



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

**PROPOSED AMENDMENT TO THE DISTRIBUTION SYSTEM CODE
AND CREATION OF THE SMART SUB-METERING CODE**

BOARD FILE NO.: EB-2007-0772

**To: All Licensed Electricity Distributors
All Licensed Electricity Retailers
All Participants in Proceeding RP-2005-0352
All Other Interested Parties**

Re: Code Amendments and Code Creation for the Licensing of Smart Sub-Metering Providers

The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (the "Act") of a proposed amendment to the Distribution System Code (the "DSC") and is giving notice under section 70.1 of the Act of the creation of a proposed Smart Sub-Metering Code (the "SSM Code") (altogether, the Notice").

The Board will not be granting cost awards in this matter.

I. Background

A. Regulations Regarding Smart Sub-Metering in Condominiums

Ontario Regulation 443/07—*Licensing Sub-Metering Activities* (made under the *Ontario Energy Board Act, 1998*) ("Regulation 443") came into force on December 31, 2007. Regulation 443 states that in relation to the classes of property prescribed by section 2 of Ontario Regulation 442/07, no person shall engage in the commercial offering or the commercial provision of smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies and any associated services unless licensed to do so by the Board.

The classes of property prescribed by section 2 of Ontario Regulation 442/07—*Installation of Smart Meters and Smart Sub-Metering Systems in Condominiums* (made under the *Electricity Act, 1998*) ("Regulation 442") are:

- (a) a building on land for which a declaration and description have been registered pursuant to section 2 of the *Condominium Act, 1998*;
- (b) a building on land for which a declaration and description have been registered creating a condominium corporation that was continued pursuant to section 178 of the *Condominium Act, 1998*; and
- (c) a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the *Condominium Act, 1998*.

For the purposes of this Notice, the three classes of property described above will be referred to as condominiums.

Therefore, any person wishing to engage in smart sub-metering services in condominiums will need to be licensed by the Board to provide those services.

B. Smart Metering Versus Smart Sub-Metering

The Board uses the term “smart metering” to describe the situation in which a licensed distributor individually meters every condominium unit (and the condominium’s common areas) with a smart meter. In this scenario, each unit will become a residential customer of the licensed distributor and each unit and the common areas must have a separate account with the licensed distributor.

The Board uses the term “smart sub-metering” to describe the situation in which a licensed distributor provides service to the condominium’s bulk (master) meter and then a separate person (the smart sub-meter provider on behalf of the condominium corporation) allocates that bill to the individual units and the common areas through the smart sub-metering system. In this scenario, the condominium continues to be the customer of the licensed distributor and will receive a single bill based on the measurement of the bulk (master) meter. The condominium corporation, which is responsible for the distribution of electricity on the consumer side of the bulk (master) meter, is an exempt distributor under section 4.0.1 of Ontario Regulation 161/99—*Definitions and Exemptions* (made under the Act). The smart sub-metering provider, which is acting on behalf of the exempt distributor, would then issue a bill to each unit and the common areas based on the consumption of the unit or common area.

C. Smart Metering

The Board has previously determined in rates proceedings related to smart metering activities of certain distributors that smart metering is a part of the distribution activity that is already covered by distributors’ distribution licences. As there is no distinction between smart metering condominiums and other residences, the Board has determined that only licensed distributors can smart meter condominiums. In the Board’s view, this is in keeping with the current regulatory framework in the electricity sector.

The Board is also of the view that Regulation 442 allows all licensed distributors to smart meter in condominiums. Even though only thirteen distributors were allowed to conduct discretionary metering activities for smart meters under Ontario Regulation 427/06—*Smart Meters: Discretionary Metering Activity and Procurement Principles* (made under the *Electricity Act, 1998*) ("Regulation 427"), Regulation 442 states that a licensed distributor shall install smart meters of a type, class or kind, for a certain type of property (i.e., condominiums) and in certain circumstances. Section 53.18 of the *Electricity Act, 1998* states that a distributor can conduct discretionary metering activities if the activity is authorized by the *Electricity Act, 1998* or regulation. Since section 53.17 of the *Electricity Act, 1998* authorizes distributors to install smart meters in condominiums and since Regulation 442 states that a licensed distributor shall install smart meters and neither of those instruments limits the number of distributors, all licensed distributors can install smart meters in condominiums.

Regulation 442 also states that licensed distributors who are installing smart meters in condominiums need to comply with the procurement requirements set out in section 2 of Regulation 427.

D. Smart Sub-Metering Providers

Smart sub-metering is not a distribution activity; therefore, anyone who wants to be a smart sub-metering provider needs to be licensed by the Board to do so under a Smart Sub-Metering Licence.

Since the provision of smart sub-metering services is a competitive activity, the Board intends to provide the minimum of oversight that is consistent with the protection of the interests of consumers with respect to the adequacy, reliability and quality of electricity service as they pertain to the licensed activities of the smart sub-metering provider.

Some aspects of a smart sub-metering provider's services are covered by other regulatory bodies. For example, the accuracy of the metering device is under the jurisdiction of Measurement Canada and the Electricity Safety Authority has jurisdiction over the standards for the installation of electrical equipment and the licensing system for electrical contractors, master electricians and electricians engaged to carry out the electrical work.

It should be noted that the Board has no rate-making authority over smart sub-metering providers. The condominium corporation maintains its status as an exempt distributor by recovering no more than its reasonable cost.

Section 71(1) of the Act states that distributors cannot carry on any business activity other than the distributing of electricity except through an affiliate. However, section 71(2) of the Act provides an exception from the general rule. Section 71(2) states that a distributor may provide services in accordance with section 29.1 of the *Electricity Act, 1998* that would assist the government of Ontario in meeting its objectives in relation to

electricity conservation. The enumerated services included in electricity conservation are services related to: the promotion of electricity conservation and the efficient use of electricity; electricity load management; and the promotion of cleaner energy sources, including alternative energy sources and renewable energy sources.

The Board is of the opinion that smart sub-metering of condominiums is intended to help the government achieve its conservation objectives through individual accountability for energy use and, eventually, load-shifting due to time-dependent pricing. The Board believes that smart sub-metering is covered by section 71(2) of the Act. Therefore, licensed distributors will be allowed to offer smart sub-metering services. A licensed distributor interested in providing smart sub-metering services would have to apply for a smart sub-metering licence distinct from its distribution licence. Licensed distributors who are also licensed as smart sub-metering providers would have to comply with all of the requirements of the smart sub-metering licence, including the SSM Code, as any other licensed smart sub-metering provider would.

II. Summary of the Proposed Amendments

The regulations provide the Board with certain powers in relation to technical requirements for smart meters and smart sub-meters that can be achieved by setting out the technical requirements in a code. The purpose of the amendments to the DSC is to encapsulate the technical requirements that a distributor must meet when smart metering condominiums.

The purpose of the proposed SSM Code is to set up a regulatory framework to support the smart sub-metering regulations. Furthermore, in order to ensure the adequacy, reliability and quality of electricity service to consumers they pertain to the licensed activities of the smart sub-metering provider, the Board needs to ensure that licensed smart sub-metering providers have appropriate rules in place for them to follow. The SSM Code will set out the minimum conditions and standards that a licensed smart sub-metering provider must meet when providing smart sub-metering services on behalf of exempt distributors.

A. The DSC

Regulation 442 states that licensed distributors shall install smart meters of a type authorized by an order or code issued by the Board or that meet the criteria or requirements that may be set by an order or code issued by the Board. Regulation 442 states that licensed distributors who are installing smart meters in condominiums do not need to comply with Ontario Regulation 425/06—*Criteria and Requirements for Meters and Metering Equipment, Systems and Technology* (made under the *Electricity Act, 1998*) ("Regulation 425") unless required to do so by the Board.

The Board has determined that licensed distributors installing smart meters in condominiums must comply with the requirements set out in Regulation 425. A section

will be added to the DSC to make that requirement mandatory for all licensed distributors.

Again, as stated above, Regulation 442 states that licensed distributors who are installing smart meters in condominiums need to comply with the procurement requirements set out in section 2 of Regulation 427. Since this is already a legal requirement imposed on licensed distributors by regulation, it will not be added into the DSC; however, the Board is taking this opportunity to remind all licensed distributors of that requirement.

The text of the proposed amendment to the DSC is set out in Attachment A to this Notice.

B. The SSM Code

A summary of the more significant proposed terms of the SSM Code are set out below. The text of the proposed SSM Code is set out in Attachment B to this Notice.

1. General Provisions

These sections will include the purpose of the SSM Code, the definitions to be used in the SSM Code, an interpretation clause, and a clause that allows the Board to make determinations under the SSM Code with or without a hearing.

This part of the SSM Code will also include the coming into force section (i.e., when it is published on the Board's website after being made by the Board) and the section setting out to whom the SSM Code applies (i.e., all persons licensed as smart sub-metering providers under section 57(i) of the Act).

Lastly, this part of the SSM Code will include the requirement that smart sub-metering providers can only carry out smart sub-metering activities in prescribed condominiums if the smart sub-metering provider has a contract with the specific condominium to do so.

2. Metering

Regulation 442 states that licensed distributors or any other person licensed by the Board to do so shall install smart sub-metering systems of a type authorized by an order or code issued by the Board or that meet the criteria or requirements that may set by an order or code issued by the Board. This part of the SSM Code sets out the technical requirements that smart sub-metering providers must meet. The technical requirements are the same as those set out in Regulation 425 except for the requirement to transmit information to the Smart Metering Entity's (the "SME") meter data management and meter data repository (the "MDM/R"). The Board believes that smart sub-metering providers' smart sub-metering systems should be able to do everything required by Regulation 425, including being capable of transmitting to the SME's MDM/R, but they are not required to transmit to the SME's MDM/R.

This part of the SSM Code also requires smart sub-metering providers to ensure that the bulk (master) meter for the condominium is an interval meter.

The SSM Code will also require smart sub-metering providers to implement and follow a validating, estimating and editing ("VEE") process. The VEE process must validate the data in a similar method to that used by the SME for data in the MDM/R.

This part of the SSM Code also includes provisions regarding the competency of persons involved in the metering services, standards for metering services, and resolution of metering disputes.

3. *Standards of Business Practice and Conduct*

The SSM Code will require smart sub-metering providers to disclose to the condominium corporation and consumers any agreement between itself or its affiliate and the condominium corporation or the developer.

The SSM Code will also require smart sub-metering providers to include certain information in all of their contracts with consumers, exempt distributors, and developers. The information includes but is not limited to: the disclosure of the smart sub-metering provider's capital investment and the types of costs included in the capital investment; the depreciation method used to depreciate the capital investment if the smart sub-metering provider is going to include that as part of a termination fee; and a description of, and whenever possible, the actual amount for, all termination fees and charges.

All smart sub-metering providers must have conditions of service. The conditions of service must be written and be made available to the public. A smart sub-metering provider must send a copy of its conditions of service to all of its consumers. If a smart sub-metering provider is going to amend its conditions of service, it must provide notice of the change to its consumers and a process by which the consumers can comment on the change. Smart sub-metering providers must provide a copy of the amended conditions of service to all of its consumers.

The conditions of service must include, among other things: its dispute resolution procedure; its security deposit procedure; and its disconnection/reconnection policy.

The SSM Code also includes a number of provisions relating to information that the smart sub-metering provider must provide to its consumers as well as the requirement that all smart sub-metering providers have a local telephone number for its consumers or one that is capable of being reached without charge to the consumer. There are also provisions that relate to the resolution of consumer complaints.

Lastly, this part of the SSM Code includes provisions relating to the transfer and assignment of contracts (i.e., can only be transferred or assigned to another licensed

smart sub-metering provider and notification of the transfer or assignment must be given to the Board and all of the smart sub-metering provider's consumers).

4. *Billing and Collection*

The SSM Code includes provisions relating to the collection and return of security deposits, including the requirement to have a security deposit policy as part of the smart sub-metering providers' conditions of service. The SSM Code sets out the restrictions on when a smart sub-metering provider can ask for a security deposit, what constitutes good payment history, and the maximum amount of a security deposit that the smart sub-metering provider can obtain. The security deposit provisions also set out what amount of interest is associated with the security deposit and rules relating to when the security deposit needs to be returned to the consumer.

If the contract between the condominium corporation or the developer allows the smart sub-metering provider to disconnect consumers, the SSM Code sets out rules for the smart sub-metering provider to follow. Smart sub-metering providers will need to have a process for disconnection and reconnection that specifies the notification requirements and the timing requirements for disconnection and reconnection as part of their conditions of service. The SSM Code also sets out certain reasons that smart sub-metering providers may consider when disconnecting a consumer.

Smart sub-metering providers must follow Ontario Regulation 275/04—*Information on Invoices to Low-Volume Consumers of Electricity* (made under the Act).

If a smart sub-metering provider assumes the payment of the bulk (master) invoice for the exempt distributor, then the amount to be collected from consumers shall not include any penalties assessed by the licensed distributor on the master bill.

III. Anticipated Costs and Benefits of the Proposed Amendments and the Proposed Code

As previously stated, the Board is of the opinion that smart sub-metering of condominiums is intended to help the government achieve its conservation objectives through individual accountability for energy use and, eventually, load-shifting due to time-dependent pricing. To that end, the government has issued Regulation 442 and Regulation 443 to ensure that licensed providers install smart meters or smart sub-metering systems in prescribed locations. The Board is proposing a Smart Sub-Metering Code in order to support the regulations and impose appropriate standards on the activities of the smart sub-metering providers.

The proposed change to the DSC will ensure that all distributors are following the same rules when smart metering, whether they are smart metering houses, condominiums, or small businesses.

The SSM Code will protect the interests of consumers with respect to the adequacy, reliability and quality of electricity service as they pertain to the licensed activities of the smart sub-metering provider by setting out the minimum standards and conditions with which a smart sub-metering provider must comply. The SSM Code provides for standards in the type of metering equipment to be used by smart sub-metering providers as well as billing and collection practices that smart sub-metering providers must follow. The SSM Code also includes provisions regarding the disclosure of information to consumers of smart sub-metering providers. These provisions will ensure that consumers within condominiums receive adequate information to make informed decisions about their consumption of electricity and are treated in a similar manner to those consumers served by a licensed distributor.

Smart sub-metering providers will incur costs to comply with the SSM Code. For example, smart sub-metering providers will face costs in having to provide a copy of all agreements entered into by it or an affiliate with the developer or an affiliate of the developer to all of its consumers. Likewise, smart sub-metering providers will incur costs in having to create conditions of service and send them to all of their consumers (as well as sending out any amended conditions of service to all of their consumers). Also, if a smart sub-metering provider does not have a local telephone number, it will need to have one that is capable of being reached without charge to the consumer and there may be a cost associated with that (i.e., a cost associated with obtaining and maintaining a toll free line or accepting collect calls etc.).

Overall, the Board anticipates that the benefits of the proposed DSC amendment and the proposed SSM Code will outweigh the costs of the proposed DSC amendment and the proposed SSM Code.

IV. Coming into Force

The Board proposes that the proposed amendment to the DSC and the new SSM Code, described above and set out more fully in Attachments A and B to this Notice, come into force on the date on which they are published on the Board's website after having been made by the Board.

V. Invitation to Comment

All interested parties are invited to make written submissions on the Board's proposed amendment to the DSC and the proposed new SSM Code set out in Attachments A and B to this Notice by **4:30 p.m. on January 31, 2008**. Your submission must quote file number **EB-2007-0772** and include your name, address, e-mail address, telephone number, and fax number.

Three (3) paper copies and one electronic copy of the written submissions must be provided.

Paper copies should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

The Board requests that interested parties make every effort to provide electronic copies of their submissions in searchable/unrestricted Adobe Acrobat (PDF) format, and to file their submissions through the Board's web portal at www.errr.oeb.gov.on.ca. A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at www.oeb.gov.on.ca, and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the RESS e-Filing Guides also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of submissions may be filed by e-mail at boardsec@oeb.gov.on.ca.

Those that do not have internet access should provide a CD or diskette containing their submissions in PDF format.

This Notice, including the attached proposed amendment to the DSC and the new SSM Code, and all written submissions received by the Board in response to this Notice, 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 proposed amendments described in this Notice, please contact Laurie Reid at 416-440-7623. The Board's toll free number is 1-888-632-6273.

DATED at Toronto, January 08, 2008.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Attachment A: Proposed Amendment to the Distribution System Code
Attachment B: Proposed Smart Sub-Metering Code

Attachment 'A'

Proposed Amendment to the Distribution System Code

Note: The text of the proposed amendment is set out in italics below, for ease of identification only.

1. Section 5 of the Distribution Settlement Code is amended by adding the following new section 5.1.9 immediately after section 5.1.8:

5.1.9 Smart Meters in Condominiums

When requested by the board of directors of a condominium corporation or the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the Condominium Act, 1998, a distributor shall install metering that meets the functional specification of Ontario Regulation 425/06—Criteria and Requirements for Meters and Metering Equipment, Systems and Technology (made under the Electricity Act).

Attachment 'B'

Proposed Smart Sub-Metering Code