates that the hours of day comprised in each of the “off-peak”, “mid-peak” and “on-peak” periods will vary by season (winter and summer).

The New SSS Code proposes to implement the smart meter RPP pricing mechanism in a manner that differs from the implementation plan contained in the Board Proposal. Specifically, the New SSS Code contemplates that the smart meter RPP will not become mandatory until the commencement of the second term of the RPP (which will be no earlier than April 1, 2006). A distributor that wishes to make smart meter RPP pricing available prior to that date may do so, in which case any RPP consumer with a smart meter served by such a distributor will be charged smart meter RPP prices. All distributors will, however, be required to implement the smart meter RPP pricing mechanism for all electricity consumption that occurs once the second term of the RPP commences. As of that date, all RPP consumers with smart meters will be required to pay smart meter RPP prices.

For the reasons articulated in the Board Proposal, the Board is not proposing to implement mandatory critical peak pricing as part of the RPP at this time.

The New SSS Code confirms that the initial RPP commodity price fixed by the Board for both conventional and smart meters will remain in effect for not less than 12 months, as required by law.

As noted below, the New SSS Code has been drafted to come into force on April 1, 2005 unless the Government prescribes a later date. The Board is proposing that the RPP pricing provisions of the New SSS Code apply to the consumption of electricity on and after that date. Distributors whose billing cycle does not coincide with this date will be permitted to prorate consumption (i.e., to allocate consumption that occurs before that date and consumption that occurs on or after that date) based on estimates (proration is addressed generally in section 1.7 of the New SSS Code, as well as in section 3.3.6). This is consistent with past practice, where proration based on estimates has been permitted by law for government-mandated price changes.

Variance Account Final Settlement (New SSS Code, section 3.7)

The Board Proposal contemplated that RPP consumers that leave the RPP in favour of being served by a retailer or of taking the spot market price should be subject to a final settlement to reflect their share (whether positive or negative) of any accumulated price variance for the year in progress as well as for the period prior to the last RPP price adjustment. The New SSS Code incorporates this concept of a “final variance settlement amount” to be charged or credited to a consumer that switches to a retailer, that elects the spot market pricing option or that leaves the Province (see below). Although the Board Proposal indicated that the final variance amount would be calculated based in part on actual or estimated future consumption, the Board is now of the view that the final variance amount will be calculated on the basis of historical consumption.

An issue that was not directly addressed in the Board Proposal was the treatment for a consumer that has a retail contract but may nonetheless have the benefit of RPP pricing unless and until the consumer enters into a new retail contract or renews the existing one. This issue arises for consumers that have not renewed their existing retail contracts since December 9, 2002. The New SSS Code proposes to clarify that such consumers would, to the extent that they are eligible for RPP pricing, also be subject to pay, or eligible to receive, a final variance settlement amount as and when they leave the RPP.

When the Board Proposal was issued, the final variance settlement was intended to apply only to RPP consumers that leave the RPP in favour of alternative supply (retailer or spot price) within Ontario. Consumers that leave the Province are leaving the RPP in the same way as these other consumers and should therefore be treated in the same way for variance settlement purposes. The New SSS Code thus proposes that the final variance settlement apply to any RPP consumer that the distributor knows is leaving the Province and for whom the distributor has a forwarding address.

The methodology for calculating the final variance settlement amount will be set out in the RPP Manual (see below). In order to allow distributors additional time in which to implement the methodology, the Board is proposing that the obligation to charge or credit the final variance settlement amount be deferred until three months after the date on which the New SSS Code comes into effect.

Pilot Projects (New SSS Code, section 3.9)

Section 3.9 of the New SSS Code facilitates the continuation of voluntary smart meter pilot projects that were implemented prior to the date on which the New SSS Code comes into effect. It does so by allowing a distributor to charge participating consumers either the smart meter RPP price or the conventional RPP price during the pilot project. This provision will cease to have effect on the date on which implementation of the smart meter RPP becomes mandatory for all distributors.

Standards of Business Practice and Conduct (New SSS Code, sections 2.1 to 2.7 and section 3.8)

The New SSS Code retains, in the same or modified form, a number of the provisions of the 1999 SSS Code that relate generally to standards of business practice and conduct. The modifications generally clarify those provisions or update them to reflect developments since the date of issuance of the 1999 SSS Code. For example, the confidentiality provisions of the New SSS Code (section 2.4) refer to the confidentiality provisions of the distributor's licence, thereby avoiding overlapping and potentially inconsistent provisions. For the same reason, the credit risk mitigation provisions of the New SSS Code (section 2.5) simply refer to the Distribution System Code.

The billing provisions of the New SSS Code (section 2.6) reflect the fact that issues such as bill form and content are largely determined by or under legislation. The New SSS Code does, however, include an obligation to show consumption within each tier (or, in the case of the smart meter RPP, for each of the "on-peak", "mid-peak" and "off-peak" periods) as separate line items (sections 3.3.4 and 3.4.3). This is consistent with existing Government regulations that apply to billing under the current two-tiered pricing structure.

The New SSS Code permits distributors to offer an equal billing option to customers, but does not require them to do so. The New SSS Code does not mandate monthly billing by distributors.

The New SSS Code (section 3.8) also incorporates new provisions that require distributors to notify RPP consumers of electricity commodity price changes, as contemplated in the Board Proposal, as well as of certain other RPP-related changes. Individual notices (by means of bill inserts or bill messages) are only

required to be given after a change has taken effect. Pre-change notification is limited to website postings.

Distributors will, if they have not already done so, also be required to give RPP consumers notice of the initial RPP prices by means of bill messages or bill inserts as soon as practicable after the New SSS Code comes into effect (i.e., after April 1, 2005).

General and Administrative Provisions (New SSS Code, sections 1.1 to 1.5)

The New SSS Code retains, in the same or modified form, a number of the provisions of the 1999 SSS Code that relate to matters such as definitions, interpretation and application.

The definitions section of the New SSS Code (section 1.2) reflects revisions that are intended to clarify or update existing definitions. For example, the definitions for “spot market price”, “standard supply service” and “standard supply service customer” have been revised. The New SSS Code also contains definitions for new concepts that are required in relation to the introduction of the RPP, such as “conventional meter”, “electing spot consumer”, “RPP consumer”, and “eligible time-of-use meter”. As noted in the Board Proposal, eligibility for RPP pricing will be determined by Government regulation, which has not yet been issued. The term “RPP consumer” has been defined accordingly.

RPP Manual

Electricity commodity prices for RPP consumers will be determined by the Board. The Board will initially fix the commodity price for each of the RPP pricing mechanisms, and will in subsequent years rebase or true-up those prices from time to time as required. In addition, the Board will determine the tier threshold for RPP consumers with conventional meters (by season where applicable), as well as the hours for the “off-peak”, “mid-peak” and “on-peak” periods in each season for RPP consumers with smart meters. The New SSS Code does not contain details of the manner in which the Board will make the necessary determinations in relation to these matters. Rather, these details (including the Board’s price-setting methodology) will be set out in an “RPP Manual”, a draft of which will be issued by the Board by early February for consultation.

Amendments to the Retail Settlement Code

The Board has taken a simplified approach in the proposed RSC Amendments. This approach recognizes that many of the provisions of the Retail Settlement Code are presently of limited application given existing legislation and regulations. It also recognizes that the principal issue in relation to the latter half of the Retail Settlement Code is to ensure that retailers that are doing retailer-consolidated billing for certain RPP consumers (those consumers that have a

retail contract but are nonetheless eligible for the RPP in accordance with Government regulations) comply with some of the same requirements that apply to distributors under the New SSS Code.

The RSC Amendments consist of the addition of a new section 1.9 to the Retail Settlement Code, which would come into force at the same time as the New SSS Code. This section:

- clarifies that electricity commodity pricing for RPP consumers will be determined in accordance with the SSS Code;
- applies New SSS Code provisions relating to the following on retailers doing consolidated billing for RPP consumers:
 - final variance settlement;
 - separate line items on bills for consumption at different tiers or during different periods of the day;
 - manner of determining consumption for multi-unit premises; and
 - proration;
- clarifies that distributors will no longer be permitted to provide standard supply service through a third party (as this is not contemplated in the New SSS Code).

During the RPP consultation process, certain stakeholders questioned whether the Board would update the retailer prudential requirement provisions of the Retail Settlement Code or the consumer security deposit provisions of the Distribution System Code to reflect electricity commodity pricing under the RPP. The Board will consider these issues once the initial RPP prices have been determined and implemented.

Anticipated Costs and Benefits

The RPP pricing structure that is reflected in the New SSS Code has been developed within a broader policy context. Central to the Government's stated vision for Ontario's electricity industry is a standard rate plan (the RPP) that will ensure that eligible consumers pay the true cost of electricity over time but within a stable and predictable framework. The RPP must also support conservation, smart metering and load shifting initiatives through time of use pricing. RPP prices must also reflect the hybrid nature of the new electricity market contemplated by the *Electricity Restructuring Act, 2004*. Thus, the RPP will blend market, regulated and contract prices in such a manner that revenues paid

to generators for that proportion of load represented by consumers eligible for the RPP are closely matched to the revenues collected from those same consumers.

The RPP pricing structure, as reflected in the New SSS Code and set out in greater detail in the RPP Manual, provides realistic opportunities for load shifting and conservation. Preserving the two-tier structure for consumers with conventional meters provides an incentive to reduce consumption. The introduction of time of use pricing for RPP consumers with smart meters provides an incentive to reduce consumption during peak periods. The seasonal tier variation proposed for the conventional meter RPP recognizes that the ability of smaller consumers to shift or curtail electricity consumption can vary at different times of the year.

Electricity distributors will incur system costs in implementing the RPP since their customer information and billing systems will need to be modified to accommodate seasonal and smart meter pricing. The New SSS Code attempts to minimize the immediate impact of such costs through transitional provisions that defer the implementation of the seasonal tier variations for the conventional meter RPP to the fall of 2005 as well as the mandatory implementation of the smart meter RPP to the spring of 2006. In addition, the methodology that the Board intends to propose in the RPP Manual for the calculation of “final variance settlement amounts” for consumers that leave the RPP will be based on historical consumption figures. Finally, the obligation to charge or credit the final variance settlement amount will be deferred for three months.

The Board is of the view that the New SSS Code facilitates the implementation of a pricing structure that is capable of balancing the objectives of price stability and cost reflectivity set by the Government in a cost-efficient manner. The Board has also aimed to make implementation of the RPP as simple as possible.

Many of the issues addressed above in this section are the subject of more detailed discussion in the Board Proposal.

Coming Into Force

The Board is proposing that the New SSS Code and the RSC Amendments come into force on April 1, 2005 (unless a later date is prescribed by the Government). It is the Board’s understanding that this date is consistent with the Government’s intentions in terms of the date on which the RPP pricing regime should become effective.

Invitation to Comment

All interested parties are invited to make written submissions on the New SSS Code and the RSC Amendments. Any person who wishes to make a written submission with respect to the New SSS Code or the RSC Amendments must

file eight paper copies of the submission, and an electronic copy in Adobe Acrobat (PDF), Word or WordPerfect, with the Board Secretary by **4:30 pm** on **January 31, 2005**. Individuals that wish to make submission need only file one copy. Electronic copies may be submitted on diskette or by e-mail to boardsec@oeb.gov.on.ca.

Your submission must quote file number **RP-2004-0205** and include your name, address, e-mail address and fax number.

The Board requests that the submission specifically reference the relevant sections of the New SSS Code or RSC Amendments.

The New SSS Code, the RSC Amendments and all written submissions received by the Board with respect to those documents will be available for public viewing on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

If you have any questions regarding the New SSS Code or the RSC Amendments, please contact Russell Chute at 416-440-7682 or Chris Cincar at 416-440-7696. The Board's toll free number is 1-888-632-6273.

DATED at Toronto, January 17, 2005.

ONTARIO ENERGY BOARD

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Board Secretary

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Attachments:

Proposed New Standard Supply Service Code
Proposed Amendments to the Retail Settlement Code