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File: 070875.0001

John Zych, Board Secretary
Ontario Energy Board
P.O. Box 2319
Suite 2700
Toronto, Ontario
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Dear Mr. Zych:

Re: Proposed Amendments to the Distribution System Code
Your File No. EB-2006-0030

The Ontario Energy Board (the "Board") has invited comment on the Proposed Amendments to the Distribution System Code (the "Code") in its Notice of Proposal dated February 20, 2006.

We are counsel to the Canadian Condominium Institute Toronto and Ontario Chapter ("CCI"). CCI represents approximately 1000 condominium corporations that are materially affected by the security deposit provisions of the Code.

CCI has instructed us to prepare written submissions on its behalf to assist the Board in its consideration of these proposed amendments.

In the Notice of Proposal, the Board distinguishes between the treatment of residential, non-residential customers in a <50 kW demand rate class and other non-residential customers. The Board acknowledges that the current classification guideline places condominium corporations (of any size) in the highest credit-risk category by virtue of their electricity consumption alone.

The onerous requirements placed upon condominium corporations under the Code are exacerbated by the definition of "good payment history" under section 2.4.10 of the Code. Despite a condominium corporation's ability to qualify for relief from the requirements of security deposits under the Code, the 7 year credit history requirement unduly prevents newly formed condominium corporations from obtaining waivers from security deposits.

Further, at page 3 of the Notice, the Board notes that not only does such treatment contradict the Board's policy intent under section 2.4.6.2 of the Code to ensure that customers with similar

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Page 2

risk profiles or risk-related factors are treated in the same manner for security deposits, but the current wording of the Code requires substantial up-front cash deposits from condominium corporations.

CCI's experience is that new condominium corporations must pay their security deposits in cash, as they are seldom eligible for lines of credit from banks. The resulting impact on owners is the foregoing of their deposit monies for seven years. Because the Developers/Vendors do not provide for security deposits in their sales material and budgets, this cost is incurred by the first purchasers of the units as an additional expense. The purchasers do not get this back when they sell their unit if it occurs within the seven year period.

With respect to the risk-profile of a bulk-metered residential condominium, the Board has correctly identified and relied upon the relevant portions of the *Condominium Act, 1998*. These provisions support CCI's position that condominium corporations have never and will never represent a credit-risk to Local Distribution Companies ("LDC").

CCI agrees with the contents of the Proposed Amendments to the Code deeming condominium corporations residential customers under sections 2.4.30 and 2.4.31. However, CCI respectfully submits that it is an understatement to qualify entire condominium corporations as no better than a single residential retail customer for the purposes of their credit rating. Condominium corporations, by their very legal structure, do not represent any credit risk to LDCs. Accordingly, the Code should exempt them entirely from the security deposit provisions of the Code, absent evidence that a particular corporation poses a risk.

As was outlined in the Notice, the legal framework governing condominium corporations was created to ensure financial responsibility and accountability by each condominium owner or mortgagee to the condominium corporation or mortgagor. The internal remedies available under the *Condominium Act* range from regular scrutiny by licensed accountants (section 66) to the provisions of statutory standards of care regulating directors. Most importantly, the lien provisions under the *Condominium Act* eliminate the possibility of unitholders defaulting or avoiding payment on their proportional share of the common expenses from which the electric utility bill is paid in bulk-metered residential condominiums.

The financial strength of a condominium is the sum of the strengths of its individual units. Thus, the true credit-risk of an entire condominium corporation will be much lower than that of a single residential customer.

The proposed Code acknowledges the correctness of this statement, but leaves the security deposit requirements of condominium corporations as if such corporations posed the same credit risk as an individual unit.

The reality is that condominium corporations are bound by their statutory duty to eliminate any an all current or potential credit-adverse behaviour by unitholders. If the security deposit provisions of the Code were created to reduce business losses to LDCs, CCI respectfully submits that their application to condominium corporations is simply redundant.

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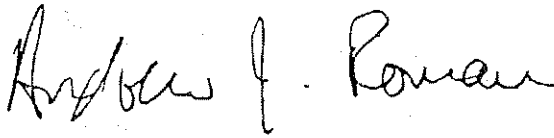
Page 3

CCI submits that the correct treatment of condominium corporations under the Code should acknowledge their credit-worthiness and eliminate the security requirements altogether, unless there is positive evidence of real financial risk to LDCs. All of which is respectfully submitted.

Yours truly,

MILLER THOMSON LLP

Per:



Andrew Roman
AJR/smk