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VIA EMAIL ONLY

NOTICE OF AMENDMENT TO A CODE

AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE

BOARD FILE NO.: EB-2007-0005

**To: All Licensed Electricity Distributors
All Participants in EB-2007-0005
All Other Interested Parties**

Re: Timing for the Elimination of Load Transfers

The Ontario Energy Board (the "Board") has today issued amendments to the Distribution System Code (the "DSC") under section 70.2 of the *Ontario Energy Board Act, 1998*.

Background

On January 31, 2007, the Board issued a Notice of Proposal to Amend the Distribution System Code (the "Notice"). The proposed amendments accompanying the Notice (the "Proposed Amendments") included changes to sections 6.5.3 and 6.5.4 of the DSC. The Proposed Amendments were intended to defer the date by which geographic distributors (i.e., a distributor that is licensed to service a load transfer customer and is responsible for connecting and billing the load transfer customer) must eliminate load transfer arrangements. The Proposed Amendments also included a requirement that geographic distributors file information regarding their plans for eliminating their load transfer arrangements.

The Board received six written submissions in response to the Proposed Amendments. The submissions were generally supportive of the Proposed Amendments. Some submissions provided comments to the Board regarding changes that the stakeholders wanted to see made to the Proposed Amendments. The Board has considered the submissions received and has determined that no material changes need to be made to

the Proposed Amendments. However, in light of the comments received, the Board has made minor revisions to the Proposed Amendments.

Summary of Stakeholder Comments and Revisions to the Proposed Amendments

The following is a summary of the revisions made to the Proposed Amendments. For information purposes, a comparison version of the text of the final amendments to the DSC that shows all of the revisions made relevant to the Proposed Amendments is set out in Attachment A to this notice. A clean version of the amendments to the DSC, as adopted, is set out in Attachment B to this notice.

Several stakeholders suggested that matching the new deadline for the elimination of load transfer arrangements to the date that the transfer tax exemption period ends (i.e., October 17, 2008) may not be appropriate. Some parties submitted that extending the time past the transfer tax exemption period would be beneficial.

The Board notes that Ontario Regulation 485/06 (which amended Ontario Regulation 124/99) provides that the transfer tax exemption will apply if certain conditions are satisfied. Two of the conditions are: that an application for approval of the transfer has been made to the Board before October 17, 2008; and that a written agreement to make the transfer is complete before October 17, 2008 and is not materially changed after that date. The Board recognizes that it is possible that the application for approval to the Board and the written agreement may be filed close to the October 17, 2008 deadline and that the Board's approval may therefore not have been granted before the October 17, 2008 deadline. The Board will therefore extend the deadline for the elimination of load transfers for a period of time beyond the transfer tax exemption period to allow distributors enough time to obtain Board approval of the acquisitions or amalgamations. The Board considers three months to be an appropriate amount of time to allow for the approval of the acquisitions or amalgamations. The Board will therefore set January 31, 2009, instead of October 17, 2008, as the date by which load transfer arrangements must be eliminated.

One submission suggested that section 6.5.5 of the DSC should be amended to only require notice to the Board prior to connecting a new load transfer customer or that the Board should institute a streamlined leave process under the existing section 6.5.5 of the DSC. The Board remains of the view, as indicated in the Notice, that distributors still require leave of the Board to enter into a new load transfer agreement with another distributor. The Board notes that there have only been a few instances since section 6.5.5 of the DSC came into force on May 1, 2002 where distributors have applied for

leave of the Board for a new load transfer arrangement. These applications were addressed in a timely and efficient manner.

Coming Into Force

As indicated in the January 31, 2007 Notice, the amendments to the DSC, revised as described above and as set out more fully in Attachment B to this notice, will come into force on the date that they are published on the Board's website.

This notice, including the attached amendments to the DSC, will be available for public inspection 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 this notice or the amendments set out in Attachment B, please contact Gordon Ryckman at 416-440-8109. The Board's toll free number is 1-888-632-6273.

E-mail inquiries should be directed to Gordon.Ryckman@oeb.gov.on.ca.

DATED at Toronto, March 12, 2007.

ONTARIO ENERGY BOARD

Original Signed By

Peter H. O'Dell
Assistant Board Secretary

Attachment A Revisions to the Proposed Amendments to the Distribution
System Code
(Comparison Version)

Attachment B Amendments to the Distribution System Code
(Clean Version)

Attachment A**Revised Amendments to the Distribution System Code
(Comparison Version)**

6.5.3 During the period between May 1, 2002 and January 31, 2009, a physical distributor shall be obligated to continue to service an existing load transfer customer unless otherwise negotiated between the physical distributor and geographic distributor.

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6.5.4 During the period between May 1, 2002 and January 31, 2009, a geographic distributor that services a load transfer customer shall either:

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- a. negotiate with a physical distributor that provides load transfer services so that the physical distributor will be responsible for providing distribution services to the customer directly, including application for changes to the licensed service areas of each distributor; or
- b. expand the geographic distributor's distribution system to connect the load transfer customer and service that customer directly.

Once a load transfer customer enters into a Connection Agreement or implied contract with the physical distributor, the physical distributor shall have sole responsibility for that customer.

6.5.4.1 A geographic distributor shall file with the Board, by December 31, 2007, an implementation plan for eliminating its existing load transfer arrangements. The implementation plan shall:

- a. summarize the geographic distributor's existing load transfer arrangements;
- b. set out the geographic distributor's proposed method for eliminating each load transfer arrangement; and
- c. set out the geographic distributor's proposed timeline for eliminating each load transfer arrangement.

Attachment B**Amendments to the Distribution System Code
(Clean Version)**

- 6.5.3 During the period between May 1, 2002 and January 31, 2009, a physical distributor shall be obligated to continue to service an existing load transfer customer unless otherwise negotiated between the physical distributor and geographic distributor.
- 6.5.4 During the period between May 1, 2002 and January 31, 2009, a geographic distributor that services a load transfer customer shall either:
- a. negotiate with a physical distributor that provides load transfer services so that the physical distributor will be responsible for providing distribution services to the customer directly, including application for changes to the licensed service areas of each distributor; or
 - b. expand the geographic distributor's distribution system to connect the load transfer customer and service that customer directly.

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 - b. set out the geographic distributor's proposed method for eliminating each load transfer arrangement; and
 - c. set out the geographic distributor's proposed timeline for eliminating each load transfer arrangement.