ECNG comments on Staff Draft of D.A.R.

Section 1

Comment: section repetitive (don't need one section for Objective and one for Purpose) and not properly focused

Suggested wording:

1.1.1
1.1.2 1.Purposes of Gas Distribution Access Rule
1.1.3
1.1.4 To provide consumer protection
1.1.5 To standardize relations between distributors, marketers and customers
1.1.6 To preclude discriminatory or preferential business practices by gas distributors
1.1.7 To encourage competition in the sale of gas to customers

Further comment: 1.1.4 regarding competition has been added

- to reflect to directive to the OEB to foster competition set out in their act
- to remind parties that this requirement has flowed from the Energy Competition Act
- to counterbalance the necessity, for now, of this Rule having to deal with and therefore in some way "legitimize" SSOs

1.1.3 Definitions
"balanced gas account" means the account which captures the variances between a customer's deliveries and actual consumption;

Comment: it is not necessary to describe the marketer's possible involvement. This form recognizes that the customer may be providing customer's deliveries and makes the section shorter.

"distribution services" means the services related to the delivery of gas and the services the Board allows the distributors to carry out, for which a charge or rate can be approved by the Board;

Comment: Changing "requires" to "allows" more accurately reflects the existing situation of the utilities only being allowed to make gas sales because the Board has granted them a temporary exemption from carrying out this function which is beyond their regulated monopoly utility functions.

"embedded distributor" etc……

Comment: We are not suggesting a change to this definition but our experience has been that, in such physical instances, the consumers of the embedded

distributor may not enjoy the same benefits as those of the "host" because of constrictions imposed on the embedded by the host distributor.

"inspection service" etc……

Comment: In those instances where the matter is covered by other legislation or regulation we would suggest that it be left out of this Rule and, if required for completeness, included as an Appendix to the Rule where the text of the relevant legislation or Regulation could be set out in full

"lock-box arrangement" means the designation of a financial institution to accept and distribute customer's payments

Comment: Simplification.

"low volume consumer" means a consumer who uses less than 50,000m^3 per year or such amount as Regulation 624/98 may specify in the future;

Comment: It doesn't seem appropriate to send the reader off in search of a Regulation to determine this crucial number. In keeping with our earlier comment perhaps the full text of the relevant portions of the Regulation should be in an appendix.

"rate means any rate, charge or provision approved by the Board or relevant authority:

Comment: It seems appropriate specifically qualify the rate fixing as having to come from the relevant authority. "Provision" seems more appropriate than "other consideration" when what is being addressed are things like minimum consumptions for rate classes etc.
The addition of only one specific – penalty provisions—seems inappropriate particularly when they may be the subject of a class action suit.

"Service Level Agreement", or "SLA", means the agreement that sets out the relationship between a customer or marketer and a distributor;

Comment: Customers themselves may be managing their own arrangements.

"Standard Supply Offering",or "SSO"…….

Comment: The addition is for consistency of style and to provide for the use of "SSO" later in the Rule.

1.4 Interpretation
1.4.1 We suggest that this section be dropped.

Comment: These provisions would seem to merely mirror the applicable provisions of the Interpretations Act (surely there is no reason in this particular reason to deviate from those!). According there is no reason to clutter this Rule with these technical legal mechanics.

1.5.1 This Rule applies to all gas distributors.

Comment: One of the questions posed in the covering letter is whether this Rule should apply to the "small" gas distributors. We feel that, to the extent possible it should apply to the Kitchener and Kingston utilities and NRG but we don't have sufficient details of what other utilities may be involved.
The limitation in the original to Ontario utilities is unnecessary. Ontario legislation or rules are obviously so limited.

1.6.1 Drop ***"subject to 1.7.1"***

Comment: This qualification is unnecessary.

1.6.2 This provision is unnecessary.

1.7.1 Add after ***"hearing"*** --***"but in any event interested parties shall have notice with an opportunity to make representations before any such grant by the Board."***

Comment: It is essential to the operation of this Rule that there be universal knowledge amoung all involved parties of the actions of the Board and utilities in management of it.

This some addition for the same reason should be made to **1.8.1**.

2 Distribution Services

General Comment: This area of a customer right to necessary utility service connection is addressed in Section 41(2) of the Ontario Energy Board Act. This provision is a continuance of a provision previously found in the Public Utilities Act on which there has been court decisions. The Board should consider very carefully whether it wants to interfere with the consumer rights so established by making such right to necessary monopoly utility service subject to the provisions of individual utility rate orders (section 2.2.1)

We would suggest that 2.1.1 and 2.2.1 could be dropped.

If 2.1.1 is to be left in then the qualification vis a vis the distributor only be in general language such as : "an area for which the distributor is properly authorized to operate". The question of what is required for a distributor to operate is currently before the courts in the Kingston situation. Since the matter

directly involves the Board's jurisdiction it would be in appropriate (and it's unnecessary for this Rule) for it to be making a determinative specification.

3.1.1 The phrase "and distribution services" doesn't seem to add anything it should therefore be dropped.

3.2.3 The phrase "which supports to the claimed purchased price" is superfluous and should be dropped.

3.3.1 It is perhaps not clear that this clause provides protection against contract action to both the distributor and the marketer supplier. The protection should be explicitly extended to both.

4 EXPANSION AND CONNECTION TO A DISTRIBUTION SYSTEM

General Comment: If section 4.1.1 is incorporated into EBO 188 by the Rule it will complicate what is already and extremely complicated standard by allowing each individual utility to introduce its own qualifications and barriers to what is an almost natural right: the right to necessary utility service.
Our suggestion would be that there be a right to system expansion on request. That the hurdles to ensure reasonableness be uniform (if a distributor wanted to advance some deviation due to individual circumstances that there be a burden for it to establish true uniqueness at the time.

4.1.1 "distribution system inspection" would seem to misplaced in this section. We aren't familiar with the terms "customer feasibility" and "customer initialization". While they may have meaning in the context of EBO 188 we question their use in this Rule which is to be used by the public. If EBO does give them explicit meaning then, as per our earlier comments on legislative reference, perhaps the Order itself should be attached in an Appendix to the Rule.

4.2.3 We recommend the deletion of the last sentence of this section.

Comment: As per our earlier comment on provisions covered in other legislation this reference should not remain as a cluttering item in the body of the Rule.

4.2.4 A distributor shall apply the financial contribution policy in a non-discriminatory, non-preferential manner.

Comment: Potential customers of a necessary utility service should not be faced with a different standard depending on whether they are in Dryden or Newmarket. There should be a common presumption of the unit costs of addition referable only to distance from the line.

5. Standard Service Offering

5.1 and ***5.2*** add ***"or other authorized supplier('s)"*** after ***"distributor"*** in each.

Comment: This picks up the situation, recognized in the "system supply offering" definition, of the possibility that there may be an independent supplier if some sort of catchment is needed for customers who fail to utilize the competitive market.

6. DISTRIBUTOR-MARKETER RELATIONS

General Comment: It is essential to ensure the objective of proper operation (let alone non discriminatory application) of these provisions of the Rule that there be some sort of public universally available posting of any complaints including the details of how such complaint was eventually dealt with by the utility.

7. SERVICE TRANSFER REQUESTS

General Comment: There should be some condensation of these extremely long and detailed provisions. For example the identical sections 7.4.6; 7.5.3 and 7.6.5 should be recited only one and referred to in the appropriate sections.

8.2.1 Reference to "as required by the relevant statutes and Measurement Canada. See our earlier comments about not cluttering the Rule with provisions covered by other legislation and, if it is relevant, its inclusion in its entirety.

8.4.1 The "unfettered access" given in this section would seem to be implicit in the allowance to interrogate in the following section 8.4.2 so we would suggest the elimination of this section for brevity.

8.4.2 Again if the utility or Industry Canada has specific technical requirements they should be in an Appendix in their applicable detail.

9. BILLING

9.1.1 Substitute "option" for "format" in this section so the reference to section 9.3 is obvious.

9.2.1 There should be some sort of limitation on the marketer's obligation so long as the distributor or someone else is responsible for the meter and its accuracy.

9.3 Billing Options

General Comment: The reduction to "two components" in 9.3.3.1 and 9.9.1.2 and the further shrinking in 9.3.1.3 to "the amount---for distribution services" is an

unacceptable retrograde step in the process of separation for deregulation. At a point when, after 14 years when we have only progressed to separation of customer, delivery, transmission and load balancing costs for some of the rate categories shrinking them down to two or less for this Rule cannot be allowed to happen.

10. SECURITY ARRANGEMENTS

General Comment: Currently all provincial utilities operate in this area under The Voluntary Agreement on Credit Collection and Cut Off. In line with our earlier comments about the necessity for there being a monolithic standard for the provision of necessary utility service, we strongly recommend against the allowance of individual utility creation of separate standards for security.

12. COMPLAINT PROCEDURES

General Comment: As noted earlier it is essential to the proper operation of this section that there be some public universally accessible posting of the complaints filed by any marketer along with a report of how the utility has dealt with it. In addition there should be sufficient opportunity for any marketer whose interests are being affected to intervene in any such proceeding.