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**Commission de l'Énergie
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December 6, 2001

To: All licensed distributors and retailers

Re: Proposed Amendments: Chapter 8 - Retail Settlement Code - RP-1999-0032

The Ontario Energy Board (Board) proposes to amend sections 8.1.1, 8.1.3 and 8.2 of the Retail Settlement Code to address the concerns that some retail market participants have expressed about the financial risks of retailer defaults.

Chapter 8 of the Code establishes the security requirements that a distributor may request of a retailer that is operating within the distributor's service area. The provisions of Chapter 8 establish the form and amount of security based on each of the different billing options that are available to retailers and their customers. The amount of security is intended to provide the distributor with financial protection in the event that a retailer defaults on payments to the distributor.

The current provisions of the code require distributors to use the SSS Reference Price for calculating the maximum security obligation of a retailer to an LDC where it has customers in the LDC service territory. This price is an annual average price that reflects the general state of market conditions. It may not be the appropriate price for determining the security required to protect against financial defaults during periods of high market clearing prices.

The Board proposes to amend the Code to make the price used for calculating the maximum prudential obligations of retailers the same price that the Independent Market Operator (IMO) uses to calculate wholesale market prudential support obligations. This price, referenced in Chapter 2, Section 5, Rule 5.3.10 of the IMO's *Market Rules*, will be calculated according to the IMO's procedures and updated periodically to reflect current market conditions. To ensure that the use of a market-based reference price provides sufficient security following a high price period when invoices have not yet been paid, the proposed amendment further establishes that a distributor may retain security above that calculated under the applicable subsection of section 8.1, but only to the extent that any amount retained is equal to, or less than, any payment that is known and billed to the retailer and due within the next 40 business days. A distributor shall not discriminate in applying this withholding authority.

The proposed amendments also clarify that in calculating the average load for a customer, the distributor shall use the class average. Further, the amendments also clarify that, in the case of distributor consolidated billing, the distributor may use a weighted average retailer

price for the purposes of calculating a competitive energy cost prudential. The proposed amendment is posted on the Board's web site under the What's New page at www.oeb.gov.on.ca.

The Board expects these changes to make the security arrangements for the retail market more responsive to current and expected market conditions and provide symmetry between the wholesale and retail market prudential requirements.

In the proposed Ontario electricity market distributors have the responsibility for facilitating the operation of the market as the wholesale supplier to all non-IMO market participants within their service areas. This responsibility is set out in the distributor licence and the Retail Settlement Code. However, it is not intended that the distributor take on business risk related to the commodity costs because this would affect the distributor's neutrality with respect to consumers' choice of suppliers. In the new market, distributors are delivery companies and earn returns on the business of delivering energy. The Board has not allowed for a return on the commodity portion of a distributor's costs to maintain the distributor's indifference to the choice of a supplier by consumers.

Therefore, distributors are not intended to be held generally accountable, or at risk, for uncollected commodity costs from consumers or retailers. A distributor may be held responsible for commodity costs if it were found to have been imprudent, for example, it had failed to follow its security deposit policies.

In accordance with the licence conditions for both distributors and retailers, the Board is seeking comments on the proposed amendment. Parties **must** submit their written comments to the Board Secretary (original plus three copies) no later than December 14, 2001. Following receipt of comments, the Board will consider the comments and make a determination on the proposed amendment.

Yours truly,

ORIGINAL SIGNED BY

Paul B. Pudge
Board Secretary

Attachment